

Sydney Central Planning Panel

JRPP No	2017SCL017 DA
DA Number	2017/0061
Local Government Area	Canada Bay Council
Proposed Development	Demolition of existing school buildings and structures on site, removal of trees and construction of a new 2-3 storey public school for Kindergarten to Year 6 for up to 600 students
Street Address	2 Lithgow Street, Russell Lea (Lot 1 in DP 321153)
Applicant	NSW Department of Education & Communities C/- MACE Group
Owner	NSW Department of Education & Communities
No. of Submissions	Forty two (42)
Regional Development Criteria (Schedule 4A of Act)	Capital Investment Value (CIV) > \$5 million and Crown Development (CIV = \$24,364,844)
List of All Relevant s79C(1)(a) Matters	<p><u>Environmental Planning Instruments</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy 55 - Remediation of Land • Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005; deemed SEPP • Canada Bay Local Environmental Plan 2013 <p><u>Non Statutory Planning Policies</u></p> <ul style="list-style-type: none"> • City of Canada Bay Development Control Plan 2017
List all documents submitted with this report for the panel's consideration	Provided within Condition 1 (Appendix A)
Recommendation	Approval subject to conditions
Report by	Mr Samuel Lettice

1. BACKGROUND

A background in respect to the application and critical dates is provided below:

28/02/17	Subject Development Application lodged
02/03/17	External referrals provided to the following agencies: <ul style="list-style-type: none">• NSW Road & Maritime Services (RMS)• NSW Police
02/03/17	Internal referrals provided to the following Departments of Council <ul style="list-style-type: none">• Engineering (Drainage and Civil)• Engineering (Traffic)• Tree Services• Environmental Health• Waste Management• Building Services
09/03/17	Application notified to adjoining and nearby property owners / occupiers
30/03/17	Notification period closed with forty two (42) submissions received
29/05/17	Correspondence sent to Applicant in respect to internal referral feedback received.
08/06/17	Sydney Central Planning Panel briefing held on site
26/06/17	Correspondence sent to Applicant seeking additional detail in respect to bulk and scale, tree removal and referring to comments of RMS and submissions received.
12/07/17	Meeting held at Council Chambers to discuss the application. In attendance was the Applicant, various consultants and also Council staff.
25/07/17	Additional information submitted to Council by Applicant, addressing previous correspondence that had been forwarded.
21/08/17	Separate community consultation held in respect to traffic and parking management and changes proposed to the surrounding street network that would be subject to the endorsement of the Canada Bay Traffic Committee. In this regard residents were notified and given fourteen (14) days to make a submission (closed 01/09/17).

2. SITE AND CONTEXT

The subject site is legally identified as Lot 1 in DP 321153 and is situated within zone R2 Low Density Residential, pursuant to the Canada Bay Local Environmental Plan 2013.

The site is located on the western side of Lithgow Street with additional frontages to Whittall Street (south) and McCulloch Street (west). Twelve (12) residential dwelling houses that have an address and orientation towards Potter Street adjoin the northern boundary of the site.

In terms of dimensions, the site is irregular in shape, with a primary street frontage to Lithgow Street of 106.535m, noting minor splay adjacent to the Whittall Street intersection. The southern boundary (Whittall Street), 165.905m, western boundary (McCulloch Street) 58.04m and northern boundary

which provides a slight deviation measuring 151.845m, yielding a total site area of 1.8ha (by title). As depicted upon the submitted survey levels across the site are varied due to the location of existing buildings, hard paved areas, landscaped beds and mounding. A gradual fall of approximately 8.6m is apparent from the north east corner (16.38AHD) down towards the south west corner (7.77AHD).

The site is currently occupied by the Russell Lea Infants School (established in 1931) with total 2016 enrolment consisting of 163 students and current enrolment of 185. As detailed by the Applicant in response to ongoing population growth in primary school age cohorts across Sydney's Inner West, the NSW Department of Education recently announced the reclassification of Russell Lea Infants School to Russell Lea Public School to cater for children aged from kindergarten to year 6.

A number of weatherboard and brick buildings are concentrated within the eastern component of the site with a central bitumen playground. Vehicular access to the site and parking is provided from Whittall Street with a large grassed open space area occupying the western component. High security fencing surrounds the site with a large number of trees and shrubs scattered throughout.



Figure 1 – Survey (Source RPS Group)

Low density residential development in the form of detached dwelling houses, predominantly of single storey construction surrounds the site. It is noted that the majority of dwellings do not have a direct orientation towards the site (with the exception of 1 and 3 Whittall Street), and generally present rear yards, outbuildings, and side elevations of dwelling houses.

In respect to the greater context, Lyons Road is located approximately 150m to the north of the site and whilst it also provides predominantly residential form, mixed uses are also apparent. Large areas of public open space and the Parramatta River (Rodd Point) foreshore are located in close proximity to the south.

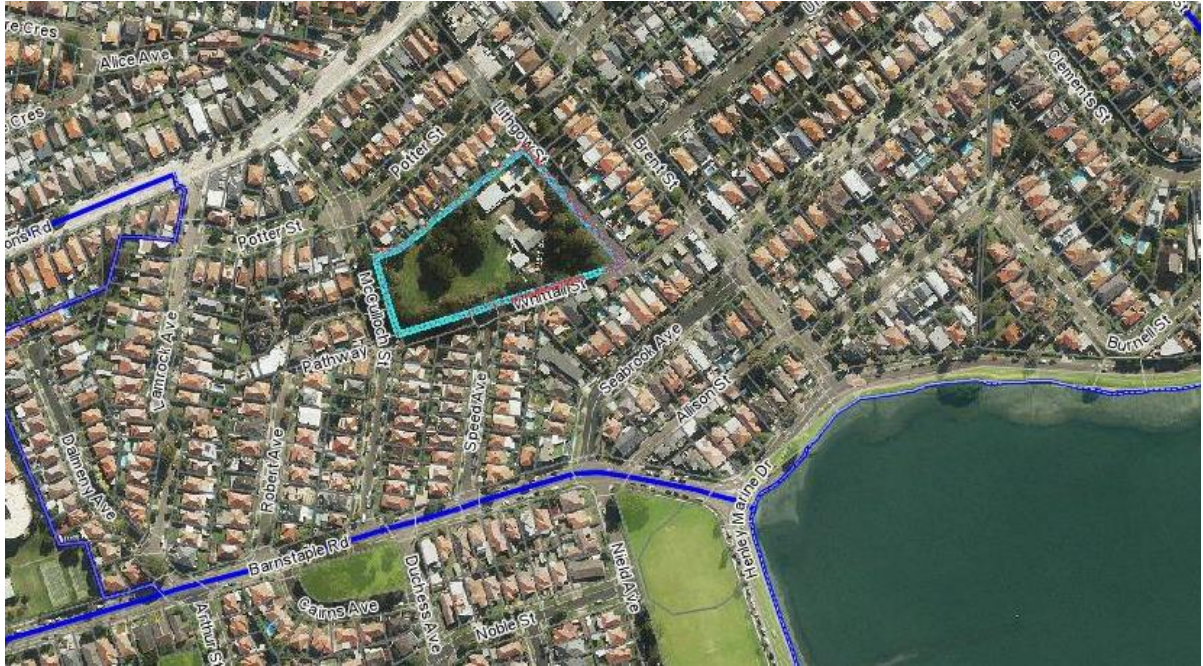


Figure 2 – Site and Context (Source Exponare)

3. PROPOSED DEVELOPMENT

3.1 Project Description in Detail

The proposal seeks consent for the following works:

- Demolition of existing buildings, covered walkways, timber decks, bitumen playground and landscape features as well the removal of select trees and shrubs on the property;
- Construction of a new school building that will replace the existing K-3 infants school and align with Department of Education reclassification for K-6 operation which will allow for an increase in the current capacity from 185 to approximately 600 students;
- Built form consists of a singular building as follows:
 - Ground level comprising pedestrian access points, administration offices, hall, canteen, amenities, OOSH, storage and plant with central amphitheatre and covered playground;
 - Level one comprising learning areas / homebase classrooms, special programs room, library with small balcony adjacent and amenities. Void spaces provided over hall and playground;
 - Level two comprising learning areas / homebase classrooms, library mezzanine, amenities and covered outdoor learning adjacent to southern elevation. Void space over playground;
 - The building is serviced by a centrally located lift and four (4) main sets of stairs.
- Provision of three (3) secure parking spaces within a new car park area accessed via an arc-shaped driveway that will link Whittall Street and Lithgow Street.
- Road widening within Whittall Street is proposed to enable a new 'kiss-and drop' zone that will be located immediately adjacent to the main and subsidiary entries to the school. Additional pedestrian entries will be provided to the northern end of the Lithgow Street boundary as well as the northern end of the McCulloch Street boundary. Other traffic measures consisting of one way traffic flow to Whittall Street and Lithgow Street as well as modification to parking restrictions / signage are also proposed though subject to endorsement of Traffic Committee.

4. STATUTORY CONTEXT

4.1 Delegation

Under Section 23G of the *Environmental Planning and Assessment Act 1979 (the Act)*, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Pursuant to Schedule 4A (5) of the Act as the application relates to a Crown Development that has a Capital Investment Value (CIV) greater than \$5 million (\$24,364,844 declared) the consent authority is the Sydney Central Planning Panel (SCPP).

As detailed within the background of this report an on-site meeting was held with members of the SCPP on 8 June 2017. The purpose of the meeting was to present and brief panel members on the application ahead of the presentation of the matter to any future determination meeting.

4.2 Permissibility

The site is zoned R2 'Low Density Residential' under the Canada Bay Local Environmental Plan 2013 (CBLEP). The proposed development is defined as a 'School' (which falls within the group term 'educational establishment') and is permissible under the land use table, subject to consent.

4.3 Environmental Planning Instruments

To satisfy requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the assessment of the Development Application.

Environmental Planning Instruments

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 - Remediation of Land
- Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- Canada Bay Local Environmental Plan 2013

Non Statutory Planning Policies

- Canada Bay Development Control Plan 2017

4.3.2 State Environmental Planning Policy (Infrastructure) 2007;

Clause 28(1) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) states that development for the purposes of an 'educational establishment' may be carried out with consent on land in a prescribed zone (which in this instance is R2 Low Density Residential).

Clause 32 of the SEPP which relates to determination of development applications provides:

(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 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).

As detailed by the Applicant standards referenced in ISEPP have been superseded by the Educational Facilities Standards and Guidelines (EFSG). These have been incorporated in the detailed building design, which is also consistent with the relevant provisions of the Building Code of Australia. Submission of an Access Review prepared by MGAC also detailed compliance with the Disability Discrimination Act 1992.

Clause 104 of the ISEPP relates to traffic generating development (being either a new premises or expansion of existing). Schedule 3 of the SEPP outlines development to be referred to the Roads and Maritime Services (RMS) for comment and in respect to the subject use being an educational establishment involving 50 or more students with site access to any road, referral is required.

Accordingly following receipt of the application, a referral was sent to RMS. Additional information was requested, relating to the submission of SIDRA modelling files of the intersections of Lyons Road / Lithgow Street and Lyons Road / Brent Street for further assessment. This detail was forwarded by the Applicant on the 13 July 2017 and to date no further correspondence has been received.

4.3.2 State Environmental Planning Policy No. 55 - Remediation of Land;

Clause 7 of State Environmental Planning Policy No 55 (Remediation of Land) requires the consent authority to consider whether the land is contaminated, prior to granting of consent to the carrying out of any development on that land.

Council's Environmental Health Department reviewed the Hazardous Materials Risk Assessment and Contaminated Soil Investigation prepared by Greencap dated May 2016 that was submitted with the application. It was concluded that the site was suitable for the proposed use with adherence to the recommendations in the Assessment including development of a Hazardous Materials Management Plan and an Asbestos Management Plan. Additional consent conditions were also imposed.

4.3.3 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005; deemed SEPP

The SREP aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. The SREP also provides guiding principles to be taken into consideration in preparation of environmental planning instruments and / or master plans.

Clause 20(a) states that consent authorities must take into consideration the matters in Division 2 prior to the granting of consent. Noting the location of the site in respect to the waterway and nature of works proposed the application is not considered to compromise the aims of the SREP.

4.3.4 Canada Bay Local Environmental Plan 2013

The site is zoned R2 'Low Density Residential' under the provisions of the Canada Bay Local Environmental Plan 2013 (CBLEP). The proposed development defined as a 'School' (which falls within group term 'educational establishment') is permissible under the land use table.

The objectives of the R2 'Low Density Residential' zone are:

- *To provide for the housing needs of the community within a low density residential environment*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*

Comment - The proposed development relates to the redevelopment of an existing school which will increase the current student capacity to more effectively serve the day to day needs of the local community and beyond. In this regard it is not considered inconsistent with zone objectives.

Following is a summary table indicating the performance of the proposal against relevant statutory standards of the Canada Bay Local Environmental Plan 2013 (CBLEP):

Requirement	Proposed	Compliance
Clause 4.3 - Building Height		
Site is located in Area 'I' of the Building Height Map which prescribes a height of 8.5m.	14.5m	x *Note 1
Clause 4.4 - Floor Space Ratio (FSR)		
Site is located in 'D Area 1' of the FSR Map which prescribes an FSR of 0.5:1.	0.22:1	✓
Clause 5.9 - Preservation of trees and Vegetation		
A person must not ring bark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies	A number of trees are to be removed and in this regard supporting documentation accompanied submission.	✓
Clause 6.1 - Acid Sulfate Soils		
<p>Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works, except as provided by this clause. The site is identified as Class 5 as follows:</p> <p><i>Works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum by which the watertable is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i></p> <p>Subclause (3)(a) states that development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the <i>Acid Sulfate Soils Manual</i></p>	An Acid Sulfate Soil (ASS) Assessment prepared by Douglas Partners (85456.00) dated 01/11/16 was submitted, concluding that the site was not burdened by ASS and that an ASS Management Plan was not required for the proposed excavation.	✓

Other relevant provisions:

Land Reservation Acquisition	Affectation not shown on LEP map, as such controls not applicable to site
Heritage	Affectation not shown on LEP map, as such controls not applicable to site
Foreshore Building Line	Affectation not shown on LEP map, as such controls not applicable to site
Active Street Frontages	Affectation not shown on LEP map, as such controls not applicable to site
Terrestrial Biodiversity	Affectation not shown on LEP map, as such controls not applicable to site

* **Note 1** - As detailed within the compliance table above the proposed development exceeds the building height standard for the site. In this regard the applicant has submitted a formal objection pursuant to clause 4.6 of the CBLEP which is outlined and considered below:

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 provides for variation to development standards to provide an appropriate degree of flexibility and to achieve better outcomes. In this regard sub clause (3) requires that ...*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.*

Sub clause (4) states that 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 sub clause (3), and*
 - (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 applicant has submitted the following justification -

CLAUSE 4.6 VARIATION – BUILDING HEIGHT

This is a variation request to the application height of building standard contained within the CLEP 2013. It has been prepared with regard to the following considerations:

- Clause 4.6 of the CLEP 2013;
- The objectives of the Clause 4.3, being the development standard to which a variation is sought;
- Relevant case law specifically the considerations for assessing development including *Wehbe v. Pittwater Council* [2007] NSWLEC 827, *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC and *Moskovich v Waverly Council* [2016].

A variation to the strict application of the Height of Building development standard is considered appropriate for the proposed development as:

- The objectives of the CLEP Height of Building controls are achieved notwithstanding the technical noncompliance;
- The proposed development demonstrates design excellence and the additional height will not materially impact adjacent developments;

There are sufficient environmental planning grounds to support the proposed variation;

- The design of the proposal overcomes anticipated impacts which are associated with the additional building height proposed; and
- The public benefit of maintaining the development standard is not eroded by the proposal noting the site specific reasons.

THE DEVELOPMENT STANDARD

Clause 4.3(2) of the CLEP specifies the following:

“(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.”

Building height is development by CLEP 2013 as follows:

building height (or height of building) means:

- (a) in relation to the height of a building in metres - the vertical distance from ground level (existing) to the highest point of the building, or*

- (b) in relation to RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The relevant Height of Buildings map nominates a height limit of 8.5m for the site. When measured in accordance with the LEP definition of building height, the maximum building height of the building will present a departure from the building height standard of 8.5m, with a maximum building height of 14.5m in the south west corner. This proposed variance of 6m or 70% is supportable in the merits of the proposal as follows;

CLAUSE 4.6 ASSESSMENT

This section assesses the proposed variation to consider whether compliance with the height standard can be considered unreasonable or unnecessary in this particular case, and whether there are sufficient environmental planning grounds to justify contravening the development standard.

Compliance with the development standard is unreasonable or unnecessary

It is considered that enforcing compliance would be unreasonable and unnecessary in this case, for the following reasons.

The proposal achieves the objectives of the height control.

The objectives of the control are noted and commented upon below:

The objectives for the height control are:

- (a) to ensure that buildings are compatible with the desired future character in terms of building height and roof forms,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*

The proposal is consistent with desired future character noting size of the site, design and location of the proposed building avoids any significant amenity impacts resulting from the proposed height, including privacy, overshadowing, views or streetscape impact and stepped form to reduce impacts.

Compliance would result in poorer planning outcomes

The concentration of the built form allows for the maximisation of the landscaped area. Noting the school use this is considered a significant positive design and planning outcome. To reduce the height of the structure in the south west corner where the land slopes away, the roof of the covered learning outdoor space (COLA) would need to be removed. The removal of the roof over the COLA would result in a poor planning outcome as it would decrease the functionality of the public asset and structure which allows sun and general weather protection.

Lack of impact

As noted in the above discussion, despite the non-compliance, the amenity of surrounding properties will be maintained to the extent that is considered acceptable. There would be no significant environmental benefit by requiring compliance.

There are sufficient environmental planning grounds to justify contravening the development standard

As noted above, the lack of environmental impact and the environmental benefits that arise from not complying are deemed to justify contravening the standard.

Further, the proposal also has benefits in broader environmental terms. One of the objects of the EP&A Act is the *“orderly and economic use and development of land”*. The height of the building is consistent with the R2 Low Density Residential zoning of the land; *to enable other land uses that provide facilities or services to meet the day to day needs of residents*. Noting the demonstrated present and future need and importance of this school in the locality it is appropriate to maximise the use of such land.

Council must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above the proposal meets the objectives of the standard and as detailed in the SEE also meets the objectives of the R2 zone.

Also in acting in the Director General’s concurrence role, Council must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

In relation to (a), the proposed breach is minor and is not of any State or regional significance. The new school is however considered to be of regional significance.

In relation to (b), there is no public benefit from maintaining the standard as there is no adverse impact on the public domain and the proposal is generally consistent with the relevant planning controls. As noted above enforcement of the control would result in a poorer planning outcome, which is not in the public interest.

In relation to (c), there are no other matters that require consideration.

Conclusion

The proposed building height is not only consistent with the R2 zoning by continuing the school use in a manner which is consistent with the existing and future character of the area, it appropriately ensures that this School site is utilised to maximum degree without having any unreasonable impacts, consistent with the objects of the EP&A Act.

Requiring compliance is unreasonable and unnecessary in this case as it would not result in any significant benefits and in relation to urban design, internal amenity and the overall quality of the public domain would potentially create a worse outcome. The proposal achieves the objectives of the height standard, despite the non-compliance.

Comment -

The applicants written request to vary the building height standard has been reviewed and is considered to be well founded as it satisfactorily demonstrates why compliance is unreasonable or unnecessary in circumstances of the case.

From a bulk and scale perspective the building envelope is reasonable and the additional height does not result in adverse impacts in terms of built form / streetscape or upon amenity. Of particular note and as identified by the Applicant, the concentration of the built form has maximised the amount of landscaped area that surrounds the built form and retains an appropriate setting to the site.

4.3 Draft Environmental Planning Instruments

4.3.1 State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The SEPP commenced on the 1 September 2017 but contains savings provisions under Schedule 5 which mean that for the purposes of this assessment it remains a draft planning policy.

The draft SEPP aims to simplify the planning requirements for education facilities across the state. Contents of the SEPP will make it much easier for public and non-government schools to implement a wide range of improvements and expansions to schools, such as upgrading sports fields, building a new library, and offering before and after school care services. High quality design is also a key focus of the proposed planning improvements to ensure that new educational infrastructure enhances communities, delivers greater energy efficiency and contributes to healthy lifestyles for children.

The draft Education and Child Care State Environmental Planning Policy (SEPP) also proposes other elements of the policy package including;

- A proposed amendment to the Environmental Planning and Assessment Regulation 2000 to prescribe non-government schools as public authorities, to require the RMS to assess the traffic impact of complying schools development prior to the lodgement of an application for a complying development certificate (CDC), and to require complying schools development proposals to be verified by designers before a CDC can be issued; and
- An Environmental Assessment Code of Practice that applies to non-government schools when assessing and carrying out development without consent under clause 31 of the proposed SEPP.

It is noted that the proposed SEPP will also lower the threshold for Schools to be classified as State Significant Development (SSD) from \$30 million to \$20 million. Furthermore to provide flexibility to accommodate the built form requirements of schools the proposed SEPP will enable state significant development to vary the development standards in local environmental plans.

4.4 Non-Statutory Planning Policies

4.4.1 Canada Bay Development Control Plan 2017

The proposed development as submitted was subject to provisions of the Canada Bay Development Control Plan 2013 (CBDCP 2013). However, following submission of the development application and on the 7 March 2017 Council adopted the Canada Bay Development Control Plan 2017 (CBDCP 2017). As the document did not incorporate any savings provisions the assessment contained within this report is based upon the CBDCP 2017.

The relevant Section of the CBDCP 2017 is Part I - Child Care Centres. However this section states that *...‘the City of Canada Bay’s Child Care provisions relate to the erection/operation of Child Care Centres and alterations to existing Child Care Centres. Schools are exempt from full compliance with the child care provisions of this DCP, as schools are purpose built facilities which accommodate existing educational needs and are generally located on sites which are suited for such services’.*

The submitted Statement of Environmental Effects provided an assessment against the provisions of the CBDCP 2013 which do remain consistent with that of CBDCP 2017 and demonstrates compliance.

Relevant conditions are recommended to ensure that the development and operation of the school occurs in an appropriate manner.

5. CONSULTATION AND SUBMISSIONS

5.1 Public Exhibition Details

Under Section 79A of the EP&A Act, the Development Application must be notified or advertised in accordance with the provisions of a development control plan if the development control plan provides for the notification or advertising of the application.

Pursuant to Part 2 of Canada Bay Development Control Plan 'Notification and Advertising', the application was notified to adjoining and nearby property owners and occupiers.

After accepting the Development Application, Council undertook the following actions:

- Application publicly available from **9 March 2017 to 30 March 2017** (min 21 days)
 - On the Canada Bay Council website;
 - At the Canada Bay Council Administration Office;
- Notified local land owners and occupiers of proposal - 151 letters sent;
- Signage was placed on the development site.

The location map below depicts those properties around the site that were notified:

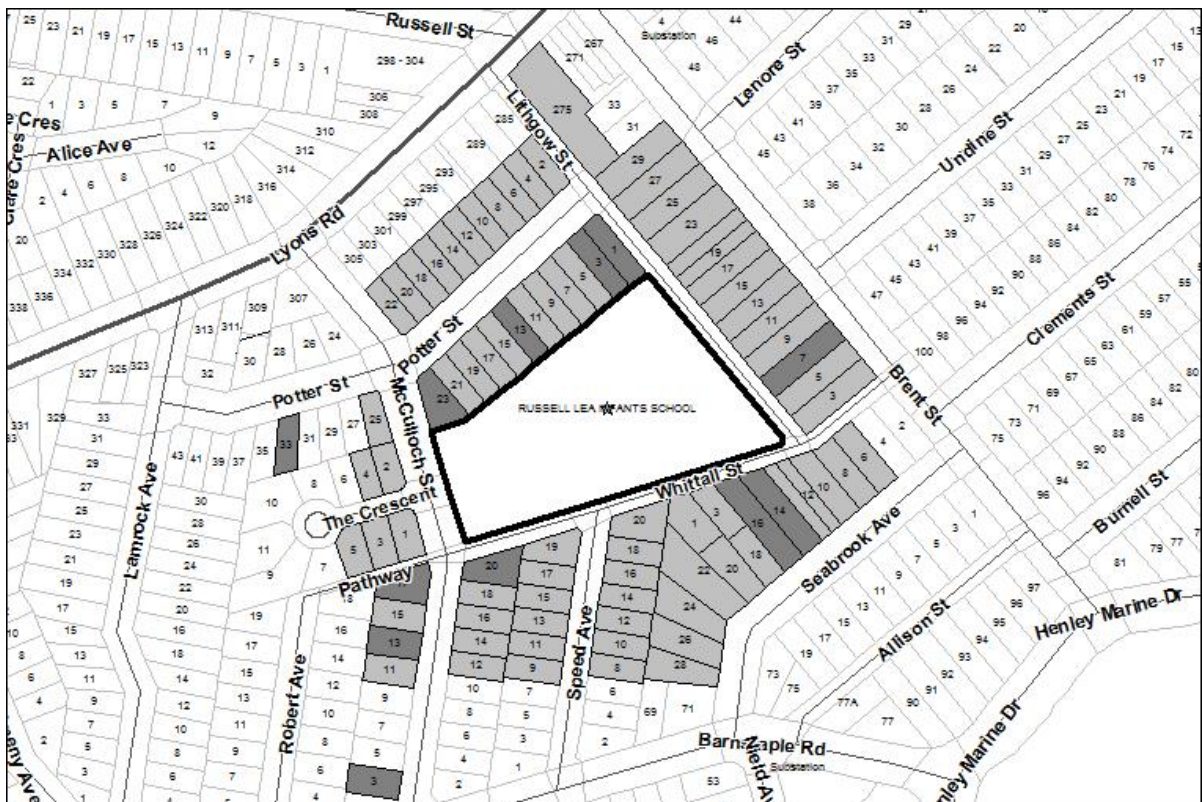


Figure 6 - Sites notified and those (shaded dark) that made submissions

Note - A number of submissions were received from sites outside of the notification field.

Additional consultation was also held in respect to traffic and parking management and changes proposed to the surrounding street network as required by the Canada Bay Traffic Committee. Residents were notified on 24/08/17 and given the opportunity to make a submission.

5.2 Submissions from Public Authorities

5.2.1 Roads and Maritime Services (RMS)

As previously detailed under clause 104 of the ISEPP, referral was required to RMS. Additional information was requested, relating to SIDRA modelling files of the intersections of Lyons Road / Lithgow Street and Lyons Road / Brent Street for further assessment. This detail was forwarded by the Applicant to RMS on the 13 July 2017 and to date no further correspondence has been received.

5.2.2 NSW Police

Given the nature of the application relating to a significant redevelopment of an existing school referral was provided to the NSW Police. Correspondence was received and made a number of recommendations in respect to CPTED principles (these are endorsed via a condition of consent).

5.2.1 Canada Bay Traffic Committee

The proposed parking restrictions and traffic management measures to the surrounding street network will require consideration and approval by the Canada Bay Traffic Committee. In this regard consultation has been undertaken and in principle support provided by current panel members. However due to the Council election on the 9 September 2017 the next available meeting is yet to be determined to obtain final approval for the proposed measures.

5.3 Internal Referrals

5.3.1 Engineering (Stormwater)

Council's Stormwater Engineering Department reviewed the submitted Stormwater Management Concept Plan and following the submission of additional detail in the form of the associated DRAINS file for review no objections were raised subject to conditions (incorporated).

5.3.2 Engineering (Traffic)

Council's Traffic Engineers reviewed the application and raised no objection in principle.

However the importance of proposed parking restrictions and traffic management measures to the surrounding street network that formed a component of the application was identified. In this regard additional detail was requested to facilitate separate public consultation and to enable the matter to be presented to a future meeting of the Canada Bay Traffic Committee for consideration. A specific condition was also recommended and has been incorporated in respect to these changes.

5.3.3 Tree Services

Council's Tree Services Department reviewed the proposal in respect to tree removal and the submitted Arborist Report prepared by Moore Trees, dated March 2014. No objections were raised.

5.3.4 Environmental Health (Acid Sulfate Soil)

Council's Environmental Health Department reviewed the submitted Acid Sulfate Soil (ASS) Assessment prepared by Douglas Partners (85456.00) dated 01/11/16. No objections were raised to the conclusion of the report with a standard condition of consent recommended (incorporated).

5.3.5 Environmental Health (Contamination)

Council's Environmental Health Department reviewed the submitted Hazardous Materials Risk Assessment and Contaminated Soil Investigation prepared by Greencap dated May 2016. It was concluded that the site was suitable for the proposed use with adherence to the recommendations in

the Assessment including development of a Hazardous Materials Management Plan and an Asbestos Management Plan. Additional conditions of consent were recommended (incorporated).

5.3.6 Waste Management

Council's Waste Management Department reviewed the submitted waste management plan that accompanied the application. Additional detail was sought in respect to the number and size of bins to be accommodated on site and following submission of this, no objection raised.

5.3.7 Building Services

Council's Building Services Department reviewed the proposal in respect to the Building Code of Australia. No objections were raised subject to conditions (incorporated).

5.4 Public Submissions

In response to notification, forty two (42) submissions were received. Key issues that were raised within the submission have been outlined and addressed below.

Traffic Generation and Parking

...extend the one-way zone all of Lithgow Street, to reduce the level of traffic along Potter Street.

...extension of 40km/hr school zone speed limit to greater surrounding area.

...no provision has been made for an off street parking solution for teachers and students.

...reduction in the size of the no parking zones will provide parents with parking closer to the site.

...existing parking adjoining along McCulloch Street should be retained.

...Speed Avenue is going to be seriously impacted by proposed school.

...safety in respect to angled vehicular access to sites on the opposing side of Whittall Street

Comment - Detailed analysis of traffic and parking impacts associated with the proposal has been provided by Taylor Thompson Whitting. Council's Traffic Engineers reviewed all detail and raised no objection to the limited off street parking provision which was raised in a number of submissions.

As detailed within section 6 of this report there are a number changes proposed to parking restrictions and traffic management measures in the surrounding street network. This component of the application is to be separately presented to the Canada Bay Traffic Committee, which ultimately has the delegation to consider such matters and then report back to Council for adoption.

In response to initial feedback the scheme to be presented to the Traffic Committee incorporates the installation of ¼ hour parking restrictions during school pick-up/drop-off hours in McCulloch Street along the school frontage as opposed to the initial suggestion of the Applicant for 'No Parking'.

Many submissions suggested that the proposed restrictions should be expanded beyond the area designated. In future this matter can be reviewed and if so warranted, modifications carried out.

The angled nature of driveways to sites on the opposing side of Whittall Street is noted though in this regard the design of the school which incorporates an indented parking bay opposite these driveways maximises available manoeuvring area and minimises the impact of the proposed one-way restrictions in this street.

Bulk and Scale of Built Form

...height of proposed building impacts upon character of the area.

...visual impact due to the height and proximity of the proposed building to Whittall Street.

...building mass impacts upon views across the site.

Comment - Bulk and scale of proposed built form has been considered within section 6 of this report. A clause 4.6 submission did accompany the application in respect to the proposed building height exceedance of the CBLEP. In respect to view impacts the consolidation of built form to a singular element is considered beneficial, limiting the overall footprint and maximising open space.

Pedestrian Safety

...there will be an increase in the number of pedestrians accessing the school from the southern area of the catchment and accordingly a pedestrian crossing of Barnstaple Road should be installed.

...provision for a temporary pedestrian crossing and installation of speed bumps and / or other means of slowing traffic from the McCulloch Street gate during construction.

Comment - In respect to pedestrian safety and measures suggested above, the Canada Bay Traffic Committee is the body that considers such elements. Council's engineering department have not requested the abovementioned crossings though this matter may be reviewed in future.

Landscaping / Tree Removal

...loss of a significant number of mature trees

...removal of two street trees along Whittall Street with no proposal for replacement trees

...arborist report is out of date and does not relate to the proposed development

...concern for removal of trees 11, 18 and 28 from south eastern component of site for carpark

...potential impact upon fig trees within McCulloch Street to facilitate civil works

...lack of flora and fauna report

Comment - The tree risk assessment report prepared by Moore Trees that was submitted with the application was a report generated in March 2014 to provide a clear and concise course of action for the management of the Schools tree population and analysed some fifty four (54) species spread across the site. It did not analyse each species in respect to the subject development application.

Council's Tree Services Department reviewed the proposal in respect to tree removal and noted the content of the report which provided a detailed assessment of each tree that is to be removed.

Trees referred to along Whittall Street are located at present within the subject sites boundary.

In respect to potential impact upon trees within McCulloch Street, the Applicant has confirmed that no footpath is proposed. It is also noted that any civil works within the road reserve are subject to separate approval under Section 138 and it is envisaged that should a footpath be proposed in future its design would be required to respect and protect the existing fig trees noting their maturity and subsequent significance.

The site is not identified by the CBLEP Map which relates to Terrestrial Biodiversity. Relevant internal departments of Council reviewed the application and did not request such detail and in this regard it is also noted that whilst select mature canopy trees are being removed, many are retained.

Plan Detail

...architectural and landscape plans refer to a proposed boundary realignment though this has not been detailed within the submitted statement of environmental effects.

Comment - At present the southern boundary of the site extends to the street gutter. The boundary realignment that has been depicted on the submitted plans is to reflect the physical boundary line of the school and return the adjacent footpath via dedication to the care and control of Council.

Noise

...shape of the building and proposed COLA will amplify noise to the west

Comment - The shape of the building and subsequent location of the COLA do have the ability to project noise in a westerly direction towards properties adjacent to McCulloch Street. However any potential impact would likely be mitigated through significant separation (approximately 90m), existing vegetation and noting also the orientation of the adjoining properties, side on to the school.

Overshadowing

...overshadowing of private property along the rear of Seabrook Avenue

Comment - As detailed within section 6 of this report shadows cast from proposed built form only impact upon properties fronting Seabrook Avenue at 3pm during mid-winter and as such comply with the 3 hours solar access standard that is ordinarily applied.

Lighting

...security lighting will lead to significant increase in light pollution and impact residents

Comment - Lighting is required to comply with relevant Australian Standards. Should lighting / light spill still pose an impact towards adjoining properties, this matter should be raised with Council accordingly. The applicant has also suggested that timers if so required could be implemented to restrict operating hours and any resultant light spill.

Bicycle Parking and Storage

...bicycle parking has not been identified on the architectural or landscape plans

Comment - A condition of consent is recommended requiring provision for bicycle storage provision in accordance with Canada Bay Development Control Plan for Bicycle Parking and Storage Facilities.

View Loss

...view lines across the site will be impeded

Comment - The proposed development relocates existing built form and as such modifies view lines currently available across the site. However the demolition of existing built form and limited footprint of the proposed form is considered to mitigate any adverse impacts.

Heritage

...loss of significant public building

...lack of indigenous heritage assessment

Comment - The site is not listed as a heritage item, nor is it located in a conservation area. The applicant has indicated that the memorial and associated paving is to be retained, existing face brick utilised to proposed amphitheatre and existing school lettering to the southern façade.

An Aboriginal Heritage Information Management System (AHIMS) search was undertaken and indicated no recording of aboriginal sites or places on the site or declared near the location.

Disruption during Construction Works

...concerns relating to construction noise and dust.

...removal of potential asbestos

...impact upon availability of parking during construction.

...traffic management plan needs to be provided.

...traffic report does not mention the need for construction zones.

Comment - A number of conditions are recommended that seek to limit the impact of construction works on the amenity of the surrounding area. These primarily relate to the control of noise, dust, construction hours and requirement for a Construction Traffic Management Plan.

Condition DAPDB02 relates to removal of any asbestos and need to conform to guidelines.

In respect to sporadic behaviour such as the disregard of parking restrictions, Council has the ability to issue fines which discourages the practice. Furthermore, if a construction zone is required, separate application shall be made to Council and assessed on its merit.

6. ASSESSMENT OF ENVIRONMENTAL IMPACTS

Following is an assessment of the proposal against Section 79C(b) 'likely impacts of the development' of the Environmental Planning and Assessment Act 1979.

Overshadowing

Although there are no specific solar access controls for the type of development proposed, the Canada Bay Development Control Plan 2017 follows the planning principles adopted by the Land and Environment Court as a guide to assessing the impacts of overshadowing which may result from a development proposal. In this regard, the CBDP 2017 in relation to overshadowing and solar access provides the following provision which seeks to maintain an appropriate level of amenity:

'Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9am and 3pm on 21 June'.

Shadow diagrams in plan prepared by Conrad Gargett accompanied the application and depict both existing and proposed impacts at 9am, 12noon and 3pm (22 June). Noting the location of Whittall Street, bounding the southern elevation of the site, suitable separation is provided from adjoining built form and in this regard only the 3pm shadow falls beyond the road reserve and over the rear yard of 20 Speed Avenue, front yards of 1 and 3 Whittall Street and outbuildings located to the rear of 14 and 16 Seabrook, Avenue. Accordingly, compliance with the 3 hour standard is retained.

Visual and Acoustic Privacy

In respect to visual privacy, demolition of existing buildings on site and construction of the proposed sole structure adjacent to the southern boundary is considered beneficial. A minimum setback of 15.35m is provided from the northern boundary which increases significantly due to the spayed nature of this boundary. Further, excavation of built form, limitation of upper level openings and additional screen planting proposed adjacent to the northern boundary mitigate any overlooking.

Given that core school hours are to be retained, being 9am and 3pm (Monday - Friday), there is not likely to be any impacts outside of standard business hours. Out of school hours care (OOSH) is currently provided and will continue, providing before school care from 7am and after school care to 6pm with vacation care also provided within these core hours (7am to 6pm).

In respect to noise, the site has been utilised as a school since 1931. The subject application will align with the recent reclassification of the school and facilitate the desired increase in student capacity and such potential for noise generation. In this regard the retention of appropriate levels to the play space adjacent to the northern boundary and provision of additional planting to the north east corner which increases separation and provides screening is considered to mitigate impacts.

To minimise noise impact during demolition and construction works, conditions are imposed, restricting construction hours from 7.00am to 5.00pm (Mondays to Saturday). No construction activity is permitted on Sunday or Public Holidays.

View Corridors / View Sharing

There are considered to be no significant views to and / or from the site and the surrounds that would be adversely affected by the application.

Traffic Generation and Parking

The NSW Department of Education has previously reclassified the Russell Lea Infants School from K-2 to an all-ages primary school (K-6). The proposed application involving demolition of the existing school and construction of a new school building will permit the desired increase in the schools population from 185 to 600 students. Accordingly, a Traffic Report prepared by TTW (161222 UTA) dated 16/02/17 was submitted with the application and analysed existing and proposed impacts.

In respect to traffic and parking the proposal incorporates the following key elements:

- Limited parking consisting of three (3) spaces is to be provided on-site for visitors in a secure parking area, accessed via a curved driveway that links Whittall Street and Lithgow Street;
- Road widening within Whittall Street to enable a 'kiss-and drop' zone to be established that will be located immediately adjacent to the main and subsidiary entries to the school;
- Other traffic measures consisting of one way traffic flow to Whittall Street and Lithgow Street as well as modification to parking restrictions / signage;
- Operational initiatives such as a Walking School Bus.

As detailed by the Applicant the submitted traffic report builds upon previous reports that were prepared in respect to the reclassification of the site. The subject report concluded as follows:

The existing road system and access arrangements operate at good Levels of Service and will continue to operate similarly once the redevelopment of the School is completed. The most significant changes to traffic in the local area result from background growth of traffic.

Car parking demand for the site is to be catered for within local on-street spaces. Existing parking availability is sufficient to allow for an increase in parking demand, with around 60 parking spaces available throughout the day within a short walking distance of the School.

A drop-off and pick-up bay will provide short-term parking for parents and carers taking children to school via private vehicle. The bay will provide space for around eight vehicles to remain fully off the roadway along Whittall Street. Further area along Whittall and McCulloch Streets will provide overflow queuing space in form of a peak hour No Parking zone. This will ensure traffic flow through local streets is maintained, while providing additional space for student drop-off and pick-up.

Waste collection is to be operated similar to the existing scenario along Whittall Street; however, waste vehicles will now be operating within the pick-up bay rather than fully on the roadway. Collection times shall be managed to maintain traffic flow and ensure pedestrian safety. Large vehicle access to within the site will be maintained via a revised gate along Whittall Street, accessed via Speed Avenue.

Community consultation with local residents and members of the school community has informed the design process of this School redevelopment. Comments raised during these discussions have resulted in the development of the traffic proposals presented within this report.

Council's Traffic Engineers reviewed the proposal and raised no objection to the findings of the report or provision of off-street parking. The importance of proposed parking restrictions and traffic

management measures to the surrounding street network that formed a component of the application was identified. In this regard additional detail was requested to facilitate separate public consultation which has occurred and to enable the matter to be presented to a future meeting of the Canada Bay Traffic Committee for consideration.

A specific condition is recommended reflecting abovementioned changes subject to endorsement, and requires most importantly that these are implemented prior to occupation of the site

Streetscape / Urban Design / Bulk and Scale

Development surrounding the subject site reflects the low density residential zoning and consists of detached residential dwelling houses of predominantly single storey construction. As previously detailed due to the street layout surrounding the site many of the dwellings adjacent are oriented away from the proposed built form, with the exception of 1 and 3 Whittall Street oppose the site.

Noting the location and orientation of the proposed building adjacent to the southern boundary of the site it will be readily apparent towards Whittall Street. As viewed from the street, the proposal will present a three (3) storey built form as illustrated by figure 5 of this report. A primary setback of 7.81m is provided with the building having a width of 61.38m and perceived height, as measured to the upper gutter (RL 22.25) above Whittall Street of between 12.1m and 13.6m.

In addressing the issue of perceived bulk and scale from Whittall Street the project Architect has noted architectural and façade treatment of the proposed building, most notably the fact that the building mass was split into two distinct forms facing Whittall Street;

- The western built form is constructed of face brickwork and this houses the school hall, although this masonry structure terminates 1200mm above the level 2 floor plate at approximately RL 19.650 (just over two storeys). The space above this is open to the roof soffit level;
- The eastern built form has a face brick base that matches the western façade treatment; above this a lightweight treatment is shown in a metal weatherboard profile, which is more consistent materially with the one and two storey residential properties surrounding the site. This architectural treatment is further articulated by the disposition of pop-out bay windows with varying colour treatments and a central louvred breezeway, all of which break down the building mass to reduce the perception of built form;

Containment of proposed form to a singular building consolidates the scattered form that currently exists on site and maximises opportunities for landscaped open space, noting suitable setbacks provided from the north, east and west boundaries. As previously outlined the development exceeds the building height control of the CBLEP and accordingly a clause 4.6 submission was lodged and has been considered. The built form is not likely to result in any adverse impacts upon amenity and noting the context of site the height bulk and scale of development is appropriate in this instance.

The varied palate of materials and finishes utilised are also considered acceptable noting particularly external wall treatment which incorporates face brick, varied cladding, mesh and the use of colour.

Intensity of Use

The proposal will intensify the use of the land, though in so far as the use is permissible, and presents an appropriate density, height, bulk and scale, it is considered satisfactory.

In August 2016 the Department of Education announced reclassification of Russell Lea Infants School to a K-6 public school. In this regard the Applicant has reinforced that anticipated enrolments gradually build up to the 600 expected enrolments, and at present the principal is expecting the following enrolments; 2018 (K-5 is 205), 2019 (K-6 is 245), 2020 (K-6 is 285).

Social / Economic

The proposed development is considered of benefit from a social and economic perspective, providing additional infrastructure to provide for educational needs of a growing population.

Further, as outlined by the Applicant Schools are supported by the Department of Education to make facilities available for community use. Community uses accommodated in the existing school include language, dance and sporting groups with further and more effective utilisation foreseen.

Landscaping / Tree Removal

Clause 5.9 of CBLEP relates to the preservation of trees and vegetation. It aims to preserve amenity of the area, including biodiversity values, through preservation of trees and other vegetation.

The proposal seeks to remove a number of trees, inclusive of mature canopy species from the eastern component of the site that would otherwise be impacted by the proposed building footprint or ancillary elements of the redevelopment. In this regard a tree risk assessment report prepared by Moore Trees, dated March 2014 was submitted with the application. The aim of the report was to provide a clear and concise course of action for the management of the Schools tree population and analysed some fifty four (54) species spread across the site.

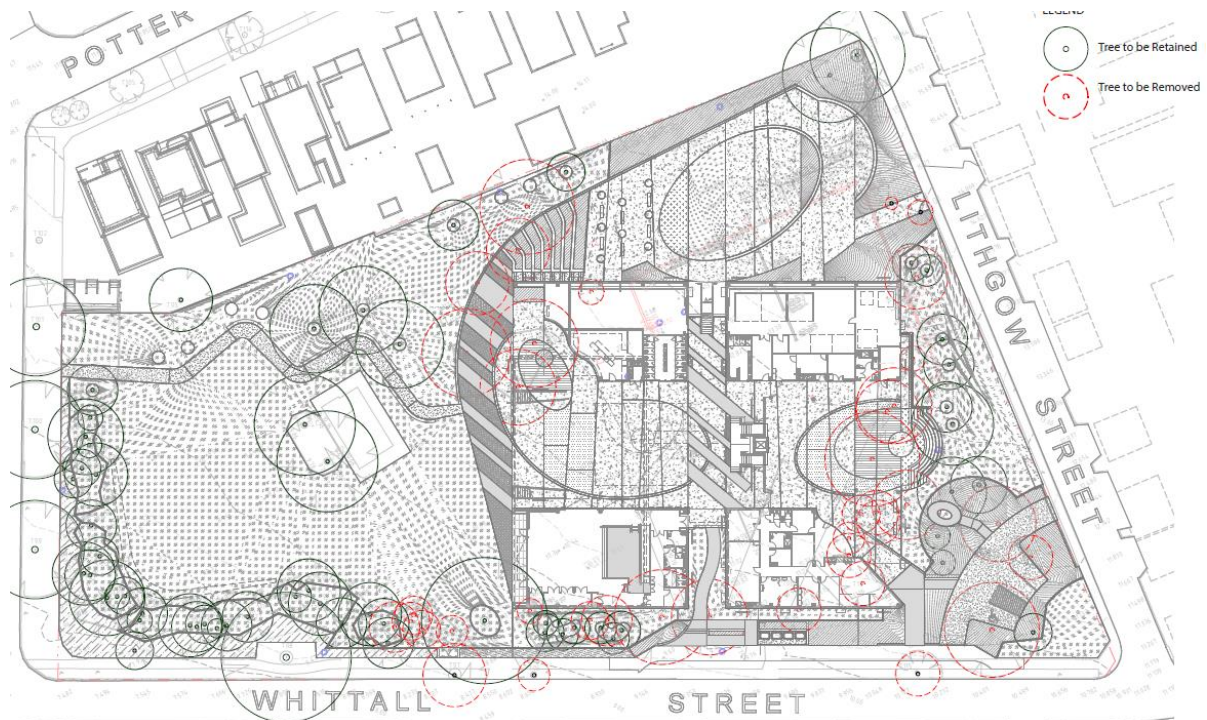


Figure 7 - Trees existing on site and those to be removed

Submitted landscape detail shows existing vegetation that is to be retained, incorporates additional planting in the form of trees and shrubs which offsets proposed removal, complements built form and provides a high level of amenity to both occupants of the facility and surrounding sites.

7. CONCLUSION

The proposed development is appropriately located within zone R2 - Low Density Residential under provisions of Canada Bay Local Environmental Plan 2013 and is consistent with statutory and non-statutory development standards and controls of relevance.

Further, the development is considered to perform adequately in terms of its relationship to surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from a planning perspective.

8. RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT the Sydney Central Planning Panel, as the determining authority grant development consent to Development Application No. DA2017/0061 (2017SCL017 DA) for the demolition of existing school buildings and structures on site, removal of trees and construction of a new 2-3 storey public school for Kindergarten to Year 6 for up to 600 students on land at 2 Lithgow Street, Russell Lea, subject to the attached conditions (at Appendix A).

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APPENDIX A – CONDITIONS OF CONSENT

APPENDIX B – PUBLIC SUBMISSIONS
