

COUNCIL ASSESSMENT REPORT

Panel Reference	2015SYE087
DA Number	DA2015/0597
LGA	Northern Beaches Council
Proposed Development	Demolition works, alterations and additions to existing buildings, construction of new school buildings and an increase in student numbers at Manly Vale Public School
Street Address	Lot 1768 Sunshine Street, Manly Vale
Applicant/Owner	<p><u>At lodgement</u></p> <p>Owner: Department of Education Applicant: Department of Public Works</p> <p><u>From 14 June 2016</u></p> <p>Owner: Department of Education Applicant: Department of Education</p>
Date of DA lodgement	30 June 2015
Number of Submissions	<p><u>Public Exhibition No. 1</u> (17/7/2015 to 18/8/2015)</p> <p>160 submissions received consisting:</p> <ul style="list-style-type: none"> • 129 (80.6%) against. • 31 (19.5%) in support. <p><u>Public Exhibition No. 2</u> (7 /10/2016 to 25/10/2016)</p> <p>160 submissions received consisting:</p> <ul style="list-style-type: none"> • 91 (56.9%) against. • 69 (43.1%) in support. <p>1 petition against with 14 signatures against the proposal.</p> <p><u>Public Exhibition No. 3</u> (12/11/2016 to 13/12/2016)</p> <p>14 submissions received as at 5 December 2016 consisting:</p> <ul style="list-style-type: none"> • 10 against. • 4 in support. <p>(Note: Public exhibition No. 3 re-notified the same application which was exhibited under Public Exhibition No. 2. The re-exhibition was only to re-notify the amended application for 30 days instead of 14 days.</p> <p>Because Public Exhibition No. 3 was still occurring at the time of preparing this report, a Supplementary Report will be prepared at the completion of the exhibition period and presented to the Sydney North Planning Panel prior to the determination meeting. The Supplementary Report will address any additional issues raised which haven't already been addressed in this report through the previous exhibition periods)</p>
Recommendation	Approval subject to concurrence and conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	The proposal is listed within Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> , being Crown development (educational establishment) with a CIV over \$5 million.

List of all relevant s.79(1)(a) matters	Environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> State Environmental Planning Policy No. 44 – Koala Habitat Protection. State Environmental Planning Policy No.55 – Remediation of Land). State Environmental Planning Policy (Infrastructure) 2007. State Environmental Planning Policy (State and Regional Development) 2011. Warringah Local Environmental Plan 2011. Development Control Plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> Warringah Development Control Plan 2011
List of all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Plans dated 28 September 2016; Clause 4.6 Request - Exceptions to development standards; Submissions; and Conditions.
Report prepared by	David Kerr – Deputy General Manager Planning & Community
Report date	5 December 2016

Summary of s.79C matters

Have all recommendations in relation to relevant s.79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction
 Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions (s.94EF)? **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

EXECUTIVE SUMMARY

Development consent is sought for demolition works, alterations and additions to existing buildings, construction of new school building and an increase in student numbers at Lot 1768 Sunshine Street, Manly Vale (known as the Manly Vale Public School).

The application was lodged by NSW Public Works on behalf of the NSW Department of Education (DoE) on 30 June 2015. The application is referred to the Sydney North Planning Panel (SNPP) for determination pursuant to Part 4 (Regional Development) of *State Environmental Planning Policy (State and Regional Development) 2011* and Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The development involves Crown development (educational establishment) with a capital investment value over \$5 million. Therefore the SNPP is the consent authority.

The DoE have identified a projected 48.7% population increase of primary school students in the Manly LGA up to 2031. As a result, the Manly Vale Public School was identified by the DoE as requiring an upgrade to accommodate 1,000 students. The development therefore proposes to demolish all but one building on the site and construct a new purpose built school comprising six buildings to accommodate the increase in student numbers from 356 to 1,000 by 2018, and an incremental increase in staff numbers from 40 to 60.

The subject site is zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011 (WLEP 2011). Educational establishments are permitted with consent within the zone.

The site comprises one lot with an area of 28,500m². Approximately 30% of the site area contains a variety of permanent and temporary school buildings. The remaining 70% of the site is bushland atop significant rock outcrops.

The R2 Low Density Residential zone extends to the north and east while an RE1 (Public Recreation) zone extends to the south (Condoval Reserve) and west (the Manly War Memorial Park Reserve). An unmade Crown road reserve extends along the entire length of the southern boundary and part of the length of the western boundary. Each of the aforementioned reserves contain bushland of varying density and quality.

The Manly War Memorial Park Reserve is owned by the Department of Primary Industries (Lands) and managed by the Manly Warringah War Memorial Park Trust. The Northern Beaches Council manages the affairs of the Trust and is responsible for the Park's day-to-day management on behalf of the Trust under the provisions of the *Crown Lands Act 1989*. Condoval Reserve is wholly owned by the Northern Beaches Council.

The development requires the inclusion of bushfire Asset Protection Zones (APZs) which occur over the entire site and partly within the afore-mentioned Reserves.

The development was amended on 28 September 2016 by reducing the length of one new building (Block M) and introducing an additional building (Block P) to continue to provide for the predicted student population. The amendment reduced the depth and area of the APZ within the Manly Warringah War Memorial Park Reserve by 46.1%.

The total area of the APZs is estimated to be approximately 37,956m² (or 3.79 ha) which includes 18,946m² within the Reserves and 28,500m² within the site, less 20% of retained vegetation islands throughout the site and Reserve areas. The total area of APZs within the Reserves equates to 0.5% of the combined Reserve area resulting in an in-situ retention of 95% Reserve area.

In order to facilitate the inclusion of the APZs against Council's withholding of landowner consent, the DoE commenced compulsory acquisition proceedings of the required areas. The acquisition was formally gazetted on 2 December 2016.

The site (including the APZ areas) accommodates species identified as threatened under the NSW *Threatened Species Conservation Act 1995*. The application includes a Biobanking Offset Strategy to provide new credit calculations. As the proposal may result in significant impacts to local populations of certain threatened species (Red-crowned Toadlet and Eastern Pygmy Possum), concurrence from OEH is required prior to development consent being granted.

No Biobanking Statement has been submitted to Council as part of the application and, as the proposal may result in significant impacts to local populations of certain threatened species (Red-crowned Toadlet and Eastern Pygmy Possum), the Species Impact Statement (including the Biobanking Offset Strategy) has been referred to the NSW Office of Environment & Heritage (OEH) for concurrence. At the time of completing this report (i.e. 5 December 2016), a response had not been received from the OEH and a recommendation is included to address the pending receipt of concurrence.

The NSW Rural Fire Service (RFS) issued their Bushfire Safety Authority under s.100B of the Rural Fires Act 1997.

The development has been designed to provide contemporary built forms with traditional features akin to an Australian Vernacular architectural style. This particular architectural style is noted for its response to a bushland setting through the incorporation of simple built forms and lightweight materials. The triangular arrangement of buildings, together with the use of piers, visually permeable bridging and extensive glass surfaces result in a development which this assessment considers to be visually interesting, functional and complimentary to its setting.

The application includes breaches to the permitted building height. The non-compliances are supported when considered against the provisions of Clause 4.6 of the *Warringah Local Environmental Plan 2011*.

Amenity impacts (such as noise, privacy and visual appearance) have been assessed and found to be of a minor nature such that the amenity of nearby residential uses and users of the adjacent Reserve area will not be unreasonably affected.

The development will initially result in an on-site parking shortfall of 49 spaces although this shortfall will decrease to 26 spaces due to the provision of an additional parking area on the site. This shortfall is considered to be acceptable given the limiting requirements of the 'Educational Facilities Standards & Guidelines' (EFSG) which determine that preference is given to direct educational activities rather than on-site parking. Therefore, the EFSG prescribes a minimum provision of on-site parking.

The development will introduce an increased volume of traffic onto the local road network. While the increase is considerable (based upon 1,000 students) the impact will be mitigated by a staggered arrangement once the school population exceeds 550. This will ensure that a controlled traffic volume occurs during the morning and afternoon peak periods (i.e. 8.00am to 9.30am and 2.30pm to 4.00pm).

The application has been publicly exhibited three (3) times since lodgement. The most recent exhibition period commenced on 12 November 2016 and ends on 13 December 2016. This report addresses the submissions received in all public exhibition periods up to 5 December 2016. The remaining submissions received between 5 December 2016 and 13

December 2016 will be addressed in a supplementary report which will be referred to the Panel on 15 December 2016.

When weighed against the provision of new schooling which will accommodate the educational needs of a growing population, the extent of the reduction of vegetation and loss of threatened species habitat, is considered to be of a minor impact and that, on balance, the provision of the new school to accommodate the future population growth of the region is considered to be in the broader public interest.

The development has been assessed under Section 79C of the EP&A Act 1979 and, subject to concurrence being received from the OEH and the RFS and , is considered to be satisfactory. Accordingly, it is recommended that the application be approved subject to concurrence being received from the OEH and RFS, no additional issues of determinative weight being received in relation to the public exhibition of the proposal and the conditions of consent contained in Appendix C.

LOCATION MAP

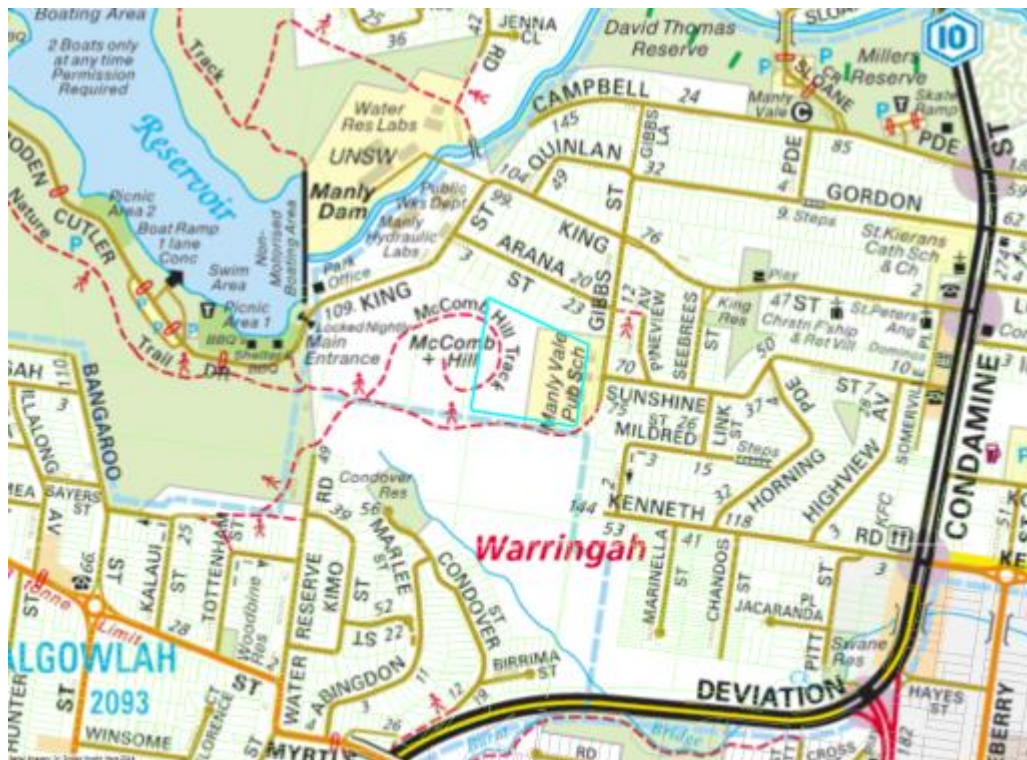


Figure 1: Site location (outlined in blue) and the surrounding area.

Source: Council mapping (Sydney 2011 Directory).

AERIAL PHOTOGRAPH OF THE SITE AND SURROUNDS

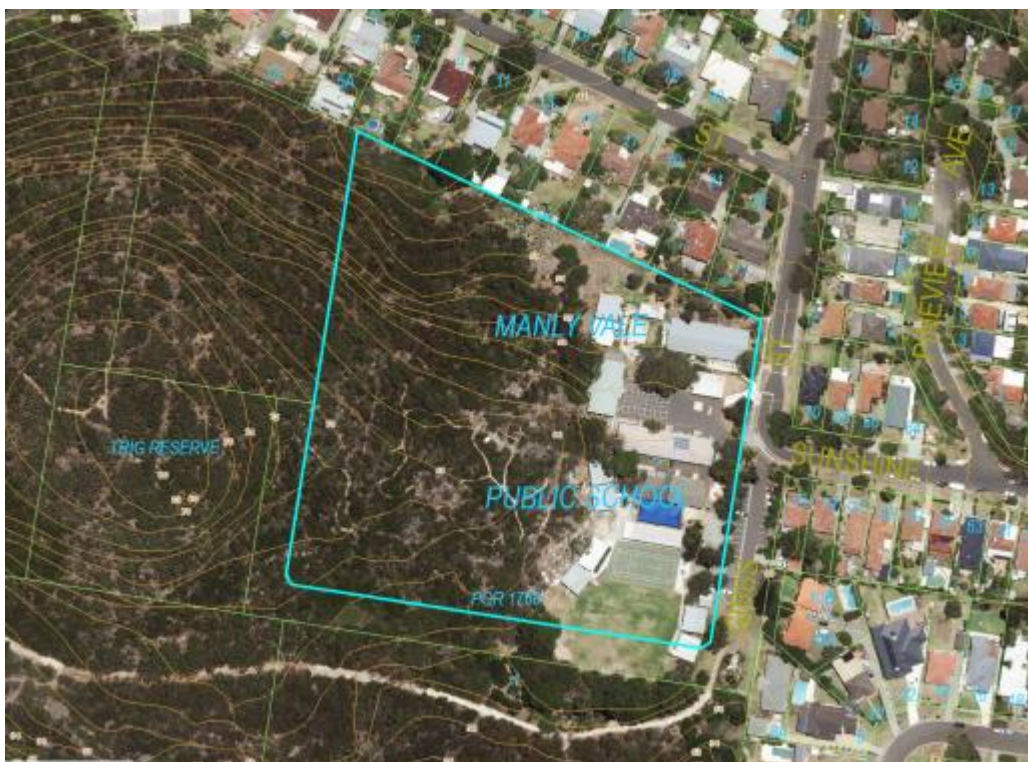


Figure 2: Aerial photo of the site (outlined in blue) showing the existing layout of the School.

Source: Council mapping.

DESCRIPTION OF THE SUBJECT SITE

The site is located on the eastern side of Gibbs Street (at the intersection of Sunshine Street) and is legally known as Lot 1768, in DP 752038, Sunshine Street, Manly Vale.

The site is trapezoid in shape with an eastern boundary length of approximately 133m, a western boundary length of approximately 184m, a southern boundary length of approximately 170m and a northern boundary length of approximately 182m. The site has a total area of 2.85ha (28,500m²).

The site is located within the R2 Low Density Residential zone.

The built-upon area of the site

Approximately 30% of the eastern side of the site is occupied by the buildings and associated grounds of the Manly Vale Public School which includes 10 permanent single storey buildings, 11 demountable classrooms and one demountable staff study. A 1,540m² oval is located partly within the southern end of the site and partly within the adjacent (and unmade) Crown road reserve.

Vehicular and pedestrian access is gained from Sunshine Street and Gibbs Street. The school currently does not include any on-site car parking. Instead, the school informally uses the 31 space public car park (within the Gibbs Street cul-de-sac) and surrounding streets.

The Statement of Environmental Effects accompanying the application notes that, as of 2013, the school enrolled 356 students (kindergarten to Year 6) and employed up to 40 permanent and part-time staff members (consisting 25 x teachers, 3 x administration staff, up to 10 x volunteers and 2 x cleaning staff).

The bushland area of the site

The remaining 70% of the site to the west is represented by bushland both on and around a sandstone spur.

The bushland area of the site includes three main vegetation types predominantly consisting of Sydney North Exposed Sandstone Woodland and Coastal Sandstone Mallee Heath. A small pocket of Sandstone Gully Forest is located to the west of the northern part of the existing school while an area of disturbed vegetation which serves as a bushfire asset protection zone is located along the northern boundary adjacent to Nos. 13, 15, 17, 19, 21 & 23 Arana Street.

The Species Impact Statement (v.6.0) dated 11 September 2016 as prepared by Kleinfelder noted that the following four threatened fauna species (as identified under the NSW *Threatened Species Conservation Act 1995*) have been recorded on site within the current school property boundary (see Figure 11 later in this report for the location of the listed species):

- Powerful Owl (*Ninox strenua*);
- Eastern-Pygmy possum (*Cercartetus nanus*);
- Eastern Bentwing-bat (*Miniopterus schreibersii oceanensis*); and
- Grey-headed Flying-fox (*Pteropus poliocephalus*).

The Red-crowned Toadlet was also recorded just outside the school boundary and was identified as having habitat within the site. The Species Impact Statement (SIS) also notes

that no threatened flora species or Endangered Ecological Communities are located on the site.

The western side of the site includes a section of the McComb Hill Track which runs down from McComb Hill to the main east-west walking track/fire trail which extends from the Gibbs Street carpark into the Park.

Site inspections

Site inspections were conducted on the following dates:

4 August 2015

This inspection was conducted by Council staff only and included the subject site and the rock spur.

21 January 2016

This inspection accompanied a representative of the NSW Government Architect's Office, the applicant's Bushfire Consultant Kleinfelder and the NSW Rural Fire Service on a tour of the proposed bushfire asset protection zones around the perimeter of the site.

Council's Natural Environment staff also conducted site inspections on 4 separate occasions.

DESCRIPTION OF THE SURROUNDING NATURAL AND BUILT ENVIRONMENT

Surrounding zones

The site is bounded by the R2 Low Density Residential zone to the north, east and south and the RE1 Public Recreation zone to the west and further south.

An SP1 Special Activities (Research Station) zone is located 160m to the west of the subject site and adjacent to the Manly dam. The zone accommodates water laboratories and a Public Works depot.

The R2 Low Density Residential zone to the north and east accommodates detached dwellings within domestic landscaped settings.

The R2 Low Density Residential zone to the south accommodates an unmade road reserve which extends along the full length of the southern boundary and half of the length of the western boundary. The reserve is owned by the Crown (Department of Primary Industries (Lands)).

Manly Warringah War Memorial Park

The RE1 Public Recreation zone to the west accommodates the eastern edge of the Manly Warringah War Memorial Park (including Trigg Reserve and McComb Hill which forms the peak of the afore-mentioned spur into the subject site).

Figure 3 below shows the extent of the Park (outlined in blue) and its relationship to the subject site (outlined in yellow).



Figure 3: Manly Warringah War Memorial Park (outlined in blue) and the subject site (outlined in yellow)

Source: Modified by the author from the Manly Warringah War Memorial Park Plan of Management.

The Park has a total area of 377ha (3,770,000m²) and is owned by the Crown (Department of Primary Industries (Lands)). The Park is managed by the Manly Warringah War Memorial Park Trust. The Northern Beaches Council manages the affairs of the Trust and is responsible for the Park's day-to-day management on behalf of the Trust under the provisions of the *Crown Lands Act 1989*. The management of the Park is guided by the *Manly Warringah War Memorial Park Plan of Management* adopted by Council on 25 March 2014.

The Park accommodates a 30ha (300,000m²) sheltered freshwater waterbody ('Manly Reservoir') retained behind Manly Dam (the waterbody has been used for recreational purposes only since 1936). The Park also accommodates the 36ha (360,000m²) Wakehurst Golf Course. Therefore, the remaining 311ha (3,110,000m²) of the Park accommodates bushland which is interlaced with numerous walking and bike tracks, an internal roadway ('Sir Roden Cutler VC Memorial Drive'), carparks and picnic areas.

A 5.7141ha (57,141m²) area of the Park immediately to the west of the subject site and between Manly Dam includes four subdivided allotments and an internal roadway off King Street, all of which remain unmade. This area also includes the continuation of the McComb Hill Track which runs down from McComb Hill to the main east-west walking track/fire trail which extends from the Gibbs Street carpark into the Park.

Aboriginal Cultural Heritage

Two Aboriginal Archaeological Assessments have been conducted within the project area (being the combined area affected by the school redevelopment and the associated bushfire asset protection zones (APZ)) dated 21 June 2015 and updated on 17 December

2015 respectively as prepared by Dominic Steele Consulting Archaeology on behalf of NSW Public Works.

In each report, the Assessments concluded that the project area contained no documented Aboriginal sites or objects with exception to the following two specific areas of potential Aboriginal heritage sensitivity that have been identified within (or just outside) the project area:

- Rockshelter (located outside the subject site but within the project area affected by the APZ); and
- Speculative engraving (located within the subject site but to the north of the proposed Block M of the new school).

The Aboriginal Archaeological Assessments are supported by a Statement from the Metropolitan Local Aboriginal Land Council (MLALC) which states (Note: the Statement makes reference to the amended plans submitted on 28 September 2016 as discussed later in this report):

"We would like to confirm that we support the findings, conclusions and recommendations presented in the archaeological report, and agree with the conclusion that the amended Concept Plan for the proposed new school will not have an adverse effect on any Aboriginal cultural heritage sites or areas of potential heritage sensitivity."

Non-Aboriginal Cultural Heritage

Manly Dam was established as a War Memorial Park after World War 1 and the Manly Warringah War Memorial Park Remembrance Trust was established in 1995. A war memorial, sculptures and a flagpole are located in Picnic Area 1 which is situated 389m west of the subject site.

The Park is included in the *Register of National Estate* which was officially closed in 2007 and is no longer a statutory list. All references to the Register were removed from the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 19 February 2012 and the Register is now maintained on a non-statutory basis as a publicly available archive and educational resource.

The Park is included in Schedule 5 – 'Environmental Heritage' of the WLEP 2011 and includes four listed built items being:

- I 84 – Manly Dam (State significance);
- I 144 – Manly Hydraulics Laboratory (Local significance);
- I 147 – Bantry Bay Reservoir (Local significance); and
- I 148 – Bantry Bay Water Pumping Station (Local significance).

The remainder of the Park is listed in Schedule 5 as having Conservation Area significance (C9 'Manly Dam and Surrounds').

Threatened Species

The application was lodged with a Preliminary Species Impact Statement which has been progressively updated throughout the life-cycle of the Development Application. The most recent (and final) version (v 6.0) was submitted on 28 September 2016.

The Park contains areas of the Duffys Forest Ecologically Endangered Community (EEC) within the south-western corner near the Wakehurst Golf Course and within the north-eastern corner, each being 1,066m and 2,595m away from the western boundary of the subject site respectively. A small area of EEC designated as 'Coastal Upland Swamp in the Sydney Basin Bioregion' is located within the north-western corner of the site approximately 3,284m away from the western boundary of the subject site. The SIS also notes that no EEC's occur on the site.

The SIS notes that the following three threatened fauna species (as identified under the NSW *Threatened Species Conservation Act 1995*) have been recorded within the study area immediately to the west of the site and within the Park:

- Eastern-Pygmy possum (*Cercartetus nanus*);
- Eastern Bentwing-bat (*Miniopterus schreibersii oceanensis*); and
- Red-crowned Toadlet (*Pseudophryne australis*).

The SIS also notes that no threatened flora species are located within the same study area.

Prescribed Hazard Reduction Burning

The area immediately to the west of the site (and within the western bushland part of the site) exhibits evidence of the prescribed hazard reduction burning conducted by the NSW Rural Fire Service (RFS) in October 2014.

Figure 4 below shows the extent of the burn while in progress on 11 October 2014 while Figure 5 shows the same area on 2 July 2016. The area of the burn is estimated to be around 5.5555ha (55,555m²).



Figure 4: Extent of the prescribed hazard reduction burn on 11 October 2014 (the school is located to the immediate right of the burn-off area)

Source: Nearmap.



Figure 5: Close-up image of the same area on 2 July 2016 (the school is located to the right of (and within) the burnt area).

Source: Nearthmap.

Condover Reserve

The RE1 Public Recreation zone to the south (on the opposite side of the afore-mentioned road reserve) accommodates Condover Reserve.

The Reserve has a total area of 12.57965ha (125,796.5m²) and is owned by the Northern Beaches Council. The management of the Reserve is guided by the *Urban Bushland Reserves Plan of Management for Condover Reserve* adopted by Council in November 2008.

Figure 6 below shows the extent of the Reserve (outlined in blue) and its relationship to the subject site (outlined in yellow).



Figure 6: Condover Reserve (outlined in blue) and the subject site (outlined in yellow).

Source: Modified by the author from Council's mapping.

The Reserve extends southward from the southern side of the subject site to the opposite side of the Burnt Bridge Creek Deviation.

The Reserve accommodates a 0.6152ha (6,152m²) sports field within the south-western corner adjacent to Condoover Street. A tributary of the Burnt Bridge Creek runs south from the Reserve to the Creek line on the opposite side of the Burnt Bridge Creek Deviation.

Threatened Species

The SIS notes that the following two threatened fauna species are located within the study area immediately to the south of the site and within the Reserve:

- Eastern Bentwing-bat (*Miniopterus schreibersii oceanensis*); and
- Red-crowned Toadlet (*Pseudophryne australis*).

The SIS also notes that no threatened flora species are located within the same study area.

SITE HISTORY

Council records relating to the development of the site commence with DA1994/0143 (see below). No earlier records are available.

Notwithstanding, a search of related documents and an examination of aerial photographs taken from 1930 onwards reveal that the development of the site for the purposes of a school commenced in the early 1950s with the school commencing operation in or around 1955. The photographs show that various buildings gradually accommodated the site from that date onwards.

DA1994/0143

This application was lodged on 25 March 1994 for the construction of school assembly hall within the north-western side of the site.

The application was considered to be incomplete due to the DoE advising that the owner's consent would not be provided. The application was subsequently withdrawn by the applicant.

DA1996/0095

This application was lodged on 11 April 1996 for the construction of a multi-purpose area, foyer; amenities, store room, tea room and external deck.

The application was approved on 28 May 1997.

DA2000/4219

This application was lodged on 26 April 2000 for the construction of a canteen within the eastern part of the school grounds.

The application was approved on 11 August 2000.

DA2003/0122

This application was lodged on 6 February 2003 for the construction of a shade structure over playground equipment within the northern part of the school grounds.

The application was approved on 6 March 2003.

Pre-lodgement Meeting

PLM2014/0154

A pre-lodgement meeting was held with NSW Public Works on 10 November 2014 to discuss a proposal for demolition works and alterations and additions to an existing school including the construction of new classroom buildings and a library.

The meeting was a precursor to the subject Development Application and the plans presented at the meeting were a preferred option (Option D) which resulted from alternate options considered by the DoE.

Figure 7 shows the layout of the proposal as presented at the pre-lodgement meeting.

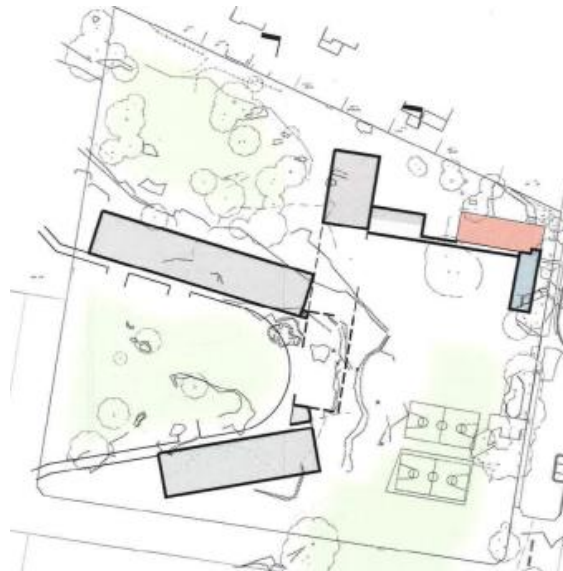


Figure 7: Design layout of the development as presented to Council at the pre-lodgement meeting.

Source: Plans prepared by NSW Public Works.

The Pre-lodgement Notes were forwarded to NSW Public Works on 25 November 2014 and identified fundamental concerns with regards to the locating of APZs within the neighbouring Reserves, the impact of the APZs on threatened species and habitat, as well as the provision of on-site carparking.

The Pre-lodgement Notes concluded that the proposal was considered to be inconsistent with the following clauses in the Warringah Development Control Plan 2011:

- C3 - Parking Facilities;
- E1 - Private Property Tree Management;
- E2 - Prescribed Vegetation;
- E5 - Native Vegetation;
- E6 - Retaining unique environmental features; and
- E7 - Development on land adjoining public open space.

With regards to achieving consistency with Clause E3 – ‘Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat’ the Notes advised that:

“Given the scale of clearing, surveys must be conducted consistent with relevant state and federal threatened species survey guidelines. Surveys must be conducted at a suitable time of year and during appropriate climatic conditions (e.g. during or following rainfall when surveying for Red-crowned Toadlet). Assessments of significance must be completed for all threatened species with known and potential habitat in accordance with the NSW Department of Environment and Climate Change

(now OEH) publication, *Threatened species assessment guidelines The assessment of significance 2007*.

Threatened species that are known or likely to occur in the local area include (but are not limited to):

Threatened Fauna

- *Powerful Owl*;
- *Eastern Pygmy Possum* – Nest boxes have recently proven to be the most successful detection method;
- *Glossy Black Cockatoo*;
- *Eastern Bentwing Bat*;
- *Southern Brown Bandicoot* – Council supports the use of remote infra-red camera trapping for detection;
- *Red-crowned Toadlet* – Only likely to be detected during or following heavy rainfall;
- *Giant Burrowing Frog* - Only likely to be detected during or following heavy rainfall; and
- *Heath Monitor*.

Threatened Flora

- *Tetratheca glandulosa*;
- *Pimelea curviflora* var. *curviflora*; and
- *Persoonia hirsuta* subsp. *Hirsuta*.”

With respect to the provision of on-site carparking, the Pre-lodgement Notes advised

“Insufficient detail was provided at the meeting with respect to the number of staff in attendance at any one time to ascertain the number of parking spaces required. However, concern was raised regarding the on-going reliance upon the public car park located within Gibbs Street.

Given the wholesale scale of the redevelopment involved, it is now considered unreasonable that the school continues to rely upon the public car parking within Council’s road reserve on Gibbs Street. In this regard, the development is to be designed to include car parking on the site (whether above or below ground) in accordance with the objectives and requirements of part C3 Parking Facilities and Appendix 1 of the WDCP 2011.”

The Pre-lodgement Notes therefore concluded:

“Notwithstanding the accepted architectural design of the development, Council raises fundamental concerns regarding two key areas of the development, being:

- *The degree of clearing required on neighbouring bushland reserves to accommodate the APZ; and*
- *The provision of carparking.*

The use requires an extensive APZ which will result in the substantial clearing of vegetation within neighbouring bushland and road reserves. This extensive clearing of land beyond the property boundaries of the school is not supported as it will have

impacts upon native vegetation and tree canopy, including native fauna and their habitat (including possible threatened species).

The school currently relies upon the public parking area within Council's road reserve (Gibbs Street). Given the extensive redevelopment of the school it is considered appropriate that the development should now include the provision for carparking and drop off/pick up points within the school grounds. This may be above or below ground but, given the context and scale of the development, the future reliance upon the public carpark in Gibbs Street is not considered to be a reasonable or acceptable outcome given that the opportunity is now available to the DoE to incorporate on-site carparking and manoeuvring areas into the design of the development.

Based upon the above comments, and those provided elsewhere in these notes, you are advised to satisfactorily address the matters raised in these notes prior to lodging a development application, in particular the two points discussed above."

No further communication was had with the NSW Public Works between the receipt of the Pre-lodgement Notes and the lodging of the subject Development Application on 30 June 2015.

DETAILS AND DESCRIPTION OF THE DEVELOPMENT

Crown Development

The subject application was lodged by NSW Public Works on behalf of the DoE on 30 June 2015. The application is therefore classified as Crown Development under the provisions of Part 4, Division 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Section 89(1) and (2) of the EP&A Act are relevant to the processing and determination of Crown Development and states:

- 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 regulations¹, the applicant or the consent authority may refer the application:
 - a) to the Minister, if the consent authority is not a council², or
 - b) to the applicable regional panel, if the consent authority is a council."

Section 89(5) is also relevant and states:

- 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."

Notes:

- ¹. For the purposes of Section 89(2) and 89(5), the periods prescribed by Section 113B of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) is 70

days after the application is lodged with the consent authority or 50 days after the application is referred to the Sydney North Planning Panel.

2. The consent authority for this application will be the Sydney North Planning Panel.

The application has been lodged with Council for more than the period prescribed by the EP&A Regulation. However, to date, the applicant has not invoked Section 89(2).

On 14 June 2016, the DoE advised in writing that they had replaced NSW Public Works as the applicant.

The conditions included under Appendix A of this report have been reviewed and agreed upon by the applicant in accordance with s.89(1)(a) of the EP&A Act, 1979.

Background to the Development

In 2013 the DoE commenced a review of student accommodation at all schools in the Manly Electorate. A 'Six Schools Strategy' was developed to address enrolment pressures at the four primary schools in the then Manly local government area (LGA) and two schools in the then Warringah LGA (both now under the Northern Beaches LGA) catchment. The schools that were the subject of the Strategy are:

- Manly Vale Public School;
- Manly West Public School;
- Balgowlah Heights Public School;
- Manly Village Public School;
- Balgowlah North Public School; and
- Seaforth Public School.

A 'Needs Analysis' prepared by the DoE to respond to the Strategy notes that the key driver for the development is the actual and projected population growth in the Manly LGA which is putting pressure on local primary schools. The Analysis identifies that the population of the LGA has increased from 39,263 in 2006 to 42,531 in 2011 and will increase to 51,900 by 2031. The Analysis also identifies that the primary school students in the LGA will increase from 2,340 in 2011 to 3,480 in 2031. This represents a growth of 48.7%.

Additionally, it is noted in the '*Advisory Notes for Developers and Consent Authority for Master Planning New Education Facility Sites*' published by the DoE that demand for a new education facility or augmentation to an existing facility will be also generally influenced by:

- a) Possible diversion of some students in new areas to existing schools;
- b) The impact of existing or proposed non-government schools;
- c) The type and speed of residential development;
- d) The possible need for additional sites in large developments to cater for temporary enrolment peaks; and
- e) The nature of the population.

(Note: The 'Advisory Notes' are flexible broad guidelines which may vary with individual developments and contain ideal master planning requirements for new education facility sites to be considered on a case-by-case basis).

As a result of the Strategy and Analysis, the Manly Vale Public School was identified by the DoE as requiring an upgrade to accommodate 1,000 students. This forms the basis for the subject application.

DESCRIPTION OF THE DEVELOPMENT (ORIGINAL SCHEME)

(Note: The design of the development has been amended since lodgement. Refer to 'Description of the Development (As Amended)' following this section).

The applicant seeks consent for demolition works, alterations and additions to existing buildings, construction of new school buildings and an increase in student numbers at Manly Vale Public School.

The development is designed to accommodate an incremental increase student numbers from 350 (currently) to 1,000 by 2018. The 'Traffic, Parking & Servicing Impact Assessment' dated 18 June 2015 as prepared by McLaren Traffic Engineering estimates that staff numbers will consequently increase from 40 (current) to 60.

For the purposes of clarification, Figure 8 below details the plan of the proposal and the locations of the various buildings listed in the discussion below.

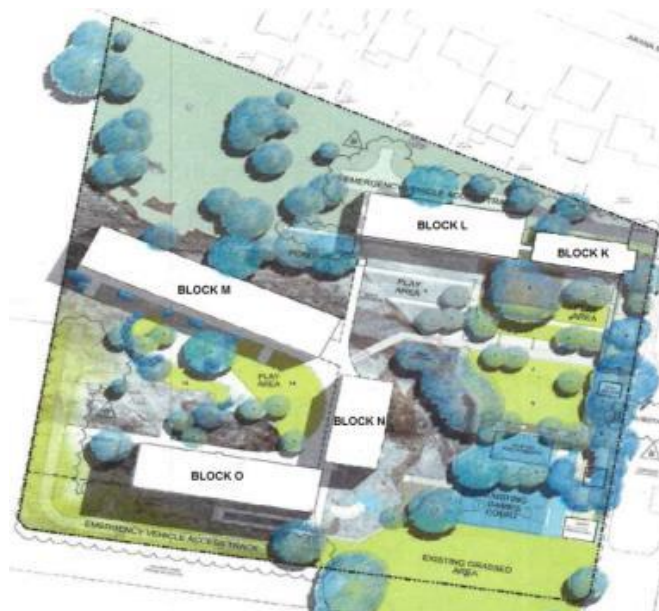


Figure 8: Original Site layout and Building Reference.

Source: Modified by the author from Plan DAL01(B) dated 18 April 2016 as prepared by the Government Architects Office for NSW Public Works and

Specifically, the development involves the following:

Demolition works and removal of demountable buildings

Removal of 10 demountable buildings and relocation of 1 demountable building to the south-eastern corner of the site adjacent to the 'existing grassed area'.

Refit of an existing building

Block K (FFL 58.58)

The existing Administration Building is to be retained and internally updated.

Additions will include a link corridor between Block K and new Block L.

Construction of new school buildings

Four new buildings are to be constructed, each of a simple and contemporary box-like structure with a skillion roof form. Each building (with exception to Building K) is mounted on piers to minimise impact upon rock outcrops.

Each building is to be finished in a combination of corrugated metal and compressed fibre cement cladding with the roof being finished in zincalume cladding.

Pedestrian access to Blocks M, N, O and P is gained from street level via a lift, associated walkway, ramps and separate stairs.

Block L (FFL 58.58)

Block L is a part elevated single storey building located to the west of Block K and will provide for a hall, canteen sports store, toilets, staff room etc.

Block M (FFL 66.50 & FFL 69.80)

Block M is a part elevated two storey building mounted on columns over the northern side of the rock spur within the western part of the site.

The northern elevation of the building is elevated between 3.0m and 4.0m above the sloping side of the spur while the southern elevation of the building is generally level with the crest of the spur.

The building will provide for 24 x classrooms, 6 x breakout areas, stores, toilets etc.

Block N (FFL 69.80)

Block N is an elevated single storey building mounted on columns over the eastern side of the rock spur at the centre of the site.

The building is elevated between 2.8m to 3.0m above the sloping head of the spur and connects to the common walkway and upper levels of Blocks M and O.

The building will provide for a library, office, storerooms etc.

Block O (FFL 66.50 & FFL 69.80)

Block O a part elevated two storey building mounted on columns over the southern side of the rock spur within the western part of the site.

The southern elevation of the building is elevated between 1.6m and 2.4m above the sloping side of the spur while the northern elevation of the building is generally level with the crest of the spur.

The building will provide for 16 x classrooms, 4 x breakout areas, stores, toilets etc.

Recreation/Outdoor Learning Areas

The development includes the following recreation/outdoor leaning areas:

Elevated Central Outdoor Learning Area

This 1,112m² area is located between Blocks M, N and O and consists of landscaped open space combined with exposed natural rock outcrops.

Lower Outdoor Play, Sports and Activity Areas

The area of the site located level to Gibbs Street is to accommodate a combined play, sporting and activity area of 5,480m². In addition to these dedicated areas, surrounding rock outcrops will also provide for an active learning environment.

Ancillary and associated works

Carparking

Revised plans submitted to Council on 18 April 2016 includes the provision of an on-site parking area for 11 vehicles within the undercroft area of Block L. The carpark is accessed from Sunshine Street via a 3.0m wide driveway.

The proposal will continue to rely on the public carpark on Gibbs Street and the street frontage of Sunshine Street to provide for:

- 18 to 19 kiss and drop spaces;
- 8 to 9 spaces on the eastern kerb of Gibbs Street;
- 10 spaces in the existing public car park on Gibbs Street; and
- 2 x bus bays on the western side of Sunshine Street.

Lift shaft and pedestrian walkway

A 16m high single lift shaft is to be located adjacent to Block L. The lift provides pedestrian access from street level to the floor levels of Blocks M, N and O via two walkways.

Bushfire asset protection zones and removal/modification of vegetation

The development will require the removal and modification of approximately 4.37ha (43,700m²) of bushland both within and outside the subject site to provide for bushfire asset protection zones (APZ).

Figure 9 below shows the location and extent of the inner and outer protection zones.



Figure 9: The originally proposed APZ (the outer protection area is in black hatch and the inner protection area is in blue hatch).

Source: Bushfire Threat Assessment dated 22 June 2015 as prepared by Kleinfelder.

The revised Landscape Management Plan (v.4.0) dated 8 April 2016 as prepared by Kleinfelder states that, “of the 4.37ha, approximately 0.36ha will be removed to construct the new school buildings, while 4.01ha (consisting both the inner and outer protection areas) will be modified or cleared to establish the required APZ and to construct laydown areas and access roads”.

The revised Landscape Management Plan also states that 0.56ha (5,600m²) of the total APZ area will be retained as vegetation islands and cultural heritage exclusion zones.

Figure 10 below shows the location of retained vegetation islands (shaded in red).

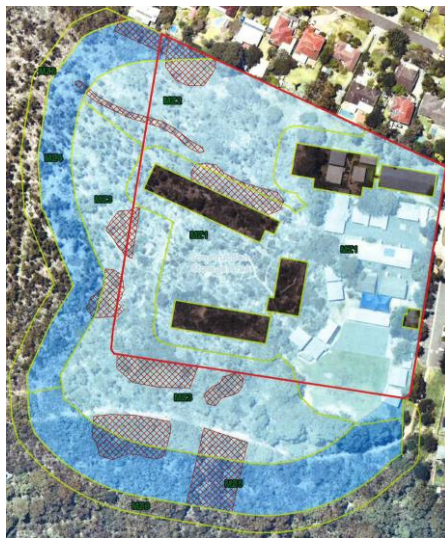


Figure 10: Retained vegetation islands (original scheme)

Source: Landscape Management Plan (v 4.0) dated 8 April 2016 as prepared by Kleinfelder.

Identification of Threatened Species

The updated SIS dated 17 December 2015 and the Addendum to the SIS dated 8 April 2016 note that the following threatened fauna species (as identified under the NSW *Threatened Species Conservation Act 1995*) are located within the study area.

Figure 11 below shows the location of identified threatened species within the site and within the APZ areas. The species are:

- Eastern-Pygmy possum (yellow triangle);
- Eastern Bentwing-bat (green triangle);
- Red-crowned Toadlet (red triangle);
- Powerful Owl (dark blue triangle); and
- Grey-headed Flying-fox (light blue triangle).

(Note: The yellow and green circles indicate the location of a rockshelter and speculative engraving as discussed earlier in this report and within the Aboriginal Archaeological Assessment dated 17 December 2015 as prepared by Dominic Steele Consulting Archaeology on behalf of NSW Public Works).

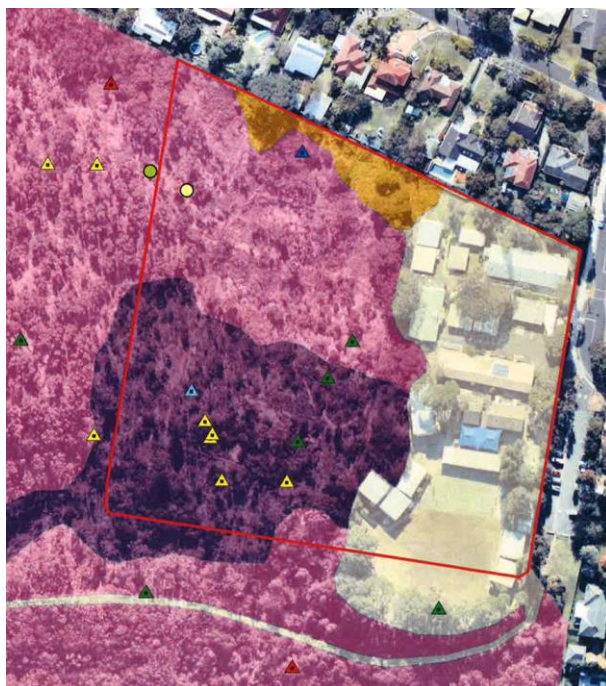


Figure 11: Location of threatened species within the site and APZ area (applicable to both the original and amended scheme)

Source: Landscape Management Plan (v 5.0) dated 11 September 2016 as prepared by Kleinfelder.

DESCRIPTION OF THE DEVELOPMENT (AMENDED SCHEME)

A meeting was held between Council staff and representatives from the DoE on 4 August 2016. At that meeting, the DoE advised that any alternative site options (such as Millar's Reserve) were not under consideration by the Department. Instead, the Department put forward an option to re-design part of the school in an effort to reduce the extent of the APZ into the Manly Warringah War Memorial Park.

The following provides details on the amendment made to the proposal which was submitted to Council on 28 September 2016. Those parts of the development which have not been amended are not discussed further.

Construction of new school buildings (as amended)

Block M (FFL 66.50 & FFL 69.80)

Block M has been reduced in length from 79m to 47.5m (i.e. by 31.5m). This subsequently increases the setback between the northern end of Block M and the northern boundary by 36m to 40m (i.e. from 3.0m to 8.0m respectively) and, in turn, reduces the depth and area of the APZ within the Manly Warringah War Memorial Park.

The building will provide for 12 x classrooms, 4 x breakout areas, stores, toilets etc.

Block P (FFL 69.80 & FFL 73.10)

Block P is a new building which has been introduced to permit the total future student accommodation of the school following the reduction of Block M (see commentary above).

Block P is a two storey building oriented in an east-west direction parallel to the northern boundary and between Block M and Block O.

The building is mounted on piers and provides for 12 x classrooms, 4 x breakout areas, stores, toilets etc. A Covered Outdoor Learning Area (COLA) is situated within the undercroft area below the building.

Figure 13 below shows the arrangement of the amended layout.



Figure 13: Amended site layout and building reference (Note: Blocks M and P).
Source: Plan LDA01(C) dated 27 September 2016 as prepared by the NBR Architecture.

Ancillary and associated works (as amended)

Bushfire asset protection zones and removal/modification of vegetation

The amended development will require the selective removal and modification of approximately 3.65 ha (36,500m²) of bushland both within and outside the subject site to provide for bushfire asset protection zones (APZ).

The revised Landscape Management Plan (v.5.0) dated 11 September 2016 as prepared by Kleinfelder states that, “approximately 3.65 ha of disturbed (weed infested) and native bushland is proposed to be removed or modified. Of the 3.65 ha, 3.52 ha is native bushland that will require some form of biodiversity management.” The Plan then states that “of the 3.52 ha, approximately 0.94 ha will be removed to construct the new school buildings and to construct laydown areas and access roads, while 2.58 ha will be modified or cleared to establish the required Asset Protection Zone (APZ).”

This represents a reduction of approximately 7,200m² to the selective removal and modification of vegetation both within and outside of the site from what was originally proposed.

Figure 14 below shows the location and extent of the amended inner and outer protection zones.



Figure 14: The amended APZ (the outer protection area is in dark blue hatch and the inner protection area is in light blue hatch). The red strip indicates the original extent of the APZ depth and area.

Source: Modified by the author from the Bushfire Threat Assessment dated 22 June 2015 and the amended Bushfire Threat Assessment (D) dated 26 August 2016, both as prepared by Kleinfelder.

The table below provides a comparison of the change to the overall extent of the APZ area *within* the adjacent Manly Warringah War Memorial Park and Condover Reserve to the south (this includes the unmade Crown Road reserve which, although allocated for roadway purposes, is included in the compulsory acquisition for the purposes of the APZ and visually relates of the adjacent bushland reserves):

Reserve (Area)	APZ (Original Scheme)	APZ (Amended Scheme)	APZ Difference
War Memorial Park (3,770,000m ²)	7,786m ² (0.21%)	4,199m ² (0.11%)	-3,587m ² (46.1%)
Condover Reserve (125,796m ²)	11,465m ² (9.1%)	10,697m ² (8.5%)	-768m ² (6.6%)
Road Reserve (4,050m ²)	4,050m ² (100%)	4,050m ² (100%)	Nil (0%)
Total Area (3,899,846m ²)	23,301m² (0.6%)	18,946m² (0.5%)	-4,355m² (0.1%)

Note: The above figures are approximate and do not include the area within the subject site.

The revised Landscape Management Plan also indicates that 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands and cultural heritage exclusion zones. Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m².

It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

The above indicates that the physical area of the APZ (37,956m² (or 3.79 ha) being 28,500m² + 18,946m² - 9,489m²) will be 1,456m² more than the estimated area of 36,500m² (or 3.65 ha) identified for selective removal and modification in the revised Landscape Management Plan (v.5.0). However, the two should not be confused as they represent different aspects of the APZ and it is accepted that the physical area of the APZ would be

greater than the nominated areas of vegetation removal and modification to which it contains.

Figure 15 below shows the location of retained vegetation islands (shaded in green).

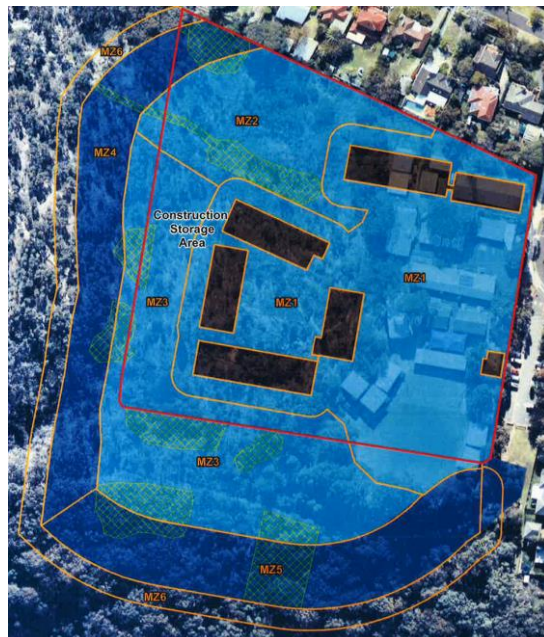


Figure 15: Retained vegetation islands.

Source: Updated Landscape Management Plan (v 5.0) dated 11 September 2016 as prepared by Kleinfelder.

Compulsory acquisition

On 25 February 2016, the DoE sought confirmation from Council that it did not object to the proposed acquisition of:

- Lot 1 in DP 433773;
- Lot 1 in DP 1146289;
- Part of Lot 7074 in DP 1029974;
- Lot 1549 in DP 752038; and
- The affected parts of the Crown Road Reserve to the south and west of the subject site.

On 29 March 2016, Council considered this matter and formally resolved as follows:

“That Council object to the request by the NSW DoE to compulsorily acquire part parcels of land within Lot 1 DP433773 and Lot 1 DP1146289.”

The applicant was also advised by letter dated 4 April 2016 that *“it would be appreciated if DoE could reconsider other alternatives to the proposed compulsory acquisition of Council land”*.

Notwithstanding, the DoE advised, in a letter dated 31 May 2016, that it had commenced a process to compulsorily acquire parts of the following land for the proposes of establishing the APZ areas:

- *“An easement over parts of the Crown land in Part Lot 7074 in DP 1029974 and Part Lot 1549 in DP 752038, which is adjacent to the western boundary of the*

school. The terms of the easement given the Department the right to create and maintain an APZ in the land which is subject to the easement;

- The freehold interest in the Crown Road along the southern and western boundary of the school; and
- The freehold interest in the Council owned land to the south of the school, being part of Lot 1 in DP 1146289 and Part of Lot 1 in DP 433773.”

Figure 16 below shows the areas of compulsory acquisition as detailed by the DoE.

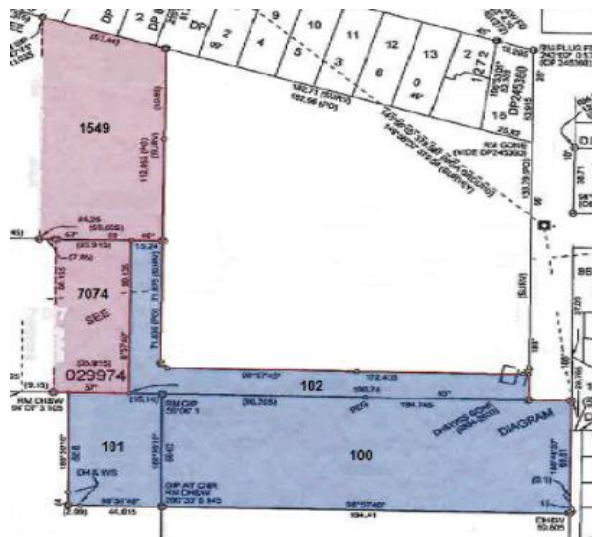


Figure 16: Nominated areas of compulsory acquisition to accommodate APZ areas.

Source: DoE – Deposited Plan 1220468.

It is noted that the areas of acquisition indicated in Figure 12 above are larger than the actual APZ areas and do not, therefore, indicate the area of vegetation clearing required for the APZ.

On 31 October 2016 the DoE served Council with copies Proposed Acquisition Notices for the following lands:

- Easement over part of Lot 7074 in DP 1029974 and part of Lot 1549 in DP 752038; and
- Freehold acquisition of part of Lot 1 in DP 114289 and part of Certificate of Title 7963-27, being Lots 100 and 101 in DP 1220468.

The Proposed Acquisition Notices provide 30 days' notice of the intended acquisition and advise that, after this time (i.e. 30 November 2016) the Minister intends to arrange publication of the compulsory acquisition in the NSW Government Gazette.

On 10 November 2016, Council received confirmation from the applicant that the public bike path (which is located within the area of acquisition to the south of the subject site) will remain.

The compulsory acquisition was entered into the NSW Government Gazette (No. 104) on 2 December 2016. The gazettal includes:

“Schedule 1

All those pieces or parcels of land situated in the Local Government Area of the Northern Beaches, Parish of Manly Cove and County of Cumberland being:

- Lot 100 in Deposited Plan 1220468 being part of the land in Certificate of Title 1/1146289 said to be in the possession of the Northern Beaches Council; and
- Lot 101 in Deposited Plan 1220468 being part of the land in Certificate of Title Auto Consol 7963-27 said to be in the possession of the Northern Beaches Council; and
- Lot 102 in Deposited Plan 1220468 being a Crown road said to be in the possession of the State of New South Wales, shown on Plan C.6884.2030.

Schedule 2

An easement for the purposes of bush fire asset protection zone on the terms and conditions set out in registered memorandum No. AK459501.

Schedule 3

All those pieces or parcels of land situated in the Local Government Area of Northern Beaches, Parish of Manly Cove and County of Cumberland being:

- *That part of Certificate of Title Folio Identifier 7074/1029974 comprised within the site of the "Proposed Easement for Asset Protection Zone" delineated as '(A)' on Deposited Plan 1220468, and said to be in the possession of the State of New South Wales and under the care, management and control of the Manly Warringah War Memorial Park (R68892) Reserve Trust; and*
- *That part of Certificate of Title 1549/752038 comprised within the site of the "Proposed Easement for Asset Protection Zone" delineated as '(B)' on Deposited Plan 1220468 and said to be in the possession of the State of New South Wales and under the care, management and control of the Manly Warringah War Memorial Park (R68892) Reserve Trust."*

Biobanking Offset Strategy

The updated SIS (v 6.0) includes details under Appendix 7(4) of a Biobanking Offset Strategy to provide new credit calculations for the proposed impacts of the amended design using the BioBanking Assessment Methodology (BBAM) 2014.

Of the five threatened fauna species identified, the Eastern Pygmy-possum and the Red-crowned Toadlet are 'species credit' species. Although breeding habitat for the Eastern Bentwing-Bat and the Grey-headed Flying-fox are species credits, the SIS reports that no breeding habitat was identified within the development site and therefore, no species credits are required for these species.

The SIS notes that the following species credits are required:

Scientific Name	Common Name	Quantity of Loss	Species Credits
<i>Cercartetus nanus</i>	Eastern Pygmy-possum	3.52 ha	70
<i>Pseudophryne australis</i>	Red-crowned Toadlet	0.53 ha	7

Of further note, the SIS identifies that the north-western corner of the study area includes moderate seepage conducive to pooling after rainfall. As Red-crowned Toadlet was

identified in this area during the January 2016 survey, the Landscape Management Plan includes protection of this area during vegetation clearing, and in perpetuity, with the intention of protecting the local population of this species.

In the Appendix, Kleinfelder notes:

“The Office of Environment and Heritage prefer the use of the BBAM 2014 methodology for calculating biodiversity offset requirements and the use of Biobank Sites as a mechanism for securing biodiversity offsets.

Kleinfelder has undertaken investigations to identify potentially suitable biodiversity offsets for the proposed MVPS redevelopment. These investigations identified suitable biodiversity offset lands owned by Hornsby Shire Council located at 64 Crosslands Road, Galston. Council intend to submit a biobanking agreement application to establish the lands as a biobank site.

Subsequently, DoE have also entered into a Memorandum of Understanding (MoU) with Council to purchase and retire credits from this site to offset the MVPS proposal. The proposed biobank site can fulfil all ecosystem credit and species credit requirements of the proposed development.”

The afore-mentioned executed MoU between the DoE and Hornsby Shire Council was submitted to Council on 10 November 2016 for its information. It is understood that the MoU was forwarded directly to the OEH by the applicant for its consideration.

HISTORY OF THE SUBJECT APPLICATION

The following provides a summarised version of key chronological events that have occurred during the life of the application.

Chronology of key events

Lodgement of the application (30 June 2015)

The application was lodged on 30 June 2015 with the following two key documents being included which were of a preliminary status only:

- Preliminary Flora and Fauna Assessment (Draft A) dated 17 March 2015 as prepared by Total Earth Care Pty Ltd;
- Preliminary Species Impact Statement (Version 2.0) dated 22 June 2015 as prepared by Kleinfelder;

A prescribed burn was undertaken within the project area around 11 October 2014 (see Figures 4 & 5 in this report) which restricted survey efforts to ascertain the presence of any threatened flora and fauna species.

In order to verify the presence of any threatened flora and fauna species within the project area, further survey work was prescribed to occur in the Spring of 2015 with a view to providing a final SIS in early December 2015, some five months after the lodging of the Development Application.

JRPP briefing No. 1 (19 August 2015)

Following a review of the application by various Council departments (see the referral responses under the ‘Referrals’ section in this report), Council briefed the NSW Joint

Regional Planning Panel (JRPP) as to the status of the application in anticipation of the matter being referred to a future determination meeting.

JRPP briefing No. 2 (25 August 2015)

Subsequent to JRPP Briefing No. 1, the Panel granted the applicant a separate briefing. Council was also in attendance to answer any questions raised by the Panel.

Council letter to the applicant

At the JRPP briefing of 25 August 2015, Council issued the applicant with a letter which detailed the fundamental issues which prevented Council from being able to recommend to the JRPP that the application be approved.

Note: The applicant was verbally advised of Council's position and the issues raised in the Council's letter around the time of the JRPP briefing of 19 August 2015.

In summary, the letter raised the following matters of concern:

Environmental Planning and Assessment Regulation 2000

- *Land Owners Consent.*

(Note: In addition to this matter being raised in the letter, emails were also sent to the applicant on 28 August 2015 and 31 August 2015 confirming Council's position to withhold the granting of landowner consent for the use of its land (whether under direct ownership or under its care, control and management) for the purpose of any works, including the provision of bushfire asset protection zones, which are related to Development Application DA2015/0597.

This issue was also reiterated at JRPP Briefing on 25 August 2015 and at a meeting held between Council staff and NSW Public Works on 12 November 2015).

Warringah Local Environmental Plan 2011

- *Clause 1.2 - Aims of Plan; and*
- *Clause 4.3 – Height of Buildings.*

Warringah Development Control Plan 2011

- *Clause A.5 – Objectives;*
- *Clause C2 – Traffic, Access and Safety;*
- *Clause C3 – Parking Facilities;*
- *Clause C4 – Stormwater;*
- *Clause E1 – Private Property Tree Management;*
- *Clause E2 - Prescribed Vegetation;*
- *Clause E5 – Native Vegetation; and*
- *Clause E6 – Retaining Unique Environmental Features.*

Insufficient Information

- *Preliminary Species Impact Statement;*
- *Preliminary Flora and Fauna Assessment; and*
- *Bushfire Threat Assessment.*

The letter concluded:

“Given the matters raised above, Council is unable to recommend to the NSW Joint Regional Planning Panel that the application be approved.

The preliminary nature of the environmental reporting submitted with the application does not provide Council with any satisfaction that the development will not have a significant impact upon threatened species in the area defined by the proposed APZ or the edges of the APZ.

Notwithstanding the ultimate completion of the environmental reporting, the absence of the consent of the respective landowner upon whose land the APZ (and any associated works) is proposed has not been obtained and, in Council’s particular case, will not be provided.

In addition to the above, the development (which will incorporate extensive clearing of the upper part of the site and adjacent reserve) appears to have little regard to the environmental and structural effects of the resulting increase of stormwater flow volume into adjoining public and private lands below.

The development continues to rely heavily on the Council car park, with a staff car park being proposed when the student population reaches its peak of 1000 in 2018. The continued use of Council’s car park is not acceptable and all car parking and pick-up/drop-off is to be contained within the subject site.

Based upon this review, it would seem that the proposed design and location of the new school building is not appropriate to the designated part of the property. Instead, consideration is to be given to redesigning the development to sit within the area currently occupied by the existing school buildings.

Therefore, you are strongly encouraged to withdraw this application, attend a pre-lodgement and re-submit an application that addresses all of the issues listed above. Council will not accept any additional information or amendments to this current application.

If you choose to withdraw this application within seven days of the date of this letter (i.e. by 1 September 2015), Council will refund a portion of the development application fees.

However, if you have not contacted Council by 1 September 2015, then Council will assume that you are not withdrawing this application, no fees will be refunded and your application will be referred to the NSW Joint Regional Planning Panel for determination.”

Given the limitations placed upon a consent authority in refusing the application under Section 89(1)(a) of the EP&A Act and the applicant’s refusal to withdraw the application, the withdrawal deadline and the restriction on the receipt of additional information or amendments could not be enforced.

Following the outcome of the JRPP briefing on 25 August 2015 (see earlier commentary in this report), Council undertook the following series of meetings with the applicant. In addition, Council also accepted the following updated, revised and additional information:

Applicant workshop (23 September 2015)

A workshop was held between Council staff and the applicant with the aim of exploring opportunities to resolve the issues raised by Council in its letter of 25 August 2015.

Applicant meeting (12 November 2015)

A meeting was held between Council staff and the applicant in order to provide an update on the progress of the environmental survey work and the submission of the final SIS.

Traffic related issues were also discussed at the meeting where it was advised that the proposed 'wombat crossing' was to be referred to the Warringah Traffic Committee.

Warringah Traffic Committee (1 December 2015)

The application, which included a submission prepared by McLaren Traffic Engineering dated 19 November 2015 to address the proposed upgrade of the existing children's crossing on Sunshine Street to a raised pedestrian crossing at first occupation (i.e. to 550 students), was referred to the Warringah Traffic Committee where it was resolved:

- A. *"That the provision of a wombat crossing in the vicinity of the existing children crossing on Gibbs Street be approved in principle subject to the facility being designed to the satisfaction of Council and provided at no cost to Council.*
- B. *That it be noted that the provision of a wombat crossing on the road bend is not supported.*
- C. *That the design of the wombat crossing includes the provision of street lighting in accordance with the Australian Standards and at no cost to Council.*
- D. *That the provision of bicycle racks be included in the proposal as per Council's Development Control Plan and the applicants Traffic Report.*
- E. *That Council Planners consider provision of disabled parking and staff parking spaces in the new design plan."*

Updated information (18 December 2015)

- 'Final' SIS (Version 5.0) dated 17 December 2015;
- Waterway Impact Statement dated 27 November 2015;
- DRAINS Model dated 27 November 2015;
- Final Aboriginal Archaeological Statement dated 17 December 2015; and
- Clause 4.6 Variation to the Height of Buildings Development Standard.

Note: The Preliminary SIS originally submitted with the application noted that *"at this stage of the development application an offset strategy for the development has not been discussed with the proponent or NSW Office of Environment & Heritage (OEH). Further biodiversity offsetting discussion will be required between the proponent and OEH to determine an acceptable outcome."*

In response to Section 7 ('Ameliorative Measures') of the Director General's Requirements (DGRs) issued by the OEH on 27 March 2015, the Final SIS includes a brief reference to an offset strategy which it claims has been developed and which, at the time of preparing that report, was being reviewed by the OEH. In this regard, the Report also states that *"further biodiversity offsetting discussion will be required between the proponent and OEH to determine an acceptable outcome."*

Updated information (22 December 2015)

- Supplementary Traffic Impact Assessment dated 22 December 2015.

Revised information (8 January 2016)

- Revised site plan to accommodate the Ausgrid substation dated 8 January 2016.

Revised information (26 February 2016)

- Revised Stormwater Management Concept Plan dated 11 February 2016.; and
- Revised Waterway Impact Statement (Version 2.0) dated 23 February 2016.

Council meeting (Deferred from 22 March 2016 to 29 March 2016)

In response to a letter received from the DoE dated 25 February 2016 (which advised that the Crown intends to seek the Ministers approval to Compulsorily Acquire part of Lot 1 in DP 433773 and Lot 1 in DP 1146289 (both within the Council owned Condover Reserve)), Council met at its Ordinary Meeting to consider, amongst other matters, the proposed acquisition of land under Item 7.3.

The preamble to Item 7.3 stated the purpose of the matter was “*to consider the request by the NSW DoE to compulsorily acquire 16,000m² of Council Land for an Asset Protection Zone (APZ) relating to planned additional school buildings within the grounds of the Manly Vale Public School.*”

At that meeting Council resolved:

“That Council object to the request by the NSW DoE to compulsorily acquire part parcels of land within Lot 1 DP433773 and Lot 1 DP1146289.”

The DoE was advised of Council’s resolution by letter dated 4 April 2016. In that letter, the Department was also advised that “*it would be appreciated if the Department could reconsider other alternatives to the proposed compulsory acquisition of Council land.*”

Updated information (10 April 2016)

- Addendum to the Final SIS to address the Red-crowned Toadlet dated 8 April 2016;
- Bush Fire Emergency Management & Evacuation Plan (Version 1.0) dated 8 April 2016; and
- Updated Landscape Management Plan Version 4.0) dated 8 April 2016.

Note: The Addendum to the Final SIS included a brief reference to an offset strategy which, at the time of preparing that report, was being developed for the proposal. The Addendum states that the process of seeking species credits has commenced and confirms that adequate credits are available on the Biobanking Register to account for impacts to the Red-crowned Toadlet.

Revised information (18 April 2016)

The following plans were submitted to Council to include detail of emergency vehicle access tracks within the southern/south-western and northern sides of the site.

- Revised Plan - Landscape Plan (Revision B) dated 29 January 2016;
- Revised Plan - Site Plan (Revision B) dated 14 April 2016;
- Revised Plan - Overall Floor Plan L1 (Revision B) dated 14 April 2016;
- Revised Plan - Overall Floor Plan L2 (Revision B) dated 14 April 2016;
- Revised Plan - Level 1 Plan Hall/Canteen/Administration (Revision B) dated 14 April 2016; and
- Revised Plan - Level 2 Plan Homebases (Revision B) dated 14 April 2016.

Applicant meeting (5 May 2016)

A meeting was held between Council staff and the applicant (at the request of the applicant) to discuss the progress of the application prior to an applicant briefing of the JRPP on 11 May 2016 (see separate commentary under 'JRPP Briefing No. 3' earlier in this report).

At the meeting the following matters were discussed:

- Draft conditions provided by various departments of Council who could support the application only; and
- Update from the applicant, and reaffirmation from Council on its position, pertaining to outstanding matters (biobanking and concurrence from the NSW Rural Fire Service (RFS)).

At that meeting, Council advised the applicant that:

- a) In order for Council to consent to the proposed biobanking offset strategy and to satisfy the fundamental issue of the impact of the development upon threatened species as raised by the Biodiversity section of Council's Natural Environment Unit (see the referral responses under the 'Referrals' section in this report), a written statement from the NSW Office of Environment and Heritage (OEH) will be required to be submitted to confirm that the strategy is acceptable; and
- b) A letter from the DoE confirming the commencement of the compulsory acquisition process (for the part Reserve areas which are subject to the proposed bushfire asset protection zones) remains outstanding and that this information is required by the RFS prior to their issuing formal concurrence.

Additional information (5 May 2016)

- Letter received from the DoE dated 4 May 2016 confirming commencement of compulsory acquisition of Council owned land (Condoval Reserve) only.

JRPP briefing No. 3 (11 May 2016)

A briefing was requested by the applicant to update the JRPP on the status of the application including the outstanding matters of obtaining OEH approval for the proposed biobanking offset strategy and RFS concurrence.

At the briefing Council confirmed the advice provided to the applicant at a separate meeting held on 5 May 2016 that:

- a) In order for Council to issue consent to the proposed biobanking offset strategy and to satisfy the fundamental issue of the impact of the development upon threatened species as raised by the Biodiversity section of Council's Natural Environment Unit (see the ongoing referral responses under the 'Referrals' section in this report), a written

statement from the OEH will be required to be submitted to confirm that the strategy is acceptable; and

b) Concurrence is to be provided from the RFS.

NSW Public Works also announced at the briefing that the DoE would take over the project as the applicant and be represented by Coffey consultants.

Updated additional information (1 June 2016)

- Updated letter received from the DoE dated 31 May 2016 confirming commencement of compulsory acquisition of Crown and Council land.

Applicant meeting (9 June 2016)

A meeting was held with the project team from Coffey acting on behalf of the applicant (the DoE who replaced NSW Public Works at the JRPP Briefing No. 3 on 11 May 2016 and which was later confirmed by letter from the DoE dated 14 June 2016).

The meeting afforded an opportunity for Council and Coffey to meet and provide an update on the proposal.

Additional information (21 June 2016)

- Letter received from the DoE dated 14 June 2016 advising that NSW Public Works are no longer the applicant and that the NSW DoE is the applicant with Coffey Projects Australia Pty Ltd (Coffey) acting as the applicant's representative.

Revised Information (2 August 2016)

- Email received from Coffey with attached Bushfire Threat Assessment (Revision C) dated 21 July 2016.

Applicant Meeting (4 August 2016)

A meeting was held between Council staff and representatives from the DoE on 4 August 2016.

At that meeting, the Department advised that any alternative site options (such as Miller Reserve which is located 600m north-east of the subject site) were not under consideration by the Department. Instead, the Department put forward an option to redesign part of the school in an effort to reduce the extent of the APZ into the Manly Warringah War Memorial Park.

Specifically, the re-design involved the shortening of Block M and aligning the truncated section parallel to the property boundary adjacent to the Manly Warringah War Memorial Park. The effect of this was to potentially reduce the depth of the APZ into the Park although the information provided by the Department at the meeting was preliminary and the actual reduction was unknown.

Council's position considered that any reduction to the area of the APZ was beneficial and that, in principle, the architectural amendment was supported subject to any resulting and required changes made to the documentation already submitted with the application being reviewed by Council (and any relevant external) departments.

Amended plans and Reports (30 September 2016)

The applicant submitted amended plans and reports in response to the meeting held on 4 August 2016 between the DoE and Council staff.

The following updated reports were submitted:

- Addendum to Statement of Environmental Effects and Clause 4.6 Variation dated September 2016;
- Bushfire Threat Assessment (D) dated 26 August 2016;
- Species Impact Statement (v. 6.0) dated 11 September 2016;
- Landscape Management Plan (v. 5.0) dated 11 September 2016;
- Bush Fire Emergency Management & Evacuation Plan (v. 2.0) dated 19 September 2016;
- Stormwater Management Concept Plan (Revised Final) dated 19 September 2016;
- Building Code of Australia 2016 Report dated 21 September 2016; and
- Disability Discrimination Act 1992 (Cth) (DDA) Assessment dated 21 September 2016.

Because of the limited scope of the amendments, the amended plans and reports were referred to the following:

- NSW Office of Environment and Heritage;
- NSW Rural Fire Service;
- NSW Department of Primary Industries – Lands;
- Aboriginal Heritage Office;
- Council's Development Engineer;
- Council's Natural Environment Unit (Biodiversity);
- Council's Natural Environment Unit (Riparian); and
- Council's Parks, Reserves, Beaches and Foreshores.

Receipt of supplementary information

The following information was received subsequent to the receipt of the above amended plans and documentation (each was posted online on the day of receipt and referred to the relevant authority/department for review):

- Report on Supplementary Assessment (Geotechnical): 26 October 2016;
- Aboriginal Archaeological Assessment (Statement) from the Metropolitan Local Aboriginal Land Council (MLALC): 27 October 2016;
- Appendices to Species Impact Statement (v 6.0): 31 October 2016; and
- Update to Appendix 4 of Species Impact Statement (v 6.0) - Clarifying statement from Kleinfelder regarding New Holland Mouse: 9 November 2016.

Sydney North Planning Panel briefing No. 4 (23 November 2016)

A briefing was requested by the applicant to update the Sydney North Planning Panel on the status of the application including the outstanding matters of obtaining OEH approval and RFS concurrence.

Additional Information (24 November 2016)

- Fire Engineering Report; and
- Updated View Analysis.

Gazettal of acquired lands (2 December 2016)

The compulsory acquisition was entered into the NSW Government Gazette (No. 104) on 2 December 2016.

Concurrence from RFS (5 December 2016)

The NSW Rural Fire Service (RFS) issued their Bushfire Safety Authority under s.100B of the Rural Fires Act 1997.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

The relevant matters for consideration under Section 79C of the EP&A Act, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	The following Environmental Planning Instruments are applicable: <ul style="list-style-type: none">• State Environmental Planning Policy No. 19 - Bushland in Urban Areas• State Environmental Planning Policy No 44 - Koala Habitat Protection• State Environmental Planning Policy No. 55 – Remediation of Land;• State Environmental Planning Policy (Infrastructure) 2007;• State Environmental Planning Policy (State and Regional Development) 2011; and• Warringah Local Environmental Plan 2011.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Non applicable.
Section 79C(1)(a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 is applicable to this application.
Section 79C(1)(a)(iiia) – Provisions of any planning agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter is to addressed via a condition of consent should this application be approved.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter is to be addressed via a condition of consent should this application be approved.</p>
Section 79C(1)(b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the	<p>(i) Environmental Impacts</p> <p>The environmental impacts of the proposed development on the natural and built environment</p>

Section 79C 'Matters for Consideration'	Comments
locality	<p>are addressed throughout this report. In summary:</p> <p><u>Natural Environment</u></p> <p>While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, the reduction equates to relatively minor proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.</p> <p>The amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve and Condover Reserve.</p> <p>In addition, 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands. These vegetation islands will also be supplemented by the retention of 15% canopy cover within the Inner Protection Area (IPA) and 30% canopy cover within the Outer Protection Area (OPA) as managed woodland.</p> <p>The Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park which supports habitat.</p> <p>The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to a large extent, peripheral to the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Whilst the development will reduce the width of the corridor, the development will not result in major fragmentation of the corridor and vegetation link.</p> <p>Therefore, although reducing the bushland setting through the imposition of the APZs, the remaining 95% of bushland within both reserves will continue to provide for habitat and habitat connectivity.</p> <p><u>Built Environment</u></p> <p>The development has been designed to minimise impact on the adjoining built environment through the placement of the new classroom buildings to the south-western corner of the site, away from the neighbouring residential land uses located 68.5m to the north and 91m east respectively.</p> <p>The new school hall (Block L) is located between 10.5m to 24.5m from the boundary of the residential properties along Arana Street and will not have an unreasonable impact on amenity.</p>

Section 79C 'Matters for Consideration'	Comments
	<p>The development has been designed to provide contemporary built forms with traditional features akin to an Australian Vernacular architectural style. This particular architectural style is noted for its response to a bushland setting through the incorporation of simple building techniques and lightweight materials.</p> <p>The triangular offsetting of buildings to align with the rock spur, together with the use of piers, visually permeable bridging and extensive glass surfaces results in a development which is visually interesting, functional and complimentary to its setting.</p> <p>(ii) Social Impacts A 'Needs Analysis' prepared by the DoE to respond to the 'Six Schools Strategy' noted that the key driver for the development is the projected population growth in the Manly LGA which is putting pressure on local primary schools. The Analysis identified that the population of the LGA has increased from 39,263 in 2006 to 42,531 in 2011 and will increase to 51,900 by 2031. The Analysis also identifies that the primary school students in the LGA will increase from 2,340 in 2011 to 3,480 in 2031. This represents a growth of 48.7%.</p> <p>It is considered that the proposed development will not have a detrimental social impact in the locality as new school is designed to respond to the needs of the population growth demand identified in the Analysis by providing public educational facilities for a further 650 students.</p> <p>In a broader social needs context, the investment in, and provision of, school facilities within the local area is considered to have a positive social impact on the local and regional context.</p> <p>(iii) Economic Impacts The proposed development will not have a detrimental economic impact on the locality considering the public infrastructural nature of the land use.</p>
Section 79C(1)(c) – the suitability of the site for the development	The site is considered to be suitable to enable the intensification of the educational establishment without unreasonably impacting on the surrounding natural and built environment.
Section 79C(1)(d) – any submissions made in accordance with the EPA Act or EPA Regs	<p><u>Public Exhibition No. 1</u> (18/7/2015 to 18/8/2015) 159 submissions received consisting:</p> <ul style="list-style-type: none"> • 128 against. • 31 in support.

Section 79C 'Matters for Consideration'	Comments
	<p><u>Public Exhibition No. 2</u> (7/10/2016 to 25/10/2016) 160 submissions received consisting:</p> <ul style="list-style-type: none"> • 91 against. • 69 in support. <p>1 petition against with 14 signatures against the proposal.</p> <p><u>Public Exhibition No. 3</u> (12/11/2016 to 13/12/2016)</p> <p>11 submissions received as at 5 December 2016 consisting:</p> <ul style="list-style-type: none"> • 7 against. • 4 in support. <p>(Note: Public exhibition No. 3 re-notified the same application which was exhibited under Public Exhibition No. 2. The exhibition was only to re-notify the application for 30 days instead of 14 days.</p> <p>Because Public Exhibition No. 3 was still occurring at the time of preparing this report, a Supplementary Report will be prepared at the completion of the exhibition period and presented to the Sydney North Planning Panel prior to the determination meeting. The Supplementary Report will address any additional issues raised which haven't already been addressed in this report through the previous exhibition periods).</p>
Section 79C(1)(e) – the public interest	<p>The development would result in an overall reduction of bushland by 0.5% and a retention of 95% within the combined areas of the Manly Warringah War Memorial Park reserve, Condover Reserve and the adjacent Crown road reserve.</p> <p>When weighed against the provision of new schooling which will accommodate the educational needs of a growing population, the extent of the reduction of vegetation is considered to be minor and that, on balance, the provision of the new school is considered to be in the broader public interest.</p>

NSW THREATENED SPECIES CONSERVATION ACT 1995 (TSC Act)

The objectives of the TSC Act are to:

- conserve biological diversity and promote ecologically sustainable development, and*
- prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and*
- protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and*
- eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and*

- e) ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and
- f) encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.

In relation to impacts upon threatened species and communities, the SIS (v 6.0) submitted with the Development Application states:

“The results from Kleinfelder’s ecological surveys identified five threatened fauna species that would be directly affected by the proposal (Powerful Owl, Eastern Bentwing-bat, Grey-headed Flying-fox, Red-crowned Toadlet and Eastern Pygmy-possum) listed under the TSC Act.

Threatened flora

No threatened flora were identified within the study area. Targeted surveys have been conducted for flora species which have specific survey periods (i.e. cryptic flowering species).

Threatened fauna

Assessments of significance for five of the affected fauna species (Red-crowned Toadlet, Powerful Owl, Eastern Bentwing-bat, Grey-headed Flying-fox and Eastern Pygmy-possum) concluded that the proposal is unlikely to have a significant impact on these species that would result in species extinction in the locality, providing recommended ameliorative measures are implemented. However, it is recognised that the proposal would contribute to ongoing incremental loss and degradation of habitat for these species within the Northern Beaches Council (formerly Warringah) LGA.

Threatened Ecological Communities

No endangered ecological communities were identified within the study area. Therefore, impacts to any EEC as a result of the proposal are unlikely.”

**COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY
CONSERVATION ACT 1999 (EPBC Act)**

In relation to impacts upon ‘Matters of National Environmental Significance’ as identified under the EPBC Act, the SIS (v 6.0) submitted with the Development Application states:

“The proposal is considered likely to affect one threatened fauna species (Grey-headed Flyingfox), listed under the EPBC Act.

An assessment of significance applied under the TSC Act determined that no significant impacts to this species are likely to occur. As such a, referral to the Commonwealth Minister for the Environment for approval is considered to be unnecessary.”

It has been noted that Appendix 4 (‘Fauna Species Recorded in the Survey Area’) of the SIS includes reference to the *Pseudomys novaehollandiae* (New Holland Mouse) and indicates that surveys have been conducted on and around the site on four different occasions (being 18 March 2015, 19 March 2015, 2 April 2015 and 20 March 2016).

On 9 November 2016, Kleinfelder issued a letter to Council which clarify the matter of the New Holland Mouse. The letter states:

"This letter provides NBC information specific to the SIS with regards to the EPBC Federally Listed New Holland Mouse, and the potential impact for the Manly Vale Public School Redevelopment.

I note the issue, being that Appendix 4 of the SIS (species recorded on site) indicated that the New Holland Mouse was recorded on 4 occasions (18/03/2015; 19/03/2015; hair tube 20/03/2015 - 02/04/2015; and remote cameras 20/03/2015 - 02/04/2015).

This information has been incorrectly delivered. The intent of these symbols was to show the level of surveying conducted specific for the New Holland Mouse detection, as opposed to surveying events for which the species was identified.

The reason for highlighting this information was to address a concern raised by a community member that the surveying methodology had either not conducted surveys adequate for New Holland Mouse detection, or had not adequately demonstrated the relevant surveying.

I can categorically confirm that no New Holland Mouse was detected on site. The nearest record for this species is from the Cascades, in the Garigal National Park (>8 km northwest), in 2001."

EXISTING USE RIGHTS

The site is located within an R2 Low Density Residential zone under the provisions of the Warrinagh Local Environmental Plan 2011 (WLEP 2011).

An Educational Establishment is a use permitted with consent within the zone and, therefore existing use rights do not apply to this application.

PUBLIC EXHIBITION & SUBMISSIONS RECEIVED

Note: The lists of submitters for all public exhibition periods discussed below are contained under Appendix B of this report.

Public Exhibition No. 1 – Development Application

The Development Application has been publically exhibited as Threatened Species Development in accordance with the EP&A Act 1979, the EP&A Regulation 2000 and the WDCP 2011.

Written notice was given to 248 owners, occupiers and residents of surrounding land and all public authorities who have an interest in the determination of the application.

As required by Clause 89(1) of the EP&A Regulation 2000, the written and published notice of the development application contained information required under sub-clauses (1) to (f) inclusive and was conducted for the required period as prescribed under Clause 89(3)(a) of the EP&A Regulation 2000.

The development application was lodged on 30 June 2015 and publicly exhibited as Threatened Species Development between 18 July 2015 and 18 August 2015. Furthermore, an advertisement was placed in the Manly Daily on 18 July 2015 and two notices were placed upon the site.

As a result of the public exhibition, 160 (64.5%) submissions were received which consisted of the following:

- **129 (80.6%) Submissions against**
 - 25 (19.5%) – Proforma.
 - 104 (80.6%) – Individual.
- **31 (19.5%) Submissions in support**
 - 13 (42%) – Proforma.
 - 18 (58%) – Individual.

The issues raised in the submissions against the proposal include the following:

- **Traffic impact and parking;**
- **Traffic/pedestrian safety;**
- **Access for the disabled;**
- **Inconsistency with the bushland character of the area;**
- **Impact on flora and fauna habitat;**
- **Edge effect on bushland and private property;**
- **Construction of a detention pond (safety);**
- **Stormwater runoff;**
- **Impact on unique features of the site;**
- **Creating an undesirable environmental message to students;**
- **Safety of school children (bushfire);**
- **On-going maintenance responsibility of the APZ;**
- **Increased capacity of the school;**
- **Visual impact;**
- **Impact on Aboriginal Heritage;**
- **Impact on heritage items within the Manly Warringah War Memorial Park;**
- **Noise and privacy;**
- **Inadequate community consultation;**
- **Incomplete application;**
- **Isolated location of school (potential for vandalism);**
- **Disruption to children through demolition and construction;**
- **Alternative design; and**
- **Alternative sites.**

The following commentary addresses the issues raised:

- **Traffic impact and parking**

Concern was raised with regards to the increased traffic volume on the local road network as a result of the increased school population.

Comment

This matter has been addressed elsewhere in this Report (see the section 'Referrals – Traffic Engineering').

In summary, Council's Traffic Engineer raised concern regarding the increase in traffic volume where it was considered that the traffic impact of the proposal on the adjacent road network is not considered acceptable due to the significant trip generation increase during the school peak hour.

Council's Traffic Engineer states that, considering the school's short frontage to a relatively narrow local road, the proposed increase in traffic generation with no provision of adequate

staff and pick up and set down parking, will result in traffic congestion and safety problems on the public roads.

The application was also referred to the NSW Roads and Maritime Service (RMS) as Traffic Generating Development in accordance Clause 104 and Schedule 3 of *State Environmental Policy (Infrastructure) 2007*.

In their response, the RMS advised that it had no objection to the development provided that the proposed wombat crossing is installed at a location acceptable to Council and Roads and Maritime.

While the application did not adequately address the concerns raised around traffic and parking impacts, Council's Traffic Engineer advised that the application would be favourably considered if the applicant:

- a) Provides 57 to 60 on-site staff parking spaces (i.e. an additional 49 spaces above the 11 spaces already proposed);
- b) Allocates the existing on-street car parking area at the end of Gibbs Street for pick up and set down of the children, and
- c) Locates the proposed wombat crossing in the vicinity of the existing children crossing as recommended by the Warringah Traffic Committee.

The 'Traffic, Parking & Servicing Impact Assessment' dated 18 June 2015 and submitted with the application includes recommendations which allow for the existing on-street car parking area at the end of Gibbs Street to be allocated for pick up and set down of children within 10 spaces. Also, that a gravel surface carpark identified on the plans between Block L and the northern boundary is installed suitable for staff (1 per 20 children over 550. i.e. 23 additional spaces) once the school reaches 550 students.

Appropriate conditions to address road-related matters (such as bus zones, the pedestrian 'wombat' crossing and traffic control generally), including the above recommendations made in the 'Traffic, Parking & Servicing Impact Assessment' have been included in the Recommendation of this report should the application be approved.

This issue does not justify the refusal of the application.

- **Traffic/pedestrian safety**

Concern was raised with respect to traffic and pedestrian safety as a result of the increased school population.

Comment

This matter has been addressed elsewhere in this Report (see the section 'Referrals – Traffic Engineering').

In summary, the development provides for a wombat crossing in the same location as the existing pedestrian crossing, which is considered to be located a safe distance from the proposed staff driveway. The crossing is to be redesigned to include signage, line marking and realignment of kerb lines.

Appropriate conditions to address road and safety related matters (such as bus zones, the pedestrian 'wombat' crossing and traffic control generally), including the recommendations made in the 'Traffic, Parking & Servicing Impact Assessment' have been included in the Recommendation of this report should the application be approved.

This issue does not justify the refusal of the application.

- **Access for the disabled**

Concern was raised with respect to the provision of disabled facilities (ramps and carparking) for the development.

Comment

With respect to the provision of parking for the disabled in the Gibbs Street carpark, it is noted that one space is included.

The design for access facilities is addressed under:

- AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities;
- AS 1428.1 - 2009 Design for access and mobility - General requirements for access - New building work; and
- AS 1428.2 - 1992, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities.

All of the above Standards are included in conditions which have been agreed to by the DoE.

In addition to the above, the DoE is bound by the policies of the Department related to accessibility.

- **Inconsistency with the bushland character of the area**

Concern was raised that the development was inconsistent with the bushland character of the area.

Comment

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve and Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the development is not inconsistent with the bushland character of the area.

This issue does not justify the refusal of the application.

- **Impact on flora and fauna habitat**

Concern was raised with respect to the impact of the development upon the habitat of flora and fauna within the site and APZ area.

Comment

As discussed throughout this report, the following threatened fauna species have been identified within the site and within the APZ areas. There are no identified threatened flora species on the site or within the proposed APZ areas.

The SIS (v 6.0) includes (at Appendix 7(4)) a Biobanking Offset Strategy to address the impacts upon identified threatened species.

Of the identified threatened fauna species, the Eastern Pygmy-possum and the Red-crowned Toadlet are classified as 'species credit' species. The SIS reports that no breeding habitat was identified Eastern Bentwing-Bat and the Grey-headed Flying-fox within the development site and therefore, no species credits are required for these species.

Suitable biodiversity offset lands owned by Hornsby Shire Council have been identified in the Biobanking Offset Strategy as suitable.

In addition to the Biobanking Offset Strategy, the development includes retention and management of 20% of the total APZ area (including the area of the subject site) as vegetation islands to provide for habitat and habitat connectivity.

Subsequent to Council's review of the proposal (see comments under 'Referrals – Natural Environment Unit (Biodiversity)' in this report) the application including SIS was subsequently referred to the OEH for concurrence under s.79B of the EP&A Act.

At the time of completing this report, a response had not been received from the OEH and a recommendation is included in this Report to allow the Panel to address the pending receipt of concurrence.

Subject to concurrence being received from the OEH, Council does not raise any grounds to refuse the application based on this issue.

- **Edge effect on bushland and private property**

Concern was raised with respect to the impact of stormwater flow upon the lower areas of the APZ area as a result of clearing.

Comment

The Landscape Management Plan submitted with the application includes procedures for the maintenance of landscaping (including weeds) within the site and within the APZ areas. The Plan states that *"weed control during the first year of construction will be conducted twice, thereafter weed annually until two years post-construction. After this period, weed control will be actioned as necessary, as a result of ongoing monitoring, in perpetuity."*

The maintenance of the Outer Protection Area (OPA) of the APZ is also scheduled to occur at least every September and again before the following January.

Refer to comments below under Stormwater Runoff with respect to impacts associated with that particular issue.

This issue does not justify the refusal of the application.

- **Construction of a detention pond (safety)**

Concern was raised with respect to the safety of children around the proposed detention pond.

Comment

The safety of children within the school is a matter for the DoE to consider and act upon and not subject to the jurisdiction of Council.

This issue does not justify the refusal of the application.

- **Stormwater runoff**

Concern was raised with respect to the impact of the development on stormwater runoff, particularly towards the residential properties facing Arana Street and towards the tributary of Burnt Bridge Creek.

Comment

This matter is addressed elsewhere in this Report (see the section 'Referrals – Development Engineering', Natural Environment Unit (Riparian Lands) and NSW Department of Primary Industries – Water').

In summary, Council's Development Engineer notes that the stormwater run-off for the part of area proposed to be developed (and which currently is draining towards the North West corner of the development site) is reduced. This is due to the proposed stormwater management of the site being re-directed to the south eastern part of the site as part of the development. This indicates an improvement to the existing stormwater run-off problems encountered by the residents living due North West of the development site (i.e. Arana Street).

Therefore, Council's Development Engineer concludes that they raise no objection to the proposal and concur with the recommendations and stormwater drainage plans included in the Revised Stormwater Management Concept Plan submitted with the application.

With respect to impacts upon the tributary of Burnt Bridge Creek, Council's Natural Environment Unit (Riparian Lands) concludes that further refinement of the proposed water quality management system will need to be undertaken prior to the certification of the building works to ensure the proposed water quality measures are adequately sized and designed to achieve the relevant pollutant performance requirements.

Furthermore, the stormwater outlet discharging into the creek will require modification to comply with the NSW Office of Water's Guidelines for Outlet Structures.

The application was referred to 'NSW Department of Primary Industries – Water' who advised that the proposed activity is exempt from section 91E(1) of the *Water Management Act 2000* and that no further assessment was necessary.

Appropriate conditions have been included in the Recommendation of this report to address Council's requirements should the application be approved.

This issue does not justify the refusal of the application.

- **Impact on unique features of the site**

Concern was raised with respect to the impact of the development on unique features of the site such as rock outcrops.

Comment

Proposed Blocks M, N & O are mounted around the edge of the rock spur to align with the apex of the outcrop. Each building then cantilevers outwards to be mounted on support piers.

This design minimises the need to for excavation and preserves the natural landform while providing for a level and central circulation courtyard area between the blocks for students.

Proposed Block P is constructed in a similar manner (piers) which also minimises the need to for excavation and preserves the natural landform while providing for a covered outdoor learning area (COLA) beneath the building.

This issue does not justify the refusal of the application.

- **Creating an undesirable environmental message to students**

Concern was raised that the reduction/modification of vegetation to accommodate the development and APZ areas will set an undesirable message to students that reduce the importance of the environment.

Comment

There is no evidence to substantiate the claim that the development will create an undesirable message to students.

The development includes areas throughout the site which were previously not accessible to students due to the topography and vegetation growth.

The development, while clearing areas of the site for APZ purposes, retains approximately 9,489m² of vegetation in the form of islands and cultural heritage exclusion zones. In addition, the development also retains all rock outcrops and outdoor learning environments.

This issue does not justify the refusal of the application.

- **Safety of school children (bushfire)**

Concern was raised with respect to the safety of children at the school in a bushfire situation.

Comment

The application includes an updated 'Bushfire Emergency Management & Evacuation Plan' (v 2.0) dated 19 September 2016 as prepared by Kleinfelder. The Plan is a sub-plan under the existing Manly Vale Public School Emergency Evacuation Plan (2015).

The Plan acknowledges that the school is classified as a Special Fire Protection Purpose under the NSW RFS publication *Planning For Bushfire Protection 2006* and confirms that *"the buildings will be constructed in compliance with BAL12.5 construction standards (as outlined in AS 3959- 2006) and have a maximum radiate heat exposure of 10kW/m2. This will avoid excessive radiant heat and flame contact. BAL 12.5 will also protect from embers"*.

The Plan details evacuation procedures should the need arise and also recommends that:

"Due to the location of the bushfire hazard west and south from the school, and the planned high density of students, it is recommended that the school shuts downs on days that are forecasted to have a CATASTROPHIC [Plan emphasis] fire danger rating. It is expected that this region would not exceed 2-3 days of catastrophic conditions annually."

The Fire Engineering Report dated 23 November 2016 as prepared by RED Fire Engineers provides an assessment of compliance against the fire safety Performance Requirements of the Building Code of Australia (BCA).

The Report concludes that:

“The building will comply with the Performance Requirements of the BCA subject to the following:

- *The building design, fire safety systems are in accordance with this document. Specifically, the requirements of Section 3 of this report [Required Fire Safety Measures] shall be appropriately designed, installed and commissioned.*
- *Management in use procedures are in accordance with this document.*
- *Essential services are maintained in accordance with this document and relevant legislation.*
- *There are no significant changes or alterations to the building’s design or use.”*

Both the Bushfire Emergency Management & Evacuation Plan and the Fire Engineering Report are included in the Recommendation of this report should the application be approved.

The NSW Rural Fire Service (RFS) issued their Bushfire Safety Authority under s.100B of the Rural Fires Act 1997.

This issue does not warrant the refusal of the application.

- **On-going maintenance responsibility of the APZ**

Concern was raised with respect to the on-going maintenance responsibility of the proposed APZ.

Comment

The Landscape Management Plan submitted with the application includes actions and responsibilities for the on-going maintenance of the APZ area.

The Plan nominates the responsibility for the on-going maintenance of the site and APZ area to be a contract Bush Regenerator, a Project Ecologist and DoE.

As the APZ area will be contained entirely within DoE land (due to compulsory acquisition) Council will not be involved with the ongoing maintenance of the site and/or APZ area.

This issue does not justify the refusal of the application.

- **Increased capacity of the school**

Concern was raised with respect to the proposed capacity of the school and that such capacity was considered to be excessive.

Comment

This matter is addressed elsewhere in this Report (see the section ‘Details and Description of the Development – Background to the Development’).

In summary, following a 2013 review of student accommodation at all schools in the Manly Electorate, and the findings of a 'Needs Analysis', which predicted primary school enrolments in the electorate would increase by 48.7% by 2031, the DoE considered that the Manly Vale Public School required upgrading to accommodate 1,000 students.

The built form of the proposal and associated APZs indicate the site as capable of accommodating 1,000 students. The RMS also concludes the traffic impacts are reasonable.

This issue does not justify the refusal of the application.

- **Visual Impact**

Concern was raised with respect to the visual impact of the development when viewed from neighbouring residential and bushland areas.

Comment

The development has been designed to architecturally respond to its bushland setting by employing a low-rise contemporary Australian Vernacular style.

The Landscape Plan indicates that vegetated islands will be located throughout the site to compliment the architectural design. These vegetated islands will provide a visual transition from the inner-protection area of the site, through the outer-protection APZ areas to the neighbouring and more vegetated Reserves beyond when viewed from the neighbouring Reserves and roads.

The View Analysis submitted with the application shows that, while a new built form will be introduced onto the landscape, the visual impact will not be unreasonably excessive such it would dominate the landscape and detract from the bushland setting of adjacent reserves.

This issue does not justify the refusal of the application.

- **Impact on Aboriginal heritage**

Concern was raised with respect to the impact of the development upon Aboriginal heritage.

Comment

This matter has been addressed elsewhere in this report (see the section 'Referrals - Aboriginal Heritage Office').

In summary, the final 'Aboriginal Archaeological Assessment' submitted with the application concludes that no sites were recorded in the development area and no Aboriginal heritage items were identified.

The Assessment is supported by a statement from the Metropolitan Local Aboriginal Land Council (MLALC) which supports the findings, conclusions and recommendations presented in the Assessment.

The Aboriginal Heritage Office did not raise any objection to the proposal subject to a condition requiring the Office to be notified if any newly discovered aboriginal artefacts during the construction phase are uncovered.

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

This issue does not justify the refusal of the application.

- **Impact on heritage items within the Manly Warringah War Memorial Park**

Concern was raised with respect to the impact of the development upon Manly Dam and the Manly Warringah War Memorial Park.

Comment

This matter has been addressed elsewhere in this report (see the section 'Description of the Surrounding Natural and Built Environment - Manly Warringah War Memorial Park - Non-Aboriginal Cultural Heritage').

In summary, the Park is included in the *Register of National Estate* which was officially closed in 2007 and is no longer a statutory list. All references to the Register were removed from the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 19 February 2012 and the Register is now maintained on a non-statutory basis as a publicly available archive and educational resource.

The Park is included in Schedule 5 – 'Environmental Heritage' of the WLEP 2011 and includes four listed built items. The remainder of the Park is listed in Schedule 5 of the WLEP 2011 as having Conservation Area significance (C9 'Manly Dam and Surrounds').

As detailed throughout this report, the development requires the imposition of APZs within the Park area. The APZ area within the Park equates to 0.11% of the entire Park area which results in the retention of 99.89% of the Park in its current state.

As noted earlier in this report, the area immediately to the west of the site (and within the western bushland part of the site) exhibits evidence of the prescribed hazard reduction burning conducted by the NSW Rural Fire Service (RFS) in October 2014. The area of the burn is more extensive than the proposed APZ area and coincides with the proximity of the adjacent urban area. A section of this area of the Park is identified in the *Manly Warringah War Memorial Park Plan of Management* as an Urban Edge zone. The Zone is designed to manage those sections of the Park boundary adjacent to residential areas and other developments to effectively manage hazards and adverse impacts for Park neighbours.

It is important to note that the APZ area within the Park largely consists of the Outer Protection Area (OPA) of the APZ which requires the retention of 30% canopy cover as a managed woodland structure and ensure 2m to 5m canopy breaks are achieved. Both retention rates would not unreasonably impact upon the overall Conservation Area significance and bushland appearance of the Park.

The four listed built items referred to above are located in excess of 300m to the west of the site, are visually shielded by McComb Hill and will therefore not be physically or visually impacted by the development.

A war memorial, sculptures and a flagpole are located in Picnic Area 1 which is situated 389m west of the subject site and will therefore not be physically or visually impacted by the development.

This issue does not justify the refusal of the application.

- **Noise and privacy**

Concern was raised with respect to the noise and privacy impact of the development upon neighbouring residential properties.

Comment

The layout of the development minimises impact on adjoining or nearby properties through the placement of the main classroom component to the south-western corner of the site. This placement creates a physical separation of 68.5m to the residential properties along Arana Street and 91m to the residential properties on the eastern side of the Gibbs Street carpark which reduces the any unreasonable acoustic and overlooking issues.

Block L will function as the school hall (used for performances, gymnasium activities and the like) and is located between 10.5m to 24.5m from the rear boundary of the residential properties along Arana Street. As above, this placement creates a physical separation to the residential properties along Arana Street which reduces the any unreasonable acoustic and overlooking issues.

In addition, the application is accompanied by a 'Noise Emission Assessment' which concludes that:

"An analysis of playground noise and noise created by traffic generation indicate that noise emissions generated by the school currently exceed non-mandatory acoustic guidelines and are likely to increase by 3 to 4dB(A) as a result of the proposed development.

However:

- *The layout of the school (position of playgrounds relative to residences) is not out of keeping with typical school design in residential areas and*
- *Acoustic treatment (where practicable) and noise management controls have been recommended in section 7 of this report to ensure that the amenity of nearby residents is protected as much as practicable while avoiding outcomes which will have significant visual impacts (noise screens or similar).*

An analysis of noise from classrooms, the school hall and from mechanical equipment indicates that compliance with noise emission goals for the site is achievable."

The Assessment provides recommendations to mitigate acoustic impact through the normal operation of a school. The recommendations include:

- *"Outdoor play areas:*
 - *Intensive use (recess, lunch, school sport) of outdoor Play Area 1 [adjacent to the Gibbs Street carpark] should not exceed 2 hours per day.*
 - *For physical education classes or outside of school hours activities (i.e. activities which will fall outside of the 2 hour per day period in which higher noise levels may be generated), we recommend that Play Area 1 not used by more than 80 children at a time (unless otherwise agreed by Council).*
 - *Use of planting along the eastern boundary of Play Area 1 should be considered to maximise the distance between active play (noisy) areas and the residences to the east.*
- *Relocation of the student queuing area for buses (currently in front of the Admin building) further within the school grounds should be considered to reduce noise impact on the residences on Gibbs Street.*
- *Windows to the school hall on the north, west and eastern facades should be constructed of minimum 6mm thick glass and should be capable of being closed during sporting events, musical performances or other periods of high noise*

generation. Any doors or other openings on these facades should have acoustic seals.

- *Detailed acoustic review of all external plant items should be undertaken following equipment selection and duct layout design. All plant items will be capable of meeting noise emission requirements of Council and the EPA Industrial Noise Policy, with detailed design to be done at CC stage. This should include detailed acoustic review of any proposed PA system (speaker location, directionality, noise limiter etc.).”*

Council’s Environmental Investigations department recommend that the measures detailed in the Assessment are implemented. Therefore, the Noise Emission Assessment is included in the Recommendation of this report should the application be approved.

This issue does not justify the refusal of the application.

- **Inadequate community consultation**

Concern was raised that the community were not adequately consulted by both the DoE and Council.

Comment

Although Council is not involved with the consultation processes conducted by the DoE, it is aware (from the DoE website) that consultations have occurred with the community via the following methods:

- Online survey;
- Public information booths;
- Community meetings; and
- School community consultation.

With respect to Council’s processes to date, public exhibition of the application has occurred three times (the third exhibition period is currently occurring and will end on 13 December 2016) throughout the life of the application. This is consistent with the requirements of the EP&A Act.

Additionally, Council has continuously provided updated information onto its e-services public website as it becomes available.

This issue does not justify the refusal of the application.

- **Incomplete and inaccurate application**

Concern is raised with respect to the incomplete and alleged inaccurate nature of documentation provided with the application.

Comment

Council had documented its concerns regarding this matter in a letter to the applicant in August 2015 and throughout the lifetime of the application until recently with the submission of amended plans and updated documentation.

Council is now satisfied that the documentation under consideration in this assessment is of a standard such that a recommendation for approval can be made, subject to concurrence being received from the OEH and RFS.

Pending concurrence from the OEH and the RFS, this issue does not justify the refusal of the application.

- **Isolated location of school (potential for vandalism)**

Concern is raised that the location of the school is isolated and away from the street such that it would attract vandalism.

Comment

The security of the school asset is a matter for the DoE to consider and act upon and not subject to the jurisdiction of Council.

This issue does not justify the refusal of the application.

- **Disruption to children through demolition and construction**

Concern was raised that the demolition and construction phasing of the development will disrupt the education of children attending the school.

Comment

The sequencing of demolition and construction is a matter for the DoE to address through their project programming and not a matter for Council.

This issue does not justify the refusal of the application.

- **Alternative design**

Concern was raised with respect to the design of the development and suggests that the development should have been located in a multi-storey building within the flat part of the site adjacent to the Gibbs Street carpark. It was felt that this location would mitigate the impact of the APZ areas.

Comment

Alternative layout options were considered as part of the design process. These options include building arrangements away from the rock spur and within the northern & eastern parts of the site (Option A) and predominantly within the eastern part of the site (Option B). Option C involved a circular arrangement around a central oval atop the rock spur while Option D involved building located within the northern part of the site and in a U-shape around the leading edges of the rock spur. The proposed development is a direct evolution of Option D as this satisfied the above design criteria of the DoE for the school.

Options A and B (or a combination of the two) have been raised by the community as a more viable alternative than the current proposal and should have been explored further.

Council can only assess an application/design submitted with any Development Application, which is the subject of this assessment.

This issue does not justify the refusal of the application.

- **Alternative sites**

Concern was raised with respect to considerations given by the DoE and Council to relocating the development to an alternative site (such as Miller Reserve). It was felt that an alternative location would mitigate the impact of the APZ areas.

Comment

A meeting was held between Council staff and representatives from the DoE on 4 August 2016. At that meeting, the DoE advised that any alternative site options were not under consideration.

Instead, the Department put forward an option to re-design part of the school in an effort to reduce the extent of the APZ into the Manly Warringah War Memorial Park. The re-design is the amended scheme now the subject of this assessment.

This issue does not justify the refusal of the application.

Public Exhibition No. 2 – Amended Plans

The amendments to the development application received on 28 September 2016 are considered to differ only in minor respects from the original application and also lessen the impact of the development upon the adjacent bushland area through a reduction to the bushfire asset protection zone.

Therefore, in accordance with s. 90 of the EP&A Regulation 2000, Council complied with Division 7 with respect to the original application and was of the opinion that the amended application differed only in minor respects from the original application. In this regard, and as permitted by s. 90, Council could have dispensed with any further public notification.

In addition to the above, Clause A.7 of the WDCP 2011 provides Council with direction under which applications are publicly exhibited. In particular, and provided that Council has already notified/advertised the original application and where the amended application is substantially unchanged, Clause A.7 allows Council to dispense with any further notification/advertising in relation to an amended application such as the current proposal.

Although Clause A.7 of the WDCP 2011 permits further notification/advertising to be dispensed with, Council considered it appropriate to advise the community (and those who have already made submissions) of the amended plans and documentation and to provide an opportunity to make submissions on the amendments.

The amended application was notified to 368 land owners and occupiers and those who made submissions under Public Exhibition No. 1 for a reduced period of 14 calendar days commencing on 7 October 2016 and ending on 25 October 2016. Furthermore, an advertisement was placed in the Manly Daily on 8 October 2016 and two notices were placed upon the site.

As a result of the public exhibition, 160 (43.5%) submissions were received which consisted of the following:

- **91 (56.9%) Submissions against**
 - 12 (14%) – Proforma.
 - 78 (86%) – Individual.
- **69 (43.1%) Submissions in support**
 - 18 (26.1%) – Proforma.
 - 51 (73.9%) – Individual.

In addition to the above individual submissions, one (1) petition was received against the proposal which contained 14 signatures.

Of note is the following change in community opinion between Public Exhibition No. 1 and Public Exhibition No. 2 (as detailed in the table below).

Submissions Against		Submissions in Support	
Exhibition No. 1	Exhibition No. 2	Exhibition No. 1	Exhibition No. 2
129 (80.6%)	91 (59.6%)	31 (19.5%)	69 (43.1%)
Difference	-38	Difference	+38

Issues raised against the proposal under Public Exhibition No. 2 are generally the same as those raised under Public Exhibition No. 1 and have already been addressed. Therefore, no further discussion is undertaken with respect to issues already raised and discussed in Public Exhibition No. 2.

Additional issues raised under Public Exhibition No. 2 consist of the following:

- **The amended plans do not improve the impact on bushland and habitat**
- **Provision of footpaths**
- **Evidence of asbestos/contamination;**
- **Lack of consultation on amended plans; and**
- **Contravention of development standards.**

The following commentary addresses the additional issues raised:

- **The amended plans do not improve the impact on bushland and habitat**

Concern is raised that the amended plans do not improve impact on the neighbouring bushland and do not represent an adequate solution.

Comment

This issue has been discussed throughout this report as this assessment considers the amended proposal.

As detailed earlier, the amended scheme results in a reduced APZ area within both the Manly Warringah War Memorial Park Reserve and Condover Reserve,

The amendment results in a 46.1% reduction to the APZ area in the Manly Warringah War Memorial Park Reserve and a 6.6% reduction to the APZ area in Condover Reserve.

This issue does not justify the refusal of the application.

- **Provision of footpaths**

Concern is raised with regards to child safety and traffic congestion with a suggested solution to provide footpaths/pathways as far as King Street to enable local children to walk to school safely and without the need to be dropped off and picked up.

Comment

The site is accessible via footpaths along the eastern side of Gibbs Street to King Street and along the northern side of Sunshine Street to Condamine Street.

Both footpaths are accessible via the proposed wombat crossing.

The application has been referred to Council's Development Engineer who has imposed appropriate conditions although it was not considered that the widening of the existing footpaths (or the provision of additional footpaths) was required.

This issue does not justify the refusal of the application.

- **Evidence of asbestos/contamination;**

Concern is raised that the stormwater runoff will wash away an infill area within the north-western corner of the site which allegedly contains asbestos.

Comment

This issue has been addressed elsewhere in this report (see the section 'State Environmental Planning Policy No. 55 – Remediation of Land').

In summary, the 'Contamination Investigation' submitted with the application notes that:

"All of the fibre-cement fragments on the ground surface should be removed as soon as possible and be properly disposed offsite."

In view of the findings from the current investigation, it is considered that the likelihood of widespread contamination of the Site is low."

The recommendations contained within the Contamination Investigation are included as conditions together with specific conditions requiring a Contamination Management Plan to be prepared which includes a Remedial Action Plan.

- **Lack of consultation on amended plans**

Concern was raised that the DoE did not consult with the community in relation to the amended plans.

Comment

This is a matter for the DoE and their public consultation process/procedures.

As detailed earlier in this section, Council opted to notify the amended plans and documentation for a period of 14 days. However, it was considered, following receipt of advice, that the application should be re-exhibited for a period of 30 days. The 30 day exhibition period is currently occurring and will end on 13 December 2016.

This issue does not justify the refusal of the application.

- **Contravention of development standards**

Concern is raised that the development contravenes particular development standards and built form controls under the WLEP 2011 and WDCP 2011.

Comment

This issue has been addressed elsewhere in this report (see 'Warringah Local Environmental Plan 2011 - Clause 4.3 Height of buildings development standard' and 'Warringah Development Control Plan 2011 - Clause B1 Wall height').

In summary, the variations proposed for the building height and wall height were supported when considered against the relevant objectives.

This issue does not justify the refusal of the application.

Public Exhibition No. 3 – Re-Notification

On 28 October 2016 and 4 November 2016, Council received letters from the Environmental Defenders Office New South Wales (NSW EDO) which questioned the timeframe of Public Exhibition No. 2 being shorter than the 30 day requirement for Threatened Species Development.

In their letter, the NSW EDO notes:

“The Preliminary SIS exhibited in July and August 2015 was self-titled as ‘preliminary’, and by its own admission had not conducted required surveys or discussed mitigation measures.

The Preliminary SIS was non-compliant with a number of key assessment requirements under s. 100 of the Threatened Species Conservation Act 1995 and on any view could not be said to be substantially compliant with the description of a valid SIS in s. 100. On this basis, exhibition of the Preliminary SIS cannot constitute exhibition of the SIS.”

The letter goes on to cite the Land and Environment Court decision of *Pepper J. in Barca v Wollondilly Shire Council [2014] NSWLEC 118* which holds that determination was rendered invalid where an EIS had been exhibited for 30 days and where two amended versions were exhibited later (each being for less than 30 days).

Although the clauses detailed in the letter related to Designated Development only, the principles contained within the Land and Environment Court decision of Pepper J. are considered to have merit in this particular matter. Therefore, Council decided to re-exhibit the Development Application on this basis only.

The application was notified to 368 land owners and occupiers and those who made submissions under Public Exhibition No. 1 and No. 2 for a period of not less than 30 calendar days commencing on 12 November 2016 and ending on 13 December 2016. Furthermore, an advertisement was placed in the Manly Daily on 12 November 2016 and two notices were placed upon the site.

At the time of completing this report, (i.e. 5 December 2016) 14 submissions were received which consist of the following (also see the note below):

- **10 against.**
- **4 in support.**

Issues raised against the proposal under Public Exhibition No. 3 are, to date, generally the same as those raised under Public Exhibition Nos. 1 & 2 and have already been addressed. Therefore, no further discussion is undertaken with respect to issues already raised and discussed in Public Exhibition Nos. 1 & 2.

Note: Because Public Exhibition No. 3 was still occurring at the time of preparing this report, a Supplementary Report will be prepared at the completion of the exhibition period and presented to the Sydney North Planning Panel prior to the determination meeting.

The Supplementary Report will only address any additional issues raised and which haven't already been addressed in this report through the previous exhibition periods.

MEDIATION

No mediation has been formally requested by the objectors.

REFERRALS

The following includes a comprehensive review of all referral responses received to provide the consent authority with an understanding of the evolution of opinions resulting from the receipt of updated documentation and plans throughout the life of the application.

External Referrals

NSW Rural Fire Service (RFS)

The application was referred to the RFS on 9 July 2015 for consideration in accordance with Section 79BA - 'Consultation and development consent – certain bush fire prone land' of the Environmental Planning and Assessment Act 1979.

Referral Response No. 1

In their response dated 19 November 2015, the RFS stated:

"The New South Wales Rural Fire Service (NSW RFS) is not in a position to issue a Bush Fire Safety Authority based on the information provided. The following additional information is required to enable the NSW RFS to further consider the proposal:

- Information which details how the land with slopes of greater than 18 degrees will be managed as an asset protection zone;*
- Information supporting the slopes assessed to the north-west of the site, including consideration of steeper sections (>10 degrees) in that area;*
- Information which demonstrates that the proposed asset protection zones can be established and maintained offsite, including agreement by all relevant parties (Crown Lands, Council and the DoE) that all required APZs will be maintained in perpetuity;*
- Further details relating to the internal road network and clarification regarding the proposed fire trails "extending further west and linking with the existing fire trail" is required;*
- Further details of the proposed 'onsite' and 'offsite' arrangements identified in the submitted bush fire report which states "Detailed plans of all Emergency Assembly Areas including 'onsite' and 'offsite' arrangement as stated in AS 3745-2002 are clearly displayed and an annual (as a minimum) trial emergency evacuation is conducted".*

From receipt of the required information the Service will respond with its recommendations within 21 days. If additional information is not received within 100 days [i.e. by 27 January 2016] the application will be refused on the basis of Requested Information not being provided. A formal request for re-assessment would be required after this time."

The above response was posted on Council's website on 19 November 2015 and also forwarded to the applicant on 23 November 2015 with a request to provide the additional information for referral back to the RFS. A follow-up email was sent to the applicant on 21 December 2015.

The applicant provided the following response via email on 22 December 2015 (note: the comments form a discussion between the applicant and the applicant's environmental consultant) which is to be read in conjunction with the updated Landscape Management Plan (LMP) which was also submitted to Council on 22 December 2015:

1. *"The LMP details how land over 18 degrees will be managed. These >18 degree sections are short and the site naturally benched. I believe a site visit by RFS will assist in this matter.*
2. *I have prepared the slope analysis based on contour information, and site analysis. RFS are stating an 11 degree slope (10 - 15) and that would mean 15m greater APZ. A site visit should satisfy RFS, as the slopes are rocky, lacking vegetation, and generally across slope in that direction.*
3. *'Refer to DoE correspondence'. APZ management plan for inclusion in Education's letter to Council and Crown can be found in the LMP.*
4. *The road network can be detailed to the RFS as a separate response.*
5. *We need to discuss with the RFS the onsite arrangement (BAL 12.5 building and 80 - 100m APZ would essentially provide a safe place onsite, and there needs to be a detailed offsite arrangement. This needs further discussion."*

The updated LMP and the above responding comments were subsequently forwarded to the RFS on 22 December 2015 for their further consideration.

Site Meeting

A site meeting was held between the applicant and officers of the RFS on 21 January 2016 to further clarify the information sought and to inspect the proposed areas subject of the APZ. At that meeting, the RFS advised (amongst other things) that the written consent of affected land owners was required in order for the RFS to be in a position to issue their concurrence.

Submission of Updated and Requested Information (APZ Easement)

The applicant forwarded a copy of the Bushfire Emergency Management & Evacuation Plan to Council on 11 April 2016 and to the RFS on 14 April 2016. On 5 May 2016 the applicant also provided a letter (dated 4 May 2016) confirming commencement of compulsory acquisition of Council owned land (Condoover Reserve) only which was forwarded to the RFS on that same day.

The RFS advised via email on 12 May 2016 that

"As discussed, the correspondence dated 4 May 2016 (Ref: DOC16 402/943) from the NSW Government Asset Management department relates to the acquisition of the Lot 1 DP 433773 and Lot 1 DP 1146289 to the south and south west of the site.

The required APZ's as indicated in the bush fire report also stretch into Lot 7074 DP 1029974 (west) and Lot 1549 DP 752038 (North West). No formal evidence has been provided regarding the ownership/acquisition of these lots. As such, this matter is still outstanding and required to be addressed prior to the NSW RFS providing formal advice."

The applicant was advised of the RFS's position on 12 May 2016.

Subsequently, on 1 June 2016 the applicant submitted a revised copy of the letter (dated 31 May 2016) confirming commencement of compulsory acquisition of Crown and Council land. The letter includes a reference to *"an easement over parts of the Crown land in Part*

Lot 7074 in DP 1029974 and Part Lot 1549 in DP 752038, which is adjacent to the western boundary of the school. The terms of the easement give the Department the right to create and maintain an APZ in the land which is subject to the easement."

The updated letter was forwarded to the RFS on 1 June 2016 who advised via email dated 7 June 2016 that:

"As discussed previously the NSW RFS is still not in a position to assess the subject application based on the information provided.

The letter provided from the NSW DoE dated 31 May 2016 (DOC16/496987) states that the Department has "commenced the process" in regards to accommodating the necessary APZs off site. More specifically, the letter indicates that an easement is to be provided over parts of the Crown land to the west in Part Lot 7074 in DP 1029974 and Part Lot 1549 in DP 752038

Despite this indication of an APZ off site, no formal evidence of agreement from the Department of Primary Industries (or relevant authority for ownership of Crown land) has been provided in support of the easement on this parcel of land. Both of these matters will be required to be addressed, with appropriate evidence provided, prior to additional assessment by the NSW RFS."

The response from the RFS was forwarded to the applicant via email of 7 June 2016.

As no response had been received from the applicant with respect to the above outstanding matter, Council contacted the applicant on 14 June 2016, 21 June 2016 and again on 11 July 2016 requesting an update on the information pertaining to (amongst other things) the easement. The applicant advised via email on 13 July 2016 that the issue has been referred to the DoE for their attention and action.

The requested information was submitted to Council on 11 October 2016 and subsequently referred to the RFS for their information.

Submission of Revised Bushfire Threat Assessment

On 2 August 2016, the applicant submitted a revised version of the Bushfire Threat Assessment.

The email accompanying the revised Assessments states:

"The original APZ set off from the building line went over the rock ledge and the slope was greater than 10 degrees (therefore having the requirement of a 100m APZ).

Aligning the buildings so the APZ does not extend over the rock ledge was observed, and the APZ (100m) then extended only as far as the rock ledge. Having reviewed the slope analysis carefully, and the ecological benefit, Kleinfelder believes it is important that we look at modifying the APZ requirement to the south in consultation with the NSW RFS.

The new APZ at Manly Vale will potentially reduce the area impacted by the APZ requirements by approximately 0.425ha (this equates to approximately 10% less clearing, 10% less biodiversity offsetting, and protects the known Red-crowned Toadlet habitat and species).

As discussed, please could you forward to the Rural Fire Service for consideration. We will look into how this may potentially affect the Species Impact Statement, Fauna and Flora reports and compulsory acquisition and easement and any other documentation previously prepared as part of the DA."

The revised Assessment was referred to the RFS on 2 August 2016 for their consideration.

On 19 August 2016, the RFS advised that the proposed APZ amendment to the south seeking a reduction from 100m to 85m was not supported.

The applicant's bushfire consultant therefore advised that the 100m APZ to the south will be maintained and will be reflected in a further revised Assessment.

Submission of Amended Plans and Documentation

The amended plans and documentation submitted to Council on 30 September 2016 were referred to the RFS on the same day.

As noted previously, information pertaining to the easement for the purposes of the bushfire asset protection zone within the Manly Warringah War Memorial Park were received on 11 October 2016 and referred to the RFS on the same day.

It was realised upon review of Council documentation that the original referral to the RFS quoted an incorrect section of the EP&A Act (namely s.79BA) and should have referred to s.91 on the basis that the development is Integrated Development for a 'Special Fire Protection Purpose' under s.100B of the *Rural Fires Act 1997*. Therefore, Council re-issued its referral letter to the RFS on 28 November 2016 to advise the RFS and to correct this error.

The compulsory acquisition was entered into the NSW Government Gazette (No. 104) on 2 December 2016. The RFS were notified of the gazettal on 2 December 2016 in order to enable finalise of their determination.

The NSW Rural Fire Service (RFS) issued their Bushfire Safety Authority under s.100B of the *Rural Fires Act 1997* which is included under a condition within the recommendation of this report.

NSW Roads and Maritime Service (RMS)

The application was referred to the NSW Roads and Maritime Service (RMS) for comment on 12 November 2015 in accordance Clause 104 and Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

Referral Response No. 1

In their response dated 21 December 2015, the RMS states:

"Roads and Maritime does not support the installation of the proposed wombat crossing on the bend of Sunshine Street and Gibbs Street showing on 'MTE Parking and Traffic Management Concept Plan' dated 21/01/2015, Job No. 2014/281, drawing nos. 1 of 6, 3 of 6, 6 of 6 prepared by McLaren Traffic Engineering, as indicated in the Traffic, Parking & Servicing Impact Assessment Report, Final Issue: C, dated 18th June 2015 under Annexure E: MTE Recommendations.

Roads and Maritime has no objection to the development provided that the proposed wombat crossing is installed at a location acceptable to Council and Roads and Maritime".

The response corresponds to the resolution made by the Warringah Local Traffic Committee which met on 1 December 2015 and which states:

- "A. That the provision of a wombat crossing in the vicinity of the existing children crossing on Gibbs Street be approved in principle subject to the facility being designed to the satisfaction of Council and provided at no cost to Council.*
- B. That it be noted that the provision of a wombat crossing on the road bend is not supported.*
- C. That the design of the wombat crossing includes the provision of street lighting in accordance with the Australian Standards and at no cost to Council.*
- D. That the provision of bicycle racks be included in the proposal as per Council's Development Control Plan and the applicants Traffic Report.*
- E. That Council Planners consider provision of disabled parking and staff parking spaces in the new design plan."*

The applicant provided a Supplementary Traffic Impact Assessment on 22 December 2015 which accepted the position of the Traffic Committee and included a re-design which incorporated the relocation of the wombat crossing approximately 25m to the north and away from the road bend.

The Supplementary Traffic Impact Assessment was referred back to the RMS on 29 December 2015 for further consideration.

Referral Response No. 2

In their email response dated 21 January 2016, the RMS stated:

"Roads and Maritime has reviewed the submitted information and raises no objection. It is understood that the location of the wombat crossing was brought up at the local traffic committee and will be matter to be discussed with the Warringah Local Traffic Committee."

As the changes proposed within the amended plans and documentation submitted to Council on 30 September 2016 did not affect the road system, they were not referred to the RMS for further consideration.

Appropriate conditions to address road-related matters (such as bus zones, the pedestrian 'wombat' crossing and traffic control generally) have been included in the Recommendation of this report should the application be approved.

NSW Department of Primary Industries - Water (DPI Water)

Following the submission of a revised Waterway Impact Statement on 1 March 2016 and its review by the Riparian Lands section of Council's Natural Environment Unit (see separate comments under 'Internal Referrals' in this report), the application was referred to DPI Water on 8 March 2016 for consideration.

In their response dated 12 April 2016, DPI Water advised that:

"a controlled activity approval is not required and no further assessment by this agency is necessary for the following reason:

- *The proposed activity is exempt from section 91E(1) of the Water Management Act 2000 in relation to controlled activities specified in clause 39 of Subdivision 4, and Part 2 of Schedule 5 of the Water Management (General) Regulation 2011 that are carried out, in, on or under waterfront land.*

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then DPI Water should be notified."

Bushfire asset protection zones are controlled activities which are required to be offset by connecting an equivalent area to the riparian corridor on waterfront land within the development site.

However, notwithstanding the exemption, a review of the riparian corridor mapping used by DPI Water (which is based on the 1:25,000 topographical map) reveals that the head of the 40m buffer of the tributary of Burnt Bridge Creek is located approximately 80m to the south and therefore, will not be impacted by the development.

As the changes proposed within the amended plans and documentation submitted to Council on 30 September 2016 did not affect the riparian corridor, they were not referred to the DPI Water for further consideration.

No conditions have been imposed by DPI Water.

NSW Office of Environment and Heritage (OEH)

Following Council's consideration of the Preliminary Species Impact Statement (SIS) and its forming of the opinion, based upon a precautionary approach, that the development may result in a significant impact as defined under Section 5A of the *Environmental Planning and Assessment Act 1979*, the application was referred to the OEH on 13 August 2015 for consideration.

Referral Response No. 1

In their response dated 30 September 2015, the OEH stated:

"Please note, OEH concurrence is only required in the event that, following a review of the Species Impact Statement (SIS), Council decides that the proposal is likely to have a significant effect on threatened species, populations or ecological communities and Council decided to grant development consent. Under such circumstances, OEH concurrence would be required before Council could grant development consent.

Although Council has decided that the proposal may result in a significant impact in accordance with Section 5A of the Environmental Planning and Assessment Act 1979, Council has not decided to grant development consent and therefore, OEH provides only comments, not concurrence, for the proposed redevelopment of Manly Vale Public School.

OEH is of the opinion that the SIS has not been prepared fully in accordance with the DGRs issued by OEH on 27 March 2015 [included under Appendix 6 of the Preliminary SIS] and that the impacts of the proposal on threatened species, populations or ecological communities have not been adequately assessed in

accordance with Section 5A of the Environmental Planning and Assessment Act 1979."

Attachment 1 of the response then goes on to conclude:

"OEH is of the opinion that the SIS has not been prepared fully in accordance with the DGRs issued by OEH on 27 March 2015 and that the impacts of the proposal on threatened species, populations or ecological communities have not been adequately assessed in accordance with Section 5A of the Environmental Planning and Assessment Act 1979.

The following additional tasks are required/recommended:

- *Targeted surveys for Prostanthera marifolia within the subject site (which includes the APZ) when the War Memorial Park population is flowering.*
- *Targeted surveys for Acacia bynoeana, Callistemon linearifolius, Hibbertia puberula, H. superans, Lasiopetalum joyceae, Persoonia hirsuta, Pimelea curviflora var. curviflora and Tetratheca glandulosa within the subject site (including the APZ) in November 2015.*
- *Targeted surveys for the Eastern Pygmy-possum in suitable adjoining and contiguous habitat to determine if the local population extends beyond the study area. Update the Seven Part Test in accordance with the DECC (2007) guidelines following the additional survey. Ensure the Seven Part Test considers all potential impacts, including maintenance of the APZ with fire.*
- *Unless it can be demonstrated that adequate surveys have already been completed, targeted surveys for the Red-crowned Toadlet and Giant Burrowing Frog during appropriate season and climatic conditions are required. Tadpoles to be identified by an expert.*
- *Preparation of a Seven Part Test for the Red-crowned Toadlet and Giant Burrowing Frog, separately.*
- *Additional survey to determine if a Powerful Owl nest site occurs within 100m of the subject site may be required. Update the Seven Part Test to consider any proposed habitat degradation within 100m of a nest site.*
- *Update the Seven Part Test for the Powerful Owl and relevant sections of the SIS in accordance with the DECC (2007) Guidelines, which specify that the level of impact on a threatened species should be determined in the absence of mitigation measures (unless the measure has been previously successful for that species in a similar situation).*
- *Update the SIS to document additional survey effort, results, new and updated Seven Part Tests and consider providing stronger justifications for excluding species as 'affected species' (i.e. additional justification beyond the species not being recorded during surveys).*
- *Once the proposal has been updated to incorporate the required firefighting vehicle access and Ausgrid substation, the SIS and any relevant Seven Part Tests are to be updated accordingly.*
- *Preparation of a biodiversity offset package.*
- *Ensure Section 9.3 of the DGRs (valid licencing and approval requirements) has been addressed.*
- *Consider whether referral to the Commonwealth Department of the Environment is required for any EPBC Act-listed species."*

The response from the OEH was forwarded to the applicant's environmental consultant via email on 30 September 2015.

The updated SIS was submitted to Council on 18 December 2015 and subsequently referred back to Council's Natural Environment Unit (NEU) for review. In their response dated 21 December 2015, the NEU advised that:

"Based on precautionary consideration of potential impacts to the local population of Eastern Pygmy Possum, the proposal may constitute a 'significant impact' as defined under Section 5A of the Environmental Planning and Assessment Act 1979. Any recommendation for approval by Council would require formal concurrence from the NSW Office of Environment and Heritage. It is recommended that the final SIS is forwarded to the NSW Office of Environment and Heritage (OEH) for further comment and/or concurrence."

In addition to the updated SIS, the applicant also provided on 18 December 2015 a response to the additional tasks requested by the OEH. The response states:

OEH Comments	Kleinfelder Response
<i>Targeted Surveys for Prostanthera marifolia within the subject site (which includes the APZ) when the War Memorial Park population is flowering.</i>	<i>Field surveys were conducted on 02/11/2015. A reference population of P. marifolia within the memorial park was inspected and found to be in flower on the day of the survey.</i> <i>No P. marifolia plants were observed within the study area during targeted surveys.</i>
<i>Targeted surveys for Acacia bynoeana, callistemon linearifolius, Hibbertia puberula, H. superans, Lasiopetalum joyceae, Persoonia hirsuta, Pimelea curviflora var. curviflora and Tetratheca glandulosa within the subject site (including APZ) in November 2015.</i>	<i>Surveys were conducted on 02/11/2015.</i> <i>No threatened flora was observed.</i>
<i>Targeted surveys for Eastern Pygmy Possum in suitable adjoining and continuous habitat to determine if the local population extends beyond the study area.</i>	<i>Complete. The SIS has been updated accordingly.</i>
<i>Update 7-part test in accordance with DECC (2007) guidelines following additional survey.</i>	<i>Complete. The SIS has been updated accordingly.</i>
<i>Unless it can be demonstrated that adequate surveys have already been completed, targeted surveys for the Red-crowned Toadlet and Giant Burrowing Frog during the appropriate season and climatic conditions are required, tadpoles to be identified by an expert.</i>	<i>SIS updated to show that surveys were conducted by an Amphibian expert (PhD Candidate; Daniel O'Brien). Tadpoles were also examined and identified by expert.</i>
<i>Preparation of seven part test for the red-crowned Toadlet and Giant Burrowing Frog separately.</i>	<i>Complete. The SIS has been updated accordingly.</i>
<i>Additional survey to determine if a Powerful owl nest site occurs within 100m of the subject site may be required. Update the 7-part test to consider any proposed habitat degradation within 100m of a nest site.</i>	<i>Further surveys completed by experienced fauna ecologist. No nest sites were identified. SIS updated accordingly.</i>
<i>Update the seven part test for the Powerful owl and relevant sections of the SIS in accordance with DECC (2007) guidelines, which specify that the level of impact on a threatened species should be determined in the absence of mitigation measures (unless the measure has been successful for that species in a similar</i>	<i>Complete. The SIS has been updated accordingly.</i>

OEH Comments	Kleinfelder Response
situation).	
<i>Update the SIS to document additional survey effort, results, new and updated 7-part tests and consider providing stronger justifications for excluding species as 'affected species' (i.e. additional justification beyond the species not being recorded during surveys)</i>	<i>Additional information regarding fire ecology of plant species has been provided in Table 5 of the SIS.</i>
<i>Once the proposal has been updated to incorporate the required firefighting vehicle access and Ausgrid substation, the SIS and any relevant seven part tests are to be updated accordingly.</i>	<i>All tracks and access were considered when calculating the areas of vegetation/ habitat to be removed within each vegetation community.</i>
<i>Preparation of an offset package.</i>	<i>Currently being negotiated.</i> [Note: The applicant advised, via email dated 22 December 2015, that "Metro confirmed they can provide the credits for the environmental offsets process to be commenced". Council requested evidence of this process being undertaken in a responding email dated 22 December 2015 but none had been received].
<i>Ensure Section 9.3 of the DGRs (valid licensing and approval requirements) has been addressed.</i>	<i>Complete. The SIS has been updated accordingly.</i>
<i>Consider whether referral to the Commonwealth Department of the Environment is required for any EPBC Act listed species.</i>	<i>The SIS concluded that no significant impacts to EPBC listed species will occur as a result of the proposal. A referral to the minister for the environment is not considered necessary.</i>

The updated SIS (including the referral response from the Biodiversity section of Council's Natural Environment Unit and the above applicant response to the additional tasks) were subsequently referred back to the OEH on 4 January 2016 for further consideration.

The OEH contacted Council via telephone on or around 11 January 2016 to advise that concurrence could not be provided given that Council was not in a position to support the application on environmental grounds.

On 11 April 2016 the applicant submitted an addendum to the SIS to address the presence of the Red-crowned Toadlet on the site. The OEH again advised Council not to refer the addendum given Council's position.

This is consistent with their position in their original written response dated 30 September 2015.

Advice to the applicant - Request to obtain a statement for biobanking offset credits

On 19 May 2016 Council received an advice from the OEH in response to an approach made by the applicant with respect to obtaining a statement from the OEH to provide more certainty around the availability of credit to offset this proposal.

The OEH advised that:

"The applicant of a DA can address biodiversity impacts following either one of these two pathways:

1. Submit a Biobanking statement

The applicant voluntarily submits an application for a Biobanking statement to OEH. Once OEH issues the Statement, the applicant submits this to Council as part of the DA and all biodiversity assessment requirements are deemed to have been satisfied (unless the LEP or a SEPP imposes development standards that relate to biodiversity values, in which case these standards will also need to be complied with). The Statement will confirm the types and number of credits and any on-site measures required for the development. After a Biobanking Statement is obtained, the consent authority must incorporate the credit requirements, and any other conditions of the Statement into the conditions of development consent. That is, a clause is inserted in the consent conditions requiring the development to comply with the Biobank statement. Council cannot impose conditions that are inconsistent with the conditions of the BioBanking statement, or additional biodiversity conditions relating to matters already considered under the statement. In such circumstances, the TSC Act makes provision for the developer to seek a review of council's decision or appeal the decision. The applicant must obtain all the necessary credits, either through establishment of a Biobank site or purchasing the credits. The applicant then applies to OEH to retire all the required credits against the statement, and once verified, OEH provides written notification to the applicant and Council that the consent condition has been complied with. Construction cannot commence until OEH has verified that the Biobank statement is complied with.

2. The assessment of significance/species impact statement pathway

If a Biobank statement isn't prepared, Council has to determine if there is likely to be a significant impact on threatened species, using the assessment of significance under section 5A of the EP&A Act. If Council determines that there is likely to be a significant impact, then Council requires the applicant to prepare a species impact statement (SIS). Once prepared, the SIS is submitted to Council as part of the DA. Council must then determine if the SIS is adequate, if they still consider that there is likely to be a significant impact, and if they intend to grant consent. If the answer to all three is 'yes', then Council submits the DA and SIS to OEH for threatened species concurrence. OEH may grant concurrence, with or without conditions, or refuse concurrence. However, if Council determines the SIS is inadequate, or if Council determines that the impacts are no longer significant, or if Council intends to refuse the application, then OEH DoE's not have a concurrence role.

The application may include the use of the Biobanking assessment methodology to determine the type and number of credits that are required to offset the development, without preparing a Biobanking statement. The DA needs to include the commitment to purchase and retire credits - Council cannot require this in the consent conditions unless it is included the DA. OEH recommends that biodiversity credits are purchased and retired before construction commences. If it is not possible to retire the credits before construction commences, then the applicant could enter into a Voluntary Planning Agreement (VPA) with Council prior to the granting of consent, requiring the offset requirements to be carried out, and the timeframe in which this must occur. The consent conditions and the VPA may identify the numbers and types of credits that are to be retired, but should not explicitly identify the site that the credits are to be created on. The proponent may separately enter into a MOU with the proposed credit supplier to secure their credits, but as the Biobanking scheme is voluntary Council cannot as a consent condition require the proponent to establish a biobank site. Identifying the numbers and types of credits to be retired allows the proponent to seek credits from

anywhere on the market and removes the uncertainty that the credits may not be available or present on the proposed Hornsby Council site."

The above advice was forwarded to the applicant on 19 May 2016. The OEH and the applicant were advised that Council would not favour the VPA approach.

Applicant discussions with the OEH regarding a biobanking offset strategy

The OEH advised Council on 5 July 2016 that discussions had been held with the applicant regarding a commitment by the DoE to purchase and retire an appropriate type and number of credits to offset the impact of the proposal on the identified threatened species.

The OEH advised that the applicant's environmental consultant (Kleinfelder) have surveyed a site at Galston, and that the commitment from DoE will include provision that, if the site cannot provide the required number of offsets then an alternative site will be examined.

Letter from the OEH regarding a proposed biobanking offset strategy

On 2 August 2016 the OEH provided Council with a copy of a letter to the applicant dated 2 August 2016 regarding a written request made by the DoE for OEH's endorsement of a biodiversity offset strategy for the proposal.

The letter states:

"Thank you for your letter dated 14 July 2016 in which you request the endorsement of the Office of Environment and Heritage (OEH) on the DoE's (DoE's) biodiversity offset strategy for Manly Vale Public School (MVPS).

I understand that the offset strategy includes the following:

- 1. Hornsby Council will submit a Biobanking application for the Galston Park site.*
- 2. The DoE will enter into an agreement with Hornsby Council to purchase and retire the Biobanking credits from the site, to offset the MVPS redevelopment works.*
- 3. DoE will be seeking a 'negotiated outcome' with the OEH in regard to offset credits, as the Galston Park site does not provide an adequate number of credits to offset the MVPS redevelopment. If this negotiated outcome is not agreed to by OEH, DoE will fulfil all offsetting requirements for the MVPS redevelopment, in accordance with the biodiversity credit report.*
- 4. DoE will finalise the above steps prior to completion of the MVPS redevelopment works.*

OEH has some concerns with the above approach, specifically:

- OEH considers that the MVPS redevelopment should meet the offsetting rules as specified in the Biobanking Assessment Methodology (BBAM). Based on the information provided, it appears that the offsetting of 'heath' for 'woodland' ecosystem credits, as proposed in the 'negotiated outcome', is not permitted under the BBAM. However, OEH will consider this in greater detail when more information is received from DoE.*
- If the DoE is required to seek credits from the Biobanking Register, there is some possibility that the required credits will not be available on the Register.*

- *In accordance with the NSW Government's offsetting policies, offsets should be provided before construction commences.*

Therefore, OEH will endorse the offset strategy, provided the following amendments are made:

- *If Biobanking credits are required to be purchased to offset the MVPS redevelopment, and these credits are not available on the Biobanking Register, DoE will seek the required credits from alternative sites. To this end, OEH recommends that DoE submit an entry for the outstanding credits required on the Credits Wanted Register at the earliest opportunity to increase the likelihood that the required credits will become available in the event that the 'negotiated outcome' is not permitted.*
- *The steps in the offset strategy should be completed prior to any impacts occurring. If this is unachievable, the offsets should be secured within 12 months of consent being granted.*

If OEH has a concurrence role in the MVPS proposal, and OEH intends to grant concurrence, the concurrence conditions will include that the offsets must be secured prior to the issuing of the Construction Certificate. If OEH can be satisfied that this is legitimately unachievable, OEH will require that the offsets must be secured within 12 months of the consent being granted.

Your letter states that both the Northern Beaches Council and the Joint Regional Planning Panel have requested that the DoE 'seek OEH endorsement of the biodiversity offset strategy acknowledging that the DoE are proposing to fulfil their responsibility to offset impacts, that environmental impacts are being adequately mitigated and offset, and the Species Impact Statement (SIS) is meeting the Director General Requirements (DGRs)'. However, OEH understands that this letter is specifically seeking endorsement of the offset strategy only, as agreed at the meeting between OEH and DoE on 4 July 2016. OEH has not reviewed any biodiversity assessments for the MVPS site and therefore has not assessed whether environmental impacts are being adequately mitigated and offset, and the SIS is meeting the DGRs. In addition, this advice should not be construed as support for or endorsement of the MVPS proposal.

The above advice is provided on the assumption that if the MVPS is approved, the consent authority will ensure the species and ecosystem credits from the impact site and the offset site/s are matched, in accordance with the BBAM, unless agreed to by OEH."

The letter was referred to the Biodiversity section of Council's Natural Environment Unit for consideration on 2 August 2016 who, in their response dated 31 August 2016, determined that, based upon the conditional endorsement of the proposed offset strategy by OEH in the above letter, the proposal should meet the offsetting rules as specified in the Biobanking Assessment Methodology (BBAM) and that it was considered that the significant impact contentions previously raised with regard to threatened species are able to be resolved with the application of the NSW Biodiversity Banking and Offset Scheme.

Submission of Amended Plans and Documentation

Given Council's position on significant impact (see commentary above), the amended plans and documentation submitted to Council on 30 September 2016 were referred to OEH for concurrence under s.79B of the EP&A Act 1979.

As noted previously, information pertaining to the easement for the purposes of the bushfire asset protection zone within the Manly Warringah War Memorial Park was received on 11 October 2016 and referred to the OEH on the same day.

In their initial email response dated 28 October 2016, the OEH advised that the following information pertaining to the most recent Species Impact Statement (v 6.0) was not available for review on Council's website:

- Appendix 5: Staff CV's;
- Appendix 6: Director General's requirements; and
- Appendix 7: Kleinfelder site specific assessments:
 - 1. Duffys Forest Index Analysis;
 - 2. Eastern Pygmy-possum additional surveys;
 - 3. Red-crowned Toadlet Addendum;
 - 4. MVPS Offset Strategy and
 - 5. OEH Letter DOC16/351266 Biobanking Strategy Concurrence.

The applicant was advised of the above on 28 October 2016 and the information was provided to Council on 31 October 2016. The information was subsequently posted onto Council's website and referred back to the OEH on the same day.

The Biobanking Offset Strategy provides new credit calculations for the proposed impacts of the amended design using the BBAM 2014.

In the Appendix, Kleinfelder notes:

"The Office of Environment and Heritage prefer the use of the BBAM 2014 methodology for calculating biodiversity offset requirements and the use of Biobank Sites as a mechanism for securing biodiversity offsets.

Kleinfelder has undertaken investigations to identify potentially suitable biodiversity offsets for the proposed MVPS redevelopment. These investigations identified suitable biodiversity offset lands owned by Hornsby Shire Council located at 64 Crosslands Road, Galston. Council intend to submit a biobanking agreement application to establish the lands as a biobank site.

Subsequently, DoE have also entered into a Memorandum of Understanding (MoU) with Council to purchase and retire credits from this site to offset the MVPS proposal. The proposed biobank site can fulfil all ecosystem credit and species credit requirements of the proposed development."

The afore-mentioned executed MoU between the DoE and Hornsby Shire Council was submitted to Council on 10 November 2016 for its information. It is understood that the MoU was forwarded to the OEH by the applicant for its consideration.

Given that Council has identified that the proposal may result in significant impacts to local populations of threatened species (Red-crowned Toadlet and Eastern Pygmy Possum), concurrence from OEH is required prior to development consent.

No Biobanking Statement has been submitted to Council as part of the application and the Species Impact Statement (including the Biobanking Offset Strategy) has therefore been

referred to the NSW Office of Environment & Heritage (OEH) for concurrence under s.79B of the EP&A Act.

At the time of completing this report (i.e. 5 December 2016), a response had not been received from the OEH and a recommendation is included to address the pending receipt of concurrence.

NSW Department of Primary Industries – Lands (DPI Lands)

The application was referred to DPI Lands on 9 July 2015 for consideration as the landowner of the Manly Warringah War Memorial Park Reserve to the north and the road reserve to the west.

In their response provided via email dated 5 November 2015, DPI Lands stated:

"DPI Lands have since assessed all the DA documentation and have several concerns with the proposal as it stands currently:

- a) *The preliminary SIS study area is only slightly larger than the proposed APZ, therefore it may be the case that if the habitat value of the broader bushland area were considered in terms of the four identified threatened fauna, the proposed impacts may be more significant. It is important for the proposal to consider the existing pressures on the broader bushland area, being within a built environment, such as edge effect, feral animal and weed invasion etc. The clearing of the proposed APZ would be in addition to the existing pressures.*

Recommendation - Extend the SIS study area over the broader bushland area to better assess the habitat value of the threatened species particularly the Critically Endangered Species before concluding that under the EPBC Act the proposed impact will "not be significant" as is stated in the SIS currently.

- b) *The SIS is not conclusive in that targeted species assessment re cryptic flowering species must be completed to determine absolutely if the conclusion "no threatened Flora species occurs in the site.*

Recommendation - Completed the targeted search of the cryptic flowering species listed pg. 108 in the SIS.

- c) *The buildings are designed to BAL 12.5 only (one increment above the minimum). This is relatively low BAL standard imposes a very large APZ requirement. DPI - Lands clearly advised that "that every attempt is made by the proponent to limit the level of clearing through the best use of the Manly Vale site to accommodate as much APZ as possible within the school allotment, and through application of AS3959 to achieve maximum level of fire protection of the buildings which will also work towards reducing the level of vegetation clearing". Clearly this advice was not considered.*

Recommendation - Redesign Block M and Block O to a higher BAL which will allow for a smaller APZ requirement and reduced environmental impact without compromising protection of the school and its occupants during a wild fire event."

The above response was forwarded to the applicant via email on 5 November 2015.

The final SIS was referred to DPI Lands on 12 January 2016 for further consideration. As no response had been received from DPI Lands within the legislative timeframe it is assumed that no further objection is raised.

Submission of Easement Details

Information pertaining to the compulsory acquisition and easement for the purposes of the bushfire asset protection zone within the Manly Warringah War Memorial Park were received on 11 October 2016 and referred to DPI Lands on the same day.

No response has been received from DPI Lands within the legislative timeframe and, given their input into the easement arrangements for part of the Manly Warringah War Memorial Park Reserve, it is assumed that no objection is raised.

Aboriginal Heritage Office (AHO)

The application (which included an Aboriginal Archaeological Due Diligence Assessment) was referred to the AHO on 9 July 2015 pursuant to the provisions of Part 5.10(8) of the *Warringah Local Environment Plan 2011* as the site contains or is within the vicinity of an Aboriginal Heritage Object and/or place of Aboriginal Heritage significance.

In their response dated 15 July 2015, the Office stated:

"No sites are recorded in the current development area and an Aboriginal heritage Due Diligence report (by Dominic Steele Consulting Archaeology, 21 June 2015) did not identify any Aboriginal heritage items. The report recommended that no further Aboriginal archaeological input is warranted, that several engraved figures be avoided, and if any unrecorded Aboriginal sites or objects are exposed that works should cease and the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council and Aboriginal Heritage Office be contacted.

The Aboriginal Heritage Office has reviewed the above report and supports the recommendations."

Notwithstanding the above comments and support for this aspect of the application, an updated and final Aboriginal Archaeological Assessment was prepared and submitted to Council on 18 December 2015. The Assessment was referred back to the AHO for their information.

In their response dated 16 August 2016, the AHO noted:

"The report refers to, at 1.6, 'cultural heritage management views and recommendations for project as provided by the MLALC [Metropolitan Local Aboriginal Land Council] are to be provided in a separate heritage statement to this report'...(at 5.2) 'Accurately mapping of the local conditions at the sites at the three locations illustrated in Figure 4.25 with appropriate 'buffer' zones or curtilage to be confirmed with the MLALC'.

We will need to see the MLALC report referred to before making any comment."

The request for the Statement provided by the MLALC was forwarded to the applicant on 15 August 2016 and again on 22 August 2016.

The Aboriginal Heritage Office were advised by Council on 16 August 2016 that the item referred to under Section 5.2 in their email could be addressed by an appropriate condition imposed on a consent as this relates to mitigation measures only.

In their email response dated 8 September 2016, the AHO stated:

“The December 2015 report has been reviewed and, as you note, it is a slightly more detailed version of the previous one reviewed and commented on by the AHO.

The AHO does not consider there to be any known Aboriginal heritage issues other than those brought up and addressed in the report. A report, letter or email from the Metropolitan Local Aboriginal Land Council would be helpful to confirm that the MLALC endorses the report’s recommendations. The report appears, however, to have been prepared with MLALC input.

As per the original AHO letter, the report’s recommendations are endorsed by the AHO.”

The above email was forwarded to the applicant on the same day.

Amended plans and reports were submitted to Council on 30 September 2016 and referred to the AHO on the same day.

In their email response dated 4 October 2016, the AHO stated:

“We have responded to this referral previously. Recommendations are same as previous.”

Receipt of Heritage Statement from Metropolitan Local Aboriginal Land Council (MLALC)

The separate heritage statement by the MLALC was submitted to Council on 27 October 2016 and subsequently referred to the AHO for their review and comment. The Statement was also posted online on the same day for public information.

The Statement includes reference to the amended plans and states:

“Thank you for the opportunity to review the amended Concept Plan for the proposed MVPS expansion project and to make comment on the above Aboriginal archaeological and cultural heritage assessment report (DSCA December 2015) that has been prepared for the project.

We would like to confirm that we support the findings, conclusions and recommendations presented in the archaeological report, and agree with the conclusion that the amended Concept Plan for the proposed new school will not have an adverse effect on any Aboriginal cultural heritage sites or areas of potential heritage sensitivity.”

In their email response dated 27 October 2016, the AHO advises:

“The letter supports the consultant archaeological report and the AHO’s previous reviews of the available material.”

The Landscape Management Plan includes vegetation clearing protocols around cultural heritage sites and states:

"All clearing activities surrounding identified cultural heritage sites must be supervised by a suitably qualified and experienced Project Ecologist engaged by the Project Manager, to ensure areas of cultural significance (see Figure 11 in this report) are protected.

Vegetation clearing is to commence from the boundary from the exclusion zone (marked with blue flagging tag) outwards, away from the sites. The felling of larger trees in the vicinity of the cultural heritage sites must be felled away from the exclusion zones to minimise the potential impacts of collision toward the sites."

Appropriate conditions to address potential impact on any newly discovered aboriginal artefacts during the construction phase have been included in the Recommendation of this report should the application be approved.

Ausgrid

The application was referred to Ausgrid for consideration under the provisions of State Environmental Planning Policy (Infrastructure) 2007.

In their response dated 21 July 2015, Ausgrid states:

"The future supply of electricity to the proposed development will be dependent upon the proposed maximum demand of the development and the existing electrical loading of the surrounding area, and should not be assumed to be available until confirmed by Ausgrid. The developer is advised to submit a Connection Application for the development as soon as their maximum demand has been determined.

It is likely that the establishment of a substation on the property will be required in order to provide supply to the development. It appears from the DA drawings that no space has been allocated for a substation on the site. This may need to be addressed by the developer.

The requirements for substation sites can be found in Ausgrid's Network Standards NS141 and NS113. In particular, I would draw attention to the smoke and fire segregation requirements in these standards. The developer should ensure that adequate separation is achieved from the substation louvers/doors and any building ventilation inlets/outlets. Additionally, consideration should be given to the clearance from the substation of any proposed glass panelling.

General

The issue of this notification is subject to the establishment of all necessary easements pursuant to the provisions of Section 88B of the Conveyancing Act 1919, as amended, and, in the case of Community Land Development, the lodgement of a suitable Management Statement and corresponding working plan in accordance with Section 36 of the Community Land Development Act, 1989. It is also subject to Ausgrid's design and construction requirements as detailed in publication "Policy for ASP/1 Premises Connections" which is available on our website."

The above response was posted on Council's website on 4 August 2015.

The application did not include any plans which indicate the location of the substation and easement although it is noted that the SEE (page 11) states that "a new 2.7m x 1.4m substation is proposed to be located to the east of the existing administration building. The top of the substation will be below the floor level of this admin building. The substation is proposed to be enclosed within a 3.3m x 5.3m fenced area, accessed from the street via

locked gates". A follow-up email was forwarded to the applicant on 29 December 2015 requesting an update on this issue.

On 11 January 2016 the applicant submitted a revised site plan (refer to Plan No. DA 04 (Issue B) dated 8 January 2016) and copy of a letter provided by Ausgrid dated 3 September 2015 which states:

"Ausgrid has certified the electrical design plan(s) SC06668 amendment 0. The certification number for this design is 790567/20150903. In providing this certification, Ausgrid makes no warranty, express or implied that the design is fit for the intended purpose or is suitable for the site conditions. The certification is provided exclusively on the basis of the design submitted without reference to any underlying assumptions or conditions and in accordance with the Design Contract Connection Assets.

The certified design plans along with the approved NUS174 EIA worksheet have been forwarded electronically to your email address for your use.

The Applicant will be notified of the drawing certification and the conditions that must be met for the project to proceed to the next stage."

The revised site plan indicates that the proposed substation has been relocated away from the east of the existing administration building to the frontage of the site facing the Gibbs Street carpark. The certified electrical design plan SC06668 (amendment 0) has also been submitted to Council and corresponds to the proposed relocation of the substation as well as providing details on easements.

As the changes proposed within the amended plans and documentation submitted to Council on 30 September 2016 did not affect the substation and/or Ausgrid infrastructure, they were not referred to the Ausgrid for further consideration.

Appropriate conditions to address Ausgrid requirements have been included in the Recommendation of this report should the application be approved.

NSW Police

The application was referred to the NSW Police Force on 9 July 2015 for consideration against the principles of Crime Prevention through Environmental Design (CPTED).

In their response dated 22 July 2015 the NSW Police Force advised that they did not believe a Crime Risk Assessment and CPTED assessment was required.

Consequently, no conditions would be required to be imposed in this regard should this application be approved.

As the changes proposed within the amended plans and documentation submitted to Council on 30 September 2016 did not affect the principles of CPTED, they were not referred to the NSW Police for further consideration.

Internal Referrals

Natural Environment Unit (Biodiversity)

The Preliminary Species Impact Statement was referred to the Biodiversity section of Council's Natural Environment Unit on 8 July 2015.

Referral Response No. 1 - Preliminary Species Impact Statement

In their response dated 4 August 2015, the following comments were provided:

"The proposed development requires extensive clearing (4.37 hectares) for construction and bushfire Asset Protection Zones (APZ), 2.1 hectares of which is outside the school boundary and includes bushland reserves. Approximately 9,867m² of remnant native vegetation in Condoover Reserve, a Council owned reserve adjoining the schools southern boundary, will be cleared and disturbed by the proposal. A further 8,442m² of remnant native vegetation in Manly Dam War Memorial Reserve on the west of the school boundary would also be cleared and disturbed. Manly Dam War Memorial Reserve is a Crown Reserve under Warringah Council's care and control as reserve trust manager. Approximately 2,776m² ha of native vegetation located within an unformed Crown road reserve adjoining the school would also be cleared and disturbed by the proposal.

The layout of the proposal and low building standards (Bushfire Attack Level 12.5) maximises the area of native vegetation clearing that is required. It is noted that clearing of the APZ in Councils Reserve would occur on steep slopes which exacerbates impacts such as sedimentation and erosion. As a result of the location, extent and impacts of the clearing, the proposed development is inconsistent with natural environment-related requirements in Council's Development Control Plan 2011 (DCP).

*The proposal will directly impact on the known habitat of threatened species. One threatened species detected within the development footprint, the Eastern Pygmy Possum, is the only known record of this species from within adjoining areas and connective landscape including Manly Dam War Memorial Reserve. The preliminary Species Impact Statement (SIS) (Kleinfelder 2015) contradicts findings of the flora and fauna assessment (TEC 2015) in relation to Seaforth Mintbush (*Prostanthera marifolia*), listed as Critically Endangered under the NSW Threatened Species Conservation Act. The SIS relies upon out-dated habitat information for this species which has more recently been recorded nearby in the same habitats and soil types as those impacted by the proposal. Further assessment of the critically endangered Seaforth Mintbush and other threatened species identified in this SIS is required before a determination can be made.*

Based on the currently available information, Council's Natural Environment – Biodiversity section consider that the proposal has the potential to have a 'significant impact' on local populations of threatened species as defined under Section 5a of the Environmental Planning and Assessment Act 1979. Any approval by Council will therefore require formal concurrence from the NSW Office of Environment and Heritage. The applicant has not yet identified any compensatory or offset measures as would typically be required for such development impacts.

Assessment against Warringah Council's DCP

In relation to Councils DCP, the proposal is not supported for approval due to inconsistencies with the objective and requirements of parts:

- E2 'Prescribed Vegetation' (with specific reference to 'protecting and enhancing the habitat of plants, animals and vegetation communities with high conservation significance').*
- E5 'Native Vegetation' (with specific reference to 'retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long term').*

- E6 'Retaining unique environmental features' (with specific reference to the objective 'to conserve those parts of land which distinguish it from its surroundings').
- E7 'Development on land adjoining public open space' (with specific reference to 'if adjoining parks, bushland reserves or public open space contain bushland, development is not to threaten the protection or preservation of the bushland').

Conclusion

The proposed development requires extensive clearing (4.37 hectares) for bushfire Asset Protection Zones. Approximately 2.1 hectares of the area proposed for clearing and or disturbance is located outside the school boundary on bushland reserves. Approximately 9,867m² of remnant native vegetation in Condover Reserve, a Council owned reserve adjoining the schools southern boundary, will be cleared and disturbed by the proposal. A further 8,442m² of remnant native vegetation in Manly Dam War Memorial Reserve on the west of the school boundary would also be cleared and disturbed.

Manly Dam War Memorial Reserve is a Crown Reserve under Warringah Council's care and control as reserve trust manager. Approximately 2,776m² ha of native vegetation located within an unformed Crown road reserve adjoining the school would also be cleared and disturbed by the proposal. The layout of the proposal and low building standards (Bushfire Attack Level 12.5) maximises the area of native vegetation clearing that is required. As the result of the location, extent and impacts of the clearing, the proposed development is inconsistent with Natural Environment related requirements in Council's Development Control Plan 2011 (DCP).

Recommendation

Based on the above consideration, the adverse impacts upon the natural environment are significant and therefore the development application is not supported by Council's Natural Environment section.

Further assessment and the development of offsetting measures in accordance with the Office of Environment and Heritage's 'Principles for the Use of Biodiversity Offsets in NSW' is required. (See - <http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>)"

The above response was posted onto Council's website on 4 August 2015 and a hard copy was provided to the applicant at the second JRPP briefing on 25 August 2015.

Following receipt of the above response and information conveyed in meetings held between Council staff and the applicant's team of consultants on 23 September 2015 and 12 November 2015, the applicant submitted an updated SIS to Council on 18 December 2015 following the completion of the seasonal survey conducted throughout the spring of 2015 (ending in November).

The updated SIS was referred to the Biodiversity section of Council's Natural Environment Unit on 18 December 2015 for further consideration.

Referral Response No. 2 - Updated Species Impact Statement

Council's Natural Environment Unit provided the following comments on 18 December 2015:

"The proposed development requires extensive clearing (4.37 hectares) for construction and bushfire Asset Protection Zones (APZ), 2.1 hectares of which is outside the school boundary and includes bushland reserves. Approximately 9,867m² of remnant native vegetation in Condover Reserve, a Council owned reserve adjoining the schools southern boundary, will be cleared and disturbed by the proposal. A further 8,442m² of remnant native vegetation in Manly Dam War Memorial Reserve on the west of the school boundary would also be cleared and disturbed. Manly Dam War Memorial Reserve is a Crown Reserve under Warringah Council's care and control as reserve trust manager. Approximately 2,776m² ha of native vegetation located within an unformed Crown road reserve adjoining the school would also be cleared and disturbed by the proposal.

The draft Offset Strategy (Kleinfelder, 11 September 2015) and final Species Impact Statement (SIS) makes no commitment toward formalising offsets via the purchase and retirements of credits identified in the reporting. The final Species Impact Statement (Version 17/12/2015) refers to compensatory strategies or offsets and states that "an offset strategy for the development has been developed and is currently being negotiated" with the NSW Office of Environment and Heritage (OEH). It is therefore assumed that the applicant has identified the need to provide offsets in relation to the proposal but is yet to commit to any offset packages.

The proposal will directly impact on the known habitat of threatened species. One threatened species detected within the development footprint and in immediately adjoining areas is the Eastern Pygmy Possum. Limited records of this species are known from within the adjoining connective landscape including Manly Dam War Memorial Reserve. It is acknowledged that the applicant has demonstrated that this species occurs in adjoining habitat beyond the boundary of the subject site (area of direct impact), however, the site is within 10km of the Sydney CBD within a largely urban landscape. On this basis, the assessment of the relative significance of the subject site in the local context is considered by Council to be high. The current proposal including direct impacts to a Council Reserve demonstrates that that tenure security of habitat for Eastern Pygmy Possum in local reserves (including Manly Dam) is low and as above, the assessment of significance in the local context should be made accordingly.

Council's Natural Environment – Biodiversity section consider that based on precautionary consideration of potential impacts to the local population of Eastern Pygmy Possum, the proposal may constitute a 'significant impact' as defined under Section 5A of the Environmental Planning and Assessment Act 1979. Any recommendation for approval by Council would require formal concurrence from the NSW Office of Environment and Heritage. It is recommended that the final SIS is forwarded to the NSW Office of Environment and Heritage (OEH) for further comment and or concurrence.

Assessment against Warringah Council's DCP

In relation to Councils DCP, the proposal is not supported for approval due to inconsistencies with the objective and requirements of parts:

- E2 'Prescribed Vegetation' (with specific reference to 'protecting and enhancing the habitat of plants, animals and vegetation communities with high conservation significance').*
- E5 'Native Vegetation' (with specific reference to 'retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long term').*

- *E6 'Retaining unique environmental features' (with specific reference to the objective 'to conserve those parts of land which distinguish it from its surroundings').*
- *E7 'Development on land adjoining public open space' (with specific reference to 'if adjoining parks, bushland reserves or public open space contain bushland, development is not to threaten the protection or preservation of the bushland').*

Recommendation

Based on the above considerations, the proposed development is not supported by Council's Natural Environment section. The development and commitment to offsetting measures in accordance with the Office of Environment and Heritage's Biobanking Assessment Methodology".

The above response was posted onto Council's website on 18 December 2015 and forwarded to the applicant via email on 23 December 2015 including advice that, given the conclusion that the development constitutes significant impact and that the application could not be supported, the application (in particular the final SIS) was to be referred back to the OEH for comment.

An addendum to the SIS was submitted to Council on 11 April 2016. The addendum was provided to address the presence of the Red crowned-Toadlet on the site.

The addendum was referred to the Biodiversity section of Council's Natural Environment Unit on 11 April 2016 for further consideration and the following comments have been provided:

Referral Response No. 3 - Addendum 1 (Red-crowned Toadlet)

Council's Natural Environment Unit (Biodiversity) provided the following comments on 17 June 2016.

"The following referral relates to the applicant's submission: 'Species Impact Statement - Addendum 1 (Red-crowned Toadlet) (Kleinfelder, April 2016)'.

In relation to Red-crowned Toadlet, the previous final Species Impact Statement (Kleinfelder, 2015) noted the following:

"Red-crowned Toadlets are quite a localised species that appear to be largely restricted to the immediate vicinity of suitable breeding habitat. Red-crowned Toadlets are usually found as small colonies scattered along ridges coinciding with the positions of suitable refuges near breeding sites. Due to this tendency for discrete populations to concentrate at particular sites, a relatively small localised disturbance may have a significant impact on a local population if it occurs on a favoured breeding or refuge site."

The subsequent addendum report identifies potential direct impacts to individual frogs through the removal of <0.5 ha of suitable habitat within the 4.37ha of vegetation to be removed. An updated Landscape Management Plan (Kleinfelder, April 2016) identifies 'retained vegetation islands' which would be maintained and protected as isolated patches of vegetation within the bushfire Asset Protection Zones (APZ). An updated Assessment of Significance provided in the addendum concludes that the proposal is unlikely to have a significant impact on the local population of Red-crowned Toadlet because:

- *The majority of habitat within the study area is predominantly unsuitable for the species;*
- *Habitat will be maintained and protected during clearing and in perpetuity as Red-crowned Toadlet habitat protection areas;*
- *Availability of large areas of suitable habitat to the north-west of the study area for the species, a large proportion of which occurs on relatively secure lands (Manly Dam Reserve);*
- *The development proposal will commit to the provision of biodiversity offset species credits under the NSW Biobanking Scheme.*

Council's Natural Environment Unit (Biodiversity) considers that conservation of the local population of Red-crowned Toadlet within the retained vegetation islands is subject to doubt and is not a proven mitigation measure. The Red-crowned Toadlet is known to be threatened by habitat clearance and fragmentation. Records of this species in the locality are typically confined within large well connected areas of habitat. The extent or significance of the local population of Red-crowned Toadlet has not been demonstrated in the addendum report.

To offset the impacts of the development on the Red-crowned Toadlet, the addendum report states that biobanking credits are being sought. The adequacy of proposed biobanking offsets has not been determined by the OEH and no formal biobanking assessment report has been submitted as part of the development application to Council.

Council's Natural Environment Unit (Biodiversity) therefore considers that, based on precautionary consideration of potential impacts to the local population of Red-crowned Toadlet, the proposal may constitute a 'significant impact' as defined under Section 5A of the Environmental Planning and Assessment Act 1979.

Conclusion

Based on the above considerations, the proposed development is not supported by Council's Natural Environment Unit (Biodiversity)."

The above response was posted on Council's website on 20 June 2016 and forwarded to the applicant via email on the same day.

On 2 August 2016 the OEH provided a copy of a letter to the applicant dated 2 August 2016 with regards to a request made by the DoE for OEH's endorsement of a biodiversity offset strategy for the proposal (see comments provided earlier under 'NSW Office of Environment and Heritage (OEH)').

The letter was forwarded to the Biodiversity section of Council's Natural Environment Unit on 2 August 2016 for consideration and the following comments were provided on 31 August 2016:

Referral Response No. 4 - Letter of Biodiversity Offset Endorsement from OEH

"As above, Council's contentions in relation to the redevelopment of Manly Vale Public School include (but are not limited to) the likelihood of significant impacts on local populations of threatened species, the loss of a substantial area of native vegetation and associated impacts upon biodiversity. It is understood that the NSW DoE is seeking to offset impacts of the proposal in accordance with the NSW Biodiversity Banking and Offset Scheme (part 7A of the NSW Threatened Species Conservation Act 1995 [TSC Act]).

In accordance with Section 127ZO (1) of the TSC Act, 'If development described in a biobanking statement supplied to a consent authority is development for which consent is required under Part 4 of the Planning Act, the development is taken, for the purposes of that Part, to be development that is not likely to significantly affect any threatened species, population or ecological community under this Act, or its habitat'. Furthermore, under Section 127ZO (5) of the TSC Act ' Despite section 79C of the Planning Act, if a biobanking statement has been issued in respect of a development, a consent authority is not required to take into consideration the likely impact of the development on biodiversity values.'

Whilst the NSW Office of Environment and Heritage (OEH) is yet to provide a biobanking statement, conditional endorsement of the proposed offset strategy has been provided by OEH (refer to letter from OEH 02/08/2016).

As also identified in the OEH letter, the proposal should meet the offsetting rules as specified in the Biobanking Assessment Methodology (BBAM). In the absence of a biobanking statement being issued, development consent for the Manly Vale Public School redevelopment and associated Species Impact Statement would trigger concurrence requirements from the Chief Executive of the NSW Office of Environment and Heritage under s.79B of the EP&A Act 1979.

Therefore, it is considered that the significant impact contentions previously raised with regard to threatened species are able to be resolved with the application of the NSW Biodiversity Banking and Offset Scheme.

As identified in referral responses 1 and 2 above, contentions in relation to the objectives and requirements of the Warringah Development Control Plan 2011 (WDCP) remain relevant and require further consideration under s.79C of the EP&A Act 1979."

The referral response was forward to the applicant via email on 31 August 2016 advising that, in the absence of a biobanking statement being issued, development consent for the Manly Vale Public School redevelopment, and the associated Species Impact Statement, trigger concurrence requirements from the Chief Executive of the NSW Office of Environment and Heritage under s.79B of the EP&A Act 1979.

Amended plans and reports were submitted to Council on 30 September 2016 and referred to the Biodiversity section of Council's Natural Environment Unit on the same day. The following comments have been provided in response:

Referral Response No. 5 - Amended Plans and reports

"The amended plans and reports specify a reduction in the extent of clearing by approximately 0.35ha (i.e. 3,500m²). A further area of vegetation has been deducted from previous impact area calculations based on vegetation mapping refinements included in the current Species Impact Statement (Kleinfelder, 11 September 2016).

Whilst a relatively minor reduction to the overall area of impact is proposed, it is acknowledged that the applicant has sought to modify the proposal to avoid some impacts.

Given the overall area of impact proposed (approximately 3.65ha), biodiversity referral response 4 as above, remains applicable."

With respect to earlier references made to Part E7 of the WDCP 2011 (see Referral Responses 1 and 2), Council's Parks, Reserves and Foreshores department (who act as the Reserve Trust Manager for the Park) have reviewed the application against the provisions of the Manly Warringah War Memorial Park Plan of Management, relevant section of the WDCP 2011 and the compulsory acquisition of the areas of land designated for APZ purposes and conclude:

"In light of the land acquisition and formation of an easement around the school property, all APZ related clearing is now on land controlled by the DoE or on easements where clearing is allowed.

As such, there is no further conflict with Part E7 requirements 6 and 7 of the Warringah DCP. It is also noted that the proposal suitably complies with the remainder of the Part E7 requirements."

Therefore, Part E7 of the WDCP 2011 is not considered further.

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

Natural Environment Unit (Riparian Lands)

The application was referred to the Riparian Lands section of Council's Natural Environment Unit on 8 July 2015 for consideration.

Referral Response No. 1

In their response dated 4 August 2015, the following comments were provided:

"The proposed development is being undertaken adjacent to a tributary of Burnt Bridge Creek of the Manly Lagoon catchment. The creek itself is a first order stream which commences to the rear of No. 6 Mildred Crescent and is considered to be in good condition. The creek combines with another first order stream within Condover Reserve, before joining the main stream of Burnt Bridge Creek which flows to Manly Lagoon. According to the Creek Management Study 2004, Burnt Bridge Creek is a Group C catchment which is characterised as having a low to moderate ecological value with moderate to highly developed catchments – 15 to 50% existing connected impervious area.

The main impact associated with the proposed development in relation to the watercourse involves establishing an outer protection area of the APZ which extends approx. 6m into the outer riparian buffer, an area of some 30m². It is considered that the proposed development is unlikely to have a significant impact on the watercourse particularly given the area directly adjacent to a trail and is in a degraded condition with the majority of stormwater is directed to the north of the site, away from the watercourse.

The Stormwater Management Concept Plan has proposed water quality treatment measures in order to comply with Cl.4 of the Warringah Development Control Plan, however details are limited. Conditions will be included to provide further detail at detailed design stage, prior to the release of the Construction Certificate. This will include the preparing of a MUSIC Model and details plans demonstrating the pollutant reduction targets can be achieved."

At a meeting held between Council staff and the applicant's consultants on 12 November 2015, where updated stormwater plans was discussed (in conjunction with an OSD Memo dated 2 November 2015), Council's Natural Environment Unit expressed concern with respect to the additional volume of water proposed to flow directly into the tributary of Burnt Bridge Creek of the Manly Lagoon catchment. Consequently, the applicant was advised by email dated 18 November 2015 that the previous referral comments were redundant and that a Waterway Impact Statement will be required to be prepared in accordance with Council's Guidelines.

A Waterway Impact Statement was submitted to Council on 18 December 2015 and was subsequently referred to the Riparian Lands section of Council's Natural Environment Unit on 18 December 2015 for consideration.

Referral Response No. 2

Council's Natural Environment Unit provided the following comments on 23 December 2015:

"This Development Application was re-referred to the Natural Environment Unit due to a change in the stormwater system design as detailed in the Memorandum prepared by Public Works dated 27 November 2015. The change includes a redirection of stormwater into the creek to the south-eastern corner of the site, a tributary of Burnt Bridge Creek. The previous referral comments dated 4 August 2015 are now no longer applicable.

The Waterway Impact Statement (WIS) is considered deficient for the following reasons:

DoE's not provide any commentary on sections:

- 1 - Waterway Analysis;*
- 2 - Assessment of Impacts, and*
- 3 - Assessment of Compliance with the WLEP 2011.*

Provides insufficient detail on section 4 - Provision of Mitigation Measures.

Although the WIS states no increase in peak flows for the nominated ARI's flowing to the south from the site, the proposal redirects the discharge into the creek, resulting in an increase in peak flows within the waterway. Under the current regime, water flows in a dispersed manner across the landscape rather than in a concentrated fashion as proposed. The WIS does not assess the ecological and geomorphological impacts associated with this. Further assessment is required in accordance with the sections noted above, and should include changes to hydrology potentially impacting on threatened species including Red-crown Toadlet.

In addition, the memorandum that "roof runoff is clean and free from weeds or contaminations. Also, roof runoff water will have insignificant effect on the downstream ecosystems". This claim is refuted by Council as it is well documented that atmospheric nutrients and sediments fall onto impervious surfaces via dry (fallout) and wet deposition (rainfall). Nutrients and sediments are then transferred to the receiving waters (tributary of Burnt Bridge Creek) via the stormwater system. This impact on the creek has not been adequately addressed within the Waterway Impact Statement.

As such Council is unable to determine the extent of impact from the proposed development on the creek. The development is recommended for refusal until an adequate Waterway Impact Statement is provided to Council".

The above response was posted onto Council's website on 23 December 2015 and forwarded to the applicant via email on 29 December 2015.

A Revised Waterway Impact Statement prepared by Kleinfelder and Stormwater Management Concept Plan prepared NSW Public Works was submitted to Council on 26 February 2016. The Statement was referred to the Riparian Lands section of Council's Natural Environment Unit on 1 March 2016 for further consideration.

Referral Response No. 3

Council's Natural Environment Unit provided the following comments on 8 March 2016:

"Both reports provide limited detail regarding the proposed water quality management system. Further refinement of the system including water quality modelling will need to be undertaken prior to the release of the Construction Certificate to ensure the proposed water quality measures are adequately sized and designed to achieve the relevant pollutant performance requirements. A condition has been recommended.

The stormwater outlet discharging into the creek will require modification to comply with the NSW Office of Water's Guidelines for Outlet Structures. A condition has been recommended.

The development constitutes Integrated Development and will require a referral to the NSW Office of Water.

The conditions as recommended shall be read in conjunction with the comments/conditions as provided by the Development Engineers."

Amended plans and reports were submitted to Council on 30 September 2016 and referred to the Riparian section of Council's Natural Environment Unit on the same day. The following comments have been provided in response:

Referral Response No. 4 - Amended Plans and reports

"The updated plans do not pose any additional impact on waterway and riparian lands compared to the previously submitted plans. As such, the conclusions dated 8 March 2016 remain applicable."

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

Landscape

The application was referred to Council's Landscape Officer on 8 July 2015 for consideration.

Referral Response No. 1

In the response dated 12 August 2015, the following comments were provided:

"Reference is made to the following documents and plans:

- *Arboricultural Impact Assessment Report prepared by NSW Public Works (Anthony Popovich) dated February 2015 (AIAR).*
- *Kleinfelder 2015, Landscape Management Plan Manly Vale Public School Redevelopment Statement of Environmental Effects Report No DC14235 - June 2015.*
- *Total Earth Care Preliminary Flora and Fauna Assessment dated March 2015.*
- *Kleinfelder 2015, Preliminary Species Impact Statement.*
- *Kleinfelder 2015, Bushfire Threat Assessment (SFPP) Proposed Manly Vale Public School Redevelopment, Sunshine Street, Manly Vale, NSW.*
- *Manly Vale Public School – Development Application for Government Architects Office.*

The AIAR concludes a total of 22 out of 51 trees will need to be removed to facilitate the proposed development and makes recommendations to protect the remaining existing trees on site.

It was also noted in the AIAR that the proposal requires cutting into rock shelves to facilitate the proposed car park and driveway.

However, the proposal involves the establishment of Asset Protection Zones (APZs) extending 65 – 85 metres from proposed buildings. Therefore, as a result of the location of the proposed buildings, the proposal will involve the removal and disturbance of large areas of remnant native tree canopy and vegetation in addition to the trees required to be removed as part of construction works. Furthermore, the proposed clearing extends well beyond the school boundary and into Manly Dam Reserve and Condover Reserve.

Reference is made to the comments provided by Council's NEU section in relation to the extent (approximate areas m²) of vegetation clearing required and the potential impacts upon known habitat of threatened species.

Regarding the Warringah Development Control Plan 2011, the proposal is considered to be inconsistent with the objectives and requirements of parts:

- *E1 'Private Property tree management' – 'Promote the retention and planting of trees'*
- *E2 'Prescribed Vegetation' (with specific reference to 'protecting and enhancing the habitat of plants, animals and vegetation communities with high conservation significance').*
- *E5 'Native Vegetation' (with specific reference to 'retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long term').*
- *E6 'Retaining unique environmental features' (with specific reference to the objective 'to conserve those parts of land which distinguish it from its surroundings').*

Based on the above considerations, the proposal development is not supported."

The above response was posted onto Council's website on 12 August 2015 and a hard copy was provided to the applicant at the second JRPP briefing on 25 August 2015.

A revised planting schedule was submitted to Council via email dated 26 November 2015 and followed by Planting Plans on 15 December 2015. The Schedule and Plans were referred to Council's Landscape Officer for review on 16 December 2015. The updated

Landscape Management Plan submitted to Council on 22 December 2015 was also referred to Council's Landscape Officer on that date for review.

Referral Response No. 2 - Revised Planting Schedule and Landscape Management Plan

Council's Landscape Officer provided the following comments on 30 December 2015:

"Upon review of the updated Landscape Management Plan and proposed Planting Plans (#1 & 2), no objections are raised with respect to the proposed trees and landscaping identified for the site (within the property boundary). It is noted however, that the proposed landscaping outside the property boundary is subject to compulsory acquisition proceeding.

Given that the proposal involves the establishment of Asset Protection Zones (APZs) which results in the removal and disturbance of large areas of remnant native tree canopy and vegetation that extends well beyond the school property boundary, the original landscape referral response is still applicable.

Given that the proposed plant schedule for the site contains mostly species selected from Table 3 Flora Species Suitable for re-vegetation and Landscaping in the Landscape Management Plan dated 25 June 2015, the species list appears generally acceptable.

*However, regarding the proposed tree species (taller / canopy trees); comments on whether these trees are suitable cannot be provided without consideration of the plans showing their location etc. In particular, the planting of a *Ficus macrophylla* (Moreton Bay Fig). (*Ficus rubiginosa* (Port Jackson) is the local species)."*

The above updated response was posted onto Council's website and forwarded to the applicant via email on 30 December 2015.

A revised Landscape Management Plan was submitted to Council on 11 April 2016. The revised plan was updated to reflect the presence of the Red Crowned-Toadlet, and to reflect the coordination of the location of the vegetation islands within the proposed emergency vehicle access.

The revised Landscape Management Plan was referred to Council's Landscape Office on 11 April 2016 for further consideration and the following comments have been provided:

Referral Response No. 3 - Revised Landscape Management Plan

"I have reviewed the amended Landscape Management Plan (LMP) dated April 2016 and note the changes in relation to the retention of native trees and canopy cover within proposed vegetation islands inside the proposed APZ area for the protection of fauna.

While the LMP aims to retain selective portions of native tree canopy and vegetation ; 15% within the Inner Protection Zone (IPZ) and a 30% within the Outer Protection Zone, concerns are still raised over the a significant loss of remnant trees and vegetation that are proposed in order to meet Bushfire APZ requirements. The area of land proposed to be 'removed or modified' to meet Bushfire APZ requirements is referenced in section 2.4 Impacts of the Development of the LMP. The number of trees proposed for removal within the APZ is referenced in Figure 6 of the LMP. The Arboricultural Impact Assessment Report identifies 22 trees that will require removal within the current school site only. Such impacts as summarised below:

- A total 4.37ha of bushland is proposed to be "removed or modified"
- 22 trees (approximately 0.36ha) will be removed through the construction of new buildings
- APZ - IPZ proposed 2.85ha "modified or cleared"
- APZ - OPZ proposed 1.16ha "modified or cleared" (329 out of 540 Trees Identified and Tagged within IPA and OPA' for removal (Figure 6, LMP)

As previously noted in Referral Response Nos. 1 and 2 above, with respect to siting the proposed buildings in relation to bush fire APZ requirements, it is considered that the overall proposal may result in significant impacts that may result in a fundamental change to the existing character of the locality. In view of the above, the proposal is considered inconsistent with the objectives and requirements of Warringah Development Control Plan 2011, in particular parts:

- E1 'Private Property tree management – 'Promote the retention and planting of trees
- E2 'Prescribed Vegetation (with specific reference to 'protecting and enhancing the habitat of plants, animals and vegetation communities with high conservation significance').
- E5 'Native Vegetation' (with specific reference to 'retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long term').
- E6 'Retaining unique environmental features' (with specific reference to the objective 'to conserve those parts of land which distinguish it from its surroundings').

No objection in general terms to the proposed tree removals within the current school site boundary.

The plans indicate the proposed buildings are to be constructed above the natural ground level retaining the majority of rock outcrop within the site to be retained which are considered to be important feature of the site.

If the APZ requirements are resolved and the Office of Environment & Heritage (OEH) is satisfied with the proposal, I can support the proposal subject to conditions."

Amended plans and reports were submitted to Council on 30 September 2016 and referred to Council's Landscape Officer on the same day. The following comments have been provided in response:

Referral Response No. 4 - Amended Plans and reports

"The amended plans show a revised building arrangement which reduces the extent of clearing (approximately 0.35ha) to meet bush fire requirements. While the amount of impact from development has been reduced by the re-design, earlier concerns over the extent of vegetation clearing raised in Landscape Referral Responses No's 1 and 3 remain relevant.

It is noted in the Tree Survey Plan drawing ref. 16225 – LWD01 that two additional two trees (Casuarina spp.) located within the current school site are proposed for removal to facilitate the installation of the proposed substation. No objections are raised to the removal of these removals subject to replanting.

As per my previous comment, if the APZ requirements are resolved and the Office of Environment & Heritage (OEH) is satisfied with the proposal, I can support the proposal subject to conditions."

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

Traffic Engineering

The application was referred to Council's Traffic Engineer on 8 July 2015 for consideration.

Referral Response No. 1

In their response dated 17 August 2015, Council's Traffic Engineer stated:

"The proposal is for the increase of number of students from existing 350 to the maximum of 1000 students. In review of the traffic report prepared by McLaren Traffic Engineering, the following traffic engineering comments in objection to the proposal:

Traffic Volume:

The proposed increase of the existing traffic volume as indicated in the traffic report provided by the applicant (330 and 405 two-way trips in the school peak AM and PM hours) is beyond the "Mid-Block Road Capacity" proposed by RMS for local roads (the maximum of 300 two way). Considering the location of the school site which has one frontage to a local road, the site is not considered to be suitable for catering the proposed volume of traffic. Therefore, the proposal would not acceptable unless consideration be given to alleviation of the traffic congestion and the provision of pick-up and set-down and staff parking within the site.

Parking Facilities:

The traffic report provided by the applicant indicates that the proposed increase of 650 students will result in the parking requirements of 60 staff parking and 95 pick-up and set-down spaces. The staff parking requirements has been proposed to be catered by the existing 31 spaces within the Council's car park together with the expansion of the potential parking area at the northern area of the school site.

It should be noted that the Council's car park is currently being exclusively utilised by the school and being operated at premium, therefore the proposed additional staff parking must be accommodated within the site. The applicant is to provide precise information addressing the provision of on-site parking spaces for the proposed staff parking.

The proposed extension to the existing pick-up and set-down resulting in 14 -15 spaces on Gibbs St and Sunshine St does not accommodate the pick-up and set-down requirements of 95 spaces, as indicated in the traffic report, therefore is not acceptable.

Pedestrian Safety Facilities:

The traffic report has recommended a number of improvements on pedestrian safety on the street surrounded the school. This includes the existing crossing on Gibbs Street to be converted to a wombat crossing and to be relocated to the school's frontage. The wombat crossing, which has been proposed in an inappropriate angle shape and is located adjacent to the access of the Council's car park resulting in conflicts between the vehicles turning in and of out of the carpark and the children crossing the roads, is not acceptable. Also the proposed wombat crossing angled to

the road network is not considered appropriate. It should also be noted that any traffic facilities proposed in the traffic report is to be implemented by the school at no cost of Council.

Conclusion:

In review of the foregoing, the proposal is not supported on parking and traffic grounds."

The above response was posted onto Councils website on 17 August 2015 and a hard copy was provided to the applicant at the second JRPP briefing on 25 August 2015.

At meetings held between Council staff and the applicant's team of consultants on 23 September 2015 and 12 November 2015 agreement could not be reached, particularly with regard to traffic safety and the location of the wombat crossing. The applicant was advised that the last meeting and again via email dated 26 November 2015 that the application would be referred to the Warringah Local Traffic Committee on 1 December 2015.

The application was subsequently referred to the Committee on that date where it was resolved (it is noted that, despite being provided with attendance information in Council's email dated 26 November 2015, the applicant's traffic consultant did not attend the Committee meeting):

- "A. That the provision of a wombat crossing in the vicinity of the existing children crossing on Gibbs Street be approved in principle subject to the facility being designed to the satisfaction of Council and provided at no cost to Council.*
- B. That it be noted that the provision of a wombat crossing on the road bend is not supported.*
- C. That the design of the wombat crossing includes the provision of street lighting in accordance with the Australian Standards and at no cost to Council.*
- D. That the provision of bicycle racks be included in the proposal as per Council's Development Control Plan and the applicants Traffic Report.*
- E. That Council Planners consider provision of disabled parking and staff parking spaces in the new design plan."*

The above resolution was posted onto Councils website on 15 December 2015 and forwarded to the applicant via email on 15 December 2015.

Following receipt of the resolution, the applicant submitted a Supplementary Traffic Impact Assessment on 22 December 2015 which accepted the position of the Traffic Committee and included a re-design which incorporated the relocation of the wombat crossing approximately 25m to the north and away from the road bend.

The Supplementary Traffic Impact Assessment also sought to address the following matters:

- *"Street lighting, bicycle racks and disabled parking*
- *Street lighting of the upgraded crossing will be in accordance with the relevant standard;*
- *Bicycle racks will be provided in accordance with the traffic report (approximately 30) and are shown on the amended proposed site plan reproduced in Annexure B; and*
- *One (1) disabled space is available within the existing council carpark in compliance with BCA. There is a level hardstand area for servicing at the south east of the site which could be operated in compliance with AS 2890.6 under a management plan if additional visitor disabled parking is required for the*

afternoon pick up period. This does not constitute part of the proposal though could be considered by the School Principle if the demand occurs".

Staff parking provision

"As part of the proposal there are a minimum of 11 staff spaces to be constructed on the northern portion of the site. It is a policy of the DoE not to provide onsite traffic infrastructure for schools such as the subject proposal, including staff parking, kiss and drop and visitor parking. The [original] proposal was submitted in accordance with the policy and the amended proposal, with staff parking provided on-site, exceeds the minimum required [by the policy]".

Other traffic and parking considerations

"Excluding those changes within the amended proposed site plan, generally relating to location of the wombat crossing, the conclusions contained within the Traffic, Parking and Servicing Impact Assessment (dated 18 June 2015) are maintained including, but not limited to:

- Support for the traffic and parking impact of the proposed expanded school;*
- Installation of 5 minute parking zone on northern side of Sunshine Street suitable for four (4) cars Signposting up to ten (10) off-street council car parking spaces as 2 minute parking during school zone times, commensurate with increased student enrolments; and*
- Staggered departure times, 20 minutes between end of sessions, when occupation of school exceeds 700 students."*

The Supplementary Traffic Impact Assessment was referred to the Council's Traffic Engineer on 22 December 2015 for further consideration.

Referral Response No. 2

Council's Traffic Engineer provided the following comments to the Supplementary Traffic Impact Assessment on 2 February 2016:

"The following traffic comments are to be read in conjunction with previous traffic comments dated 17 August 2015, which recommended refusal of the application to increase of number of students from existing 350 to 1000 for the following reasons:

- Traffic volume and negative impact on congestion and safety*
- Inadequate parking for staff and children pick up and set down*
- Unsafe location of proposed pedestrian crossing.*

Meetings were held between Council staff and the applicant and its traffic consultant to address the concerns. However, the applicant has not satisfactorily addressed the concerns raised in respect to traffic and parking, particularly in relation to the adequate provision of onsite parking for staff, which as stated in the applicant's traffic report requires minimum of 57 to 60 car spaces.

The applicant's traffic consultant, McLaren Traffic Engineering, supports the proposed parking arrangement based on a premise that the policy of the DoE does not require the provision of onsite traffic infrastructure such as staff parking, pick up and set down and visitor parking. This position is inconsistent with DoE guideline, which indicates that the proposed expanded school is to provide a minimum of 57 staff parking spaces, as stated in the McLaren traffic report. The rationale used to support the application is not based on traffic planning principals and is not acceptable in the subject location where it

has been recognised that the school has a small street frontage and limited road infrastructure for provision of staff and set down and pick up parking.

Following Council's discussions with the applicant's traffic consultant, the proposed location of the wombat crossing which was a critical issue in relation to traffic controls was referred to the Warringah Traffic Committee. The Committee's recommendation, which endorsed the Council's Traffic Engineers' concerns was provided to the applicant for consideration.

Traffic Volume and impact

The applicant's traffic report indicates that proposal will increase the trip generation of the school from the existing 248 to 805 trips in school peak hour. The report then indicates the traffic volume will increase to 330 - 405 two way trips in Am and PM school zone period taking the assumption that the total school traffic generation will split by 20 minute due to the proposed staggered finishing time. This assumption is not acceptable as the trip generation is based on one hour and the split into 20 minutes does not result in any decrease in the school's peak hour trip generation.

The increased traffic volume resulting from the proposal in school AM and PM peak hours is beyond the "Mid-Block Road Capacity" recommended by RMS for local roads as 200 two-way (Environmental Goal) and of 300 two way (Maximum). Considering the school's short frontage to a relatively narrow local road, the proposed increase in traffic generation with no provision of adequate staff and pick up and set down parking will result in traffic congestion and safety problem on the public roads.

Therefore, the traffic impact of the proposal on the adjacent road network is not considered acceptable.

Parking for staff and children pick up and set down

The applicant's traffic report indicates that the proposed school with 1000 students will result in the increase of staff to 77 and would require 77 staff parking, it is then concluded that the requirements of the DoE guideline, which requires 57 - 60 staff parking spaces for the proposed school is a better guide, however only 11 spaces have now been proposed on site together with the use of the Council's car park for staff parking.

The Council's car park is currently signposted with unauthorised signs (which are to be removed) for school staff parking. No further capacity exists in the car park to accommodate the additional staff parking. The Council car park is required to be freed up from staff parking and used for the pick-up and set down of children.

The proposed 11 onsite staff spaces may improve the current situation, however considering the increase in the school's population and parking demand, it will have a minimal impact on the required parking supply for the school

It is indicated in the applicant's traffic report that:

"It is suggested that to accommodate 1,000 students, the school operate under a staggered finish arrangement to ease the concentration of vehicles in the morning and afternoon. This would effectively halve the number of vehicles parked at any one time".

No details were provided on this suggestion. Other schools operating with staggered finishing time do not show a significant reduction in parking demand and congestion. Particularly in the subject case where it is indicated that 1.75 children arrive in a car.

Accordingly the halving the parking demand on a staggered finishing time cannot be relied upon.

The spread of parking into the local residential roads within 350m walking distance from the school is also based on halving the parking demand. In reality the spread of the increased parking would be expected to be a lot further than the 350m and results in broader traffic congestion and inconveniences for local residents. In addition, no consideration has been given to the pedestrian's safety and provision of pedestrian facilities within the distance of parking spread.

In view of foregoing the Development Application must indicate the provision of 57-60 onsite staff parking spaces.

Proposed expansion to bus zone

The applicant proposes to extend the bus zone by 22m towards the intersection of Gibbs and Arana Streets to accommodating 3 buses to service 1,000 students. The existing school with 350 students is being serviced by two buses pulling at the bus stop simultaneously. Given the proposed increase of students number to three times of the existing and increased bus usage as indicated in the applicant's traffic report, the proposed 3 buses may not be adequate and needs to be further addressed in consultation with the bus operator. Observations of schools with similar population suggest that more than 3 buses will be required to service the Manly Vale Public School. It should also be noted that the location of the extended bus zone between a wombat crossing and an intersection will not enable further extension to the bus zone.

In addition, the proposed extension to the bus zone will reduce 5 spaces for the pick-up and set down of children.

Proposed pedestrian crossing location

The location of wombat crossing previously proposed adjacent to the access of the Council's car park was referred to Warringah Traffic Committee. In this regard the Traffic Committee did not support the applicant's proposed location of a marked foot crossing on the road bend and recommended that:

"The provision of a wombat crossing in vicinity of the existing children crossing in Gibbs Street is approved in principle subject to the facility being designed to the satisfaction of Council and provided at no cost of Council".

Accordingly the upgrading of the existing children crossing to a wombat crossing is to be in accordance with the Traffic Committee recommendation and a detail drawing is to be submitted to Council for consideration and approval. Also the proposed traffic control signs for pick up and set down area and expansion of the bus zone will need to be referred to Traffic Committee for approval, in the event the application was approved.

Conclusion

The applicant's revised traffic report has failed to address the traffic and parking impacts and concerns raised by the proposal and therefore the refusal of the application is recommended on traffic, parking and safety grounds.

The application would be favourably considered if the applicant provides 57 to 60 on-site staff parking spaces, the existing on-street car parking area at the end of Gibbs Street was allocated for pick up and set down of the children, and the proposed wombat crossing is located in the vicinity of the existing children crossing as recommended by the Warringah Traffic Committee".

The above response was posted onto Councils website on 2 February 2016 and emailed to the applicant on the same day.

Assessment Officer Comments

Council's Traffic Engineer advises, in the conclusion, that the application would be favourably considered if the applicant:

- a) Provides 57 to 60 on-site staff parking spaces,
- b) Allocates the existing on-street car parking area at the end of Gibbs Street for pick up and set down of the children, and
- c) Locates the proposed wombat crossing in the vicinity of the existing children crossing as recommended by the Warringah Traffic Committee.

a) *Provides 57 to 60 on-site staff parking spaces.*

With respect to the provision of carparking, the WDCP 2011 requires the development to provide 60 on-site parking spaces. The development provides on-site carparking for 11 vehicles within the undercroft area beneath Block L.

Notwithstanding, Clause 32(2) of the *State Environmental Planning Policy (Infrastructure) 2007* requires the consent authority to take into consideration all relevant standards in the School Facilities Standards.

The School Facilities Standards have been replaced by the 'Educational Facilities Standards & Guidelines' (EFSG) which set out the minimum standards and design criteria for all new DoE projects. The EFSG does not provide any numeric parking requirements; however Part SSP610.17 – 'Services Zone' within the EFSG prescribes a minimum provision of on-site parking to ensure that the available site area for teaching, learning and play is maximised.

An additional potential parking area is indicated on the plans between Block L and the Northern boundary. The 'Traffic, Parking & Servicing Impact Assessment' dated 18 June 2015 and submitted with the application includes recommendations which allow for the existing on-street car parking area at the end of Gibbs Street to be allocated for pick up and set down of children within 10 spaces. Also, that a "gravel surface carpark" identified on the plans between Block L and the northern boundary is installed suitable for staff (1 per 20 children over 550. (i.e. 23 additional spaces)) once the school reaches 550 students. This would increase the provision of on-site carparking to 34 spaces.

A separate condition was imposed which sought to limit the number of students to 550 for the subject application with a requirement to lodge a further Development Application to increase the number to 1,000. This was intended to control the provision of on-site carparking by requiring the construction of the additional parking area indicated on the plans between Block L and the Northern boundary when the student number exceeded 550.

However, on review of the conditions as required by s.89(1)(b) of the EP&A Act, the applicant requested that the condition be removed.

Notwithstanding the limitations imposed by the Crown in providing on-site carparking, it is considered that the development would provide sufficient on-site carparking in accordance with the aims of the EFSG provided that the additional potential parking area is constructed as per the recommendations within the Traffic, Parking & Servicing Impact Assessment'.

Appropriate conditions to address road-related matters (such as bus zones, the pedestrian 'wombat' crossing and traffic control generally), including the above recommendations made in the 'Traffic, Parking & Servicing Impact Assessment' have been included in the Recommendation of this report should the application be approved.

- b) *Allocates the existing on-street car parking area at the end of Gibbs Street for pick up and set down of the children.*

The 'Traffic, Parking & Servicing Impact Assessment' dated 18 June 2015 includes the following recommendations which address the conclusion arrived at by Council's Traffic Engineer in that the existing on-street car parking area at the end of Gibbs Street has been allocated for pick up and set down of the children:

"At 350 students"

- *No Change Required*

At 550 students

- *Relocate pedestrian crossing, replace with wombat crossing with crossing supervisor;*
- *Extend "5 minute parking 8:00am - 9:30am and 2:30pm – 4:00pm School Days" zone south towards wombat crossing;*
- *Install new "5 minute parking 8:00am - 9:30am and 2:30pm – 4:00pm School Days" on northern kerb of Sunshine Street;*
- *Extend bus bay north and south to accommodate 2 buses; and*
- *Construct driveway to rear future potential parking area, though can be delayed until future carpark is warranted.*

At 550 – 1,000 students

- *Convert Council spaces to "2 min parking 8:00am - 9:30am and 2:30am – 4:00pm School Days, Front in Only" (1 per 50 children over 550, maximum of 10 spaces);*
- *Install flashing amber lights for school zone, particularly surrounding wombat crossing; and*
- *Install gravel surface carpark suitable for staff (1 per 20 children over 550).*

School times converted to staggered arrangement with approximately 350-500 students per finishing time."

To supplement the above recommendations, additional conditions have also been imposed (and agreed to by the applicant) with respect to:

- a) The provision of adequate School Bus Zones to service up to 1,000 students prior to occupation; and
- b) The provision of a Traffic Control Plan prior to occupation to address:
- i. Pick up and set down areas;
 - ii. Bus zones and
 - iii. The wombat crossing.

- c) *Locates the proposed wombat crossing in the vicinity of the existing children crossing as recommended by the Warringah Traffic Committee.*

The Supplementary Traffic Impact Assessment dated 22 December 2015 (as prepared by McLaren Traffic Engineering), acknowledges the requirement to relocate the wombat crossing to the same location as the existing pedestrian crossing and notes:

“The position of the LTC [Warringah Local Traffic Committee] is accepted and subsequently a redesign has been completed to amend the proposed on-street treatment. The plan, reproduced in Annexure A, shows the amended proposal. The design shall include signage, line marking and realignment of kerb lines in accordance with RMS supplement to AS1742, noting also that the crossing is located a safe distance from the proposed staff driveway.”

Appropriate conditions to address road-related matters (such as bus zones, the pedestrian ‘wombat’ crossing and traffic control generally), including the recommendations made in the ‘Traffic, Parking & Servicing Impact Assessment’ have been included in the Recommendation of this report should the application be approved.

As the changes proposed within the amended plans and documentation submitted to Council on 30 September 2016 did not affect the provision of parking and the road system, they were not referred to Council’s Traffic Engineer for further consideration.

Development Engineering

The application was referred to Council's Development Engineer on 8 July 2015 for consideration.

Referral Response No. 1

In their response dated 7 August 2015, the following comments were provided:

“The submitted stormwater management concept plans proposes to have a combination of On-site detention basins and rain water harvesting tanks. The major part of the proposed development including the future car park is being proposed to be directed and drained towards No. 7 Arana Street Manly Vale. The existing open channel in No. 7 Arana Street does not appear a suitable drainage system capable of coping with the expected flows from the proposed development site. There is no proof of drainage easement rights, to direct stormwater flows over private property and capacities of the open channel has not been determined to handle the expected flows generated from the development.

The proposed APZ (Asset Protection Zones) can increase stormwater runoff to the properties in Arana Street due the combination effect of steep topography of the existing land, hard surface area (sandstone) and reduced vegetation (as result of Fuel Management for APZ areas) which would have the potential to cause flash flooding to properties in Arana Street.

It may be possible to direct stormwater flows from roofs areas (Block M) towards open channel located at the southern end of Gibbs Street subject to verification of levels and undertaking a feasibility studies. This would reduce flooding issues currently experienced in properties in Arana Street.

Development Engineers have reviewed the proposal and advice that the proposal cannot be supported for the reasons stated below:

1. *An On-Site stormwater detention system (OSD) is required for proposed development as per Council's stormwater drainage policy and Warringah Council On-Site Stormwater Detention Technical Specification. In this regard rain water tank cannot be used for rain water harvesting for reuse as a reduced flood Site storage for the On-site Detention System. Any above ground storage water depth deeper than 600mm would require child proof fencing.*
2. *Does not comply with objectives set for C4 stormwater control under Warringah Council DCP in regards to OSD provisions. Stormwater run-off does not discharge to an approved Council's drainage system. The proposed drainage system is likely to have a negative impact on the existing dwelling downstream of the development.*
3. *Does not comply with Warringah Council's Stormwater Drainage Policy ENV-PL410".*

The above response was posted onto Councils website on 7 August 2015 and a hard copy was provided to the applicant at the second JRPP briefing on 25 August 2015.

Following receipt of the above response and information conveyed in meetings held between Council staff and the applicant's team of consultants on 23 September 2015 and 12 November 2015, the applicant submitted an updated DRAINS model and Waterway Impact Statement on 18 December 2015 which was referred back to Council's Development Engineer on 18 December 2015 for further consideration.

Referral Response No. 2

Council's Development Engineer provided the following comments on 11 January 2016:

"Calculations in the DRAINS model prepared by NSW Public Works appear to suggest stormwater run-off draining to the North West corner of the development site is reduced due to the proposed onsite stormwater detention systems as part of the development. This would suggest an improvement to the stormwater run-off problems encountered by the residents living due North West of the development site.

Calculations in the DRAINS model prepared by NSW Public Works appear to suggest stormwater run-off for the part of area proposed to be developed which currently is draining towards the north west corner of the development site is reduced due to the proposed stormwater management of the site being directed away and to the south eastern part of the site as part of the development. This would suggest an improvement to the stormwater run-off problems encountered by the residents living due North West of the development site.

The revised DRAINS model, prepared by NSW Public Works, (trim no. 2016/006843) is acceptable subject to submission of a revised stormwater management plan for the development as per the DRAINS model.

In this regard, the applicant is required to revise the Stormwater Management Plan that is consistent with the information/details used in the DRAINS model and submit to the Development Engineer for further assessment."

The above response was posted onto Councils website and forwarded to the applicant via email on 11 January 2016.

A Revised Stormwater Management Concept Plan was submitted to Council on 26 February 2016. The Plan was referred to Council's Development Engineer on 1 March 2016 for consideration.

Referral Response No. 3

In their email response dated 26 February 2016, the following comments were provided:

"Development Engineers have reviewed the 'Manly Vale Public School Redevelopment - Stormwater Management Concept Plan', report number DC15001-2, dated February 2016 and concur with the recommendations and stormwater drainage plans included in the above report.

No objection to the proposal subject to conditions."

Amended plans and reports were submitted to Council on 30 September 2016 and referred to Council's Development Engineer on the same day. The following comments have been provided in response:

Referral Response No. 4 - Amended Plans and reports

"Reference is made to the additional information submitted to Council. Development Engineers have reviewed the proposal and raise no objections to the proposal subject to conditions."

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

Parks, Reserves and Foreshores

The application was referred to Council's Parks, Reserves and Foreshores department on 8 July 2015 for consideration, in particular with respect to their role as the landowner of Condoover Reserve to the south of the site and as trustee of the Manly Warringah War Memorial Park to the west of the site.

It is acknowledged that clause 49(2) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) provides that a development application made by a public authority does not require the written consent of the landowner if written notice has already been given to the landowner.

The DoE is defined as a public authority under Schedule 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Referral Response No. 1

In their response dated 5 August 2015, Council's Parks, Reserves and Foreshore department stated:

"It is recommended that development consent not be granted for the following reasons:

- The proposed Asset Protection Zones are an unacceptable incursion into the Manly Warringah War Memorial Park (Reserve), a Crown Reserve under Council's care, control and management. The development requires the clearing of approximately of 8 hectares within the reserve to be cleared. This is unacceptable as this vegetation is remnant bushland and provides habitat for a number of threatened*

species. As such the development as it stands is not compliant with Section 5A of the Environmental Planning and Assessment Act 1979. It is also noted that the applicant has not identified any offset measures for the loss of this bushland.

- Furthermore the impact on the natural environment the Reserve is a dedicated War Memorial, a status conferred upon it in 1995. The listing of the Reserve in the Register of the National Estate states in the Official Statement of Significance, among other items, that the Reserve "This woodland and associated vegetation communities within the place are significant remnants of vegetation associations which have largely been cleared elsewhere in the Sydney region..." and "the Reserve [sic] and associated bushland are held in high regard by the local community for providing a pleasant aquatic and bushland setting".
- On the basis of the Statement of Significance for the War Memorial it is inappropriate to change the land use of the Reserve.
- Notwithstanding the unacceptable nature of the development the proposed landscape plantings are not consistent with flora indigenous to the Reserve. Given the proximity of the school site to the Reserve, these species would have a high chance of incursion into the remnant bushland which as noted above is of high conservation significance.
- There is insufficient detail provided for storm water from the Asset Protection Zones, run off from these areas will have a large direct impact on the quality of the bush land within the Reserve and potentially have indirect impacts upon Manly Dam and Curl Curl Creek.
- There is insufficient detail provided on how the development addresses the Aboriginal of this area of the Reserve.
- It is noted that the Operational Management Plan addresses safety issues during consideration on the mountain bike trail which travels through the car park on Gibbs St. However, the applicant has failed to consider the ongoing impacts and safety risks of the proposed development and the mountain bike trail. Increasing student numbers will mean that mountain bike trail will need to be re-routed to eliminate the high risk of an accident. The applicant would be required to fund the re-route of the mountain bike trail within the Reserve.
- There is insufficient detail provided to assess the impacts of the additional students on traffic and parking within the area."

The above response was posted onto Council's website on 5 August 2015 and a hard copy was provided to the applicant at the second JRPP briefing on 25 August 2015.

The updated SIS and LMP were referred back to Council's Parks, Reserves and Foreshores department on 22 December 2015 for further consideration.

Referral Response No. 2

In their response dated 19 February 2016, the following comments were provided:

"Whilst better information regarding Aboriginal Heritage and species selection has been provided and seems acceptable it is recommended that the Development Application be refused on the following basis:

- *The APZ will have an unacceptable impact on biodiversity in the area and will still create stormwater issues for surrounding land under Council's care, control and management.*
- *The reduction of canopy coverage to 30% in the OPA and 15% in the IPA poses an unacceptable reduction in canopy coverage in this area and contradicts Council's Urban Forest Policy."*

The above response was posted onto Council's website on 19 February 2016 and an email copy was also sent to the applicant on that same day.

Information pertaining to the compulsory acquisition and easement for the purposes of the bushfire asset protection zone within the Manly Warringah War Memorial Park and Condover Reserve were received on 11 October 2016 and referred to Council's Parks, Reserves and Foreshores department on the same day. The following comments have been provided in response:

Referral Response No. 3 – Submission of Compulsory Acquisition Details

"In light of the land acquisition and formation of an easement around the school property, all APZ related clearing is now on land controlled by the DoE or on easements where clearing is allowed.

As such, there is no further conflict with Part E7 requirements 6 and 7 of the Warringah DCP. It is also noted that the proposal suitably complies with the remainder of the part E7 requirements."

No conditions were imposed by Parks, Reserves and Foreshores department.

Buildings, Property and Spatial Information

The application was referred to Council's Buildings, Property and Spatial Information department for consideration.

Referral Response No. 1

In their response dated 29 December 2015, the following comments were provided:

"Council's letter to the applicant dated 25 August 2015 (and delivered to the applicant by hand at the second JRPP briefing on 25 August 2015) stated:

"The development proposes to impose bushfire asset protection zones (APZ) over the adjacent public reserves to the west and south (including the road reserve to the south).

Condover Reserve, which is located to the south and is occupied by Lot 1 in DP 433773 and Lot 1 in DP 1146289, is zoned RE1 Public Recreation under the WLEP 2011 and is owned by Warringah Council.

The Manly Warringah War Memorial Park, which is located to the west and occupied by Lot 1549 in DP 752038 and Lot 7074 in DP 1029974 is zoned also RE1 Public Recreation under the Warringah Local Environmental Plan 2011. The Park is owned by the Department of Lands but is under the care, control and management of the Manly Warringah War Memorial Park (R68892) Reserve Trust, with Warringah

Council both managing the affairs of the Trust and carrying out the day-to-day management of the Park on behalf of the Trust – under the provisions of the Crown Lands Act, 1989.

Clause 1(i) under Schedule 1 of the Regulation requires that a Development Application must contain evidence that the owner of the land on which the development is to be carried out consents to the application (development is defined in the dictionary of the Regulation as the use of land and the carrying out of a work).

In both instances, the written consent of the respective land owner to permit the proposed bushfire asset protection zones over public land has not been obtained and provided to Council with the Development Application.

With regards to the use of the road reserve, works (including the APZ and any drainage works) proposed on a Crown road must be approved by the Land and Property Management Authority under s.71 or s.138 of the Roads Act, 1993 on behalf of the Minister for Lands as the Roads Authority.

It is noted in their referral response that Council's Reserves, Parks and Foreshores Department have stated that the consent of the landowner will not be provided for this purpose".

A follow-on email from Council to the applicant on 31 August 2015 reaffirmed the position of Council's Reserves, Parks and Foreshores Department to:

"Withhold the granting of landowner consent for the use of its land (whether under direct ownership or under its care, control and management) for the purpose of any works, including the provision of bushfire asset protection zones, which are related to the Development Application".

The email went on to advise that:

"It is Council's position that development within the LGA contains its impacts to the subject site, rather than requiring significant modification to adjoining lands. Bushland and the natural environment at large are highly valued by the community, and it is for these reasons that Council invests considerable funds in protection and management. Accordingly, Council cannot support an application that removes large areas of publicly owned/managed bushland, some of which are located in a War Memorial Park and some on Council's freehold land."

In light of the refusal by Council's Parks, Reserves, Beaches and Foreshore department to issue landowner consent (see the separate referral response in this section of the report), the applicant advised in response that the DoE would pursue the compulsory acquisition of those parts of the affected reserves.

With regards to areas of the Manly Warringah War Memorial Park to the west and the road reserve to the south and west (both of which are owned by the Crown) and despite Council acting as the Trustee, the applicant was also advised that they would need to approach the Department of Primary Industries (Lands) directly to establish the appropriate mechanism with which to acquire/transfer the parts of those reserves to the DoE.

Information pertaining to the compulsory acquisition and easement for the purposes of the bushfire asset protection zone within the Manly Warringah War Memorial Park and Condover Reserve were received on 11 October 2016 and referred to Council's Buildings, Property and Spatial Information department on the same day.

As this process is outside the matters for consideration under s.79C of the EP&A Act, no further discussion is provided except to note that the gazettal of the acquired lands occurred on 2 December 2016.

Urban Design

The application was referred to Council's Urban Designer for consideration with respect to the following matters:

- Layout: Urban structure;
- Layout: Urban Grain;
- Layout: Density and Mix;
- Scale: Height and Massing;
- Façade and Interface;
- Appearance: Details;
- Appearance: Materials; and
- Landscape and Streetscape.

In each matter listed above, Council's Urban Designer considered that the development responded favourably and the following concluding comment was provided:

"The amended plans show a revised building arrangement and urban form which responds positively to the surrounding context and function well as a place of education. The proposal is acceptable in that respect."

No conditions were imposed by Council's Urban Designer.

Environmental Investigations

The application (which includes a Noise Emission Assessment dated 26 June 2015 as prepared by Acoustic Logic, a Hazardous Materials Survey Report dated February 2015 as prepared by GreencapNAA (Noel Arnold & Associates Ltd) and a Contamination Investigation dated 12 June 2016 as prepared by NSW Public Works) was referred to the Industrial and Contaminated Lands sections of Council's Environmental Investigations department.

The following comments have been provided:

Industrial

"According to the Noise Emission Assessment by Acoustic Logic Consultancy the noise levels will exceed the appropriate guidelines if the recommended measures are not implemented."

Environmental Investigations recommend that the measures detailed in the acoustic assessment are implemented."

Contaminated Lands

No objection was raised with regards to the proposal subject to standard conditions.

Appropriate conditions have been included in the Recommendation of this report should the application be approved.

Road Assets

The application was referred to Council's Road Assets department on 8 July 2015 for consideration, in particular with respect to the use of the Council carpark located to the south-west of the site and the use of the unformed Crown Road to the west of the site.

In their response dated 11 August 2015, the following comments were provided:

"From Council's perspective the establishment of an APZ on Council's road reserve cannot, in principle be supported. Generally, an APZ should be contained within the subject property such that adequate right of access and maintenance can be assigned to the owner of the land.

Council, as Roads Authority and owner of Council road reserves, may be held responsible for ongoing maintenance and management of the land in the future. This proposal sets an undesirable precedent on public land.

In relation to the unformed crown road in question, the use of it as an APZ for the school property would be subject to agreement from the Crown. Council is aware that the Crown has previously required crown roads to be transferred to Council if they are developed for road purposes. It is unclear what the Crown's position on this proposal would be in this instance as the clearing of the APZ would not be for road purposes. Council would be unwilling to accept ownership of the road reserve for an APZ given the ongoing potential maintenance liability for land which serves no public benefit other than the schools APZ.

If the development is approved, the road reserve should remain in the ownership of the Crown and an appropriate legal instrument be created obligating the owner of Manly Vale Public School (Dept. of Education) to maintain the APZ. Alternatively, the unformed crown road could be closed and consolidated with the school property.

Road Infrastructure

The increase in demand generated by additional students for improvements to road infrastructure is likely. The existing footpath network would need to be expanded to meet service level requirements adjacent to schools. For example, it is expected existing 1.2m wide footpaths on the approaches to schools may not be of sufficient width and do not meet our current Pedestrian Access and Mobility Plan requirements for a minimum width of 1.5m. In some locations, such as on approaches to pedestrian crossings and in drop off zones wider footpaths would be required to prevent wear paths in grass nature strips do not become a pedestrian safety hazard.

Improvements to existing traffic facilities is a matter for Traffic Management And Road Safety section to comment on however, the provision of a marked pedestrian crossing may be necessary. Details of proposed bus zone/bus parking are also required.

If this DA is considered further, it should be referred to Development Engineers for the establishment of conditions that require submission of construction details for Council approved infrastructure improvements prior to the issue of a Construction Certificate".

The above response was posted onto Council's website on 11 August 2015 and a hard copy was provided to the applicant at the second JRPP/Planning Panel briefing held on 25 August 2015.

With respect to the neighbouring Crown road reserve. This is included in the compulsory acquisition process and, once gazetted, will become the property of the DoE.

The application has been referred to Council's Development Engineer who has imposed appropriate conditions although it was not considered that the widening of the existing footpaths (or the provision of additional footpaths) was required.

Conditions have been imposed regarding the wombat crossing and school bus zones.

Building Assessment

The application was referred to Council's Building Assessment division for consideration against the provisions of the Building Code of Australia (BCA).

No objections were raised and no conditions were imposed.

Notwithstanding, should the application be approved, appropriate conditions requiring compliance with the relevant provisions of the BCA are to be imposed.

ENVIRONMENTAL PLANNING INSTRUMENTS

All relevant Environmental Planning Instruments, Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

State Environmental Planning Policy No. 19 - Bushland in Urban Areas

The SEPP generally aims to protect and preserve bushland within the urban areas referred to in Schedule 1 because of it's:

- a) *Value to the community as part of the natural heritage,*
- b) *Aesthetic value, and*
- c) *Value as a recreational, educational and scientific resource.*

Note: The SEPP defines bushland as "*land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation*".

In particular, the SEPP specifically aims to:

- a) *Protect the remnants of plant communities which were once characteristic of land now within an urban area.***

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the remaining 95% of

bushland within both reserves continues to protect the remnants of plant communities which were once characteristic of land now within an urban area.

Therefore, it is considered that the proposal satisfies this aim.

b) Retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term.

The development includes retained vegetation islands throughout the subject site and adjacent APZ areas.

The retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

These retained areas will provide bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term.

Therefore, it is considered that the proposal satisfies this aim.

c) Protect rare and endangered flora and fauna species.

As discussed earlier in this report, the following threatened fauna species have been identified within the site and within the APZ areas:

- Eastern-Pygmy possum;
- Eastern Bentwing-bat;
- Red-crowned Toadlet;
- Powerful Owl; and
- Grey-headed Flying-fox.

The SIS notes that there are no threatened flora species on the site or within the proposed APZ areas.

The SIS (v 6.0) includes (at Appendix 7(4)) a Biobanking Offset Strategy to address the impacts to the identified threatened species and associated habitats.

Of the above listed threatened fauna species, the Eastern Pygmy-possum and the Red-crowned Toadlet are 'species credit' species. Although the Eastern Bentwing-Bat and the Grey-headed Flying-fox are species credits, the SIS reports that no breeding habitat was identified with the development site and therefore, no species credits are required for these species.

Of further note, the SIS identifies that the north-western corner of the study area includes moderate seepage and conducive to pooling after rainfall. As a single Red-crowned Toadlet was identified in this area during the January 2016 survey, the Landscape Management Plan includes protection of this area during vegetation clearing, and in perpetuity, to protect the species.

Biodiversity offset lands owned by Hornsby Shire Council (located at 64 Crosslands Road, Galston) have been identified in the Offset Strategy as suitable. The SIS states that Hornsby Shire Council intends to submit a biobanking agreement application to establish the lands as a biobank site. Subsequently, the DoE have entered into a Memorandum of Understanding (MoU) with Hornsby Shire Council to purchase and retire credits from the

identified site to offset the development. The SIS notes that the proposed biobank site can fulfill all ecosystem credit and species credit requirements of the proposed development.

The afore-mentioned executed MoU between the DoE and Hornsby Shire Council was submitted to Council on 10 November 2016 for its information. It is understood that the MoU was forwarded directly to the OEH by the applicant for its consideration.

Therefore, it is considered that the proposal satisfies this aim.

d) Protect habitats for native flora and fauna.

The revised Landscape Management Plan indicates that 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands to provide for habitat and habitat connectivity.

Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m². It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

Additionally, a Biobanking Offset Strategy has been submitted to offset impacts to identified threatened species both on the site and within the APZ area.

The Biobanking Offset Strategy was reviewed by the Biodiversity section of Council's Natural Environment Unit who advised that:

"As also identified in the OEH letter, the proposal should meet the offsetting rules as specified in the Biobanking Assessment Methodology (BBAM). In the absence of a biobanking statement being issued, development consent for the Manly Vale Public School redevelopment and associated Species Impact Statement would trigger concurrence requirements from the Chief Executive of the NSW Office of Environment and Heritage under s.79B of the EP&A Act 1979.

It is considered that the significant impact contentions previously raised with regard to threatened species are able to be resolved with the application of the NSW Biodiversity Banking and Offset Scheme."

No Biobanking Statement has been submitted to Council as part of the application. The application was referred to the OEH for concurrence under s.79B of the EP&A Act 1979. At the time of completing this report, a response had not been received from the OEH and a recommendation is included to address the pending receipt of concurrence.

e) Protect wildlife corridors and vegetation links with other nearby bushland.

The SEE submitted with the application notes that the Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park.

The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to an extent, largely outside the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Therefore, as the SEE states, the development will not result in major fragmentation of the corridor and vegetation link.

Figure 17 below shows (in green) the vegetation corridor with the subject site outlined in red.



Figure 17: Vegetation corridors (the subject site is outlined in red).

Source: Species Impact Statement (v 6.0) dated 11 September 2016 as prepared by Kleinfelder.

f) Protect bushland as a natural stabiliser of the soil surface.

The Geotechnical Investigation submitted with the application identifies that the site is divided in half with a transition boundary of soil types containing the following sub-surface conditions:

Eastern part of the site

The eastern part of the site is the low lying area of the site adjacent to the Gibbs Street carpark and includes the existing building (Block K) and the existing sports fields.

Bore holes sunk in this area reveal that the sub-surface conditions comprise a layer of fill underlain by residual soil to depths of between 0.4m to 2.0m which is, in turn, underlain by weathered sandstone. It is also noted that the existing sports field was formed by filling.

Western part of the site

The western part of the site is subject to the majority of the development.

Bore holes sunk at the same location of Blocks K, N and O revealed that the sub-surface profile comprises a thin layer of fill or residual soil (0.15m to 0.55m thick, mostly loose) underlain by weathered sandstone to hole termination depths of 0.15m to 0.6m. Sandstone boulders were also observed at various locations within the footprints of proposed Blocks M and O.

An inspection of the site indicates that the majority of trees growing on the site and adjacent APZ area appear to rely on spaces between rock outcrops/shelves and boulders to establish and anchor roots while the shallow soils which overlay parts of the rock accommodate a variety of shrubs.

Therefore, given the shallow soil depths evident within the western part of the site, it is considered that the development removal/modification of the bushland will not prejudice the stability of the soil surface.

g) Protect bushland for its scenic values, and to retain the unique visual identity of the landscape.

The development includes the a reduction of bushland by 0.5% within the Manly Warringah War Memorial Park reserve, Condover Reserve and the adjacent Crown road reserve.

Despite the reduction to bushland, the development will retain 95% of the combined reserves as natural bushland and scenic landscape.

h) Protect significant geological features.

The development has been designed to respond to the structural and aesthetic integrity of the rock spur which forms the most notable geological feature on the site.

The placement of all buildings on piers ensures that excavation into the existing rock formation is minimal and that all rock outcrops are preserved.

i) Protect existing landforms, such as natural drainage lines, watercourses and foreshores.

Apart from the afore-mentioned rock spur the site does not contain any other notable landforms natural drainage lines, watercourses and foreshores.

Council's Development Engineer has reviewed the Stormwater Management Plan for the development and notes that the stormwater run-off for the part of area proposed to be developed (which currently is draining towards the north west corner of the site) is reduced due to the proposed stormwater management of the site being directed away and to the south-eastern part of the site. This would suggest an improvement to the stormwater run-off problems encountered by the residents living to the north-west of the development site along Arana Street.

Additionally, the Riparian section of Council's Natural Environment Unit has reviewed the Waterway Impact Statement submitted with the application who recommended that the application be referred to the NSW Office of Water for consideration. In response, the NSW Office of Water advised that controlled activity approval is not required and no further assessment is necessary as the proposed activity is exempt from section 91E(1) of the *Water Management Act 2000*.

Bushfire asset protection zones are controlled activities which are required to be offset by connecting an equivalent area to the riparian corridor on waterfront land within the development site.

However, notwithstanding the exemption, a review of the riparian corridor mapping used by DPI Water (which is based on the 1:25,000 topographical map) reveals that the head of the 40m buffer of the tributary of Burnt Bridge Creek is located approximately 80m to the south and therefore, will not be impacted by the development.

j) Protect archaeological relics.

Aboriginal Heritage

The two Aboriginal Archaeological Assessments submitted with the application conclude that the project area contains no documented Aboriginal sites or objects with exception to the following two specific areas of *potential* Aboriginal heritage sensitivity that have been identified within (or just outside) the project area:

- Rock shelter (located outside the subject site but within the project area affected by the APZ); and
- Speculative engraving (located within the subject site but to the north of the proposed Block M of the new school).

On review of the Assessments, the Aboriginal Heritage Office (AHO) advises that:

"No sites are recorded in the current development area and an Aboriginal heritage Due Diligence report (by Dominic Steele Consulting Archaeology, 21 June 2015) did not identify any Aboriginal heritage items. The report recommended that no further Aboriginal archaeological input is warranted, that several engraved figures be avoided, and if any unrecorded Aboriginal sites or objects are exposed that works should cease and the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council and Aboriginal Heritage Office be contacted.

The Aboriginal Heritage Office has reviewed the above report and supports the recommendations."

The Assessments are supported by a Statement from the Metropolitan Local Aboriginal Land Council (MLALC) which states (Note: the Statement makes reference to the amended plans submitted on 28 September 2016 as discussed later in this report):

"We would like to confirm that we support the findings, conclusions and recommendations presented in the archaeological report, and agree with the conclusion that the amended Concept Plan for the proposed new school will not have an adverse effect on any Aboriginal cultural heritage sites or areas of potential heritage sensitivity."

Non-Aboriginal Heritage

Manly Dam was established as a War Memorial Park after World War 1 and the Manly Warringah War Memorial Park Remembrance Trust was established in 1995. A war memorial, sculptures and a flagpole are located in Picnic Area 1 which is situated 389m west of the subject site and will therefore not be impacted by the development.

Therefore, it is considered that the proposal satisfies this aim.

k) Protect the recreational potential of bushland.

The reserves to the south and west of the subject site, and which are included in the compulsory acquisition process, contain unsealed pedestrian and bike tracks which are used by the public for recreational activities.

With regards to the afore-mentioned pedestrian track, it is noted in the *Manly Warringah War Memorial Park Plan of Management* (Item 20 in the Actions Summary) that that this track formally accesses McComb Hill from the western side of the hill. There may be evidence on the ground that the track circles around the eastern side of the hill to encroach into western side of the subject site, however this is not a formal arrangement.

With regards to the afore-mentioned bike track (which extends from the Gibbs Street carpark and parallel the southern boundary of the site into the Manly Warringah War Memorial Park), the DoE have advised Council that this will remain.

Therefore, it is considered that the proposal satisfies this aim.

l) Protect the educational potential of bushland.

The new school has been designed to provide exposure to students of the adjacent bushland through the retention of rock outcrops and islands of vegetation within the site. The central courtyard of the school (between Blocks M, N, O & P) provide for a secure learning environment coupled with a covered outdoor learning area (COLA) beneath Block P.

The removal/modification of vegetation for the purposes of providing for the APZ areas is considered to be minor (i.e. 0.5%), given the remaining area left as bushland within the Manly Warringah War Memorial Park and Condover Reserve (i.e. 95%). In this context, the removal/modification of vegetation is not considered to unreasonably prejudice or limit the educational potential of the remaining bushland.

Therefore, it is considered that the proposal satisfies this aim.

m) Maintain bushland in locations which are readily accessible to the community.

Although the development involves the compulsory acquisition of parts of the Manly Warringah War Memorial Park and Condover Reserve, the DoE has advised Council that the Gibbs Street bike track and, by implication, the adjoining bushland, will remain accessible to the community.

Therefore, it is considered that the proposal satisfies this aim.

n) Promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.

As noted throughout this report, the development proposes to selectively remove and modify vegetation within the Manly Warringah War Memorial Park and within Condover Reserve resulting in a combined reduction of bushland within all reserves by 0.5%. This equates to a retention of 95% of the combined reserve area for continued public enjoyment.

The management of the acquired land is the subject of requirements imposed by the NSW RFS but the management of the remaining reserve areas will continue to be the subject of the respective Plans of Management.

Therefore, it is considered that the proposal satisfies this aim.

Furthermore, Clause 6 of the SEPP stipulates:

1) A person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the council.

The disturbance of bushland for the purposes of providing APZ areas to protect the proposed school are a subject of this assessment and the consideration by the consent authority.

2) Nothing in subclause (1) requires development consent for the disturbance of bushland where it is being disturbed:

a) for the purposes of bushfire hazard reduction,

The area subject to disturbance is for the purposes of providing for APZ areas to satisfy the provisions of NSW RFS *Planning for Bush Fire Protection 2006* as the school is classified as a Special Fire Protection Purpose under that Policy.

Notwithstanding, it is noted that the area immediately to the west of the site (and within the western bushland part of the site) exhibits evidence of the prescribed hazard reduction burning conducted by the NSW Rural Fire Service (RFS) in October 2014.

This corresponds with the Urban Edge zone identified in the Manly Warringah War Memorial Park Plan of Management (see 'Other Matters – Plans of Management' later in this report) which is already established along the southern edge of the Arana Street residential properties (and to some extent, along the western boundary of the subject site).

It is noted that the extent of the prescribed hazard reduction burning already includes the same areas proposed for APZ purposes by the development. Therefore, and in conjunction with the comparatively minor area of impact in relation to the remaining Park (i.e. 0.11%), the proposed APZ does not necessarily exacerbate this existing situation but rather (and appropriately given the urban uses to the east of the Park) formalises the hazard reduction burn area as a southern extension of the Urban Edge zone.

b) for the purpose of facilitating recreational use of the bushland in accordance with a plan of management referred to in clause 8 of this Policy,

The development has been considered against the Plan of Management which operate with respect to the Manly Warringah War Memorial Park and Condover Reserve (refer to 'Other Matters – Plans of Management' in this report).

In each instance, it was considered that the development does not unreasonably impact upon the recreational use of the bushland in accordance with each Plan of Management.

Therefore, it is considered that the proposal satisfies this aim.

c) for the purpose of constructing, operating or maintaining:

- i. lines for electricity or telecommunication purposes, or**
- ii. pipelines to carry water, sewerage or gas or pipelines licensed under the Pipelines Act 1967, or**

The development does not involve the constructing, operating or maintaining of any items listed under i or ii.

Therefore, this aim does not apply.

d) for the purpose of constructing or maintaining main roads.

The development does not involve the construction or maintenance of a main road.

Therefore, this aim does not apply.

- 3) Pursuant to section 30(4) of the Act, the provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of development referred to in subclause (1) in the same way as those provisions apply to and in respect of designated development.**

It is noted that s. 30(4) of the EP&A Act 1979 has been repealed.

Sections 84, 85, 86 and 87(1) of the Act relate to Complying Development and are not relevant to this application. Section 90 relates to Integrated Development of which Crown Development is excluded.

The development is not Designated Development.

Therefore, this clause does not apply.

- 4) A consent authority shall not consent to the carrying out of development referred to in subclause (1) unless:**

- a) it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Policy,**

This report is Council's assessment of the need to protect and preserve the bushland having regard to the aims of this Policy.

- b) it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and**

The development involves the construction of a new purpose built school to accommodate up to 1,000 primary school students. This is an increase of 644 (i.e. 180%) students from what the school is currently capable of accommodating within the demountables on the site.

The Statement of Environmental Effects (SEE) submitted with the application (as prepared by the NSW Department of Public Works) provides the following justification:

"The DoE has reviewed student accommodation in public schools [see earlier commentary in this Report under the section 'Details and Description of the Development – Background to the Development] to ensure that the choice of local residents to enroll their children in a public school is catered for and that the schools are resourced to enable a quality learning environment. Manly Vale Public School was included in the review. Following the review the DoE developed a strategy to address enrolment pressures in the area including the upgrading of Manly Vale Public School to a 1,000 student primary school.

Due to the land area of the school, it is not possible to continue to increase the number of demountables on the school site in order to provide the additional facilities required to cater for the increasing number of enrolments at the school. In addition there is little level land area remaining and this area is required for play areas. 21st century teaching requires different physical layout within school buildings and demountables do not meet the new team teaching model. More demountables would further restrict the circulation throughout the site and the needs to the students would not be able to best be met."

The SEE also includes alternative layout options which were considered as part of the design process. These options include building arrangements away from the rock spur and

within the northern & eastern parts of the site (Option A) and predominantly within the eastern part of the site (Option B). Option C involved a circular arrangement around a central oval atop the rock spur while Option D involved building located within the northern part of the site and in a U-shape around the leading edges of the rock spur. The development is a direct evolution of Option D as this satisfied the above design criteria of the DoE for the school.

It is noted that Options A and B (or a combination of the two) have been questioned by the community as a more viable alternative than the current proposal which should have been explored further.

On review of these options it is considered that, given the area constraints of the flat part of the site, the buildings within the northern and eastern setback areas would have to be of a continuous 3 x storey streetwall design to accommodate 1,000 students. The visual impact of such a built form within such close proximity to the neighbouring residential area would be considered to be unacceptable, particularly given that the bulk and scale of the development, and its resulting institutionalised built form, would be in direct conflict with the scale and character of the R2 Low Density Residential zone within which the site located.

It is also worth noting that, because a school is classified as a Special Fire Protection Purpose under the NSW RFS document '*Planning for Bush Fire Protection 2006*', the range of an APZ is significantly greater than that of a dwelling house. It is considered that the majority of the site would be impacted by the APZ including the areas identified as accommodating threatened species, even if the alternative options were pursued.

With regards to the purpose of public interest, it is noted that the development would result in an overall reduction of bushland by 0.5% and a retention of 95% within the Manly Warringah War Memorial Park reserve, Condover Reserve and the adjacent Crown road reserve. When weighed against the provision of new schooling to accommodate the educational needs of a growing population, the localised reduction of 0.5% vegetation is considered to be minor and that the provision of the new school to be in the wider public interest.

c) it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.

The development proposes to selectively remove and modify vegetation within the Manly Warringah War Memorial Park and within Condover Reserve.

Manly Warringah War Memorial Park

The development includes the selective removal and modification of up to 4,199m² bushland within the Park immediately adjacent to the western side of the subject site. Given the total parkland area of 3,770,000m², the removal and modification of vegetation within the APZ equates to 0.11% of the Park. This will result in 3,765,801m² (i.e. 99.9%) of the Park being retained as natural bushland and scenic landscape.

Condover Reserve

The development includes the selective removal and modification of up to 10,697m² bushland within the Reserve immediately adjacent to the southern side of the subject site. Given the total reserve area of 125,796m², the removal and modification of vegetation within the APZ equates to 8.5% of the Reserve. This will result in 115,099m² (i.e. 91.5%) of the Reserve being retained as natural bushland, scenic landscape and recreational activity.

Road Reserve

The development includes the selective removal and modification of up to 4,050m² bushland within the road reserve which is located along the southern and western boundaries of the subject site. Given the total road reserve area of 4,050m², the removal and modification of vegetation within the APZ equates to 100% of the road reserve.

Therefore, the development will result in a combined reduction of bushland by 0.5% and a retention of 95%.

The amended scheme has notably reduced the impact on bushland within the Manly Warringah War Memorial Park by lessening the extent of APZ by 46.1% from what was originally proposed.

In this regard, Council is satisfied that the amount of bushland proposed to be disturbed is as little as possible to allow for the inclusion of APZ areas to protect the school.

State Environmental Planning Policy No 44 - Koala Habitat Protection

The SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline by:

- a) *Requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- b) *Encouraging the identification of areas of core koala habitat, and*
- c) *Encouraging the inclusion of areas of core koala habitat in environment protection zones.*

The SIS (v 6.0) acknowledges that the study area contains suitable feed tree species for the Koala and therefore includes an assessment of potential impacts of the development upon Koala habitat.

The assessment notes:

"Field assessment of the vegetation communities in the study area revealed that no preferred Koala habitat is present. Although Koala feed tree species were present, these consisted of isolated trees constituting less than 15% of the total canopy trees. Although the diurnal fauna survey effort included a search for Koala scats and scratch marks on suitable feed trees, no Koala SAT tests were required."

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that a consent authority must not consent to the carrying out of any development on land unless;

- *It has considered whether the land is contaminated, and*
- *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and*
- *If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried*

The application includes a Hazardous Materials Survey Report dated February 2015 as prepared by GreencapNAA (Noel Arnold & Associates Ltd) and a Contamination Investigation dated 12 June 2015 as prepared by NSW Public Works).

Hazardous Materials

The Hazardous Materials Survey Report included existing Blocks A, B, C, D, E, F, G, I, J & K located on site (with Blocks A, B, C, D, E, F, G & I proposed to be removed from the site). Blocks J & K are to remain and be refurbished.

Asbestos was found in all but Block J, while other contaminants (including Synthetic Mineral Fibre (SMF), Polychlorinated Biphenyls (PCBs), lead containing paint, lead containing dust, and Ozone Depleting Substances (ODSs) were found in decreasing quantities across the range of buildings.

The Survey Report includes a number of recommendations (short and medium term) to remove the afore-mentioned contaminants.

Contamination

The Contamination Investigation

"In the current investigation, in all but one (1) sample analysed, the concentrations of heavy metals were either not detected above the laboratory Limits of Reporting (LoR) or were below the relevant health and ecological threshold levels. In the fill sample (A11-0.8-0.9) from hand auger hole A11, located within the PB nominated Asbestos Zone B, the detected zinc concentration (286 mg/kg) was slightly above the EIL (240 mg/kg). Also, in the samples analysed, TRH, BTEX, PAHs, OCPs and total PCBs were either not detected above the LoRs or were below the relevant health and ecological threshold levels.

It is considered that, in view of the Asbestos Containing Material (ACM) debris (such as fibre-cement fragments) observed on the ground surface and which could also be buried in the surface soil, site remediation should be undertaken in the future school redevelopment. In the interim, the fibre-cement fragments should not pose a significant human health risk because they appear to be mostly bonded. However, all of the fibre-cement fragments on the ground surface should be removed as soon as possible and be properly disposed offsite.

In view of the findings from the current investigation, it is considered that the likelihood of widespread contamination of the Site is low."

The Contamination Investigation includes a number of recommendations to remove and remediate any contaminants found on the site.

Groundwater

The Contamination Investigation corresponds with information provided in the Geotechnical Investigation (dated 29 May 2015 as also prepared by NSW Public Works) on the presence of groundwater on the site and notes:

"At the time of fieldwork, groundwater inflow/table was generally not encountered within the borehole investigation depths (2.5m maximum). However, in hand auger hole A3, which was located near the western end of the area proposed for the new Block L, groundwater seepage was encountered at 0.55m depth. In hand auger A12, which was located within the proposed detention pond area near the north-western corner of the school site, groundwater seepage was encountered at 0.5m depth.

Immediately on completion of auguring this hole (A12), the groundwater table was registered at 0.55m depth.

It should be noted that the presence of groundwater/inflow will depend on seasonal weather changes and prevailing weather conditions at the time. It is likely that any seepage, if present, will occur close to the soil/bedrock interface or along joints and weaker sandstone beds."

It is noted that proposed Block L (of which the south-western corner is located over Bore Hole A3) is mounted above ground on piers. As no excavation works are proposed, impact upon groundwater is considered to be minimal (as confirmed by the Geotechnical Investigation). Subsequently both Investigations do not include any recommendations as to the management of groundwater seepage.

Both reports were referred to the Contaminated Lands sections of Council's Environmental Investigations department who raised no objection to the proposal subject to the imposition of conditions which address contaminated land requirements and a requirement to notify Council about any new contamination evidence during works. In addition, the recommendations contained within both reports are included as conditions.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation; or*
- *Within 5m of an exposed overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.

Ausgrid provided their comments on 19 November 2013 in which no objection was raised subject to conditions.

The conditions provided by Ausgrid are to be included in a consent should this application be approved.

Clause 106

Pursuant to Clause 106(1) (a) the clause applies to new premises of the relevant size or capacity. (2) In this clause, "relevant size or capacity" means:

"in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3".

Clause 106 'Traffic generating development' of the SEPP requires the application be referred to the RMS within 7 days, and take into consideration any comments made within 21 days, if the development is specified in Schedule 3 of the SEPP.

Schedule 3 of the SEPP requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity Site with access to any road	Size or Capacity
		Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road
Educational Establishments	50 or more students	This column is left blank under Schedule 3

The development proposes a total increase of up to 1,000 students by 2018 and is therefore subject to the size or capacity provisions under Column 2 in the table above.

The application was referred to the RMS for comment as traffic generating development under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

The RMS provided their comments on 16 December 2013 in which no objection was raised subject to conditions.

The conditions provided by the RMS are to be included in a consent should this application be approved.

STATE REGIONAL ENVIRONMENTAL PLANS (SREPs)

There are no SREPs applicable to the application.

WARRINGAH LOCAL ENVIRONMENT PLAN 2011 (WLEP 2011)

Is the development permissible with consent?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
Aims of the LEP?	Yes
Zone objectives of the LEP?	Yes

WLEP 2011 Compliance Assessment Summary

Relevant Clauses	Compliance with Requirements
Part 4 Principal development standards	
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
Part 5 Miscellaneous Provisions	
5.9 Preservation of trees or vegetation	No
5.10 Heritage conservation	Yes
Part 6 Additional Local Provisions	
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed assessment of listed non-compliances

The following provides a merit-based assessment of the above non-compliances against the objectives of the respective clause.

Clause 4.3 Height of buildings development standard

Relevant Clause	Permitted	Proposed Height (max)	Variation (%)	Compliance
4.3 Height of buildings	8.5m	Block K: 6.0m	N/A	Yes
		Block L: 9.3m	9.4%	No
		Block M: 10.2m to 10.8m	27%	No
		Block N: 7.5m to 8.5m	N/A	Yes
		Block O: 9.4m to 10.0m	17.6%	No
		Block P: 9.0m to 11.6m	36.5%	No
		Lift Shaft: 16.0m	88.2%	No

Note: The proposed height non-compliances to Blocks M, N & O are located along the outer-facing edges each building due to the sloping sides of the rock spur. Block P is elevated on piers to provide a covered outdoor learning area within an undercroft.

Clause 4.6 Exceptions to development standards

The following provides an assessment of the variation to Clause 4.3 – Height of buildings development standard taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46*.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the objectives of the particular zone and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

1. Is the planning control in question a development standard?

The prescribed building height, pursuant to Clause 4.3 of the WLEP 2011, is a development standard.

2. What are the underlying objectives of the development standard?

The objectives of the standard, pursuant to Clause 4.3 – ‘Height of Buildings’ of the WLEP 2011 are:

(1) *The objectives of this clause are as follows:*

- a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.**

Although the site is located within the R2 Low Density Residential zone, the site accommodates a school which, because of its distinctly different function from low density residential land uses, cannot necessarily relate to the height and scale of surrounding and nearby development.

The development has been designed to incorporate a series of distinct, low rise modules which are of a lightweight structure arranged around the northern and western part of the site. This design enables the development to retain a large proportion of the site as open space, particularly along the northern and eastern boundary which faces the neighbouring residential area.

It is noted that the non-compliances are generally a result of the constraining influence of the slope of the site, particularly at the rock spur where the outer edges of Blocks M and O exacerbate the building height. With the exception of Block P (which is elevated to accommodate an outdoor leaning area within the undercroft) and the lift shaft, each of the

proposed buildings would achieve compliance if mounted upon a flat surface. To illustrate, the table below provides details on the actual heights of each building (i.e. base to roof):

Block	Building Height (Base to Roof)
Block K	5.2m to 7.0m
Block L	5.6m to 7.2m
Block M	7.0m to 8.2m
Block N	3.3m to 5.5m
Block O	7.0m to 8.2m
Block P	9.0m to 11.6m
Lift shaft	16.0m

With respect to Block P, this building is located to the 'rear' of the school and will not be readily visible from the lower lying residential areas immediately to the north and east due to the sightline differences in topography and the locating of Blocks M and N which conceal Block P.

With respect to the lift shaft, this structure consists of a slim and vertical tower structure which is supported by two pedestrian bridges to Blocks M, N, O & P. Because of the slim profile of the structure and the visual permeability of the supporting bridges, the visual impact is considered to be minimised such that it does not dominate the development nor necessarily render the development incompatible with the height and scale of surrounding and nearby development.

It is considered that the development satisfies this objective.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access.

As noted earlier, the non-compliances occur along the outer edges of Blocks L, M and O as they mount the rock spur and sloping perimeter of the site.

Block P and the lift shaft breach the building height by nature of their physical height from a flat surface.

Visual Impact

The development has been designed to provide contemporary built forms with traditional features akin to an Australian Vernacular architectural style. This particular architectural style is noted for its response to a bushland setting through the incorporation of simple building techniques and lightweight materials.

The triangular offsetting of buildings to align with the rock spur, together with the use of piers, visually permeable bridging and extensive glass surfaces results in a development which is visually interesting, functional and complimentary to its setting.

Privacy

The non-compliant elements will not have any unreasonable impact upon the privacy of neighbouring residential properties.

Solar Access

The shadow diagrams provided by the applicant indicate that the non-compliant elements of the development will not result in unreasonable overshadowing over the principle private

open space areas of the neighbouring residential properties to the north and east or to the surrounding bushland to the south and west.

It is considered that the development satisfies this objective.

c) *to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments.*

As discussed above, the development has been designed to sit within the landscape setting of the surrounding bush environment.

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.11% of bushland on the Manly Warringah War Memorial Park Reserve and 8.5% on Condover Reserve. The collective area of bushland impacted on the two Reserves will equate to 0.5%. This represents a reduction of 46.1% to the APZ area within the Manly Warringah War Memorial Park Reserve and a 6.6% reduction to the APZ area within Condover Reserve from what was originally proposed.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, the design is considered to be complimentary to the bushland setting and the physical loss of bushland is considered to be minor when considered against the full extent of both Reserve areas.

It is considered that the development satisfies this objective.

d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Comment

As discussed above, the development has been designed to architecturally respond to its bushland setting by employing a contemporary Australian Vernacular style.

The Landscape Plan indicates that vegetated islands will be located throughout the site to compliment the architectural design. These vegetated islands will provide a visual transition from the inner-protection area of the site, through the outer-protection APZ areas to the neighbouring and more vegetated Reserves beyond when viewed from the neighbouring Reserves and roads.

It is considered that the development satisfies this objective.

3. What are the underlying objectives of the zone?

In assessing the development's non-compliance, consideration must be given to its consistency with the objectives of the R2 Low Density Residential zone.

- ***To provide for the housing needs of the community within a low density residential environment.***

The site has been used continuously as an educational establishment since (at least) 1955 with the development continuing to be used for educational purposes well into the future.

In this respect, and despite the site being zoned for low density residential, the site is clearly nominated for its continued and permissible use as an educational establishment. Therefore, and given this context, it would be unrealistic to expect that the site provides for the housing needs of the community.

It is considered that the development does not offend this objective.

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

The development is for an education establishment which provides a facility and service that will meet the day-to-day needs of local and nearby residents who have children attending the school.

It is considered that the development satisfies this objective.

- ***To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.***

The development does not involve residential development and therefore cannot be considered against a typical residential landscape setting.

The development involves the selective modification of the existing landscaped setting both inside and outside the site to accommodate the APZs required for the use.

Notwithstanding, the Landscape Management Plan which accompanies the application indicates that the site will retain 20% of the total APZ area (including the area of the subject site) as vegetation islands and cultural heritage exclusion zones. Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m².

It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

It is considered that the development satisfies this objective.

4. Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.**

The variation is considered to provide an appropriate degree of flexibility in enabling this development to achieve a consistent and compatible building height with existing development in the immediate vicinity.

It is considered that the development satisfies this objective.

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**

The variation enables a better outcome by encouraging architectural flexibility to design a development which is compatible with other existing development in the area.

It is considered that the development satisfies this objective.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

The development standard is not excluded from the operation of this Clause.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:**
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and**
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

The applicant has provided a written request (see Appendix A of this report) that addresses the non-compliance in relation to varying the building height development standard under the provisions of the WLEP 2011.

It is considered that the development satisfies this objective.

- (4) Development consent must not be granted for development that contravenes a development standard unless:**
- (a) the consent authority is satisfied that:**
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

The written request provided by the applicant to vary the Development Standard adequately addresses the matters required to be demonstrated by subclause (3).

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

The provision of schooling is considered to be in the public interest and, for reasons detailed above, the proposal is considered to be consistent with the objectives of the Development Standard and the R2 Low Density Residential zone in the WLEP 2011.

- (b) the concurrence of the Director-General has been obtained**

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, the concurrence of the Director-General for the variation to the Height of Buildings Development Standard is assumed.

Clause 5.9 Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, a through the preservation of trees and other vegetation.

However, this clause does not apply if the clearing of native vegetation is authorised by a development consent granted under Part 4 of the EP&A Act 1979.

WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

Part B - Numeric Built Form Controls

Relevant Clauses	Permitted	Proposed	% Variation	Complies
B1 Wall height	7.1m	Block K: 6.0m Block L: 7.4m to 9.2m Block M: 10.2m to 10.8m Block N: 7.5m to 8.5m Block O: 9.4m to 10.0m Block P: 9.0m to 11.6m	N/A 27.7% 50% 18% 38.8% 61.1%	Yes No No No No No
B3 Side boundary envelopes	4.0m x 45°	<u>North</u> Block K: Within envelope Block L: Within envelope <u>West</u> Block M: Within envelope Block O: Within envelope Block P: Within envelope	N/A N/A N/A N/A N/A	Yes Yes Yes Yes Yes
B5 Side boundary setbacks	0.9m	<u>North</u> Block K: 6.0m to 14.5m Block L: 10.5m to 24.5m Block M: 68.5m <u>West</u> Block L: 87.5m Block M: 32.5m to 40.0m Block N: 88.4m Block O: 32.5m Block P: 32.5m	N/A N/A N/A N/A N/A N/A N/A N/A	Yes Yes Yes Yes Yes Yes Yes Yes
B7 Front boundary setbacks	Primary: 6.5m Secondary: 3.5m	<u>Gibbs Street (Primary)</u> Block K: 4.5m (Existing) Block M: 90.m to 94.0m Block N: 70.5m Block O: 87.0m <u>Road Reserve (Secondary)</u> Block N: 38.0m Block O: 19.5m	No change N/A N/A N/A N/A N/A	No change Yes Yes Yes Yes Yes

Relevant Clauses	Permitted	Proposed	% Variation	Complies
D1 Landscaped open space & bushland setting	40% (11,400m ²)	65.3% (18,632.71m ²)	N/A	Yes

Note: The site is considered to be a corner allotment due to it abutting two road reserves. Therefore, the rear setback built form control does not apply.

Detailed assessment of listed numeric built form non-compliances

The following provides a merit-based assessment of the above non-compliance against the objectives of the respective clause.

Clause B1 Wall height

Description of non-compliance

The non-compliances to Blocks M, N & O are located along the outer-facing edges each building due to the sloping sides of the rock spur which exacerbates the overall building height.

The non-compliance to Block P occurs across the entire facade due to the building being elevated on piers.

(Note: In measuring wall height, the clause stipulates that measurement is taken from ground level (existing) to the underside of the ceiling on the uppermost floor of the building).

Merit consideration

The development is considered against the objectives of the control as follows:

- ***To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.***

The development has been designed to architecturally respond to its bushland setting by employing a low-rise contemporary Australian Vernacular style.

The Landscape Plan indicates that vegetated islands will be located throughout the site to compliment the architectural design. These vegetated islands will provide a visual transition from the inner-protection area of the site, through the outer-protection APZ areas to the neighbouring and more vegetated Reserves beyond when viewed from the neighbouring Reserves and roads.

The View Analysis submitted with the application shows that, while a new built form will be introduced onto the landscape, the visual impact will not be unreasonably excessive such it would dominate the landscape and detract from the bushland setting of adjacent reserves.

Figure 18 below shows the extent of visual impact of the development when viewed from Condoover Reserve.



Figure 18: Visual perspective of Block P (detailed in yellow) as seen from Condoover Reserve.

Source: View Analysis dated 22 November 2016 NSW Public Works Government Architects Office.

It is considered that the development satisfies this objective.

- ***To ensure development is generally beneath the existing tree canopy level***

The vegetation on the site is subject to modification through partial clearing to provide for the Inner Protection Area of the APZ.

The revised Landscape Management Plan states that 15% (5,525m²) canopy cover will be retained within the Inner Protection Area (IPA) which forms the subject site.

The height of the remaining canopy will be varied throughout the area of the site due to soil and topographic conditions (i.e. soil and rock zones) and it would be unreasonable, particularly given the elevated slope of the rock spur upon which Blocks M, N, O & P are mounted, to expect the development to occur beneath the existing (or modified) tree canopy.

It is considered that the development satisfies this objective.

- ***To provide a reasonable sharing of views to and from public and private properties.***

The locating of the buildings in a U-shape atop the rock spur ensures that the development is concentrated to within a relatively small area of the site and adjacent Reserves.

While it is acknowledged that some reduction to views will occur, this concentrated grouping of buildings within a comparatively small area ensures that a significant level of cross-site views will remain available from the public domain of the Manly Warringah War Memorial Park and Condoover Reserve.

Because the main part of the development (i.e. Blocks M, N, O & P) occurs above the street level, upward views of the site from the private properties on the eastern side of the Gibbs Street carpark will be affected although views to the south-west and north-west will remain. It should be noted that, because the development involves the removal of the demountables within the lower part of the site, the direct views of the lower part of the site will be opened up thereby improving outlook.

Therefore, while the development will have some impact upon views, it is considered that the impact is reasonable given the circumstances of the proposal and the context of its topography and extensive surrounds.

It is considered that the development satisfies this objective.

- ***To minimise the impact of development on adjoining or nearby properties.***

The development has been designed to minimise impact on adjoining or nearby properties through the placement of the main classroom component to the south-western corner of the site. This placement creates a physical separation of 68.5m to the residential properties along Arana Street and 91m to the residential properties on the eastern side of the Gibbs Street carpark which reduces the visual effect of the non-compliant wall heights, particularly along the northern facade of Block M and along the eastern facade of Block N.

Block L is a new building which will function as the school hall (used for performances, gymnasium activities and the like) which is located between 10.5m to 24.5m from the rear boundary of the residential properties along Arana Street. Given that the maximum wall height of the building is 8.2m (at the north-western corner of the northern facade) it is considered that the variation of 1.0m is not unreasonable. This is because the visual impact is not a significant departure from what could be expected for a building of this functionality and that the significant setback of 24.5m at the particular point of non-compliance is sufficient to reduce the visual impact.

It is considered that the development satisfies this objective.

- ***To ensure that development responds to site topography and to discourage excavation of the natural landform.***

Blocks M, N & O are mounted around the edge of the rock spur to align with the apex of the feature. Each building then cantilevers outwards to be mounted on support piers.

Although this method exacerbates the wall height non-compliance, it minimises the need to for excavation and preserves the natural landform while providing for a level and central circulation courtyard area between the blocks for students.

Block P is constructed in a similar manner (piers) which also minimises the need to for excavation and preserves the natural landform which providing for a covered outdoor learning area (COLA) beneath the building. The COLA is also accessible to the aforementioned central circulation courtyard area.

It is considered that the development satisfies this objective.

- ***To provide sufficient scope for innovative roof pitch and variation in roof design.***

The development includes skillion roof forms to Blocks M, N, O & P which, because of the layout of each building on the site, provides sufficient variation in roof form to maintain architectural and visual interest.

It is considered that the development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the EA&A Act 1979.

Accordingly, this assessment supports the proposed variation to Clause B1 Wall height, in this particular circumstance.

WDCP 2011 Compliance Assessment Summary

Relevant Clauses	Consistency with Requirements	Consistency Aims/Objectives
Part A Introduction		
A.5 Objectives	Yes	Yes
Part B Built Form Controls (see separate table above)		
Part C Siting Factors		
C2 Traffic, access and safety (see Referral Response – Traffic Engineering in this report)	Yes	Yes
C3 Parking facilities	No	Yes
C4 Stormwater (see Referral Response – Development Engineering in this report)	Yes	Yes
C5 Erosion and sedimentation	Yes	Yes
C7 Excavation and landfill	Yes	Yes
C8 Demolition and construction	Yes	Yes
C9 Waste management	Yes	Yes
Part D Design		
D3 Noise (see Referral Response – Environmental Investigations in this report)	Yes	Yes
D6 Access to sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building bulk	Yes	Yes
D10 Building colours and materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and reflection	Yes	Yes
D14 Site facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and security	Yes	Yes
D21 Provision and location of utility services	Yes	Yes
D22 Conservation of energy and water	Yes	Yes
Part E The Natural Environment		
E1 Private property tree management	No	Yes
E2 Prescribed vegetation	No	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or high conservation habitat (see Referral Response – Natural Environment Unit (Biodiversity) in this report)	Yes	Yes
E5 Native vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space (see Referral Response – Parks, Reserves and Foreshores in this report)	Yes	Yes

Relevant Clauses	Consistency with Requirements	Consistency Aims/Objectives
E8 Waterways and riparian lands (see Referral Response – Natural Environment Unit (Riparian) in this report)	Yes	Yes
E10 Landslip risk	Yes	Yes
Part H Appendices		
Appendix 1 Car parking requirements	No	Yes

Detailed assessment of listed inconsistencies

The following provides a merit-based assessment of the above inconsistencies against the objectives of the respective clause.

Clause C3 Parking facilities and Appendix 1 Car parking requirements

Description of non-compliance

Clause C3 requires the provision of 60 on-site parking spaces for an Educational Establishment. The development provides for 11 spaces resulting in a shortfall of 49 spaces which equates to a variation of 81.6%.

Merit consideration

The development is considered against the objectives of the control as follows:

- ***To provide adequate off street carparking.***

Clause C3 and Appendix 1 of the WDCP 2011 requires a development to provide on-site car parking at the following rates:

Use	Required	Provided	Compliance
Educational Establishment	1 space per staff member in attendance, plus as relevant: <ul style="list-style-type: none"> • adequate pickup/setdown area on site, plus; • adequate provision of bicycle racks, plus; • adequate provision for student parking, plus • provision of bus standing and turning area. 60 staff members = 60 spaces	11 spaces (on-site)	No (-49 spaces)
Total	60 spaces	11 spaces	No (-49 spaces)

Despite the requirements of the WDCP 2011, Clause 32(2) & (3) of the *State Environmental Planning Policy (Infrastructure) 2007* states:

“(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 ‘School Facilities Standards’ have been replaced by the ‘Educational Facilities Standards & Guidelines’ (EFSG) which set out the minimum standards and design criteria for all new DoE projects.

Although the EFSG does not provide any numeric parking requirements, Part SSP610.17 – ‘Services Zone’ within the EFSG provides the following rationale for the minimum provision of on-site car parking:

“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. The parking numbers indicated in the EFSG accommodation summary are maximums and should only be provided when a site specific traffic report indicates that these numbers are required taking into account the location of the facility, public transport links, cycle routes etc.”

Notwithstanding the above rationale, the development provides on-site carparking for 11 vehicles within the undercroft area beneath Block L.

An additional parking area is also indicated on the plans between Block L and the Northern boundary as *“potential future area for vehicle parking – not part of this application”*. This additional parking area is also indicated in Section 5.4 of the ‘Traffic, Parking & Servicing Impact Assessment’ (C) dated 18 June 2015 as prepared by McLaren Traffic Engineering.

The ‘Traffic, Parking & Servicing Impact Assessment’ dated 18 June 2015 includes the following recommendations which address the conclusion arrived at by Council’s Traffic Engineer in that the existing on-street car parking area at the end of Gibbs Street has been allocated for pick up and set down of the children and that a gravel surface carpark is installed suitable for staff (1 per 20 children over 550. i.e. 23 additional spaces) in the aforementioned area nominated on the plans:

“At 350 students

- *No Change Required*

At 550 students

- *Relocate pedestrian crossing, replace with wombat crossing with crossing supervisor;*
- *Extend “5 minute parking 8:00am - 9:30am and 2:30pm – 4:00pm School Days” zone south towards wombat crossing;*
- *Install new “5 minute parking 8:00am - 9:30am and 2:30pm – 4:00pm School Days” on northern kerb of Sunshine Street;*
- *Extend bus bay north and south to accommodate 2 buses; and*

- *Construct driveway to rear future potential parking area, though can be delayed until future carpark is warranted.*

At 550 – 1,000 students

- ***Convert Council spaces to “2 min parking 8:00am - 9:30am and 2:30am – 4:00pm School Days, Front in Only” (1 per 50 children over 550, maximum of 10 spaces);***
- *Install flashing amber lights for school zone, particularly surrounding wombat crossing; and*
- ***Install gravel surface carpark suitable for staff (1 per 20 children over 550).***

School times converted to staggered arrangement with approximately 350-500 students per finishing time.”

The installation of the 23 additional spaces will result in an on-site parking provision of 34 spaces.

A condition was imposed with respect to limiting the number of students to 550 for the subject application with a requirement to lodge a further Development Application to increase the number to 1,000. This was intended to control the provision of on-site carparking by requiring the construction of the additional parking area indicated on the plans between Block L and the Northern boundary when the student number exceeded 550. However, on review of the condition, the applicant (in accordance with s.89(1)(b) of the EP&A Act) requested that the particular condition be removed as:

“the DoE has an obligation under the Education Act to provide facilities for as many students as it is required to do so. As such it cannot accept a limit on the maximum number of students and teachers etc. for any facility. The Traffic Management studies were based on the projected number of students at 1,000.”

Notwithstanding the limitations imposed by the Crown in providing on-site carparking, the recommendations included in the ‘Traffic, Parking & Servicing Impact Assessment’ are included as a condition of consent and it is considered that the development satisfies this objective.

- ***To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.***

The parking facilities are located within and undercroft area and on a hard surface area between Block L and the northern boundary.

In both instances, the carparking facilities will not be visible from the street frontage or other public places.

It is considered that the development satisfies this objective.

- ***To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.***

The parking facilities are located within and undercroft area and on a hard surface area between Block L and the northern boundary.

In both instances, the carparking facilities will not be visible from the street frontage or other public places.

It is considered that the development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the EP&A Act.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Clause E1 Private property tree management

Description of inconsistency

The development is inconsistent with a requirement of the clause which seeks to promote the retention and planting of trees.

Merit consideration

The development is considered against the objectives of the control as follows:

- ***To improve air quality, prevent soil erosion and assist in improving; water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.***

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the remaining 95% of bushland within both reserves will continue to improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

It is considered that the development satisfies this objective.

- ***To protect human life and property through professional management of trees in an urban environment.***

The removal of trees and the management of remaining trees is guided through the recommendations included in the Landscape Management Plan and the Arboricultural Impact Assessment Report.

The recommendations are supplemented by appropriate conditions imposed by Council which are included in the recommendation of this report.

It is considered that the development satisfies this objective.

- ***To provide habitat for local wildlife.***

The development will provide 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands to provide for habitat and habitat connectivity.

Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m². It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

As noted earlier in this report, the SEE submitted with the application notes that the Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park which serves as habitat for local wildlife.

The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to an extent, largely outside the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Therefore, as the SEE states, the development will not result in major fragmentation of the corridor and vegetation link.

It is considered that the development satisfies this objective.

- ***Promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term with regard to the original 1750 community.***

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the remaining 95% of bushland within both reserves continues to protect plant communities to survive in the long-term with regard to the original 1750 community.

Therefore, it is considered that the proposal satisfies this objective.

- ***To preserve and enhance the area's amenity.***

Active Use

The reserves to the south and west of the subject site, and which are included in the compulsory acquisition process, contain unsealed pedestrian and bike tracks which are used by the public for recreational activities.

With regards to the afore-mentioned pedestrian track, it is noted in the Manly Warringah War Memorial Park Plan of Management (Item 20 in the Actions Summary) that that this track formally accesses McComb Hill from the western side of the hill. There may be

evidence on the ground that the track circles around the eastern side of the hill to encroach into western side of the subject site, however this is not a formal arrangement.

With regards to the afore-mentioned bike track (which extends from the Gibbs Street carpark and parallel the southern boundary of the site into the Manly Warringah War Memorial Park), the DoE have advised Council that this will remain.

Visual Quality

The development includes the a reduction of bushland by 0.5% within the Manly Warringah War Memorial Park reserve, Condover Reserve and the adjacent Crown road reserve.

Despite the reduction to bushland, the development will retain 95% of the combined reserves as natural bushland and scenic landscape.

Impact on Adjoining Properties

The development has been designed to minimise impact on adjoining or nearby properties through the placement of the main classroom component to the south-western corner of the site.

This placement creates a physical separation of 68.5m to the residential properties along Arana Street and 91m to the residential properties on the eastern side of the Gibbs Street carpark which reduces the visual effect of the development in conjunction with the inclusion of retained vegetation islands throughout 20% of the site and associated APZ areas.

It is considered that the development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the EP&A Act.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Clause E2 Prescribed Vegetation

Description of inconsistency

The development is inconsistent with a requirement of the clause which seeks to protect and enhance the habitat of plants, animals and vegetation communities with high conservation significance.

Merit consideration

The development is considered against the objectives of the control as follows:

- ***To preserve and enhance the area's amenity, whilst protecting human life and property.***

Active Use

The reserves to the south and west of the subject site, and which are included in the compulsory acquisition process, contain unsealed pedestrian and bike tracks which are used by the public for recreational activities.

With regards to the afore-mentioned pedestrian track, it is noted in the Manly Warringah War Memorial Park Plan of Management (Item 20 in the Actions Summary) that that this

track formally accesses McComb Hill from the western side of the hill. There may be evidence on the ground that the track circles around the eastern side of the hill to encroach into western side of the subject site, however this is not a formal arrangement.

With regards to the afore-mentioned bike track (which extends from the Gibbs Street carpark and parallel the southern boundary of the site into the Manly Warringah War Memorial Park), the DoE have advised Council that this will remain.

Visual Quality

The development includes the a reduction of bushland by 0.5% within the Manly Warringah War Memorial Park reserve, Condover Reserve and the adjacent Crown road reserve.

Despite the reduction to bushland, the development will retain 95% of the combined reserves as natural bushland and scenic landscape.

Impact on Adjoining Properties

The development has been designed to minimise impact on adjoining or nearby properties through the placement of the main classroom component to the south-western corner of the site.

This placement creates a physical separation of 68.5m to the residential properties along Arana Street and 91m to the residential properties on the eastern side of the Gibbs Street carpark which reduces the visual effect of the development in conjunction with the inclusion of retained vegetation islands throughout 20% of the site and associated APZ areas.

Protection of Human Life and Property

The removal of trees and the management of remaining trees is guided through the recommendations included in the Landscape Management Plan and the Arboricultural Impact Assessment Report.

The recommendations are supplemented by appropriate conditions imposed by Council which are included in the recommendation of this report.

It is considered that the development satisfies this objective.

- ***To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.***

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the remaining 95% of bushland within both reserves will continue to improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

It is considered that the development satisfies this objective.

- ***To provide habitat for local wildlife, generate shade for residents and provide psychological & social benefits.***

As noted elsewhere in this report, the revised Landscape Management Plan indicates that 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands (which serve as habitat corridors) and cultural heritage exclusion zones. Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m².

It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

In addition, the Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park which supports habitat.

The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to an extent, largely outside the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Therefore, as the SEE states, the development will not result in major fragmentation of the corridor and vegetation link.

With respect to generating shade for residents, although the site is zoned residential, it has not accommodated any other use than the school. Therefore, this part of the objective is not relevant.

The development will continue to provide public access tracks through the retained 95% of reserve area. In this regard, the reduction/modification of 0.5% of bushland from the reserve area is not considered to adversely impact on the psychological and social benefits already afforded to patrons.

It is considered that the development satisfies this objective.

- ***To protect and promote the recovery of threatened species, populations and endangered ecological communities.***

As discussed earlier in this report, the following threatened fauna species have been identified within the site and within the APZ areas:

- Eastern-Pygmy possum;
- Eastern Bentwing-bat;
- Red-crowned Toadlet;
- Powerful Owl; and
- Grey-headed Flying-fox.

The SIS notes that there are no threatened flora species on the site or within the proposed APZ areas.

The SIS (v 6.0) includes (at Appendix 7(4)) a Biobanking Offset Strategy to address the translocation of identified threatened species.

Of the above listed threatened fauna species, the Eastern Pygmy-possum and the Red-crowned Toadlet are 'species credit' species. Although the breeding habitats for the Eastern Bentwing-Bat and the Grey-headed Flying-fox are species credits, the SIS reports that no breeding habitat was identified with the development site and therefore, no species credits are required for these species.

Of further note, the SIS identifies that the north-western corner of the study area includes moderate seepage and conducive to pooling after rainfall. As a single Red-crowned Toadlet was identified in this area during the January 2016 survey, the Landscape Management Plan includes protection of this area during vegetation clearing, and in perpetuity, to protect the species.

Suitable biodiversity offset lands owned by Hornsby Shire Council (located at 64 Crosslands Road, Galston) have been identified as suitable. The SIS states that Hornsby Shire Council intends to submit a biobanking agreement application to establish the lands as a biobank site. Subsequently, the DoE have entered into a Memorandum of Understanding (MoU) with Hornsby Shire Council to purchase and retire credits from the identified site to offset the development. The SIS notes that the proposed biobank site can fulfil all ecosystem credit and species credit requirements of the proposed development.

The afore-mentioned executed MoU between the DoE and Hornsby Shire Council was submitted to Council on 10 November 2016 for its information. It is understood that the MoU was forwarded directly to the OEH by the applicant for its consideration.

Therefore, it is considered that the proposal satisfies this objective.

- ***To protect and enhance the habitat of plants, animals and vegetation communities with high conservation significance.***

The revised Landscape Management Plan indicates that 20% of the total APZ area (including the area of the subject site) will be retained as vegetation islands to provide for habitat and habitat connectivity.

Given that the total APZ is approximately 47,446m² (i.e. 28,500m² + 18,946m²), the area allocated for the retained vegetation islands will equate to approximately 9,489m². It should be noted that the retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

The Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park. The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to an extent, largely outside the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Therefore, the development will not unreasonably result in major fragmentation of the corridor and vegetation link.

Therefore, it is considered that the proposal satisfies this objective.

- ***To retain and enhance native vegetation communities and the ecological functions of wildlife corridors.***

The SEE submitted with the application notes that the Manly Warringah War Memorial Park forms an important vegetation link (corridor) between the Garigal National Park and the Sydney Harbour National Park.

The subject site is located adjacent to the south-eastern corner of the Manly Warringah War Memorial Park and, to an extent, largely outside the corridor. The corridor continues past the subject site (and APZ area) via connectivity through Condover Reserve. Therefore, as the SEE states, the development will not result in major fragmentation of the corridor and vegetation link.

Figure 17 in this report shows (in green) the connectivity of the vegetation corridor.

It is considered that the development satisfies this objective.

- ***To reconstruct habitat in non-vegetated areas of wildlife corridors that will sustain the ecological functions of a wildlife corridor and that, as far as possible, represents the combination of plant species and vegetation structure of the original 1750 community.***

While the APZs created to support the development will reduce, to a minor extent, the full bushland effect of this setting, it is noted that the reduction equates to relatively small proportion of the collective area of bushland available on the Manly Warringah War Memorial Park Reserve and Condover Reserve.

As noted earlier in this report, the amended development will result in a modification and/or reduction to 0.5% of the collective bushland area of the Manly Warringah War Memorial Park Reserve Condover Reserve.

Therefore, although introducing a new built form to the area and reducing the bushland setting through the imposition of the APZs, it is considered that the remaining 95% of bushland within both reserves continues to protect plant communities to survive in the long-term with regard to the original 1750 community.

Therefore, it is considered that the proposal satisfies this objective.

- ***Promote the retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long-term.***

The development includes retained vegetation islands throughout the subject site and adjacent APZ areas.

The retained vegetation islands will also be supplemented by the retention of 15% (5,525m²) canopy cover within the Inner Protection Area (IPA) and 30% (3,183m²) canopy cover within the Outer Protection Area (OPA) as managed woodland.

These retained areas will provide bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term.

Therefore, it is considered that the proposal satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the EP&A Act.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

The application was referred to the NSW Police who did not stipulate any particular requirements.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is exempt from Council's Section 94A Development Contributions Plan.

OTHER MATTERS

PLANS OF MANAGEMENT

Manly Warringah War Memorial Park Plan of Management

Manly Warringah War Memorial Park is an area of Crown Land reserved for the purposes of public recreation. The Park is managed by the Manly Warringah War Memorial Park Reserve Trust which was appointed by the Minister for Lands in August 1997.

Northern Beaches Council manages the affairs of the Trust, under the provisions of the Crown Lands Act 1989 and is also responsible for the day-to-day management of the Park on behalf of the Trust.

The Manly Warringah War Memorial Park Plan of Management was adopted by Council in July 1998 (although the most recent version was adopted by Council on 25 March 2014) and establishes the scheme of operations for the Park. The Plan has not been adopted by the Minister for Lands.

As illustrated in Figure 3 of this report, the subject site abuts the eastern boundary of the Park and, although subject in part to compulsory acquisition, it is considered important to acknowledge the Plan and to identify any areas where the development may impact upon the Park and, by implication, on the Plan.

Section 1.9 of the Plan provides the following Guiding Principles of Management which are used to inform the objectives and management actions of the Plan:

- *“sustainable management of the Park to protect its natural areas, while providing for a variety of passive and active recreational activities;*
- *protect and enhance threatened flora and fauna within the Park;*
- *protect and enhance the water quality of the dam waterbody and Park waterways;*
- *provide safe and equitable access to the Park and its facilities for all user groups; and*
- *protect and enhance the Park's heritage.”*

Section 5 of the Plan sets out the management strategies for the Park and identifies management zones within which to focus objectives and priorities. Section 5.2 identifies the following management zones immediately adjacent to the subject site:

- Zone 1 - Bushland; and

- Zone 4 - Urban Edge.

Figure 19 below shows the two management zones within the Park (note: the subject site is located at the bottom right of the image beneath the label “Zone 4 Urban Edge”).



Figure 19: Management zones within the Manly Warringah War Memorial Park.

Source: Manly Warringah War Memorial Park Plan of Management - 25 March 2014

Zone 1 – Bushland

The Bushland zone occurs along the majority of the western side of the property boundary up the Urban Edge zone.

The Management Intent of the Bushland zone is to:

*“maintain the **greater majority** of the Park as natural bushland and a scenic landscape, protecting communities and species of high conservation value, while providing for sustainable dispersed recreational and educational uses without significant impact on natural systems.”*

The Primary Management Objectives of the zone are to:

- *“protect communities and species legislated as having high conservation value.*

- *maintain and enhance the natural systems, biodiversity, habitat, and scenic values of a large natural bushland area.*
- *provide sustainable opportunities for dispersed track-based recreational, community and educational uses without significant impact on natural systems.*
- *provide for visitor safety."*

The Secondary Management Objectives of the zone are to:

- *"maintain links to adjacent or nearby natural areas.*
- *assist in managing water quality in Manly Dam.*
- *accommodate occasional "special use" recreational, community and or educational activities, with prior approval.*
- *assist in maintaining the Park's undeveloped bushland skyline, as seen from internal vantage points and use areas."*

The development includes the selective removal and modification of up to 4,199m² bushland within the Park immediately adjacent to the subject site. Given the total parkland area of 3,770,000m², the removal and modification of vegetation within the APZ equates to 0.11% of the Park. This will result in 3,765,801m² (i.e. 99.9%) of the Park being retained as natural bushland and scenic landscape.

Despite the portion of land subject to the APZ requiring the relocation of identified threatened species via a legal biobanking offset mechanism, the retained parkland continues to provide for sustainable dispersed recreational and educational uses without significant impact on natural systems.

Therefore, in accordance with the Management Intent, the development retains and maintains the greater majority of the Park for the intended purpose in line with the Primary and Secondary Management Objectives.

Zone 4 - Urban Edge

The Urban Edge zone occurs in a rectangular area at the north-western corner of the site and then along the southern boundary of adjacent Arana Street residential properties.

The Management Intent of the Urban Edge zone is to:

"manage those sections of the Park boundary adjacent to residential areas and other developments to effectively manage hazards and adverse impacts for Park neighbours, as well as minimising adverse impacts from adjoining land uses on the Park and its values."

The Primary Management Objectives of the zone are to:

- *"minimise the risks to life and property posed by occasional wildfires on the Park.*
- *reduce direct and indirect impacts on the Park and its values from adjacent land uses, as well as to avoid adverse impacts on Park neighbours from on-Park activities.*
- *provide secondary visitor access points."*

The Secondary Management Objectives of the zone are to:

- *"provide sustainable opportunities for dispersed recreational and educational uses, without significant adverse impacts on adjacent natural areas and systems.*

- *assist in managing the quality of stormwater entering the Park."*

As discussed throughout this report, the school (and adjacent residential land uses) require bushfire protection to ensure safety to life and property.

The APZ already established along the southern edge of the Arana Street residential properties (and to some extent, along the western boundary of the subject site) generally corresponds to the Urban Edge zone and is subject to prescribed hazard reduction burning (the last occurring in October 2014 (see Figures 4 and 5 in this report).

It is noted in the referred to Figures that the extent of the hazard reduction burn far exceeds the designated area of the Urban Edge zone and actually encompasses an estimated area of 55,555m². The burn area includes the entire area of the Park immediately to the west of the school boundary and down as far as the boundary to Condover Reserve.

The hazard reduction burns reduce the fuel load of these areas and, by implication, also reduces the density of the bushland setting through selective thinning out of the understorey. Because of the already established urban land uses adjacent to the Park, this is now an unavoidable and ongoing scenario for this particular part of the Park.

Notwithstanding, the burns do enable the continued provision of sustainable opportunities for dispersed recreational and educational uses, without significant adverse impacts on adjacent natural areas and systems and without reducing the values of the Park.

It is noted that the extent of the prescribed hazard reduction burning already includes the same areas proposed for APZ purposes by the development. Therefore, and in conjunction with the comparatively minor area of impact in relation to the remaining Park (i.e. 0.11%), the proposed APZ does not necessarily exacerbate this existing situation but rather (and appropriately given the urban uses to the east of the Park) formalises the hazard reduction burn area as a southern extension of the Urban Edge zone.

Therefore, it is considered that the development (and the associated APZ area within the Park) are consistent with the Guiding Principles of Management, the Management Intent and the Primary & Secondary Management Objectives of the Plan.

Urban Bushland Reserves Plan of Management for Condover Reserve

The RE1 Public Recreation zone to the south (on the opposite side of a Crown road reserve) accommodates Condover Reserve.

The Reserve is owned by the Northern Beaches Council. The management of the Reserve is guided by the Urban Bushland Reserves Plan of Management for Condover Reserve adopted by Council in November 2008.

The Plan identifies that the area of bushland to the south of the subject site (and the subject of the proposed APZ and compulsory acquisition) is of very poor quality generally consisting of highly disturbed vegetation.

Figure 20 below is an extract from Map 5(a) in the Plan and shows the area of bushland identified (in blue and marked 'Z') as being of very poor quality.



Figure 20: Condover Reserve bushland condition. The subject site is located above the blue area.
Source: *Urban Bushland Reserves Plan of Management for Condover Reserve* - November 2008

The Plan classifies this overall bushland condition as a 'Resilience Rating' which states:

"Bushland virtually replaced with weed species and/or only mature specimens of highest stratum remain and no seedlings or saplings present due to infestation of understorey by weed species."

The condition of this part of the Reserve is likely due to its close proximity to urban land uses, the intersection of the dual use track and its low lying position in relation to the rock spur situated on the subject site which contributes towards uncontrolled stormwater runoff into the edge of the Reserve. The impact within this part of the Reserve is therefore considered to be the result of 'edge effects'.

The following encroachments are identified within the subject area of Condover Reserve:

- "9 & 10. Jumps set up for biking. Extensive excavation out of track and neighbouring bushland. Jumps quite dangerous so safety issue also exists.
- 11. Storing equipment for track excavation and cubby house building. Includes wheel barrows, ladders etc."

The afore-mentioned track is noted as being a "wide eroded trail used by bikes to access Manly Dam mountain bike circuit."

The Plan includes the following statement of required intervention for this particular Resilience Rating:

"Ability of system to recover is lost or seriously limited.

Definitely needs a "kick start" or may require reconstruction of approximate original system."

As detailed in the Referral section of this report, Council's Parks, Reserves and Foreshores department (who act as the Reserve Trust Manager for the Manly Warringah War Memorial Park and landowner of Condover Reserve) have reviewed the application against the provisions of the Manly Warringah War Memorial Park Plan of Management and the Urban Bushland Reserves Plan of Management for Condover Reserve, relevant sections of the WDCP 2011 and the compulsory acquisition of the areas of land designated for APZ purposes and conclude:

"In light of the land acquisition and formation of an easement around the school property, all APZ related clearing is now on land controlled by the DoE or on easements where clearing is allowed.

As such, there is no further conflict with Part E7 requirements 6 and 7 of the Warringah DCP. It is also noted that the proposal suitably complies with the remainder of the Part E7 requirements."

COUNCIL POLICIES

Bushland Policy ENV-PL 005

The Bushland Policy became effective as of 10 June 2008 and aims to:

- *"Secure and promote long-term conservation of biodiversity and associated environmental Values on public and private lands in Warringah; and*
- *ensure bushland conservation and management issues are appropriately addressed and integrated with all Council's activities including strategic land-use planning and decision making."*

Section 2.3 of the Policy details assessment and control of development and activities:

- *"Council in assessing proposals and activities affecting bushland will ensure that a comprehensive ecological assessment is undertaken in accordance with current legislation, state policies, local planning controls, best practice guidelines, relevant Council strategies and Land and Environment Court Principles.*
 - *This assessment will recognise the conservation status of vegetation and fauna as identified in the most recent version of Warringah's Natural Area Survey (currently Smith and Smith, 2005).*
 - *This assessment will recognise the significance and importance of national parks, areas of core bushland and areas containing threatened species or communities.*
- *Council will ensure that development proposals or activities are sustainable and any such measures to mitigate or reduce the impact are sustainable.*
- *Council will initiate processes to audit and where necessary enforce the effective implementation of these measures for the life of the development or activity.*
- *Council will apply an equivalent or a higher standard of environmental assessment to planning and carrying out its own works and undertake routine operations potentially affecting bushland according to best practice."*

It is considered that the above criteria have been addressed in the assessment of this application.

Urban Forest Policy PL 800 Urban Forest

The Urban Forest Policy became effective on 16 December 2016 and requires that an Urban Forest Strategy be developed to implement the following principles:

- *"Recognise Warringah's urban forest as an asset with economic, environmental and social benefits;*
- *Protect and manage Warringah's urban forest via urban forest principles (i.e. Planned, Systematic and Integrated Management) to optimise its health and condition; and to minimise threats by increasing species diversity and establishing a wide age distribution of trees.*

- *Set a financially and environmentally sustainable canopy coverage target through the development of the Urban Forest Strategy.*
- *Manage risk to life, property, public infrastructure and the environment through best practice tree planting and maintenance, in accordance with Council's adopted Enterprise Risk Management Framework;*
- *Promote the retention and planting of trees and shrubs, preferably locally endemic species where appropriate, which will enable plant and animal communities to survive;*
- *Recognise and enhance the role that the urban forest has in habitat connectivity, particularly in wildlife corridors;*
- *Ensure that public trees that are removed as a result of private development are replaced and maintained through an establishment period of 10 weeks at the expense of the proponent of the development.*
- *Promote the importance of the urban forest to all stakeholders."*

It is considered that the above principles have been addressed in the assessment of this application.

CONCLUSION

Development consent is sought for demolition works, alterations and additions to existing buildings, construction of a new school building and an increase in student numbers at Lot 1768 Sunshine Street, Manly Vale (known as the Manly Vale Public School).

The application has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the plans and all documentation submitted with the application, all referral responses received from relevant stakeholders and all community submissions received during the public exhibition periods.

This assessment has identified and considered the following issues:

Building height

The development includes non-compliances to the permitted 8.5m Height of Buildings Development Standard as prescribed under Clause 4.3 of the WLEP 2011.

It is noted that the non-compliances are generally a result of the influence of the slope of the site which exacerbates the building height.

The variations sought have been assessed under the provisions of Clause 4.6 of the WLEP 2011 where:

- a) The proposal is considered to be consistent with the objectives of the Development Standard and the R2 Low Density Residential zone in the WLEP 2011.
- b) The provision of schooling was considered to be in the public interest and the proposal is considered to be consistent with the objectives of the Development Standard and the R2 Low Density Residential zone in the WLEP 2011;
- c) That there are sufficient environmental planning grounds to justify contravening the development standard; and
- d) That compliance with the development standard is both unreasonable (due to the constraints of the site and the required functionality of the use) and unnecessary (in that full compliance would not necessarily result in a better outcome) in the circumstances of the case.

The request to vary the development standard under Clause 4.6 is included in Appendix A of this report.

Impact on bushland

The development involves the inclusion of APZs over the entire site and partly within the afore-mentioned Reserves.

The amended design reduced the length of one new building (Block M) and introduced an additional building (Block P) to continue to provide for the future 1,000 student population. The amendment had the effect of significantly reducing the depth and area of the APZ within the Manly Warringah War Memorial Park Reserve by 46.1% from what was originally proposed.

The total area of APZs within the Reserves equates to 0.5% of the combined Reserve area resulting in an in-situ retention of 95% Reserve area. The impact is therefore considered to be minor.

The DoE commenced proceedings to compulsorily acquire those parts of the Reserves areas affected by the APZs. It is expected that gazettal of the acquisition will occur on or around 2 December 2016.

The NSW Rural Fire Service (RFS) issued their Bushfire Safety Authority under s.100B of the Rural Fires Act 1997.

Impact on threatened species

The site (including the APZ areas) accommodates five species identified as threatened under the NSW Threatened Species Conservation Act 1995. The application includes a Biobanking Offset Strategy to provide new credit calculations for the proposed impacts of the amended design using the BioBanking Assessment Methodology (BBAM) 2014.

Council's has identified that the proposal may result in significant impacts to local populations of threatened species (Red-crowned Toadlet and Eastern Pygmy Possum), concurrence from OEH is therefore required prior to development consent.

No Biobanking Statement has been submitted to Council as part of the application and the Species Impact Statement (including the Biobanking Offset Strategy) has therefore been referred to the NSW Office of Environment & Heritage (OEH) for concurrence under s.79B of the EP&A Act. At the time of completing this report, a response had not been received from the OEH and a recommendation is included to address the pending receipt of concurrence.

Traffic and parking

The WDCP 2011 requires the development to provide 60 on-site parking spaces. The development provides on-site carparking for 11 vehicles within the undercroft area beneath Block L.

Notwithstanding, Clause 32(2) of the *State Environmental Planning Policy (Infrastructure) 2007* requires the consent authority to take into consideration all relevant standards in the School Facilities Standards.

The School Facilities Standards have been replaced by the 'Educational Facilities Standards & Guidelines' (EFSG) which set out the minimum standards and design criteria for all new DoE projects. The EFSG does not provide any numeric parking requirements, however Part SSP610.17 – 'Services Zone' within the EFSG prescribes a minimum provision of on-site parking to ensure that the available site area for teaching, learning and play is maximised.

An additional potential parking area is indicated on the plans between Block L and the Northern boundary which will increase the provision of on-site carparking to 34 spaces once the student population reaches 550. The additional area is nominated in the 'Traffic, Parking & Servicing Impact Assessment' submitted with the application and is included as a condition of consent.

Notwithstanding the limitations imposed by the Crown in providing on-site carparking, it is considered that the development provides sufficient on-site carparking in accordance with the aims of the EFSG.

Public exhibition

The application has been publicly exhibited three (3) times since lodgement. The most recent exhibition period commenced on 12 November 2016 and ends on 13 December 2016.

This report has addressed the submissions received in all public exhibition periods up to 5 December 2016. The remaining submissions received between 5 December 2016 and 13 December 2016 will be addressed in a supplementary report which will be referred to the Panel on 15 December 2016.

The lists of submitters is included at Appendix B of this report.

Public interest

When weighed against the provision of new schooling which will accommodate the educational needs of a growing population, the extent of the reduction of vegetation and the relocation of the afore-mentioned threatened species is considered to be of a comparatively minor impact. On balance, the provision of the new school to accommodate the future population growth of the region is considered to be in the broader public interest.

Therefore, it is recommended that the application be approved because:

- a) The proposal complies with all built form controls except for the height of the new buildings which are mounted atop the rock outcrop within the south-western part of the site. While the height control is 8.5m, the development standard has been varied under clause 4.6 of the WLEP 2011;
- b) The proposal will not result in unacceptable amenity impacts to neighbouring residential properties or bushland within adjacent Reserves.
- c) The proposal consolidates the footprint of the school buildings to within the south-western part of the site thereby appropriately providing space within the lower and flatter part of the site for larger sports, recreation and play areas;
- d) The proposed works relate to the upgrade of an existing school site and will result in a significant public benefit as it will provide educational facilities to meet the needs of an increasing number of school children residing in the local area.

Council considers that the development application is satisfactory. Accordingly, it is recommended that the application be approved subject to the completion of the Public Exhibition No. 3, concurrence being received from the OEH and the conditions of consent contained in Appendix C.

RECOMMENDATION - APPROVAL

THAT the Sydney North Planning Panel grant development consent to DA2015/0597 for demolition works, alterations and additions to existing buildings, construction of a new school building and an increase in student numbers at Manly Vale Public School at Lot 1768 Sunshine Street, Manly Vale subject to the conditions included under Appendix C and the following:

- A. Written Concurrence from the NSW Office of Environment and Heritage is provided to Council and to the satisfaction of the Panel within 60 days from the date of the Panel meeting.
- B. If concurrence is not received within 60 days from the date of the Panel meeting and not to the satisfaction of the Panel, the proposal shall be reported back to the Sydney North Planning Panel for further consideration at the next available meeting.
- C. No additional issues of determinative weight being received in relation to the public exhibition of the proposal which ends on 13 December 2016.