



SYDNEY WEST CENTRAL PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SWC020 DA
DA Number	DA/80/2017
LGA	City of Parramatta
Proposed Development	Construction of temporary 1 - 2 storey demountable school buildings for 1,000 students on the existing school oval, including associated access works, tree removal and signage. Demolition of temporary school buildings and return to use as oval after 1 year of operation. This application is Nominated Integrated Development under s58 of the Heritage Act 1977. This application is Crown development under s89 of the Environmental Planning and Assessment Act 1979.
Street Address	24 O'Connell Street & 3 Marist Place PARRAMATTA NSW 2150 (Lot 6 DP 1182647 & Lot 1 DP1112822)
Applicant/Owner	NSW Department of Education (Crown Development)
Date of DA lodgement	2 February 2017
Submissions	None
Recommendation	Refusal (requires concurrence from NSW Minister for Planning)
Regional Development Criteria (Schedule 4A of the EP&A Act)	Pursuant to Clause 5 of Schedule 4A of the Environmental Planning and Assessment Act 1979, the application is Crown development with a capital investment value of more than \$5 million.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Heritage Act 1977• National Parks and Wildlife Act 1974• Environmental Planning and Assessment Regulations 2000• SEPP No. 64 (Advertising & Signage)• SEPP (Infrastructure) 2007• SEPP (State and Regional Development) 2011• SEPP (Sydney Harbour Catchment) 2005• SEPP No. 55 (Remediation of Land)• Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011
Documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none">• Architectural Drawings• Flood Assessment Report• Flood Emergency Management Plan• Letter from Office of Environment and Heritage (Archaeology Division)• Letter from Office of Environment and Heritage (State Heritage Division)• Draft Without Prejudice Conditions
Report prepared by	Alex McDougall Executive Planner, City Significant Development
Report date	3 April 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
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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 summarized, in the Executive Summary of the assessment report?	Yes
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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?	N/A
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
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Conditions

Have draft conditions been provided to the applicant for comment?	No (will be provided prior to meeting)
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1. Executive summary

The proposal provides for construction of a temporary demountable school for 1,000 students on the Old Kings school oval, including associated access works, tree removal and signage. The application also includes decommissioning and removal of the temporary school, and for the sites return to use as an oval, after 1 year of operation. At this time the students would be relocated to the original Old Kings school buildings, which are currently being restored for use as a permanent school.

The temporary school (and subsequently the permanent Old King School) would assist in accommodating students from the existing Parramatta Public School on Macquarie Street while it is being redeveloped to provide more capacity and improved facilities. If the proposed temporary school could not be provided, the redevelopment of the school would be delayed by 1 year, when the students would be moved into the permanent Old Kings school buildings.

The primary site constraints include flooding (up to a high flood hazard), state significant European heritage buildings and archaeology. It is considered that the European heritage and archaeological constraints can be adequately managed. While the applicant has proposed measures to reduce the flood risk, including a Flood Emergency Management and Evacuation Plan, a risk to human life and property remains.

The increase in traffic and parking demand resulting from the proposal would be commensurate to that which will result from operation of the permanent Old Kings School. Council is currently developing a traffic management solution for the site, including kiss-and-drop areas, in conjunction with the RMS. If permanent measures cannot be implemented prior to the operation of the temporary school, interim traffic management solutions would be sufficient to maintain the efficient function of the local road network.

The proposals amenity impacts on adjoining and nearby properties are considered to be acceptable given the site's relative isolation.

The application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant State and local planning controls. On balance it is considered that the proposal is not in the public interest as the benefit to the community of providing improved school facilities one year earlier is not sufficient to justify the flood risk to a large number of people.

2. Site description, location and context

Site, Improvements & Constraints

The site is located on the northern bank of the Parramatta Rive with street frontages to O'Connell Street (west) and Marist Place (east). The site is composed of 2 allotments with a total area of 19,761m². The site exhibits a significant fall of approximately 4.2m from a high of 11m AHD on the northern side of the site at the location of the Old Kings School buildings to a low of 6.8m AHD in the south-east corner of the oval.

The site is state heritage listed and is currently occupied by former school buildings, landscaping and associated recreational oval and fencing. The proposal would occupy the existing oval. The site is also identified by Council mapping to be of archaeological and Aboriginal cultural heritage significance.

The site adjoins Parramatta Stadium to the west and the Riverside Theatre to the east. The site forms part of the Parramatta CBD.

The land directly adjoins Parramatta River to the south of the site and as such is affected by flooding and acid sulphate soils. The site is subject to the 1:20 year, 1:100 year, Probable Maximum Flood and up to High Hazard Flood risk.



Figure 1. Aerial view of site and locality (existing Old Kings School in blue, school oval in red).



Figure 2. Subject site as viewed from Parramatta River pathway looking north.

Nearby / Related Development

SSD 15_7372	Redevelopment of the Old Kings School to accommodate a new public primary school (1,000 students)	Under Construction
SSDs 16_7534 & 16_8175	Western Sydney Stadium Development	Demolition: Underway Stadium Design: EIS Exhibition
SSD 15_7237	Redevelopment of Parramatta Public and Arthur Phillip High Schools (2,000 secondary school students, 1,000 primary school students)	Approved by DoPI

3. The proposal

The proposal includes the following:

- Installation and use of temporary school for 1000 students (Kindergarten – Year 6) and 61 staff comprised of:
 - 41 demountable units to accommodate classrooms;
 - 5 demountable units to accommodate a canteen, library, accessible toilets/showers and administration office;
 - Lighting (attached to demountable units);
 - Covered walkways between demountable units;
 - Standard school signage;
 - A covered outdoor learning area (COLA); and
 - Temporary security fence (permeable, palisade style, above ground footings)
- Removal of 2 trees (T5 and T6); and
- Full decommissioning of the temporary demountable school and remediation of oval

The application seeks to rely on the kiss and drop zones currently being planned for Marist Place and Market Street as part of SSD15_7372.

The application seeks approval for 1 year of operation. It is anticipated that the redevelopment of the Old Kings School site as a public school for 1,000 students would be completed at this time and that the student population in the temporary school would move to the redeveloped site. The applicant seeks to have the school operational by July 2017.

The application is identified as Nominated Integrated Development pursuant to the provisions of s58 of the Heritage Act 1977 (State Significant Heritage).



Figure 3. Photomontage of proposal as viewed from Parramatta River pathway looking north.

Summary of Amended Proposal

In response to concerns raised by Council officers, State government agencies and external consultants, the applicant submitted the following additional and revised information:

- Revised Flood Emergency Management Plan;
- Revised Structural Considerations letter; and
- Revised foundation design to require no excavation (originally 100mm proposed).

4. Referrals

The following referrals were undertaken during the assessment process:

Sydney West Central Planning Panel

Briefing 1 March 2017	<p>The Panel made the following comments:</p> <ul style="list-style-type: none"> • Acceptable in principle subject to flood engineering and evacuation plan; • Would like details of how construction vehicle disturbance will be minimised; • Consider the trigger for evacuation may not be sufficient; • Consider the FEMP to be very important; • Lack of space for buses and kiss and drop; • Concerned that crossing cannot be implemented in time; • Consider the FSR issue may be resolvable with clauses 5.12 in LEP; • Not as concerned with archaeology due to likely fill; • Concerned evacuation to COLA, at flood level, not appropriate.
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Integrated

Authority	Comment
Office of Environment and Heritage (State Listing)	General Terms of Approval provided. The terms of approval are discussed in more detail below.
Office of Environment and Heritage (Archaeology)	<p>Officers raised concerns relating to the impact of excavation and compaction on Aboriginal archaeology that may be present on site. Specified that archaeological test excavation was necessary to confirm if the proposal was likely to harm Aboriginal objects. Test excavation would require an Aboriginal Heritage Impact Permit (AHIP).</p> <p>Such a permit and test excavation work would delay construction works on the school. As such the applicant revised the application to require no excavation and requested that the application no longer be considered integrated development under s90 of the National Parks and Wildlife Act 1974.</p> <p>This does not eliminate the requirement that the applicant comply with the relevant provisions of the Act. OEH provided conditions outlining the applicant's requirements under the Act.</p>

External

Authority	Comment
Roads and Maritime Services	No objection subject to the implementation of the traffic and transport upgrades currently being discussed between the Department of Education, Council officers and the applicant.
Endeavour Energy / Ausgrid	No response received.
NSW Police	No response received.
Sydney Water	No objections subject to conditions.
Independent Flood Engineer	Application does not meet Council requirements for flooding, flood response plan greatly improved throughout process, third party structural engineer should check water velocity calculations and structural stability of buildings. Recommended conditions to decrease risk.

Internal

Authority	Comment
Landscape / Tree Management	Acceptable subject to conditions.

Development & Catchment Engineer	Application not supported. Raised objection with proximity of buildings to high hazard flood waters, ability of buildings to withstand flooding given limited footings, impact on flow of flood waters, lack of risk analysis, and inadequacy of evacuation procedure.
Heritage Advisor	Deferred to Office of Environment and Heritage assessment (see above).
Environmental Health	Acceptable subject to conditions.
Waste	Acceptable subject to conditions.
Traffic	Acceptable subject to relevant conditions imposed on SSD application for redevelopment of Old Kings School.
Open Space and Natural Areas	Acceptable subject to conditions.

5. Environmental Planning and Assessment Act

The sections of this Act which require consideration are addressed below:

5.1 Section 5A: Significant effect on threatened species, populations or ecological communities, or their habitats

Council's Landscape and Tree Officer has considered the Arborist Report provided with application, and raises no objection to the extent of tree removal. The proposal is not considered likely to negatively impact on any other species of habitats.

5.2 Section 23G: Joint Regional Planning Panels

The Sydney West Central Planning Panel is the consent authority for this application as the proposal has a Capital Investment Value of more than \$5 million and is Crown development.

5.3 Section 79C: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

Provision	Comment
Section 79(1)(a)(i) - Environmental planning instruments	Refer to section 6
Section 79C(1)(a)(ii) - Draft environmental planning instruments	Refer to section 7
Section 79C(1)(a)(iii) – Development control plans	Refer to section 8
Section 79C(1)(a)(iia) - Planning Agreement	Refer to section 9
Section 79C(1)(a)(iv) - The Regulations	Refer to section 10
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 79C(1)(b) - Likely impacts	Refer to section 11
Section 79C(1)(c) - Site suitability	Refer to section 12
Section 79C(1)(d) – Submissions	Refer to section 13
Section 79C(1)(e) - The public interest	Refer to section 14

Table 2: Section 79C(1)(a) considerations

5.4 Section 89: Determination of Crown development

Sub-section (1) sets out that a consent authority must not refuse or impose conditions on Crown development except with approval of the applicant or Minister.

Sub-section (2) sets out that an applicant may choose to have the determination referred to the Minister if it is not assessed within 70 days. The application was submitted on 2 February 2017 and as such is eligible for such a referral on 13 April 2017.

6. Environmental planning instruments

6.1 Overview

The instruments applicable to this application comprise:

- SEPP No. 64 (Advertising & Signage)
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Sydney Harbour Catchment) 2005
- SEPP No. 55 (Remediation)
- Parramatta Local Environmental Plan 2011

Compliance with these instruments is addressed below.

6.2 State Environmental Planning Policy No. 64 (Advertising & Signage)

The application proposes the erection and display of the following signage:

- 2 x free standing business identification signs (dimensions: ~4m height x 1.5m width) located adjacent to the Marist Place and O'Connell Street entrances.

SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

Clause 8 of SEPP64 states the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this ...and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

Aims and Objectives

The proposed signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations, is of high quality design and finish, and is therefore consistent with the aims and objectives of Clause 3 of SEPP64.

Assessment Criteria

The following table outlines the manner in which the proposed signage satisfies the assessment criteria of SEPP64.

Consideration	Comment
1 Character of the area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes. The site is located in a city centre. The city centre is characterised by large ground level business identification signage. As such the proposal is considered to be in keeping with the existing and desired future character of the area.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is not considered to be an established character or theme in the area.

2 Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The existing school buildings on the site are state significant heritage items. Notwithstanding, the signs are modest in size relative to the existing and proposed buildings and are temporary. As such they are not considered to detract from the amenity or visual quality of the heritage item.
3 Views and vistas	
Does the proposal obscure or compromise important views?	Important views, from Old Government House and parklands, cross the site. However, the signs are low enough that they would not reduce the existing view and are not likely to be readily visible from the view point.
Does the proposal dominate the skyline and reduce the quality of vistas?	The signs are below the height of the proposed buildings and as such will not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	There are no other signs in the vicinity of the site which would be compromised by the proposed signs.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signs are considered to be in keeping with the scale and proportions of the proposed buildings.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signs add to the variety of signage in the area.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal results in additional signage at the site. However, this additional signage would be temporary.
Does the proposal screen unsightliness?	There is no relevant unsightliness that requires screening.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signs are below the parapet level of proposed buildings and as such do not protrude above important features of the locality.
Does the proposal require ongoing vegetation management?	No vegetation is proposed as part of the application and there is no existing vegetation within the immediate vicinity of the signage that would require regular pruning.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is in keeping with the size of the proposed building and is of a type employed at schools through the area. As such the proposed signs are considered to be compatible with the proposed buildings and site.
Does the proposal respect important features of the site or building, or both?	The proposed signs are a traditional type of free-standing sign used at schools across the area. As such the proposed signs are considered to respect the site.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signs are considered an appropriate response to the building.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage only includes the logo of the school it identifies and as such is considered acceptable.
7 Illumination	
N/A. No illumination is proposed.	

8 Safety	
Would the proposal reduce the safety for any public road?	The signs include no digital screens or flashing lights and as such are not considered to affect the safety of road users.
Would the proposal reduce the safety for pedestrians or bicyclists?	The signs are not located in footpaths or cycle ways. As such the signs will not affect the amenity of pedestrians or cyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signs are far enough from roads and paths that they should not compromise the safety of pedestrians.

For the reasons listed above the proposed signage is considered to be acceptable.

6.3 State Environmental Planning Policy (Infrastructure) 2007

The proposed education establishment constitutes 'traffic generating development' as it includes more than 50 students. As such the proposal was referred to Roads and Maritime Services (RMS) per the requirements of the SEPP. RMS raised no objection to the proposal subject to conditions. The conditions require that the applicant reach agreement with Council, and have implemented kiss-and-drop areas on Marist Place and Market Street (just to the east of the site) and safe road crossings for pedestrians (be it lights or pedestrian crossing).

6.4 State Environmental Planning Policy (Sydney Harbour Catchment) 2005

This Policy, which applies to the whole of the Parramatta local government area, aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases.

6.5 State Environmental Planning Policy No. 55 – Remediation of land

The applicant submitted a contamination report reviewing the proposal in light of the results of a detailed site investigation undertaken as part of the State Significant Development Application for the permanent school on the site. The report outlined that the oval had a long history of school use and no prior activities which were likely to be contaminating.

The site investigation included 29 test pits across the temporary school site. The test pits found that some filling had been done to level the site and that the fill material in some locations included asbestos and lead at a depth of 300mm. Otherwise, the test found no evidence of odours, staining or presence of significant or gross contamination.

The proposal has been designed to require no excavation and for all services to be provided above ground level. As such there will be a physical barrier between the proposal and the small traces of contaminants. The report concludes that the risk of a contamination pathway is low and that the proposed use is acceptable subject to implementation of an environmental management plan during use of the school to ensure that surface coverings are maintained across the temporary school site.

The proposal was reviewed by Council's Environmental Health team who determined that satisfactory evidence has been provided that the site is suitable for the proposed development.

As such the proposed use is considered to satisfy the requirements of SEPP 55 subject to a condition requiring adherence to an environmental management plan.

6.6 Parramatta Local Environmental Plan 2011

The relevant objectives and requirements of the Parramatta Local Environmental Plan 2011 have been considered in the assessment of the development application and are contained within the following table.



Figure 4. Zoning map of site and locality (existing Old Kings School in blue, school oval in red).

Development standard	Proposal	Compliance
2.3 Zoning B4 – Mixed Use	The proposed use is defined as ‘ <i>educational establishment</i> ’ which is permissible with development consent in the zone.	Yes
Zone Objectives	<p>The proposal is considered to be in keeping with the objectives of the B4 Mixed Use zone for the following reasons:</p> <ul style="list-style-type: none"> • The use is compatible with surrounding development (i.e. recreation and education) • The proposal is in an accessible location. • The use will contribute to the activation of the neighbourhood. • The proposal maintains the existing public domain and pedestrian links. • The proposed buildings are temporary and as such will not have a long term impact on the special visual character of the area. 	Yes
4.3 Height of Buildings No control specified	Max 8.2m	Yes

4.5 Floor Space Ratio Control: 0.4:1 (9,852m ²).	Total GFA* : 12,814m ² (0.52:1) * existing school, approved school buildings under SSD and proposed temporary school buildings	No (30% variation) Acceptable, as per Clause 5.12
4.6 Exceptions to Development Standards	The applicant has submitted a request to vary the FSR development standard under this clause. However, sub-section 8(ca) restricts the application of the clause to a maximum 5% variation in the Parramatta City Centre. As the site is located in the City Centre and breaches the development standard by 30% this clause cannot be used to support the FSR breach. However, the breach is considered to be acceptable as per Clause 5.12, as outlined below.	No Acceptable, as per Clause 5.12
5.9 Preservation of trees or vegetation	<p>The proposal includes the removal of 2 trees within the footprint of the proposed building and protection of the other 21 trees in the vicinity of the proposal.</p> <p>The application includes an Arborist report which outlines that the 2 trees to be removed are of limited arboricultural value.</p> <p>As the proposal requires no excavation and is located mostly away from existing trees, the proposal is not considered likely to negatively impact on the health of trees to be maintained. Furthermore, the Arborist report outlines tree protection measures for construction and demolition of the school.</p> <p>The application has been review by Council's Tree & Landscaping team who find the proposed tree removal and protection measures acceptable subject to conditions.</p> <p>As such the proposal is considered to provide acceptable preservation of trees and vegetation.</p>	Yes
5.10 Heritage conservation	See below.	Yes
5.12 Infrastructure development and use of existing buildings of the Crown	<p>This clause outlines that PLEP 2011 does not restrict the carrying out of development on behalf of a public authority that is permitted under SEPP Infrastructure 2007.</p> <p>The NSW Department of Education is a public authority as it operates under the Education Act 1990.</p> <p>Educational establishments are permissible under SEPP Infrastructure 2007.</p> <p>As such the operation of PLEP 2011 clause 4.5 Floor Space Ratio cannot restrict development.</p> <p>Council's legal officer provided advice that Clause 5.12 provided legal justification for the FSR breach.</p> <p>As such the breach of the FSR development standards is considered to be acceptable.</p>	Yes

6.1 Acid Sulfate Soils Class 5	The application involves no excavation, the site is above 5m AHD and is not likely to lower the water table. As such the proposal is not considered likely to be affected by acid sulphate soils.	Yes
6.2 Earthworks	<p>The application includes an erosion and sediment control plan. Notwithstanding, a condition is also included requiring compliance with the relevant standards.</p> <p>The applicant has outlined that the oval would be returned to its present condition after removal of the temporary buildings. A condition is included requiring that the oval be reinstated to the satisfaction of the relevant bodies.</p>	Yes
6.3 Flood Planning	See below.	NO
7.10 Design Excellence	<p>This clause requires that erection of a new building in the city centre exhibit design excellence. While it is not considered that the proposal would constitute design excellence as a permanent building, it is considered to satisfy the requirements of this clause for the following reasons:</p> <ul style="list-style-type: none"> • The building is temporary and will be removed after 1 year of use. A condition is included to this effect. • The demountable buildings are considered to be of a high standard for such temporary buildings employing contemporary materials palette that features robust, low maintenance materials. • Clause 5.12, as outlined above, does not allow this plan to prohibit or restrict development 	Yes

Clause 5.10 Heritage Conservation

The site is listed on the State Heritage Register (SHR) as Item No. 771 '*Kings School Group (former)*' and No. 826 '*Marsden Rehabilitation Centre & Archaeological Sites*'. The Kings School operated on the site from 1836 to 1964 and the Marsden Rehabilitation Centre operated from 1972 to the early 2000s. The Marsden Rehabilitation Centre occupied, adapted and added to the original Kings School buildings.

The group of buildings in the listing includes, but is not limited to, the headmaster's residence, main school building, additions to main school building, dining hall, reference library, armoury block, dormitory blocks, kitchen and servant's quarters and classroom block. The listing also includes landscape elements and the archaeological potential of the site.

The following heritage related information was submitted with the application:

- Statement of Heritage Impact
- Statement of Heritage Impact for Historical Archaeology (submitted with the SSD application for the permanent school)
- Aboriginal Cultural Heritage Assessment

European Heritage

The history of the site is dominated by the development of the Old Kings School, one of the major educational institutions in NSW throughout much of the 19th and 20th centuries.

The Statement of Heritage Impact and the Visual Impact Assessment conclude that the proposal would have a visual impact in the short term but that the significance of the site would be preserved in the medium to long term after removal of the temporary school. The statement includes several recommendations to minimise potential heritage impacts, including but not limited to, protection of significant trees, monitoring of construction by a Heritage Architect, and complete reinstatement of the oval. Conditions are included to this effect.

The application was referred to the NSW Office of Environment and Heritage (OEH) as integrated development under s58 of the Heritage Act 1977. OEH provided General Terms of Approval including conditions including, but not limited to, the removal of the buildings after 18 months, ground protection measures to minimise the likelihood of impacting of construction vehicles and buildings impacts on sub-surface archaeology, and rehabilitation of the oval.

The site is also within the visual catchment of the following adjoining and nearby heritage items:

Item #	Item Name	Address	Significance
I00596	Parramatta Park and Old Government House	O'Connell Street	World
I00238	St Patrick's Cathedral, presbytery and precinct (and potential archaeological site)	1 Marist Place	State
I00826	Marsden Rehabilitation Centre (and potential archaeological site)	24 and 24A O'Connell Street and 3 Marist Place	State
I550	Convent of Our Lady of Mercy and associated buildings	2, 4 and 6 Victoria Road	Local
I686	Alfred Square (and potential archaeological site)	353D Church Street	Local
I732	Parramatta Dam archaeological site weir	Marsden Street	Local
I00059	Brislington property, Moreton Bay fig tree (and potential archaeological site)	164 Marsden Street	State
A12	Parramatta Hospital archaeological site	22A O'Connell Street	Local
I00750	Lennox Bridge	Adjacent to 339, 340 and 351 Church Street	State

The proposal is not considered to have an unreasonable impact on the curtilage of, or views to/from, the above heritage items as the buildings will be temporary.

Aboriginal & Archaeological Heritage

The site is identified on Council maps as of high Aboriginal sensitivity. Further, the SHR Statement of Significance states that,

The foreshore lands of the [site] are of significance at national, state and local levels, as:

- *part of the territory of the Burramuttagal people;*
- *part of the former Government Farms at Parramatta;*
- *associated with the development of the horticultural industry and botanical exploration;*
- *associated with important people and events in the development and settlement of Parramatta such as George Caley, Robert Brown and Francois Peron;*
- *associated with the development of the setting for the King's School;*
- *associated with the open space created by the natural flood zone along the Parramatta River (Zenscapes, 2005, p.26)*

As such it is considered that there is a high likelihood of significant Aboriginal and European archaeology on the site.

The proposed buildings have been designed to be supported on foundations that require no excavation to minimise impacts on any items of archaeological significance.

No archeologically investigations have been undertaken in the location of the proposed temporary school. However, the Detailed Contamination Site Investigation undertaken as part of the SSD application included 29 test pits across the oval. The test pits generally reported fill to a depth of 500mm.

The Aboriginal Cultural Heritage Assessment assessed the likelihood of objects of Aboriginal significance on the site. The assessment concluded that the project area is underlain by 'significant soil profile for intact Aboriginal archaeological cultural remains'. However, it concluded that as these deposits would be below 400mm – 700mm of fill, and that the proposal requires no excavation, that the proposal would not impact upon Aboriginal cultural material.

The application documentation does not provide any specific commentary on the depth of potential European archaeology. However, as outlined above, testing on site confirms there is generally 500mm of fill across the oval.

As such the proposal is not considered likely to result in a direct impact on items of archaeological significance. A condition is included specifying that no excavation or compaction (which can also affect sensitive items) is to take place.

Clause 6.3 Flood Planning

The requirements of PLEP 2011 Clause 6.3 'Flooding', is provided below:

The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

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

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The site is subject to a 1:20 year, 1:100 year, Probable Maximum Flood and Low to High Flood Hazard. 'Flood Hazard' is defined as the potential to cause damage to the community. The extent of each affectation is outlined in Figures 5 – 8 below.

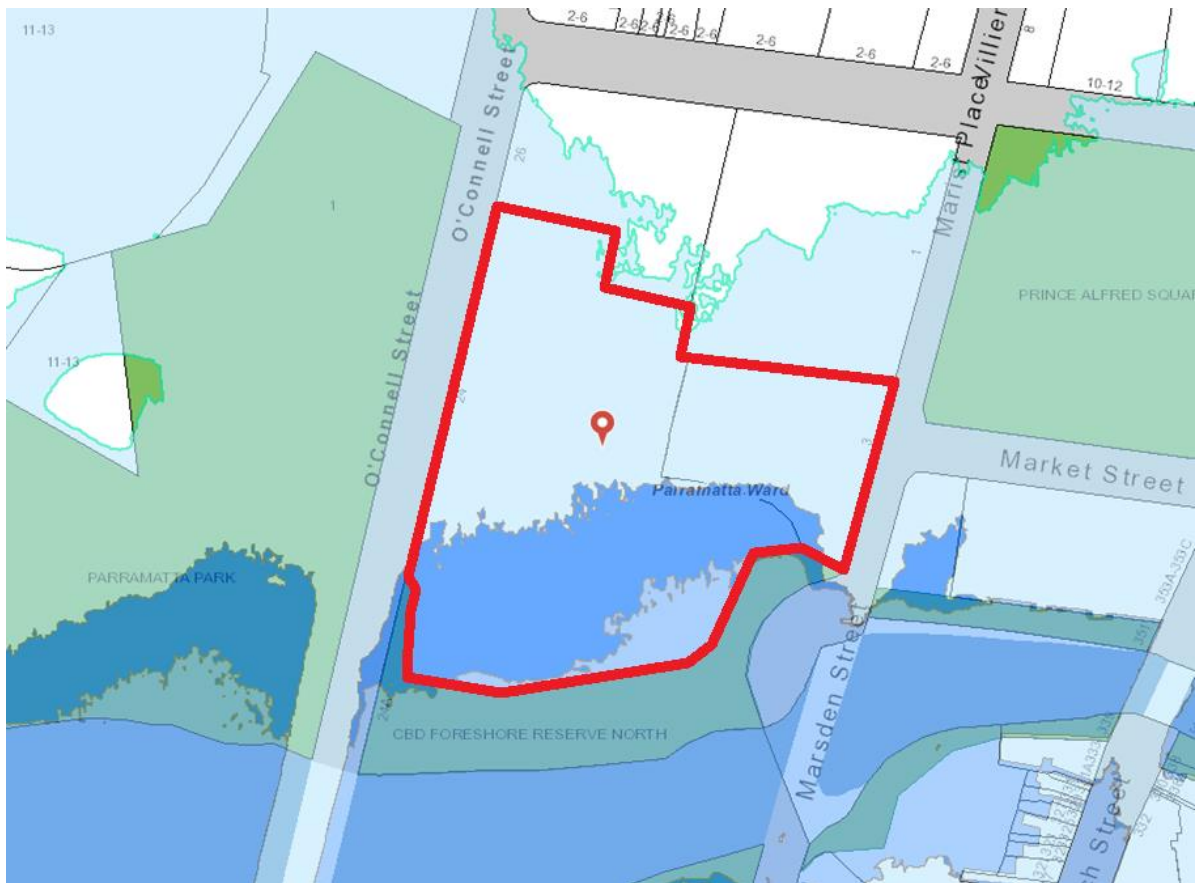


Figure 5. Flood Affection Map 1 (light blue represents 1:100 year flood levels, dark blue represents 1:20 flood levels, not shown is probable maximum flood which covers the entire site)

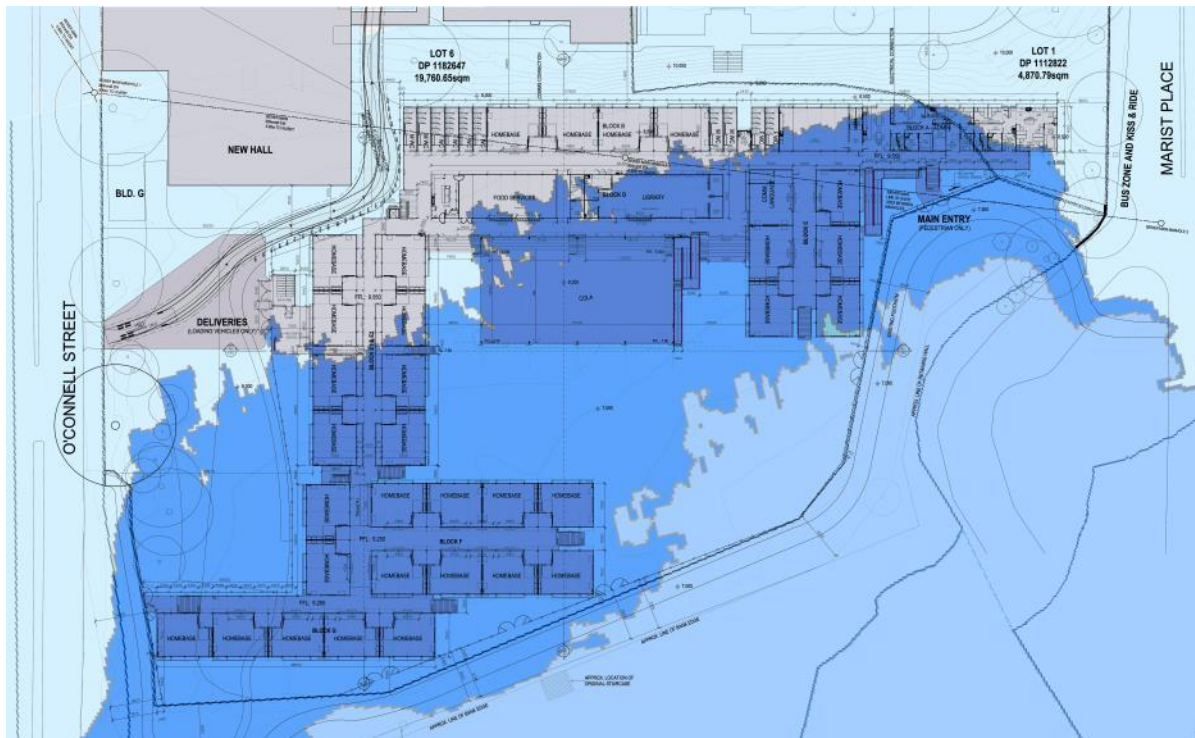


Figure 6. Flood Affection Map 1 overlaid on proposed floor plan.

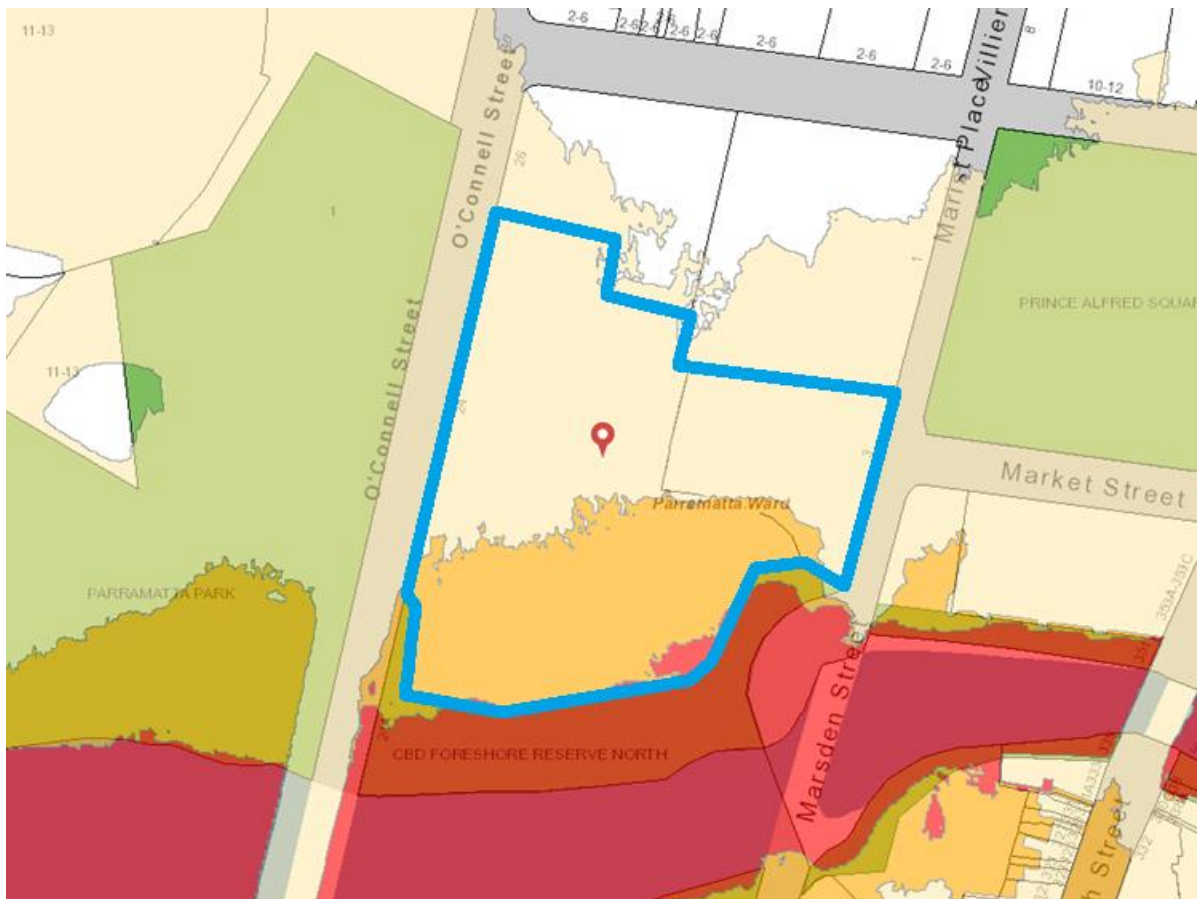


Figure 7. Flood Affection Map 2 (red represents high hazard, orange represents medium hazard, and yellow represents low hazard)

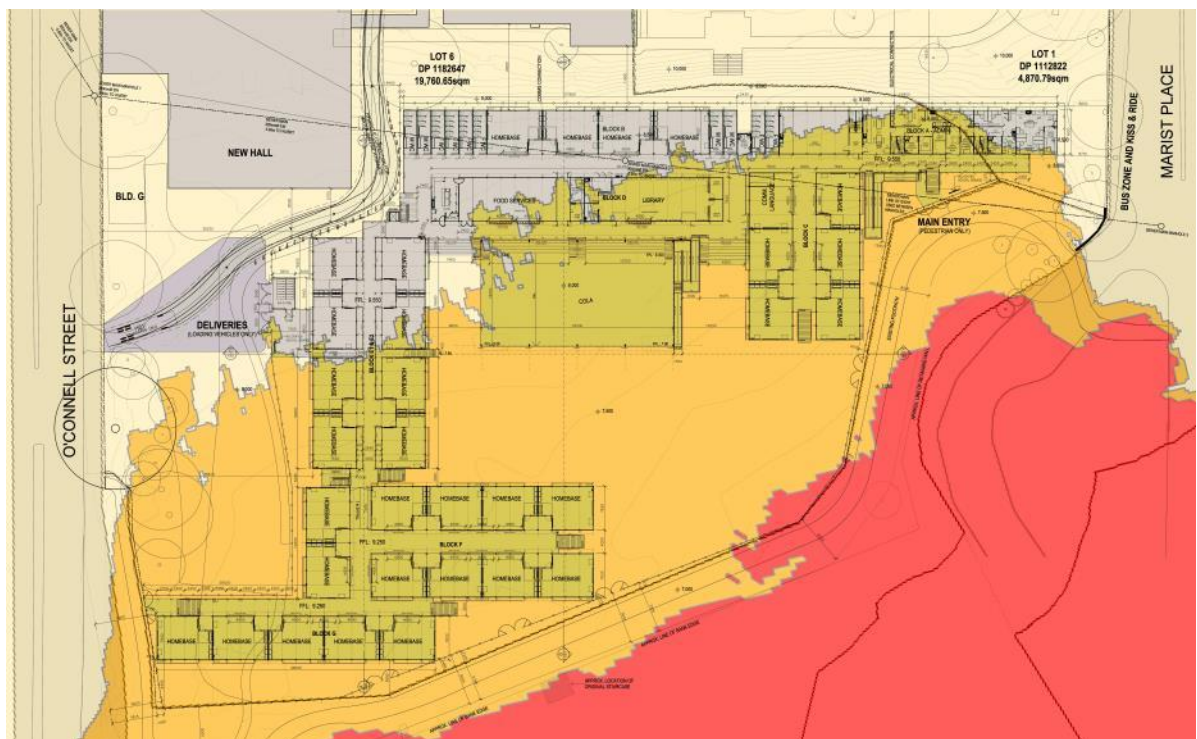


Figure 8. Flood Affection Map 2 overlaid on proposed floor plan.

The following table summarises the exposure of the relevant elements of the proposal to the various flood risks:

	1:20	1:100	PMF	Max Hazard
<i>Access to Temporary School Site</i>	No	Yes	Yes	Medium
<i>Temporary School Buildings</i>	Minor	Yes	Yes	Medium
<i>Temporary School Grounds (accessible to children during play)</i>	Yes	Yes	Yes	High
<i>Temporary School Fence</i>	Yes	Yes	Yes	High

The ground level of the subject site ranges from about 7m to 9m AHD.

The proposed school footings would be almost entirely inundated by the 1% Annual Exceedance Probability (100 Year) flood - to approx. 8m AHD (up to 1m above ground level). The proposed ground floor level is 9.25m - 9.55m AHD and as such would meet the minimum freeboard requirements for the 1:100 year flood. The covered outdoor learning area (COLA) would be at 8m AHD and as such would not meet the freeboard.

The Probable Maximum Flood (PMF) is approx. 13m AHD (4m to 5m above ground level). The proposed first floor level is 12.9m AHD and as such would not provide refuge in place for the PMF.

Notwithstanding the above, predictions of the geographic extent of flood risk are subject to inherent inaccuracies as a result of technical limits. Given the flatness of the site, small increases in flood level would result in large expansion of the extent of high flood hazard across the site. There is a high sensitivity to rainfall at this site as evidenced by the difference between the 1% AEP level of approx. 7.9m AHD and the PMF level of approx. 13m AHD.

Flood Risk to Life

Clause 2.4.2.1 of Parramatta DCP 2011 outlines Council's approach to flooding. This section of the DCP has been developed specifically in regard to the flood risk to Parramatta and has regard to and complies with the New South Wales Government's Floodplain Development Manual (FDM 2005).

The DCP sets out the types of uses that are considered appropriate in each level of flood affected land. The location of the proposed school falls under the category medium to high flood hazard. The proposed use is classified as a 'sensitive use and facility'. Such uses are not considered to be appropriate even in low hazard flood areas. The DCP sets no distinction between permanent and temporary uses.

Council's DCP states that new development should not result in any increased risk to human life. While the proposal has gone some way to reduce the risk to human life, the fact that some risk will always remain is considered to be contrary to the principle. As such the proposal is inconsistent with the DCP.

The applicant has estimated that it would be 2 – 6 hours from first rainfall to peak flood levels. The applicant has outlined, and Council officers agree, that it is not appropriate to attempt refuge in place in the event of severe weather. As such the applicant has drafted a Flood Emergency Management Plan which seeks to minimise the risk from floodwaters to human life.

The Flood Emergency Management Plan outlines the following:

- School Cancellation
 - If more than 150mm of rain is predicted for the next day, school is cancelled.
- Evacuation
 - How the evacuation would be triggered:
 - Bureau of Meteorology severe weather warnings
 - Radio weather warnings
 - SES flood bulletins
 - Early Warning Automatic Text and Email Service
 - 'Dipstick' alert system (sensor in riverbank to front of site configured to alert school when Parramatta River reaches 5m AHD)
 - Those responsible for monitoring triggers and implementing evacuations:
 - Department of Education
 - Principal (chief flood warden)
 - First Aid Officer
 - Floor Wardens
 - Teachers
 - How the school prepare for evacuation:
 - Flood Emergency Kit
 - Flood Evacuation Drill (twice yearly)
 - How the evacuation order is issued on site:
 - Evacuation tone on PA system (PA system on uninterrupted power supply)
 - Door knocking
 - How the evacuation occurs:
 - Congregation and roll call at covered outdoor learning area
 - Evacuation via 2 exits to O'Connell Street and Marist Place
 - Congregation in St.Patrick's Cathedral to the north of the site (above the PMF)
- Updating Plan
 - Regularly contacting Council to check for revised flood information

Council officers worked with the applicant to optimise the evacuation plan. However, the NSW Government's Floodplain Development Manual is explicit in denouncing the reliance on evacuation plans (emphasis added):

*It should be noted that evacuation measures proposed in private or site specific flood plans for individual developments outside the development types considered appropriate in the management plan, is not an appropriate measure to rectify adverse impacts, to manage the consequences of inappropriate decisions or to override the management plan. **Therefore private or site specific flood plans should not form the basis for development consent.***

*As indicated above, flood emergency response plans cannot be relied upon to be effective in all flood events and therefore cannot be considered to reduce the hydraulic hazard. At best they reduce the flood risk in events where they operate effectively. **As such flood emergency response plans should not form the basis of development consent.*** (FPDM page L-9)

Further, given the high number and young age of the students, it is considered that the chance that inappropriate decisions are made and that the flood evacuation management plan is not adequately adhered to are high. Further, while the proposed buildings are raised, the flood evacuation route requires that students descend back to ground level, increasing the risk during evacuation.

As such the only safeguard that remains is the imperative to cancel school if high rains are predicted. Given the inherent uncertainty in meteorology this is not considered to be sufficient basis for fully mitigating the risk to human life.

As such there is considered to be an outstanding risk to human life which cannot be fully averted. The applicant has not attempted, nor is it considered a simple task, to quantify the risk, adding to the difficulty in justifying the use.

Flood Risk to Property

The proposed demountable building foundations would consist of a continuous concrete slab. Due to the archaeological site constraint restricting excavation there can be no site levelling and as such the slab would be poured at grade. The demountable units would be attached to the concrete slab with steel joists raising the buildings above the flood planning freeboard level.

The primary risk to property resulting from the development would be one or more of the demountable units becoming unmoored and travelling down river. The applicant has submitted a statement by qualified structural engineers that the proposed buildings would be able to withstand the estimated flood velocities and associated debris impacts. However, Council's engineer and the external engineer hired to review the proposal have questioned the assumptions used in determining the flow velocities used to make these calculations.

It is unlikely that the proposed structures would withstand significant floods between the 1:100 and the PMF (fast moving water 5m to 6m above ground level). In such an event the demountable buildings would be destroyed on site and/or washed into the river causing additional risk to human life and property downstream.

Impact on Flood Behaviour

At present the site presents level grass which does not obstruct floodwaters.

The demountable buildings have been designed to allow up to 1:100 flood waters to flow through the cavities under the buildings. However, large objects such as trees, vegetation, and vehicles, could back up against the building support legs, diverting the flow of flood waters. However, the entire ground floor of the building would be submerged at the PMF flood and as such would divert floodwaters. From this diversion, flood flow patterns will change and flood levels will be raised in adjoining land.

Council's Engineering is of the opinion that the buildings would block and disrupt the existing flood flows and flood levels on site, in the river, and on adjoining land, to an unacceptable degree.

Applicant Response

In addition to the revised information the applicant submitted relating to the structural stability of the buildings and the veracity of the FEMP, the applicant asked for the opinion of the Office of Environment and Heritage for an opinion on the NSW Government's Flood Prone Land Policy. Subsequently, the Acting Senior Team Leader – Water Floodplains & Coast Team provided Council directly with the following advice.

OEH Comments	Council Officer Response
The NSW Government's Flood Prone Land Policy promotes the use of a merit approach which balances social, economic, environmental and flood risk parameters to determine whether particular development or use of the floodplain is appropriate and sustainable. The merit approach is based on a risk analysis of identifying risks, estimating their likelihood and evaluating potential consequences.	<p>This report outlines a merit based approach to the assessment of the application.</p> <p>Council has followed the NSW Flood Prone Land Policy carefully. This includes considering the social and economic parameters and sustainability of the proposed development.</p>

The NSW Government's 2005 Flood Development Manual does not mention that schools or other sensitive uses should have a higher flood planning level, only that flood evacuation be considered.	This is not relevant as a higher flood planning level has not been sought. The Floodplain Development Manual specifically advises that an evacuation plan does not mitigate flood hazard and risks and should not be the basis for determining a Development Consent.
The Department of Education is placing school children in an area of flood risk but is managing that risk through raised floor levels and flood evacuation.	Council's assessment incorporates all aspects of risk management and has found that the Department of Education is intending to place school children at risk in the floodway of Parramatta River and such risks cannot be adequately managed.
A temporary school which will be in place for 1 to 2 years has a lower flood risk than a permanent school building and Council as the consent authority may apply a different standard of flood planning level.	Council has assessed the risk level and finds that a 1% per annum risk of total inundation of the school site is unacceptable.
In a major flood the buildings would be damaged and should be tied down to the piers to avoid floating away in a flood.	In a major flood, the piers, foundations and classrooms, and the underlying topsoil would all likely be washed away. Due to archaeological restrictions no foundations or ground anchors are permitted.
As the flooding is mainstream Parramatta River flooding there would be some flood warning to allow evacuation to occur.	Council has not yet found a satisfactory way to achieve flood warning for any occupants of the entire Parramatta River floodplain.
Typically schools are better placed than other uses to have the staff and systems in place to manage safe evacuation.	This comment does not withstand examination. There will be about 1000 school children on site.
There is adjacent rising evacuation to a PMF refuge.	The route proposed to higher ground is complicated and unclear. It places less mobile or disabled children (and staff) at greater risk. In any case, the Floodplain Development manual specifically notes that an evacuation plan does not mitigate against a hazardous situation and should not be the basis for determining a consent.
Many existing schools in Sydney are located below the 100 year flood extent and over 30% of Sydney would be inundated in a PMF flood event. The additional flood risk from this proposal to that across greater Sydney is minor.	Council is obliged to assess cumulative impacts. Lack of planning for flooding in the past is not a justification for continuing to ignore this risk now. This DA is being assessed on its merits and as required by State Policy.
I accept that all development in the floodplain involves some risk but the flood risks at the Old Kings School can be managed.	It is Council's view that the risks to which school children and staff would be exposed in this proposal are unacceptable and unmanageable in real world conditions.

Conclusion

The flood risk to life, property, and the impact of the proposal on flood behaviour are not considered to be compatible with the flood hazard of the land and as such fails to satisfy the statutory requirements of Clause 6.3.

7. Draft Environmental planning instruments

The Draft NSW Coastal Management SEPP 2016 seeks to integrate and improve current coastal-related SEPPs and ensure that future coastal development is appropriate and sensitive to the coastal environment, and that we maintain public access to beaches and foreshore areas. Other than the objective of maintaining access to the foreshore area, which the application achieves, no other element of the draft SEPP is relevant.

8. Development control plan

8.1 Parramatta Development Control Plan 2011

An assessment of the proposal against the relevant controls in the Parramatta Development Control Plan 2011 is provided below:

Development Control	Proposal	Comply
2.4 Site Considerations		
2.4.1 Views and Vistas	The site is not identified as having significant views and vistas by Appendix 2 and is not located in the Harris Park Conservation Area. Views within the City Centre are discussed in section 4.3.3.4 below.	N/A
2.4.2.1 Flooding	See Flood section above.	NO
2.4.2.2 Protection of Waterways	Other than the flooding impacts and stormwater runoff, which is discussed elsewhere in this report, the proposal would not directly impact on the Parramatta River or any other waterway.	Yes
2.4.2.3 Protection of Groundwater	The proposal includes no excavation and is temporary and as such is not considered likely to have a negative impact on groundwater.	Yes
2.4.3.1 Sedimentation	<p>The proposal includes an erosion and sediment control plan during construction and standard conditions will specify Council expectations.</p> <p>Due to the temporary nature of the use and the lack of ability to excavate, stormwater will be distributed across the site at grade and into the river directly. In order to avoid sedimentation of the waterway, it is recommended that erosion and sedimentation measures remain in place throughout the lifespan of the school buildings.</p>	Yes
2.4.3.2 Acid Sulfate Soils	As discussed above, the proposal is not considered likely to be affected by acid sulfate soils due to minimal excavation.	Yes
2.4.3.3 Salinity	The proposal is not considered likely to be affected by soil or groundwater salinity due to lack of excavation.	Yes
2.4.4 Land Contamination	As outlined under the SEPP 55 assessment above, the site is considered suitable for the proposed use.	Yes
2.4.5 Air Quality	Standard conditions would be sufficient to ensure that the potential for increased air pollution is minimized.	Yes
2.4.6 Development on Sloping Land	The proposed buildings will be supported on stilts above an above ground concrete foundation that follows the natural slope of the land. The ground floor of the buildings will step slightly down with the land.	Yes
2.4.7 Biodiversity	The proposal retains all but 2 small trees on the subject site. All significant trees are to be retained and protected throughout work. While no new planting is proposed as part of the subject application, a comprehensive landscape plan for the site, including new planting, has been approved as part of the SSD application. As such the site will have a net increase in biodiversity on the site.	Yes
2.4.8 Public Domain	<p>The proposal includes a fence which encloses the proposed buildings and play area.</p> <p>The fence runs parallel to the existing public foreshore path. The fence as proposed is at times 500mm from the path. In order to ensure the safety of path users a condition is included requiring that the proposed fence be sited at least 1m from the foreshore public path.</p>	Yes

	The proposal results in temporary exclusion of members of the general public from an area previously in use informally as an area of open space. As the proposal serves the community function of schooling this is considered to be acceptable in the short term. A condition is included requiring that the fencing and school be removed and the oval returned to its current state.	
3.1 Preliminary Building Envelope		
See Section 4.3.3 below.		
3.2. Building Elements		
3.2.1 Building Form and Massing 3.2.2 Building Façade and Articulation 3.2.3 Roof Design 3.2.5 Streetscape	See comments under Clause 4.3.3.1 below.	Yes
3.2.4 Energy Efficient Design	Given the temporary nature of the buildings the minimum BCA energy efficiency requirements are considered to be acceptable.	Yes
3.2.6 Fences	<p>The proposed fence is considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The fence is necessary for the safe function of the school. The fence will stop children from wandering into the Parramatta River area. • The fence is temporary. • As outlined above the fence will maintain access to the public foreshore path. • The fence will allow for passive surveillance of the public domain. • The fence would not further restrict views of the heritage significant buildings on the site. • While the fence is located in the floodway, it has been designed with larger aperture openings so as not to restrict the flow of water • The fence footings would not require excavation. 	Yes
3.3 Environmental Amenity		
3.3.1 Landscaping	As outlined above, the proposal does not include any new landscaping. A comprehensive landscape plan, including new planting, has been developed for the wider school. Based on the temporary nature of the proposal it is not considered appropriate to introduce temporary planting.	Yes
3.3.3 Visual Privacy 3.3.4 Acoustic Amenity	The proposed school buildings are not in the vicinity of any residential properties or sensitive adjoining uses. As such the proposal is not considered likely to reduce the visual or acoustic amenity of any adjoining or nearby properties.	Yes
3.3.5 Solar Access	The proposed buildings would not overshadow any private property. The buildings will overshadow parts of the public foreshore footpath. Given this impact is constrained to a small section of the path for a few hours a day in winter, spring and autumn, for 1 year, the impact is considered to be acceptable.	Yes
Cross Ventilation	The proposed demountable units have doors and windows opposing elevations and as such will benefit from cross ventilation.	Yes

3.3.6 Water Sensitive Urban Design - Stormwater Drainage - Water Efficiency	Because the proposal is temporary and does not include any excavation, stormwater will drain across the surface of the site and to the river. This increased overland flow will spill over the public footpath to the south of the site. While this is not ideal, it is considered to be acceptable given the temporary nature of the use.	Yes
3.3.7 Waste Management	The applicant submitted a comprehensive construction and operational waste management plan which demonstrates that the building can safely, quickly, and quietly store and remove waste.	Yes
3.4 Social Amenity		
3.4.1 Culture and Public Art	Public art is not considered to be necessary given the temporary and public nature of the use.	Yes
3.4.2 Access for People with Disabilities	<p>The proposal includes an access report which outlines that access for people with disabilities is generally compliant with the relevant standard subject to more detail at the construction certificate stage.</p> <p>The proposal provides ramps and lifts that would provide step free access from the street to all parts of the proposed buildings.</p> <p>Notwithstanding, conditions are included requiring that the proposal comply with the relevant standards. Nothing in this consent alleviates the applicant from the requirement to comply with the provisions of the Disability Discrimination Act 1992.</p>	Yes
3.4.3 Amenities in Building Available to the Public	The building has been designed to provide additional women's facilities. Facilities for parents are not considered to be necessary given the age range of students.	Yes
3.4.4 Safety and Security	It is considered that the proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour to occur. The site will be fully enclosed by a fence which will provide increased protection to students, staff and school property. The use will temporarily increase passive surveillance of the area.	Yes
3.5 Heritage		
3.5.1 General	See Heritage section above.	Yes
3.5.2 Archaeology		
3.5.3 Aboriginal Cultural Heritage		
3.6 Movement and Circulation		
3.6.1 Sustainable Transport	<p>Car Share is not considered to be appropriate given the type, scale and temporary nature of the use.</p> <p>The requirement for a Green Travel Plan is included in the draft conditions of consent.</p>	Yes
3.6.2 Parking and Vehicular Access	See comments under Clause 4.3.3.5 below.	Yes
3.6.3 Accessibility and Connectivity	As discussed above, the proposal maintains access to the existing foreshore path. In addition, the proposal maintains pedestrian access to the path from O'Connell Street and Marist Place. As such the proposal is considered to maintain appropriate accessibility and connectivity.	Yes
4.3.3 Strategic Precincts - Parramatta City Centre		
4.3.3.1 Building Form	The proposed buildings will be constructed of a series of interconnected demountable units. While these units	Yes

	would not be considered of sufficient quality to satisfy these requirements in the long term they are considered to be of a high standard for such temporary buildings employing contemporary materials palette that features robust, low maintenance materials. As such the proposal is considered to be acceptable subject to a time-limited consent.	
4.3.3.3 Public Domain and Pedestrian Amenity	<p>The proposal would result in the temporary obstruction of a defacto through-site link across the existing oval. However, it would maintain access to the existing foreshore path which allows full circumnavigation of the site and as such is considered to be acceptable in this regard.</p> <p>The proposal would not activate the public domain but would provide additional passive surveillance to it temporarily.</p>	Yes
4.3.3.4 Views and View Corridors	<p>The site is located in two historic view corridors, namely, '<i>Old Government House view northeast to the river, Old King's School building and site of former Government farm</i>' and '<i>View from Marys Hill across Parramatta's City Centre to distant hills</i>'.</p> <p>The proposal would temporarily affect these views. However, due to the presence of intervening vegetation and the siting of the building at a low point close to the river, the impact would be minor. The proposal is considered to be acceptable subject to the temporary nature of the use.</p>	Yes
4.3.3.5 Access and Parking	<p>There are no parking standards for educational uses.</p> <p>The Old Kings School redevelopment included 38 car parking spaces, 40 bicycle parking spaces for the same sized student/teacher population. The applicant seeks to rely on the provision of vehicle and bicycle parking spaces on the Old Kings School site for use by the temporary school</p> <p>However, all of these spaces may not be constructed and accessible at all times due to the current construction works being undertaken on the Old Kings school site. As the site is located in the CBD, close to bus routes, it is considered appropriate to rely on less car parking until such time as it becomes available in development of the school. However, it is considered that temporary bicycle parking measures should be provided. A condition is included to this effect.</p> <p>The applicant is currently in negotiation with Council on a permanent 'kiss and drop' solution for the Old Kings School. The kiss and drop areas would be on Market Street and Marist Place to the east of the site with new traffic controls to allow safe passage of students to the school grounds. The details are close to finalization and will be implemented within 6-8 months. Once these are operational they would be available for the temporary school. In the meantime, the applicant would develop a temporary traffic control plan to manage kiss and drop. Conditions are included to this effect.</p>	Yes

4.3.3.6 Environmental Management	Given the temporary nature of the use the lack of new planting or specific ESD measures is considered to be acceptable.	Yes
4.3.3.7c City Centre Special Areas - Park Edge	The proposal complies with the built form controls specified for the special area. As discussed above the temporary impact on views is considered to be acceptable.	Yes
4.3.3.8 Design Excellence	See comments under Clause 7.10 of the PLEP 2011 assessment above.	Yes
5 Other Provisions		
5.5 Signage	As outlined under the SEPP 64 assessment above, the site is considered suitable for the proposed use.	Yes

9. Planning Agreements

The subject application is not subject to a planning agreement.

10. The Regulations

The recommendation of this report includes conditions to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

11. The likely impacts of the development

Fire safety will be addressed by way of appropriate conditions.

12. Site suitability

The subject site and locality are likely to contain significant archeologically heritage. The applicant has revised the application to require no excavation.

The subject site contains a state significant heritage item, the Old Kings School (former) and Marsden Rehabilitation Centre. The Heritage Council of NSW have provided general terms of approval including conditions that it considers will be sufficient to minimise the impact on the significance of the item. Of particular importance is that the use be limited to a total of 1 year of operation (18 months provided for construction, use and demolition).

Suitable investigations and documentation has been provided to demonstrate that the site is suitable for the proposed development in terms of contamination and acid sulphate soils.

The subject site and locality is affected by flooding. Council's Engineering Department have assessed the application and considered the site to be unsuitable for the proposed use. As such the site is not considered to be suitable for the development.

The applicant has provided an 'Options Analysis' Report which attempts to demonstrate that all other feasible options for the placement of the school had been discounted.

Commercial space in the CBD, for example, was discounted because of perceived zoning impermissibility and conflict with other tenancies within buildings. Educational Establishments are permissible in all zones in the city centre and it is considered that the risk to students from other tenancies could be more easily managed than the risk of flooding on the subject site.

The report also provided an overview of the increasing demand for public educational space generally, but did not specifically outline the overcrowding that the proposal would seek to address.

13. Submissions

The application was notified and advertised in accordance with Appendix 5 of DCP 2011 for a 30 day period between 16 February and 20 March 2017. No submissions were received.

14. Public interest

As outlined by the Office of Environment & Heritage the NSW Government's Flood Prone Land Policy promotes the use of a merit approach which balances social, economic, environmental and flood risk parameters to determine whether particular development or use of the floodplain is appropriate and sustainable.

As outlined above there is an unquantifiable risk to human life that results from the proposal. This risk cannot be fully ameliorated by the temporary nature of the use or flood emergency management planning. As such there needs to be some public benefit that is of enough significance to overcome the risk to human life.

The applicant considers that the proposal would be in the public interest as it would facilitate the redevelopment of the Parramatta Public School & Arthur Phillip High School site 1 year earlier than would otherwise be possible. This redevelopment, approved under State Significant Development Application 15_7237, increases the capacity for schooling by approximately 600 high school students and 250 primary school students. This would help to ease the current overcrowding experienced in existing schools.

On balance it is considered that the public benefit resulting from the redevelopment of a new permanent school 1 year earlier providing 850 permanent new spaces, which would help to alleviate overcrowding, is not considered to be sufficient justification for exposing 1000 students (some as young as 5 years old), teachers and other workers to even a small flood risk, as the risk includes the possibility of loss of life. In other words, the applicant has not demonstrated that the harm to be done to the children through temporarily extended exposure to overcrowded classrooms is sufficient to outweigh the risk to the lives of those who would be present on the subject site.

The precautionary principle to risk management states that if an action or policy has a suspected risk of causing harm to the public, or to the environment, in the absence of scientific consensus (that the action or policy is not harmful), the burden of proof that it is not harmful falls on those taking that action.

The type and level of precautionary measures that will be appropriate will depend on the combined effect of the degree of seriousness and irreversibility of the threat and the degree of uncertainty. This involves assessment of risk in its usual formulation, namely the probability of the event occurring and the seriousness of the consequences should it occur. The more significant and the more uncertain the threat, the greater the degree of precaution required.

In this case there has been no attempt to quantify the degree of risk and the seriousness of the consequences are high (i.e. young children trapped in flood water).

As such it follows that the applicant has not demonstrated the proposal is in the public interest and as such Council officers are of the opinion that the application should be refused.

15. Disclosure of Political Donations and Gifts

No disclosures of any political donations or gifts have been declared by the applicant or any organisation / persons that have made submissions in respect to the proposed development.

16. Parramatta City Centre S94A development contributions plan

The Parramatta City Centre Section 94A Development Contribution Plan applies to the development as the cost of works is over \$250,000. The plan provides no exemption for crown or educational uses. Notwithstanding, a development contribution is not included in the draft consent for the following reasons:

- The Department of Planning's Circular D6 "Crown Development Applications and Conditions of Consent" states that, "*Crown Activities providing a public service or facility lead to significant benefits for the public, in terms of essential community services and employment opportunities. Therefore, it is important that these essential community services are not delayed by unnecessary disputes over conditions of consent. These activities are not likely to require the provision of public services and amenities in the same way as developments undertaken with a commercial objective*".
- Environmental Planning and Assessment Act 1979 Clause 89(1)(b) states that, "*a consent authority (other than the Minister) must not...impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister*".
- The use is temporary for 1 year and as such creates limited demand on the services provided by such contributions.

17. Summary and conclusion

The application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the proposal has not demonstrated that the public benefit outweighs the flood risk to human life. Accordingly, refusal of the development application is recommended.

18. Recommendation

- A. **That the Sydney West Central Planning Panel as the consent authority request that the NSW Minister for Planning refuse** consent to Development Application No. DA/80/2017 for construction of temporary 1 - 2 storey demountable school buildings for 1,000 students on the existing school oval, including associated access works, tree removal and signage and demolition of temporary school buildings and return to use as oval after 1 year of operation at 24 O'Connell Street & 3 Marist Place PARRAMATTA NSW 2150 (Lot 6 DP 1182647 & Lot 1 DP1112822) for the following reasons:
1. The proposal is not considered to be suitable for the site as it is incompatible with the flood hazard of the land, contrary to the requirements of Clause 6.3 of Parramatta Local Environmental Plan 2011 and Clause 2.4.2.1 of Parramatta Development Control Plan 2011.
 2. The proposal is not in the public interest because the benefit to the community of faster provision of increased educational capacity is not considered to be sufficient to justify the additional risk to human life.