

**Item 4.****Development Application: 2 Avenue Road, Glebe - D/2022/229**

File No.: D/2022/229

**Summary**

**Date of Submission:** 22 March 2022, amended documentation received on 16 June 2022 and 1 May 2023

**Applicant:** St Scholastica's College

**Architect:** DJRD Architects

**Owner:** Good Samaritan Education

**Planning Consultant:** DFP Planning

**Heritage Consultant:** Heritage 21

**DAPRS:** 2 August 2022

**Cost of Works:** \$14,094,633

**Zoning:** The site is zoned R1 General Residential. The proposal is defined as an educational establishment (school) which is permissible with consent within the zone.

**Proposal Summary:** Development approval is sought for:

- The demolition of the Salem Building (Building B), Art and Computers Building (Building D) and parts of the Junior Block (Building E) and Senior Block (Building F) and removal of the demountable buildings in the north-eastern corner of the site on the playing fields.
- The construction of a new four storey building containing a library, multi-purpose spaces and staff office spaces.
- Refurbishment and conservation works to the Administration Building and Wych Wood Building.
- A new school entry from Avenue Road and landscaping to the front setback.

- The removal of seven trees and transplanting of six trees.

### **Notification and Exhibition**

The application was notified for a period of 28 days from 27 April 2022 to 26 May 2022. Seven submissions were received.

The concerns raised in the submissions include the siting of the new building, the height of the new building, the impact of the new building on the nearby heritage items and wider Toxteth Heritage Conservation Area, view impacts from Avenue Road, privacy impacts and construction impacts including noise, traffic management and dust.

After the notification period, the DA was amended in response to issues raised by council officers and the Design Advisory Panel Residential Subcommittee (DAPRS). This resulted in the removal of the elevated link between the Administration Building and the new building, a reduction in the height and massing of the new building, realignment of the new building, additional modulation and articulation to the facades of the new building and additional tree canopy cover across the site.

### **Assessment**

The proposed development exceeds the 9m height control contained in the Sydney LEP 2012 (SLEP 2012) by 5.61m or 62.33%. The building elements that exceed the height control include:

- The upper portion of the new roof to the Senior Block building (maximum height is 11.47m).
- The uppermost portion of the roof of the new addition to the Administration Building, including a small extent of the lift overrun (maximum height is 9.35m).
- The upper extent of the third floor level. Entirety of the fourth floor level and roof of the new building (maximum height is 14.61m).

A written justification for the proposed variation to the building height development standard was submitted in accordance with clause 4.6 of the LEP. The statement demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravention of the standard.

The proposed development is consistent with the objectives of the R1 General Residential zone and the height of buildings development standard and is in the public interest. For these reasons the proposed variation of the building height development standard is supported.

The proposed development complies with the relevant floor space ratio control and other provisions of the LEP, as well as the provisions contained in the Sydney Development Control Plan 2012 (SDCP 2012).

The proposal is consistent with the provisions for Educational Establishments set out in Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021, as well as the design quality principles set out in Schedule 8.

The application is referred to the Local Planning Panel as the development contravenes the height of buildings development standard by more than 10%.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021
- (vii) Community Engagement Strategy and Participation Plan 2022

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Applicant's Clause 4.6 Variation Request to Vary Clause 4.3 (Height of Buildings)

## Recommendation

It is resolved that:

- (A) the variation requested to the Height of Buildings development standard, in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) development consent be granted to Development Application No. D/2022/229 subject to the conditions set out in Attachment A to the subject report:

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The site is located in the Zone R1 General Residential. The proposed development comprises alterations and additions to an educational establishment (school) which is permitted with consent in the zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request to contravene the Height of Buildings development standard has adequately addressed the matters required to be demonstrated under clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the Height of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney Local Environmental Plan 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the Zone R1 General Residential and the Height of Buildings development standard.
- (C) The proposed development complies with the maximum Floor Space Ratio development standard contained in clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form and the proposal is consistent with the design quality principles set out in Schedule 8 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
- (E) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (F) The proposed development will not unreasonably impact the amenity of surrounding residential properties.
- (G) Suitable conditions of consent are recommended and the development is considered to be in the public interest.

## Background

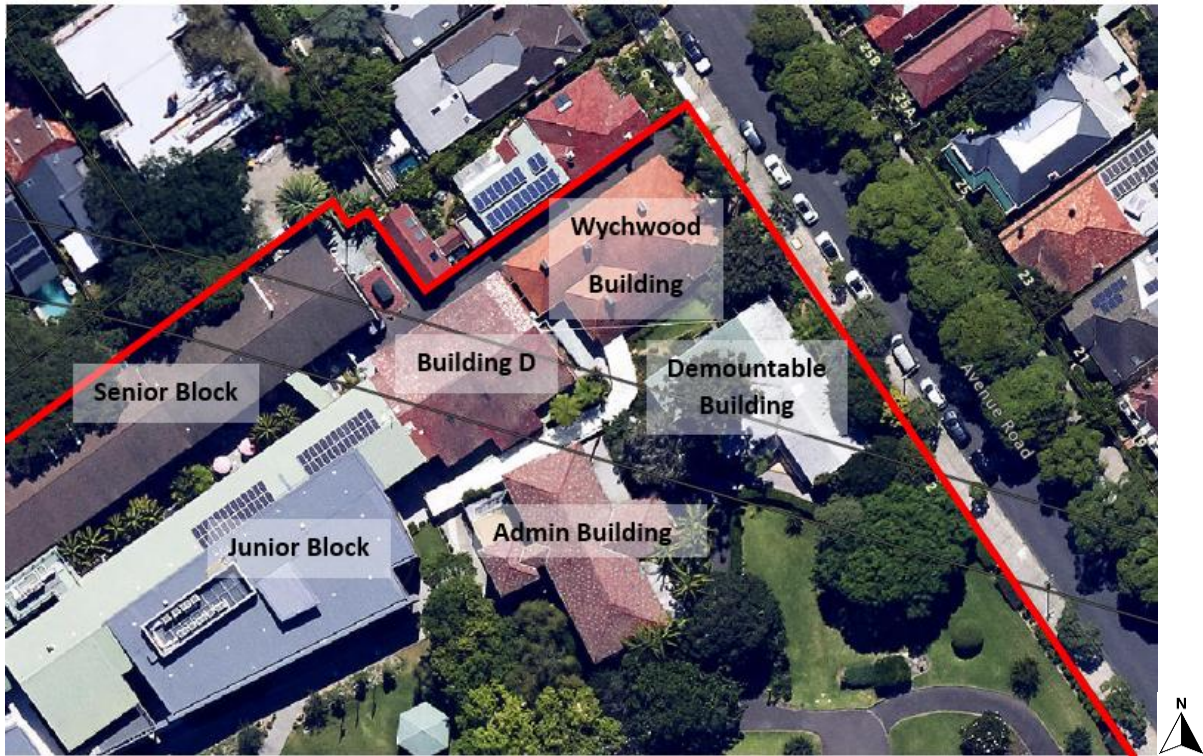
### The Site and Surrounding Development

2. The site has a legal description of Lot 2 DP 579086 and Lot 1 DP 251823, known as 2 Avenue Road, Glebe. It is irregular in shape with area of approximately 22,035sqm. The site contains St Scholastica's College and is bound by Arcadia Road, Avenue Road and Maxwell Road. St Scholastica's College is a Good Samaritan Catholic Day and Boarding school which has operated at the site since 1901. The school leases approximately 1.63 hectares of the site from the owners of the site, The Trustee of The Sisters of Good Samaritan.
3. The entirety of the site is listed as a local heritage item (Item 653) under Sydney Local Environmental Plan 2012 (SLEP 2012) Schedule 5, including buildings and their interiors, fencing and grounds. The 'Wych Wood' building is separately identified as a local heritage item (Item 654). The site is located within the Toxteth Heritage Conservation Area (HCA) (C34). In addition, a state listed item, the Pyrmont and Glebe Railway Tunnels runs through the northern part of the site.
4. Surrounding land uses are predominantly residential. To the north the site is separated by a private lane from the rear of dwellings fronting onto Victoria Road. To the east are detached dwellings located on the opposite side of Avenue Road. To the south and south-west are a variety of residential, commercial and recreational uses.
5. The site is located within the Toxteth locality and is not identified as being subject to flooding.
6. A site visit was carried out on 24 May 2022. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds





**Figure 2:** Aerial view of site identifying the buildings located in the north-eastern extent of the school site, noting these buildings are affected by the subject application



**Figure 3:** Existing view looking south up Avenue Road





**Figure 4:** Existing view looking towards the school on Avenue Road with the demountable building (known as the Salem Building) behind



**Figure 5:** East elevation of Administration Building





**Figure 6:** View of eastern extent of existing demountable Salem Building which is to be demolished



**Figure 7:** View of western extent of existing demountable Salem Building which is to be demolished





Figure 8: Internal view, noting the demountable building and Building D are proposed for demolition



Figure 9: Eastern elevation of Building D and south-western elevation of Wych Wood Building

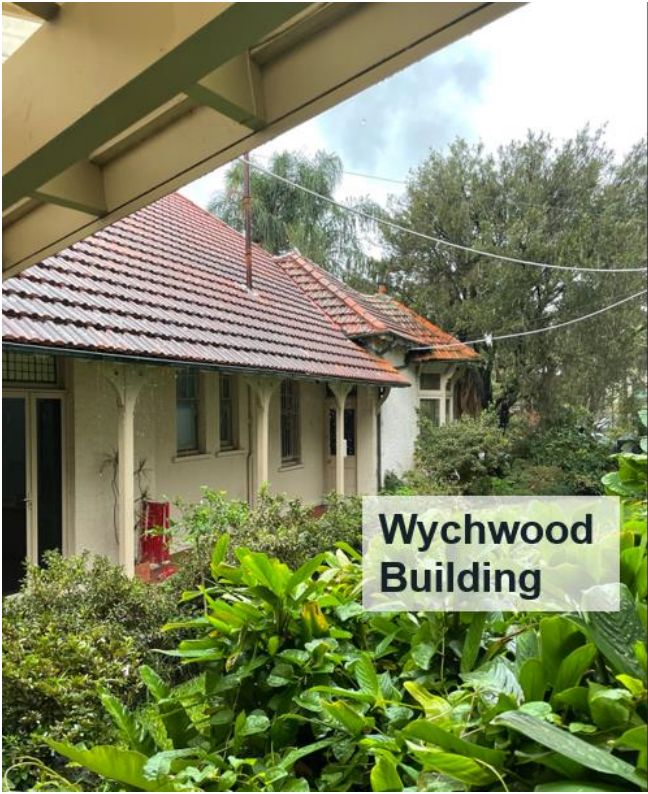


Figure 10: Southern elevation of Wych Wood Building



Figure 11: Eastern elevation of the Junior Block which adjoins Building D

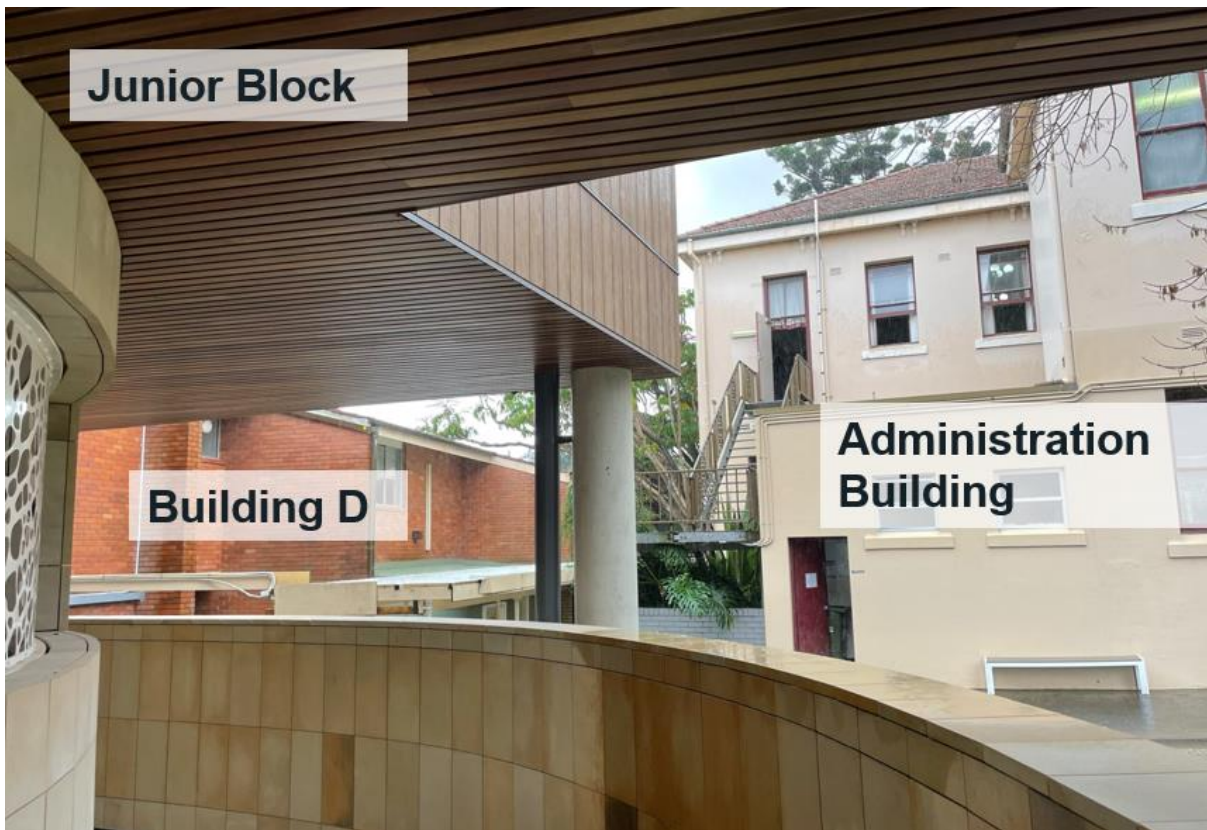




Figure 12: Eastern elevation of the Junior Block which adjoins Building D



Figure 13: Southern elevation of Building D with the Junior Block in the foreground



**Figure 14:** View from within the Junior Block looking north-east

## History Relevant to the Development Application

### Development Applications

7. A number of developments have occurred on the site. The following applications are of note:
  - **D/2009/1998** – Development consent was granted on 31 March 2010 for the construction of two storey student accommodation along the south-western boundary of the school.
  - **D/2011/352** – Development consent was granted on 10 May 2011 for excavation of the existing sports field and netball court fronting Maxwell Road, removal of trees and construction of new car park providing 54 spaces for staff and visitors with access via Maxwell Road.
  - **D/2014/2002** - Development consent was granted on 13 March 2015 for internal alterations to the school to allow Toxteth House to be used for office administration use.
  - **D/2017/1028** - Development consent was granted on 23 September 2017 for landscaping works to the forecourt adjoining the recently approved residential accommodation.



- **D/2018/14** - Development consent was granted on 3 September 2018 for alterations and additions to the school including extension and refurbishment works to 'Junior Block', 'Senior Block', 'Benedict Centre', and 'Trixie Forest' buildings. The application has subsequently been modified a number of times (A to D).
- **D/2020/247** - Development consent was granted on 8 May 2020 for alterations to the main chapel building at the school.
- **D/2021/1015** - Development consent was granted on 3 November 2021 for alterations and additions to Toxteth House

### Application Chronology

8. A summary of the current application chronology is provided below:

- **22 March 2022** - Application lodged.
- **28 March 2022** - Application referred to Transport for NSW (TfNSW) for concurrence due to proximity of Sydney Light Rail Corridor.
- **4 April 2022** - TfNSW responded with a stop the clock letter requesting additional information be provided to accurately assess the impact of the development proposal on the Sydney Light Rail infrastructure and operation.
- **5 April 2022** - A Stop the Clock letter was issued to the applicant requesting:
  - Technical information including a survey, geotechnical assessment, structural assessment, electrolysis analysis, acoustic analysis to satisfy the requirements of TfNSW.
  - Gross floor area (GFA) plans of all buildings on the lot.
- **16 June 2022** - The applicant responded to the City's request dated 5 April 2022 with the requested information.
- **20 June 2022** - The City issued a second request for additional information to the applicant. Specifically, the following concerns were raised:
  - Height, design and siting of the new building relative to the Administration Building.
  - Concern regarding the extent of variation to the 9m height control that applies to the site.
  - Submission of a heritage landscape report to include further historic analysis and assessment of the site, particularly along the Avenue Road frontage.
  - Additional tree canopy coverage to achieve 15% of the site area.

- Updated Stormwater Quality Assessment Report.
  - Clarification regarding Stormwater discharge to kerbs.
  - Updated Operational Waste Management Plan
- **1 August 2022** - TfNSW provided concurrence on the application in accordance with Clause 2.99 of the Transport and Infrastructure SEPP (T&I SEPP).
  - **2 August 2022** - The application was reviewed by the City's Design Advisory Panel Residential Subcommittee (DAPRS).
  - **10 February 2023** - A further set of revised architectural plans were provided for review and comment by City staff.
  - **1 May 2023** - The applicant formally lodged amended plans and additional documentation to satisfy the City's request for additional information dated 20 June 2022.
  - **5 July 2023** - An amended Clause 4.6 variation report was received relating to the height of building's exceedance.

## Proposed Development

### Master Plan

9. The proposed development is the fourth and final stage of the St Scholastica's Master Plan the school has developed for the site. The Master Plan was originally developed by the school between 2016 and 2017 with the objective to provide modern, fit-for-purpose teaching facilities and to provide space to accommodate the school's existing staff and student population. The works have been staged into four separate stages to enable the school to continue to operate throughout construction works, with the current works representing the final stage being stage 4.

### Proposed Development

10. This application seeks consent for the following:
  - Demolition of the existing demountable Salem Building fronting Avenue Road, Building D and parts of the Junior and Senior Blocks.
  - Demolition of two existing demountable buildings located in the north-western extent of the site, currently located on the sports fields.
  - Removal of seven trees and transplanting of six trees.
  - Construction of a new four storey building to include:
    - **Lower Ground** - Library (371sqm)
    - **Ground** - Multi-purpose room and senior study area with smaller learning and teaching rooms (343sqm)











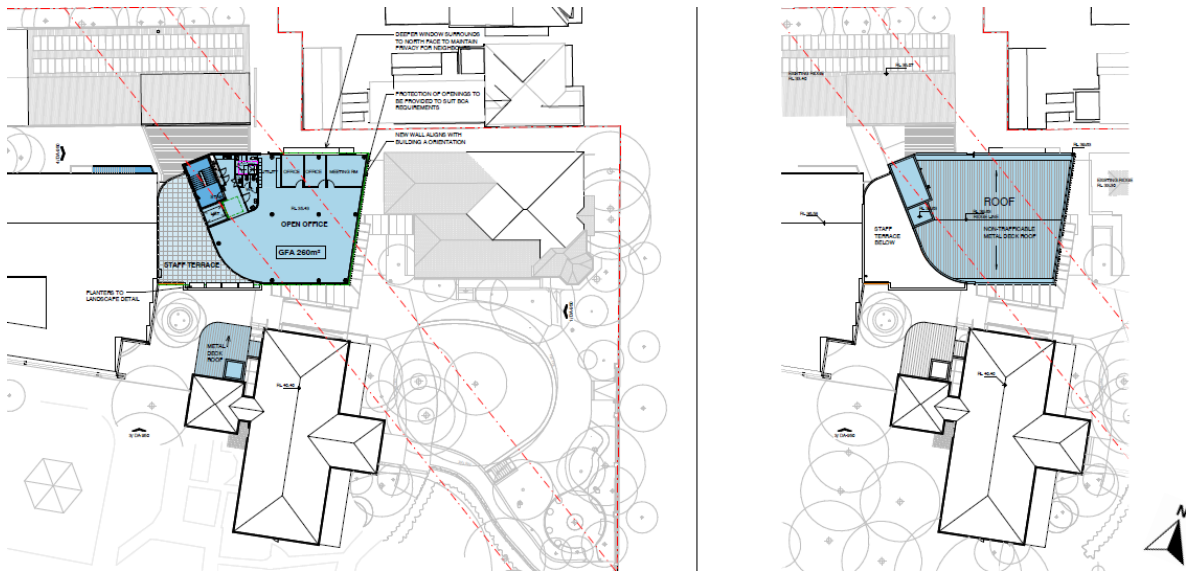


Figure 21: Proposed second floor plan (left) and proposed roof plan (right)

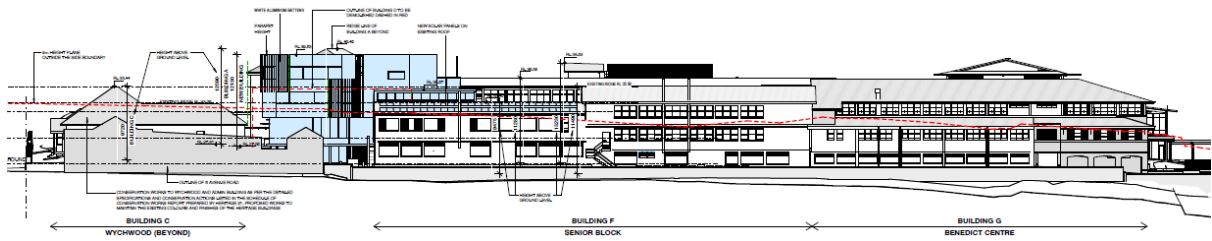


Figure 22: North elevation (Victoria Lane), new works identified in blue

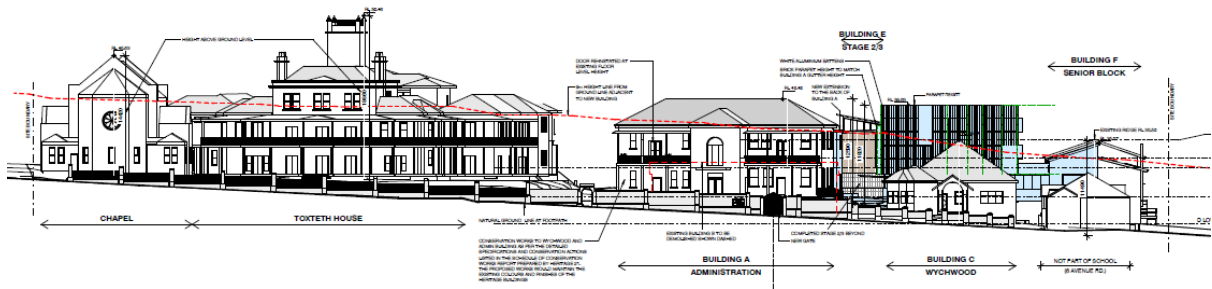


Figure 23: East elevation (Avenue Road), new works identified in blue

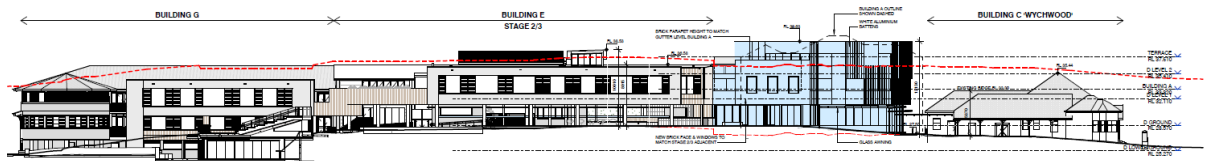


Figure 24: South elevation (internal), new works identified in blue

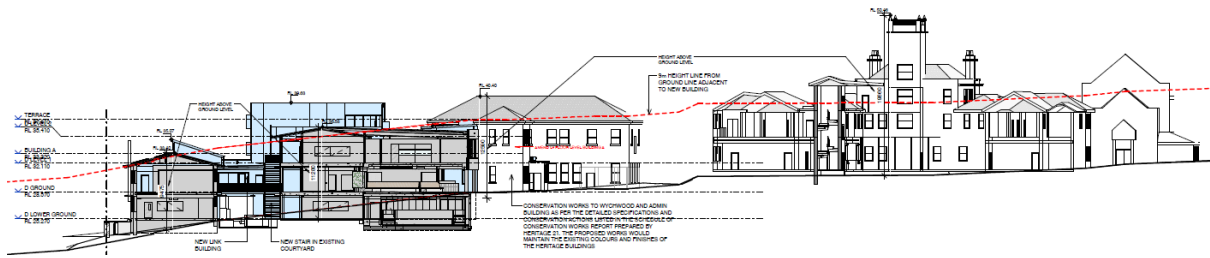


Figure 25: West elevation (internal), new works identified in blue

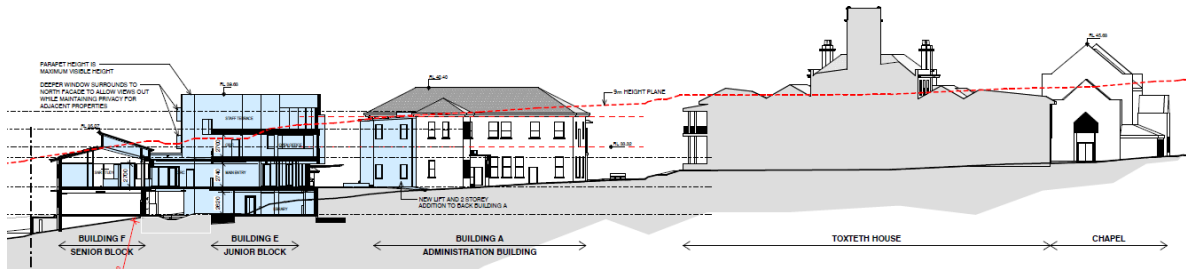


Figure 26: Section A, new works identified in blue

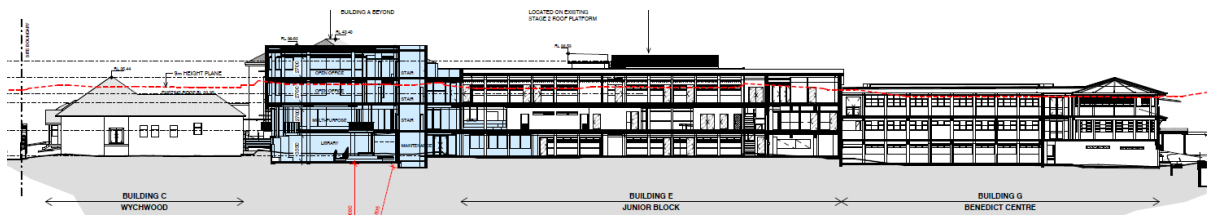


Figure 27: Section B, new works identified in blue

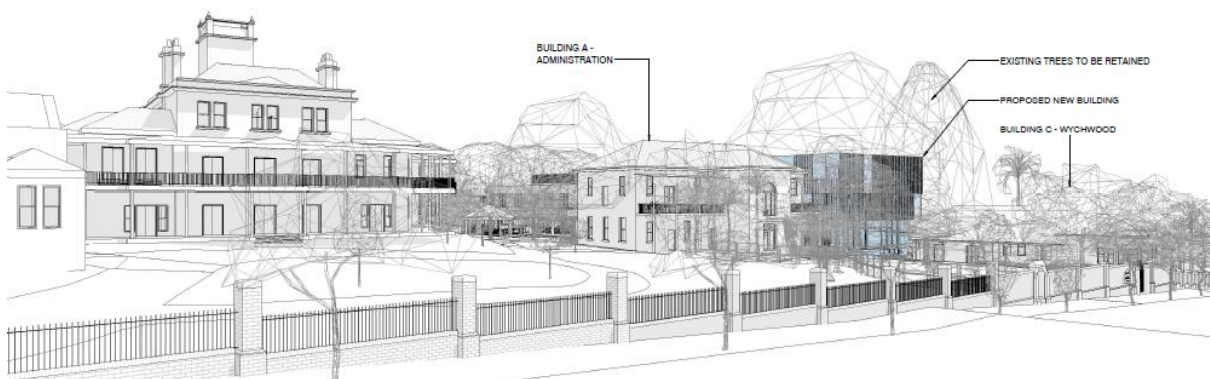


Figure 28: View from top of Avenue Road, new works identified in blue



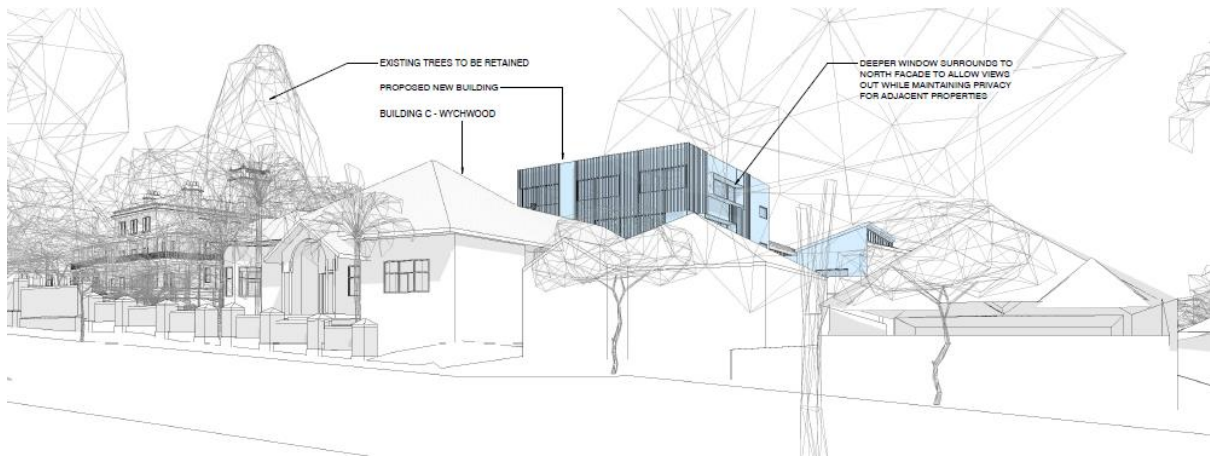


Figure 29: View from 29 Avenue Road, new works identified in blue

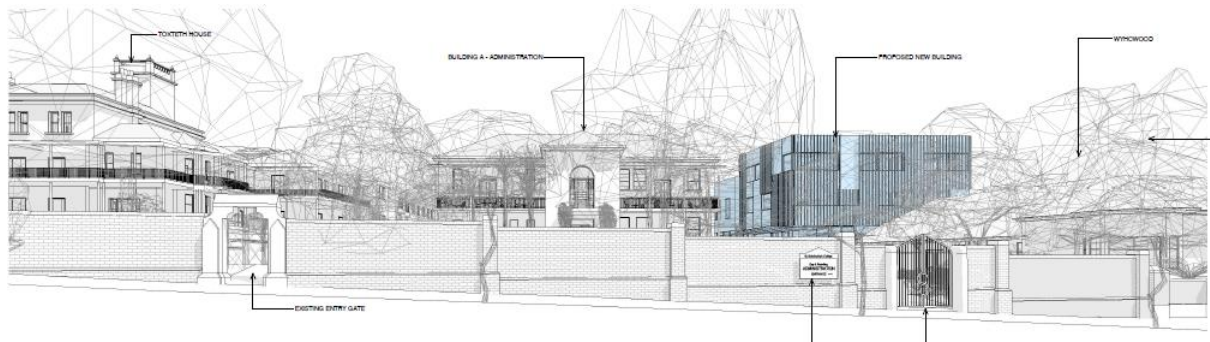


Figure 30: View from 25 Avenue Road



Figure 31: View from courtyard looking between the rear of the Administration Building and the Junior Block



**Figure 32:** Landscape Plan



**Figure 33:** Photomontage from the corner of Avenue Road and Victoria Road showing the new building within the existing residential context

## Assessment

12. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).



## State Environmental Planning Policies

### State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

#### Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. Site investigations were undertaken however no asbestos or suspected asbestos contaminating material was observed in soils encountered during the investigations. Further, no contaminant concentrations were detected in excess of the adopted conservation Tier 1 screening criteria for assessment of risk to human health or the environment.
34. The contamination report concludes that based on the investigation results, the site in its current condition is suitable for the proposed use as a school and no further investigation, remediation or management of contamination is required to make the site suitable.
35. The Council's Health Unit has reviewed the information provided and has no objection to the proposed development, subject to the imposition of recommended conditions of consent.

### State Environmental Planning Policy (Transport and infrastructure) 2021 – Chapter 3

#### Educational Establishments and Child Care Facilities

36. Clause 3.36 of the T&I SEPP relates to development permitted with consent for schools. An assessment against the relevant clauses of the SEPP is undertaken below.

Provision	Comment
(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.	The site is located with the R1 General Residential zone which is a prescribed zone. The proposed educational establishment use is therefore permissible with consent in accordance with this clause.
(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.	Consent is not sought for the use of the school's facilities for the physical, social, cultural or intellectual development or welfare of the community.

Provision	Comment
(6) Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration—	
(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and	An assessment of the proposal against the seven design quality principles is undertaken below this table.
(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.	The applicant has advised that the proposed development is principally for the use of the staff and students at the school. However, the facilities may be shared with parents and other broader members of the school community.
(7) Subject to subsection (8), the requirement in subsection (6)(a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.	Noted. Clause 6.21C of the SLEP 2012 relates to design excellence as a prerequisite to granting development consent. Given the proposal relates to development for an educational establishment, Clause 6.21C does not apply.
(8) A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subsection (6)(a) applies that has a capital investment value of less than \$50 million.	Noted. The requirement for a competitive design process under Clause 6.21D of the SLEP 2012 therefore has no effect.
(9) A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the	Noted. The Sydney Development Control Plan 2012 (SDCP 2012) does not include any specific controls relating to the site or educational establishments.



Provision	Comment
development control plan was made.	

### Schedule 8 - Design quality principles in schools

37. An assessment of the proposal against the design quality principles provided in the T&I SEPP is provided below.

#### Principle 1 - Context, built form and landscape

- The site is listed as an item of environmental heritage under the SLEP 2012, located within the Toxteth HCA with the buildings, spaces and the landscaped grounds contributing to its overall significance.
- The proposed demolition of the intrusive demountable Salem Building located within the site's frontage to Avenue Road is supported and will significantly enhance the landscape setting of the site. The proposed landscaping will maintain the existing garden frontage and improve view lines to the heritage buildings including Wych Wood and the primary elevation of the Administration Building.
- The proposal seeks to replace Building D which is an outdated stand-alone structure with no heritage significant fabric. The proposed replacement building will augment the surrounding buildings and connect many disparate spaces and circulation routes.
- The design of the replacement building has been amended during the assessment of the application and has been purposively designed as a simplistic addition within the heritage context of the site, clearly articulated as a contemporary addition.
- The proposal also seeks to undertake works to the Wych Wood and Administration Buildings, including a number of conservation works, which will improve the existing condition of the buildings and remove intrusive elements.
- At the rear of the Administration Building, demolition of the contemporary extension at ground floor is proposed and a new two storey addition is proposed which will facilitate equitable access throughout the building. The addition is supported on the basis that it is appropriately sited at the rear, will not impact any heritage significant fabric and has been designed as a contemporary addition.

#### Principle 2—Sustainable, efficient and durable

- The proposal maximises passive sun protection through its siting, orientation and form. The building allows natural light to filter into the learning and administration spaces, while providing sun shading to windows with a lengthy exposure to summer solar gain.
- The external facade includes vertical aluminium battens to the southern, eastern and northern facades and timber and concrete look FC sheet cladding to replicate the existing facade treatments of the Junior Block.

- Energy efficient fixtures will be selected.
- The new building ties into existing floor levels and connects both existing and new buildings across the campus for accessibility. This has been a key driving factor in the heights and levels.
- The replacement building will meet the school's future requirements in terms of functionality and will be constructed utilising durable materials. The spaces within the building comprise multi-purpose spaces, shared learning areas and outdoor spaces which have been designed as adaptable and flexible to enable the spaces to evolve over time to meet future requirements.

### **Principle 3 - Accessible and inclusive**

- The new building is fully accessible, with barrier free access provided from the footpath, in and through the building.
- The new building will link with the adjoining Junior and Senior Blocks at lower ground, ground and level one to improve accessibility across the site.
- The proposal seeks to provide a new lift at the rear of the Administration Building to allow access to the upper level which is currently not available. In addition, new accessible ramp access is proposed to the ground floor front entry to the Administration Building.
- The new building provides a variety of spaces which could be utilised by the community and cater for activities outside of school hours, including the level two terrace and the proposed new garden areas to the front of the campus.

### **Principle 4 - Health and safety**

- The school is surrounded by a variety of landscaped spaces which contribute to the positive wellbeing of the students and staff.
- The proposal provides for opportunity for passive surveillance with well glazed facades bounding most of the thoroughfares.
- The proposed ground floor multi-purpose areas with staff areas above will provide surveillance and the new front garden areas will contribute to a safe and welcoming environment.

### **Principle 5 - Amenity**

- The proposed school will provide pleasant and engaging spaces that are accessible for a range of educational activities, while also considering the amenity of nearby properties.
- The new building includes a library, multi-purpose spaces, private study spaces and staff offices, noting that many of these spaces are currently provided within demountable buildings which are not fit-for-purpose.
- The perimeter of the ground level plan responds to the circulation requirements around and through the building. This strategy preserves convenient, outdoor movement through the campus.

- Access to sunlight, natural ventilation and outlook have been prioritised in the design of the proposed new building. The new library and multi-purpose spaces are connected by a lightwell on the eastern facade to enhance daylight access and outlook to these spaces. At the upper level, the staff room connects to an outdoor terrace to provide amenity to this space.

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

- The new building has been conceived as a series of major spaces that are lightly fitted out as a library and staff uses. These spaces could be altered or substituted as needs change.
- The Administration and Wych Wood Buildings are to be repaired and their services upgraded to prolong their useful lifespans. New work to these building will maintain their original fabric and preserve their existing character. The addition to the rear of the Administration Building could be removed in the future, if required.

#### **Principle 7 - Aesthetics**

- The design of the new building includes a combination of traditional and contemporary materials to articulate the building's facade and ensure the new building is broken up to reduce its perceived bulk and scale.
- The new building is setback from both the Administration and Wych Wood Buildings to enable the building to be largely obscured from views from Avenue Road.
- The height of the new building is consistent with the height of the existing Administration Building and the roof design utilises a modern, flat roof form to provide a sympathetic contemporary development within the heritage listed site.
- The proposal appropriately responds to the site's context.

### **Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**

#### **Clause 2.99 – Excavation in, above, below or adjacent to rail corridors**

38. The proposed development is located within 25m of the Sydney Light Rail corridor and includes excavation / ground penetration deeper than 2m, which requires concurrence from TfNSW.
39. On 1 August 2022 TfNSW provided concurrence and conditions which are included in the recommended conditions of consent.

### **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

40. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
41. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.



42. The application seeks consent for the removal of seven trees and transplanting of six trees which will not adversely impact on the heritage conservation area, subject to appropriate replacement tree planting. Council's Tree Management Officer supports the removal subject to recommended conditions.

### **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchment**

43. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
44. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

### **State Environmental Planning Policy (Industry and Employment) 2021 - Chapter 3 Advertising and Signage**

45. The aim of Chapter 3 is to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
46. The proposed development includes the relocation of an existing wall-mounted sign that identifies the name of the school (refer photo below). In addition, a St Scholastica's insignia will be attached to the proposed entry gates. The location and size of the proposed signage is shown in the figure below.



**Figure 34:** Existing school sign to be relocated adjacent to the new entry (Source: DFP)



**Figure 35:** Proposed Avenue Road frontage showing proposed signage

47. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	Yes	The proposed signage is consistent with the desired character of the Toxteth HCA, noting the proposal comprises the relocation of existing signage. The new insignia on the gate is small and discreet and does not detract from the amenity and visual quality of the site and wider locality.
2. Special areas		
3. Views and vistas	Yes	No views or vistas will be adversely affected by the proposed signage.
4. Streetscape, setting or landscape	Yes	The scale, proportion and form of the signage is appropriate for the streetscape, setting and landscaping and provides information for visitors adjacent to the new entry. The signage does not result in visual clutter and does not protrude above any existing structures, building or tree canopies.
5. Site and building	Yes	The existing signage is compatible with the heritage significance of the site and surrounding heritage conservation area.
6. Associated devices and logos with advertisements and advertising structures	N/A	Not applicable.

Provision	Compliance	Comment
7. Illumination	N/A	The proposed signage is not illuminated.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or road users. The signage will not reduce the safety for pedestrians, particularly children, by obscuring any sight lines.

48. The proposed signage is consistent with the objectives of Chapter 3 and satisfies the assessment criteria stipulated in Schedule 5.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

49. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the R1 General Residential zone. As discussed above, Clause 3.36(1) of the T&I SEPP permits development for the purpose of an educational establishment (school) within the R1 zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 9m is permitted.</p> <p>A maximum height of 14.61m is proposed which equates to a variation of 62%.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted.</p>



Provision	Compliance	Comment
		See further details in the 'Discussion' section below.
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 0.7:1 or 15,424.5sqm is permitted.</p> <p>A floor space ratio of 0.61:1 or 13,518sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site comprises two local heritage items:</p> <ul style="list-style-type: none"> <li>• I653 - St Scholastica's College including buildings and their interiors, fencing and grounds.</li> <li>• I654 - "Wych Wood" House including interior.</li> </ul> <p>A state listed item, the Pymont and Glebe Railway Tunnels runs through the northern part of the site</p> <p>The site is located within the Toxteth heritage conservation area (C34).</p> <p>The proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item.</p> <p>See further details in the 'Discussion' section below.</p>

**Part 6 Local provisions – height and floor space**

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	N/A	Pursuant to Clause 3.36(7) of the T&I SEPP, this clause does not apply.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	N/A	The application does not seek to amend the quantum of existing car parking spaces currently provided at the site.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	N/A	The site is not identified as being subject to flooding.
7.20 Development requiring or authorising preparation of a development control plan	N/A	Pursuant to Clause 3.6(2)(i) of the T&I SEPP, this clause does not apply.

**Development Control Plans****Sydney Development Control Plan 2012**

50. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

**Section 2 – Locality Statements**

51. The site is located within the Toxteth locality. The proposed development is in keeping with the unique character and the design principles of the Toxteth locality in that:
- The development responds to and complements the heritage context of the site and will serve as a respectful, contemporary infill development.

- The proposal seeks to demolish the existing intrusive demountable Salem Building located within the site's frontage to Avenue Road and provides additional landscaping include tree planting which will enhance the streetscape.
- The location of the new built form is purposively behind the Administration and Wych Wood Buildings and will not alter the historic setback of the existing buildings on the site from Avenue and Arcadia Roads.

### Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	<p>32 trees will be affected by the proposal which include:</p> <ul style="list-style-type: none"> <li>• Seven trees proposed for removal,</li> <li>• Six trees proposed for transplanting,</li> <li>• 19 trees which are to be retained and protected</li> </ul> <p>The removal of the seven trees is supported on the basis that these trees are rated as having a low retention value, comprise exempt species or are in fair to poor health and condition.</p> <p>The transplanting of six trees is similarly supported and conditions of consent are recommended to ensure this is undertaken by a qualified Horticulturist or Arborist.</p> <p>The City's Tree Management Unit has recommended conditions to ensure the remaining trees remain viable and are not damaged during the works. This includes tree protection measures prior to the commencement of works.</p> <p>To compensate for the loss of trees, replacement tree planting is proposed. The proposed landscape plans include seven new trees which will achieve mature height of between five to 15 metres. The proposed tree planting is supported by the City's Tree Management and Landscaping Units.</p>
3.6 Ecologically Sustainable Development	Yes	A Section J Energy Efficiency Report has been submitted which demonstrates the proposal's compliance with the



Provision	Compliance	Comment
		National Construction Code. The proposal satisfies environmental requirements.
3.7 Water and Flood Management	N/A	The site is not identified as being on flood prone land.
3.9 Heritage	Yes	Refer discussion under "Issues" section.
3.11 Transport and Parking	Yes	<p>The proposed development does not seek to increase staff or student numbers. No changes to the existing vehicle access, carparking or loading provisions are proposed.</p> <p>The proposal includes the provision of a new entry gate along Avenue Road which will be utilised by staff, students and visitors to the school. There are no amendments to the school's existing pick up and drop off arrangements.</p> <p>Further, the proposal does not seek amendments to the existing line marking adjacent to the new entry along Avenue Road.</p>
3.12 Accessible Design	Yes	The application is accompanied by an Access Report which demonstrates compliance with the applicable provisions for accessibility under the Disability Discrimination Act 1992, the Disability Access to Premises Standards 2010, the BCA and the relevant Australian Standards.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Yes	The proposed signage includes the relocation of the existing wall-mounted

Provision	Compliance	Comment
		<p>business identification sign adjacent to the proposed new entry gates, along with St Scholastica's College insignia mounted to the wrought-iron entry gates.</p> <p>The signage is discreet and will not impact on the amenity or visual quality of the heritage items and the wider heritage conservation area.</p>

## Discussion

### Issue 1: Heritage

52. The site comprises a heritage item and is located within the Toxteth HCA. In addition, the state heritage listed "Pymont and Glebe Railway Tunnels" runs through the northern part of the site.
53. A Draft Conservation Management Plan (Draft CMP) was prepared by Design 5 Architects in 2017 which identifies and describes why the site is important and includes policies to maintain its importance and manage this into the future.
54. The Draft CMP includes a grading of the site's structures, spaces and elements which have been identified as having varied cultural significance (Grade 1: Exception Significance to Grade 5: Intrusive). The below figures are extracted from the Draft CMP and identify the different gradings across the site in relation to buildings and external spaces, views and surviving landscape elements.

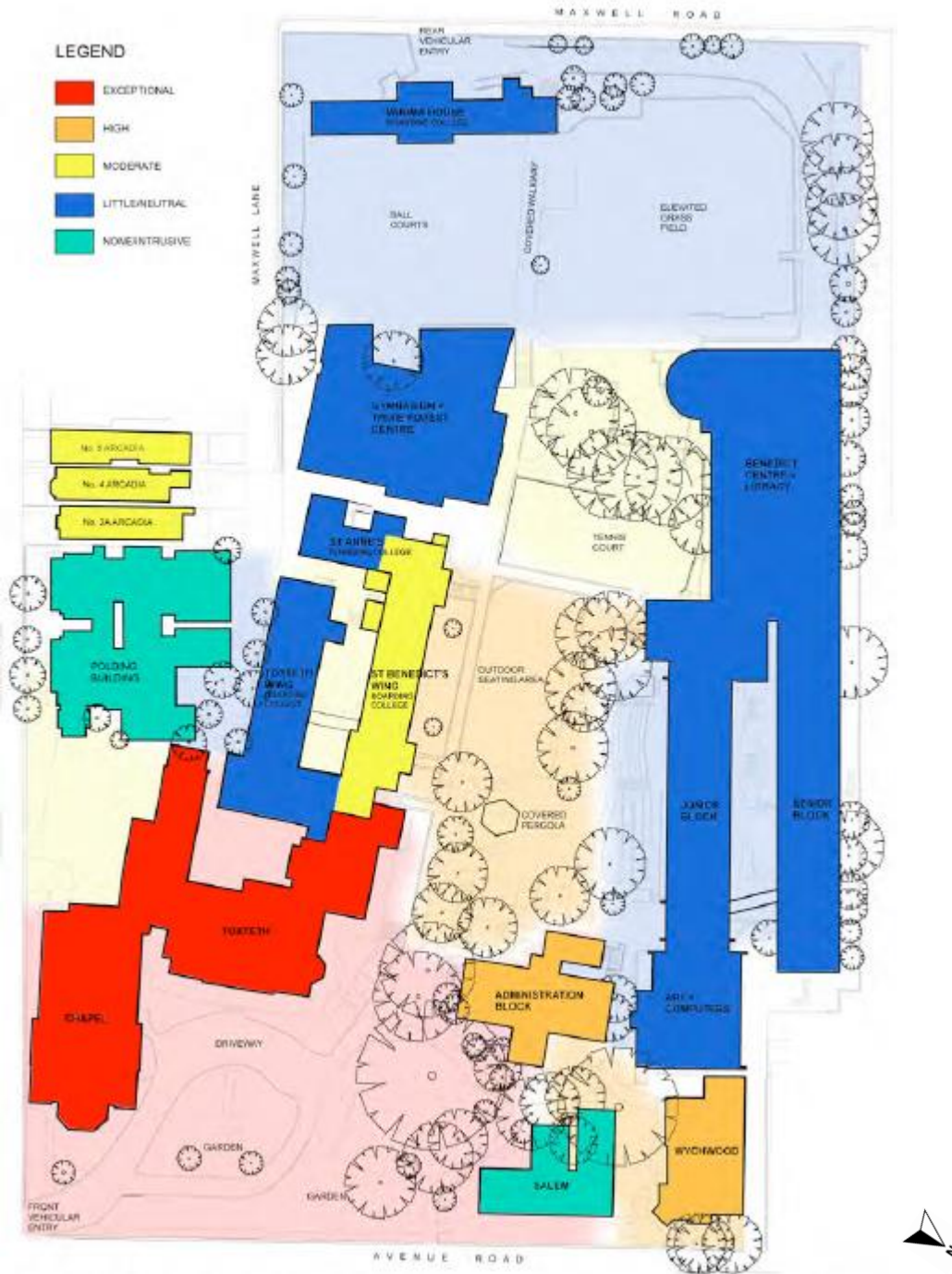


Figure 36: Significance Gradings: Buildings and external spaces (Source: Draft CMP)





Figure 37: Significance Gradings: Views



Figure 38: Significance Gradings - Remnant Surviving Landscape Elements

55. The Draft CMP identifies that there is limited space available at the site for redevelopment, both in terms of Council requirements and the trade-off with open space for sport and informational recreational space. The Draft CMP includes potential redevelopment zones and identifies existing structures that could be redeveloped. This is extracted in the figure below.



Figure 39: Site plan showing potential redevelopment zones

56. The application documentation includes a Heritage Impact Statement (HIS) and Schedule of Conservation Works which have been informed by the Draft CMP.
57. A summary of the proposed heritage impacts arising from the proposal are discussed in the sections below.

**Demolition of Building D, demolition of the Salem Building, partial demolition of the Junior and Senior Blocks**

58. The demolition of the abovementioned buildings is supported on the following basis:
  - Building D is identified in the Draft CMP as having little significance.



- The Salem Building is identified as intrusive in the Draft CMP. The demolition of the building and replacement with landscaping will enhance the significance of the subject site and improve view lines from Avenue Road to the heritage buildings including the Wych Wood and Administration Buildings.
- The proposed demolition and alterations within the Junior and Senior Blocks are within areas which have undergone renovations in 2000s and do not include any heritage fabric.

### **Works to Wych Wood Building**

59. The Wych Wood Building is identified as a heritage item under Schedule 5 of the SLEP 2012. The works to the Wych Wood Building are supported on the following basis:

- The works to the Wych Wood Building comprise conservation works which would improve the existing condition of the building. Works include:
  - Removal of the intrusive PVC rainwater goods, conservation works to the timber openings, brick masonry walls and sandstone stonework located to the plinth, removal of redundant services and electrical wiring, conservation of the tessellated flooring and timber work in the front and side verandahs, landscaping, internal openings, internal floors and reinstatement of the original fireplaces.
- With the exception of an original timber door, there is no loss of heritage significant fabric.
- The proposed works will not engender a negative impact on the heritage significance of the heritage listed Wych Wood Building.

### **Works to the Administration Building**

60. The works to the Administration Building are supported on the following basis:

- The proposal includes the demolition of the contemporary rear extension at ground floor and removal of the enclosure of the first-floor balconies which will improve the existing condition of the building.
- The proposal includes a range of conservation works to the timber openings, ground floor verandah stonework, rainwater goods and utilities, landscaping, internal openings, internal floors and fittings which will improve the existing condition of the building.
- The proposal includes new finishes to the toilets on the first floor. The finishes would be fixed against CFC sheeting so the works are reversible and would not impact any heritage significant fabric.
- The proposed development includes the construction of a new two storey addition to the rear which is of simple design with contemporary materials and finishes. The new addition is within an area of little heritage significance and the proposal will not impact any heritage significant fabric.
- The new rear addition is required to accommodate a lift and to provide stair access, noting equitable access is not currently provided throughout the building.

The addition at the rear is supported on the basis that the heritage significant fabric located within the building is not impacted.

- The addition is set below the roof ridge and is obscured from the public domain.

### **New Multi-Purpose Building**

61. With regards to development of the site, it is acknowledged there is an underlying tension between the site's heritage context and the need to provide modern, fit-for-purpose facilities that serve the changing needs of the student and staff population. Whilst the Draft CMP does not anticipate the redevelopment of Building D, it identifies the existing building has little / neutral significance and is located outside of any significant views which should be protected.

62. The provision of a replacement building within this location is supported on the basis that:

- The design of the building has been amended since lodgement of the original application and responds to the comments of Council officers and the DAPRS. The amended design has an acceptable heritage impact (refer detailed discussion below).
- The building provides a consolidated building footprint which maximises open space on other parts of the site.
- The building is within close proximity to the Administration and Wych Wood Buildings to co-locate administrative and staff working areas.
- Significant views are maintained and protected.

63. A summary of the heritage impacts of the new building is provided below:

- The amended proposal has deleted the previously proposed bridge connection to the Administration Building which is supported.
- The building is setback from the adjoining heritage buildings (Administration and Wych Wood Buildings). The amended design realigns the building to follow the alignment of the Wych Wood Building along its south-western extent. This will ensure the building is largely obscured from view from the Avenue Road public domain.
- The building design has been amended to ensure it appears as a simplistic and contemporary building which utilises a mix of traditional and contemporary materials. The facades of the building have been articulated and broken up to ensure it does not dominate the surrounding built form.
- The height of the new building is in line with the existing Administration Building, with the roof form comprising a modern, flat roof form to ensure it appears sympathetic within the existing context.
- The proposal maintains the landscape setting of the site's frontage to Avenue Road, with a number of mature, medium-sized trees proposed to increase the site's canopy cover. The trees will assist in softening the impact of the new building and ensure the building is not viewed as overly prominent from the intervening streetscape.

## Landscaping

64. The proposed landscaping works are supported on the following basis:
- The removal of the Salem Building will improve the site's landscape setting along Avenue Road and will improve the views to the buildings of high significance including the Administration and Wych Wood Buildings from the streetscape.
  - The proposal includes the removal of seven trees which are rated as having a low retention value, comprise exempt species or are in fair to poor health and condition. Six trees are proposed to be transplanted and an additional seven mature trees are proposed. The proposed landscaping will reinstate the open garden setting of the site and will improve the setting and views to the historic buildings from the public domain.

## Summary

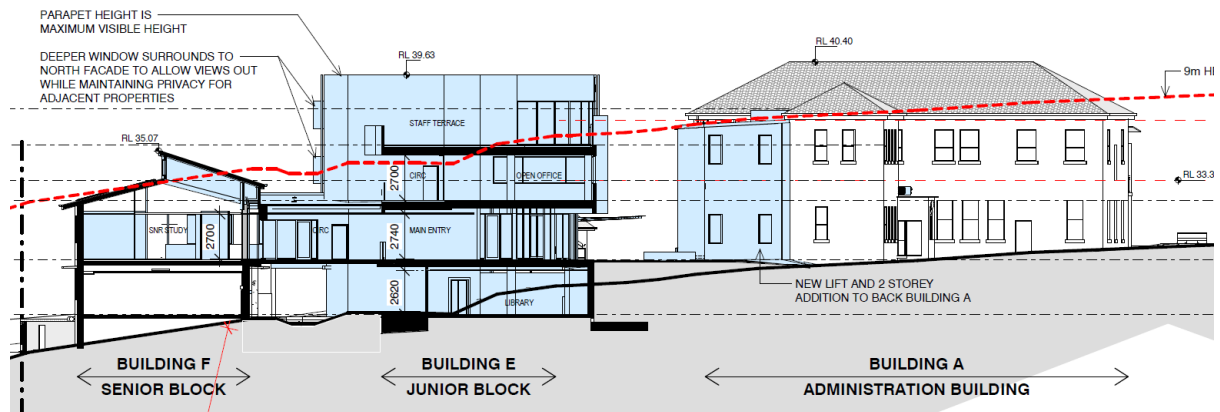
65. The proposal respects the heritage significance of the subject site, the Toxteth HCA and the heritage items in the vicinity. The proposal is supported by the City's Urban Design and Heritage Manager, subject to recommended conditions of consent.

## Issue 2: Clause 4.6 Request to Vary a Development Standard

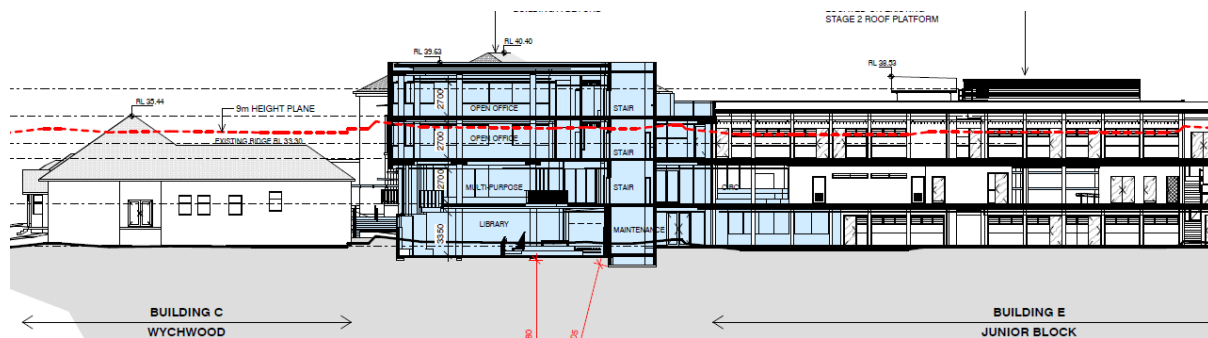
66. The site is subject to a maximum 9m height of buildings control. The proposed development has a maximum height of 14.61m equating to a breach of 62.3%.
67. As shown on the 3D height plane diagram and sections below, the areas of exceedance relate to:
- The upper portion of the new roof to the Senior Block building (maximum height of 11.47m).
  - The uppermost portion of the roof of the new addition to the Administration Building, including a small extent of the lift overrun (maximum height of 9.35m).
  - The upper extent of the third floor level, entirety of the fourth floor level and roof of the new building (maximum height of 14.61m).



**Figure 40:** 3D Height plane diagram showing existing areas of height non-compliance and proposed area of non-compliance in blue



**Figure 41:** Section A with new works identified in blue and the 9m height control shown in red



**Figure 42:** Section B with new works identified in blue and the 9m height control shown in red



68. A written request has been submitted to Council in accordance with Clause 4.6 of the Sydney LEP 2012 seeking to justify the contravention of the height of buildings development standard.
69. Development consent may be granted to the development, subject to clause 4.6, even though the development would contravene clause 4.3 of the Sydney LEP 2012, provided the Panel is satisfied:
- a. That the applicant's written request has demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case; and
  - b. That the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the standard; and
  - c. The proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard, and consistent with the objectives of the R1 General Residential zone.

**Does the written request demonstrate that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances?**

70. The applicant seeks to demonstrate that compliance with the height of buildings development standard at clause 4.3 is unreasonable or unnecessary in the circumstances by demonstrating that the development is consistent with the objectives of the development standard despite the height contravention - citing Preston CJ's decision in *Randwick Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7.
71. The applicant has further set out to demonstrate that compliance with the height of buildings development standard is unreasonable or unnecessary by demonstrating that the potential adverse impacts of the proposed development can be appropriately mitigated or minimised. However, the absence of environmental harm will not, of itself, demonstrate that compliance with a development standard is unreasonable or unnecessary.
72. Clause 4.3 of the Sydney LEP 2012 contains the following objectives at (1):
- (a) to ensure the height of development is appropriate to the condition of the site and its context,
  - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
  - (c) to promote the sharing of views outside Central Sydney,
  - (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
  - (e) in respect of Green Square—
    - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
    - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

73. Table 2 of the applicant's written request assesses the proposal against the objectives of the height of buildings development standard.
74. The Panel can be satisfied that the applicant's written request demonstrates that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances by demonstrating that the proposed development will be consistent with the objectives of the standard:
- (a) With regard to objective 4.3(1)(a) to ensure the height of development is appropriate to the condition of the site and its context:
    - (i) There are numerous existing buildings on the site that exceed the height of buildings development standard including Blocks A, E, F, J and L and the height of the proposed new building is consistent with the adjacent Junior Block (Building E) and Senior Block (Building F).
    - (ii) The maximum height of the new building (RL 39.63 AHD) is less than that of the adjacent Administration Building (Building A) as well as the maximum heights of Toxteth House (Block L) and Polding Memorial Chapel.
  - (b) With regard to objective 4.3(1)(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:
    - (i) The proposed structures provide an appropriate height transition between Toxteth House which is the most prominent building located within the site, the lower level buildings within the site to the north and then to surrounding one and two storey low density residential development in the HCA.
  - (c) With regard to objective 4.3(1)(c) to promote the sharing of views outside Central Sydney:
    - (i) The proposed structures do not adversely impact on any significant views to, from or across the site.
  - (d) With regard to objective 4.3(1)(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas:
    - (i) Not applicable.
  - (e) With regard to objective 4.3(1)(e) in respect of Green Square:
    - (i) Not applicable.

**Does the written request demonstrate that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard?**

75. The Panel can be satisfied that the applicant's written request provides sufficient environmental planning grounds, which are specific to the circumstances, to justify the extent of non-compliance with the building height development standard.
76. The environmental planning grounds put forward by the applicant go further than to simply promote the benefits of carrying out the proposed development.

77. The applicant has identified a number of existing buildings on the site have a building height of more than 9m. The proposed development is not unreasonable or uncharacteristic within its visual setting and reflects the scale and typology of the built form on the site.
78. The siting of the areas of non-compliance has been considered with regard to the site's opportunities and constraints, including heritage significance and landscape character. The areas of height non-compliance are located on a part of the site with less heritage significance and the footprint of the buildings have been minimised to maximise landscape and open space across the wider site. It is acknowledged that a two storey building that complies with the 9m height control would require a much larger footprint and reduce the quantity of landscape open space and would like result in adverse heritage impacts.
79. The applicant's written request has elsewhere demonstrated that the areas of non-compliance do not result in adverse environmental amenity impacts including overshadowing and view loss and the proposal maintains visual and acoustic privacy for nearby residential uses adjoining the site.
80. The applicant has identified the development would not cause environmental harm in the following manner:

#### **Heritage**

81. The new building replaces an existing detracting building and is located on a part of the site that has been identified as having low heritage significance.
82. The proposed height, form and materiality of the new structures will not dominate Toxteth House, the Administration Building or Wych Wood. The maximum RL of the New Building is RL39.63 which is lower than the maximum RL of both the Administration Building (RL40.40) and Toxteth House (RL50.46).
83. A neutral and complementary palette of finishes and materials is proposed to minimise visual impact and ensure that that the heritage items on the site retain their prominence. The new building is separated from the Administration Building and provided with facade treatments which have a lightweight appearance. The minor addition to the Senior Block is well removed from the heritage buildings.
84. The minor rear addition to the Administration Building will replace existing unsympathetic additions with new, discrete additions including a stair and lift for accessibility within the building. The addition will not be visible from the primary view of the building from Avenue Road

#### **Visual Impact and Views**

85. The new building has been carefully sited and designed as a contemporary infill building within the site. The overall height and scale is subservient to the height and scale of the significant heritage buildings on site including Toxteth House and the Administration Building.
86. There are no key views to or from the site from the surrounding public domain towards the tower of Toxteth House that would be impacted by the proposal.

#### **Visual Privacy**

87. Visual privacy is maintained to adjoining properties via the use of deep reveals to the windows.

#### **Acoustic Privacy**

88. Acoustic privacy to adjoining neighbours will be maintained.

#### **Solar Access**

89. The proposal does not result in any adverse overshadowing of the public domain or residential properties, with all shadows cast falling on the site itself. It is acknowledged there is improvements to solar access at the site as a result of the removal of the demountable building.

#### **Is the development in the public interest?**

90. The Panel can be satisfied that the proposal is in the public interest because it is consistent with both the objectives of the height of buildings development standard, and the objectives of the R1 General Residential zone.
91. The proposal's consistency with the objectives of the height of buildings development standard is as assessed at paragraph 74 of this report, responding to the applicant's comments pursuant to clause 4.6(3)(a) of the Sydney LEP 2012. To recap:
- (a) The height of the development is appropriate to the condition of the site and its context.
- There are a number of buildings on the site that exceed the height of buildings development standard. The height of the proposed new building is generally consistent with the adjacent Junior Block (Building E) and Senior Block (Building F).
- The maximum height of the new building (RL 39.63 AHD) is less than that of the adjacent Administration Building (Building A) as well as the maximum heights of Toxteth House (Block L) and Polding Memorial Chapel.
- (b) The proposed structures provide an appropriate height transition between Toxteth House, which is the most prominent building located within the site, the lower level buildings within the site to the north and then to surrounding one and two storey low density residential development in the HCA.
- (c) The proposed structures do not adversely impact on any significant views to, from or across the site.
- (d) Objectives 1(d) and 1(e) of clause 4.3 do not apply to development of this site.
92. The proposal addresses the relevant zone objectives of the R1 General Residential zone as follows:
- (a) The proposal is for alterations and additions to an established educational facility and the proposal will enable the school to improve the facilities and services it offers to meet the day to day needs of staff, students and residents in the locality.



- (b) St Scholastica's College is an existing educational establishment, that has been located on the site since 1901. The proposed development will not impact upon the existing land use pattern of the surrounding residential precinct.

#### Conclusion

93. For the reasons provided above the requested variation to the height of building's development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R1 General Residential zone.

#### Issue 3: DAPRS Response

94. The development application was referred to the DAPRS for comment. Whilst the application does not comprise residential development, during the assessment of the application City staff determined that the assessment would benefit from referral to the Panel.
95. A summary of the Panel's comments and a response discussing how the proposal has been amended to address these comments is provided in the table below. Below this table are a selection of plans and elevations showing how the design has been amended to respond to the comments of both the DAPRS and City staff.

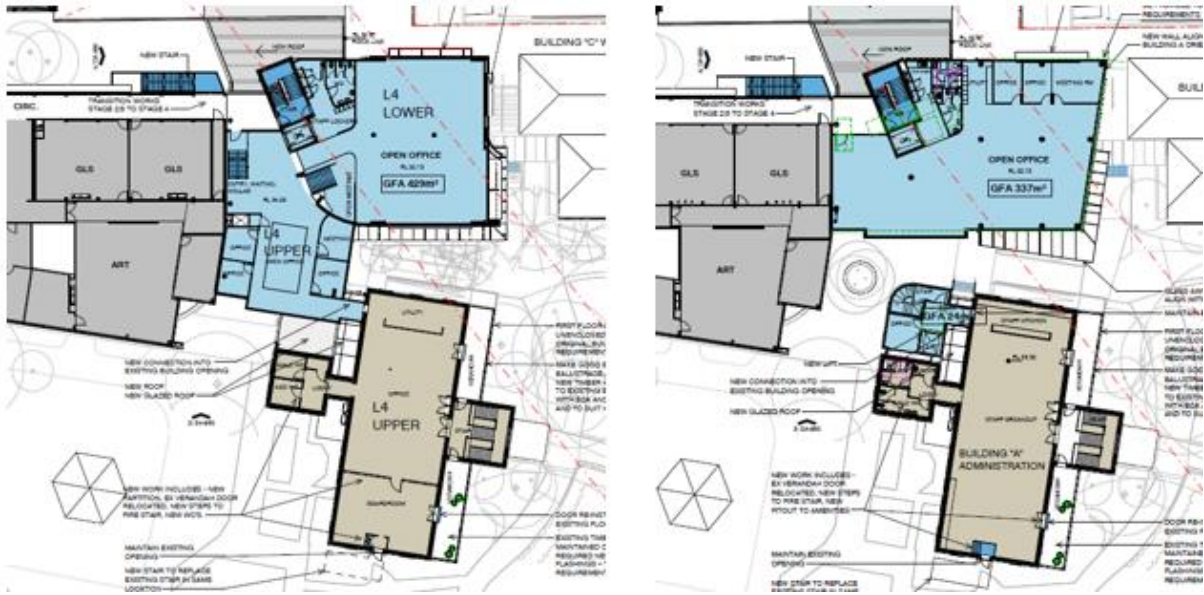
DAPRS Comment	Response
Demolition of the existing intrusive buildings and additions is potentially acceptable.	<p>The demolition of the demountable Salem Building, Building D and the demountable buildings located on the sports field is supported on the basis that these structures are of little heritage and cultural significance.</p> <p>The removal of the rear addition to the Administration Building is supported noting that the Draft CMP identifies this addition to be an intrusive element.</p>
The scale of the proposed four storey extension to Building E (Junior Block) is intrusive to the setting and character of the heritage buildings and the Glebe Conservation Area. Any new buildings should relate more closely to the height of the eave lines of the Administration Building and reduce visual bulk above those lines.	<p>The design has been amended to remove the previously proposed bridge connection between the new building and the Administration Building. The deletion of this connection results in a significantly improved outcome which improves the setting and character of the Administration Building.</p> <p>The orientation of the new building has been amended and is setback from both the Administration and Wych Wood Buildings. The south-western building line has been amended to follow the alignment of the Wych Wood Building to ensure the new building would be</p>

DAPRS Comment	Response
	<p>largely obscured from view and is behind the existing heritage building.</p> <p>The setting of the new building has also been amended to follow the alignment of the Administration Building along its south-eastern facade. The new building features an oblique south-eastern facade, aligning with the existing orientation of the Administration Building.</p> <p>The height of the building has been reduced to be generally consistent with the height of the Administration Building. The proposed building has a maximum height of RL39.63, while the Administration Building has a maximum height of RL40.40. Importantly, the height of the proposed building is not higher than the existing heritage items on the site.</p>
<p>Any new works should be clearly identified and contemporary however there is also a responsibility to be sympathetic to the heritage buildings.</p>	<p>The design has been amended to ensure the new building has a more simplistic design which utilises a combination of traditional and contemporary materials. The facades of the building have been broken up to reduce the perceived bulk of the addition.</p>
<p>The Panel suggests that the eave lines are a stronger datum to reference the heritage architecture, as opposed to the sill line of the first floor windows, which was pointed out in the presentation. Material, form, and fenestration etc, could be used to relate more strongly to this datum line.</p>	<p>During the assessment of the application, Council officers provided advice relating to the materiality and facade treatment. The amended design replaces the previously proposed upper level brickwork with glass and battens to provide a more lightweight appearance. The passive solar and privacy screening design on the building's northern and eastern facades has also been amended.</p>
<p>The style of the recently completed extension to Building E (Junior Block) is not sufficiently sympathetic to the heritage setting in form or fabric. The Panel considers it should not set a precedent for future works. Parapet capping, brickwork sill and lintel details, louvres and fenestration details, rainwater details and materials need to be reconsidered for the new building, particularly with regard to views from the public domain.</p>	<p>The materiality of the proposed replacement building has been amended to positively respond to the heritage context of the site.</p> <p>The strong masonry element terminates on the southern facade of the building. The break-up of the fenestration on this brick elements references the proportion of the Administration Building windows and the parapet height of the brick aligns with the gutter height of the Administration Building.</p> <p>As the new building turns to face Avenue Road, a lighter glass and batten finish is</p>

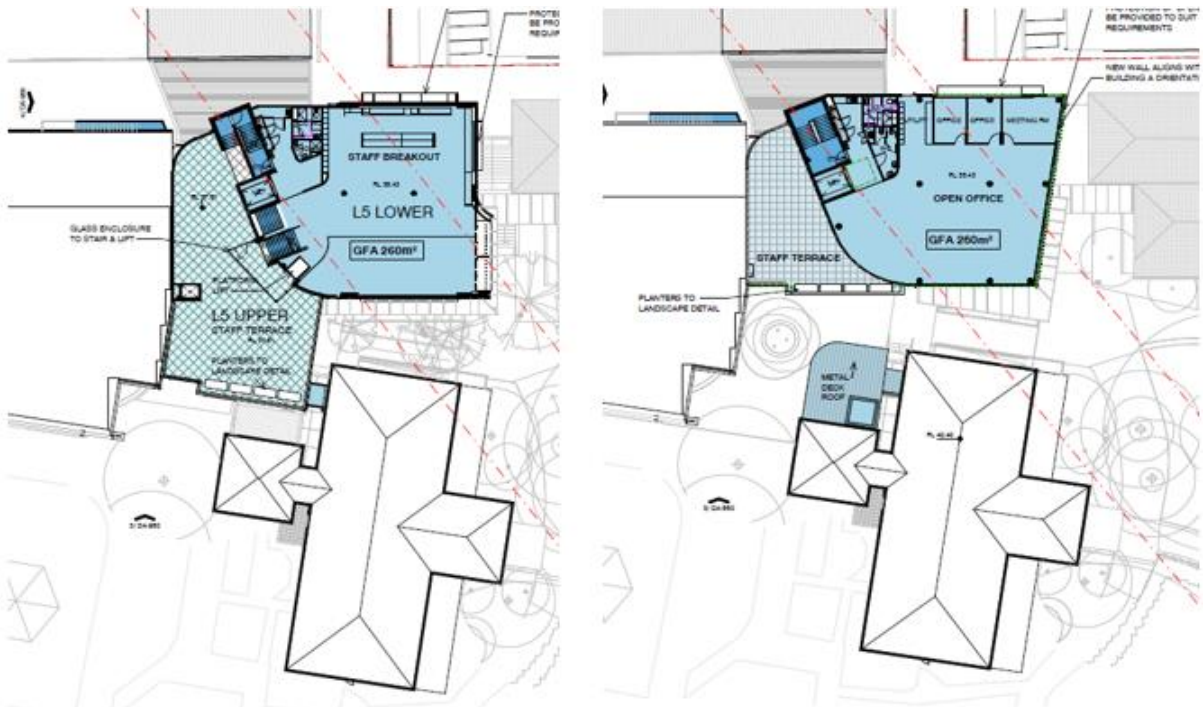
DAPRS Comment	Response
	<p>proposed which is lightweight and contemporary in appearance. The amended materials and finishes palette is supported by City staff, including the City's Heritage and Urban Design Manager.</p>
<p>Additions to the Administration building – the planning of the ground floor addition is not considered sympathetic to the nature of the architecture and plan form of the original building. The connection to the upper floor is not acceptable and is not supported by the Panel. A clear curtilage to the building should be achieved.</p>	<p>The amended design has been revised to remove the bridge connection to the rear of the Administration Building which results in a significantly improved heritage outcome.</p> <p>The proposed two storey rear addition is located within an area of little significance which has previously undergone alterations.</p> <p>The new two storey addition to the rear of the building is setback from the original part of the building and is identified as a clearly contemporary addition.</p> <p>The addition comprises a new lift and staircase to provide equitable access throughout the building. The provision of access to the rear is supported on the basis that existing heritage significant fabric is not impacted by the proposed development.</p> <p>The rear addition follows the north-western building line of the Administration Building and is set down below the roof ridge to ensure the addition is obscured from the public domain.</p>
<p>There appears to be waste in the planning that gives rise to unnecessary bulk. With the elimination of the link to the Administration Building the new building may be able to relate more closely to its site in relation to levels and height, and more rational planning could be achieved without the need for split levels.</p>	<p>The link to the Administration Building has been removed and the internal levels of the building have been amended to remove the split levels. The revised levels tie the lower ground, ground and first floor levels into the main student areas of the adjoining Senior and Junior Blocks.</p>
<p>The new Library steps into the view from Avenue Road along the north side of Wych Wood to the landscaped courtyard beyond. Consideration could be given to keeping the view at ground level more open. The new link over the courtyard (Senior Study and Multi-Purpose</p>	<p>The revised design has amended the alignment of the proposed building which follows the alignment of the Wych Wood Building, ensuring that it is largely obscured from view and is located behind the heritage building.</p> <p>With regards to views from Avenue Road, the removal of the Salem Building will improve the</p>

DAPRS Comment	Response
<p>building) needs to be reviewed to be more sympathetic to Wych Wood.</p>	<p>landscape setting along Avenue Road and will improve views to the buildings of high significance including the Administration and Wych Wood Buildings.</p> <p>The proposal includes additional tree planting and landscaping within the site's front setback which will ensure the visual curtilage of the site is respected and retained.</p>
<p>The style and position of new gate will have some impact on the heritage items and should be considered in relation to minimising that impact, and whether the gates need to be as prominent as those on the corner of Avenue and Arcadia Roads.</p>	<p>During the assessment of the application Council officers advised the applicant that the removal of the entire wall panel of the brick masonry within the two piers of the front boundary fence was not supported.</p> <p>The design has been amended to address the comments of the DAPRS and Council officers. The amended design has reduced the extent of demolition and the proposed palisade fence bays have been deleted as part of the subject proposal. The brick masonry has been retained along either side of the proposed gate.</p> <p>The salvaged bricks from the demolished portion of the front boundary will be reused for the new piers of the gate. The new entry gate is visually subservient to the existing built elements of significance and sympathetic to the heritage significance of the site. The relocation of the existing signage to the new entry gate is also supported.</p>





**Figure 43:** Level One Plan - Original submission left, amended submission right. Note the link to the Administration Building has been removed, the split in the floor plan removed, the alignment of the new building amended to respond to the alignment of the Administration Building and a small addition proposed to the rear of the Administration Building which allows for equitable access throughout the building



**Figure 44:** Level Two Plan - Original submission left, amended submission right

Note: the link to the Administration Building has been removed, the split in the floor plan removed, the alignment of the new building amended to respond to the alignment of the Administration Building and a small addition proposed to the rear of the Administration Building which allows for equitable access throughout the building



**Figure 45:** East elevation (Avenue Road) - Original submission top, amended submission below. Note the link to the Administration Building has been removed on the upper levels, the maximum height reduced from RL40.35 to RL39.63 and the materiality of the facade amended.



**Figure 46:** Section Plan (north-south) - Original submission top, amended submission below. Note the amendment to the internal levels which removes the half levels previously proposed, the reduction in built form adjacent to the Administration Building and rationalisation of the roof form.

**Issue 4: Acoustic Impacts**

96. The proposal includes the provision of mechanical plant at roof level. An Acoustic Assessment accompanies the application to assess the noise emissions from the plant to surrounding receivers.
97. The assessment concludes that noise levels will comply with the City's criteria when assessed inside the most affected residential receivers based on noise from the proposed condenser units. The noise levels are also expected to comply with the requirements of the NSW Noise Policy for Industry (NPI) during evening time, being the most stringent criteria during operational times.
98. Given the proposed development does not result in an increase in student or staff numbers, there is not expected to be any additional noise generated from the site.
99. The City's Environmental Health Unit has reviewed the Acoustic Assessment and supports its findings. Conditions of consent are recommended which include a condition requiring compliance with the Acoustic Assessment and a condition requiring compliance with the relevant NSW NPI criteria for plant equipment.

**Consultation****Internal Referrals**

100. The application was discussed with Council's:
  - (a) Heritage and Urban Design Unit;
  - (b) Landscape Assessments Unit;
  - (c) Environmental Health Unit;
  - (d) Public Domain Unit;
  - (e) Tree Management Unit; and
  - (f) Waste Management Unit.

101. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

**External Referrals****Transport for NSW**

102. Pursuant to Clause 2.99 of the T&I SEPP, the application was referred to Transport for NSW (TfNSW) for concurrence.
103. Concurrence was received on 1 August 2022. Conditions of consent were recommended which are included in the Notice of Determination.

## Advertising and Notification

104. In accordance with the Community Engagement Strategy and Participation Plan 2022, the proposed development was notified for a period of 28 days between 27 April 2022 and 26 May 2022. A total of 295 properties were notified and seven submissions were received.

105. The submissions raised the following issues:

- (a) **Issue:** The siting of the new building is not in an area the Draft CMP identifies is suitable for an extra floor or is a potential development site. The Draft CMP identifies places within the school site where taller buildings could be erected which would not impact on the visual curtilage of the St Scholastica's Avenue Road Heritage Group and the Toxteth HCA.

**Response:** The proposed building is supported on the following basis:

- The design of the building has been amended since lodgement of the original application and responds to the comments of Council officers and the DAPRS. The amended design has an acceptable heritage impact.
- The building provides a consolidated building footprint which maximises open space on other parts of the site.
- The building is within close proximity to the Administration and Wych Wood Buildings to co-locate administrative and staff working areas.
- Significant views are maintained and protected.

- (b) **Issue:** The new building is unsympathetic to the character of the site, the neighbouring dwellings and the Toxteth HCA and the heritage items in proximity to the site. The building will dominate Wych Wood and the neighbouring dwellings on Avenue Road.

**Response:** During the assessment of the application, the design of the new building was amended to improve its relationship within the site's heritage context. The amended design is supported on the following grounds:

- The amended proposal has deleted the previously proposed bridge connection to the Administration Building.
- The building is setback from the adjoining heritage buildings (Administration and Wych Wood Buildings). The amended design realigns the building to follow the alignment of the Wych Wood Building along its south-western extent. This will ensure the building is largely obscured from view from the Avenue Road public domain.
- The building design has been amended to ensure it appears as a simplistic and contemporary building which utilises a mix of traditional and contemporary materials. The facades of the building have been articulated and broken up to ensure it does not dominate the surrounding built form.
- The height of the new building is in line with the existing Administration Building, with the roof form comprising a modern, flat roof form to ensure it appears sympathetic within the existing context.



- The proposal maintains the landscape setting of the site's frontage to Avenue Road, with a number of mature, medium-sized trees proposed to increase the site's canopy cover. The trees will assist in softening the impact of the new building and ensure the building is not viewed as overly prominent from the intervening streetscape.

- (c) **Issue:** The proposed development is not in the public interest because it is inconsistent with the objectives of Clause 4.3 (Height of buildings) of the SLEP 2012 which requires that the height of development is appropriate to the conditions of the site and its context and that appropriate height transitions occur between new development and heritage items and buildings in heritage conservation areas.

**Response:** Please refer to the detailed discussion regarding the contravention of the height of building's development standard which is provided in the discussion section of this report.

In summary, the height of building's development standard is supported as the applicant's written request has adequately addressed the matters required under Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of building's development standard and the R1 General Residential zone.

- (d) **Issue:** The demolition of the Salem Building and proposed new entrance will open up vistas of the site. The applicant has not adequately addressed the new building's impact on the visual curtilage of the heritage group and the HCA of which it is a part.

**Response:** The proposed setback and siting of the new building from the front boundary (Avenue Road) of the subject site would result in a neutral impact on the view lines from and to the subject site. The location of the new building is setback from the primary boundary and is located behind the Wych Wood and Administration Buildings to ensure that views from within the HCA to the primary elevation of the site are maintained. Further, the proposed landscaping works would serve to soften the visual impact of the new building on the heritage significance of the site.

- (e) **Issue:** The proposal will also impact on views from the heritage items in the site itself. No analysis is provided in the application to identify and discuss these views.

**Response:** The view analysis within the Draft CMP does not identify there are any significant internal views within this part of the site. The proposal does not impact upon any views to or from heritage items within the vicinity of the site.

- (f) **Issue:** The new building includes expansive glazing and will affect the privacy of neighbouring residential dwellings.

**Response:** All north-facing windows are provided with deep window surrounds to maintain privacy for neighbours.

- (g) **Issue:** Relocation of main school entry gate will impact parking and how traffic moves on Avenue Road. Most parents will attempt a three-point turn around the front of the Wych Wood Building or do a U-turn at Victoria Road.

**Response:** The proposed development does not seek to increase staff or student numbers. No changes to the existing vehicle access, carparking or loading provisions are proposed.

- (h) **Issue:** Any relocation of road markings (School Bus Zone, No Parking area) are not supported.

**Response:** The proposal does not seek amendments to the existing line marking adjacent to the new entry along Avenue Road.

- (i) **Issue:** Noise impacts to be managed during construction.

**Response:** Appropriate conditions of consent are recommended to manage construction noise impacts. This includes a requirement for construction activity to occur only within the City's standard construction hours.

- (j) **Issue:** Recent construction at the site has caused numerous issues for local residents and concerns are raised regarding construction vehicle parking and private vehicles of construction workers utilising the allocated street parking.

**Response:** A condition is recommended requiring that a Construction Traffic Management Plan is approved by Council to ensure that the impacts of construction traffic are appropriately managed.

- (k) **Issue:** Dust impacts to be managed during construction.

**Response:** A condition is recommended requiring that an Erosion and Sediment Control Plan is submitted and approved by the Principal Certifier.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

106. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
107. GFA plans of the existing school site have been provided and identify the school has a GFA of 14,041sqm (existing). The proposal results in a reduction of 523sqm of GFA to 13,518sqm. Given the proposal results in a net population decrease, the development is excluded from the need to pay a contribution.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

108. The applicant has disputed the City's ability to impose an affordable housing contribution pursuant to Section 7.32 of the Environmental Planning and Assessment Act 1979 (the Act). The applicant has stated the contribution should not be imposed on the basis the proposal will not reduce the availability of affordable housing within the area and will not create a need for affordable housing within the area.

109. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies. The Act applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:
- (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
  - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
  - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
  - (d) the regulations provide for this section to apply to the application.
110. The proposal is consistent with the criteria under part (c) that is, the proposed development comprises an educational establishment which is permissible under the initial zoning of the site.
111. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
  - (b) the condition is authorised to be imposed by Section 7.13 of the SLEP 2012 and is in accordance with the City of Sydney Affordable Housing Program (Affordable Housing Program), and
  - (c) the condition requires a contribution for affordable housing is provided, having regard to the following -
    - (i) the established need in the area and wider local government area.
    - (ii) the scale of the proposed development.
    - (iii) the fact that no other dedication or contribution is required to be made by the applicant under this Section or Section 7.11 of the Act. The Affordable Housing Program identifies that an affordable housing contribution amounting to more than 15% of the agreed cost of construction is unreasonable. As detailed below, the affordable housing contribution amount is \$92,479 which equates to 0.72% of the proposed cost of works (\$12,813,303). In this respect, the contribution amount is not considered unreasonable.
112. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

113. It is noted that the applicant has not provided total floor area (TFA) plans and therefore City staff have calculated the total TFA. Based on the total TFA of 1,743sqm and the contribution rate of \$10,611.53, the proposed development necessitates a contribution of \$92,479. The contribution amount is based on a rate of 0.5% given the development application was lodged prior to 1 July 2022.

### Relevant Legislation

114. Environmental Planning and Assessment Act 1979.

### Conclusion

115. The proposal seeks consent for the following scope of works:

- The demolition of the Salem Building (Building B), Art and Computers Building (Building D) and parts of the Junior Block (Building E) and Senior Block (Building F) and removal of the demountable buildings in the north-eastern corner of the site on the play fields.
- The construction of a new four storey building containing a library, multi-purposes spaces and staff office spaces.
- Refurbishment and conservation works to the Administration Building and Wych Wood Building.
- A new school entry from Avenue Road and landscaping to the front setback.
- The removal of seven trees and transplanting of six trees.

116. The proposal was amended during the assessment to address issues relating to urban design and heritage matters including the removal of the elevated link between the Administration Building and the new building, a reduction in the height and massing of the new building, additional modulation and articulation to the facades of the new building and additional tree canopy cover.

117. The amended proposal respects the heritage significance of the subject site, the Toxteth HCA and the heritage items in the vicinity.

118. The proposed development is compliant with the relevant floor space ratio control and is generally compliant with the other provisions of the SLEP 2012 and the SDCP 2012.

119. A request to vary Clause 4.3 height of buildings development standard has been submitted in accordance with Clause 4.6 of the SLEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravention of the standard. The proposed development is consistent with the objectives of the R1 General Residential zone and the height of buildings development standard and is in the public interest. For these reasons the proposed variation of the building height development standard is supported.

120. The development meets the design principles of the Education SEPP, resulting in a school building with high amenity that can positively contribute to the educational outcomes of future students.
121. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of the locality.
122. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the LPP.

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