



**SYDNEY CENTRAL CITY PLANNING PANEL**  
**COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2017SWC108
<b>DA Number</b>	DA/755/2017
<b>LGA</b>	City of Parramatta Council
<b>Proposed Development</b>	Alterations and additions to an educational establishment (Carlingford Public School) including part demolition, tree removal, earthworks and construction of a three (3) storey school building and associated infrastructure works and upgrades. The proposal includes an increase in student numbers from 483 to 690.
<b>Street Address</b>	5 Rickard Street, Carlingford
<b>Applicant</b>	TSA Management (care of NSW Department of Education)
<b>Owner</b>	NSW Department of Education
<b>Date of DA lodgement</b>	1 September 2017
<b>Number of Submissions</b>	Six (6) submissions from five (5) property addresses
<b>Recommendation</b>	Approval, subject to conditions
<b>Regional Development Criteria (formerly known as Schedule 4A of the EP&amp;A Act 1979)</b>	Pursuant to Clause 4 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, Crown development that has a capital investment value of more than \$5 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act 1979</li><li>• Environmental Planning and Assessment Regulations 2000</li><li>• Biodiversity Conservation Act 2016</li><li>• State Environmental Planning Policy 19 – Bushland in Urban Areas</li><li>• State Environmental Planning Policy 55 – Remediation of Land</li><li>• State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li><li>• State Environmental Planning Policy (Infrastructure) 2007</li><li>• State Environmental Planning Policy (State and Regional Development) 2011</li><li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li><li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)</li><li>• Parramatta Local Environmental Plan 2011</li></ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"><li>• Assessment report and conditions of consent</li><li>• Statement of Environmental Effects</li><li>• Clause 4.6 Variation</li><li>• Architectural Drawings</li></ul>
<b>Report prepared by</b>	Shaylin Moodliar Senior Development Assessment Planner

<b>Report date (to SCCPP)</b>	21 March 2018
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**Summary of Section 4.15 matters (previously known as s79C)**

Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

**Legislative clauses requiring consent authority satisfaction**

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

**Clause 4.6 Exceptions to development standards**

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

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (Section 7.24) (previously known as s94EF)? **No**

**Conditions**

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



City of Parramatta Council

File No: DA/755/2017

**SECTION 4.15 ASSESSMENT REPORT – PARRAMATTA LEP**  
**Environmental Planning & Assessment Act 1979**

**SUMMARY**

DA No:	DA/755/2017
Property:	Lot 12 in DP 864495, 5 Rickard Street, Carlingford, NSW 2118
Proposal:	Alterations and additions to an educational establishment (Carlingford Public School) including part demolition, tree removal, earthworks and construction of a three (3) storey school building and associated infrastructure works and upgrades. The proposal includes an increase in student numbers from 483 to 690.
Date of receipt:	1 September 2017
Applicant:	NSW Department of Education C/o TSA Management
Owner:	Department of School Education
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	Five (5) submissions
Recommendation:	Approval, subject to conditions
Assessment Officer:	Shaylin Moodliar

**Legislative requirements**

Zoning	R2 Low Density Residential Zone under the Parramatta Local Environmental Plan 2011 (PLEP 2011)
Other relevant legislation and Environmental Planning Instruments (EPIs)	SEPP 19 Bushland in Urban Areas, SEPP 55 – Remediation of Land, SEPP (Educational Establishments and Child Care Facilities) 2017, SEPP (Infrastructure) 2007, SEPP (State and Regional Development) 2011, SEPP (Vegetation in Non-Rural Areas) 2017, Biodiversity Conservation Act 2016 and SREP (Sydney Harbour Catchment) 2005.

Planning Controls & Policy	Parramatta Section 94 Contributions Plan 2012-2021
Heritage item?	Yes
Heritage Conservation Area?	No
Nearby item or Conservation area?	Yes
Archaeological heritage?	No
Integrated development	No
Designated development	No
Crown development	Yes (Department of Education)
Clause 4.6 variation	Yes (Height of Building)
Delegation	Sydney Central City Planning Panel (SCCPP)

## EXECUTIVE SUMMARY

The application is required to be referred to the Sydney Central City Planning Panel (SCCPP) pursuant to Clause 4 of Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* (formerly known as Clause 5 of Schedule 4A of the Environmental Planning and Assessment Act 1979) as the Capital Investment Value of crown development over \$5 million requires assessment by a regional panel exercising the consent authority functions of councils.

The proposal provides for alterations and additions to an educational establishment (Carlingford Public School) including part demolition, tree removal, earthworks and construction of a three (3) storey school building and associated infrastructure works and upgrades.

The proposed development generally follows the form for the site envisaged by Parramatta Local Environmental Plan 2011 (PLEP 2011). The site is zoned R2 Low Density Residential under the Parramatta LEP 2011. The maximum permitted building height is 9m and the proposal seeks a building height of 16.8m (to the top of the 5-degree pitch roof above the level 3 amphitheatre seating area), which exceeds the maximum 9 metre building height by up to 6.8 metres (86% variation to the height control). The Applicant submitted a request to vary the maximum height of the buildings under Clause 4.6 of PLEP 2011. The request is well founded for reasons including the site and existing building constraints, location of the breach to the building height towards the centre of building footprint further away from the side (and front) boundaries, minimises overshadowing to the heritage items within the school site and minimises adverse impacts to the Blue Gum High Forest vegetation.

The site has a remnant portion of the Blue Gum High Forest which is listed as a critically endangered ecological community under Part 1, Schedule 2 of the *Biodiversity Conservation Act 2016*. The proposal is adequately sited within the site to mitigate adverse impacts to the Blue Gum High Forest. Specific conditions of consent are recommended to incorporate the expansion of the Blue Gum High Forest within the school site.

The amenity impacts on surrounding properties are reasonable based on the low density character of the area and the built forms envisaged by the controls. This assessment shows the proposed increase in traffic would not compromise the efficient function of the local road network.

The development has been subject to review by Council's Design Excellence Advisory Panel (DEAP), and is consistent with State Environmental Planning Policy (Infrastructure) 2007 and the relevant provisions contained in the SEPP (Educational Establishments and Child Care Facilities) 2017.

Six (6) submissions have been received from five (5) property addresses during the notification period. The issues raised have been addressed elsewhere in this report.

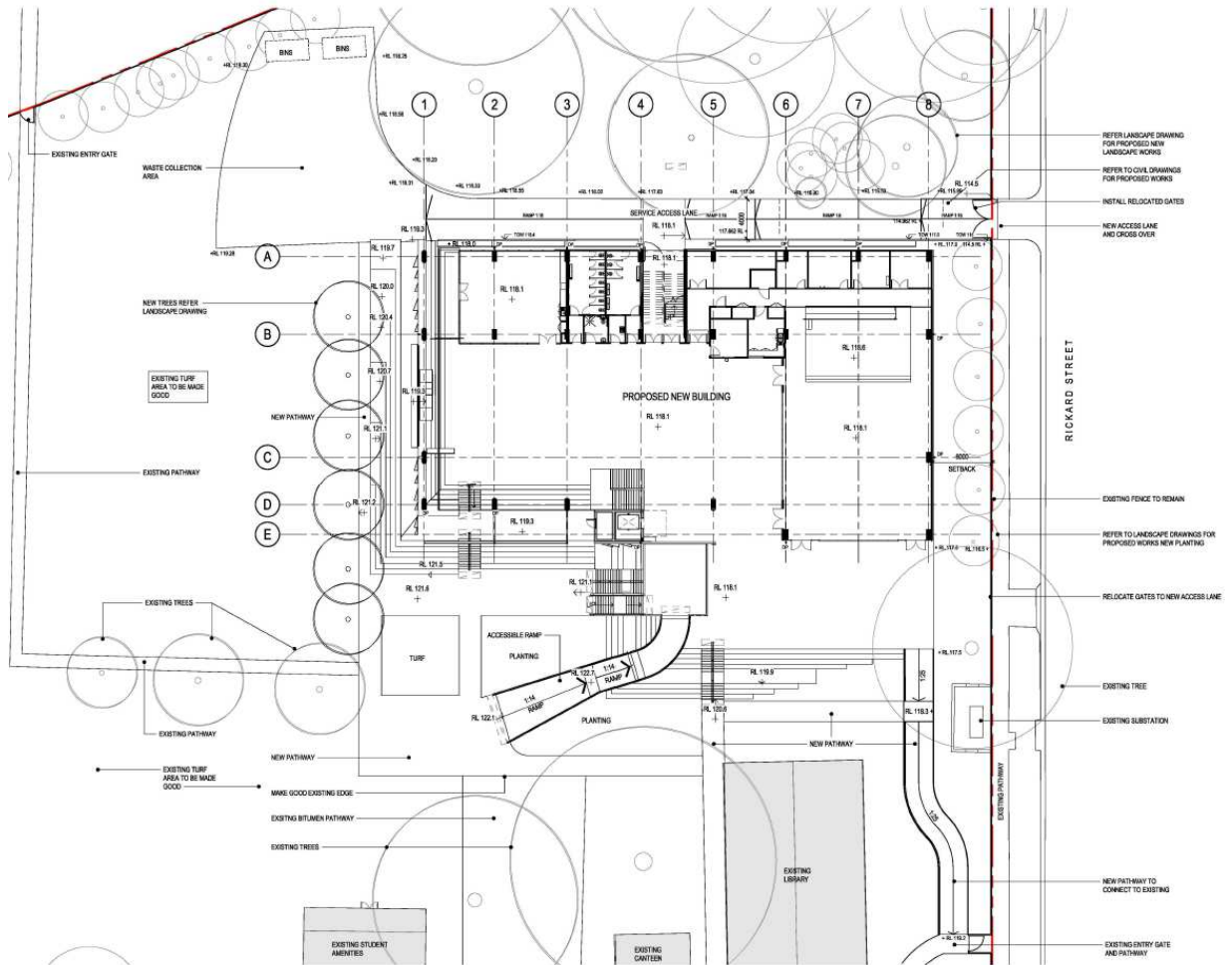
The application has been assessed under section 4.15 of the *Environmental Planning and Assessment (EP&A) Act 1979*, taking into consideration all relevant State and local planning controls. On balance, the proposal demonstrates a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval is recommended subject to conditions.

## RELEVANT BACKGROUND

- The school is identified for its historic significance. The description in the Heritage Study Inventory identifies the early 1886 building and other brick buildings which dates from the c1920s. However, in 1933 building works begun on the two-storey building (now the heritage-listed administration building) which consisted of 4 classrooms, the headmaster's office, staff room and store rooms on the ground floor. The first floor consisted of 3 classrooms, science room and a staff room. The basement area contained a shelter area for girls and a store room. Between 1983 and 1999 the use of the main classroom building fronting Rickard Street was converted into an administrative building block. The administration block building was partially destroyed by fire in late December 2003. (Source: *Heritage Impact Statement, prepared by Heritage Design Services, Government Architect's Office of the NSW Department of Commerce, dated February 2005*)
- On 17 May 2017, Council held a pre-lodgement application (PL/48/2017) with the applicant and their representatives for additions and alterations to the existing educational establishment including the construction of a 3-storey school building. The applicant was advised that the following fundamental issues had been identified and that it was unlikely that the proposal would be supported:
  - the height of the building exceeds the maximum height control by 4.5m and is unlikely to be supported
  - overshadowing of the heritage item;
  - new buildings should utilise areas away from the heritage item
  - loss of trees can be mitigated by relocating the new school building away from the heritage item and the street.
- On 1 September 2017, Council received Development Application DA/755/2017, which is the subject of this report.

## PROPOSED DEVELOPMENT

Approval is sought for alterations and additions to an educational establishment (Carlingford Public School) including including part demolition, tree removal, earthworks and construction of a three (3) storey school building and associated infrastructure works and upgrades.



**Figure 1** – Partial site plan showing the location of the proposed new works within the north-eastern portion of the Carlingford Public School including the existing school buildings (bottom). *Source: GHD Woodhead Architects*



**Figure 2** - Photomontage view of the building looking southwest. *Source: GHD Woodhead Architects*



**Figure 3** - Photomontage view of the building looking west. Note the existing administration building (left) and library building (centre). Source: GHD Woodhead Architects

A more detailed summary of the proposed works is provided as follows:

#### Retention of school buildings

- Retention of the existing two-storey brick Rickard Street school/administration building;
- Retention of the existing one-storey brick Rickard Street school library building;
- Retention of the forty (40) vehicle space southern staff carpark; and
- Retention of metal demountable buildings towards the southern and central portion of the school site.

#### Demolition Works

- Demolition of the existing basketball/tennis court fronting Rickard Street;
- Removable of thirteen (13) metal demountable school buildings along the northern portion of the school site; and
- Removal of approximately twenty-five (25) vehicle spaces within the northern access driveway including the garbage collection area.

#### Earthworks

- Excavation to allow for the construction of Level 1 of the new school building and covered outdoor learning area.

#### School building construction

- Construction of a new three (3) storey school building comprising approximately 3,863.3m<sup>2</sup> of gross floor area including:

##### *Level 1 (RL 118.1)*

- Construction of level 1 school building including library/multi-purpose room, male and female bathrooms, OOSH storeroom, OOSH office, OOSH kitchen, performance storeroom, sports storeroom, PE storeroom, chair storeroom, new hall area, new covered outdoor learning area with concrete floor (RL 118.1), stairs, and entry foyer and lift from the southern edge of the covered outdoor learning area.

*Level 2 (RL 123.3)*

- Construction of level 2 school building including ten (10) learning space/rooms, study nook, 2 storerooms, communication room, 3 group rooms, 2 open-layout group rooms, 2 open-layout maker/room spaces, cleaners room, electrical room, male and female bathrooms, covered outdoor space, lift and 2 stairs.

*Level 3 (RL 127.2)*

- Construction of level 3 school building including ten (10) learning space/rooms, study nook, 2 storerooms, communication room, 3 group rooms, 1 open-layout group rooms, 2 open-layout maker/room spaces, amphitheatre seating area, cleaners room, electrical room, male and female bathrooms, covered outdoor space, lift and 2 stairs.

*Roof Plan*

- Construction of an un-trafficable roof with parapet (RL 131.1) including approximately 114 solar panels along the north-facing 5-degree pitch roof.

Tree Removal

- Removal of twenty-three (23) trees and shrubs from the site and on the boundary.

Site facilities & improvements

- Demolition works within the ground floor of the existing two-storey brick Rickard Street school/administration building consisting new ground floor walls/partitioning including staff room with kitchenette, bathrooms, 3 interview rooms, special programs room, entry foyer, cleaner storeroom, administration, sick bay room, principal office and 3 deputy principal offices.
- Associated services including an electrical substation on Rickard Street and hydrant booster;
- Integration of the new building with existing school buildings on the site;
- Provision of new pedestrian and service vehicle driveway (northern side of new school building) to Rickard Street;
- Increase in student numbers from 483 to 690 students within the site; and
- Increase in staff numbers from 21 to 30 full-time teachers.





**Figure 4** - Photomontage (internal) view of the building looking west. *Source: GHD Woodhead Architects*



**Figure 5** - Photomontage (internal) view of the building looking east. *Source: GHD Woodhead Architects*

## **EXISTING SITE AND CONDITIONS**

The subject site is legally known as Lot 12 in DP 864495, and is known as 5 Rickard Street, Carlingford. The site has an eastern frontage to Rickard Street of approximately 267.1 metres and a northern boundary of approximately 244.9 metres. The site has a total site area of approximately 31,610m<sup>2</sup>.

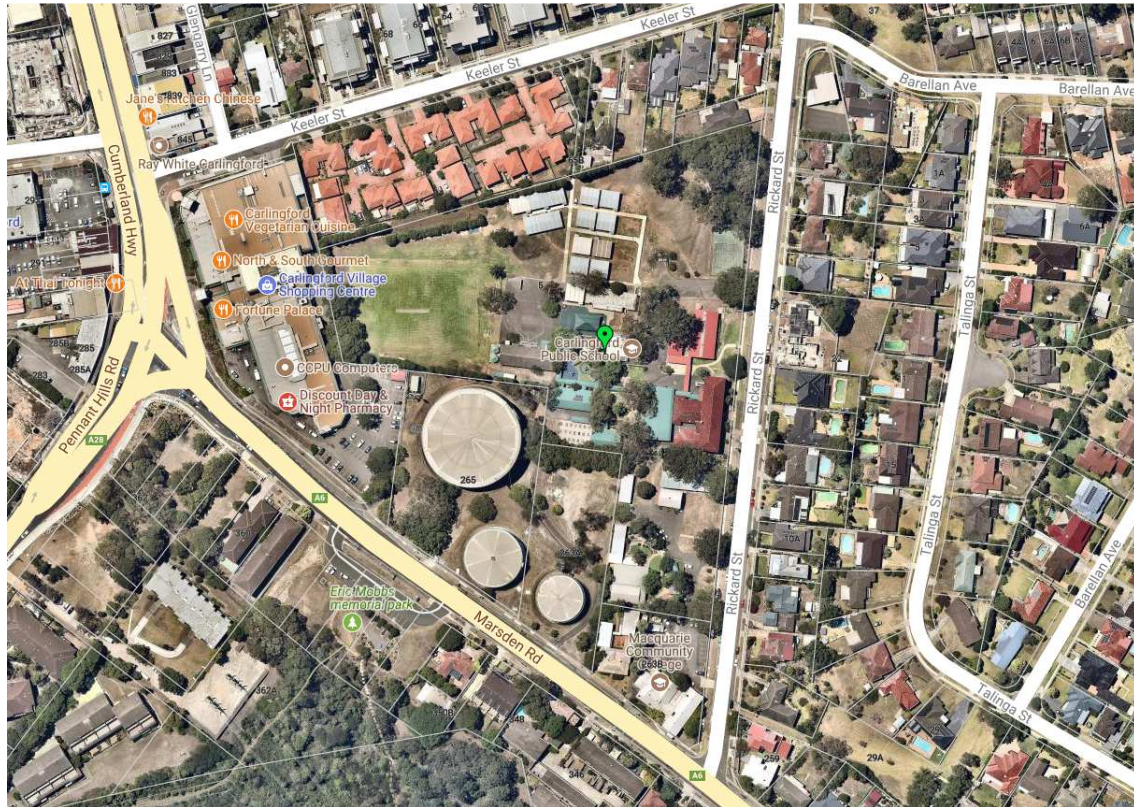


**Figure 6** – Aerial allotment map of the site and locale. Note: the site has an eastern frontage to Rickard Street.

The site is irregular in shape with a 6.5% slope (fall of 10.6 metres) from the southern boundary adjacent to the Sydney Water reservoir tanks to the north-eastern corner.

The site is owned by the NSW Department of Education and appears to have been used for educational purposes since the 1930's and contains a number of school buildings and facilities.

It must be noted that Carlingford Public School currently has 483 students and 21 staff (full time equivalent (FTE)). All students are accommodated on the Rickard Street site. The site is located approximately 1085m north east of the Carlingford railway station.



**Figure 7** – Aerial allotment map of the site and locale. Note: the western and southern boundaries adjoins Carlingford Village Shopping Centre and the Sydney Water reservoir tanks is to the south. *Source: Nearnmap dated 18 January 2018*

## PLANNING CONSIDERATION

The proposal, as amended, has been assessed under the provisions of the *Environmental Planning and Assessment Act 1979*. The matters below are those requiring the consideration of the SCCPP.

### SECTION 4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

#### Provisions of Environmental Planning Instruments (Section 4.15(1)(a)(i))

##### State Environmental Planning Policy No.19 – Bushland in Urban Areas

The site includes vegetation which is a remainder of the ‘Blue Gum High Forest’ contained within the Galaringi Reserve, Carlingford (to the south of Marsden Road) and is still representative of the structure and floristics of the natural vegetation. The site is not zoned or reserved for public open space, however, conditions will be imposed requiring the expansion of the Blue Gum High Forest within the subject site. The proposal is acceptable, subject to conditions, in respect to the general and specific aims of SEPP 19.

##### State Environmental Planning Policy No.55 – Remediation of Land

An assessment of the application has been undertaken on the basis of Clause 7(1), 7(2) and 7(3) of SEPP 55 and the Managing Land Contamination Planning Guidelines 1998 for assessing potential contamination of a site. A site inspection reveals the site does not have an obvious history of previous non-residential land uses other than educational facility land uses.

A 'Preliminary Contamination Investigation Report' Project No. 85997.01, document no: R.001.Rev0, dated: 1 August 2017, prepared by Douglas Partners Pty Ltd has been submitted with the current application. Council's Environmental Health Officer raised no objections and comments "...the proposal satisfies the requirements of Council's controls and can be supported, subject to standard conditions of consent."

Therefore, the land is suitable for the alterations and additions to an education establishment (i.e. school), subject to conditions, in respect to the requirements of SEPP 55.

### **State Environmental Planning Policy No.64 – Advertising and Signage**

The application does not propose any building identification signs or school logos.

### **State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

The provisions of ISEPP have been considered in the assessment of the development application.

#### *Clause 45 Determination of development applications – other development*

The application is not subject to clause 45 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure that trigger a written referral to the energy authority. Nonetheless, a condition of consent is imposed for the approval of any provision of electricity services from an approved electrical energy provider (i.e. Endeavour Energy).

#### *Clause 101 Development with frontage to classified road*

The application is not subject to clause 101 of the ISEPP as the site does not have frontage to a classified road.

#### *Clause 102 Impact of road noise or vibration on non-road development*

The application is not subject to clause 102 of the ISEPP as the average daily traffic volume of Rickard Street is less than 40,000 vehicles.

#### *Clause 104 Traffic-generating development*

The proposed development includes an increase in student numbers at the school from the current enrolment of 483 students to a maximum of 690 students. As the proposed increase in student numbers exceeds 50 students (as noted in Schedule 3 of the ISEPP and pursuant to Clause 104 of the ISEPP), the proposed development was referred to Roads and Maritime Service (RMS) for their consideration and comment.

RMS raised "*no objection to this application...*" but offered two (2) conditions pertaining to student/staff bicycle parking and a construction pedestrian traffic management plan (CPTMP). These conditions recommended by the RMS is included in the conditions of consent.

The proposal is satisfactory in respect to the requirements of the ISEPP.

Note: Assessment under Division 3, clauses 27-32 of the ISEPP no longer applies to the proposal due to the introduction of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017, which is addressed below.'

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

The provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP (EECCF) 2017) have been considered in the assessment of the development application.

The following issues are relevant to determine compliance of the proposal with the objectives of the SEPP (EECCF) 2017:

### *Part 4 Schools – specific development controls*

#### *Clause 33 Definition of “prescribed zone”*

The site is zoned R2 Low Density Residential, which is identified as a prescribed zone within the definition and, thus, complies with this clause.

#### *Clause 34 Development for the purpose of student accommodation*

No student accommodation is proposed and schools are permissible with consent in any prescribed zone (including R2).

#### *Clause 35 – development permitted with consent*

In accordance with clause 35(6) of SEPP (EECCF) 2017, the consent authority must take into consideration the following:

- (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and*

An assessment of the design principles is addressed below:

### **Principle 1: Context, built form and landscape**

The design of the proposed development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape and neighbourhood. The development contributes to the context of the area, in particular, the desired future character of the area. The bulk and scale of the development is suitable for the context of the area.

The proposed new building street setback is consistent with the schools existing buildings and is not considered to result in an undue negative impact of the surrounding but rather will appear as a three storey building in a garden setting.

Landscape has been integrated into the design of school development to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites. Consideration of the existing built form, vegetation and significant trees has been considered. New landscape planting around the site enhances opportunities for play and learning. The proposed landscape design retains the existing stand of mature trees that are mapped as ‘Blue Gum High Forest’ which is a vegetation community listed as a critically endangered ecological community under Schedule 2 of the Biodiversity Conservation Act 2016 (which repealed the Threatened Species Conservation Act 1995).

The proposal provides tree offset planting within the stand of Blue Gum High Forest and understory planting to suit the vegetation community. Tree planting to the streetscape provides opportunities for the deep soil zone to be implemented.

## **Principle 2: Sustainable, efficient and durable**

The building is designed to maximise natural ventilation and in accordance with the Department of Education policy does not incorporate air-conditioning. The design for the subject site has an obligation to establish a positive benchmark in terms of the interpretation of planning objectives for a public benefit (i.e. new school infrastructure).

The development incorporates solar panels on the roof of the building that will assist to reduce the schools demand for electricity. The building is constructed of durable materials that are low maintenance and utilise the Department of Education's experience in minimising on-going maintenance costs. The internal planning of the school building ensures that it is adaptable and contains opportunities for break out spaces and group learning that is consistent with modern educational practices rather than only incorporating traditional class rooms.

## **Principle 3: Accessible and inclusive**

The new building incorporates a lift that provides shared accessible and ambulant access throughout the building. Existing shared accessible and ambulant pathways of travel are integrated with the existing campus access points and allow visual surveillance from existing and new school facilities. This considers the impact of circulation times on timetables and pedagogical models, particularly when accessing core learning spaces.

The development will incorporate appropriate wayfinding signage to assist visitors and first time users with identifying key areas within the site. Safe access has been maintained within the existing development, the new building will be accessed from within the school grounds and existing entry gates along Rickard Street.

## **Principle 4: Health and Safety**

The proposal has reviewed the CPTED principles and provides delineation through a combination of landscaping and fencing to the 'public' areas of the site when the school is operating. Building and façade window design have been adequately located to optimise natural ventilation and direct solar access. Toilet facilities have been provided on all levels of the new school building. Clear transition and boundaries between public and private space are provided from Rickard Street and within the school grounds.

## **Principle 5: Amenity**

The school provides a variety of internal and external learning places that are suitable for formal and informal educational opportunities for students. The new building and the hall incorporates appropriate storage spaces for teachers, students the school and for community users.

The proposal has been located to minimise the visual impact on surrounding buildings, and incorporate adequate landscaping that will assist in partially screening the new buildings and provide a landscaped outlook from both within the site and for views into the site.

The building maximises natural light penetration through the appropriate use of glazing and facilitate natural cross ventilation. The buildings incorporate acoustic absorbing materials and is appropriately setback from boundaries to reduce excessive noise transmission. Consideration and amenity of adjacent development and the local neighbourhood has been considered within massing and integration of the building into the current topography of the site and street frontage.

## **Principle 6: Whole of life, flexible and adaptive**

The design of the building considers the future needs of the school and the new learning centre has been designed to incorporate both formal learning areas and informal learning spaces, allow for combined educational opportunities and maximise the opportunities for the adaptive use of the building as technology is increasingly used in classrooms by both educators and students.

A masterplan analysis was conducted by the applicant that investigated the school site to allow siting options for future potential growth. Consideration of the hall design has been given to the wider public benefits over time. Assessment of site in-ground conditions, contamination, flora and fauna, flooding, drainage and erosion, noise and traffic generation has been considered in the design.

### **Principle 7: Aesthetics**

The proposed built form is appropriate with regard to the composition of building elements, textures, materials and colours which reflect the use, internal design and structure of the building. The proposed building responds aesthetically to the environment and context, and appropriately contributes to the desired future character of the area.

*(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.*

The school incorporates an out-of-school-hours care facility and a new hall that will continue to be used by community groups and other activities outside core hours. This ensures that the school is a 'social' hub for the surrounding community and contributes to the social wellbeing of the community.

#### *Clause 36 Schools – Development permitted without consent*

The proposal is increasing student and staff numbers in excess of 10% and does not comply with these provisions, therefore development consent is required.

#### *Clause 37 Notification of carrying out of certain development without consent*

The proposal requires development consent.

#### *Clause 38 Existing schools – exempt development*

The proposal is not considered to be exempt development.

#### *Clause 39 Existing schools—complying development*

The proposal is not considered to be complying development.

#### *Clause 40 School-based child care – complying development*

As above.

#### *Clause 41 Complying development certificates—additional conditions*

As above.

*Clause 42 State significant development for the purpose of schools—application of development standards in environmental planning instruments*

The development is not State significant.

*Part 7 General development controls*

*Clause 57 Traffic-generating development*

The proposed development application seeks to increase student numbers by 207. As the proposed increase in student numbers exceeds 50 students (as noted in Schedule 3 of the ISEPP and pursuant to Clause 104 of the ISEPP), the proposed development was referred to Roads and Maritime Service (RMS) for their consideration and comment. Council's Traffic Engineer has reviewed the application and raise no objections on traffic and parking grounds subject to conditions. Further, RMS raised no objection to the proposal subject to imposing two (2) conditions pertaining to student/staff bicycle parking and a construction pedestrian traffic management plan (CPTMP). These conditions recommended by the RMS are included in the conditions of consent.

The proposal therefore satisfies the relevant standards contained in SEPP (Educational Establishments and Child Care Facilities) 2017.

**State Environmental Planning Policy (State and Regional Development) 2011**

This application is captured by Part 4 of this SEPP which provides that the SCCPP is the consent authority for this application.

**State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017**

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of twenty-three (23) trees from the site. Council's Tree and Landscape Officer has reviewed the application and raise no objections to the removal of the vegetation from the subject site subject to conditions.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)**

The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposal. The proposal is consistent with the controls contained with the deemed SEPP.

**Parramatta Local Environmental Plan 2011 (PLEP 2011)**

*Clause 2.3 Zone objectives and Land Use Table*

The site is zoned R2 Low Density Residential under the provisions of Parramatta Local Environmental Plan 2011. Under the Parramatta Local Environmental Plan 2011, an *educational establishment* is permissible in a R2 Zone.



#### Clause 2.6 Subdivision – consent requirements

No subdivision is proposed.

#### Clause 2.7 Demolition requires development consent

Clause 2.7 of PLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

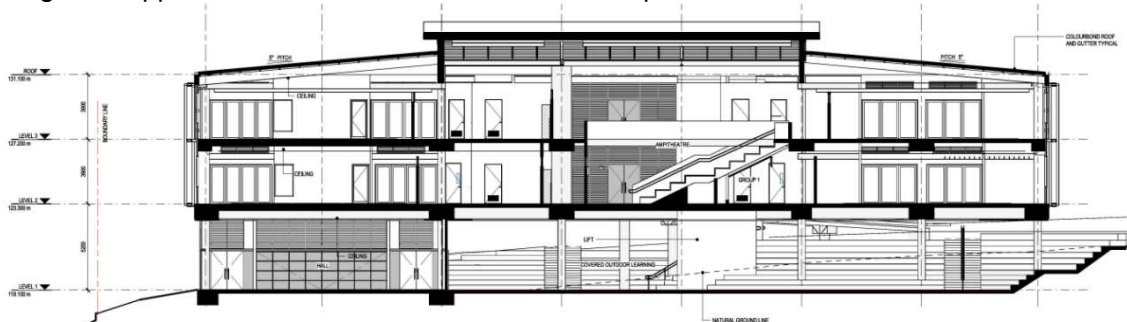
#### Clause 4.3 Height of Buildings

The maximum building height limit of 9 metres applies to the site.

The proposed breach to the new school building height is as follows (see **Figures 8 and 9**):

- **16.8m** (7.8m breach) to the top of the 5-degree pitch roof above the level 3 amphitheatre seating area (approximate RL 134.3 – existing ground level 117.5) - **86%** over the maximum height control.

The applicant's Clause 4.6 justification is generally agreed with, and the variation to the height is supported for the reasons outlined in this report. Refer to Clause 4.6 below.



**Figure 8** – Building height breaches (portions of level 3 from the streetscape to the level 3 amphitheatre seating area below the 5 degree pitch roof) of the new school building. *Source: GHD Woodhead Architects*

#### Clause 4.4 Floor Space Ratio

The proposed new three-storey school building is on land where the maximum FSR control of 0.5:1 applies.

The permissible gross floor area on the Carlingford Public School site is 15,805 m<sup>2</sup> (FSR of 0.5:1). The existing gross floor area of the buildings within Carlingford Public School site is 2,819 m<sup>2</sup>.

The proposed new school building along Rickard Street will result in approximately 3,863.3 m<sup>2</sup> of gross floor area, resulting in a total GFA of approximately 6,682.3 m<sup>2</sup>, equating to a FSR of **0.21:1**. The proposal complies with Clause 4.4 of PLEP 2011.

#### Clause 4.6 Exceptions to Development Standards

Clause 4.6 of PLEP 2011 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

The proposal does not comply with the Clause 4.3 'Height of Buildings' development standard.

The objectives of this clause are:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

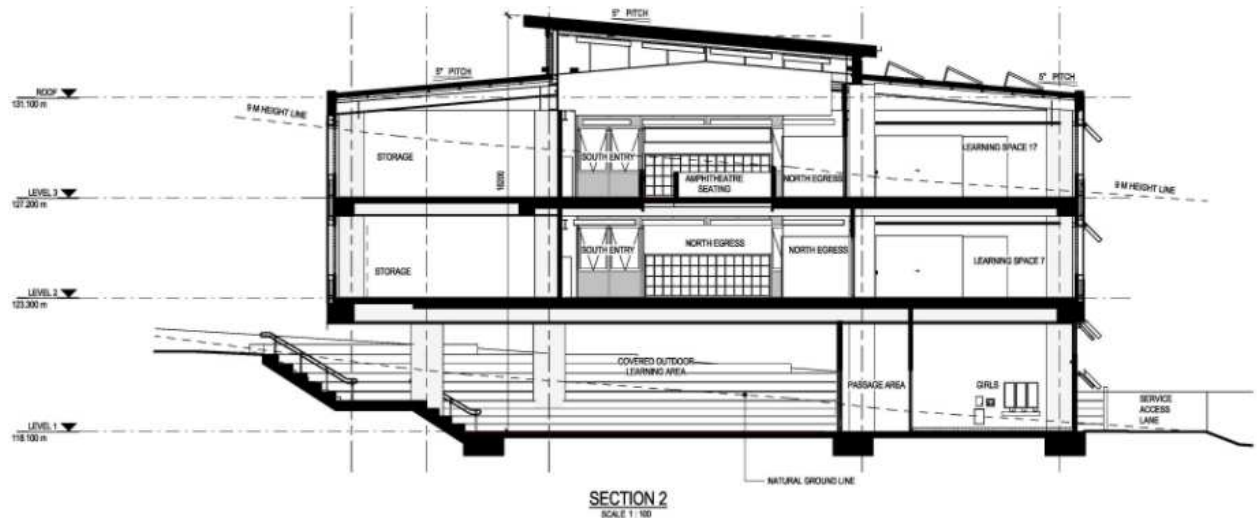
The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of this LEP, or otherwise by any other instrument.

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has submitted a written request justifying the variation to the height of building development standard. In the justification the applicant states:

- “The development proposal is consistent with the intent of the maximum height control and will provide an attractive building that will address Rickard Street;*
- The proposal does not present an attempt to attain additional development yield on the site given compliance with the FSR controls applying to the site;*
- The non-compliance is minor in nature with the majority of the building being compliance with the building height control and with the lift over-run recessed, its impact to the streetscape is negligible as it will not be visually noticeable when viewed from the street level;*
- The non-compliance is partially a result of the City of Parramatta utilising the standard LEP template that replaced the former Special use zoning of the site with the low density R2 zoning that applies opposite the site. Prior to this LEP, a height control did not apply to the site;*
- There are existing non-compliances on the site with the heritage listed building having a height of approximately 14.5m. Given this it would be unreasonable to not allow the new building to have a similar height;*
- The variation will not lead to the reduction in solar penetration on site or to adjoining properties nor will it lead to excessive sunlight loss or overshadowing;*
- The proposed variation will not lead to view loss or interrupt on views to and from the site;*
- The proposed variation will not lead to a reduction in privacy afforded to existing residents or future residents of the proposal;*
- The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct existing view corridors with appropriate side setbacks provided to promote view sharing opportunities*
- Detailed shadow analysis demonstrates that properties to the east still achieves adequate solar access to open space and living areas with this development only casting shadow to the front setback areas;*
- The non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors; and*
- The proposal adjoins the Carlingford commercial precinct, is located in proximity to 5 storey residential flat buildings on the northern side of Keeler Street and the proposal represents an appropriate built form on the site.*



**Figure 9** – Part cross-section (Dwg 21-26108-CF-DA-AR-3100, Revision D, dated 2 February 2018) through the new Rickard Street building. Source: GHD Woodhead Architects

- *The unique circumstances of the case that warrant support of the departure are:*
  - *The need to provide appropriate floor to ceiling heights within the development whilst providing accessible entries to all rooms which is preferable to only having stair access which would compromise amenity and useability for future users; and*
  - *The desire to maximise open space on the site to benefit future students.*
- *As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances.*
- *The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.”*

**Comment:** An assessment has been undertaken to determine whether compliance with the standard is ‘*unreasonable and unnecessary*’ and there are ‘*sufficient planning ground*’ as follows:

An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken below. These cases establish tests that determine whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

### Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council [2007] NSWLEC 827* the presiding Chief Judge outlined the following five (5) circumstances:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

#### Height of Buildings

*“(a) To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.”*

**Comment:** The key constraints of the site are its irregular shape, topography,

existing Blue Gum High Forest vegetation, existing built form and shared boundaries. The location of the building height along the allotment is a positive response which allows the site to realise its development potential and provide suitable amenity to the existing adjacent buildings and the potential future development within Carlingford Public School. The proposed development is consistent with the FSR density standard ensuring no additional density is developed on the site as a result of the height variation.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

**Comment:** The underlying objective is relevant, however in this case the location of the breach to the building height across the centre of the new building footprint and allows for community benefit (i.e. alterations and additions to an educational facility) and amenity improvements to the adjacent public domain (i.e. within Rickard Street), which on merit outweigh strict compliance with the height of building development standard.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

**Comment:** The applicant does not suggest that the objective would be thwarted if compliance was required; rather that the objective is achieved despite the breach of the height of buildings development standard.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

**Comment:** It is considered that the standard has not been abandoned within the site itself or within the Carlingford area. It is considered that compliance with the standard in this case is unreasonable and unnecessary as the proposed development:

- Is consistent with the objectives of the development standard, Clause 4.3 of PLEP 2011;
- The proposal is consistent with the FSR development standard of 0.5:1 as set out by Clause 4.4 of PLEP 2011;
- The height across the subject site, taking into consideration the transitioning of existing buildings is generally consistent with the heritage item;
- The proposed variation does not result in unreasonable amenity impacts on the adjacent public domain or adjoin and surrounding dwellings;
- The proposal is considered appropriate without setting an undesirable precedent in the low-density residential character of re-development within the Carlingford area;
- The configuration, layout and design of the school building, including the overall size and spaces are practical and will allow future users to utilise the new school building in a variety of ways;
- The non-compliant height will not adversely impact the public domain;
- The additional building height will not result in unreasonable overshadowing impacts to surrounding properties; and
- The proposal complies with the objectives of the R2 zone objectives.

Compliance with the development standard in this instance is unreasonable and unnecessary given the above.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

**Comment:** The applicant does not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

#### Four2Five Pty Ltd v Ashfield Council

The proposal has been assessed on merit and having regard to the principles in *Four2Five v Ashfield Council [2015] NSWLEC 90*. The judgement suggests that 'sufficient environmental planning grounds' is more onerous than compliance with zone and standard objectives. The commissioner also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development.

In this instance, it is deemed unreasonable and unnecessary to restrict all building structures to a height of 9 metres. The applicant's justification above is generally supported in this instance.

In this LEC case, the following planning grounds are considered to be sufficient to justify contravening the standards.

- The proposal will respond to the site constraints, the design of the new school building varies in the massing, location and height to provide a positive response and relationship with the adjoining properties and the public domain. Further, the proposed building height results in the best location to minimise any potentially unreasonable impacts, such as overshadowing to the school grounds including the heritage item; and
- The proposed location of the new school building fronting Rickard Street is subject to a density control, however, the building height variation will not place additional pressure on the infrastructure capacity of the locality.

Clause 4.6(4) of PLEP 2011 outlines that development consent must not be granted for development that contravenes a development standard unless:

- "a) the consent authority is satisfied that:*
- i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - 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, and*
- b) the concurrence of the Secretary has been obtained."*

**Comment:** The matters of clause 4.6(4)a)i) have been dealt with in the preceding section.

#### Public Interest

Clause 4.6(4)(a)(ii) of PLEP 2011 states:

*"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”.*

**Comment:** The site is zoned R2 Low Density Residential under the provisions of Parramatta Local Environmental Plan 2011. Under the Parramatta Local Environmental Plan 2011, an *educational establishment* is permissible in a R2 Zone.

#### Concurrence

Clause 4.6(4)(b) of PLEP 2011 states:

*“The concurrence of the Secretary has been obtained”.*

**Comment:** In applications where Council or IHAP is the consent authority concurrence to vary the height standard by greater 10% is not assumed pursuant to Planning Circular, PS 18–003 - Variations to development standards issued by the NSW Department of Planning, dated 21 February 2018. In this instance, the consent authority is not IHAP or Council and therefore SCCPP *“...may assume the Secretary’s concurrence...”* for development for which a Minister is the consent authority (i.e. Crown Development applications).

**Conclusion:** In summary, it is considered that breaching the building height control would result in a better provision of the built form across the subject site. The applicant has provided a satisfactory written request demonstrating site-specific reasons that the proposal would be a better environmental outcome than a complying scheme. As such, the request to vary the height standard is supported.

#### *Clause 5.10 Heritage Conservation*

The site contains item no.21 “Carlingford Public School (and Macquarie Community College) at Lot 12 in DP 864496 & Lot 11 in DP 864495, 263 Marsden Road and 5 Rickard Street, Carlingford. The site is also within the vicinity of item no.00056 ‘former St Paul’s Anglican School’ at SP15844, 346 Marsden Road, Carlingford which is of state heritage significance.

There are five (5) adjoining and surrounding local heritage items:

- Item No.8 ‘Galarangi Reserve’ Lot 1565 in DP 32105, 130 Evans Road, Carlingford;
- Item No.20 ‘Water tanks and Water board cottage’ at Lot 1 in DP 745083 and Lot 6 in DP 130713, 263A and 265 Marsden Road, Carlingford;
- Item No.23 ‘Mobbs Hill Reserve’ Lot 1 in DP 130346, 322A Marsden Road, Carlingford;
- Item No.25 ‘Eric Mobbs Memorial’ Lots 3-6 in DP 8332 and Lot 1 in DP 122181, 356 Marsden Road, Carlingford;
- Item No.26 ‘Carlingford Memorial Park’ Lots 1-9 in DP 128538, 362 Marsden Road, Carlingford; and
- Item No.29 ‘Alandale’ at Lot 12 in DP 1114320, 10 Rickard Street, Carlingford.

Council’s Heritage Advisor has reviewed the proposal and noted *“...the site of proposed development is individually heritage listed...(and) given the nature of the proposal, the dimensions of the site, and the nature of significance of the item, it is deemed that this type of development may be achieved on the site, with impact on heritage values of the item and the area within acceptable limits...however an issue of separation between the new covered outdoor learning area (COLA) and the materials to be used, as well as the materials for the new school building.”*

A ‘statement of heritage impact’ report, Job No.2823, dated July 2017, prepared by Heritage 21 was provided by the applicant. This report concludes that *“...the proposed development complies with pertinent heritage controls and would have neutral impact on the heritage significance of the subject site, heritage conservation area or heritage items in the vicinity.”*

The external treatment fronting Rickard Street is appropriate in this instance. The proposal is not considered to adversely impact upon these local heritage items.



**Figure 10** – PLEP 2013 heritage map with subject site (highlighted) and adjoining and surrounding items of local and state significance.

#### *Clause 6.1 Acid Sulfate Soils*

The site is identified as Class 5 acid sulfate soils. An acid sulfate soils management plan was not submitted, however, a 'Report on geotechnical investigation' Project 85997.00, prepared by Douglas Partners Pty Ltd, dated 1 August 2017 was submitted and stated that "review of Acid Sulfate Soils Maps indicates that the site is located well outside areas potentially affected by Acid Sulfate Soils (ASS). ASS normally occurs in alluvial or estuarine soils below RL 12 m relative to Australian Height Datum. The subject site is above RL 116 m AHD and includes residuals soils. Therefore, it is unlikely that ASS is present in natural soils on the subject site." Suitable conditions of consent will be imposed regarding acid sulfate soils. The proposal therefore meets the objective of this clause.

#### *Clause 6.2 Earthworks*

The proposal involves excavation within the site to accommodate the modified ground floor level of the new Rickard Street school building. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Subject to relevant conditions of consent the proposal will result in minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal therefore meets the objective of this clause.

#### *Clause 6.4 Biodiversity protection*

The site has a remnant portion of Blue Gum High Forest which is listed as a critically endangered ecological community under Part 1, Schedule 2 of the *Biodiversity Conservation Act 2016*. The Blue Gum High Forest of the Sydney Basin Bioregion ecological community is a type of moist, tall open forest that is endemic to Sydney's northern suburbs, where there is high rainfall and large landscaped connectivity between the river catchments. The ecological

community comprises a tall canopy of dominant trees that may reach a height of over 30 metres, above a mid-storey of shrubs and small trees over a diverse ground layer, commonly with ferns. However, highly modified relics of the community can persist as small clumps of trees without a native understorey, with all remnants of the community typically surrounded by urban development.

The *Biodiversity Conservation Act 2016* commenced on the 25 August 2017. The DA was submitted on 1 September 2017 and was able to be assessed in accordance with the *Threatened Species Conservation Act 1995* under the transitional provisions timeframe of the newly introduced *Biodiversity Conservation Act 2016*. The ecological impacts of the proposal were assessed under the *Threatened Species Conservation Act 1995* requirements, which essentially requires a qualified ecologist to undertake an 'Assessment of Significance' to determine if there will be a likely significant impact on threatened species, populations or endangered ecological communities. The Applicant has been provided documentation from a suitably experienced and qualified consultant and the Assessment of Significance assessment concluded that the extent of removal of the Blue Gum High Forest vegetation does not constitute a significant impact to the Critically Endangered Ecological Community or any threatened species potentially occurring at the subject site.

The proposal was reviewed by Council's Open Space and Natural Area Planner and Landscape Tree Management Officers as the site is considered to have landscape connectivity with the nearby Blue Gum High Forest in Galaringi Reserve. The remnant Blue Gum High Forest within the school site whilst being less than 1 hectare in area, does contain predominantly characteristic canopy species, (as well as 1 shrub species) and a number of indicative groundcover species. The remnant Blue Gum High Forest within the school site displays evidence of moderate resilience and partially intact seed bank as demonstrated by current native species diversity and regeneration indicating that overall condition would improve (increased diversity and abundance) if the current management regime was discontinued. The remnant Blue Gum High Forest also contributes to connectivity in the area by forming a stepping stone between larger areas of intact remnant vegetation including Galaringi Reserve, Hunts Creek Reserve, Ray Park and Fred Spurway Reserve.

Retention of remnant vegetation (i.e. Blue Gum High Forest) as a habitat stepping stone is further supported by the following priority actions taken from the *Approved Conservation Advice for Blue Gum High Forest of the Sydney Basin Bioregion* (Department of Environment, 2014):

- Avoid removal of isolated canopy trees characteristic of the ecological community or isolated patches of remnant vegetation <1 hectare in the LGAs where it occurs, as these provide important connectivity and habitat refugia functions; and
- Liaise with planning authorities to ensure that planning and nearby development takes the protection of remnants into account, with due regard to principles for long-term conservation.

The above priority actions and the submitted Flora & Fauna Impact Assessment confirms that the vegetation in the north-eastern corner of the site meets the NSW Scientific Committee Final Determination for critically endangered ecological community Blue Gum High Forest, which includes '*highly modified relics of the community*' that '*persist as small clumps of trees without a native understorey*', with all remnants of the community typically surrounded by urban development. It identifies that '*the majority of trees to be removed are self-recruited, juvenile or early mature individuals from around the edge of the patch*', which indicates moderate resilience and presence of the seedbank necessary to facilitate ongoing viability of this *Blue Gum High Forest* patch if managed appropriately.



It was initially considered by Council to relocate the proposed new school building to the west which would follow the “avoid, minimise and offset” hierarchy of the ‘Office of Environment and Heritage Principles for the use of Biodiversity Offsets in NSW’ and the *Biodiversity Conservation Act 2016*. While relocating the new school building further west will eliminate the need to remove healthy indigenous trees, including one mature prominent *Eucalyptus resinifera* (Tree 3), and would not impact the existing sporting field, with any reduction of recreational space being temporary until the demountable school buildings are removed following completion of the works, the Applicant and Council have reached consensus that the *Threatened Species Conservation Act 1995* and *Biodiversity Conservation Act 2016* requirements applicable have been adequately met. It is noted that while assessment considered the *Threatened Species Conservation Act 1995*, the transition provisions of the *Biodiversity Conservation Act 2016* concluded on 25 February 2018.

Tree 2 (*Corymbia maculata*) is a prominent tree in the landscape and is located along the street frontage within close proximity of the proposed development. This tree is proposed to be retained, however, insufficient information was provided to demonstrate the viable retention of this tree with elevation plans indicating approximate 2 metres cut near the subject tree. Conditions are provided that seek the viable retention of this significant tree with the Project Arborist to provide further considerations to the protection of this tree.

In accordance with the master plan prepared by TSA Management and GHD Woodhead Architects in collaboration with the NSW Department of Education there is sufficient capacity within the school site to offset the removal of the Blue Gum High Forest through revegetation within the northern portion of the school site. The proposal is adequately located within the site to mitigate adverse impacts to the remaining Blue Gum High Forest. Subject to Crown consent, specific conditions of consent are recommended to mitigate the loss of Blue Gum High Forest through the expansion within the northern portion of the school site.

**Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (Section 4.15(1)(a)(ii))**

There are no draft Environmental Planning Instruments applying to this proposal.

**Provisions of Development Control Plans (Section 4.15(1)(a)(iii))**

**Parramatta Development Control Plan 2011 (PDCP 2011)**

As noted above, Section 35 subclause (9) of the SEPP (Educational Establishments and Child Care Facilities) 2007, states that any requirement, standard or control included in a DCP is of no effect when related to a school.

**OTHER MATTERS**

**Parramatta Design Excellence Advisory Panel (DEAP)**

The proposal was considered by DEAP at the formal DA stage at its meeting of 9 November 2017. In summary, DEAP noted the following matters:

1. *Whilst the Panel acknowledges that the project has been previously reviewed with Council at a preliminary stage, it does not support the proposed siting of the building as it unnecessarily impacts on the significant fragment of Blue-Gum High Forest in the north-east corner of the site. Blue Gum High Forest is considered to be a critically endangered ecological community under NSW Threatened Species Conservation Act (1995) and the*

*Commonwealth Environment Protection and Biodiversity Conservation Act 1999, and should be retained, protected and managed accordingly.*

- 2. In the Panel's view, the building location, and possibly its plan, should be revised to fully retain and conserve this remnant endangered urban forest for environmentally significant reasons.*
- 3. The proposed emergency access and service reversing bay is considered to be highly intrusive in the above precinct and should be relocated.*
- 4. The new building should also be sufficiently setback from the street boundary so that the mature native trees fronting Rickard Street are retained and protected.*
- 5. The increased setback would allow for a more successful landscape integration and screening from the street, and could also assist in reducing the extensive level changes, steps and ramps between the existing and new buildings.*
- 6. The revised location and siting of the building should also tangibly reinforce the Architect's master plan concept of a "campus heart" - where a safe, accessible, wind protected, sunny/shady and amenable space is created for students.*
- 7. Given the environmental and heritage constraints of the site, the Panel fully supports the idea of a developmental concept master plan for the site.*
- 8. The Panel notes that the form of the building is strongly influenced by the project functional brief, which internalises common learning and circulation spaces and results in a building of challenging scale and mass.*
- 9. The flat, panellised and relatively unarticulated facades of the new building do not fit comfortably with the existing school buildings and low density residential context around the site. The architectural expression of the building is also questionable as it could just as easily be seen as a commercial office park or light industrial building.*
- 10. Whilst the concept of juxtaposing a new, contemporary building with a heritage item can work in principle, in this case (and largely as a consequence of the size of this proposal) the form, material and scale relationships are unconvincing.*
- 11. The Panel suggests that the Architect review the scale, fenestration and materiality of the existing heritage item and consider how these qualities could be reinterpreted in the new building to reduce its bulk and scale.*
- 12. The slim section and scale of the main heritage building could be considered as an ordering element for the new building. A sympathetic modulation of the north and south facades would also relieve it of its monolithic character.*
- 13. Similarly, instead of emphasising the horizontal width, window elements could be vertical and two storeys in height, blending in with the trunks of a landscape screen of new indigenous trees.*
- 14. The "floating effect" created by the large open under-croft exposes the soffit to the street and amplifies the building's bulk. The Architect and Landscape Architect should jointly consider how this visual impact could be mitigated with sympathetic landscaping.*

15. *The above suggestions would mitigate the scale of the building, creating a better contextual fit and stronger visual relationship with the mature indigenous landscape of the site.*
16. *The 3D montages appear to be of questionable accuracy, and should be of a higher standard and resubmitted after modification.*
17. *The proposed landscaping should screen and /or frame the building facades and create a unified landscape frontage along Rickard Street. Whilst the indigenous palette is supported, colourful tree and shrub species such as those in the vicinity of the heritage building could be integrated as accents in appropriate locations (e.g. at gateways, on the lawn next to the library).*
18. *The applicant should provide detailed 1:20 wall sections through each proposed façade type, particularly addressing how rainwater goods and weather protection devices are integrated into the design.*

**Comment:** The applicant has responded by stating that the proposed development is their final plan on the subject site and that a master plan for the site has been prepared. This is acceptable subject to recommended condition imposing a maximum of 690 students within the school site. The site has been used as an educational facility for approximately 80 years and, as the proposal does not introduce a new land use, the functionality of the site is unchanged and acceptable. The proposed scale and presence in the Rickard Street streetscape complements by adding architectural interest to Carlingford and is consistent with the emerging re-development of the Carlingford precinct.

### **Section 7.12 Contributions**

Section 7.12 of the Act authorises the consent authority to grant development consent, with a condition requiring the payment of a section 7.12 levy which is payment of a percentage of the cost of development. Such levies may be applicable regardless of whether there is any increase in the extent of development and regardless of whether there is any demand change. Carlingford Public School is subject to development contributions exemption/deductions under the PDCP 2011, as the school is fully public.

Advice was sought from Council's Strategic Land Use Planning section with regards to applicable development contributions for Crown development applications where the following applies to the school site:

- The relevant plan is City of Parramatta (Outside CBD) S94A Plan, however, under Circular D6, contributions for educational services under a crown DA are generally limited to drainage works, and in some cases roads / traffic management.
- The cost of works being \$15,240,000, a 1% levy of \$152,400 would ordinarily apply to the development.
- Only drainage applies in this case.
- The apportionment to drainage works under the plan is 7.28% of the levy. Therefore, a contribution of \$11,098.38 would apply.

It is therefore recommended that the proposal require payment of a section 7.12 development contribution of \$11,098.38. A condition requiring that contribution to be paid is included in the recommendation.

### **BONDS**

In accordance with Council's 2017/2018 Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site.

**Any planning agreement that has been entered into under section 7.12, or any draft planning agreement that a developer has offered to enter into under section 7.12 (Section 4.15(1)(a)(iiia))**

The proposal does not include any Voluntary Planning Agreements (VPAs) and section 7.12 does not apply to the application.

**Provisions of Regulations (Section 4.15(1)(a)(iv))**

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

**Any Coastal Zone Management Plan (Section 4.15(1)(a)(v))**

The Coastal Zone Management Plan is not applicable to the proposal.

**Impacts of the Development (Section 4.15(1)(b))**

*Character / streetscape*

The proposed development has a built form, height scale and context consistent with the nature of the existing buildings and the future desired character of the area anticipated within Carlingford. DEAP's comments are noted as the proposal provides sufficient modulation and articulation so that it provides a suitable series of elevations that have a positive relationship with the street.

*Safety and Security*

Council and the DEAP have considered the safety and security of the proposal. In this regard, conditions of consent have been recommended that addresses the safer by design principles. These conditions relate to a range of security matters and subject to compliance with these conditions, the proposal is considered satisfactory having regard to safety and security.

*Overshadowing/solar access*

There are no unacceptable overshadowing impacts anticipated from the proposal to the school site and to adjoining residential properties.

*Blue Gum High Forest*

Refer to comments regarding 'Clause 6.4 – Biodiversity Protection' under the 'Parramatta Local Environmental Plan 2011' section in this report.

**Suitability of the Site (Section 4.15(1)(c))**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

## **Public submissions (Section 4.15(1)(d))**

In accordance with the PDCP 2011 notification procedures, owners and occupiers of adjoining and surrounding properties were given notice of the application for a 21-day period between 13 September 2017 and 4 October 2017. In response, six (6) submissions were received.

The issues raised within those submissions are addressed below:

### ***Issue: Loss of trees***

**Comment:** Council's Tree Management and Landscape Officer is generally satisfied with the proposed tree removal and new landscape treatment, and has provided standard conditions of consent for inclusion in any approval.

### ***Issue: Height of Building***

**Comment:** Refer to comments regarding 'Clause 4.3 - Height of Building' under the 'Parramatta Local Environmental Plan 2011' section in this report.

### ***Issue: Heritage***

**Comment:** Refer to comments regarding 'Clause 5.10 Heritage Conservation' under the 'Hornsby Local Environmental Plan 2013' section in this report.

### ***Issue: Earthworks***

**Comment:** Refer to comments regarding 'Clause 6.2 – Earthworks' under the 'Hornsby Local Environmental Plan 2013' section in this report.

### ***Issue: Increase of traffic***

**Comment:** The Carlingford Public School cannot be held solely responsible for the existing and future traffic congestion in Carlingford. The proposal retains the staff car parking vehicular access from Rickard Street and provides a new vehicular service lane 4-metre wide from Rickard Street. Council's Traffic Engineer state that the proposal is not expected to have a significant impact on the surrounding road network.

### ***Issue: Lack of community engagement***

**Comment:** In accordance with the PDCP 2011 notification procedures, owners and occupiers of adjoining and surrounding properties were given notice of the application for a 21-day period between 13 September 2017 and 4 October 2017. Community engagement for Crown Developments applications are not warranted in the legislation and it is up to the Department of Education to determine the level of community involvement, if any, in the design process. This issue does not warrant amendment or reason for refusal.

### ***Issue: Access to Sunlight***

**Comment:** The solar access and overshadowing impacts are detailed on the architectural plans drawn by GHD Woodhead Architects. The expectation to retain mid-winter solar access to living rooms in properties across the road is not reasonably attainable. The proposal provides adequate solar access to all properties along the eastern side of Rickard Street (opposite the Carlingford Public School) and does not unreasonably impact upon the

surrounding properties. Refer to comments regarding overshadowing/solar access under the 'Impacts of the Development' section in this report.

**Issue:** *Haulage routes, noise and vibration of construction vehicles*

**Comment:** Council's Traffic & Transport team have reviewed the proposal and raised no objection, subject to the recommended conditions of consent which have been incorporated into the draft conditions of consent.

**Issue:** *Parking impact*

**Comment:** Parking is provided within the existing (southern) car parking of Carlingford Public School. Council's Traffic Engineer is generally satisfied with the parking and traffic concerns given that "...car parking rate of 2 spaces per 3 teachers is proposed within the existing carpark. No guidance is provided in the LEP/DCP as to the number required. This rate is considered satisfactory." The majority of students will continue to be dropped off to the Rickard Street entrance or have parents park and walk their children to the via the pathway from Keeler Street. This issue does not warrant amendment or reason for refusal.

**Issue:** *Stormwater drainage*

**Comment:** Council's engineer has reviewed the proposal and raised no objection to the application subject to the recommended conditions of consent which have been incorporated into the draft conditions of consent.

**Issue:** *Noise*

**Comment:** Council's Environmental Health Officer is generally satisfied with the acoustic treatment within the site and has provided standard and non-standard conditions pertaining to the use of the school buildings or grounds.

**Issue:** *Loss of basketball/tennis court*

**Comment:** The proposal does remove the basketball/tennis court from the Rickard Street frontage and while there is no immediate replacement for a multi-use sport court, the Department of Education have informed Council that a multi-use sport court will be part of the next phase of development within the site.

## **Public Interest (Section 4.15(1)(e))**

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the proposal, the proposal will allow further development of the Carlingford Public School site in accordance with its environmental capacity and future vision for Carlingford. The building form is generally supported by DEAP and the proposal will add a visual interest to the existing Rickard Street façade and within Carlingford.

## **CONCLUSION**

The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposed alterations and additions to the Carlingford Public School is consistent with the requirements of the SEPP 19 - Bushland in Urban Areas, SEPP 55 - Remediation of Land, SEPP (Educational Establishments and Child Care Facilities) 2017, SEPP (Infrastructure) 2007, SEPP (State and Regional Development) 2011, SREP

(Sydney Harbour Catchment) 2005, the Biodiversity Conservation Act 2016 and the Parramatta Local Environmental Plan 2011.

The proposal is permissible under SEPP (Educational Establishments and Child Care Facilities) 2017, and is considered to result in a development, which is suitable in the context of the emerging character within Carlingford. Non-compliances are acknowledged within the proposal; these have been discussed within this report. A merit assessment of the application has determined that the proposal will be satisfactory and does not result in unreasonable impacts to adjoining and surrounding properties, subject to the satisfaction of recommended conditions of consent.

As such, it is recommended that the Sydney Central City Planning Panel (SCCPP) approve the application for the reasons stated in this report, subject to the approval of the Minister.

## **OFFICER RECOMMENDATION**

Pursuant to Section 4.33 of the Environmental Planning and Assessment Act 1979 that Development Application DA/755/2017 for the alterations and additions to an educational establishment (Carlingford Public School) including part demolition, tree removal, earthworks and construction of a three (3) storey school building and associated infrastructure works and upgrades be approved by the NSW Sydney Central City Planning Panel (SCCPP) subject to the approval of the Minister.

- i. That the SCCPP support the Clause 4.6 variation to the height of building.
- ii. That the objectors be advised of the SCCPP's decision.
- iii. That the NSW Department of Planning and NSW Department of Education be advised of the SCCPP's decision.