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PROPOSED ALTERATIONS AND ADDITIONS TO

MERIDEN SCHOOL ADJACENT TO

2 VERNON STREET, STRATHFIELD

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Client	Giuseppe Pedavoli 2 Vernon Street, Strathfield, Attention: opdavo@gmail.com			

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**PROPOSED ALTERATIONS AND ADDITIONS TO
MERIDEN SCHOOL ADJACENT TO
2 VERNON STREET, STRATHFIELD**

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1. INTRODUCTION

Koikas Acoustics was requested by Mr Pedavoli and Family to prepare a report in response to the proposed Alterations and Additions adjacent to their property, 2 Vernon Street, Strathfield.

This acoustical report specifically addresses matters discussed in the Wilkinson Murray acoustical report that affects No. 2 Vernon Street Strathfield:

Report No. 18238 Version C

Dated: 18 June 2019

In order to address the noise impact to the Pedavoli Family, a condensed historical summary is presented below so that one may understand the noise issues that have arisen between the occupants of 2 Vernon Street (Pedavoli Family) and Meriden Junior School.

1971 The Pedavoli family moved into this neighbourhood in 1971.

In 1971 Meriden Junior School consisted of a house and small class rooms along the rear of No 4, 6 and 8 Vernon Street, Strathfield. There were very few children enrolled at the school. There was minimal noise impact to the Pedavoli Family.

Over the years Meriden have acquired many properties for the purpose of expanding their facilities. This resulted in an increase in the number of students, resulting in an increase of noise.

1976 Condition of Consent for private use of tennis court was granted. At the time, the tennis court was owned by Dr Bosnic.

1984 In 1984 Meriden bought the property No. 38 Redmyre Road.

1985 In 1985 Council approved the use as the existing tennis court for car parking and for school use.

1994 The use of the tennis court was significantly increased when the senior girls of Meriden High School began to use the tennis court. The tennis court was also used on Saturdays and Sundays



by families whose children attended the school. The use of the tennis court continued to increase and included net-ball, tunnel-ball, soft-ball and basketball training, coaching and competitions. Competitions in general generated the greatest source of noise. Pedavolis attended numerous meetings with Meriden but no changes to the duration or level of noise occurred.

Council was also approached and asked that they help to resolve the noise issues. The Pedavoli's requests were ignored. No letters of complaint were provided, but a diary was kept of discussions and outcomes with Council and Meriden School.

- 1997 In November 1997 the rebound-board was removed following letters provided by Mr Peter Colquhon (the Pedavoli's acting solicitor at the time).

It is likely that this was agreed to by Meriden as at the time, as there was no Council approval for the use of the tennis court in the way that it was being used.

- 1998 Meriden School applied for a DA, entitled "*For General School Uses and Activities Including Pre-Kindergarten up to Year 12 to Apply to all Buildings and their Surrounds Including Tennis Courts the Swimming Pool and Playgrounds*".

Pedavoli Family objected to this development application on the grounds of the noise that they were receiving from the use of this outdoor play area.

The Development Application was granted on the 26 May 1998.

In December 1998 Meriden bought property No. 4 Vernon Street, the property next to the Pedavoli Family, which is part of the subject development application.

- 1999 On the 17 September 1999, Koikas Acoustics P/L was commissioned by Mr Pedavoli to assess the impact of noise from children utilising the tennis court to the rear of No. 2 Vernon Street.



This acoustic report identified that noise emanating from Meriden School's tennis court exceeded background noise by 20 dB. **The nominated criterion adopted by Koikas Acoustics was background + 5 dB** and the noise levels measured exceeded the criterion by 15 dB. *At the time, background noise levels were taken whilst the school was operating. Background noise levels then were typically higher compared to when the school was not occupied. The noise was nevertheless excessive and exceeded the nominated noise criterion by a significant amount.*

A copy of the acoustic report was provided to Strathfield Municipal Council.

*Strathfield Council contacted Koikas Acoustics by phone and advised me that the noise criterion used in my assessment of noise emanating from Meriden school was not accepted. The criterion nominated was that recommended by the EPA. The same criteria was considered by many other consultants acting for and against Meriden. Koikas Acoustics requested from the Council Officer that they provide what Council considered an acceptable noise limit or noise criterion for the subject school. **No criterion was ever provided by Strathfield Council.** It is noted, that Strathfield Council had imposed on Meriden School's Conditions of Consent similar noise criteria for numerous other child care centres, commercial and residential developments, all of which were required to comply, but, Meriden School was not required to comply.*

- 1999 Further letters of complaint were provided to Meriden and Council in relation to noise disturbances emanating from Meriden School where such noise clearly breached the conditions of Consent issued by the Council.

MP John Murphy provided a letter dated 29 June 2000 to Council in relation to Council's inaction with regards to noise nuisance. Nothing was done to minimise noise disturbance.

- 2001 26 March 2001 Steven Cooper Acoustics prepared a peer review of Koikas Acoustics P/L report (dated 17 Sept 1999) and opinions relating to Council's inaction and recommendations regarding unlawful use of the tennis court. **Mr Cooper considered background + 5 dB as the nominated noise criterion.**

30 August 2001 MSJ Solicitors prepared a Class 4 Application against Meriden School.



2002 Court proceedings were undertaken on 26 July 2002.

5 September 2002 Koikas Acoustics P/L provided a 2nd report identifying that noise emanating from Meriden School's tennis court continued to exceed background noise levels by similar order of magnitude. This report included a statement that the barrier (Colorbond) agreed to in the L&EC would not provide adequate noise attenuation.

3rd April 2003 Koikas Acoustics provided an additional acoustic report. This assessment looked at how additional noise attenuation could be achieved with alternative noise barriers and the extent of the noise barriers required along the common boundary with Meriden to achieve a satisfactory result.

2003 29 May 2003 Koikas Acoustics P/L provided an acoustic report that identified that the air-conditioning unit overlooking the rear of 2 Vernon Street exceeded the environmental noise criterion by 5 dB. The air-conditioning unit was identified by Mr Challis as being in excess of the criterion, but Meriden continued to use it without reducing the noise. **The criterion nominated by Mr Challis was background + 5 dB.**

2004 Meriden School prepared a DA for the construction of the noise barrier. The barrier was considered by Council but was objected by the Pedavoli Family on the basis of advice that I had provided that the barrier proposed would not provide satisfactory noise attenuation.

Mediation between Meriden School and Pedavoli Family in relation to the noise barrier was directed by the Chief Justice of the L&EC during February 2004.

The first mediation session occurred in April 2004 and was continued on 4 May 2004. *The outcome of these sessions brought no agreement.* Meriden was not represented by an acoustic consultant. Nevertheless, the Court rejected the Koikas Acoustics report and accepted Mr Challis's recommendations of a Colorbond barrier.

Strathfield provided a notice to Pedavoli that Meriden Junior School had lodged a DA for demolition



and construction of a new two storey building with basement car park and an increase from 300 students to 450 students.

Strathfield Council Officer Tim Keith advised Koikas Acoustics that Council had instructed Meriden school not to install a noise barrier because Mr Pedavoli would refuse access to the school's acoustic consultant on his property for the purpose of conducting compliance testing of the noise barrier.

Mr Pedavoli provided the following explanation. During the attended survey conducted by Mr Challis prior to the Court Case of 26 July 2002, Mr Challis accused Mr Pedavoli that the noise complaints were being made so that Mr Pedavoli could be bought out by Meriden School so that he could buy a mansion at Point Piper. Mr Pedavoli was very upset as this remark by Mr Challis was incorrect. Mr Pedavoli told Mr Challis not to step on his property ever again.

Mr Pedavoli was under the impression at the time of the mediation that Mr Challis was acting for Meriden Junior School. It is interesting to note that for some unexplained reason Mr Challis ended up with no valid measurement data from his monitoring and therefore relied upon material provided by Koikas and Cooper.

- 2005 A Notice of Determination of Development Consent No. 0405/080 dated 2 June 2005 with consent dated 10 May 2005 by Council for Meriden School to demolish the existing administration building, alterations and additions, removal of trees and the erection of a two storey school building.

Koikas Acoustics prepared a peer review (on behalf of Mr Pedavoli) of Meriden School's acoustic report prepared by Acoustic Logic. A copy of the Koikas Acoustics report was issued to Strathfield Council. Council ignored the acoustical report. The Acoustic Logic report discussed noise that was generated in class rooms. The increase in the number of children in relation to children playing outdoors was not discussed. No actions were taken by Strathfield Council to investigate the matter further.

An acoustic assessment was prepared by Koikas Acoustics dated 21 September 2005 in relation to



construction noise activities. In this report noise levels breached Council's Conditions of Consent by up to 30 dB. Council did not stop or request Meriden to reduce noise over the 18 month construction period even though there was a clear breach of their Conditions of Consent.

- 2006 Letters were prepared and sent off to Ministers and Authorities describing the noise issues that the Pedavoli Family was experiencing. Most persons who did respond advised that Council was the appropriate Authority to deal with this matter under the powers of the POEO Act 1997.

A second report was prepared by Koikas Acoustics in February 2006 regarding construction noise and found that the activities were now in breach of Council's nominated noise criteria by up to 40 dB. Council was provided with a copy of the Koikas Acoustics report but Council did not respond nor take any actions to order an investigation and therefore, did not act appropriately on the information provided at the expense of the Pedavoli Family.

- 2008 Mr Pedavoli requested that Koikas Acoustics provide an acoustical report in relation to what he perceived to be an increase in noise following Meriden's expansion of the school.

- 2009 The abovementioned report entitled Noise Impact Assessment of Meriden School to No. 2 Vernon Street, Strathfield Between February 2007 and February 2008, our file reference R020408nk593.wpd dated 25 March 2008 was filed in the Local Court of Burwood. The report contained ambient measurements and noise measurements from activities occurring at the school.

The Hearing dates were between 19 and 20 February and 23 and 24 April 2009.

Following the Court Proceedings, Orders were issued by Burwood Court, their File Number 79556/08/46, date of order 24 April 2009 by Magistrate/Judge W. Pierce, required that Meriden School:

- *Erect a 5 metres high composite noise barrier from the existing ground level and 1.5 metres away from the northern boundary of No. 2 Vernon Street (the property) and extending from the rear of the property to a point in line with the front facade of the dwelling of the property*



- *To a height of 5 metres above the existing ground level and along the eastern boundary of the property joining the barrier along the northern running barrier and extending southwards along the common boundary to a point in line with the southern alignment of the common driveway between 2 and 4 Vernon Street, where it then tapers down to a height of 2 metres above the existing ground level over a distance of 3 metres. The barrier was to be constructed of reinforced concrete up to 3 metres in height and the remaining 2 metres to be constructed from 15 mm slid Plexi-glass in steel or Aluminium framing. All joints in the acoustic barrier to be acoustically sealed using mastic sealer.*
- *All windows on the northern and eastern facade of the dwelling on the property to be acoustically double glazed by the fitting of a 6.38 mm thick glazed panel to the inside of the glazed dwelling. The doors to be fitted with Raven type acoustic seals.*
- *The dwelling to be provided with mechanical ventilation designed in accordance with relevant Australian Standard 1668 and As 2107.*
- *Limit the number of children to 50 on the Jobbling lawn (later changed to 150 children). School band instruments or similar activities to be undertaken on the Jobbling lawn not more than 8 times per year and notified by the School not less than 7 days before these special events.*
- *Lawn mowers and trimmers are permitted for use but no other plant and equipment including gurneys and blowers.*
- *The Parties acknowledge and agree that compliance with Clause 1 - 5 above meet the requirements of the noise criteria in Clause 7 below.*
- *Noise criterion Leq, 15 minutes not to exceed 50 dB(A) at any point on the Pedavoli property at a height of 1.5 metres above the ground.*
- *In the event that the school cannot build the noise barrier, the School will take all steps available to ensure compliance with the noise conditions in Clause 7.*
- *The School is to comply with Orders 2 - 5 inclusive within 12 weeks.*
- *The School to make forthwith application to the Council for approval to construct the barrier referred to in Clause 1 above and to complete construction of the barrier not later than 4 months of obtaining Development Consent.*

It is noted, that some of the noise attenuation measures imposed by the Local Court were offered



by Meriden on the first day of Court but did not address what would happen if there was non-compliance and did not address the matter of costs incurred by the Pedavoli's to get the school to comply with conditions of consent.

Despite giving an undertaking at the Local Court that the use of the blowers and gurneys in the vicinity of the Pedavoli property would cease immediately, Meriden School continued to use the blowers two weeks after the Court Orders were issued on 24 April 2009. Noise level measurements of the use of a blower was taken by myself in May 2009 during the afternoons. As a consequence of Meriden's actions, the Pedavoli Family continue to be affected by excessive noise.

2009 Meriden School appealed the decision before the L&EC. The judgement by Justice Pain was in favour of Meriden School and was based on:

- that the school did not emit "offensive noise". This decision was formed despite the fact that the noise emitted was at the time 18 dB above the background as determined from the Koikas Acoustics data and relied upon by both Steven Cooper Acoustics and Renzo Tonin & Associates;
- interpretation of planning expectations in regard to suitability of the site development and public interests as described in Section 79C of the EP&A Act. Although there is no prescriptive acoustic standard to be met in the EP&A Act, it would appear that Justice Pain preceding over this matter considered less important the Protection of the Environment Operations Act 1997 (POEO Act) and the Protection of the Environment Operations (Noise Control) Regulation 2008 (POEO Regulation). The intent of the POEO Act 2007, which was to protect people from "offensive noise" was therefore eroded by this Judgement because, since 2009, this judgement has been used by many acoustical consultants to argue that noise that exceeds the background noise by up to 18 dB was deemed not offensive in the L&EC of NSW.

The Pedavoli Family received no noise ameliorative treatments to their home, noise barriers were not erected, but, the Pedavoli Family was ordered by the L&EC of NSW to pay Meriden School a sum of about \$30,000 for costs as there was acoustical data not accepted by the L&EC during Court proceedings because only one acoustical consultant from either side was allowed to act for each party.



2. CURRENT NOISE EXPOSURE

Since 2009, the Pedavoli Family has been required to endure the excessive noise emanating from Meriden Junior School during the morning, recess, lunchtime and afternoon from children playing outdoors and the use of gardening and cleaning plant and equipment. Children playing outdoors continue to shout, and scream at levels that are alarming, as a consequence, adversely impacting upon the health of the Pedavoli Family.

The Pedavoli Family often remain indoors with their doors and windows closed in order that they can experience satisfactory acoustical amenities. As their home is not equipped with mechanical ventilation/air-conditioning, during the summer, their home becomes stifling hot.

Even with the windows and doors closed, the noise from certain outdoor school activities remains clearly audible inside their home. The Pedavoli Family consider the noise emanating from Meriden School to be “offensive”. A reasonable person with normal hearing would also consider the subject noise to be offensive.

It would appear that the Wilkinson Murray report also consider that LA90 + 5 dB is a suitable noise criterion for the assessment of noise emanating from the school. This is consistent with **The Acoustic Group** (Steven Cooper Acoustics) who consulted for the Pedavoli Family, **Acoustic Logic** who consulted for Meriden School, **Koikas Acoustics** who consults for the Pedavoli Family, for **Mr Challis** who consulted for Meriden School, and now **Wilkinson Murray** who consulted for Meriden School. The adopted criterion by all of the the above named consultancies was in accordance with the EPA’s Industrial Noise Policy (currently known as Noise Policy for Industry) which also refers to “offensive noise” as defined in the POEO Act 2007.

Offensive noise is applied in both the POEO Act and Noise Control Regulations as being noise:

- that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) Is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose



of a person who is outside the premises from which it is emitted, or

- That is a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

The nature of noise that is not constant may have additional qualities that cause the assessment of a measured noise to be modified. Therefore, if the noise is:

- loud either in an absolute sense or relative to other noise in the area;
- or is well above the background noise;
- impulsive,
- tonal,
- fluctuates in level,
- occurs during a time which unreasonably interferes with comfort or repose,
- occurs daily,
- adversely affects people's activities such as conversations, reading, studying, watching TV or sleeping,

then this noise may be considered to be **offensive**.

The Pedavoli Family have repeatedly stated that all of the bullet points apply to them.

It is the opinion of Koikas Acoustics that this is correct based on measured and subjective evaluation of the noise emanating from Meriden School.



3. COUNTER ARGUMENTS WITH THE WILKINSON MURRAY REPORT

The Wilkinson Murray (WM) acoustical report refers to three State Significant Developments (SSD) being:

- Meriden Centre of Music and Drama
- Stage 2 Lingwood Campus, and
- Vernon Street Playground Area.

The following counter arguments with the WM acoustical report are specific for the outdoor playground development at 4 Vernon Street.

1.1 CURRENT AND PROPOSED EXPOSURE OF NOISE

The Pedavoli residence is currently affected by noise emanating from Meriden School outdoor playing areas along the northern and eastern boundaries.

The proposal will have children also playing on the southern boundary between No 2 Vernon Street.

The Pedavoli Family have two bedrooms with windows fronting Vernon Street being the western façade of the building, and one bedroom facing south adjacent to 4 Vernon Street. This bedroom relies on leaving the window open as required for ventilation purposes. As noise will emanate from the use of the proposed outdoor play area, this will significantly impact the occupants in this bedroom space.

1.2 BACKGROUND NOISE LEVELS

In regard to the measured background noise levels, WM have adopted for 4 Vernon Street background noise levels that pertain at the Linwood Site. This site is exposed to traffic noise emanating from Margaret Street and as such background noise levels may be marginally higher compared if the logger was placed on the shielded side (southern side) of 2 Vernon Street.

The results of background noise surveys taken by Koikas Acoustics along the northern boundary of 2 Vernon Street during school holidays was: rated background levels (RBL) around (daytime) 39-41 dB(A) during school holidays and around (daytime) 40 and 43 dB(A) during normal school days.

Therefore, if a sound level meter data logger had been placed between 4 and 2 Vernon Street,



background noise levels would have been significantly lower compared to the adopted background noise level of 43 dB(A). In our opinion, background noise levels would be less than but not more than 40 dB(A) for the daytime. This is at least 3 dB lower than what WM used to derive the nominated noise criteria for children playing adjacent to the southern side of 2 Vernon Street.

1.3 CONSTRUCTION IMPACTS

It is accepted, that construction noise levels will inevitably exceed the criteria. It is expected however, that reasonable and feasible noise mitigation measures are implemented as recommended in the EPA's Interim Construction Noise Guidelines during the demolition and construction phases.

On the basis that the development is approved, these activities are likely to occur during the warmer periods of the year. As such, the bedroom window facing 4 Vernon Street will need to be kept closed during construction to:

- **mitigate construction noise intrusion**, and
- **prevent air-borne dust contaminates** (as identified by the Douglas Partners June 2019 survey and report) **from entering the habitable spaces** of 2 Vernon Street.

As such, mechanical ventilation will be required to be installed to allow the occupants of 2 Vernon Street to remain indoors whilst construction activities are being undertaken.

In addition, vibration monitoring should be considered to minimise the potential of cosmetic cracks to 2 Vernon Street.

1.4 OUTDOOR PLAY AREA (4 VERNON STREET)

In regards to the use of the proposed outdoor playground area (4 Vernon Street), there are several concerns identified in the WM acoustical report:

Koikas Acoustics agrees with WM's adoption of the EPA's NPfl criterion, being background + 5 dB.

However, it is recommended that the background noise pertaining adjacent to the bedroom window between No 2 and No 4 Vernon Street be determined by taking noise level measurements for the purpose of ascertaining the Project Noise Trigger Level as defined by the EPA Noise Policy for Industry.



There is no mention in the acoustical report as to the maximum number of children that would play in the proposed outdoor play area. The calculated noise level derived by WM along any point on the property boundary of the southern side of 2 Vernon Street would appear to be based on that 10 children are speaking with raised voice.

4 VERNON ST PROPOSED PLAN

PROPOSED ILLUSTRATIVE PLAN



In another photo (SEARs Request Drawings Meriden School.pdf) *Figure 2* the conceptual drawing shows between 50 and 60 children occupying the proposed outdoor play area of 4 Vernon Street, Strathfield.



MERIDEN SCHOOL SEARS - 26 July 2018

4 VERNON STREET - New Playground

AJ+C MERIDEN

Figure 2

It is reasonable to expect that for an area the size of 4 Vernon Street that more than 10 children would occupy the proposed outdoor play area, and if there were more than 10, the other children would be speaking at higher or lower vocal effort. It is also unusual to rely on sound power levels of different vocal efforts when actual noise level measurements of a number of children could have been taken and adjusted for the proposed maximum number of children playing on the subject 4 Vernon Street outdoor play area.

In our professional opinion, the derived height of the noise barrier will not meet WM's noise criterion. A 1.8 metres high noise barrier is inadequate. The barrier would need to be constructed of solid materials and would need to take into consideration the correct background level (RBL) and the correct sound power level based on the maximum number of children playing outdoors.

On the assumption that there are up to 50-60 children playing in the proposed outdoor play area (4 Vernon Street), noise levels would exceed the criterion by an estimated 10 – 15 dB and therefore, the noise barrier would need to be significantly higher than 1.8 metres above the ground relative to 4 Vernon Street playground area.

4. CONCLUSIONS

Koikas Acoustics was requested by Mr Pedavoli to undertake a peer review of the Wilkinson Murray acoustical report (June 2019) for Meriden Junior School and ascertain whether the noise mitigation works will satisfactorily achieve the nominated noise criteria to the occupants of 2 Vernon Street, Strathfield.

The school has over the years continued to expand resulting in proportional increase in noise. Based on the short history presented in Section 1 of this report, noise related issues have been ongoing between the Pedavoli Family and Meriden Junior School.

The Pedavoli Family have not been provided with any satisfactory noise relief over the years especially from the use of Meriden Schools outdoor play areas adjacent to the Pedavoli residence and, from the use of plant and equipment servicing the outdoor grassed areas and concrete paths.

The proposed alterations and additions of the school areas further increase noise exposure to the Pedavoli Family.

The proposed noise mitigation measures for the subject proposed outdoor play area of 4 Vernon Street in the form of a 1.8 metres high noise barrier along the full length of the common property boundary is in our opinion unsubstantiated recommendations based on incorrect background noise levels and incorrect number of children likely to occupy the outdoor play area.

Based on the above findings, Koikas Acoustics believes that the proposed works will further exacerbate noise exposure to the Pedavoli Family. The Pedavoli Family feel that this continuing increase in noise generated by Meriden School is a means to drive the Pedavoli family out of their home so that Meriden School can acquire their property and achieve their Master Plan objectives to expand. This claim is substantiated by Meriden's Architects Masterplan drawings by Oculus. See *Figure 3* and *Figure 4* below:



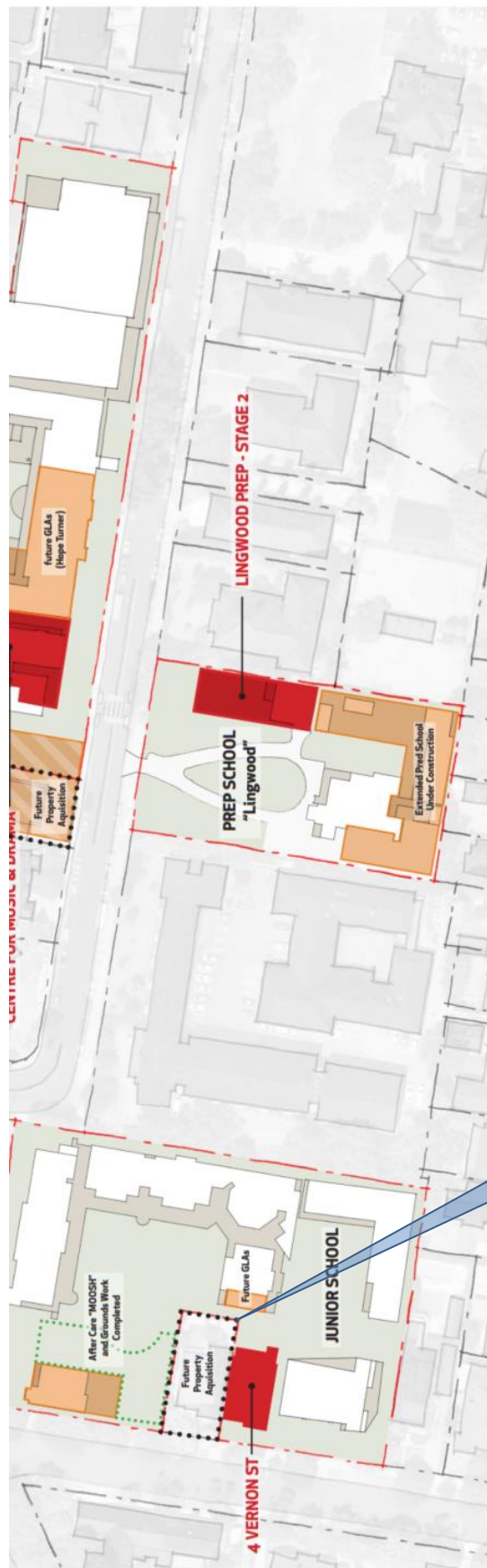


Figure 3

Pedavoli residence
referred to as Future
Property Acquisition

PROJECT OVERVIEW MERIDEN SCHOOL MASTERPLAN

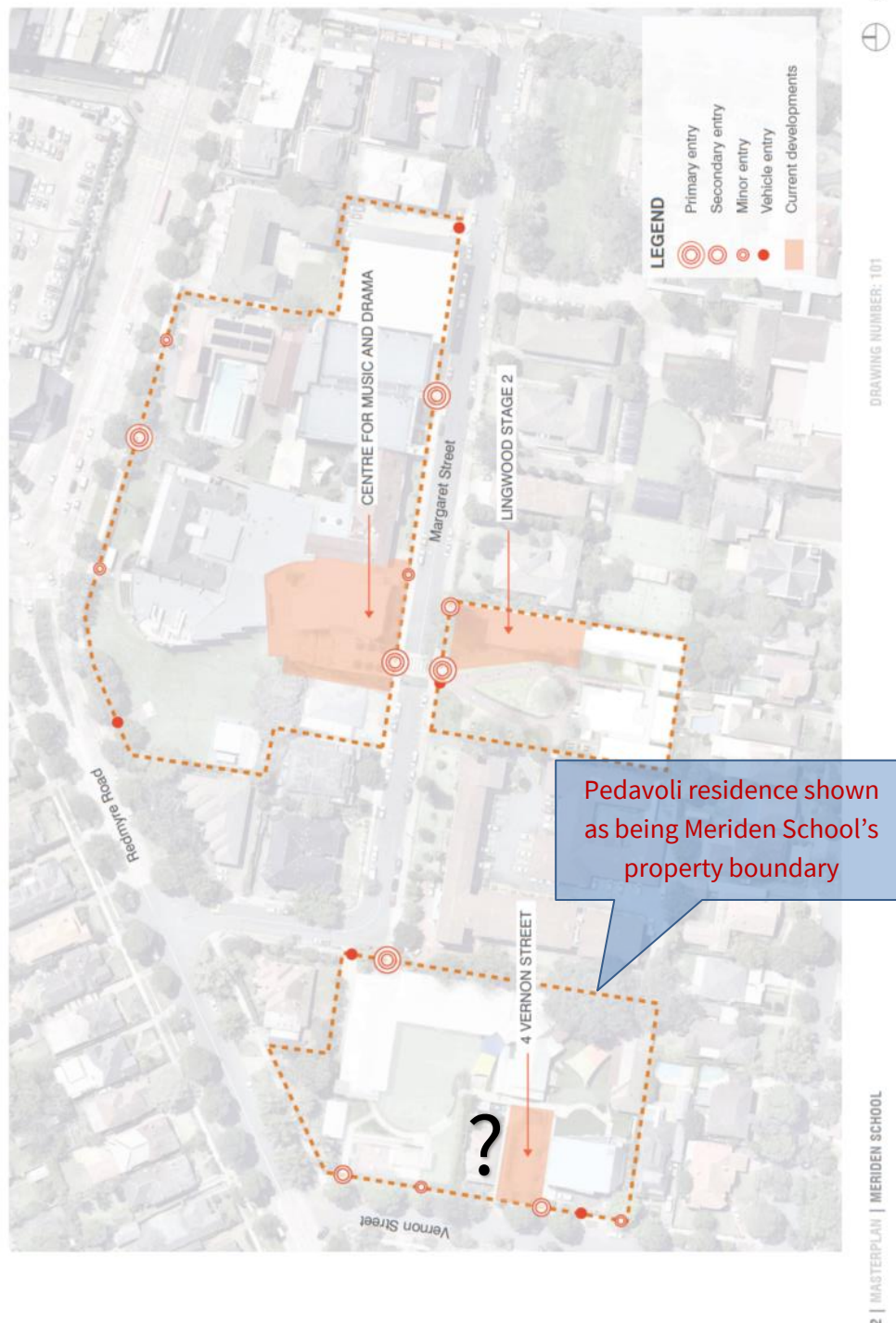


Figure 4

Mr Pedavoli has advised that he has always asked Meriden School to mitigate the progressive increase of noise that emanates from Meriden Junior School. It is the opinion of Koikas Acoustics that the noise barrier proposed by Wilkinson Murray will not achieve their nominated noise criterion. On this basis, the Pedavoli request that the Authorities request a review of this acoustical assessment.