



# Kambala Sport, Wellbeing and Senior Learning Precinct

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State Significant Development Assessment SSD-10385

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Cover image: *Artist's impression of internal view of new Sports Precinct (Source: Applicant's Environmental Impact Statement, October 2020)*

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# Glossary

Abbreviation	Definition
<b>ACH</b>	Heritage NSW – Aboriginal cultural heritage
<b>ACHAR</b>	Aboriginal cultural heritage report
<b>AHD</b>	Australian Height Datum
<b>ARD</b>	Archaeological Research Design and Excavation Methodology
<b>BC Act</b>	Biodiversity Conservation Act 2016
<b>BCA</b>	Building Code of Australia
<b>BDAR</b>	Biodiversity Development Assessment Report
<b>CIV</b>	Capital Investment Value
<b>Council</b>	Woollahra Municipal Council
<b>The Department</b>	Department of Planning, Industry and Environment
<b>EESG</b>	Environment, Energy and Science Group
<b>EIS</b>	Environmental Impact Statement
<b>ELC</b>	Early Learning Centre
<b>EPA</b>	Environment Protection Authority
<b>EP&amp;A Act</b>	Environmental Planning and Assessment Act 1979
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPBC Act</b>	Environment Protection and Biodiversity Conservation Act 1999
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>GANSW</b>	Government Architect NSW
<b>Heritage NSW</b>	Heritage NSW, Department of Premier and Cabinet
<b>HIS</b>	Heritage Impact Statement
<b>Minister</b>	Minister for Planning and Public Spaces
<b>NAR</b>	Noise Assessment Report
<b>NSH Road</b>	New South Head Road

<b>OTAMP</b>	Operational Transport and Access Management Plan
<b>Planning Secretary</b>	Secretary of the Department of Planning, Industry and Environment
<b>PNTL</b>	Project Noise Trigger Level
<b>SEARs</b>	Planning Secretary's Environmental Assessment Requirements
<b>SEPP</b>	State Environmental Planning Policy
<b>SRD SEPP</b>	State Environmental Planning Policy (State and Regional Development) 2011
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for NSW
<b>TIA</b>	Traffic Impact Assessment Report
<b>WDCP</b>	Woollahra Development Control Plan 2015
<b>WLEP</b>	Woollahra Local Environmental Plan 2014
<b>VIA</b>	Visual Impact Assessment Report

# Executive Summary

This report provides an assessment of a State significant development (SSD) application (SSD-10385) lodged by Kambala (the Applicant) for a new sport, wellbeing and senior learning precinct within Kambala School at 794-796 New South Head Road, Rose Bay within the Woollahra local government area.

The Department of Planning, Industry and Environment (the Department) is satisfied that the site is suitable for the proposal, which would provide improved educational / sports infrastructure for an established school community. The additional student numbers would not result in adverse impacts on the traffic in the locality. The Department concludes the proposal is in the public interest and recommends that the application be approved subject to conditions.

The proposal seeks approval for the development of a new sport, wellbeing and senior learning precinct within Kambala School. The development would comprise: part demolition / alterations to existing buildings (including the heritage item Tivoli House); construction of a new two-storey building to accommodate multipurpose sports courts for up to 1500 people, general learning areas, rooftop sports courts, staff facilities and landscaped open spaces. The proposal also seeks to regularise the current student numbers at 1020 students, being 70 student above that previously approved.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) and the objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the principles of ecologically sustainable development (ESD), the issues raised in submissions as well as the Applicant's response to these. The Department considers the key issues for assessment, built form and landscaping, visual and view impacts, heritage and traffic and transport are satisfactorily considered by the Applicant and are acceptable with the inclusion of environmental mitigation measures and recommended conditions of consent.

The proposed built form is of an appropriate height and scale and would not result in an unacceptable visual impact on the surrounding locality. The partial demolition of Tivoli House is acceptable as it would remove an intrusive detracting element from the significant building and reinstate open space. The proposal would not intensify the use of the site and the increase in students can be accommodated in the road network subject to operational management measures.

The proposal has a Capital Investment Value (CIV) of \$59.7million and is SSD under clause 15(2) of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is development for the purpose of alterations or additions to an existing school with a CIV of more than \$20 million.

The application was publicly exhibited between 28 October 2020 and 24 November 2020. The Department received a total of 16 submissions, including seven from public authorities and nine from the public including one objection. The key issues raised in the submissions include built form, height, bulk and scale, impacts on heritage and key views.

The Applicant's Response to Submissions (RtS) included responses to the issues raised in the submissions including additional archaeological assessment and visual impact assessment. Public authorities raised no further concerns. Heritage Division of the Department of Premier and Cabinet

requested further amendments to the archaeological assessment, which was provided by the Applicant as a supplementary Response to Submissions (RtS). No further concerns were raised.

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# 1 Introduction

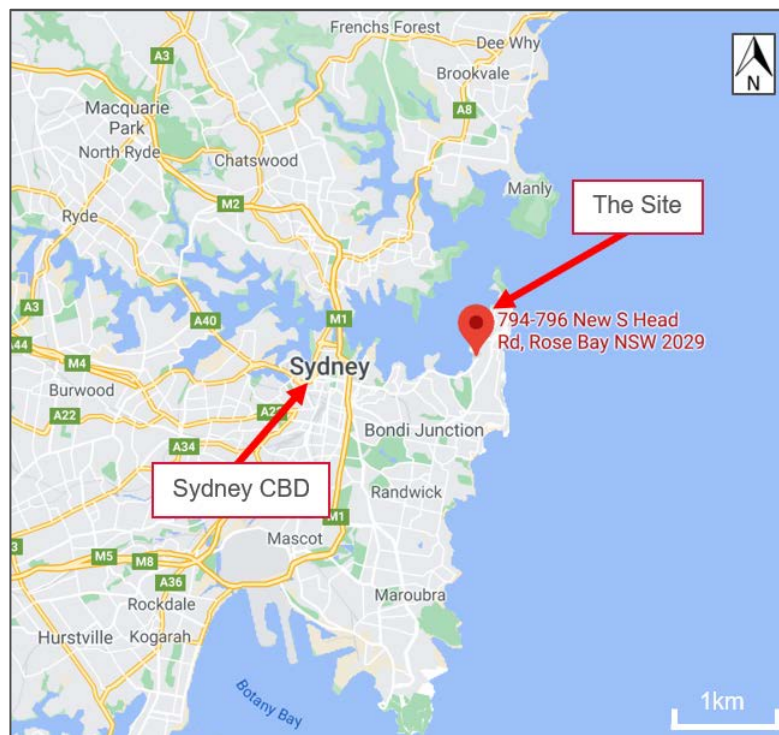
This report provides an assessment of a state significant development (SSD) application (SSD-10385) for new sport, wellbeing and senior learning precinct within Kambala School located at 794-796 New South Head Road, Rose Bay.

The proposal seeks approval for demolition of some existing buildings and the construction of a new sports, wellbeing and senior learning precinct including indoor multipurpose sports courts for up to 1500 people, general learning areas, staff facilities, rooftop sports courts and landscaped open space. The proposal also seeks consent to increase the approved student capacity from 950 to 1020 students.

The application has been lodged by Kambala (the Applicant).

## 1.1 Site description

Kambala School is an independent Anglican early learning, primary and secondary day and boarding school for girls that caters for students from pre-school to Year 12. It is located approximately 8 kilometres (km) north-east of the Sydney Central Business District (CBD) within the Woollahra local government area (LGA). The site's location in the regional context is shown in **Figure 1**.



**Figure 1** | Regional Context Map (Source: Google Maps 2021)

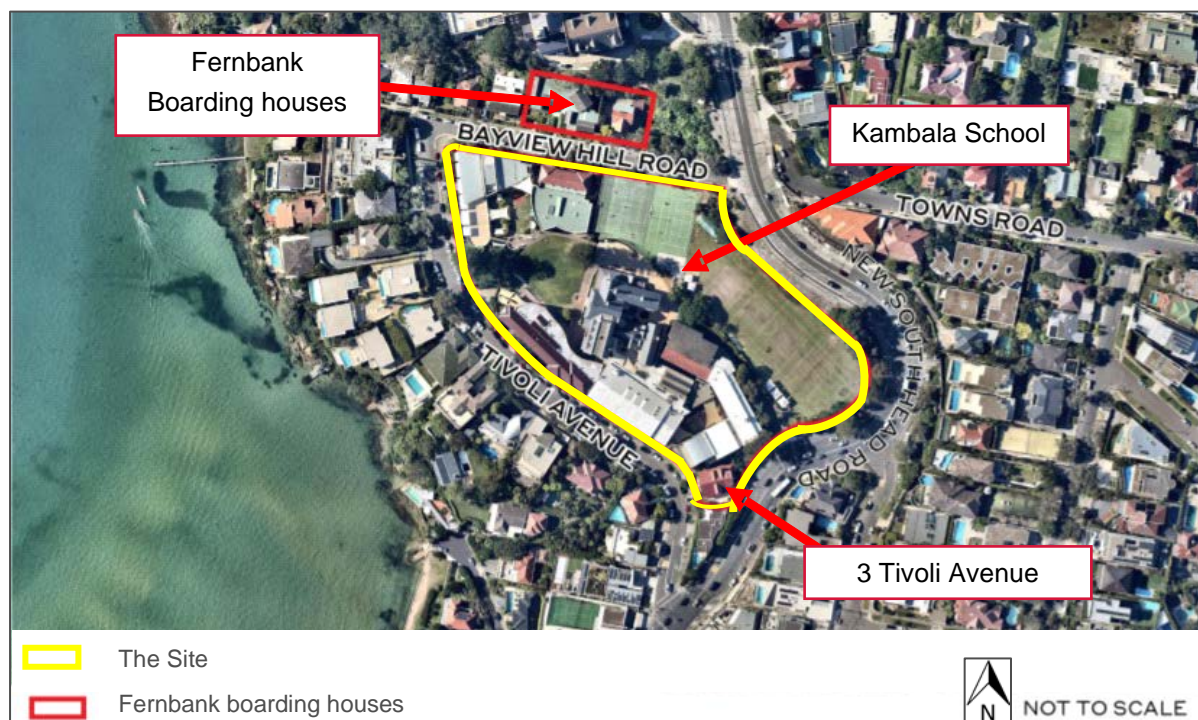
Kambala School comprises two separate properties located to the north and south of Bayview Hill Road, being, 794-796 New South Head Road (Lot 67 DP2583, Lot C DP210074, Lot 1 DP1089403 and Lots 1-12 DP1116858), 1, 1A and 3 Bayview Hill Road (Lot 1 DP175832, , Lots 45 – 46 DP2538) and 3 Tivoli Avenue (SP 64653).

The part of the site to the south of New South Head (NSH) Road (Nos. 794-796 NSH Road) is the subject of this SSD application (referred to as 'the site' and shown in yellow outline in **Figure 2**). The site currently accommodates the school buildings, open spaces, and sports fields.

The site has an area of approximately 22,511 square metres (m<sup>2</sup>). It is irregular in shape and is bound by Bayview Hill Road to the north, NSH Road to the north / east and Tivoli Avenue to the south / west (**Figure 2**). The site slopes from east to west and south, from RL 49 along NSH Road to RL 28.30 along the Tivoli Avenue boundary. The existing sports ovals, at the eastern boundary are at RL 40.

The fall across the site accommodates a series of retained and relatively level areas. The largest of these is the existing sports oval occupying the north-east of the site, approximately 8m below the NSH Road. NSH Road rises in elevation as it winds northwards past the site and curves to the north-east so that the height of the retaining wall below the road varies from approximately 7m at its southern end to 10m near the corner of Bayview Hill Road.

The property to the north of Bayview Hill Road (1,1A and 3 Bayview Hill Road) accommodates the Fernbank boarding houses for the school (shown in red outline in **Figure 2**).



**Figure 2 | Local context map** (Source: Nearmap 2021)

## 1.2 Existing buildings and features of the site

Buildings on the site are concentrated in the western portion of the site, with the eastern portion comprising the school oval and rooftop sports courts. The majority of the site is developed and contains minimal vegetation.

The existing buildings and landscape features on the site are identified in **Figure 3** and are described below. Site photos are provided at **Figure 3 – 9**.



The buildings include:

- Hampshire House, located at the north western corner of the site, currently accommodates a early learning centre (ELC). The building contains a kitchen, multipurpose activity rooms, an outdoor play area and basement carparking accessed from Tivoli Avenue.
- Massie building is located to the east of Hampshire House, fronting the Bayview Hill Road.
- Anne and John Lewis Wing (the Music building) is a part one/part two-storey building with rooftop tennis courts, located to the north west of the existing sports oval.
- Sports Shed, a metal storage shed located directly to the east of the existing Music building.
- Sports oval, located along the site's eastern boundary fronting NSH Road.
- Minter building, located to the south of the sports oval linking the sports facilities to the pool and library, further south.
- Hawthorne building, accommodating general learning areas, located to the west of the pool and library.
- Tivoli House, a significant building located to the west of Hawthorne building, centrally within the site with views of the Sydney Harbour. Tivoli House is surrounded by its landscaped garden/courtyard, formally referred to as Tivoli Lawn, with significant vegetation including Norfolk Pines.
- Arts building located to the south of Hawthorne building.
- Alexander building located along the site's Tivoli Avenue boundary, south of the Arts building.
- Watt building located to the west of the Alexander Building along the Tivoli Avenue boundary.
- a three-storey residence (3 Tivoli Avenue, Rosebay) forming the south-eastern corner of the site.



**Figure 3** | Existing buildings on the site (Source: Nearmap 2021)



**Figure 4** | View from the sports oval towards Tivoli House and Hawthorne buildings  
(Source: DPIE 2021)



**Figure 4** | Rooftop tennis courts (above Music building) and sports shed (Source: DPIE 2021)





**Figure 5** | The Music building and rooftop tennis courts as viewed from courtyard fronting Tivoli House (Source: DPIE 2021)



**Figure 6** | Sports oval and embankment fronting NSH Road (Source: DPIE 2021)





**Figure 7 | Arts building (Source: DPIE 2021)**



**Figure 8 | Hawthorne building (Source: DPIE 2021)**

## Embankment

Given the topography of the land, the finished level of NSH Road is located at a higher level than the eastern boundary of the site. A steep stone embankment with easement benefitting Transport for NSW (TfNSW) forms the entire north-eastern boundary the site. Peripheral vegetation is located along this embankment at the north-eastern corner and provides privacy to the school's sport ovals. The embankment is shown in **Figure 7**.

## Stormwater pipes and flooding

The site is partially identified as a flood planning area under the Woollahra Local Environmental Plan 2014 (WLEP). The site is impacted by an overland flow path over part of the NSH Road, near its intersection with Bayview Hill Road. A 450mm diameter pipeline runs through the south-eastern corner of the site and is affected by an easement benefitting Woollahra Council.

## 1.3 Heritage

The site is identified as an item of local heritage significance in the WLEP, with particular reference to the Tivoli House, its interiors, gateposts, gate and flanking walls with rail facing Tivoli Avenue. The two Norfolk Island Pine trees adjacent to Tivoli House are also locally heritage listed.

Tivoli House is a two to three storey building located centrally within the site with views of the Sydney Harbour. It is constructed of rendered brick and stone and has a hipped and gabled slate roof. The building forms part of an original grant of sixty acres to Samuel Breakwell in 1812 and has formed part of the Kambala School since 1840. Since its construction, the building has been substantially extended and modified.

Photos of Tivoli House, its setting and later additions are provided in **Figures 10 – 12**.



**Figure 10** | Tivoli House (Source: DPIE 2021)





**Figure 11** | Heritage listed Norfolk Island Pine (Source: DPIE 2021)



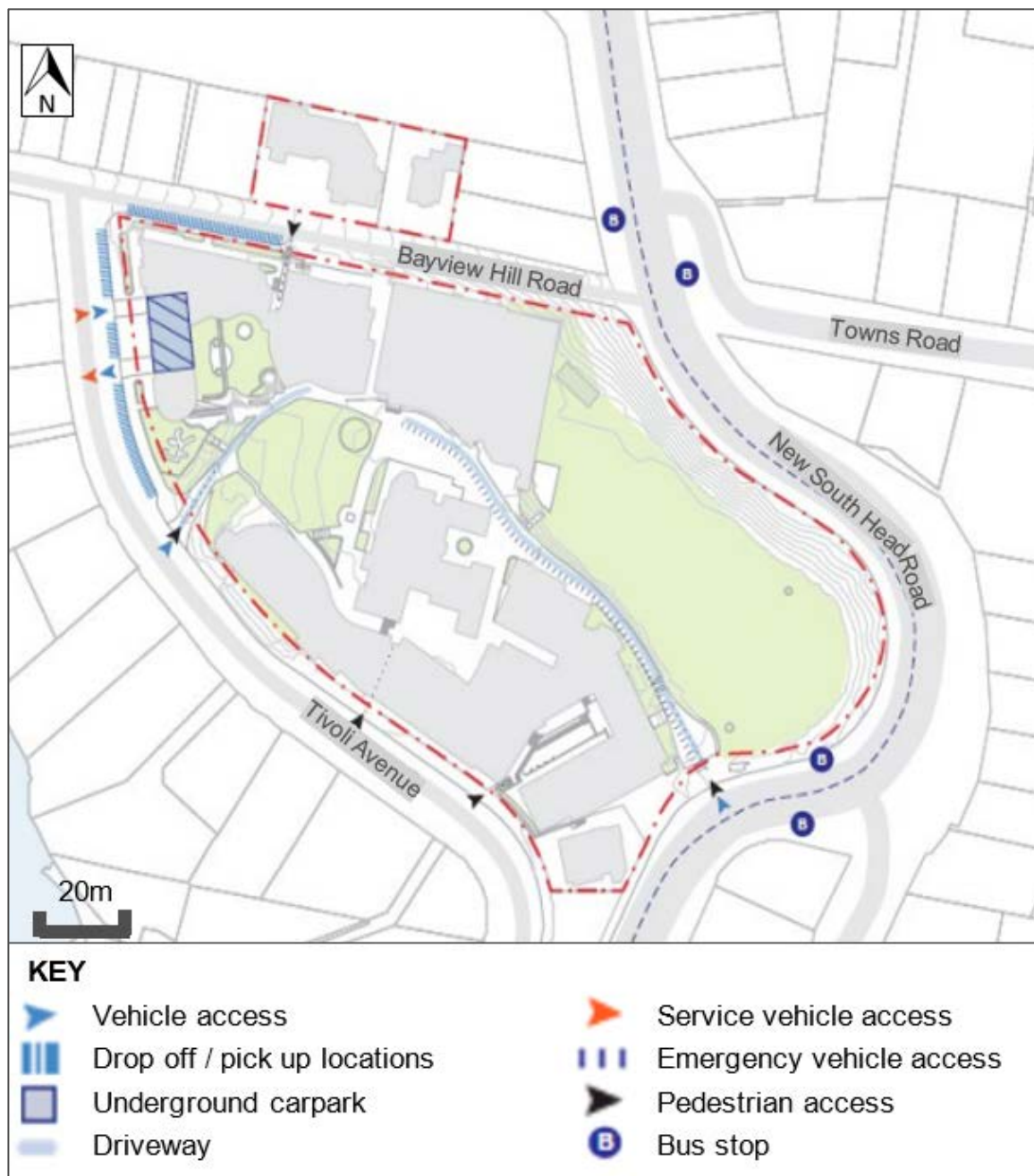
**Figure 12** | Later additions to northern elevation of Tivoli House  
(Source: Applicant's EIS 2020)

#### 1.4 Access, existing carparking and public transport

The site currently has three vehicular access points located on NSH Road and one on Tivoli Avenue. The site's pedestrian and vehicular access arrangements are provided in **Figure 13**. The gates marking the main entrance to the school from NSH Road lead to a driveway which continues to the north-west arriving at the northern entrance of Tivoli House as shown in **Figure 14**. This driveway is



mainly used for emergency and service vehicles. A pedestrian entry point is located next to the driveway.

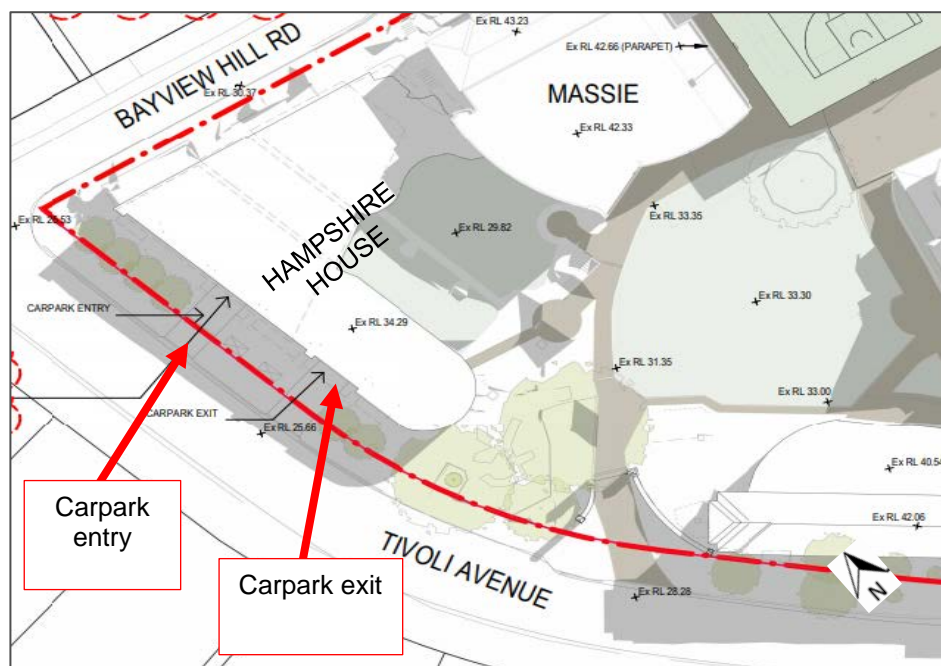


**Figure 13** | Site access arrangements (Source: Applicant's EIS 2020)



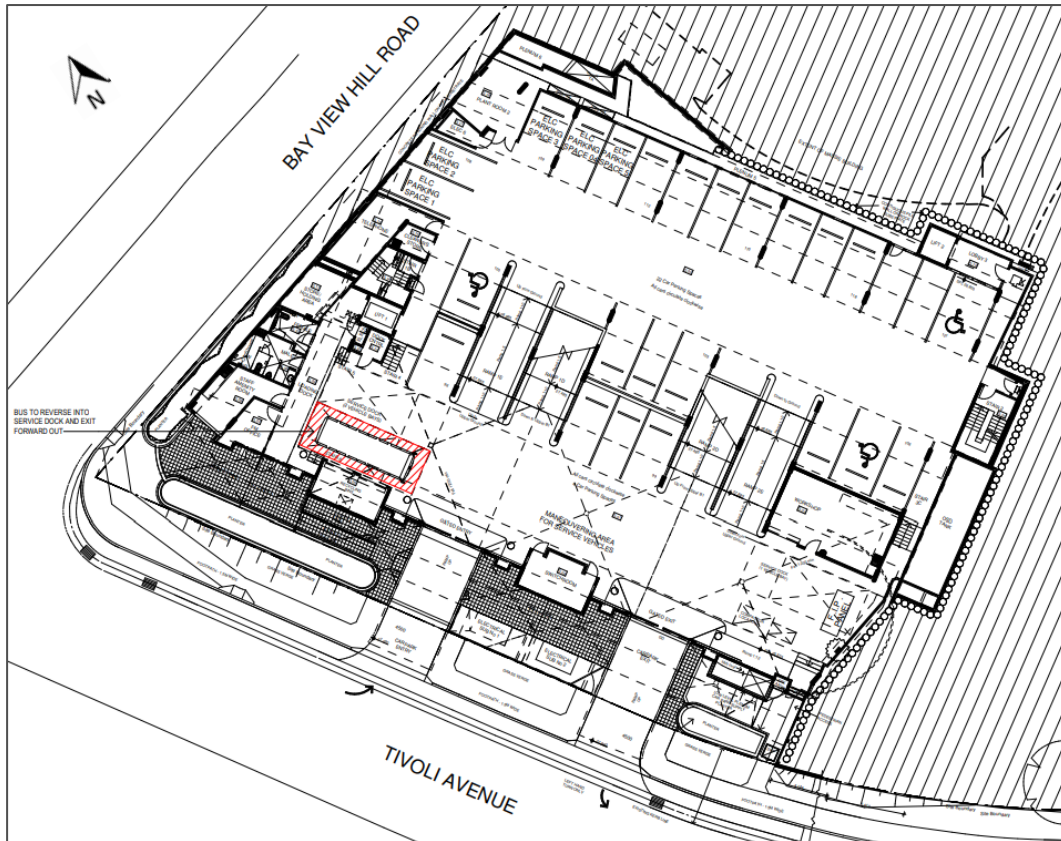
**Figure 14** | Emergency and service vehicle access point to the site along NSHR  
(Source: DPIE 2021)

Vehicular access and parking for school users is provided from Tivoli Avenue in the carpark located under the Hampshire House. It currently accommodates 123 carparking spaces with 100 staff car spaces, 12 childcare spaces, three accessible spaces and eight visitor car spaces. The carpark is used by school staff, shuttle buses and service vehicles throughout the week and by sports oval user during the weekends. The layout, entry points and photo of the carpark are in **Figures 15 – 17**.



**Figure 15** | Existing carpark entry and exit points (Source: Applicant's EIS 2020)





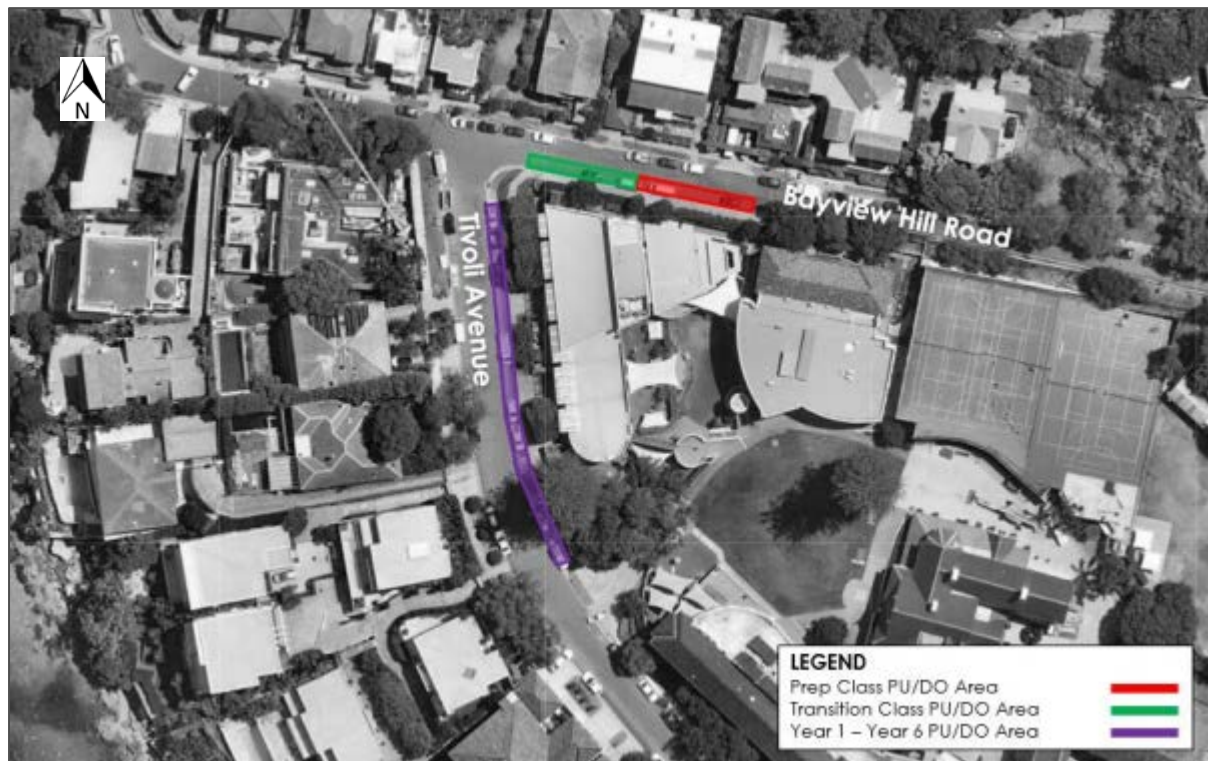
**Figure 16 | Existing carpark layout (Source: Applicant's EIS 2020)**



**Figure 17 | Tivoli Avenue carpark entry point (Source: DPIE2021)**



Two drop-off and pick-up areas for the ELC and students from Years 1-6 are provided along Bayview Hill Road and Tivoli Avenue, as shown in **Figures 18** and **19** (marked as PU/DO in the figures).



**Figure 18** | Existing drop-off and pick-up areas (Source: Applicant's EIS 2020)



**Figure 19** | Photo of the drop-off and pick-up area (Source: DPIE 2021)

The site is well serviced by public transport in the form of buses and school buses. The closest bus stop to the school is on Bayview Hill Road. There are no other forms of public transport within walking

distance of the site. Rose Bay Ferry Wharf is located approximately 1km to the south-west and provides access to Double Bay, Darling Point, Watsons Bay and Circular Quay.

## 1.5 Surrounding context

### Properties to the north of Bayview Hill Road

The northern portion of the site located to the north of Bayview Hill Road is occupied by two residences. One residence is two-storeys in height and the other is two-three storeys in height. The residences are currently being used by the school as the Fernbank boarding houses for students from Years 10-12. The school owned shuttle buses are parked on this property in between drop-off and pick-up services. The location of the boarding houses is shown in **Figure 20**.



**Figure 20** | Fernbank boarding houses (Source: Nearmap 2021)

### Surrounding developments

The school is surrounded by an established residential locality that is characterised by predominantly low-density residential uses along Bayview Hill Road and Tivoli Avenue (**Figure 21**). NSH Road is a classified road and adjoins a mix of commercial uses, recreational areas and medium to high density apartment buildings (**Figure 22**).





**Figure 21** | Low-density residential uses surrounding the site along Bayview Hill Road  
(Source: Applicant's EIS 2020)



**Figure 22** | NSH Road to the east of the site (Source: Applicant's EIS 2020)

The Kincoppal-Rose Bay School is located in close proximity, further north-west of the site (**Figure 23**). To the east, south and west of the site are low-density residential houses and further south is the Rose Bay Ferry Wharf. Sydney Harbour and Sydney CBD are located further west and are key sight lines from the site (**Figure 24**).



**Figure 23** | Kincoppal-Rose Bay School to the north of the Site (Source: Applicant's EIS 2020)



**Figure 24** | Views of Sydney Harbour from the sports oval (Source: DPIE 2021)



## 1.6 Existing operations

Kambala School currently has 1020 students and 183 full-time equivalent (FTE) staff members, being 70 student above the approved 950 students.

The school's core operating hours are from 7:30am to 4:30pm on Monday to Friday. The school also provides boarding operations which remain open for 24 hours outside of these core operational hours every day during the school term. Out of school hours (OOSH) care is available between 7am to 9am and 3:20pm to 6pm from Monday to Friday throughout the term.

Out-of-hours activities are held at the school from 5:30am to 8:20am in the morning and 3:20pm and 6:15pm in the afternoon from Monday to Friday. These activities mainly comprise sports and senior classes.

An after school learn-to-swim program is also made available to students during the spring and summer school terms.

Weekend uses of the existing sporting oval amongst the school's students also takes place on Saturdays. Community use of certain school facilities (including swimming pool) are permitted between 5:30am to 8am and 3:30pm to 6:15pm, 48 weeks a year.

## 1.7 Previous approvals

Two separate development approvals are relevant to the site including:

- **DA 511/2004 -**
  - in 2005 Council approved a DA for the site which granted consent for the construction of a new Performing Arts Centre and Music building.
  - a subsequent modification was lodged and approved which proposed the construction of a sports hall which included a gymnasium, change room, offices and performing arts center above the Music building.

The Music building was subsequently constructed. However, the proposed gymnasium and sports on top of the Music building hall have not been constructed.

- **DA/387/2005/1**
  - on 13 November 2006, Council approved a DA for the site which permitted the construction of a new building comprising gymnasium, sports hall, change room, offices, and performing arts centre and an enrolment cap of 950 students at the school.

The Department notes that the school currently has 1020 students, being 70 above the 950 approved students, per this most recent development consent. The building approved under this consent had not been constructed. The Applicant has advised that this consent may have lapsed, but sufficient evidence of lapsing and / or activation of the consent are not available at this time. Notwithstanding, Kambala school recognises the approved student numbers of 950.



## 2 Project

The key components and features of the proposal, as refined by the Response to Submissions (RtS) and supplementary RtS (SRtS), are provided in **Table 1** and are shown in **Figures 25 - 40**.

**Table 1 | Main Components of the Project**

Aspect	Description
<b>Project Summary</b>	A new sport, wellbeing and senior learning precinct (SWSLP) within Kambala School comprising part demolition / alterations to existing buildings and construction of a new two-storey building to accommodate multipurpose sports courts for up to 1500 people, general learning areas, rooftop sports courts, staff facilities, landscaped open spaces. The development seeks to regularise the current student numbers by 1020, being 70 more than the approved 950.
<b>Demolition works and site preparation</b>	<ul style="list-style-type: none"> <li>• Removal of existing sports oval and excavation.</li> <li>• Removal of roof top tennis court on the Music building.</li> <li>• Partial demolition of Hawthorne building and Tivoli House.</li> <li>• Demolition of the existing Arts building, and sports shed.</li> <li>• Removal of 16 trees.</li> <li>• Installation of hydraulic and electrical services.</li> </ul>
<b>Site Area</b>	<ul style="list-style-type: none"> <li>• 22,511m<sup>2</sup></li> </ul>
<b>Gross Floor Area (GFA)</b>	<ul style="list-style-type: none"> <li>• Existing GFA: 14,824m<sup>2</sup></li> <li>• Proposed GFA: 19,717m<sup>2</sup></li> </ul>
<b>Building Works</b>	<ul style="list-style-type: none"> <li>• Construction of a two-storey SWSLP building comprising: <ul style="list-style-type: none"> <li>○ 3 indoor multipurpose sports courts for 1500 people.</li> <li>○ spectator areas, weight rooms and dance rooms.</li> <li>○ roof-top sports courts, fencing and covered seating.</li> <li>○ vehicular ramp to the rooftop.</li> <li>○ general learning areas (GLA) and student amenities.</li> </ul> </li> <li>• Alterations to Music building comprising: <ul style="list-style-type: none"> <li>○ alterations to the ground floor.</li> <li>○ addition of an upper level (two-storey in total) with: <ul style="list-style-type: none"> <li>- staff facilities (Kambala Institute of Teaching Excellence or KITE).</li> <li>- offices, workshop areas and multipurpose areas comprising the Kambala Wellbeing Centre or SHINE.</li> </ul> </li> <li>○ addition of rooftop tennis courts to reinstate the removed tennis courts, with lighting and fencing.</li> </ul> </li> <li>• Alterations to Hawthorne building by partly demolishing its northern section and reinstating courtyard space.</li> </ul>

	<ul style="list-style-type: none"> <li>• Partial demolition of the south-west wing of Tivoli House (school canteen) and Arts building to reinstate open space.</li> <li>• Bridge connections for SWSLP building and Music buildings at the upper levels including the rooftop sports courts.</li> <li>• A glass external lift connecting ground floor with rooftop.</li> </ul>
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>• 460m<sup>2</sup> area of additional planting plus 370m<sup>2</sup> of additional lawn and 21 new trees.</li> <li>• Rooftop sports / tennis courts.</li> <li>• Five new or upgraded ground level outdoor spaces: <ul style="list-style-type: none"> <li>○ Entrance Plaza and Covered Outdoor Learning Area (COLA) (adjoining eastern façade of SWSLP building).</li> <li>○ Tivoli Plaza (to the north of Tivoli House).</li> <li>○ Northern Courtyard (between SWSLP and Music).</li> <li>○ Café Hub (south of Tivoli House).</li> <li>○ Southern Lawn and Playfair terraces (South of Hawthorne building).</li> </ul> </li> </ul>
<b>Carparking</b>	<ul style="list-style-type: none"> <li>• 123 carparking spaces retained with 4 bicycle spaces proposed.</li> <li>• Five motorbike spaces within the boarding house site.</li> </ul>
<b>Student Numbers</b>	<ul style="list-style-type: none"> <li>• Increase in the approved student capacity from 950 to 1020.</li> </ul>
<b>Jobs</b>	<ul style="list-style-type: none"> <li>• 120 full-time construction jobs.</li> <li>• No change to operational jobs.</li> </ul>
<b>CIV</b>	<ul style="list-style-type: none"> <li>• \$59,700,000.00</li> </ul>
<b>Staging</b>	<ul style="list-style-type: none"> <li>• Four construction stages.</li> </ul>

## 2.1 Site preparation and layout

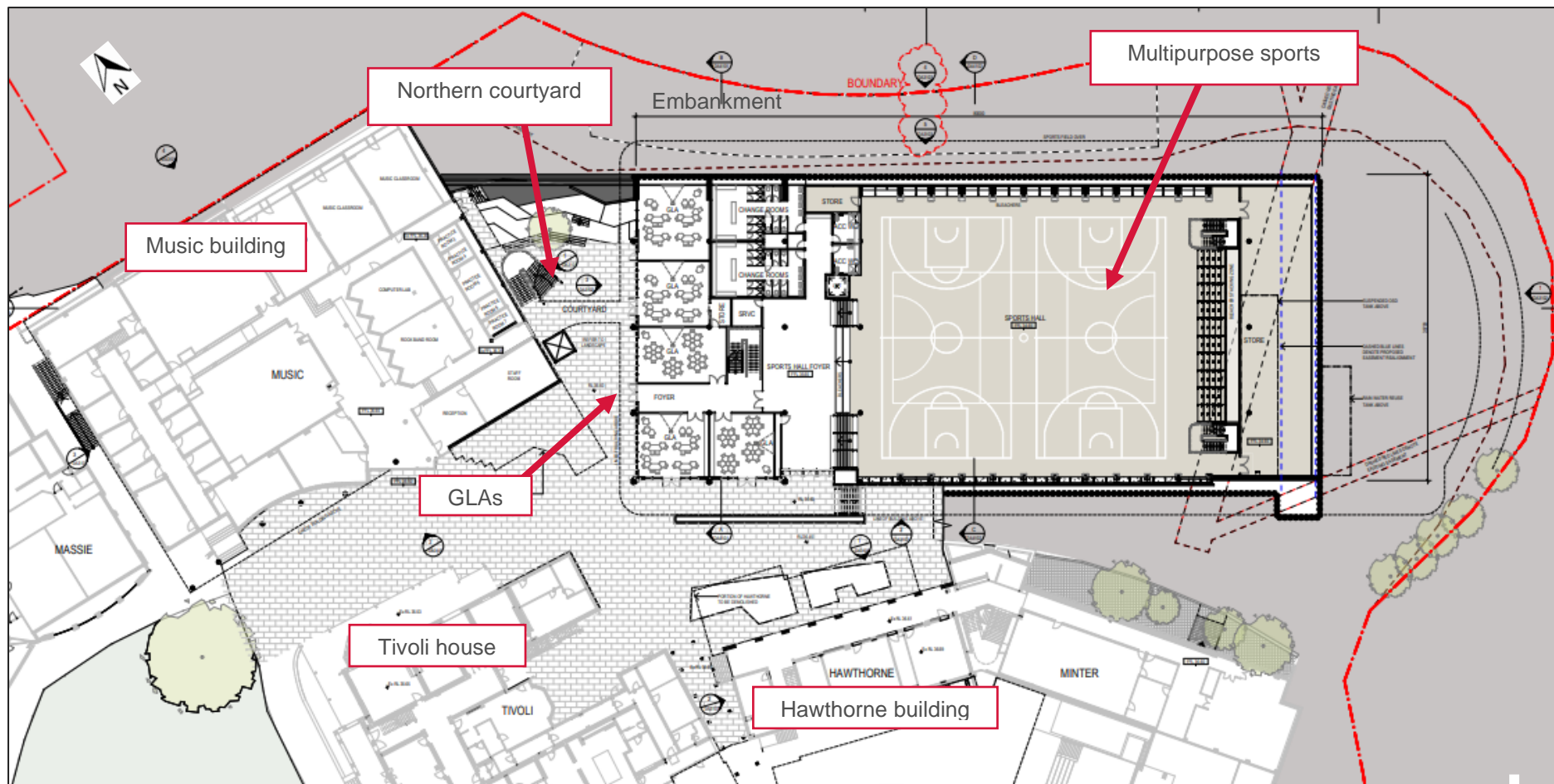
The site establishment works are identified in **Table 1**, with buildings to be demolished in **Figure 25**.

The layout of the SWSLP would involve part demolition of existing buildings to create landscape spaces, construction of the proposed SWSLP building to replace the sports oval, alterations to the adjoining Music building and Hawthorne building. A vehicular ramp is proposed from the existing driveway to the roof, for emergency and maintenance vehicle access. Rooftop sports courts above the SWSLP and Music buildings are proposed replacing the existing sports courts.

As identified in **Table 1**, the main components of the proposed SWSLP building would be the double-height indoor multipurpose sports courts connecting to the southern landscaped courtyard and the COLA. The first floor above the existing Music building would accommodate the staff and wellbeing areas and be connected to the proposed SWSLP building via a bridge. The first floor can also be accessed from Bayview Hill Road via a pedestrian bridge. The floorplan of the two buildings along with the upgraded open space areas are provided in **Figures 26 – 28**.

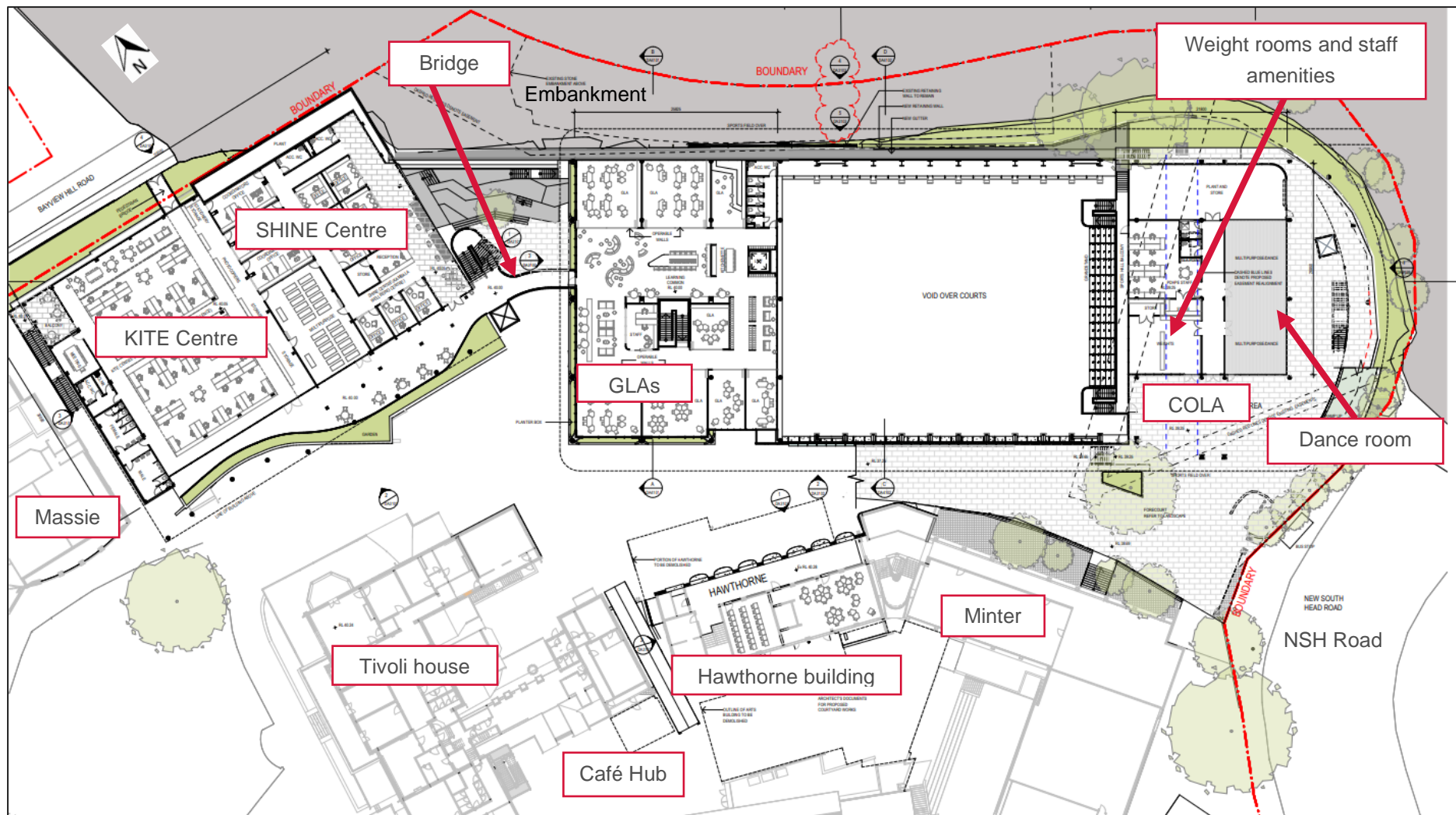


**Figure 25 | Demolition plan (Source: Applicant's EIS 2020)**

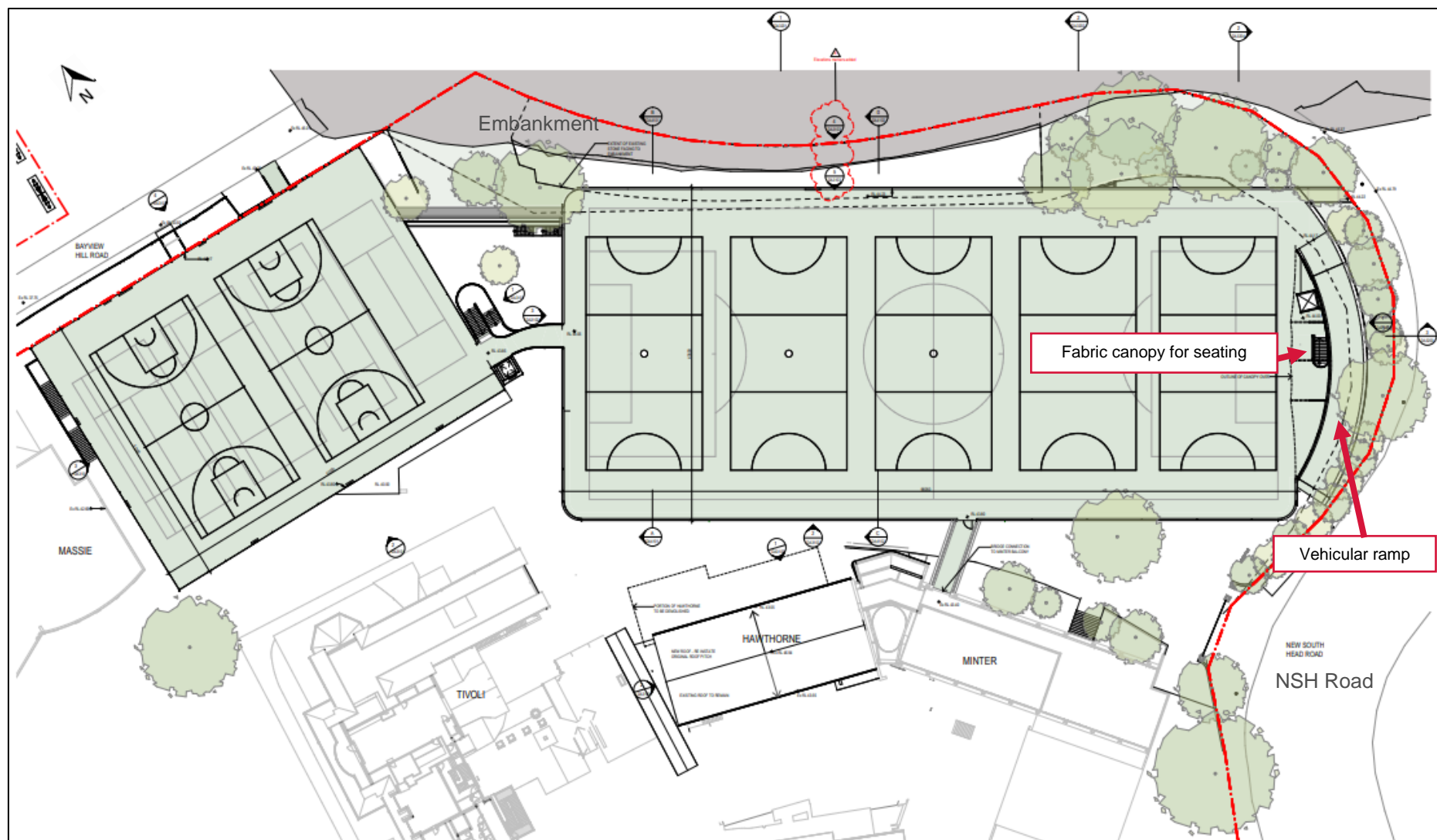


**Figure 26 |** Ground floor layout (Source: Applicant's RtS 2021)





**Figure 27** | First floor plan for the proposed SWSLP and existing Music building (Source: Applicant's RtS 2021)



**Figure 28 | Rooftop sports courts (Source: Applicant's RtS 2021)**

## 2.2 Built form of SWSLP

The proposed SWSLP building would be 12.5m high (including lift shaft) with the rooftop at RL43.8 – RL 44 (8.2m above ground level). The rooftop of the Music building would also be at this level for accessibility between buildings. The perimeter fencing for the sports courts would comprise steel tensile webnet fence, the top of the fence being at RL47.4 – RL47.77 (12.2m high). The top of the floodlight poles would be at the same height as the fence. The external lift overrun would be located at RL48.15 (12.5m high) and the fabric canopy for seating would be at RL49.2. Given the topography of the land, only the roof of the building would be visible from NSH Road. The buildings would also not be taller than the Tivoli House.

The facade of the SWSLP building has been designed to be contemporary in nature, while responding to the colours, architecture and design of Tivoli House. The external lift is proposed to be of glass.

A view of the proposed SWSLP building, internally within the site is provided in **Figure 29**. The view of the building from NSH Road is provided in **Figure 30**. The building elevations showing the RLs and the relationship of the buildings with Tivoli House are shown in **Figures 31 - 34**.

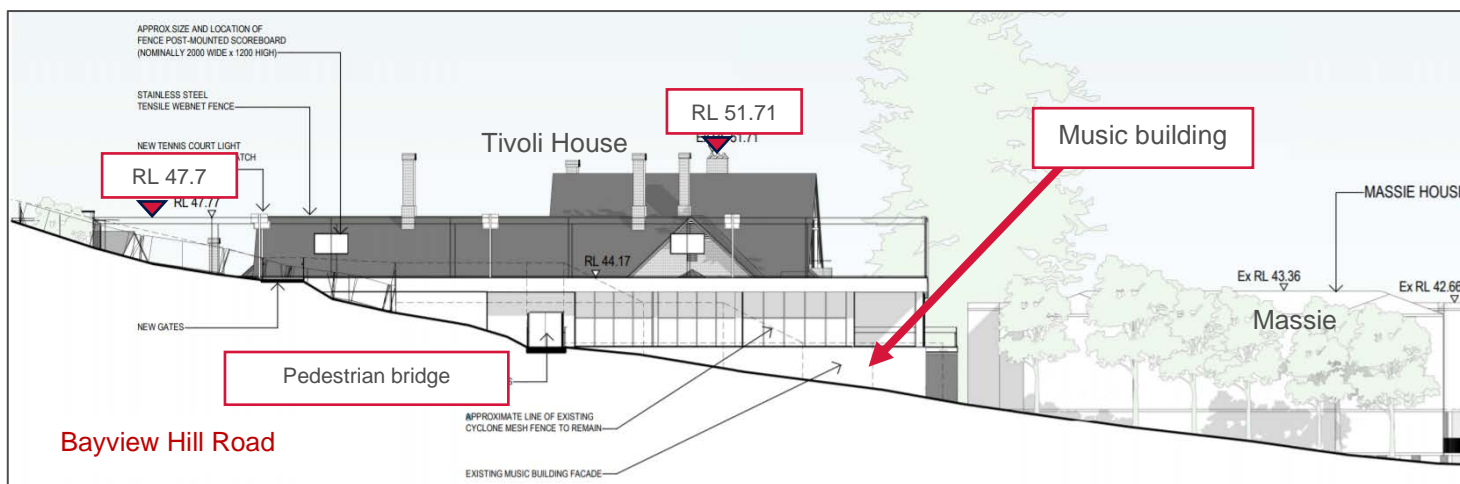


**Figure 29** | View of the proposed SWSLP building (Source: Applicant's EIS 2020)

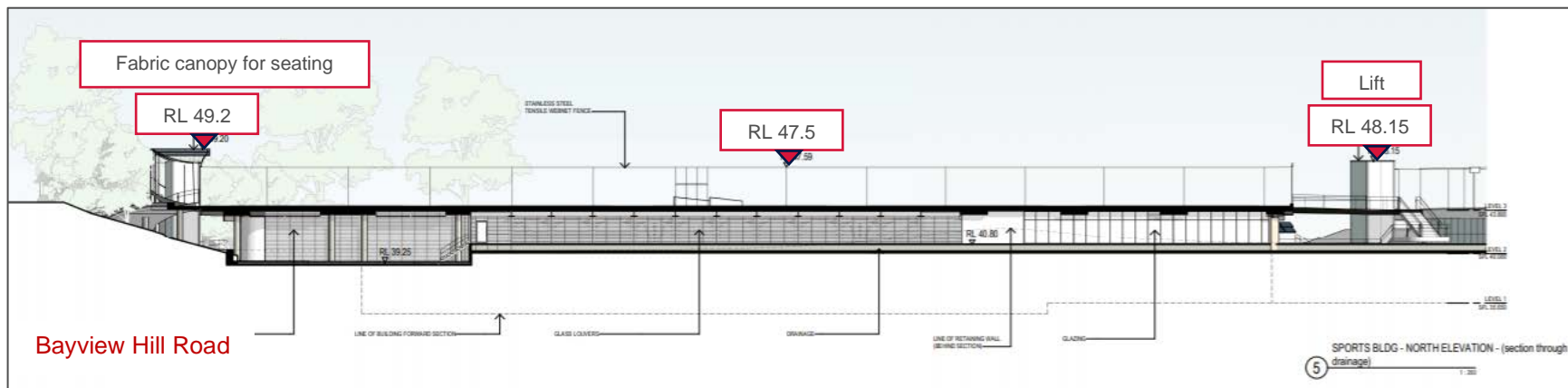


**Figure 30** | View of the proposed SWSLP from NSH Road (Source: Applicant's EIS 2020)



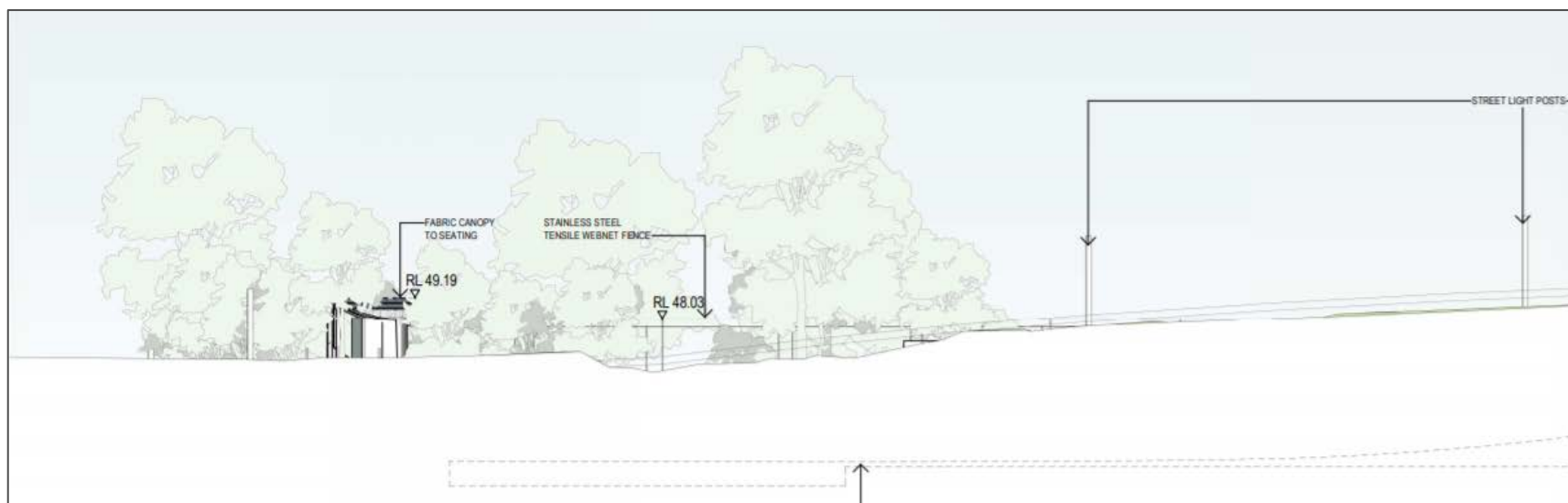


**Figure 31 |** Northern (Bayview Hill Road) elevation of the SWSLP (Source: Applicant's RtS 2021)

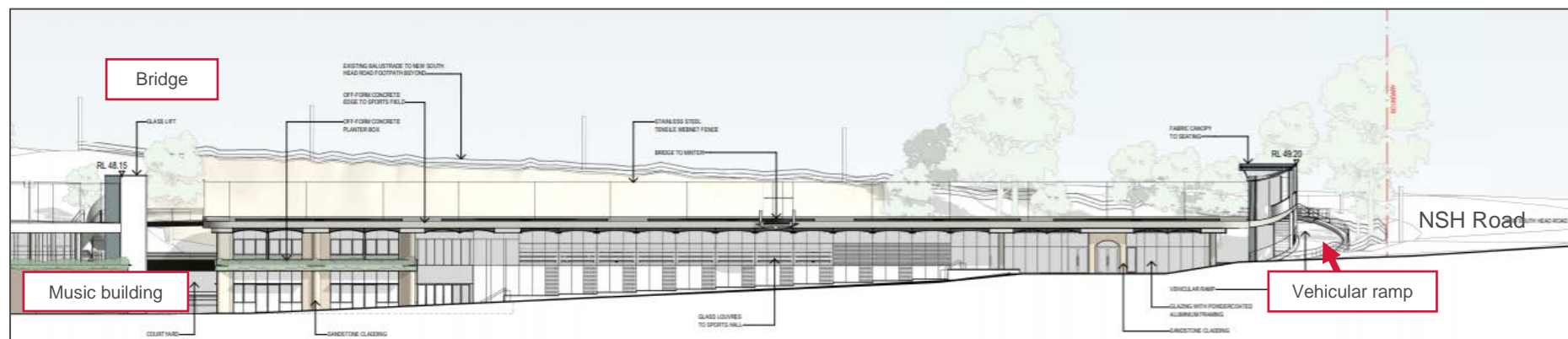


**Figure 32 |** Section through the SWSLP building, as viewed from the north (Source: Applicant's RtS 2021)





**Figure 33** | Proposed SWSLP elevation along NSH Road (Source: Applicant's RtS 2021)



**Figure 34** | Proposed southern (internal) elevation of the SWSLP building and Music buildings (Source: Applicant's EIS 2020)

Internally, the proposed SWSLP building would include well-lit indoor sports court as identified in **Figure 35**. The rooftop sports courts would be at grade with NSH Road as identified in **Figure 36**.

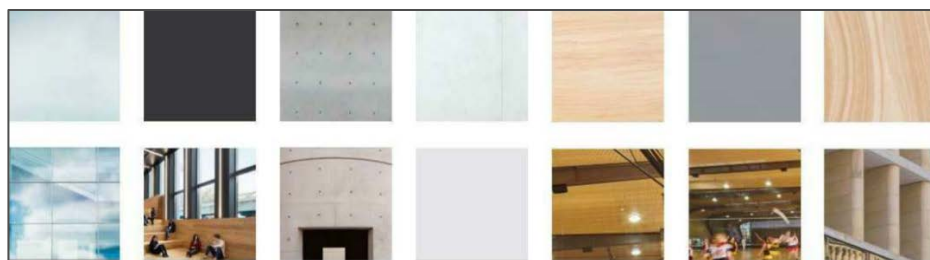


**Figure 35** | Indoor sports court of the SWSLP building (Source: Applicant's EIS 2020)



**Figure 36** | Rooftop sports courts as viewed from NSH Road (Source: Applicant's EIS 2020)

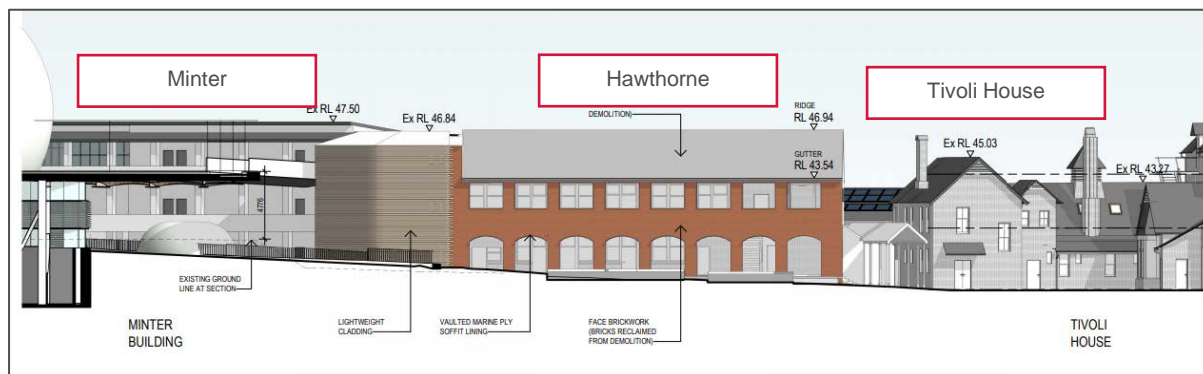
The building would be constructed of durable materials and would feature sandstone, marine ply, off-form concrete and high-performance glass as identified in **Figure 37**.



**Figure 37** | Building materials for proposed SWSLP (Source: Applicant's EIS 2020)

## 2.3 Alterations to Hawthorne building and Tivoli House

The proposal involves the demolition of the northern section of the Hawthorne building to reinstate open spaces, create a covered external walkway at the ground level and a colonnaded balcony on the first floor (**Figures 26 and 27**). The northern elevation of the Hawthorne building, as proposed, is provided in **Figure 38**. No change to the existing building height or bulk are proposed.



**Figure 38** | Hawthorne building northern elevation (Source: Applicant's EIS 2020)

The marine ply lining to the main external cornered walkway is proposed to be curved, to reflect the arched geometry of Tivoli House, as well as the original façade of Hawthorne.

The proposal also involves the part demolition of the south-eastern part of the Tivoli House and reinstating the open space curtilage around the significant building.

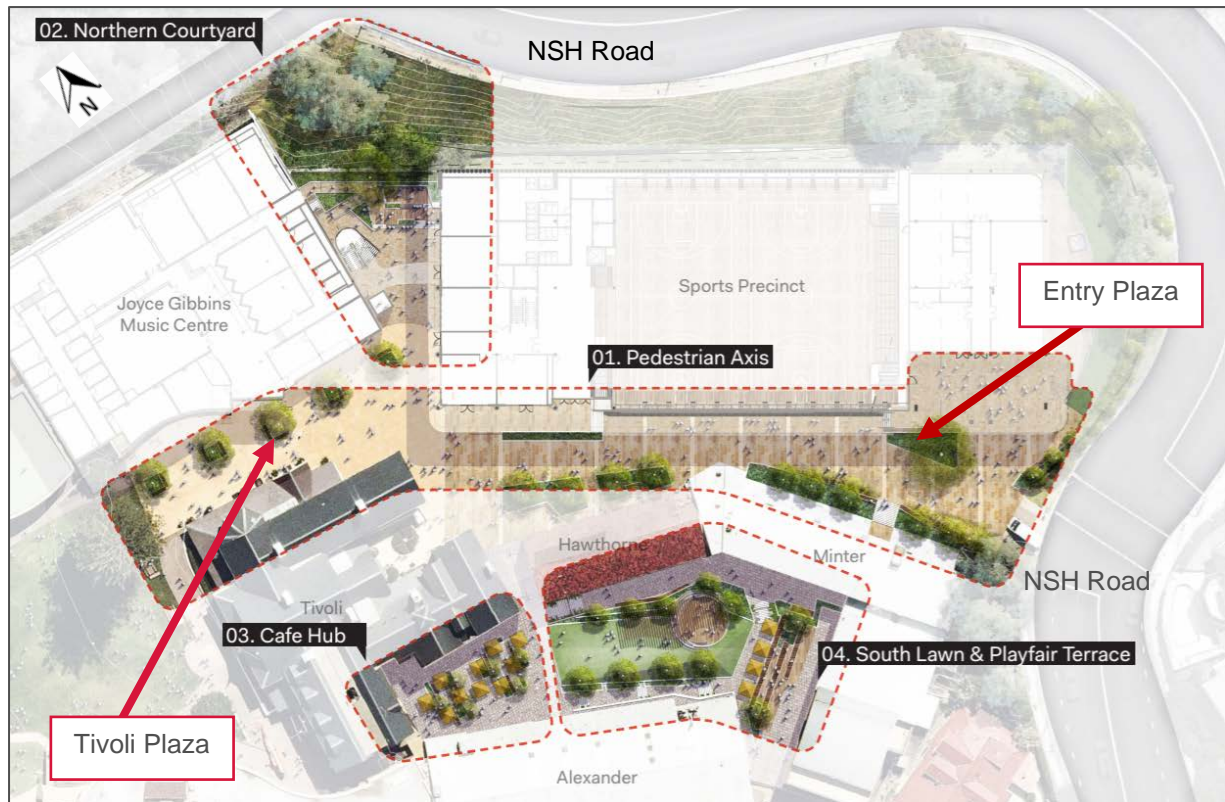
## 2.4 Landscaping

The landscaping scheme for the development includes a range of multi-functional landscape spaces as identified in **Table 1**.

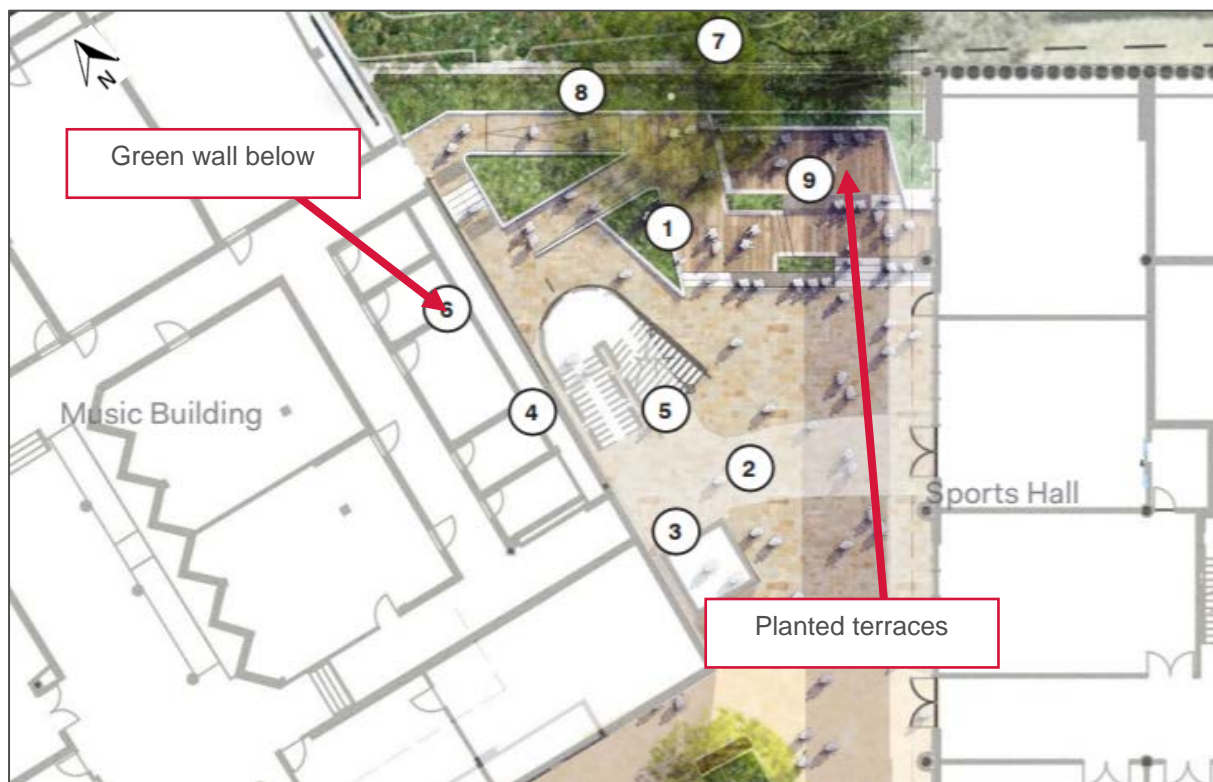
The new landscaped areas and courtyards proposed throughout the site are shown in **Figure 39**.

The proposed northern courtyard is shown in **Figure 40** to provide an example of the structures that would be provided and how these spaces would be used by the school.





**Figure 39** | Landscape masterplan for the campus (Source: Applicant's EIS 2020)



**Figure 40** | Northern courtyard (Source: Applicant's EIS 2020)

## 2.5 Stormwater works

The proposal would require the diversion of a major stormwater pipeline that runs through the south-eastern portion of the site. It would also require the increase in the capacity of this pipe from 450mm to 750mm. The existing easement would have to be realigned to allow for this diversion. A retaining wall would be constructed adjacent to the existing embankment with a drainage channel running horizontally along the length of the embankment to collect the stormwater from the batter.

The stormwater system would also include two on-site detention tanks and stormwater quality treatment measures.

## 2.6 Staging and timing

Construction works are proposed to be undertaken in four stages commencing in November 2021. The Stage 1 works are anticipated to be completed by June 2023. Standard construction hours would be adhered to during construction works. The proposed staging plan is as follows:

### Stage 1

- demolition and excavation.
- construction of the SWSLP indoor sports courts, rooftop sports court, vehicular ramp and COLA shell.
- external lift and stairs connecting Music building and SWSLP building.
- new connection from Music building to courtyard and new stairs to existing tennis courts.

### Stage 2A

- construction of part GLAs on the upper level of the SWSLP building and the bridge.
- demolition of the south-east corner of the Music building and installation of the external lift.

### Stage 2B

- full fit out of eastern end of SWSLP building and the COLA.

### Stage 2C

- partial demolition of Hawthorne building and reinstatement of roof.

### Stage 2D

- new landscaping between Music building and Tivoli House.

### Stage 3

- partial demolition of Arts building and Tivoli House and new landscaped area.

### Stage 4

- demolition of existing tennis courts on the Music building and provision of new tennis courts.
- completion of the multipurpose sports courts and pedestrian path to Bayview Hill Road.

## 2.7 Uses and activities

The proposal seeks to regularise the total number of students attending the school from 950 to 1020. No change to the overall use of the site, the core and extended operational hours and the out-of-school hour activities. The new SWSLP would not be made available for community use, however, existing OOSH activities would be undertaken within the building or on its roof top sports court. The proposed lighting of the tennis courts would be switched off after 6:15pm.

## 3 Strategic context

### 3.1 Project need and justification

The Applicant's EIS advises that need for the development of a SWSLP is consistent with the School's 2019-2023 Strategic Plan which identified the need for the coordinated renewal and orderly development of the School campus. The proposal would improve the outdated and inefficient teaching spaces and sports facilities that are currently provided within the campus and ensure the continued efficient operation in the future.

The Department agrees with the Applicant that the proposed SWSLP building and associated alterations would meet the need to provide suitable teaching spaces and improved educational facilities and curriculum that meet increased demand for improved educational facilities across NSW. The proposed increase in the student numbers would ensure that the current unauthorised use is regularised.

### 3.2 Strategic context

The Department considers that the proposal is appropriate for the site as it is consistent with the:

- NSW State Priorities, as it would provide new and improved teaching and educational infrastructure.
- Greater Sydney Regional Plan, A Metropolis of Three Cities as it seeks to deliver additional and upgraded educational infrastructure that would provide high quality educational environments and increased educational opportunities to its students.
- the Eastern District Plan, as it seeks to provide upgraded infrastructure and classrooms which would effectively function to regularise the school's existing student numbers that are currently enrolled.
- NSW Future Transport Strategy 2056, as it would provide improved educational facilities in an accessible location and provides access to new employment opportunities in proximity to public transport. The proposal does not seek to increase the number of carparking spaces to encourage the use of public transport and assist in improving the school's modal split.
- Infrastructure NSW State Infrastructure Strategy 2018-2038, as it provides direct investment to improve existing educational facilities to meet the demands for the need for additional social and economic infrastructure that can serve the growing population.

The proposal would also provide a direct investment of approximately \$59,700,000 and would provide 120 full time equivalent (FTE) construction jobs.

## 4 Statutory Context

### 4.1 State significance

The proposal is SSD under section 4.36 (development declared SSD) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the proposal has a CIV in excess of \$20 million and is for the purpose of alterations to an existing school under clause 15 (2) of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011.

The Minister is the consent authority under section 4.5 of the EP&A Act. In accordance with the Minister for Planning and Public Space's delegation to determine SSD applications, signed on 26 April 2021, the Director, Social and Infrastructure Assessments may determine this application as:

- the relevant Council has not made an objection.
- there are less than 15 public submissions in the nature of objection.
- a political disclosure statement has not been made.

### 4.2 Permissibility

The site is identified as being located in a SP2 Infrastructure zone in the WLEP. An educational establishment is permissible with development consent in the SP2 Infrastructure zone under clause 35 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP).

Therefore, the Minister for Planning and Public Spaces or delegate may determine the carrying out of the development.

### 4.3 Mandatory matters for consideration

#### 4.3.1 Environmental planning instruments

Under section 4.15 of the EP&A Act, the consent authority is required to take into consideration any environmental planning instrument (EPI) that is of relevance to the development of the subject development application. Therefore, the assessment report must include a copy of, or reference to, the provisions of any EPIs that substantially govern the project and that have been considered.

The Department has undertaken a detailed assessment of the EPIs in **Appendix B** and is satisfied that the application is consistent with the requirements of the EPIs.

#### 4.3.2 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects.

Therefore, in making an assessment, the objects should be considered to the extent they are relevant. A response to the objects of the EP&A Act is provided in **Table 2**.

**Table 2 | Response to the objects of section 1.3 of the EP&A Act**

EP&A Act Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal promotes the social and economic welfare of the community by replacing ageing school infrastructure and providing purpose-built and modern learning spaces to accommodate the needs of an increasing school population.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal includes measures to deliver Ecologically Sustainable Development (ESD) principles ( <b>Section 4.4.3</b> ).
(c) to promote the orderly and economic use and development of land,	The proposal is consistent with the site's land use zoning and historical use as an educational establishment. The development would provide economic benefits through job creation during construction. The merits of the proposal are considered in <b>Section 6</b> .
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposal would not result in the loss of any threatened or vulnerable species, populations, communities or significant habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposal involves the construction of new and modern buildings and associated infrastructure. The design, bulk and scale of the proposed development have been informed by the scale of the existing heritage building on the site and are sympathetic in design. The site would not have adverse impacts on any local heritage items or Aboriginal cultural heritage as discussed in <b>Section 6</b> .
g) to promote good design and amenity of the built environment,	The proposal has been designed to respond to the neighbouring properties in terms of bulk



	and scale. The proposal also incorporated ESD elements.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal would promote proper construction and maintenance of buildings subject to recommended conditions of consent.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal ( <b>Section 5</b> ), which included consultation with Council and other public authorities and consideration of their responses ( <b>Section 5.3</b> ).
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in <b>Section 5</b> , which included notifying adjoining landowners and displaying the proposal on the Department's website during the exhibition period.

#### 4.3.3 Ecologically sustainable development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in the decision-making process and that ESD can be achieved through the implementation of:

- the precautionary principle.
- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The Applicant has identified a range of ESD initiatives within the design of the project to enable the proposal to achieve outcomes reflective of industry best practice in sustainable design and construction. The ESD measures that have been identified include:

- high efficiency building services and façade to achieve a 10% improvement above the National Construction Code requirements.
- water fixtures and fittings to encourage the reduction of water use.
- commingled and green waste recycling.
- natural ventilation and lighting through external shading and daylight technologies.
- LED light fittings.
- the use of sustainable building materials.

The Applicant is targeting an equivalent 4-Star Green Star design pathway. The Department has considered the proposed development in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous assessment of the environmental impacts of the proposed development.

The proposal is consistent with ESD principles as described in Appendix K of the Applicant's EIS, which has been prepared in accordance with the requirements of Schedule 2 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

The Department notes that the proposed development is located on a previously developed site and would not result in the loss of any threatened or vulnerable species, populations, communities or significant habitats. The Department has recommended a condition that requires the Applicant to register for a minimum 4-star Green Star rating.

Overall, the proposal is consistent with ESD principles and the Department considers the proposed sustainability initiatives would encourage ESD in accordance with the objects of the EP&A Act.

#### 4.3.4 Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6 Division 6) and Fees (Part 15, Division 1AA) have been compiled with.

#### 4.3.5 Planning Secretary's Environmental Assessment Requirements (SEARs)

On 24 November 2019, the Department notified the Applicant of the Planning Secretary's Environmental Assessment Requirements (SEARs). On 9 January 2020, the Department issued revised SEARs removing certain requirements.

The Department is satisfied that the EIS and RtS adequately address the requirements of the revised SEARs to enable the assessment and determination of the application.

#### 4.3.6 Section 4.15(1) matters for consideration

The matters for consideration under section 4.15(1) of the EP&A Act that apply to SSD in accordance with section 4.40 of the EP&A Act have been addressed in **Table 3**.

**Table 3 | Section 4.15(1) matters for consideration**

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided in <b>Appendix B</b> .
(a)(ii) any proposed instrument	Satisfactorily complies. The Department's consideration of the relevant draft EPIs is provided in <b>Appendix B</b> .
(a)(iii) any development control plan	Under clause 11 of the State Environmental Planning Policy (State and Regional Development) 2011, DCPs do not apply to SSD.
(a)(iiia) any planning agreement that has been entered into or any draft planning	Not applicable.

agreement that a developer has offered to enter into

(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures and requirements relating to development applications (Part 6 of the EP&A Regulation), public participation procedures for SSD and Schedule 2 relating to the preparation of an EIS.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	Likely impacts are proposed to be appropriately mitigated or conditioned as discussed in <b>Section 6</b> .
(c) the suitability of the site for the development	The site is suitable for development as discussed in <b>Section 6</b> .
(d) any submissions	Consideration has been given to the submission received during the exhibition period and discussed in <b>Section 5</b> .
(e) the public interest	Refer to <b>Section 6</b> .

#### 4.4 Biodiversity Development Assessment Report

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are “to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values”.

A BDAR was provided with the EIS which included an assessment of the biodiversity values on the site in accordance with the BC Act. The BDAR identified that the vegetation of the site is highly disturbed and has the potential to be occasionally used by the Grey-headed Flying-fox species for foraging resources. The BDAR concluded that the proposal is unlikely to have any significant or irreversible impacts on the flora or fauna of the site.

Following consideration of all the above aspects, the residual unavoidable impacts of the project were calculated in accordance with the Biodiversity Assessment Method (BAM). Under the BAM, one (1) ecosystem credit is required to offset the impact to 0.09 ha of Coastal sandstone foreshores.

The BDAR states that coastal sandstone foreshores are not identified as a Matter of National Environmental Significance (MNES) under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

While, MNES is not relevant to the assessment of the SSD application, the BDAR identified that there was one MNES on the site, the Grey-headed Flying-fox which is listed as Vulnerable under the EPBC

Act. The BDAR undertook an assessment of the Commonwealth Significant Impact Criteria and concluded that the proposed development would not have a significant impact on this species. Regardless, mitigation strategies have been recommended by the BDAR to manage the potential impacts on the MNES.

The Energy, Environment and Science Group of the Department did not provide any comments or raise concerns in relation to the BDAR submitted for the site. The Department considered the information contained with the Applicant's EIS, including the BDAR assessment and is satisfied that the proposal would be appropriately offset and has recommended conditions requiring the offsets be retired prior to the commencement of vegetation removal and for the mitigation measures contained in the BDAR to be complied with.

## 5 Engagement

### 5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from 28 October 2020 to 24 November 2020 (28 days) on the Department's website. The Department also notified adjoining landowners and relevant state and local government authorities in writing. The Department has considered the comments raised in the public authority and public submissions during the assessment (**Section 6**) and/or by way of recommended conditions in the instrument of consent at **Appendix D**.

The Department representatives visited the site on 18 May 2021 to provide an informed assessment of the development.

### 5.2 Summary of submissions

During the EIS exhibition, the Department received a total of 16 submissions including seven submissions from public authorities (including comments from Woollahra Municipal Council) and nine public submissions.

The nine public submissions included four letters of support from community organisations and five individual submissions from members of the community (one comment, three support and one objection).

A summary of the issues raised in the submissions is provided at **Section 5.3** and **5.4** and copies of the submissions may be viewed at **Appendix A**.

### 5.3 Public Authority submissions

A summary of the issues raised in the submissions from public authorities is provided in **Table 4**. Copies of the submissions may be viewed at **Appendix A**.

**Table 4** | Summary of public authority submissions to EIS

#### Woollahra Municipal Council (Council)

Council provided the following comments:

- the proposed non-compliance of the building height with the WLEP would result in unacceptable visual impact.
- the view impact assessment should have regard to the identified view points in the Woollahra Development Control Plan 2015 (WDCP) and assess the impact of the buildings on the views to Tivoli House and the Harbour.
- the existing on site car parking provisions are not sufficient and inconsistent with WDCP controls which requires additional 58 carparking spaces, including one accessible space, and 6 motorbike spaces.



- the proposal has not considered the need for additional staff due to the improved facilities and the additional impacts due to the increase in students.
- the traffic impacts due to proposed community uses of the facilities should be considered.
- a Green Travel Plan (GTP) and an Operational Traffic Management Plan for the drop-off and pick-up areas should be provided.
- a revised Construction Traffic Management Plan addressing the proposed hours of work, entry and exit routes, work zones and the proposed bus stop closure should be submitted.
- a revised landscape plan is required showing the planting location and pot sizes.
- a detailed site investigation report should be provided to confirm the level of contamination.

Council recommended conditions with respect to the following:

- development contributions.
- stormwater management, relocation of drainage easement, groundwater monitoring and geotechnical matters.
- heritage interpretation and archaeological salvage.
- traffic management measures and landscaping measures.

#### **Transport for NSW (TfNSW)**

TfNSW included the following comments and recommendations:

- the plans submitted for the site should be updated to ensure that all new building structures are clear of TfNSW's easement along the NSH Road boundary.
- a revised GTP should be submitted to ensure sustainable travel outcomes.

#### **Environment, Energy and Science Group (EESG)**

The EESG raised no concerns in relation to biodiversity impacts on the site but noted that the subject area contains high hazard floodway, 200m to the south of the site. EESG provided comments relating to the need for a revised and more detailed stormwater management plan for the site which considers:

- the flood risk of the upper Rose Bay sub-catchment to determine the flood risk.
- the impact from the full range of floods (up to the probable maximum flood).
- the mapping of flood ways, flood storage and flood hazard areas as described in the Floodplain Development Manual 2005.
- climate change implications.
- consulting with Council to enable the preparation of a Flood Emergency Plan.

#### **Environment Protection Authority (EPA)**

The EPA advised that the proposal does not require an Environment Protection Licence or proposed any activities for which the EPA is the regulatory authority.

#### **Sydney Water**

Sydney Water provided advised that portable water and wastewater servicing infrastructure should be available to service the site.

#### Heritage Division of the Department of Premier and Cabinet (Heritage NSW)

Heritage NSW provided the following comments:

- the archaeological assessment for the site included errors that needed to be rectified.
- Further details of assessment of significance and monitoring of the areas with moderate archaeological significance was required.

Heritage NSW recommended conditions requiring:

- appointment of an excavation director.
- preparation of an Archaeological Research Design and Methodology.
- preparation of a post-excavation report after completion of excavation works.

#### Heritage NSW – Aboriginal Cultural Heritage (ACH)

ACH noted errors in the Aboriginal Cultural Heritage Assessment and requested that these be rectified. Noting the low potential of the site for Aboriginal cultural heritage elements, ACH recommended an unexpected finds protocol and ongoing consultation with registered Aboriginal parties.

### 5.4 Public submissions

The matters raised in the two public submissions objecting / commenting to the development include:

- the need for widening Bayview Hill Road to cater for the additional traffic due to the development.
- the impact of floodlighting to the proposed tennis courts on the amenity of the neighbours.
- out of hours use of the floodlights and spillage disturbing views of Sydney Harbour.
- concerns regarding frequency of use of the tennis courts.
- blockage of views due to the lift and the seating on the rooftop multipurpose sports courts.
- potential impacts on Harbour views due to existing and proposed tree plantings.
- lack of community consultation.

The four community organisations and three individual submissions supporting the development stated that:

- the proposed development would provide greatly needed sporting facilities for Kambala School.
- the design enables improved green space on the site and improved heritage curtilage.
- the proposed development would support the aims and values of Kambala School.
- it is consistent with the built and natural local structures.

### 5.5 Response to submissions

Following the exhibition of the application, the Department placed copies of all submissions received on its website and required the Applicant provide a response to the issues/comments raised in the submissions.

On 30 April 2021, the Applicant provided a RtS (**Appendix A**) on issues raised during the exhibition. The RtS included:

- revised architectural and landscape plans, traffic response, updated heritage, archaeological and visual impact assessment responding to the matters raised in the submissions.
- updated flood assessment to demonstrate that flood impacts can be managed.
- provision of five motorbike spaces within the boarding houses site.
- location of shuttle bus parking within the boarding houses site.
- details on mechanical plant location.
- a GTP and updated construction traffic management plan.
- a Detailed Site Investigation, Remedial Action Plan and unexpected finds procedure.

The RtS was made publicly available on the Department's website and referred to relevant public authorities. An additional six submissions were received from public authorities. A summary of the issues raised in the submissions is provided at **Table 5**.

**Table 5 | Summary of public authority submissions to RtS**

<b>Council</b>
Council reiterated their concerns relating to the shortfall of carparking that is proposed on the site and continued to recommend that more carparking be provided to reflect the number of students that are currently enrolled on site.
<b>TfNSW</b>
TfNSW reviewed the RtS and raised no concerns. It recommended conditions in relation to a Road Safety Audit, Service Vehicle Management Plan, Construction Pedestrian and Traffic Management Plan and a Green Travel Plan.
<b>EESG</b>
EESG advised it reviewed the RtS and was satisfied with the Applicant's response to their previous comments.
<b>EPA</b>
EPA reiterated their earlier comments to the proposal.
<b>Heritage NSW</b>
Heritage NSW advised that the updated archaeological assessment did not respond to its previous comments that it provided during the exhibition of the Application and requested: <ul style="list-style-type: none"> <li>• an updated assessment that clearly assessed the potential impact the site may have on archaeological relics that may exist on the site.</li> <li>• a statement of archaeological significance and a detailed research design.</li> </ul>
<b>ACH</b>
ACH advised that the updated report submitted as part of the RtS effectively responded to and addressed their previous comments and reiterated the recommended conditions.

## 5.6 Supplementary RtS

Following submission of the RtS, the Department requested the Applicant to submit additional information and updated archaeological assessment responding to the Heritage NSW comments.

Additionally, the Department also requested the Applicant to:



- clarify the gross floor area of the proposed SWSLP building.
- the total number of construction jobs, and the number of FTE staff on site at any one time.

On 25 June 2021, the Applicant submitted a SRtS including an updated archaeological assessment for the site. The assessment considered the archaeological significance of the site and included recommendations for monitoring the areas of moderate significance. The assessment also included a broad Archaeological Research Design and Methodology.

The Applicant also provided details of the gross floor area for the SWSLP building and provided the following details of the existing staff members:

- FTE staff : 183.
- Part time staff: 73 being an FTE of 45.
- Casual Staff: 202 being an FTE of 20.

The Department notes that the total FTE staff, per the SRtS is 248 in lieu of the previously stated 230 in the EIS.

#### **Heritage NSW comments to SRtS**

Heritage NSW reviewed the SRtS and raised no further concerns in this regard subject to recommended conditions.

## 6 Assessment

The Department has considered the Applicant's EIS, the issues raised in submissions, the Applicant's RtS and SRtS in its assessment of the proposal. The Department considers the key issues associated with the proposal are:

- built form and landscaping.
- visual and view impacts.
- heritage.
- traffic and transport.

The key issues are discussed in **Sections 6.1 to 6.4**. Other issues considered during the assessment are discussed in **Section 6.5**.

### 6.1 Built form and landscaping

#### 6.1.1 Building Height

The site is subject to a maximum height limit of 9.5m under the "Height of Building" development control of the WLEP. The majority of the surrounding sites are also subject to this height control except the developments on the opposite side of NSH Road at its intersection with Bayview Hill Road, where a 13.5m height control applies.

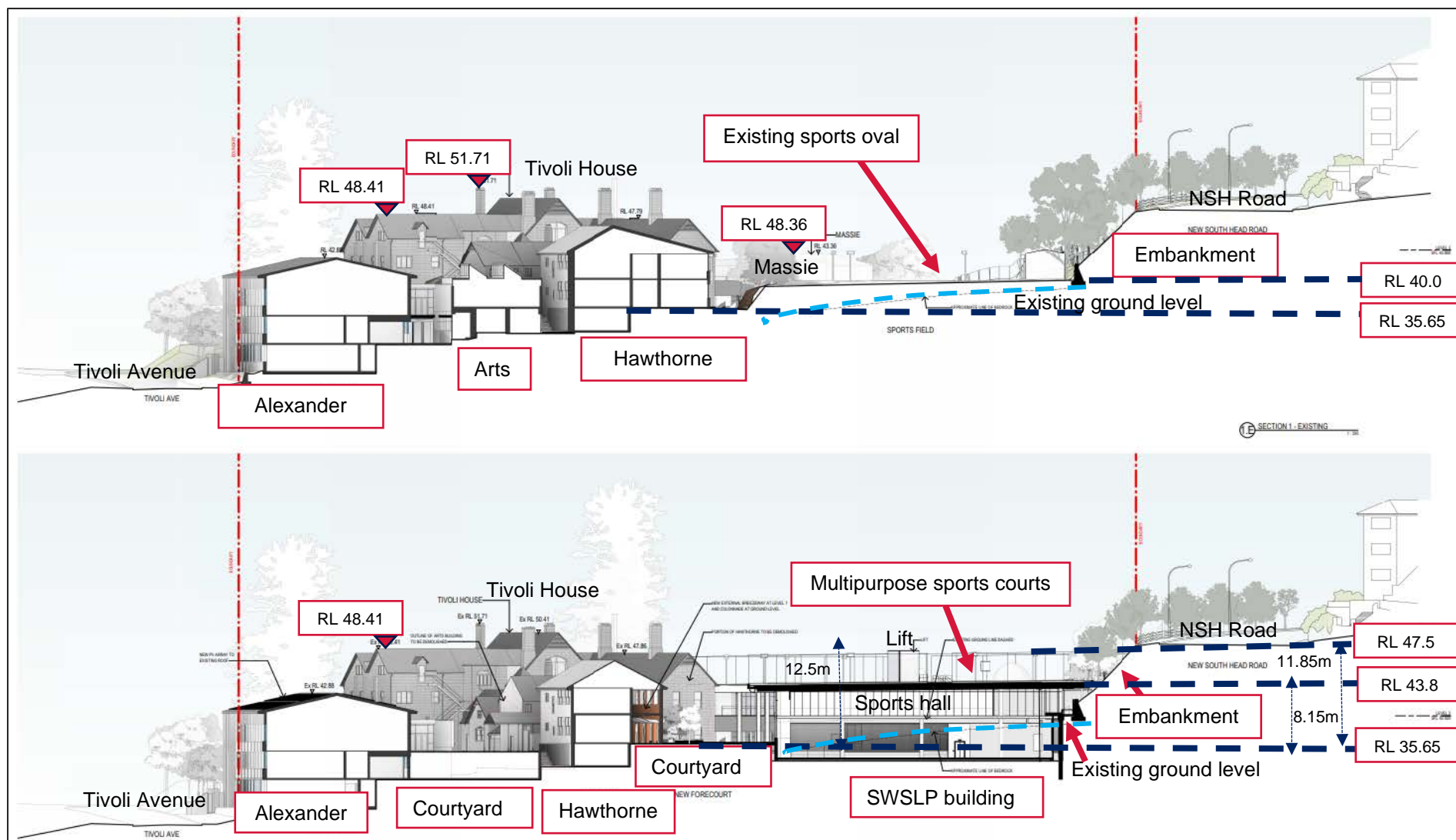
As described in **Section 2**, the proposed SWSLP building would have a height of 12.5m including the rooftop fencing. The Music Building would also match this height to allow for at-grade connections between the sports courts. The Applicant's EIS acknowledged that the overall height of the proposed SWSLP building would contravene the applicable 9.5m height of building control of the WLEP.

The Department notes that clause 42 of the Education SEPP states that *"Development consent may be granted for development for the purpose of a school that is State significant development even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted"*.

Notwithstanding this, the Applicant's EIS included a justification to the exceedance in the building height under clause 4.6 of the WLEP which allows for flexibility in the application of a development standard. The Applicant's clause 4.6 variation concluded that the proposed development achieves the objectives of the "Height of Building" development standard as:

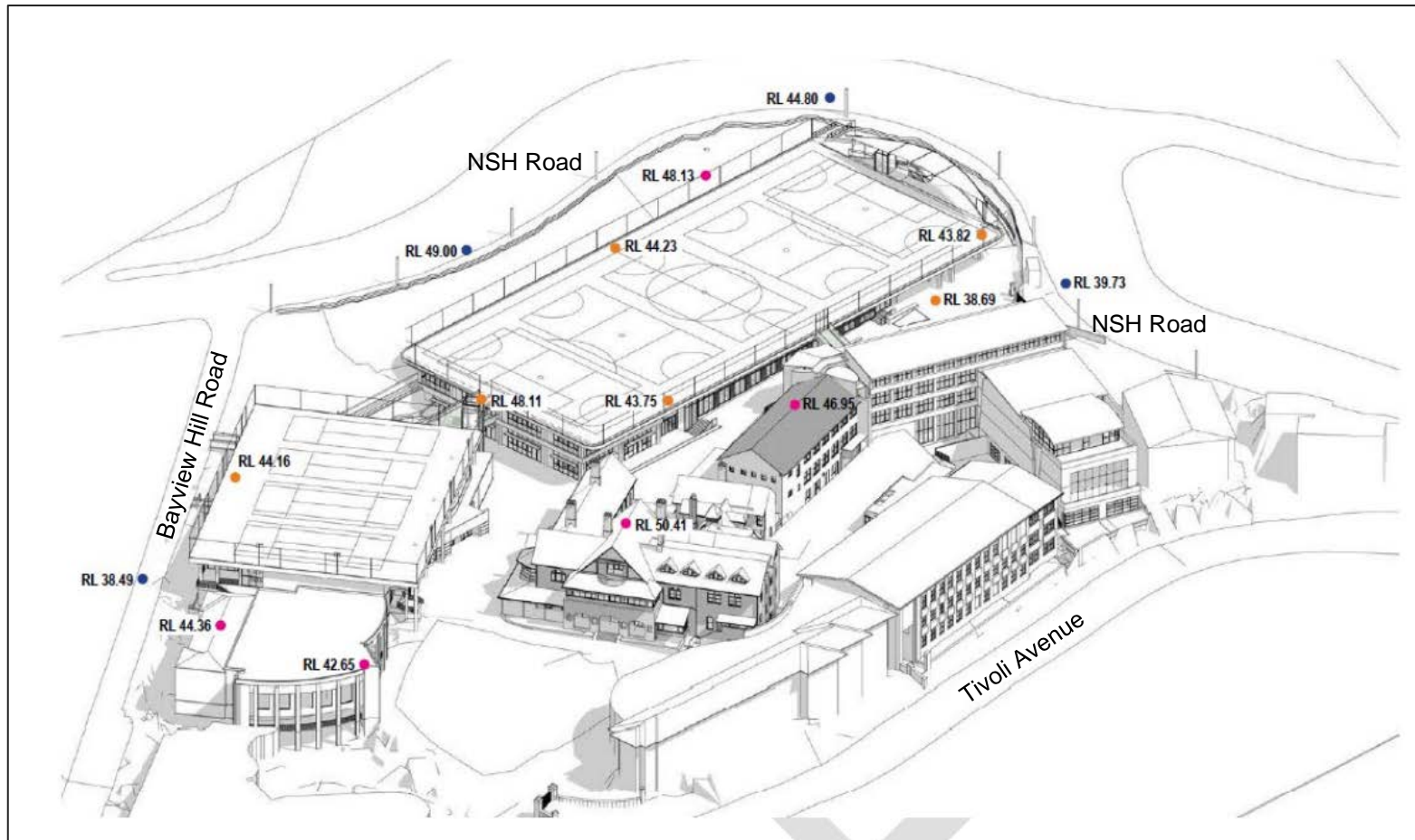
- the height of the building responds to the topography of the site and sits below NSH Road.
- the development would not result in an adverse impact on the amenity for nearby residences.
- the development is not limited by the WLEP height limit but rather by the Education SEPP.
- the bulk and scale of the proposed SWSLP building responds to the scale of the existing Tivoli House and does not exceed the height of this building.
- views to the Sydney Harbour from public places are not impacted.
- the development would deliver numerous positive social, ecological, and economic impacts.

A comparison of the existing and the proposed building heights are provided in **Figure 41 and 42**.



**Figure 41** | Comparison of the RLs of existing sports oval and the proposed SWSLP building (Source: Applicant's EIS 2020)





**Figure 42** | 3D view of the existing and proposed building heights (Source: Applicant's EIS 2020)

The applicant's clause 4.6 variation detailed that the proposed buildings respond to the topography of the site and is lower than the NSH Road, which is at RL 49. While the majority of the SWSLP building is within the permissible height limit of 9.5m, the exceedence of building height occurs due to the proposed webnet fencing.

### Submissions

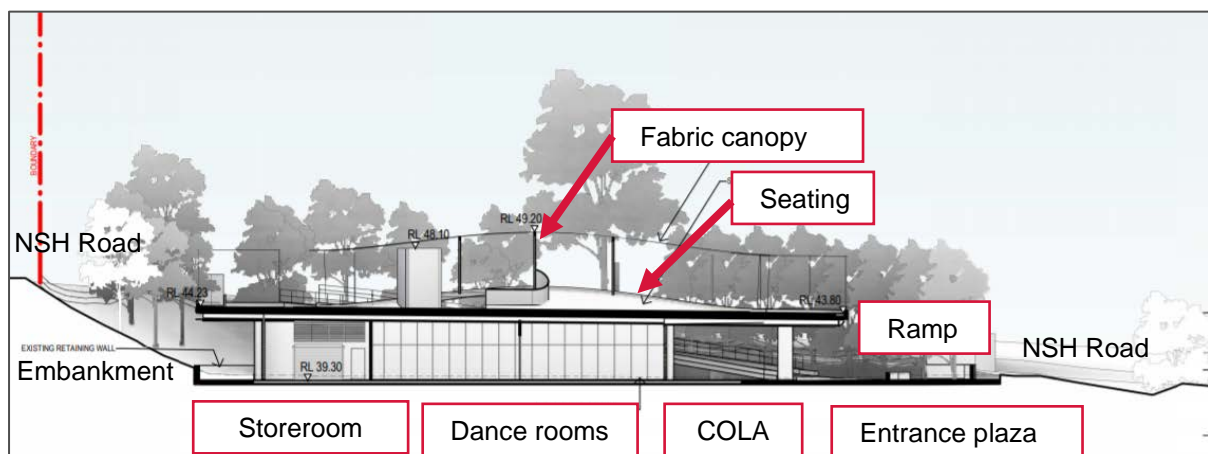
During the exhibition of the EIS, Council submitted that the proposed height of the SWSLP building cannot be supported as it would contravene the 'Height of building' development standard in the WLEP and result in unacceptable visual impacts on existing public domain views and sight lines. Council mainly raised concerns regarding the impacts on the identified views to Sydney Harbour and Tivoli House.

Public submissions also raised concerns that the proposed height of the building, the proposed lift overrun, and the rooftop seating area would block views of the Sydney Harbour.

### Applicant's response

In response to the submissions, the Applicant's RtS reiterated the previous comments regarding building height in the EIS. The RtS included an addendum to the previously submitted Visual Impact Assessment Report, to demonstrate that the proposed location of the buildings would not impede on the Sydney Harbor views currently enjoyed by the surrounding residents (discussed later).

The Applicant's RtS also stated that the rooftop seating (referred to as grandstand) has been designed to be slender to reserve the existing viewpoints to Sydney Harbour along the western end of the site. While the cover over the seating would be at RL49.2, it would be constructed using semi-translucent fabric and would extend only 4m in length, to minimise visual impact on residents. A section showing the grandstand and the fabric canopy over the seating is provided in **Figure 43**.



**Figure 43** | Elevation of service ramp and grandstand of the SWSLP as seen from NSHR (Source: Applicant's EIS 2020)

The applicant's RtS also advised that the previous DA approval for a sports / well-being building, as mentioned in **Section 1.4**, involved a building up to 15m in height. The proposed SWSLP is an improvement over the previous approval in terms of height, bulk, scale and visual impacts.

Council reviewed the Applicant's RtS and raised no further concerns regarding the building height non-compliance.

### *Department's consideration*

The Department notes that the provisions of the Education SEPP apply to this proposal and override the development standards in the WLEP. Therefore, the merits of the proposal should be considered in assessing whether the built form is appropriate for the site.

The Department considers that the Applicant has designed the SWSLP building to respect the height of the existing buildings within the site, especially Tivoli House. **Figures 30** and **36** demonstrate that whilst a section of the SWSLP would exceed the height of the building development standard in the WLEP, the building and the rooftop sports courts would not impede the views of the Sydney Harbour or be visible from NSH Road (discussed in **Section 6.2**).

Further the additional height is only due to the proposed fencing, a see-through mesh which is a safety feature of the sports courts and would not result in any useable floor space. The proposed height of the rooftop for both the proposed SWSLP building and the Music buildings cannot also be stepped to reduce the overall height, as that would result in lack of accessible connections between the buildings.

As such, the majority of the built form would be screened by the site's unique topography along NSH Road and the existing vegetation. Therefore, the proposed SWSLP building and the addition to the Music building would not dominate the NSH Road streetscape, or result in adverse visual impacts. This is evident from the NSH Road and Bayview Hill Road elevations in **Figures 31** and **33**.

The proposed SWSLP and the alterations to the Hawthorne buildings would also not be visible from Tivoli Avenue or the Sydney Harbour due to the existing screening buildings on the southern side of the site, being unaltered (**Figure 42**).

The Department agrees with the Applicant that the constrained nature of the site (including the existing buildings, the heritage items and the topography) restricts the location of the new sporting facilities to the north-eastern boundary. The SWSLP has been designed to respond appropriately to the site, its context and unique topography, while balancing the need to provide for the demand for additional improved educational facilities.

The overall spatial character of the site and the existing buildings would be retained while the proposed SWSLP would function to visually unify the existing disparate built forms on the site, providing a consistency of theme and detailing.

On this basis, the Department is satisfied that the building height of the SWSLP is acceptable.

#### **6.1.2 Building design materials and finishes**

The proposed SWSLP building seeks to have a material and colour palette that is sympathetic with the existing campus and surrounding streetscape, while ensuring that they are sustainable in the long term (**Figure 37**). The colours, lines and decorative motifs used in the SWSLP building as well as the alterations to the Hawthorne building would reflect the Tivoli House through the use of simple facades and curved roof top for walkways (**Figures 34** and **38**).

The proposed demolition of the south-eastern wing of the Tivoli House and the demolition of the Arts building would ensure that additional ground level open spaces are provided for the students and users of the site and the curtilage of the significant Tivoli House is restored. The details of the impacts of the demolition of the Tivoli House wing and the impacts of the proposed changes on this building is discussed in **Section 6.2**.



The proposal previously underwent two State Design Review Panel meetings in accordance with the NSW Government Architect's (GANSW) who were supportive of the design process and approach taken. GANSW also indicated that the project has a strong concept design that would support equitable access and circulation within the site.

During the EIS exhibition, Council did not raise any specific issue regarding the design of the new buildings or alterations to the existing buildings within the site.

The Department is satisfied that the proposed SWSLP building and the alterations to the Music and Hawthorne buildings, coupled with the proposed landscaping, incorporates a high standard of architectural design while responding to its functions and location. The natural palette of colours and finishes and additional landscaping would complement the existing character of the area and the heritage values of Kambala School.

### **6.1.3 Environmental Amenity Impacts**

#### *Overshadowing and internal amenity*

The proposed SWSLP building is designed in such a way as to avoid overshadowing of the surrounding residences. The Department is satisfied that the development would not restrict solar access to any neighbouring property during the winter solstice.

The shadow diagrams submitted with the Applicant's EIS indicate that the open spaces within the site (in between Hawthorne and SWSLP) would experience shadowing during winter solstice (between 9am – 3pm). During the EIS exhibition, the Department raised concerns with regard to the shadowing and the consequent impacts on the amenity of the students.

In response, the Applicant's RtS indicated that the requirement to provide 3-hours of solar access applies to residential developments only. The Design Quality Principle No. 5 - Amenity identifies access to sunlight as important, however does not specify the hours of solar access needed. The courtyards are oriented to the north which maximises sunlight in mid-winter. While the courtyards would be part shaded in winter, the school has a variety of open spaces which receive sunlight, meaning students and the school would have a choice of space to enjoy sunlight or shade if desired.

The Department agrees that the proposed development includes a varied range of ground level open spaces internally within the precinct, between existing buildings, which would offer satisfactory solar access to the students throughout the year while providing shaded areas in the summer months.

#### *Visual privacy*

The proposed SWSLP building is designed to be orientated internally and would face the Hawthorne building. Consequently, the development would not result in any adverse visual privacy impacts on neighbours.

#### *Light spillage*

During the EIS exhibition, one public submission objected to the development on the basis that the proposed lighting from the tennis courts would cause unnecessary adverse amenity impacts on the surroundings in the evening and would also hamper the views of the Sydney Harbour due to light spillage. The submission also commented that currently the lights are switched on till late night which causes nuisance to the neighbours.

In response, the Applicant has confirmed that no new lighting is proposed for the rooftop multipurpose courts above the proposed SWSLP building. The proposal would replace the existing light poles above that current existing above the Music building (on the tennis courts). Further these lights would not be used beyond the current usage hours, being limited to 6:15pm. The evening illumination would only include security lighting in the circulation areas. The proposal is supported by a detailed lighting strategy which confirms that the outdoor lighting would be designed to be compliant with the required Australian Standards.

Given the above, the Department is satisfied that the proposal would not intensify the impacts on the neighbours due to light spillage, when compared to the existing impacts that the site has.

Notwithstanding, conditions of consent require the Applicant to demonstrate that the proposed luminance of the flood lights comply with the submitted lighting strategy and that they are switched off after 6:15pm.

#### **6.1.4 Landscaping and trees**

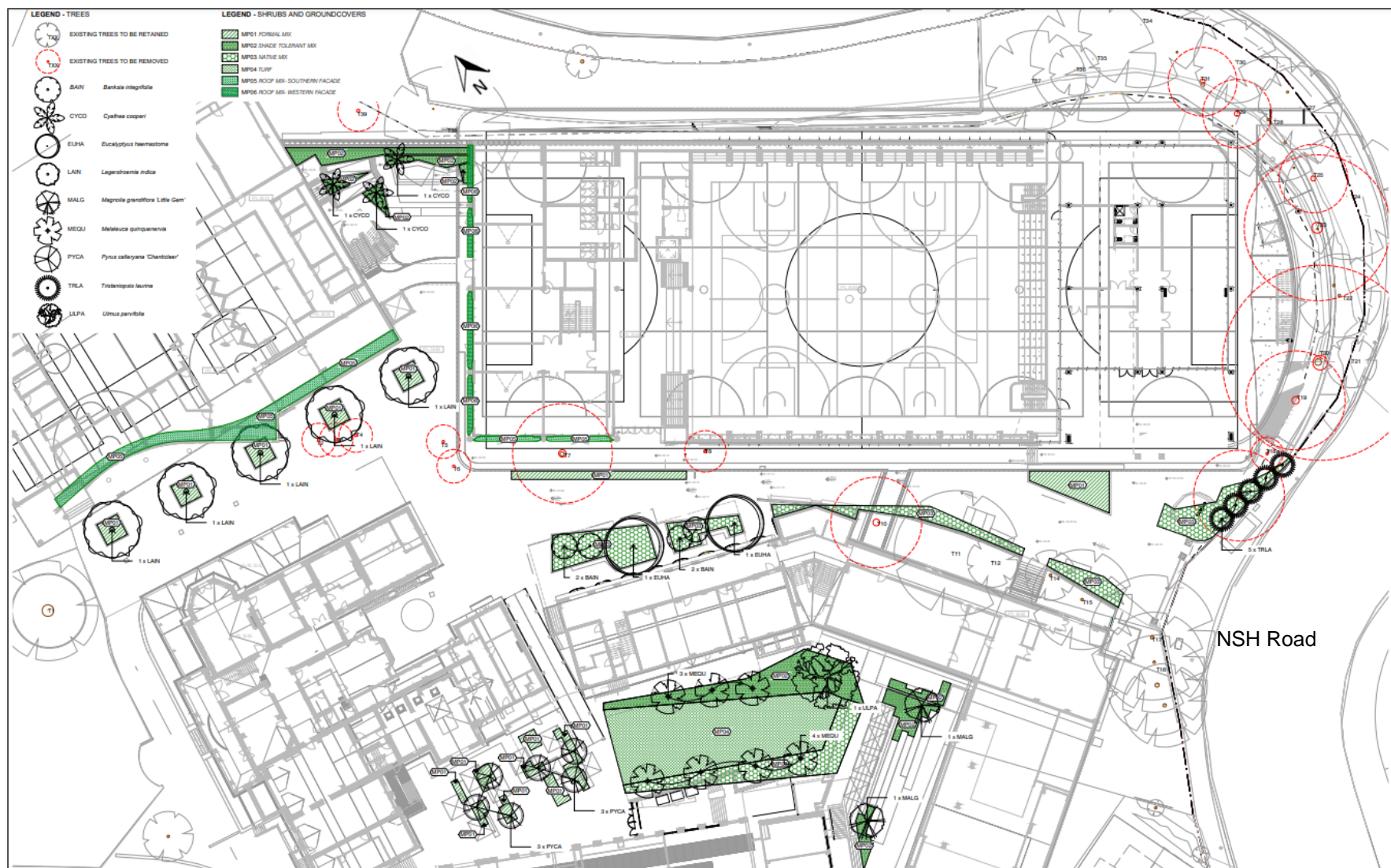
##### *Tree removal*

The EIS proposed the removal of 16 trees which would predominately be located on the northern embankment. Other trees to be removed are located within the site near the Music building. **Figures 25 and 44** show the trees proposed to be removed. The Arborist Report supporting the Applicant's EIS concludes that the trees identified for removal include a mixture of tree species ranging in height between 8m to 20m, of which one has a high retention value. However, removal of the tree is unavoidable due to its location within the proposed building footprint and would not have a significant impact on the biodiversity values of the site. The proposal would also retain two significant trees that are heritage listed, located within the site.

The EESG or Council raised no concerns regarding the proposed tree removal. The biodiversity impacts of the development are discussed in **Section 4.4**.

A public submission received during the exhibition of the Application requested further removal of the trees on the embankment as these trees restrict views of Sydney Harbour. The Applicant's RtS identified these trees to be of medium to high ecological value and indicated that these trees have been previously listed for retention and are not required to be removed.

The Department is satisfied that the proposal seeks approval to only remove trees that are needed to locate the building. The proposed replacement planting would ensure that the lost canopy cover of the site can be re-established.



**Figure 44 |** Trees to be removed and replacement planting (Source: Applicant's RtS 2021)



### *Landscaped open spaces*

As discussed in **Section 2**, the proposal would reinstate courtyards, open and semi open spaces within the site in stages and create five upgraded open spaces in addition to the rooftop sports courts. The Applicant's EIS states that the landscaping components would provide functional, flexible and fit for purpose outdoor spaces to the school. The proposed courtyards and plazas would function to provide improved green spaces to students while improving the legibility and amenity of the site for the users and visitors of the school.

The Department has reviewed the landscape masterplan and the open courtyard spaces (**Figures 39 and 40**) and considers that the proposed landscaping masterplan would be a significant improvement for the site. The students would be able to access a variety of open spaces and green areas within the urban setting as well as have access to new and improved rooftop sports courts. The proposed courtyards would also restore the paved areas around the curtilage of Tivoli House, which is a positive impact of the proposal.

The Department has recommended conditions requiring the preparation of a Landscape Maintenance and Management Plan for the site in addition to the requirement for the Applicant to implement the Landscape masterplan.

## **6.2 Visual and view impacts**

The site and surrounding area currently enjoy extensive sightlines towards the Sydney Harbour and Sydney CBD skyline.

The Applicant's EIS includes a Visual Impact Assessment Report (VIA) and a View Analysis Report with identified view locations that may be impacted by the development. The Applicant's VIA includes a three-step assessment process for each of the identified locations including:

- Step 1 Preliminary research and analysis: identification of the existing landscape in terms of visual character, scenic quality, viewer sensitivity and view place sensitivity and the visual effects of the proposed development on those factors.
- Step 2 Analysis of visual effects: modelling of key viewpoints.
- Step 3 Assessment of the visual impacts in the context of relevant 'weighting factors': consideration regarding additional factors that influence the level of visual impact and mitigation strategies that can assist to mitigate this visual impact.

The weightage to the view locations in the VIA have been assigned based on the visual analysis of its catchment, the statutory instrument that apply to the location as well as the weightage (high, medium or low value) considered in the Planning Principles established by the Land and Environment Court (NSWLEC) in the judgement for *Tenacity Consulting v Warringah* [2004] NSWLEC 140 (Principles of view sharing: the impact on neighbours) (*Tenacity*) and also in relation to *Rose Bay Marina Pty Limited v Woollahra Municipal Council* [2013] NSWLEC 1046 (*Rose Bay*). *Rose Bay* is relevant to view loss in the public domain in relation to important or documented views.

The principle in *Rose Bay* shares similarity's with *Tenacity* and considers two steps for determining the acceptability of the impact on views from the public domain - the first is the factual (identification) stage and the second being analytical.

### 6.2.1 Public views

Based on the guidance on assessing views from the NSW LEC and the documented views in the WDCP, the public domain view locations identified in the VIA are shown in **Figure 45** and consider the following aspects: the nature and scope of the existing views from the public domain including any existing obstructions; relevant compositional elements and the curtilages of important elements in the view; the locations from which the potentially interrupted views and the extent of the obstruction; the intensity of public use of those locations and identified locations in Council's documents.



**Figure 45** | Public domain viewpoints (Source: Applicant's EIS 2020)

During the EIS exhibition, Council specifically questioned the analysis of the public domain view locations 5, 6, 9, 10 and 15 and advised that the weightage attributed to these locations are inconsistent (such as View location 6 is considered 'high' value whereas location 5 'medium'). Council considered that the public domain view locations along Towns Head Road (further north) should be assessed as they are identified as significant in the WDCP. Council expressed concerns that the proposed SWSLP building and the additions to the Music building would block existing views to Tivoli House from NSH Road from view locations 5, 6, 15 and 16. Especially, points 6 and 15 are identified as locations with significant views in the WDCP.

In response, the Applicant's RtS provided an amended VIA with 12 additional public domain viewpoints on NSH Road (**Figure 46**) and analysis considering Council's comments.



**Figure 46** | Public domain viewpoints identified for further analysis (Source: Applicant's RtS 2021)

The Applicant's amended VIA analysed the reasonableness of the view impacts based on Rose Bay concludes that the impacts on public domain view points would be negligible, low or low-medium as:

- the development would generate a lower level of visual impacts on the identified view locations when compared to the previously approved DA for a sports building at the same location.
- it would not block significant views to Sydney Harbour and the Sydney CBD skyline.
- The SWSLP would be concealed from NSH Road minimising the overall visual impact.

The Department has considered the view impacts on the identified locations for public domain utilising the Tenacity principles as a guide and the established planning principle for impacts on public domain views established in Rose Bay. The principles in Rose Bay indicate that in assessing whether the impacts on identified public domain views are acceptable, the following are required to be considered: the significance of the views and the factors attributing to the importance; how much change is expected in the impact; whether the change is static, dynamic, positive, negative, or tokenistic; and is the view already degraded.

The Department notes that Views 11, 13 and 18 (**Figure 46**) would experience no view loss due to the development. Therefore, the Department has considered the impacts of the development on Views 6, 9, 10, 15 and 16, as these were considered to be significant by Council and enjoy the views of Sydney Harbour and the site. The Department's assessment of these public viewpoints based on Tenacity principles is provided in **Table 6**. The Department also notes that given a previous approval for a similar building at the same location applies to the site, it is reasonable to compare the impacts of the previous approval with the current proposal. The two envelopes are compared in **Table 6**: **yellow** showing the approved DA and **blue** showing the proposed envelope. The Department's assessment in **Table 6** agrees with the Applicant's conclusion and considers the location of the proposed SWSLP to be satisfactory, given it would not result in any significant view loss from the public domain view points surrounding the site.

**Table 6 |** Department's assessment of most impacted viewpoints

View reference	Viewpoint Description	Affected views	Department's Conclusion
<b>View 6</b>	<ul style="list-style-type: none"> <li>Restricted view due to existing vegetation.</li> <li>Existing sightlines to Tivoli House and Sydney Harbour.</li> </ul>	<ul style="list-style-type: none"> <li>The majority of views to Tivoli House would remain uninterrupted due to the use of transparent fencing on the rooftop and sightlines to Sydney Harbour would remain visible. Only lower part of the building obstructed.</li> </ul> <div data-bbox="745 568 1379 1197"> </div>	<ul style="list-style-type: none"> <li>While the SWSLP would have an impact on the existing sightlines to Tivoli House, it would not result in the complete obstruction of the heritage item from the viewpoint.</li> <li>The Department considers this visual impact to be acceptable / <b>low</b> on the basis that the Sydney Harbour sightlines are maintained at all times (being the iconic view).</li> </ul>
<b>View 9</b>	<ul style="list-style-type: none"> <li>Restricted view due to vegetation.</li> <li>Direct view of the site's existing sporting field.</li> </ul>	<ul style="list-style-type: none"> <li>Forefront of viewpoint dominated by built form of SWSLP.</li> <li>Some reduction in the scenic quality of the viewpoint.</li> <li>Key sightlines to the Sydney CBD retained.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed SWSLP would have a larger impact on this viewpoint as compared to the previously approved DA, however, the overall visual impacts of the SWSLP are <b>negligible</b> as the</li> </ul>



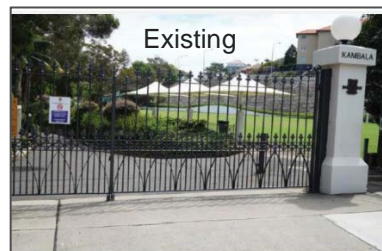
- Existing sightlines to Sydney CBD in the far distance.



iconic view of Sydney CBD would be retained and would result in better visual outcomes for the vicinity.

#### View 10

- Direct sightline to the site's existing sports oval from the entry gate on NSH Road.
- The viewpoint is largely undeveloped.
- The outlook will change and be heavily developed.
- Sky views would be retained due to transparent fencing.



- The overall visual impact would be restricted to a small visual catchment and is considered **negligible** as no iconic view or sightlines are impacted.
- The impacts on heritage significance are discussed in **Section 6.3**.



## View 15

- Clear sightlines to Sydney Harbour and the Sydney CBD skyline.
- Viewpoint to become heavily developed but Sydney CBD and Sydney Harbour skylines retained.
- While the proposed SWSLP would result in a heavily developed viewpoint, the Sydney Harbour and the Sydney CBD skyline will remain visible.
- The proposed impact would be an improvement over the previously approved DA as water views and Harbour Bridge views are retained. The view impact is assessed as **low – medium**.



#### View 16

- Clear sightlines to Tivoli House.
- Viewpoint to become heavily developed with reduced scenic quality
- Partial obstruction of the lower part of Tivoli House.
- The proposed development is lower in elevation compared to the approved DA.
- The rooftop and webnet fence of the SWSLP would partly obstruct the lower part of Tivoli House, however, the distinctive roof form and gables of Tivoli House would remain visible and unaffected by the proposed development.
- Viewpoints to Point Piper and Sydney CBD remain visible.
- The overall visual impact is **low**.



### 6.2.2 Private views

The site does not adjoin any residential development but is surrounded by residential developments that enjoy iconic views of Sydney Harbour and Sydney CBD. The identified private domain viewpoint locations surrounding the site are provided in **Figure 47**.



**Figure 47** | Public domain viewpoints (Source: Applicant's RtS 2021)

In terms of the private domain views, the Department notes the assessment conducted by the Applicant has regard to the Tenacity principles. While the Applicant advised that access to majority of the identified properties could not be obtained, the Applicant has provided photos (**Figures 48 and 49**) of the identified properties from various publicly available sources and concludes that:

- the most scenic parts of the view are those located above the horizontal view line where the lower foreground is predominantly characterised by Kambala School, a variety of buildings, open space, vegetation and heritage items.
- no view loss is caused in relation to iconic features such that all views to the Sydney Skyline, Sydney Opera House, Sydney Harbour Bridge, North Sydney CBD and areas of land-water interface are unaffected.



**Figure 48** | View from 5/50 Towns Road looking west to the site (Source: Applicant's RtS 2021)





**Figure 49** | View from 4/46 Towns Road looking towards Tivoli House (Source: Applicant's RtS 2021)

Council has not raised concerns regarding impacts on private views enjoyed by neighbours. During exhibition, one public submission stated that the proposed light poles and the spillage from the light may impact on the views of the Sydney Harbour. The submission also raised concerns regarding the impact of the lift shaft on the Sydney Harbour views.

In this regard, the Department notes that the light poles would be of the same height as the proposed webnet fence and would not be illuminated beyond 6:15pm, which is the existing situation. Consequently, the light poles would not unreasonably restrict any view lines. The lift shaft would also be marginally above the fence and constructed of transparent glass, causing minimal impact on the Sydney Harbour views.

The Department has reviewed the photos submitted with the VIA with regard to views from the surrounding private properties and agrees with the Applicant's assessment with regard to private domain. The site is located at a much lower level than the affected residents to the north of NSH Road. While the view lines to Tivoli House may be partially blocked, the overall iconic views would be unimpacted.

Overall, while the proposed SWSLP would result in the decreased scenic quality of some viewpoints, the benefits of the improved sporting facilities outweigh the visual impacts in this instance. The SWSLP would result in significant benefits by providing well designed learning areas, accessible connections to all levels and improved sporting facilities to support changing educational needs.

On balance, the Department is satisfied that there would be minimal view loss due to the proposed development is acceptable in this instance.

## **6.3 Heritage**

### **6.3.1 Historic heritage**

The site is identified as a heritage item under the WLEP. **Schedule 5** of the WLEP describes the Tivoli House, its interiors, gateposts, gates and flanking walls with railing facing Tivoli Avenue, and

two Norfolk Island Pines to be the items of heritage significance. The site is also surrounded by several properties that are listed as heritage items in the WLEP.

The EIS includes a Heritage Impact Statement (HIS) which identifies that Tivoli House was originally constructed c1834. However, post 1913, progressive and substantial modifications occurred to this building including extensions to the east and west, enclosure of the first-floor balcony, to suit the needs of the school. The photos of Tivoli House, its extensions and the Norfolk Island Pines are provided in **Figures 10 – 12**.

The HIS includes a detailed assessment of Tivoli House and concludes that the area shown in **Figure 50** is the heritage curtilage of the building. The HIS also indicates that the Tivoli House is subject to a Conservation Management Plan (CMP) which identifies the significance of the individual areas of the building (high, moderate, low, intrusive).



**Figure 50 | Heritage curtilage of Tivoli House (Source: DPIE 2021)**

The proposal involves partial demolition of Tivoli House of a later addition to Tivoli House, currently used as the school canteen. **Figure 25** shows the location of this wing with respect the footprint of Tivoli House. Open space would be restored at this location forming the landscaped area 'Café Hub' identified in **Figure 39**.

The HIS includes a detailed assessment of the proposed works against the policies and strategies within the CMP affecting the building and the WLEP. The HIS concludes that the portion of the south-east rear wing of the Tivoli House, proposed for demolition is an intrusive element as identified in the CMP. The removal of this portion of the item would restore the original fabric of the significant elements. The portion of Tivoli House to demolished and its heritage grading are shown in **Figure 51**.

No physical works are proposed to the Tivoli building and therefore no significant elements, including the spaces and fabric would be impacted by the proposal. Significant internal and external elements of the Tivoli building would be retained and conserved.

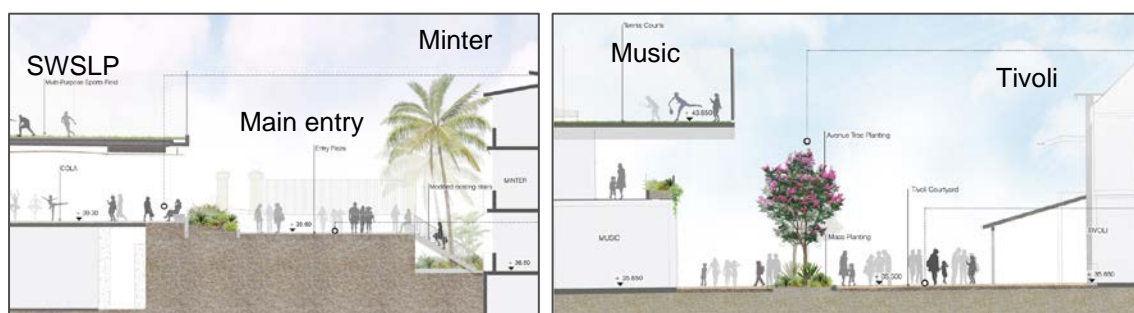


**Figure 51** | Portion to be demolished (left) and heritage grading (right) (Source: DPIE 2021 and Applicant' EIS 2020)

The HIS also assessed the overall impact of the development on the heritage significance of Tivoli House and its CMP. The HIS concluded the following:

- the partial demolition of the Hawthorne building and Arts building would improve the heritage curtilage and mostly preserve sight lines to Tivoli House from the surroundings.
- the removal of the northern addition to the Hawthorne building would allow for improved pedestrian and vehicular access along the main driveway towards Tivoli.
- reconstruction of the northern facade of Hawthorne building compliments the Tivoli House.
- the proposal would protect the two heritage listed Norfolk Island Pines within the site.
- the proposed works to the main driveway on NSH Road, its realignment and the demolition of Arts building would recapture open space on the site and improve the internal visual links. Some vegetation adjacent to the driveway would need removal, however these are not identified in the CMP as significant. Additionally, the paving of driveway is proposed to be upgraded to unify the internal landscaped areas, which is considered satisfactory.

Sections through the entrance plaza and the northern curtilage of Tivoli House are shown in **Figure 52**. The details of the Café hub and southern lawn is identified in **Figure 53**.



**Figure 52** | Entrance plaza (left) and Tivoli plaza (right) (Source: Applicant' RtS 2021)





**Figure 53 | The café hub and southern lawn (Source: Applicant' RtS 2021)**

The impacts of the proposed development on the visibility of Tivoli House are discussed in **Section 6.2**. The HIS further concludes that the proposal would have medium impacts on the visibility of the significant building from certain locations and low from others. However, the visual impact would not be more than the previously approved development on the site, which is considered acceptable.

The HIS also concludes that the view of the site from the main entry gate would significantly change, post development of the SWSLP. However, no significant adverse heritage impacts are identified due to this (View 10 in **Table 6**).

The HIS assessment of impacts of the development on the heritage values of Kincoppal School (located to the north of the site) concludes that it would be of minimal visibility and would cause no significant change to access to views of the heritage items Tivoli House, the pines and Kincoppal School (**Figure 54**).



**Figure 54 | Existing (left) and proposed (right) views (Source: Applicant's EIS 2020)**

Overall, the EIS concludes that while the application seeks to improve the site's sporting facilities, areas of unique heritage and aesthetic values would be protected and retained whilst delivering additional educational facilities in key areas on the site.



Council expressed concerns relating to the heritage significance of the site and the potential damage that construction works would inflict on Tivoli House and the two significant Norfolk Island Pines. Council recommended protection of the pines throughout the construction stages, photographic archival recording of Tivoli House and a heritage interpretation strategy for the site.

The Applicant's RtS noted Council's comments and raised no objections.

The Department has reviewed Council's comments and the Applicant's heritage assessment. The Department concludes that the proposed SWSLP building and the refurbishment / alterations would have minimal impact on the heritage curtilage of the Tivoli House or the Norfolk Island Pines. The Department concurs with the Applicant that the demolition of the later addition to the Tivoli House and reinstatement of open space would improve its curtilage and provide improved visual links to this building within the site. The development is a reasonable design that would not adversely impact on the overall heritage significance of the site, subject to the implementation of the conditions recommended by Council.

Based on the assessment in **Section 6.2**, the Department is satisfied that the development would not have a significant impact on the visibility of Tivoli House.

### **6.3.2 Heritage Archaeological Assessment**

The application included a Historic Archaeological Assessment Report (HAA), which concluded that there is low to moderate potential for archaeological deposits on the site.

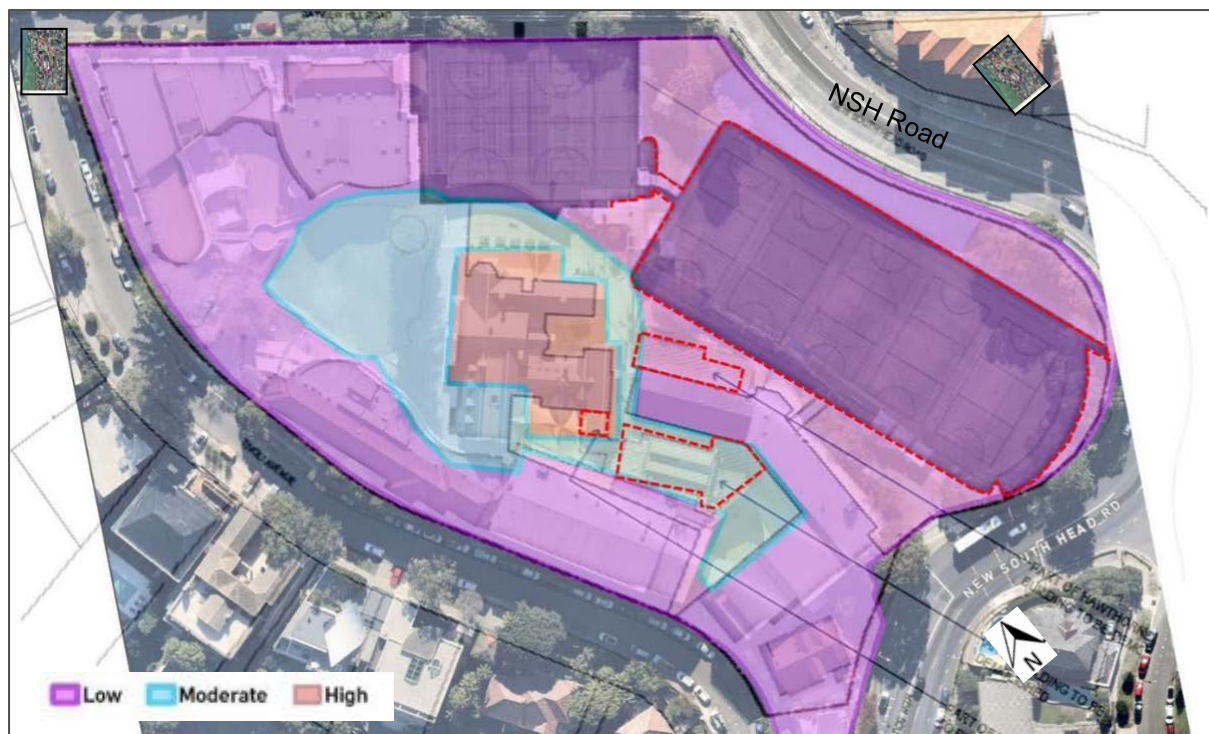
During the EIS exhibition and following submission of the RtS, Heritage NSW commented that the HAA was not adequate and requested that an amended report considering the full archaeological significance of the site be prepared. Heritage NSW also requested that a statement of archaeological significance and an Archaeological Research Design and excavation methodology (ARD) for areas identified as containing moderate archaeological potential and the overall site be submitted.

Following comments from Heritage NSW, the Applicant submitted a SRtS which includes an amended HAA with an ARD and information relating to the elected excavation director for the project. The amended HAA concludes that the area proposed for excavation has low archaeological potential however, demolition and landscaping works would occur in areas with moderate and high archaeological potential as shown in **Figure 55**.

To mitigate and manage the impacts of the development on the archaeological potential of the site, the amended HAA includes an ARD which recommends the following:

- areas of high potential – archaeological monitoring and manual excavation only.
- areas of moderate archaeological potential – archaeological monitoring and excavation in 100mm increments by a small excavator.
- areas of low archaeological potential – archaeological monitoring not required subject to an unexpected finds protocol.

Heritage NSW reviewed the amended HAA and have raised no further concerns, subject to recommended conditions and implementation of the ARD.



**Figure 55 | Archaeological potential on the site and overlay of building footprint**  
(Source: Applicant's SRtS 2021)

Based on the comments from Heritage NSW, the Department considers the HAA to be satisfactory and the proposed excavation works to be reasonable. The Department has recommended conditions requiring the appointment of an excavation director, preparation, and implementation of an ARD, an unexpected finds protocol for the site and a post excavation report.

### 6.3.3 Aboriginal cultural heritage

The application includes an Aboriginal Cultural Heritage Assessment Report (ACHAR). The ACHAR does not include results of test excavation on site but is based on the recent works undertaken in the larger study area around the site and in Woollahra LGA. The ACHAR concludes the presence of Aboriginal sites within the Woollahra LGA and areas near Sydney Harbour is determined by both sensitive landscape features (major waterways and sandstone outcroppings) and the level of past ground disturbance present in the current study area. Rose Bay has been subjected to extensive disturbance associated with the early development of the Sydney region, reducing the potential for Aboriginal sites to have survived.

During the EIS exhibition ACH noted that test excavations have not been undertaken but did not raise any specific concern in this regard. ACH recommended that the ACHAR be amended to correct identified errors and include an unexpected finds protocol. ACH also recommended that Aboriginal parties be consulted in the future and Aboriginal history and cultural heritage be added in the Heritage Interpretation Plan.

In response, the Applicant's RtS included an updated ACHAR. ACH reviewed the RtS and raised no further concerns subject to the previously recommended conditions. The Department considers the ACHAR to be satisfactory based on ACH comments and has recommended conditions to manage and mitigate any identified impacts on Aboriginal cultural heritage.

## 6.4 Traffic and transport

The proposal seeks approval to regularise the student numbers at 1020, (70 above previously approved 950 students). The EIS includes a Traffic Impact Assessment Report (TIA) assessing the construction and operational traffic impacts due to the development.

During the EIS exhibition Council raised concerns that there is a significant shortfall of car spaces on the site and an additional 58 cars should be provided on the site plus six additional motorbike spaces. Council also requested clarification regarding the proposed number of staff to cater for this development, the impacts of weekend use and the impacts of the operations of the drop-off / pick-up zone. Council highlighted the need for separate drop-off / pick-up area for high school students, an Operational Transport and Access Management Plan (OTAMP) and a GTP for the school.

One public submission recommended the widening of Bayview Hill Road to accommodate the additional traffic due to the school use.

The Department reviewed the EIS documents and requested that additional traffic assessment be provided for weekend and community use of the improved sporting facilities within the site.

Following concerns raised by Council and Department and recommended the Applicant's RtS included an addendum to the TIA. The relevant matters in relation to operational and construction traffic management are discussed below.

### 6.4.1 Operational traffic and mitigation measures

The TIA includes traffic surveys for school peak times (7am - 9am and 2pm – 5pm) to determine the vehicular movements in and out of the car park during peak drop-off / pick-up activities with 950 students as the base case scenario. The results are identified in **Figure 56**.

TIME	IN	OUT
7:00am – 9:00am	97	68
2:30pm – 5:30pm	114	184
<b>Total</b>	<b>211</b>	<b>252</b>

**Figure 56** | Car park vehicular movements during peak hours (Source: Applicant's EIS 2021)

The TIA also includes SIDRA modelling of the performance of the nearby intersections for NSH Road / Tivoli Avenue, NSH Road / Bayview Hill Road and Tivoli Avenue / Bayview Hill Road to establish the Level of Service (LoS) at these locations with the base case scenario, provided in **Figure 57**.

Intersection	Control	AM Peak		PM Peak	
		Average Delay (sec)	Level of Service	Average Delay (sec)	Level of Service
NSHR – Tivoli Avenue	Signals	12	A	9	A
NSHR – Bayview Hill Road	Priority	10	A	10	A
Tivoli Avenue – Bayview Hill Road	Priority	7	A	7	A

**Figure 57** | Base case peak hour intersection analysis results (Source: Applicant's EIS 2021)

Based on the above, the TIA concludes that the surrounding intersections operate on a good LoS (A) in the base case scenario. The TIA also conducted surveys of existing staff and students to determine travel mode share, considering 950 students (**Table 7**).

**Table 7** | Travel mode share for 950 students (Source: Applicant's EIS 2021)

Travel mode	Staff	Kindergarten – Year 6		Year 7 – Year 12	
		Arrival	Departure	Arrival	Departure
Private motor vehicle	88%	78%	81%	51%	35%
Walk or cycle	4%	8%	6%	15%	17%
Bus / train	7%	14%	13%	34%	48%
Other	1%	-	-	-	<1%

Based on the existing modal splits at the school as outlined, the TIA estimates the potential mode splits with 70 additional students (assuming no GTP being implemented). The TIA concludes the proposed development is expected to result in a net increase of 43 and 37 students who would use a car as a mode of transport in travelling to and from school respectively. Factoring in the timing of arrival / departure and the car occupancy rates, the TIA concludes that 70 additional students is likely to result in 32 additional two-way vehicle movements per hour during the peak school hours.

The TIA then includes the SIDRA modelling of the identified intersections for the post development scenario with the additional traffic. The results are shown in **Figure 58**.



Intersection	Control	AM Peak		PM Peak	
		Average Delay (sec)	Level of Service	Average Delay (sec)	Level of Service
NSHR – Tivoli Avenue	Signals	12	A	9	A
NSHR – Bayview Hill Road	Priority	11	A	10	A
Tivoli Avenue – Bayview Hill Road	Priority	7	A	7	A

**Figure 58 | Post development intersection performance (Source: Applicant's EIS 2021)**

The SIDRA results in **Figure 58**, when compared against **Figure 57** demonstrate that the proposed intersection performances would not be significantly impacted by 70 additional students.

Notwithstanding the above, the TIA proposes several travel demand management measures including a GTP with strategies for the formation of a carpool system or registry, a walking and cycling group and the potential to provide a new 15-seater shuttle bus service for the school from Edgecliff station. The Applicant recommends that, with the implementation of the GTP travel mode targets of 10% modal shift from car usage should be achieved, reducing traffic impacts due to the development in the future (**Figure 59**).

Main Method of Travel	Staff Modal Split		Primary Student Modal Split				Secondary Student Modal Split			
	Existing	Proposed	Existing		Proposed		Existing		Proposed	
			Arr	Dep	Arr	Dep	Arr	Dep	Arr	Dep
Car	88%	83%	78%	81%	73%	76%	51%	35%	46%	30%
Walk	4%	7%	8%	6%	10%	8%	15%	17%	17%	19%
Public Transport	7%	10%	14%	13%	17%	16%	34%	48%	37%	51%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>		<b>100%</b>		<b>100%</b>		<b>100%</b>	

**Figure 59 | Existing and proposed travel mode targets (Source: Applicant's EIS 2021)**

In response to Council and the Department's concerns relating to additional community use activities on the site and the associated traffic impacts, the Applicant advised that no additional community uses are proposed and the current schedule of activities (described in **Section 1**) would be retained. The SWSLP is proposed for improved sports facilities within the school, rather than intensification of its use. The Applicant's RtS also states that noting the performance of the nearby intersections, a further widening of Bayview Hill is not necessary to accommodate this development or 70 additional students.

Overall, the TIA, as updated by the RtS, concludes that the traffic impacts due to regularising the student numbers at 1020 could be accommodated within the surrounding road network and improved through the implementation of the initiatives recommended in the GTP.

The Department has considered the information provided by the Applicant, the comments made by public submissions and Council. The Department agrees with the conclusions of the TIA that the proposed development would have negligible traffic impacts on its surrounding road network and recognises that the implementation of the GTP would assist in reducing the overall traffic generation and improve mode share. As such, given the public transport network in the locality and the provision of a shuttle bus, a mode share target of 10% would be achievable in the long term.

In line with the Applicant's commitments, the Department has recommended conditions restricting any further community use of the site (apart from existing) and implementation of the GTP within 6 months of the issue of the first occupation certificate. Conditions also require a monitoring and review program for the GTP to ensure that mode targets are achieved, and initiatives implemented.

#### 6.4.2 Drop-off / pick-up

Currently, there are two existing drop-off / pick-up zones for the site along Bayview Hill Road, for children attending the ELC and Tivoli Avenue, for students from Years 1-6 (described in **Section 1.4**). Drop-off / pick-up activities are staggered to ease congestion where possible, as shown in **Figure 60**. The TIA states that there is no designated drop-off / pick-up zone for high school students, which usually occurs at the school gate on Tivoli Avenue or on Rawson Road (opposite NSH Road). A safe pedestrian signalised crossing allows high school students to access the site from Rawson Road.

Year Group	Time	Location
Prep	2:40pm	Bayview Hill Road
Transition	2:50pm	Bayview Hill Road
Year 1	3:00pm	Tivoli Avenue*
Year 2	3:05pm	Tivoli Avenue
Year 3	3:15pm	Tivoli Avenue
Year 4	3:15pm	Tivoli Avenue
Year 5	3:25pm	Tivoli Avenue
Year 6	3:25pm	Tivoli Avenue

**Figure 60 | Drop-off / pick-up times for children attending the ELC and students from Years 1-6**  
(Source: Applicant's EIS 2021)

TIA concludes that based on the trip distribution features, in the future, the children are likely to use the existing drop-off / pick-up areas in the future with an additional 16 vehicles each way due to the 70 additional student (to be distributed between junior and senior schools). Additionally, small percentage of students would likely use the designated zone on NSH Road and the surrounding local streets. No changes to these drop-off / pick-up locations or arrangements have been proposed considering that the anticipated additional vehicles can be accommodated in the drop-off / pick-up zones.

As stated earlier, neither Council or TfNSW raise concerns regarding the capacity of the road network for drop-off / pick-up. However, Council raised safety concerns regarding the existing drop-off / pick-up arrangements for the site (especially for high school students) and recommended that an OTAMP be prepared and implemented for the site in this regard.

The Applicant accepted Council's suggestion and committed to prepare an OTAMP.

Given the above, the Department considers that the existing drop-off / pick-up locations have been operating successfully and would continue to do so in the future with the small number of additional vehicles. The operation of these zones would improve with the reduction in car usage and implementation of the GTP. Notwithstanding, noting Council's comments and the safety concerns, the Department has recommended a condition of consent requiring the Applicant to prepare an OTAMP within 12 months of this development consent to address the current issues and improve the ongoing operation of the drop-off / pick-up zones.

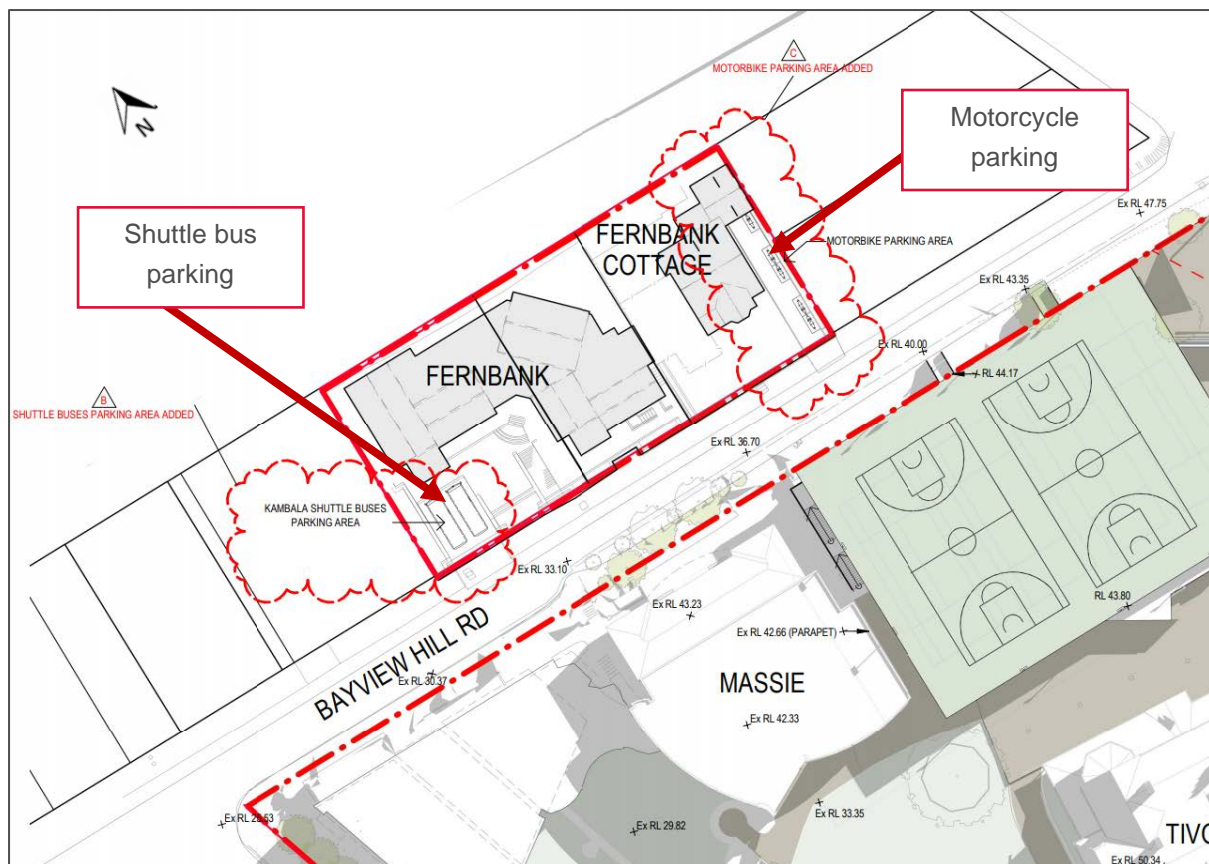
#### **6.4.3 Car parking**

Currently there are 123 on-site carparking spaces on the site which would be retained with no additional car parking proposed. The Applicant advised that a shuttle-bus service currently operates on the site to transfer staff to / from nearby transport hubs. This would continue operating as 50% of the staff have expressed interest in utilising this service. The shuttle-bus is 6.2m long and its drop-off / pick-up location is within the Tivoli Avenue basement car park.

Council's submission on the EIS raised significant concerns regarding the lack of car parking on the site and requested that a minimum of 58 additional car spaces be provided to comply with the requirements of WDCP. TfNSW supported the use of sustainable transport modes in lieu of car parking and suggested paid parking schemes to further reduce car usage.

Council also requested the provision of six motorbike spaces within the site. The Department requested further information on the shuttle-bus parking area. In response, the Applicant's RtS identified five motorbike spaces and shuttle-bus parking spaces within the Fernbank boarding houses.

The Department reviewed the application and requested the Applicant clarify whether the motorbike parking would compromise access of the driveway by future users. The Applicant advised that the driveway is 3.2m wide and would safely accommodate the motorbikes (**Figure 61**).



**Figure 61 | Location of motorcycle and shuttle bus parking (Source: Applicant's RtS 2021)**

In response to Council's concerns regarding the lack of onsite car parking, the Applicant's RtS advised that the car parking calculation in the WDCP is based on floor space. While this development would result in additional floor space, the proposed uses are not intensified, nor staff numbers increased. Consequently, additional car spaces within the site is not necessary. The Applicant's RtS also suggested that the implementation of the GTP would further reduce the use of private vehicles encouraging the use of more sustainable travel modes.

The Applicant considered TfNSW's suggestion for paid parking but advised that this would contradict Council's requirement to increase on-site parking and would result in a greater usage of street parking car parking on local roads. Therefore, the implementation of sustainable travel methods and reduction in car parking would appropriately respond to the parking situation on the site.

Council reviewed the RtS and reiterated the concerns regarding the lack of on-site car parking. TfNSW raised no further concerns regarding parking provisions, but requested that a final GTP be prepared, if the application is approved.

#### *Department's consideration*

The Department has considered Council's comments regarding the car parking provisions. However, the Department agrees with the Applicant that further increase in the on-site car parking spaces is not required given there is no increase in staff numbers. Additional cars would result in additional traffic on the surrounding roads, which is not desirable. The Department supports the Applicant's approach to implementing the GTP and reduce the overall car usage on the site in the future, consistent with TfNSW's position in this regard.



The Department also notes and supports the Applicant's intent to provide a fifteen-seater shuttle bus service for staff in the morning and afternoon periods. The Department considers that this service would significantly alleviate the need for additional car parking and improve the approach to use sustainable transport modes.

Conditions of consent have been recommended ensuring the provision of bicycle, motorbike and shuttle-bus parking spaces on the adjoining Fernbank boarding house site.

#### **6.4.4 Construction traffic and parking**

##### *Construction vehicles and access*

The EIS includes a Preliminary Construction Traffic Management Plan with measures to manage traffic and access during construction to provide a safe road environment, minimise impact on the surrounding road network and maintain access for all road users and the local community.

The plan indicates that construction vehicles would access the site from the existing main gate along NSH Road throughout all construction stages. Construction works are expected to generate a maximum of eight vehicle movements per hour during peak construction activities at each stage of construction. To mitigate the impact of construction vehicles on traffic on the surrounding roads, the vehicle movements would be scheduled to occur outside of peak school traffic times (8am - 9am and 2pm - 4pm).

A 19m long articulated vehicle would be the maximum sized construction vehicle accessing the site during construction works. Swept path analysis shows that this vehicle can be accommodated on the surrounding roads and the entry driveway. A mobile crane is also proposed for Stages 3, 4 and 5.

On-site parking is not proposed for construction workers and all workers would be encouraged to use public transport. In this regard several strategies are proposed such as on-site tool drop-off areas, induction program for the workforce and displaying public transport timetable on the site.

The construction vehicle routes have been developed to provide the shortest distances to and from the arterial road network, via the cross-city tunnel and avoiding local roads within the immediate vicinity of the site.

During the EIS exhibition, Council raised concerns regarding the access and egress routes for construction vehicles accessing the site, as it may impede traffic flow on arterial roads.

The Applicant's RtS responded to the concerns by stating that the site would generate between 3-8 vehicles per hour, which is unlikely to result in adverse traffic impacts. Notwithstanding, the Applicant's response also stated that site personnel would be present at all times to guide construction vehicles out of the site with consideration for pedestrians along the footpath and crossing.

The Department is satisfied that the proposed Preliminary Construction Traffic Management Plan has considered all measures to minimise disruption to traffic network during the construction works and encourage the construction workers to avail public transport. The Department has recommended a condition requiring the Applicant to prepare a detailed Construction Traffic Management Plan in consultation with Council and TfNSW, prior to the commencement of construction.

##### *Works zone and temporary bus stop closure*

The proposed construction works would require a 25m long works zone along NSH Road, adjoining the site's boundary, mainly to park the 19m long semi-trailers travelling to the site in the later construction stages. The northbound bus stop located adjacent to the main entry gate on NSH Road, would be temporarily closed and relocated during the construction stages to facilitate this work zone. Site users would also not access the site from this entry point during construction works. To support the proposed bus stop closure, the Applicant has outlined walking routes to the nearest bus stop (230m away) from the site as an alternative.

During the EIS exhibition, Council recommended consultation with community and endorsement of TfNSW prior to the proposed closure. TfNSW did not raise any concerns relating to the proposed work zone or the temporary bus stop closure in its submission.

The Department supports the Applicant's proposal to establish a works zone along NSH Road as it is necessary to support the construction of the site. The relocation of the bus stop can be considered by the Applicant in consultation with TfNSW and subject to their endorsement. Alternatively, the Applicant can undertake community consultation with alternate walking routes to nearby bus stops, as suggested by Council. Conditions to this effect are recommended.

#### *Pedestrian access and safety*

All existing pedestrian entries to the site are proposed to be retained during construction works except for the NSH Road main access point. The main pedestrian entry point to the school during the construction period would be from Tivoli Avenue. The Applicant has provided alternative walking routes for the students and staff to ensure pedestrian safety during the construction period.

The Applicant has also advised that, if appropriate, hoarding and advisory signage would be in place to ensure pedestrian safety along the proposed work zone. Where works are to be conducted from the work zone, traffic and pedestrian controllers will be engaged to manage the works.

To enable ongoing operation of the site in a safe manner during construction works, appropriate fencing and barricades would be provided as well as marshalling of the main gates by staff / construction workers.

The Department has assessed the pedestrian accessibility and safety measures that have been proposed for the site and considers them to be appropriate to ensure the safety and amenity of staff and students. Conditions of consent recommend implementation of these measures in the final Construction Traffic Management Plan for the site.

## **6.5 Other issues**

The Department's consideration of other issues is provided at **Error! Reference source not found.10**.

**Table 8 | Department's assessment of other issues**

Issue	Findings	Recommendation
Stormwater management and flooding	<ul style="list-style-type: none"> <li>The EIS states that the site is located within a flood planning area identified in the WLEP. The flooding occurs due to an overland flow path on NSH Road. A 450mm diameter Council pipeline runs through the eastern portion of the site (under the sports oval) and is affected by an easement.</li> <li>During the EIS exhibition, EESG requested additional details regarding the flooding of the site and the proposed flood management and stormwater management measures.</li> <li>In response, the Applicant's RtS included a Stormwater Management Plan which included the following: <ul style="list-style-type: none"> <li>a catchment analysis for the site.</li> <li>proposed increase in the capacity of the existing Council stormwater pipe to 750 mm and its diversion away from the proposed building footprint.</li> <li>relocation of the easement affecting this pipe.</li> <li>construction of two on-site detention tanks.</li> <li>installation of stormwater quality treatment measures.</li> </ul> </li> <li>Additionally, the stormwater from the batter slope would be collected in a drainage channel between the façade and the existing retaining wall which would run along the length of the embankment.</li> <li>The Applicant's RtS concluded that subject to the increase in the stormwater capacity and the diversion of the pipe, the site would not be impacted by flooding and no further flood mitigation measures would be needed.</li> <li>EESG did not raise any concerns regarding flooding after reviewing the RtS.</li> <li>Council accepted the stormwater proposal subject to several recommended conditions.</li> <li>TfNSW requested that endorsement be obtained for works adjacent to the embankment.</li> </ul>	<ul style="list-style-type: none"> <li>Based on the comments from the government agencies and Council, the Department is satisfied that the proposed stormwater works would ensure that the proposal does not result in flooding of the site.</li> <li>To ensure the implementation of the stormwater works, the Department has recommended conditions requiring: <ul style="list-style-type: none"> <li>preparation of stormwater plans prior to the issue of the construction certificate.</li> <li>obtaining appropriate approvals from the relevant authorities at various stages of the work.</li> <li>creating an easement over the diverted pipeline.</li> <li>implementing the stormwater treatment measures on the site.</li> </ul> </li> </ul>
Noise Impacts	<ul style="list-style-type: none"> <li>The proposal does not involve any intensification of use of the site or additional after-hours usage. The proposal would regularise the student numbers at 1020 (70 additional).</li> </ul> <p><i>Operational noise impact</i></p> <ul style="list-style-type: none"> <li>The EIS is supported by a Noise Assessment Report (NAR) which states that the operational noise impacts would mainly be due to mechanical services, public address system, sporting events and concerts in the sports hall and outdoor sports activities.</li> <li>The NAR has determined the project noise trigger levels (PNTL) for the site, at the nearest residential receiver considering the above activities as well as the road traffic noise (due to additional traffic).</li> </ul>	<ul style="list-style-type: none"> <li>The Department has reviewed the NAR and notes that the application would not intensify the use of the site or the activities.</li> <li>Given that the NAR demonstrates compliance of the operational noise with the PNTLs during all activities, the Department is satisfied that the proposal would not result in unreasonable amenity</li> </ul>

	<ul style="list-style-type: none"> <li>While the sports hall would accommodate major music concerts, whole school assemblies and large sporting events, the NAR concludes that minimal noise would be generated due to the sports hall as it would be located below ground. The results of noise modelling conclude that the noise generated, even with open glazing (worst case) would comply with the PNTLs for the site.</li> <li>The mechanical services would be designed later to meet the PNTL.</li> <li>The cumulative operational noise from the site considering all activities would comply with the PNTL both for evening and daytime. This is consistent with the current use of the site.</li> <li>The NAR has also modelled the predicted noise level from the activities on the rooftop sports courts to demonstrate that they comply with the relevant guidelines.</li> </ul> <p><i>Construction noise</i></p> <ul style="list-style-type: none"> <li>The NAR does not include details of noise predicted to be generated by the equipment. However, it includes established Noise Management Levels and concludes that at times these levels can be exceeded.</li> <li>A Construction Noise and Vibration Management Plan would be implemented on the site to ensure that noise generated by the construction activities are mitigated and managed.</li> </ul>	<p>impacts on the neighbours.</p> <ul style="list-style-type: none"> <li>The Department has recommended that the mechanical services be designed to comply with the PNTL and that all operational noise limits also be compliant with the established PNTLs for the site.</li> <li>The Department has recommended a condition requiring the implementation of a Construction Noise and Vibration Management Plan during the construction works.</li> </ul>
Development contributions	<ul style="list-style-type: none"> <li>The proposal would require payment of section 7.2 contributions under the Woollahra Section 94A Development Contributions Plan 2011.</li> <li>While the Applicant sought exemptions to paying Section 7.12 contributions, Council has not agreed to this and indicated that the amount would be approximately \$597,000.</li> <li>In response to the Department and Council's submission, the Applicant requested to stage the payment of the contributions in accordance with the staging plan for the development.</li> </ul>	<ul style="list-style-type: none"> <li>The Department has recommended a condition requiring the Applicant to pay the section 7.12 contributions.</li> <li>A condition of consent requires that the contributions payment may be staged subject to the agreement from Council.</li> </ul>
Geotechnical	<ul style="list-style-type: none"> <li>The site is located in proximity to the Sydney Harbour catchment and is located on steep sloping land.</li> <li>The EIS is supported by a Geotechnical Report. Borehole testing in the report identifies that the site contains a variable groundwater table at a depth of 0.8m - 5.2m.</li> <li>To mitigate impacts on the groundwater, the report recommends several mitigation strategies.</li> <li>Additionally, several recommendations are provided regarding earthworks, piling, excavation and the use of temporary and permanent batters.</li> <li>Council reviewed the EIS and recommended conditions regarding groundwater monitoring for the site.</li> </ul>	<ul style="list-style-type: none"> <li>The Department has considered the findings and recommendations of the Geotechnical Investigation and supports the mitigation strategies that have been proposed.</li> <li>The Department has recommended conditions of consent requiring the appointment of a suitably qualified geotechnical consultant to oversee excavation works, requirement for construction certificate drawings to comply with</li> </ul>



		recommendations of the geotechnical report, and groundwater monitoring conditions recommended by Council.
TfNSW easement	<ul style="list-style-type: none"> <li>An embankment affected by an easement benefitting TfNSW runs across the NSH Road boundary of the site. The Applicant proposes to build a retaining wall, adjacent to this easement along with drainage works.</li> <li>In the EIS submission, TfNSW requested that the Applicant consult with the public authority to determine the impact of the works on this easement.</li> <li>TfNSW also stated that no future structure or buildings should be erected within the identified easement and requested the details of the retaining wall to be constructed.</li> <li>Within their RtS, the Applicant advised that ongoing consultation with TfNSW has confirmed that the proposed built form would not compromise access to the existing easement. The Applicant also advised that the second retaining wall would be constructed to provide a soil retaining function and support the batter slope.</li> <li>TfNSW did not raise any further concerns in their comments on the RtS, however, recommended conditions to ensure that access to the easement is not compromised due to future development on site.</li> </ul>	<ul style="list-style-type: none"> <li>The Department is satisfied that the proposed development would not compromise current or future access to the identified TfNSW easement.</li> <li>The Department acknowledges TfNSW's request and has recommended conditions of consent to ensure that the proposed retaining wall or future development do not compromise the easement and that appropriate approvals are obtained for works in relation to the retaining wall and drainage.</li> </ul>
Site contamination	<ul style="list-style-type: none"> <li>A Detailed Site Investigation (DSI) and Remediation Action Plan (RAP) were provided with the EIS and RtS.</li> <li>The DSI identified potentially unacceptable risks due to polycyclic aromatic hydrocarbons found within the garden embankments and were related to the natural organic material found in mulch and vegetation. Elevated concentrations of lead and benzo(a)pyrene toxicity equivalent quotient were found within the south-eastern portion of the sports field.</li> <li>The report also identified, two fragments of asbestos containing material at two locations within a landscaped strip behind the tennis court along the Bayview Hill Road boundary. No other asbestos was identified on the site. The DSI indicated that these materials would not create an unacceptable risk to the users of the site as the areas containing these materials were not mainly utilised, such as the embankment. However, the materials would be encountered during earthworks on the sporting field.</li> <li>The DSI concluded that the site can be made suitable for the development subject to the preparation and implementation of a RAP and the preparation of an unexpected finds protocol.</li> <li>The submitted RAP recommends the preparation of a remedial works plan that details specific soil characterisation requirements for each specific construction stage and the capping of the contaminated soil. The RAP recommends capping of contaminated soil under the SWSLP building and the</li> </ul>	<ul style="list-style-type: none"> <li>The Department is satisfied that the Applicant has adequately demonstrated that the site is suitable for the proposed use.</li> <li>However, the Department considers, that given the students would use the landscaped courtyards, contaminated soil should not be capped under these areas.</li> <li>The Department has recommended conditions, which require that: <ul style="list-style-type: none"> <li>the RAP be amended to confirm that contaminated soil would only be retained and capped under the SWSLP building.</li> <li>the RAP be implemented on the site in stages, as proposed.</li> <li>if work is to be completed in stages, the Site Auditor must</li> </ul> </li> </ul>

landscaped areas. The remaining fill would be disposed off to authorised sites.

- The EPA reviewed the application and raised no concerns relating to the findings and recommendations of the DSI and RAP.

confirm satisfactory completion of each stage by issuing Interim Audit Advice/s.

- an unexpected finds procedure must be implemented.
-

## 7 Evaluation

The Department has reviewed the Environmental Impact Statement, Response to Submissions and Supplementary Response to Submissions and assessed the merits of the proposal, taking into consideration advice from the public authorities, including Council and the public submissions. Issues raised in public submissions have been considered and all environmental issues associated with the proposal have been addressed.

The Department concludes the impacts of the development are acceptable and can be mitigated through the recommended conditions of consent. Consequently, the Department considers the development is in the public interest and should be approved, subject to conditions.

The proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979*, and the State's strategic planning objectives for the site set out in the Greater Sydney Region Plan – A Metropolis of Three Cities and the Greater Sydney Commission's Eastern District Plan, as it would provide much needed improved and expanded school infrastructure located near existing public transport.

The proposal is suitable for the site and the identified built form and landscaping, visual and view impacts and traffic impacts are considered satisfactory on balance and in the context of the benefit the proposal would provide for the school community.

The Department concludes that the height, bulk and scale of the proposal is acceptable in its context, given the site constraints and the nearby heritage items. The proposal respects the significant heritage elements and would not result in adverse visual impact on the surrounding locality. The existing access arrangements, car parking and drop-off / pick-up would continue to be made available and the implementation of sustainable transport measures would reduce car-based travel that would limit the impacts of the development on the local road network.

The proposed regularisation of students is also supported as it does not have a significant impact on the surrounding traffic network. Mitigation measures and recommended conditions are proposed to manage construction impacts.

The proposal is considered to be in the public interest as it would provide public benefits including:

- provision of updated educational and sporting facilities to meet the needs of the school population.
- investment of \$59.7 million to deliver approximately 120 new construction jobs.

## 8 Recommendation

It is recommended that the Director, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approval to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of the new sports, wellbeing and senior learning precinct at Kambala School (SSD-10385), subject to the conditions in the attached development consent
- **signs** the attached development consent (**Appendix D**).

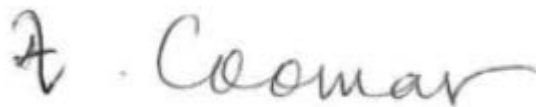
**Prepared by**

Rita Hatem

Planning Officer

Social Infrastructure Assessments

**Recommended by:**



**Aditi Coomar**

Team Leader

School Infrastructure Assessments



## 9 Determination

The recommendation is **Adopted** by:



26/07/2021

**Karen Harragon**

Director

Social Infrastructure Assessments

# Appendices

## Appendix A – List of referenced documents

1. Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/25731>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/25731>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/25731>

4. Supplementary Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/25731>

5. Documents not on the website

[Provided under separate cover.](#)

## Appendix B – Statutory Considerations

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the (EPIs) that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

EPIs considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011.
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
- State Environmental Planning Policy No. 55 – Remediation of Land.
- Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities).
- Draft State Environmental Planning Policy (Remediation SEPP).
- Woollahra Local Environmental Plan 2014.
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

### State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The aims of the SRD SEPP are to identify SSD, State significant infrastructure (SSI), critical SSI and to confer functions on regional planning panels to determine development applications.

The proposal meets the criteria of SSD as summarised at **Table B1**.

**Table B1** | SRD SEPP compliance table

Relevant sections	Consideration and Comments	Complies
<b>3 Aims of Policy</b> The aims of this Policy are as follows: (a) to identify development that is State significant development,	The proposed development is identified as SSD.	Yes
<b>8 Declaration of State significant development: section 4.36</b> (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The proposed development is permissible with development consent and is development that is specified under <b>Schedule 1</b> .	Yes
<b>Schedule 1 State significant development – general</b> (clause 8 (1)). <b>15 Educational establishments</b>	The proposal comprises development that has a CIV of more than \$20 million for the purpose of alterations or additions to an existing school.	Yes

Relevant sections	Consideration and Comments	Complies
(2) Development that has a capital investment value of more than \$20 million for the purpose of alterations or additions to an existing school.		

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

The Education SEPP aims to simplify and standardise the approval process for schools, TAFEs, universities and childcare centres, while minimising impacts on surrounding areas and improving the quality of facilities. The Education SEPP includes planning rules for where these developments can be built, which development standards can apply and construction requirements. The application has been assessed against the relevant provisions of the Education SEPP.

Clause 42 of the Education SEPP states that development consent may be granted for development for the purpose of a school that is SSD, even though the development would contravene a development standard imposed by this or another EPI under which consent is granted. The proposed development would exceed the permissible height limit of 9.5m allowed under the Woollahra Local Environmental Plan 2014 (WLEP). The Department notes that the height exceedance is permissible under clause 42 and that the Applicant has provided justification for contravening the development standard. The Department's consideration of the variation to the development standard is provided at **Section 6.1** of this report and in the consideration of the WLEP below.

Clause 35(6)(a) requires that the design quality of the development should be evaluated in accordance with the design quality principles set out in Schedule 4 of the Education SEPP. An assessment of the development against the design principles is provided at **Table B2**.

**Table B2 | Consideration of the Design Quality Principles**

Design Principles	Response
Context, built form and landscape	The proposed SWSLP would be integrated into the design of the school to ensure that it appropriately responds to its heritage context. The siting, design and materials proposed as part of the development have regard to the existing school campus and the surrounding streetscape. The proposal includes extensive new landscaping, including new tree planting and replacement plantings, outdoor courtyards and entry plazas.
Sustainable, efficient and durable	The proposal includes ESD measures including continued use of the existing photovoltaic panel system and use of best practice energy efficient building management systems and controls including lighting, effective shading and glazing. Bicycle parking is provided as part of the proposal to encourage sustainable travel modes.
Accessible and inclusive	The proposal has demonstrated that it is capable of complying with the relevant accessibility provisions required by the Building Code of Australia and the Accessibility Report submitted with the EIS.
Health and safety	The proposal would provide for a welcoming and accessible environment and has incorporated Crime Prevention Through Environmental Design



Design Principles	Response
	principles as part of the design, operation and management of the school to ensure a high level of safety and security for students, staff and visitors.
Amenity	The proposed school has been designed to provide engaging spaces that are accessible and have access to sunlight, natural ventilation and provide visual and acoustic privacy. The outdoor learning spaces are located internally within the site and would maintain acoustic amenity and visual privacy of the surrounding residents.
Whole of life, flexible, adaptable	The proposed facilities are flexible and provide a variety of spaces that can be adapted to suit a wide range of uses and changing needs over the long term.
Aesthetics	The proposal would respond positively to the site constraints by proposing a building that would compliment the Tivoli House. The building is aesthetically sound and would result in a good design outcome supported by GANSW.

### **Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) (Draft Education SEPP)**

The Draft Education SEPP will retain the overarching objectives of the Education SEPP to facilitate the effective delivery of educational establishments and childcare facilities across the State.

The provisions of the Draft Education SEPP aim to improve the operation, efficiency and usability of the Education SEPP and to streamline the planning pathway for schools, TAFEs and universities that seek to build new facilities and improve existing ones. The exhibited Explanation of Intended Effects (EIE) also proposes changes to the threshold triggers for SSD under the SRD SEPP, specifically for schools and tertiary institutions.

The Department is satisfied that the proposal is consistent with the objectives of the Draft Education SEPP.

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

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application.

As detailed at **Section 6.5**, the Department is satisfied that the Applicant has adequately demonstrated that the site is suitable for the proposed use subject to the implementation of the RAP and a Site Audit Statement.

### **Draft Remediation of Land State Environmental Planning Policy**

The Draft Remediation SEPP would retain the overarching objective of SEPP 55 promoting the remediation of contaminated land to reduce the risk of potential harm to human health or the environment.

Additionally, the provisions of the Draft Remediation SEPP would require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant, categorise remediation work based on the scale, risk and complexity of the work and

require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures to be provided to Council.

The Department is satisfied that the proposal would be consistent with the objectives of the Draft Remediation SEPP.

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The SHC SREP provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area.

The proposal is consistent with the relevant planning principles of the SHC SREP and would not have any significant adverse impact on the Sydney Harbour Catchment.

### **Woollahra Local Environmental Plan 2014 (WLEP)**

The Department's assessment of the relevant clauses of the WLEP are provided below in **Table B3**.

**Table B3 | Consideration of the WLEP**

<b>WLEP</b>	<b>Department's consideration</b>
Clause 2.3 Zone objectives and Land Use Table	The proposed development is located in SP2 Infrastructure zone and is a permissible use with development consent.
Clause 4.3 Height of buildings	The site is subject to a Height of Building control of 9.5m. The proposal exceeds the control with a maximum height of 12.5m proposed. The Department considered this clause in its assessment ( <b>Section 6</b> ) and assessed the height exceedance to be acceptable.
Clause 5.10 Heritage conservation	The Department has considered the development having regard to the requirements of clause 5.10. The Department considers that the proposal would be sympathetic to the heritage significance of the buildings and structures on site. These matters are addressed in detail in <b>Section 6.3</b> of this report.
Clause 6.2 Earthworks	Deep excavation works would be required in the vicinity of the existing sports oval to accommodate for the new SWSLP.  The Department is satisfied the extent of proposed earthworks would not have a detrimental impact on drainage patterns and soil stability at the site or adjoining properties, subject to the recommended conditions.
Clause 6.3 Flood planning	The site is subject to flooding impacts. Council provided conditions regarding stormwater management including on-site detention requirements, and storm pipe diversion minimum pipe measurements, to ensure the proposal would not adversely impact downstream properties during flooding events.  The Department has incorporated Council's stormwater management requirements into the recommended conditions of consent.

## Appendix C – Community Views for Draft Notice of Decision

Issue	Consideration
<p><i>Built form and landscaping</i></p> <ul style="list-style-type: none"> <li>The proposed height of the Sport, Wellbeing and Senior Learning Precinct (SWSLP) and upgraded Music Building would be 12.5m in height, which contravenes the 9.5m height of building control imposed on the site in the Woollahra Local Environmental Plan 2014 (WLEP).</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Department considers that the bulk of the development complies with the building height limit stipulated in the WLEP. The height non-compliance only occurs due to the webnet fencing on the rooftop.</li> <li>The proposed height non-compliance would not lead to any adverse visual or amenity impacts and is permissible under the State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 (Education SEPP).</li> </ul> <p><i>Conditions</i></p> <ul style="list-style-type: none"> <li>No specific conditions recommended.</li> </ul>
<p><i>Visual impact</i></p> <ul style="list-style-type: none"> <li>The proposal would result in impacts on the visibility of the lower portion of Tivoli House and may block key view lines identified by Woollahra Council.</li> <li>The light spill from the rooftop sports courts may impact on evening views of Sydney Harbour.</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Applicant provided a Visual Impact Assessment which analysed the impact of the proposed development on the surrounding vicinity, both public and private domains.</li> <li>The Department is satisfied that the Visual Impact Assessment has demonstrated that the proposed development would not significantly impact on any key views enjoyed from the private or public domains surrounding the site.</li> <li>The tennis court lights would not be switched on beyond 6:15pm and therefore would not impact on the evening views.</li> </ul> <p><i>Conditions</i></p> <ul style="list-style-type: none"> <li>The Applicant to construct and maintain all outdoor lighting to comply with Australian lighting standards.</li> <li>The lighting to be switched off after 6:15pm.</li> </ul>
<p><i>Heritage and archaeological impacts</i></p> <ul style="list-style-type: none"> <li>Significant archaeological relics should be preserved and monitored. Significant parts of Tivoli House and Norfolk Island Pines to be protected.</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Department is satisfied that the proposed works would not impact on the heritage significant fabric of Tivoli House.</li> <li>The Department is satisfied that the archaeological assessment submitted by the Applicant includes satisfactory provisions to monitor and salvage relics.</li> </ul> <p><i>Conditions</i></p> <ul style="list-style-type: none"> <li>The Applicant to appoint an excavation Director, Archaeological Research Design, prepare an unexpected finds protocol for the site and a post excavation report.</li> <li>The Applicant to prepare photographic archival recording, heritage interpretation strategy and protect trees on the site.</li> </ul>
<p><i>Traffic and transport</i></p> <ul style="list-style-type: none"> <li>At least 58 additional on-site parking spaces should be provided.</li> <li>The proposed drop-off / pick-up areas need management measures.</li> <li>Motorbike parking should be provided.</li> <li>Bayview Hill Road should be widened.</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Department is satisfied that the number of car spaces provided on the site are satisfactory for the development as no staff increase is proposed.</li> <li>Additional sustainable transport measures are provided including a shuttle-bus for the staff. The motorbike parking space on the adjoining property owned by the school is assessed as satisfactory.</li> <li>The widening of surrounding roads is not needed as the development can be accommodated within the surrounding road network.</li> </ul> <p><i>Condition</i></p> <ul style="list-style-type: none"> <li>The Applicant to: <ul style="list-style-type: none"> <li>Prepare and implement an Operational Transport and Access Management Plan.</li> <li>Provide 123 car spaces on the site.</li> <li>Provide motorbike parking spaces and shuttle bus parking space on the adjoining site.</li> </ul> </li> </ul>

## **Appendix D – Recommended Instrument of Approval**

The recommended instrument of consent can be found on the Department's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/25731>.