



New South Wales Government
Independent Planning Commission

SCEGGS Darlinghurst Concept and Stage 1 SSD 8993

Statement of Reasons for Decision

Chris Wilson (Chair)
Prof Helen Lochhead

22 May 2020

SCEGGS Darlinghurst Concept and Stage 1 (SSD 8993) Final Report ©
State of New South Wales through the Independent Planning Commission 2020

Independent Planning Commission NSW
Level 3, 201 Elizabeth St Sydney NSW Australia
Telephone: (02) 9383 2100
Email: ipcn@ipcn.nsw.gov.au
ABN: 38755709681

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

The Independent Planning Commission NSW advises that the maps included in the report are to give visual support to the discussion presented within the report. Hence information presented on the maps should be seen as indicative, rather than definite or accurate. The State of New South Wales will not accept responsibility for anything, or the consequences of anything, done or omitted to be done in reliance upon the mapped information.

TABLE OF CONTENTS

DEFINED TERMS	1
1 INTRODUCTION	2
2 THE APPLICATION	2
2.1 Site and Locality	2
2.2 Summary of the Application	3
2.3 Need and Strategic Context	6
3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION	6
4 THE COMMISSION'S CONSIDERATION	7
4.1 The Commission's Meetings	7
4.2 Public Comments	7
4.3 Material considered by the Commission	8
4.4 Mandatory considerations	8
4.5 Additional Considerations.....	11
5 KEY ISSUES	11
5.1 Demolition of Wilkinson House, and Stage 1 works	11
5.2 Demolition of Other Buildings.....	19
5.3 Concept Building Envelopes	21
5.4 Other Issues	31
5.5 Objects of the EP&A Act and Public Interest	33
6 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION	34

DEFINED TERMS

ABBREVIATION	DEFINITION
Applicant	SCEGGS Darlinghurst Ltd (C/- Urbis Pty Ltd)
Application	As described in section 2.2
CDP	Competitive Design Process
Commission	Independent Planning Commission of NSW
CMP	Conservation Management Plan
Council	City of Sydney
DCP	Development Control Plan
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report, dated March 2020
Education SEPP	State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GFA	Gross Floor Area
HCA	Heritage Conservation Area
HIS	Heritage Impact Statement
LEP	Local Environmental Plan
LGA	Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in section 4.2
Minister	Minister for Planning and Public Spaces
Development	As described in section 2.2
Regulation	Environmental Planning and Assessment Regulation 2000
RRFI	Response to Request for Further Information
RtS	Response to Submissions
SCEGGS	Sydney Church of England Girls Grammar School, Darlinghurst
SDCP	Sydney Development Control Plan 2012
SEPP	State Environmental Planning Policy
Site	As described in section 2.1
SLEP	Sydney Local Environment Plan 2012
SSD	State Significant Development
Urbis	Urbis Pty Ltd

1 INTRODUCTION

1. On 18 March 2020, the NSW Department of Planning, Industry and Environment (**Department**) referred a State significant development (**SSD**) application (**Application**) for the redevelopment of the Sydney Church of England Girls Grammar School (**SCEGGS**) campus located at 215 Forbes Street Darlinghurst (**SSD 8993**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for a Concept Proposal and Stage 1 Works (the **Development**) at the main campus (excluding the St Peter's Precinct and no. 217 Forbes Street) of SCEGGS Darlinghurst Campus (the **Site**) under section 4.22 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. The Application is for SSD and consent is sought under s 4.36 of the EP&A Act. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**). This is because the Department received more than 50 public submissions objecting to the Application and City of Sydney Council (**Council**) objected to the Application.
4. Mr Peter Duncan, Acting Chair of the Commission, nominated Mr Chris Wilson (Chair), and Professor Helen Lochhead to constitute the Commission in determining the Application.

2 THE APPLICATION

2.1 Site and Locality

5. The Department's Assessment Report (**Department's AR**), dated March 2020 states:

SCEGGS is a private girls school located within Darlinghurst, approximately 1 kilometre (km) east of the Sydney Central Business District (CBD). The campus covers an area of approximately 13,676 square metres (m²) comprised of a number of lots spread over two parcels of land (the SCEGGS Main Campus and the St Peters Precinct).

6. The location of the Site is shown in Figure 1.

7. The Applicant's Environmental Impact Statement (**EIS**) dated 5 February 2019 states:

SCEGGS Darlinghurst has been located on the main campus site since 1901. Since this time, the School has progressively adaptively reused and altered existing buildings on the site and immediate surrounds and constructed new purpose built educational facilities on the site. These buildings have been progressively completed, rebuilt, and redeveloped over the almost 120-year history of the School on the site to continually respond to changing educational needs.

8. The Department's AR states:

*The SCEGGS site (main campus), in its entirety, is listed as a locally listed item within the Sydney Local Environmental Plan 2012 (**SLEP**) and is included within the East Sydney Special Character and Conservation Area (C13).*

Figure 1 - The Application Site (Source: Department's AR)



2.2 Summary of the Application

9. The Department's AR in section 2.1.1 states that the Application seeks approval for the staged redevelopment of part of the Site comprising:
 - *Concept Proposal providing for three building envelopes, conservation works, uses, vehicular and pedestrian entrances and circulation, car parking, landscaping and associated works.*
 - *Stage 1 works including demolition of Wilkinson House and excavation of basement and construction of a four storey building for educational use.*
10. The Concept Proposal is the school's long-term vision for the Site, referred to as the 2040 Masterplan (as referred to in section 1.1 of the Department's AR).
11. The Commission notes that the Application was amended by the Response to Submissions (**RtS**) dated 4 November 2019 and was further amended as part of the Response to the Request for Further Information (**RRFI**) dated 17 January 2020. The key components and features of the Application as amended are set out in Table 1 and shown in Figures 7 – 13 of the Department's AR.

Table 1 – Components of the Application (Source: Department's AR)

CONCEPT PROPOSAL	
Component	Description
Site area	11,519m ²
Demolition	<p>Concept demolition of the following buildings:</p> <ul style="list-style-type: none"> • Wilkinson House on the corner of Forbes and St Peters Streets. • Old Library and Science Buildings fronting Bourke Street. • The Old Gym Building at the northern end of Thompson Street. • Part of additions to the Barham Building fronting Forbes Street.
Building envelopes	<p>[Concept] Building envelopes including:</p> <ul style="list-style-type: none"> • maximum six storey (RL 50.50m) Multi-Purpose Building fronting Bourke Street. • maximum four storey (RL 48.23m) replacement Wilkinson House building on the corner of Forbes and St Peters Streets. • maximum three storey (RL 53.45m) administration building fronting Forbes Street.
Conservation works	Conservation works to the Barham Building and removal of non-original building fabric.
GFA	<p>Maximum GFA of 7,838.2m² comprising:</p> <ul style="list-style-type: none"> • 5,692m² Multi-Purpose Building GFA for general school purposes, childcare, drop-off and car parking facilities. • 1,325m² replacement Wilkinson House building GFA for general school purposes. • 821.2m² administration building GFA for general school purposes.
Uses	<p>Concept approval is sought for 'educational establishment', 'early education' and 'centre-based childcare facility' as defined by the SLEP. The indicative uses of the new and altered buildings on the site include:</p> <ul style="list-style-type: none"> • new Multi-Purpose Building – general learning areas, information technology and research centre, basement parking and new childcare facility and (possibly) new indoor swimming pool. • replacement Wilkinson House building – general learning areas to support the senior school. • new Administration Building – main school entrance, administrative functions, meeting rooms and staff facilities. • altered Barham Building – school executive, meeting rooms and staff facilities.
School student numbers and childcare centre capacity	<ul style="list-style-type: none"> • No increase in student numbers (942 students as existing (Section 1.24) • 45 new childcare centre places.
Access	<ul style="list-style-type: none"> • Provision of an additional vehicle entry/exit on Bourke Street to the Multi - Purpose Building. • Improving pedestrian legibility at primary pedestrian entries.
Parking and drop-off	<ul style="list-style-type: none"> • A total of 22 car parking spaces (15 new and seven relocated) provided within the basement of the Multi-Purpose Building including: <ul style="list-style-type: none"> ○ 10 spaces for school purposes comprising: <ul style="list-style-type: none"> - seven school staff spaces (relocated from Forbes Street car park). - three new school service vehicle spaces. ○ 12 new spaces for the childcare facility comprising: <ul style="list-style-type: none"> - six childcare pick-up/drop-off spaces. - five childcare staff spaces. - one childcare (long term) space.

	<ul style="list-style-type: none"> • A total of 54 additional bicycle parking spaces, including: <ul style="list-style-type: none"> ○ 50 for the school in the basement of the Multi-Purpose Building. ○ 4 for the childcare facility in the basement of the Multi-Purpose Building.
Landscaping and tree removal	<ul style="list-style-type: none"> • Concept landscape proposal including: <ul style="list-style-type: none"> ○ landscape upgrade works at the Forbes Street entry. ○ conservation and heritage enhancement works around the Barham Building. ○ enhancements to the central lawn. ○ tree retention, buffer planting, hard and soft landscaping and furniture. • The Applicant has stated in its EIS that concept approval is not sought for tree removal. Notwithstanding this, the application indicatively shows the removal of nine trees (on the site) to facilitate the development.
Hours of construction	<ul style="list-style-type: none"> • Monday to Friday - 7:30 am to 5:30 pm. • Saturday - 7:30 am to 3:30 pm. • Sunday and public holidays - No work.
Capital Investment Value (CIV)	<ul style="list-style-type: none"> • \$49,565,022.
Jobs	<ul style="list-style-type: none"> • 480-690 full time / full time equivalent (FTE) construction jobs. • No increase in operational staff

STAGE 1 WORKS

Component	Description
Demolition and temporary structures	<ul style="list-style-type: none"> • Complete demolition of Wilkinson House. • Construction of 10 temporary demountable classrooms for use during Stage 1 works.
Built form	<ul style="list-style-type: none"> • Excavation of a basement level. • Construction of a four storey building with a maximum height of 16.3m (RL 48.23m). • Rooftop plant enclosure and photovoltaic panels.
GFA	<ul style="list-style-type: none"> • 1,325m² replacement Wilkinson House building GFA for general school purposes.
Use	<ul style="list-style-type: none"> • Sports and multi-purpose fitness areas and general learning areas.
Access	<ul style="list-style-type: none"> • Basement level access to sports and multi-purpose fitness areas via a foyer connected to the existing Centenary Sports Hall. • Access to the ground to third floor general learning spaces is via a ground level foyer connected to the Joan Freeman Building. • A fire exit is provided to the ground floor Forbes Street elevation and internally at all floors between the building and the Joan Freeman Building.
CIV	<ul style="list-style-type: none"> • \$9,734,100.
Jobs	<ul style="list-style-type: none"> • 170-240 FTE construction jobs. • No increase in operational staff.

2.3 Need and Strategic Context

12. The Department's AR states in section 3 that:

The Applicant has identified the need for a staged redevelopment and upgrade of the school to enable it to meet contemporary and evolving learning and educational standards now and into the future and the expectations of the school community.

and

The Applicant states that the proposed redevelopment is required to replace buildings that are reaching the end of their practical lifespan and that will soon be incompatible with the SCEGGS school facility needs.

13. The Department's AR states:

The proposal would benefit the community as it would provide significantly improved school facilities including contemporary teaching and learning facilities with adaptable and collaborative learning spaces that would improve educational outcomes. In addition, the proposal includes a new 45 place childcare centre. The Concept Proposal would result in direct investment in the area of \$49,565,022 and generate between 480-690 FTE construction jobs, while the Stage 1 works would result in direct investment in the area of \$9,734,100 and generate between 170-240 FTE construction jobs.

14. In terms of the Strategic Context, the Department considers that the Development is appropriate for the Site, for the reasons set out in Section 3.2 of the Department's AR.

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

15. The Planning Secretary's Environmental Assessment Requirements (**SEARs**) were issued on 12 January 2018.

16. The Commission was advised that the Department received the Application on 20 February 2019. The Department's AR states: "The Department is satisfied that the EIS and RtS adequately address the requirements of the SEARs to enable the assessment and determination of the application".

17. In relation to permissibility, in section 4.3 the Department's AR states:

The site is identified as being located within the R1 General Residential zone [under the SLEP]. An educational establishment and a childcare centre facility are permissible with consent within the R1 General Residential zone and [also] by virtue of clause 35(1) of the Education SEPP, which states:

'Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone'

18. The consultation on the Application undertaken by the Department is set out in section 5.1 of the Department's AR.

19. In relation to the key issues, the Department's AR states:

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

- Demolition.
- built form and heritage.
- parking and traffic.
- residential amenity.
- noise and vibration.

20. The Department's AR concludes in section 7 that:

Overall, the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of the recommended conditions of consent.

4 THE COMMISSION'S CONSIDERATION

4.1 The Commission's Meetings

21. The Commission met the stakeholders set out below in Table 2. All meeting transcripts and site inspection notes are available on the Commission's website.

Table 2 – Commission's Meetings

Meeting	Date of Meeting	Transcript/Material available on
Applicant	7 April 2020	27 April 2020
Department	8 April 2020	27 April 2020
Council	9 April 2020	21 April 2020
Site Inspection	16 April 2020	21 April 2020

4.2 Public Comments

22. The Commission determined that a public meeting was not necessary in order to determine the Application given:

- the concerns and issues raised in all submissions to the Department have been well documented;
- following the Department's consultation with all previous objectors to the RtS including the Council, an additional 11 submissions were received, all of which have been well documented. This comprised a submission from the Council, five submissions from public authorities and five objections from the public; and
- the restrictions on face to face meetings as a result of COVID-19.

23. The public was offered the opportunity to provide written comments on the Application to the Commission up until 5pm on Wednesday, 22 April 2020.

24. The Commission received written comments on the Application from a total of 24 interested parties primarily by way of objection.

4.3 Material considered by the Commission

25. In this determination, the Commission has carefully considered the following **material**:
- SEARs dated 12 January 2018;
 - Applicant's EIS dated 5 February 2019, prepared by Urbis Pty Ltd (**Urbis**) and its accompanying appendices;
 - submissions made to the Department in respect of the EIS during public exhibition, from 7 March 2019 until 3 April 2019;
 - Applicant's RtS dated 4 November 2019, prepared by Urbis and its accompanying appendices;
 - submissions made to the Department in respect of the RtS;
 - Applicant's RRFI dated 17 January 2020, prepared by Urbis and associated documentation;
 - Department's AR, dated March 2020;
 - Department's draft Development Consent conditions, dated March 2020;
 - Applicant's Meeting with the Commission on 7 April 2020 and slides from the presentation (**Applicant's Submission to the Commission 1**);
 - Department's Meeting with the Commission on 8 April 2020 and presentation material
 - Department's Response to questions from the Commission, dated 8 April 2020;
 - site inspection maps and photomontages handed to the Commission at the site inspection on 16 April 2020;
 - Submission by the Applicant received 22 April 2020 *Additional Information in Response to Issues raised by the IPC at Applicant Meeting 7th April and Site Inspection 16th April. April 2020* (**Applicant's Submission to Commission 2**);
 - Council's Meeting with the Commission on 9 April 2020;
 - Submission by the Council to the Commission on 8 April 2020 on the draft conditions of consent;
 - all written submissions received by the Commission up until 22 April 2020; and
 - Applicant's comments dated 28 April 2020 on the draft conditions of consent including reference to conditions suggested by Council (**Applicant's Submission to the Commission 3**).

4.4 Mandatory considerations

26. In determining this Application, the Commission has taken into consideration the relevant mandatory considerations, as provided in s 4.15(1)(a) of the EP&A Act as follows (consideration of section 4.15(1) subclauses(b), (c) (d) and (e) is in Section 5 of this Report).
27. The Commission considered the following EPIs in determining the Application:
- SRD SEPP;
 - Education SEPP;
 - State Environmental Planning Policy No. 55 – Remediation of Land (**SEPP 55**);
 - Draft Remediation of Land State Environmental Planning Policy (Draft **Remediation SEPP**); and
 - SLEP.

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

28. The Department has considered the Application under the relevant clauses of the SRD SEPP in Appendix B of the Department's AR.
29. The Commission agrees with the Department that the Development meets the threshold to be SSD under the SRD SEPP. The proposed child care centre is ancillary to the school use.

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

30. In addition to the clause relating to the permissibility of a school referred to in paragraph 17 above, the Commission notes that under cl 35(10) of the Education SEPP, a centre-based child care facility may also be carried out with consent within an existing school.
31. The Department has assessed the Development against the other relevant provisions of the Education SEPP in Appendix B and in Sections 4 and 6 in the Department's AR.
32. The Department's AR states that Clause 35(6)(a) of the Education SEPP "...requires that the design quality of the development should be evaluated in accordance with the **design quality principles** set out in Schedule 4 of the Education SEPP". The Department has undertaken an assessment of the Development against the design principles in Table 22 of the Department's AR.
33. Clause 35(7) of the Education SEPP excludes the application of any design excellence provisions in another EPI. Notwithstanding, in section 4.3.2 of the AR, the Department refers to the Development being consistent with the **design excellence** provisions in cl 6.21 of the SLEP. Section 6.3.3 of the Department's AR also notes that "The Applicant has considered the SLEP design excellence criteria and has developed Design Guidelines and Development Parameters (DGCP) to guide the evolution of future detailed DA(s)".
34. Clause 35(8) of the Education SEPP states:

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 subclause (6)(a) applies that has a capital investment value of less than \$50 million.
35. The Commission agrees with the Department in section 4.3.2 of the AR that a **competitive design process (CDP)** has not been triggered.
36. The Commission notes the argument made by the Council (as explained at the Meeting with the Commission), that by electing to prepare a concept proposal the Applicant is in effect preparing a DCP, so would meet the criteria in SLEP cl 6.21(5)(c). However, the Commission agrees with the Department that a CDP under SLEP cannot be required as a precursor to the granting of consent.
37. Part 3 of the Education SEPP is relevant to the **childcare centre** component of the Concept Proposal. The Department's AR has referenced key Child Care Planning Guidelines (**CPG**) referred to in cl 23 of the SEPP in Table 20 in section 6.6.
38. The Applicant has assessed both Part 3 of the Education SEPP in Section 4.23 of the RtS and the CPG in Section 4.2.3.2 of the RtS.

39. The Commission notes the Department's assessment of the child care centre in section 6.6 in Table 20 of the AR.

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

40. In relation to both the Concept Proposal and the Stage 1 works, the Department's AR states under 'Contamination' in section 6.6 that, based on the implementation of the recommendations of the relevant reports, the Site is suitable for the school use.
41. The Commission has reviewed the relevant reports and statements and agrees with the Department's findings in paragraph 40 above.

4.4.4 Draft Remediation of Land State Environmental Planning Policy

42. The Department's AR states on p73 that "The Department considers the development is consistent with the draft Remediation SEPP subject to the recommended conditions...".
43. The Commission agrees with the Department's findings in paragraph 42 above.

4.4.5 Sydney Local Environmental Plan 2012

44. The Department has given consideration to the relevant clauses of the SLEP in Table 23 in Appendix B of the Department's AR. The Commission agrees that these clauses are applicable as referred to in the Department's AR.
45. The Commission identifies that the following SLEP clauses also apply:
- cl 2.7 Demolition requires development consent
 - cl 4.4 Floor space ratio
 - cl 7.19 Demolition must not result in long term adverse visual impact.

These matters are addressed in Section 5.1 of this report as relevant.

4.4.6 Development Control Plans

46. The Department's AR states: "Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the relevant controls under the Sydney Development Control Plan 2012 (SDCP)...".
47. The Commission agrees with the Department's statement in paragraph 46 above. Notwithstanding, the Commission has reviewed the assessment of SDCP controls in Section 7.9 of the Applicant's EIS and section 4.28 of the Applicant's RtS.

4.4.7 Planning Agreements

48. The Department's AR states that "No existing planning agreements apply to the site".

4.4.8 EP&A Regulation 2000

49. The Department's AR states: "The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 relating to EIS".
50. The Commission agrees with the Department's statement in paragraph 49 above.

4.5 Additional Considerations

51. In determining this Application, the Commission has also considered:
- *Better Placed Design Guide for Schools*, NSW Government Architect, May 2018.

5 KEY ISSUES

52. The Commission is of the view that the key issues in the assessment of this Application are the:
- demolition of Wilkinson House, and Stage 1 works
 - demolition of other buildings
 - concept building envelopes – including built form and heritage and amenity impacts
 - parking, traffic generation and management
 - other issues - including landscaping and the child care centre.

5.1 Demolition of Wilkinson House, and Stage 1 works

Public Comments

53. As indicated in section 5.2 of the Department's AR, of the 110 public submissions (102 plus eight from public interest groups), 86% raised 'heritage impacts, demolition of Wilkinson House, public view of Barham building blocked'. Submissions were also made on the suitability of the Stage 1 building.
54. During the period of the Commission's consideration of this Application, submissions from 24 interested parties were received, including those from nearby residents, the local Member Mr Alex Greenwich MP and community interest groups - the East Sydney Neighbourhood Association and the Owners Corporation for the Horizon Building (184 Forbes Street). All but two referred to concerns regarding the demolition of Wilkinson House (traffic management being the other main issue of concern).
55. Concerns were raised by members of the public regarding the loss of heritage fabric and consequent impacts on the streetscape. Concerns were also raised regarding the lack of "adequate consideration given to possible alternate uses for Wilkinson House". Public comments stated that not enough consideration had been given regarding the merits of conversion or at least retention of the Wilkinson House façade.
56. At least two submissions also made direct reference to the Stage 1 building, noting that Wilkinson House has a "positive impact on the quality and sense of identity of the neighbourhood".

Council's Comments

57. In relation to the demolition of Wilkinson House, the Council in its submission to the Department dated 28 March 2019 stated:

Wilkinson House, originally known as Gwydir Flats, was a c1925 residential flat building designed by prominent architect Emil Lawrence Sodersten known for his Art Deco designs. This building is one of his earliest works. Wilkinson House is identified as one of the buildings on the SCEGGS site in Schedule 5 of the LEP 2012: I301 - Sydney Church of England Girls Grammar School group including Barham, Church Building and Wilkinson House and their interiors and grounds. Wilkinson House is also located within East Sydney Heritage Conservation Area and is identified as Contributory item under the LEP and Sydney DCP 2012 (the DCP).

58. The Council's submission reiterates the significance of the building with reference to the State Heritage Inventory and the 2001 Conservation Management Plan (**CMP**) and further states that:

The Applicant claims that the subject building does not adequately accommodate their desire for larger learning spaces and assesses the significance of Wilkinson House as 'moderate' significance to justify its demolition.

Prior consultation with the City has consistently advised that demolition of the heritage item and contributory item is not supported. The loss of Wilkinson House would be significant and unacceptable.

59. In its submission on the RtS, the Council indicated that "The City maintains its objections to the demolition of Wilkinson House and the old gym building as previously stated. As such, stage 1 should not proceed".

60. In Meeting with the Commission, the Council reiterated its objection to the demolition of Wilkinson House and advised the Commission:

Council's heritage objections are primarily centred on the extent of proposed demolition resulting in irreversible loss of heritage fabric and the proposed bulk of the new buildings within the existing heritage context of Barham House. Council strongly objects to the demolition of Wilkinson House as it would result in irretrievable loss of heritage fabric. Demolition of heritage significance and demolition of a contributory building within the conservation area will also impact upon the physical and historical integrity of the conservation area.

61. In relation to the replacement building for Wilkinson House, in its original submission the Council stated "...as per section 3.9.7 of the DCP, contributory buildings are to be retained unless the consent authority determines the replacement is justified in exceptional circumstances". At the Meeting with the Commission, the Council also spoke about the need for an updated CMP for the whole site, and then based on the findings of this, the need for a design competition, ideally at concept stage, or failing that design competitions for the actual buildings.

Applicant's Consideration

62. The Applicant has provided supporting material dealing with the proposed demolition of Wilkinson House, including:

- EIS (including the Heritage Impact Statement), prepared by TKD Architects, dated January 2019 (**Original HIS**)
- Supplementary Heritage Impact Statement, prepared by TKD Architects, dated September 2019 (**Supplementary HIS**)
- *Response to Submissions Architectural Design Report Rev A August 2019* (**RtS Architectural Design Report** (also contains an Options Analysis))

- Wilkinson House Options Analysis, prepared by TKD Architects, Rev A dated November 2018 (**Options Analysis**)
 - *Wilkinson House Structural Options Retention of Existing Façade* Rev D, prepared by Taylor Thomson Whitting (NSW) P/L, dated 26 September 2019 (**Structural Options Report**)
 - Applicant's Submissions (1, 2 and 3) to the Commission.
63. The Applicant's Original HIS addresses heritage significance at p67.
64. The Applicant's Options Analysis on p17 concludes (in relation to the Applicant's proposed option, Option C: Complete demolition and construction of a new building) that:
- This option results in a loss of heritage values for the School and the heritage conservation area. Replacement of Wilkinson House will permit the development of a new purpose-designed school building which provides the required flexible learning and meeting spaces, resulting in a positive outcome for the long term functioning of the school. Potential visual impacts on the streetscape and conservation area are addressed through the scale, siting, height and architectural expression of the new building.*
65. In the Applicant's HIS, the Summary Assessment of heritage impact for Wilkinson House on p57 states:
- Negative heritage impact with the demolition of Wilkinson House, former 1926 Gwydir Flats. Accepting the heritage impacts associated with this option, the demolition of the building will allow for construction of a replacement building with contemporary school spaces which will better serve the needs of the School in the long term.*
66. The **RtS Architectural Design Report** considers the streetscape and context, materials and finishes, and aesthetics of the new building on p38.
67. The Design Report also shows details of the proposed façade and sections showing the ESD features. The Applicant's Submission to the Commission 2 summarised the design of the new Wilkinson House:
- The proposed building fulfils these principles and contributes to the streetscape and area through:*
- > *A rich and textured facade and use of high quality materials which responds to its context and environment and contributes to the public domain*
 - > *A form which has been designed to complement the context and surrounding buildings, relating to their scale and proportion of architectural features*
 - > *The use of external brickwork and sandstone which visually relates to the adjacent school buildings and residential buildings on Forbes Street*
 - > *Its location, which is away from the significant buildings section of buildings in the School campus south of St Peters Street, and has sufficient physical separation from the significant buildings north of St Peters Street*
 - > *A proposed design which complements the identified heritage and character values of East Sydney Special Character and Conservation Area - this includes maintaining street views, reinforcing the predominant street height, setbacks and street alignments*
68. In the RtS in the summary of changes made following the exhibition, the Applicant identifies that for the Wilkinson House replacement building there were:

- *Amendments to external façade design to improve integration within heritage streetscape and with neighbouring developments;*
- *Additional justification of proposed design; and*
- *Use of natural materials that reflect positive qualities of the local heritage conservation area.*

69. As summarised in the document provided in the Applicant's Presentation to the Commission 1, Wilkinson House Stage 1 provides:

- *Contemporary Learning Spaces*
- *Replaces a 1920's residential apartment building which is not compatible with contemporary learning requirements*
- *Provides new high quality contemporary learning facilities with greatly improved educational outcomes*
- *Is designed to respond to the street context, incorporating high quality materials relating to the sandstone precinct of St Peters Street*
- *A building with similar bulk and scale as the existing building*

Department's Assessment

70. The Department has undertaken an assessment of the impacts associated with the demolition of Wilkinson House in section 6.1.1 of the Department's AR. The Department refers to cl 5.10 of SLEP in Table 20 of the AR and states "The Department considers the demolition of existing locally listed heritage items at Section 6.1 and concludes this is acceptable given the circumstances of the case."

71. The Department's assessment is based on the Applicant's HIS and the Options Analysis provided by the Applicant, described in the Department's AR as follows:

In addition to the HIS, and in response to the concerns raised, the Applicant has submitted structural analysis and design options analysis, which provides an assessment of the site's redevelopment in the context of the loss of Wilkinson House. This included an options analysis that considered:

- *Option A – refurbishment of the building.*
- *Option B – redevelopment of the building with the retention of the Forbes and St Peters St facades.*
- *Option C – complete demolition and replacement with a new purpose-built facility.*

The Applicant confirmed that due to the failings of the existing building, summarised above, not adapting the existing facilities (i.e. the 'do nothing' scenario) is not an option for the school.

72. The Options (A, B and C) are shown in Figure 17 and discussed in Table 14 of the Department's AR. In section 6.1 on p40 of the AR the Department concludes:

The Department has considered the findings at Table 14 and reviewed the Options against the seven design quality principles of the Education SEPP and considers retaining Wilkinson House in full or in part would:

- *not provide for a resilient and adaptable building with high environmental performance that can evolve over time to meet future requirements.*
- *not achieve appropriate BCA standards and therefore would fail to optimise health and safety within the site and would restrict the ability to deliver accessible and inclusive spaces.*

- result in compromised learning spaces that would not be engaging and fully accessible for a wide range of educational and informal uses.
- provide inappropriate and inefficient indoor learning spaces, with reduced access to sunlight, natural ventilation and outlook.
- would potentially result in adverse amenity impacts on adjoining neighbours by forcing new buildings elsewhere on the site to be larger/higher.

73. In relation to the replacement building, the Department assessed built form and heritage in section 6.2 of the Department's AR. In Section 6.2.3 in relation to 'Building design and materials', the Department's AR states:

The Applicant has stated that the proposed new Wilkinson House building has been designed to make a positive contribution to the heritage conservation area in which the site is located. The building has been intentionally designed to reflect a contemporary and flexible learning space rather than the former residential apartment building it replaces. The materials and finishes proposed are durable and complement the character of the existing school and its surroundings.

74. The Stage 1 works are discussed in detail in section 6.2.1 of the Department's AR (pp49-51).

75. The Department notes the Applicant has considered the design of the Wilkinson House replacement building against the Education SEPP design quality principles (p50 in section 6.2.3).

76. The Department concludes in relation to the design of the replacement building that:

... the proposed development achieves a high standard of design and results in a building which has been designed and articulated to appropriately fit within its urban context without having an adverse impact on the character of the locality.

Commission's Findings

77. The Commission has reviewed the Application and supporting documents including the Applicant's reports referred to in paragraph 62. The Commission also inspected the Site, including the interior of Wilkinson House, and the surrounding streets. The public submissions and that of the Council have been reviewed.

78. The Applicant and the Department support demolition of Wilkinson House (Option C) based on the needs of the School as explained in the Options analysis and outlined in paragraphs 71 and 72. The Department also states that the heritage impacts of the replacement building have been considered, as cited in paragraph 70.

79. The Commission does not support the demolition of Wilkinson House for the reasons set out below. This decision is made following consideration of s 4.15(1)(a)(i) (re: cl 5.10 of SLEP and cl 35(6)(a) of the Education SEPP); and s 4.51(1)(b), (c), (d) and (e) of the EP&A Act.

Heritage and demolition

80. **The Commission finds that the demolition of Wilkinson House will result in an adverse impact to the Heritage Item and the Conservation Area.**

81. This outcome is acknowledged by the Applicant. The Commission is of the view that too much weight had been given to the 'circumstances of the case', being the need to demolish in order to provide contemporary education on the Site, and not enough to the actual impacts of demolition on the heritage values of the Site and the streetscape.
82. Clause 5.10(4) of SLEP states that "The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned." This is a s 4.15 consideration under the EP&A Act (s 4.15 (1)(a)(i) and applies to the granting of consent for the demolition of Wilkinson House given its heritage values and setting within a conservation area.
83. No compelling case has been presented for demolition of Wilkinson House, noting the heritage significance of this building. Wilkinson House is listed as a contributory building as part of the SCEGGS Heritage Item listing and within the East Sydney Conservation Area (under SLEP). As noted in paragraphs 64 and 65, the Applicant's own heritage analysis identified that demolition will result in a loss of heritage values and negative heritage impacts, but that the new building will serve the needs of the School.
84. The Applicant's justification for demolition, contained in the Options Analysis, is based on an assessment of the advantages for the School in Option C compared to the disadvantages of the other Options. The emphasis in the analysis is on demonstrating the need for a new building, not on heritage values or outcomes.
85. The Commission does not accept the heritage impacts of demolition will be mitigated by the Department's proposed conditions of consent requiring recording of the building.

Justifiable need

86. **The Commission does not accept the Department's assessment that the Applicant has presented a strong argument for demolition as the only means to meet current and future education demands.**
87. The alternatives to demolition have not been sufficiently explored, such as the adaptive re-use of Wilkinson House as presented in Option A or Option B.
88. Given that the Application does not dispute the heritage significance of Wilkinson House, the Commission cannot form the view that demolition is acceptable on heritage grounds. For this to be the case, the Commission would need evidence that demolition is the only reasonable option available.
89. Although the SDCP does not technically apply to a SSD application, the SEARS referred to the SDCP as a policy to be addressed. Clause 3.9.1 of SDCP does provide a guide to what aspects should be considered when demolition is proposed as detailed below:

(6) Where the development application proposes the full or substantial demolition of a heritage item, or a contributory building within a heritage conservation area, the Heritage Impact Statement is to:

(a) demonstrate why the building is not capable of retention or re-use;

(b) include a statement from a quantity surveyor comparing the cost of demolition to the cost of retention if the demolition is recommended primarily on economic grounds;

(c) include a report by a suitably qualified structural engineer if the

demolition is proposed on the basis of poor structural condition; and

(d) include a pest inspection report if the building is a weatherboard building.

90. However, no detailed evidence was presented in the Application that the building was in poor structural condition; or that the costs of adaptive re-use would be prohibitive.
91. The Department's basis for supporting the demolition of Wilkinson House is its conclusion that the building cannot be retained for educational uses, as identified in the Options Analysis. The Commission does not agree with the Department's assessment of the Options as outlined in Table 14 of the Department's AR and summarised in paragraph 72 above for the following reasons:
- a. The *BCA and Access* assessment is not convincing as the building is being used for school purposes at present. There is no evidence that any non-compliances under Option A or Option B could not be resolved by fire-engineered alternate solutions. The Applicant's BCA Report for the Stage 1 building notes that alternate solutions would be required for the new building in any case. The Commission accepts that works to improve/achieve BCA compliance in Options A and B would be at a cost. However, the floor plan outcomes under Option B are not dissimilar to that under Option C (demolition and a new building), and involve a construction cost of over \$9 million.
 - b. The discussion on the *Thermal Qualities* of the existing building is not compelling. There is no evidence of the differences in thermal performance of the existing masonry building elements, versus the thermal performance of the new Stage 1 building. Adaptive re-use would still allow for increased thermal performance measures including the rebuilding of two of the facades of the building in Option B.
 - c. Considerations of *Amenity-Daylight, Views, Privacy and Acoustics* could be addressed in Option B. The applicant's issues with the proportions of the existing windows could be addressed by new openings to the light well on the western side. Given the school use, the need to improve views from the building (as given as a reason for the failing of Options A and B) is not a compelling justification for demolition.
 - d. *Ventilation and Floor to Ceiling Heights* will be improved in a new building, but there may be scope for increasing ventilation in either Option A or B. The floor to ceiling height constraints of the existing and proposed buildings are comparable.
 - e. The findings of the Applicant's Structural Options Report are summarised on pp39-40 of the Department's AR. The Commission identifies that there would be construction challenges with Option B (façade retention). However, no costings of this Option have been provided so as to determine whether the costs would indeed be prohibitive.
 - f. The advantages in terms of the potential room sizes in Option C compared to that in Option A is not apparent. Option A offers improved spaces compared to the existing building. Option B appears to have only a marginal extra class room floor areas – classrooms being 59m² compared to 64m² in Option C. The smaller nooks and balcony spaces provided in the existing building could still have a functional use, for example as breakout spaces for small groups or study nooks.

- g. While it is acknowledged that the new Stage 1 building accommodates additional multipurpose space and ancillary uses in the basement there has been no analysis as to whether these uses could be accommodated elsewhere on site.
92. The Commission appreciates the need for the school to provide contemporary learning spaces and based on the information provided by the Applicant, understands there could be difficulties and additional costs involved in retaining or adaptively re-using the building either under Options A or B as outlined in the Options Analysis. However, the Commission is not convinced that the adaptive re-use of the building as existing (Option A) or the retention of at least two facades (Option B) have been sufficiently explored or detailed in order to support complete demolition when weighed against the heritage significance of Wilkinson House including its contribution to the local conservation area.

Stage 1 building

93. **The Commission does not find the Stage 1 replacement building results in an acceptable heritage and streetscape outcome compared to the existing Wilkinson House, particularly noting its status as a contributory building.**
94. In relation to building design, the Department has not specifically referred to the new Stage 1 building replacing Wilkinson House in its assessment undertaken against the Education SEPP's urban design principles as outlined in Table 22 of the Department's AR, other than to reference that "building envelopes have been designed to enhance the appreciation and significance of the heritage items within the site and contribute to the streetscape and conservation area."
95. In considering the Education SEPP's urban design principles, the Commission does not agree with the assessment of the Department in paragraph 76 (which is based on the Applicant's submission). As the building is purpose built, there is no question that the educational function type Principles in Schedule 4 of the SEPP will be met. However, the Commission has considered the demolition/new building aspect of Stage 1 as a whole, not just the proposed building envelope. In terms of the urban design principle, 'Context built form and landscape', the merits of demolition and the construction of the replacement building are not apparent. The Commission does not agree with the Department's assessment of the proposed Stage 1 building enhancing the positive qualities of the setting while noting that a heritage listed contributory building will be demolished. The replacement building is of a similar massing and height but does not enhance the heritage setting, streetscape nor appreciation of the significance of the items on the Site and Conservation Area.
96. Furthermore, the Commission considers that the additional floorspace provided in the Stage 1 building adds weight to the argument that demolition is not warranted. The GFA of Wilkinson House as existing is 1,161.90m²; and the GFA of the proposed new building is 1,325m². This is only 163.1m² of additional GFA. It has not been demonstrated that the proposed learning spaces could not be accommodated in Wilkinson House or the new 5,692m² Multi-Purpose Building, or that Wilkinson House could not equally be used for administrative or other purposes.

97. The Commission agrees with the Council's submissions (set out in 5.1.2 of this Statement of Reasons) that given the heritage significance of Wilkinson House, the demolition of Wilkinson House has not been sufficiently justified. The Commission also agrees with the Council as identified in paragraph 61 that an updated CMP for the Site should have preceded the preparation of the Concept Proposal, as this would have identified the heritage constraints and the parameters for any new development. A revised CMP for the Site will be required by the Commission as a condition of consent, to be prepared and endorsed prior to the submission of any future development application/s.
98. As demolition of Wilkinson House is not supported, the Stage 1 works in the Application are not approved.
99. The Commission notes that the Stage 1 works also include the provision of temporary demountable buildings on the Sports Hall roof during works to Wilkinson House. This part of the Stage 1 works is not approved as a consequence of the demolition of Wilkinson House and the Stage 1 building not being approved.

5.2 Demolition of Other Buildings

100. The Applicant also seeks consent for demolition 'in concept' for the Old Library and Science Building (not contributory heritage buildings), the Old Gym Building and part of the additions to the Barham Building.

Public Comments

101. Comments received during the exhibition are referred to in section 5.3.3 of the Department's AR and 'Heritage impacts'. Comments on Wilkinson House and Barham House are grouped together as noted in paragraph 53 above.
102. Public comments received by the Commission were supportive of the Applicant's efforts in relation to the restoration of the Barham Building including removal of the later additions.
103. Two submissions received by the Commission raised concerns regarding the blocking of views of Barham Building from the Forbes Street streetscape noting that there should be no new buildings constructed to the east of the Barham Building. A resident comment noted that the new administration building did not reflect the cultural and heritage context of the Site.
104. No public submissions to the Commission directly referred to the demolition of the Old Gym.

Council's Comments

105. In relation to the demolition of the **Old Gym Building**, Council in its submission to the Department stated "This 1925 building is not specifically identified in the heritage inventory as being significant but it is part of the heritage listing. It is also part of the Contributory item in the HCA [Heritage Conservation Area]".
106. Council also stated:

It is considered that cumulatively the demolition of Wilkinson House and the old Gym Building will erode the heritage significance of the heritage listed site. Should the DPE be of the mind to support the proposal as a minimum Wilkinson House should be retained and adaptively reused...

107. Council's continuing objection in the submission to the Department on the RtS is quoted in paragraph 59.
108. Council, in meeting with Commission indicated that:

The Old Gym building, which is identified as moderate significance in the heritage impact statement by TKD Architects, actually contributes to the overall significance of the site and its demolition has potential for cumulative adverse effects on the heritage significance of this site. Its demolition will also remove additional heritage fabric, yet another contributory building from the conservation area, and further dilute the significance of the area.

Applicant's Consideration

109. In relation to the impacts of the demolition of the Old Gym, in the Applicant's RtS, the Applicant states (in section 3.3.3):

The National Trust is opposed to the demolition of the Old Gym building in the view that it will erode the heritage significance of the whole school site. The proposed multi-purpose building necessitates the demolition of the Old Gym and the rear (western) annexe to the Chapel Building. The Old Gym is assessed as having moderate heritage significance within the Heritage Impact Statement provided with the EIS; however, it is not explicitly identified within the local heritage listing of the site. The exterior of the building has been substantially modified with intrusive additions and alterations with a low level of physical integrity. Accepting the low integrity of the building and its assessed level of significance, removal of the building will permit the provision of new facilities and spaces which better serve the current and future needs of the School.

110. The Supplementary HIS (pA-8) refers to the concerns regarding the demolition and states:

The Old Gymnasium was constructed in 1925 as the School's first gymnasium building. Externally the building has been substantially modified by the construction of the concrete walkway and stairwell to the north of the building and the storeroom extension to the south of the building, which are of little heritage significance and/or intrusive to the building. The walkway and stairwell in particular have significantly diminished the appreciation of the building from the north. The building has also been modified internally. Owing to its low level of physical integrity, the building has been assessed as of moderate significance.

Department's Assessment

111. Section 6.1 Demolition, of the Department's AR states:

The Department notes the HIS concludes the demolition of the Old Science and Library Building and the additions to the Chapel / Barham would have positive heritage and visual impacts and are acceptable. The Department agrees with the conclusions of the HIS...

112. In relation to the impacts of the demolition of the Old Gym Building, the discussion in the Department's AR in section 6.1.2 states:

The Department notes that the Old Gym Building is not highly visible from surrounding public areas and roads, has been significantly altered, has a low building integrity and is not mentioned in the SCEGGS listing as being of any particular significance. The Department therefore accepts the HIS' conclusions that the demolition of the Old Gym Building would have only a minor heritage impact.

113. The Department's AR also notes that the Applicant's HIA (referred to in this SoR as the HIS):

...has considered the heritage significance of the Old Gym Building and concludes it is of moderate significance for its historic, aesthetic and social value to the school. Notwithstanding this, the HIA's assessment states that overall the physical integrity of the exterior fabric and many of the internal classroom and staff spaces is generally low. The HIA concludes the demolition of the Old Gym Building would have only a minor heritage impact for the loss of original/early fabric and the building's associations with the development of the School.

Commission's Findings

114. The Commission agrees with the Applicant's submissions and the Department's conclusions with regards to the Old Gym, Old Science Building, Library Building and additions to the Chapel/Barham House in paragraphs 109 to 113 above and supports the component of the concept plan seeking demolition of those buildings. The Commission approves the demolition of these buildings in the Concept Proposal.

5.3 Concept Building Envelopes

Public Comments

115. Of the public submissions on the DA, 18% referred to 'Inappropriate building designs and inadequate setbacks' as referred to in section 5.2 of the Department's AR. This concerns the proposed building envelopes for the Multi-purpose and Administrative Buildings (and possibly that of the new Wilkinson House building).
116. During the period of the Commission's consideration of the Application, of the 24 submissions that were received, ten referred to concerns in general terms regarding 'overdevelopment of the site' or 'bulk and scale'; concerns with non-compliance with height controls; or specifically mentioned issues associated with the Multi-Purpose Building such as overshadowing of Thomson Street; and with the Administration Building blocking views to Barham from Forbes Street.

Council's Comments

117. In relation to the heritage impacts of the concept building envelope for the Multi-Purpose Building, the Council in its submission to the Department during the exhibition stated:

The bulk of the proposed building envelope located between Forbes Street and the existing Barham building is significantly larger than the existing structure. The proposed envelope has the potential to obscure Barham building from Forbes Street.

The new building envelope is to the street alignment and has the potential to dominate the Chapel building.

The proposed envelope cannot be supported in its current form and needs further refinement to be sympathetic, particularly to the most important building on the site.

118. In relation to bulk, scale and height, Council in its submission to the Department during exhibition stated:

The proposed building envelopes provides a generally appropriate scale to Bourke Street at the boundary, but rises very quickly (in breach of the maximum height) taking cues from the detracting building it is replacing rather than the controls or what is appropriate in the context. Section EE from the submitted drawings shows clearly the breach of height. The result is an envelope that is over-scaled, excessively bulky and too high, resulting in a poor streetscape outcome.

The proposed envelope for the new multi-purpose building would provide a better fit with the context of Bourke Street and the conservation area if it complied with the maximum height control in the LEP.

119. The Council in its submission to the Department on the RtS stated:

The City acknowledges and is generally supportive of the reductions to the building envelope fronting Bourke Street. However, the envelope should be amended such that the street wall height matches the adjacent terraces, and the level above is setback with no protrusions beyond the ridgeline of the terraces.

120. In relation to overshadowing, the Council in its submission to the Department during exhibition stated:

The impact on 4 Thomson Street does not comply with the DCP requirement. The dwelling does not meet the minimum requirements, yet is being made worse by the development.

Shadow diagrams in elevation demonstrate that 6 Thomson Street currently receives sun in their front downstairs room from 1pm-3pm. This will be lost due to the proposed development. It is likely this is the window to the main living /dining area within the dwelling.

These impacts are not acceptable.

121. In Council's Meeting with the Commission, the Council reiterated its views regarding the bulk and scale of the Administration Building with respect to the Chapel and Barham House as it will be visually dominant within the context of the two buildings and that "The size and location of the new building will potentially affect significant views and sightlines towards Barham House."

Applicant's Consideration

122. The Applicant responded to the original submissions with amendments to reduce the building envelopes. In the RtS, the Applicant identified that in summary, the amendments were:

Multi-purpose building:

- *Modified envelope of built form to fit generally within the envelope of the existing buildings and to make sure there are no additional view impacts and shadow impacts are minimal;*
- *Relocation of indicative driveway entrance to allow retention of street tree; - Increased setback from Bourke Street at the upper levels; and*
- *Blade wall against Bourke Street terraces removed to reduce bulk and scale.*

Administration Building and Barham House:

- *Reduced height of parapet to match adjacent Chapel Building gutter level; and*

- *Roof plant set back 6.7m from eastern façade to reduce the visual impact from Forbes Street*

123. The Applicant's RtS provides detailed commentary and diagrams on the changes to building heights and envelopes, particularly for the Multi-Purpose building.
124. In terms of the concerns regarding the views to Barham House, and the impact of the Administration building on the streetscape, the Applicant's RtS in Section 3.3.2 states that the reduction in the building height and envelope:

... allows the Chapel Building to maintain its visual prominence within the streetscape and respect its heritage significance. ...The reduction in the height of the Administration Building parapet will have a positive heritage impact as it will assist in the retention of the significant north-west presentation of Barham House and better relate the new building to the scale of the existing building. Additionally, the proposed Administration Building envelope will not block views towards Barham House from Forbes Street as there are no existing views to the historic dwelling.

Department's Assessment

125. The Department's assessment of 'Built form and heritage' including consideration of the six storey Multi-Purpose building proposed on Bourke Street and the three storey Administration Building on Forbes Street is detailed in section 6.2 of the AR:

The Department has considered the concerns raised in public submissions and by Council and concludes the bulk and scale of the Administration and Multi-Purpose Building envelopes are appropriate and would not have unacceptable heritage impacts...

The Department concludes that the proposed building form would not be detrimental to the heritage values of the site and surrounding area and is appropriate having regard to the existing built form within the site and the surrounding urban context.

126. The Department's AR states: "The Department recommends a condition requiring future detailed DA(s) for the detailed design of each stage to include a detailed Heritage Impact Assessment that considers the historic significance of the site, the buildings within it and the impact of the proposed development".
127. This section of the Department's AR also considers the proposed building heights and massing of each envelope. In relation to **building height** the Department's AR states:

...the Multi-Purpose and new Wilkinson House building envelopes exceed the SLEP 15m building height control for the site as follows:

- *Multi-Purpose Building – maximum height 17.49m (2.49m exceedance) (Figure 19).*
- *Wilkinson House building – maximum height 16.3m (1.3m exceedance) (Figure 20).*

The Administration Building envelope is a maximum of 13.4m and would not exceed the SLEP maximum height control.

128. The Applicant submitted a clause 4.6 submission in relation to the variation to the SLEP building height development standard, and the Department's AR states:

... clause 42 of the Education SEPP stipulates that development standards do not apply to schools that are SSD. Notwithstanding the provisions of the Education SEPP, the Department has considered the provisions of clause 4.6 as a guide in its assessment of the proposed building height. It has considered the general merits of the proposal and the impacts of the height variation on the surrounding area in assessing whether the built form is appropriate for the site. Therefore, the Department requested the Applicant to provide a clause 4.6 variation request, which considers the variation of the SLEP height of building development standard.

129. The Department's AR states: "In response to the initial concerns raised about building height, the Applicant reduced the height and scale of the Multi-Purpose Building envelope".

130. In relation to building height under the concept proposal, the Department's AR concluded:

Overall the Department concludes that compliance with the standard is unnecessary and unreasonable in this circumstance, and there are enough environmental planning grounds to justify contravening the development standard. The proposed height and scale of the building envelopes is appropriate having regard to the surrounding development and site constraints. The Department notes the benefits associated with the proposed upgrade to the school facilities and considers the proposed height exceedances have been justified in terms of the objectives of the development standard and can be supported.

131. In relation to building height for **Wilkinson House**, the Department's AR concluded:

The Department considered height of the Wilkinson House building under the Concept Proposal (preceding section) and concluded that the proposed height was acceptable given the height of the existing building to be demolished and in the context of the site.

132. The Department has undertaken an assessment of the impacts on 'Residential amenity' (which arises from the proposed building envelopes) in section 6.4 of the Department's AR including impacts on views, overshadowing and privacy.

133. In relation to loss of **views**, the Department's AR concludes "...the location, height and scale of the proposed building envelopes (including the replacement Wilkinson House building) are such that impacts on all neighbouring views are beneficial, nil or negligible ... with the exception of Level 2 Horizon Building."

134. The Department's AR stated that the Department has followed a four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah* [2004] NSWLEC 140 to ascertain whether or not the proposed view sharing impacts on Level 2 of Horizon building are reasonable.

135. The Department's AR concluded:

Overall the Department considers that the proposal has been sympathetically designed and would not have significant impacts on existing views from neighbouring residential properties. In this context the Department does not consider it reasonable to require additional amendments to further limit the impacts on existing views.

On the basis of the above comments and the Tenacity assessment ... the Department concludes that the view loss analysis undertaken is satisfactory and it has been adequately demonstrated that view loss impacts would be acceptable.

136. In relation to **overshadowing**, the Department's AR stated:

Department considers that the proposal would have minimal additional overshadowing impacts and would result in an overall reduction in overshadowing on the front elevations of 2-6 Thompson Street.

The Department has recommended a condition requiring future detailed DA(s) include overshadowing analysis and demonstrate that the overshadowing impact on neighbouring residential properties have been minimised.

As the replacement building is generally the same height as the existing Wilkinson House, the Department is satisfied that it would not result in any adverse overshadowing impacts to neighbouring residential properties.

137. In relation to **privacy**, the Department's AR stated:

Consideration of privacy impacts associated with the Multi-Purpose Building would occur as part of the assessment of future detailed DA(s) for those works and the Department has recommended a condition that requires future detailed DA(s) include a detailed assessment of privacy impacts.

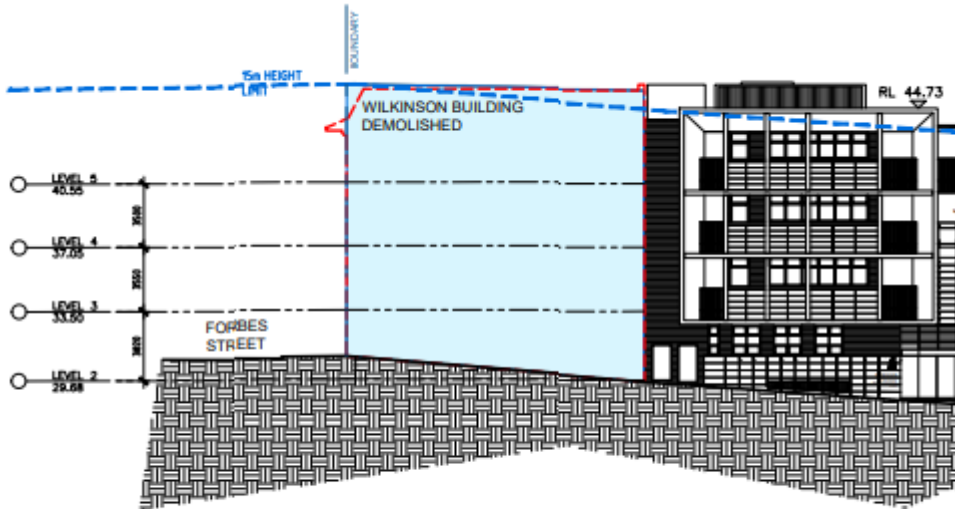
... the proposed replacement Wilkinson House building would not have an adverse overlooking impact on properties in the Horizon building or on St Peters Lane...

Commission's Findings

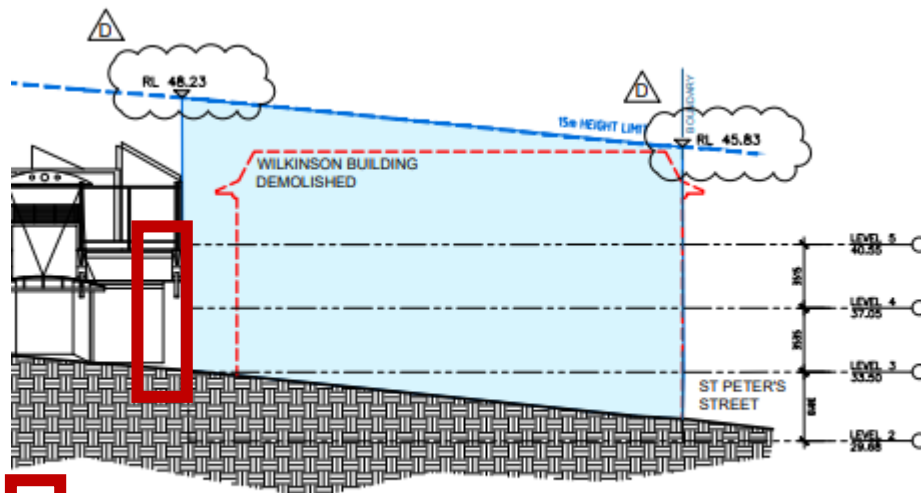
138. The Commission agrees with the assessment of the Department with regard to the suitability of the proposed building envelopes in terms of **height and bulk** for the Development, as amended in the RtS.
139. The Commission notes that cl 42 of the Education SEPP does not state that "...development standards do not apply to schools that are SSD", but states that consent may be granted even if the development standard would be breached.
140. Although a cl 4.6 submission is not strictly required, the Commission does support the reasons to exceed the building height standard as outlined in the Applicant's cl 4.6 submission and agrees with the Department's assessment of the proposed building heights in paragraph 130.
141. The proposed GFA and FSR is also supported, with the exception of the full envelope proposed for the replacement Wilkinson House (see paragraph 148 below). The Commission identifies that as shown in the Table in the Applicant's Drawing AR.MP.1103 Rev B, the FSR will be 1.56:1 on the 'main school grounds' part of the Site (that part of the land with an FSR under cl 4.4 of SLEP of 1.5:1). However, the Commission supports the GFA as proposed by the Applicant in the building envelopes, except for the Concept envelope proposed for Wilkinson House.
142. The Commission also supports the Department's proposed conditions in this regard for consideration in later stage development applications.
143. The **view analysis** in the Application and as assessed in the Department's AR has been reviewed by the Commission. The Commission agrees with the conclusions of the Department in paragraphs 133 to 135. This includes consideration of the potential view loss from Level 2 of the Horizon Building.
144. The Commission has viewed the **shadow diagrams** provided by the Applicant. The Commission concurs that the proposal will result in minimal overshadowing impacts as assessed by the Department in paragraph 136.

145. The impacts arising from development within the proposed concept envelopes in terms of **privacy** on adjoining residences will not be problematic, and the Commission agrees with the assessment by the Department in paragraph 137.
146. As the Commission does not support demolition of Wilkinson House and the Stage 1 building, **the concept envelope for the Wilkinson House part of the Site** is not approved. A concept envelope that matches that of the existing Wilkinson House being the envelope shown as a red dashed line (not solid blue line) is approved, see Figure 2 below.
147. Extra envelope in plan, being an extension from the existing building to the Sport Hall, as show in Figure 2 is acceptable in principle but as the GFA has not been calculated, has not been approved as part of this Application.

Figure 2 Building Envelope to be approved by Commission shown by dashed red line
 (Source Applicant's Drawing AR M.P 3002 Rev D)



ELEVATION AA - ST PETER'S STREET



Possible area for additional floorspace (shown above)

148. The approved GFA based on the building envelope shown by the red dashed line in Figure 2 is as shown in Drawing AR.MP.1103 Rev B. The GFA approved in the Concept Proposal has been adjusted in the consent to exclude 163.1m², being the difference between the GFA of the existing Wilkinson House (1,161.90m²) and the replacement building (1,325m²).

5.3.1 Parking, Traffic Generation and Management

Public Comments

149. Table 12 of the Department's AR indicates that of the 110 public submissions, 65% raised issues with traffic, car parking and the impact of the operation of the School including pick up and drop off time.
150. Of the 24 submissions received by the Commission, 16 referred to existing traffic and parking problems associated with the school, including double parking, buses banking up in Forbes Street, the lack of management of vehicles, dangerous three point turns occurring in Forbes Street and the use of the driveway of the Horizon Building. Several submissions raised the need for the re-opening of St Peter's Street, currently a shared street with a gate which is closed to vehicular traffic except for peak drop-off and peak hours for the school.

Council Comments

151. The Council in its submission to the Department during exhibition stated that the existing 112 onsite parking spaces exceed the maximum 86 spaces permitted under the SLEP. Council stated:

The removal of the Forbes St carpark is supported. The provision of the new Bourke St carpark with 22 spaces is not supported particularly noting the following:

- *the EIS clearly indicates that there is no increase in either staff or student numbers as part of this application;*
 - *the Bourke St carpark is part of the future Stage 3 proposed to commence the earliest in 2030;*
 - *Stage 3 is only conceptual in nature and it is not good planning to agree to provision of a non-compliant car park with a precise number of spaces as part of a 'masterplan' application;*
 - *the Bourke St carpark relies upon removal of a street tree, construction of a new driveway and relocation of existing kerbside parking, all of which requires separate approval from the City and the Local Pedestrian, Cycling and Traffic Calming Committee.*
152. The Council in its submission to the Department on the RtS stated: "The City does not accept the [Applicant's] argument regarding the redistribution of car parking and maintains its previous objections".

Applicant's Consideration

153. The Applicant's EIS provided a summary of the findings of the Traffic report. The proposed increase to car parking on the Site is marginal as indicated in Table 1 of this Report and the EIS states (p66):

As a result of the proposal it is anticipated that a net positive impact on parking impacts surrounding the site will be delivered through the centralisation of additional parking on Bourke Street and additional drop-off/pick-up spaces within the site boundaries. The local roads surrounding the site include on-street parking spaces. A potential three existing dropoff/pick-up spaces on Bourke Street may be required to be removed to accommodate the proposed new driveway.

154. In relation to drop-off and pick-up management, the Applicant's EIS (p66) stated:

In response to neighbouring concerns the following actions have been undertaken:

- *A Traffic and Pedestrian Management Plan was developed and implemented within the school community, the plan:*
 - *– reiterates consideration of neighbours e.g. do not use the Horizon Apartments driveway as a U-turn bay or park over driveways, block traffic reiterates safe behaviour e.g. no double parking, illegally overtaking, stopping on pedestrian crossings, U-turns supports ongoing parent /carer education in relation to traffic infringements and signage*
- *Buses are encouraged to turn engines off when waiting for pick up / drop off to minimise air borne pollutants*
- *Traffic control is arranged when additional buses are required for transportation to offsite school events to ensure safety and minimise disruption of traffic to adjoining neighbours*
- *The above management methods are proposed to be retained as part of the Concept Plan.*

155. A revised Traffic Impact Assessment was provided by the Applicant as part of the RtS. The Applicant's RtS stated:

The proposed parking provision does not increase the total number of spaces associated with the School use. The seven spaces to be removed from the Forbes Street car park will be incorporated into the proposed basement. The additional five parking spaces and seven pick-up and drop-off spaces are associated with the childcare centre use in accordance with the Sydney DCP

There will be no increase in traffic associated with the school use as there will be no increase in the number of students or staff, traffic impacts associated with the school

The Revised Traffic Impact Assessment has found that the additional children and staff associated with the childcare centre will have a negligible impact upon current traffic flows, intersection performance and congestion levels. The pick-up and drop-off area for the centre will be located within the basement car park and will not affect queuing and existing school pick-up and drop-off locations.

156. The Applicant, in the meeting with the Commission, advised that the School had implemented a traffic and pedestrian management plan that is issued to all parents and staff.

The management plan clearly states that ... U turns aren't permitted on the Horizon property and using their porte cochere is not permitted. The plan is reinforced monthly in the school's newsletter. The school has staff that are accredited RMS traffic ...controllers, who are present at each of the pick up and drop off. If they have a special event they employ more staff to manage buses and vehicles. There's been a sign installed on the columns on the entry of the porte cochere, obviously with Horizon's permission, and the school's correspondence with Shaun, who is the Horizon property manager, is that – his feedback is that there's been no complaints for the last 12 months.

Department's Assessment

157. The Department has undertaken an assessment of the parking and traffic impacts in section 6.3 of the Department's AR.

158. The Department's AR stated that Transport for New South Wales (**TfNSW**) raised no objection to the car parking provision. The Department noted that TfNSW "stated that the design and operation of the new basement is a matter for detailed consideration as part of future detailed DA(s) and recommended future detailed DA(s) include a TIA" [Traffic Impact Assessment].

159. In relation to car parking, the Department concluded that:

...the relocation of the seven existing school car parking spaces is minor in nature and acceptable subject to the deletion of the redundant spaces from the surface car park".

..the additional 15 car parking spaces are acceptable...

The replacement Wilkinson House building does not include any additional car parking. The Department considers this to be acceptable as the proposal would not result in an increase in student or staff numbers and therefore is not required to provide additional car parking.

160. In relation to traffic generation and management, the Department's AR states:

The Department has considered the concerns raised in the public submissions, comments by Council and information provided by the Applicant. The Department recognises the public concern with regard to the potential for the proposed redevelopment to allow for an increase in student enrolments. Given the strong reliance of the TIA on there being no increase in student and staff numbers and that the childcare centre has a maximum capacity of 45 places, the Department considers it appropriate to cap the maximum number of students and staff and childcare places. Imposition of such limits would ensure that the assumptions of the TIA (and the application as a whole) are realised and impacts are not increased beyond what has been assessed.

161. The Department's AR stated:

The Department considers that the proposal would have minimal impact on the surrounding road network and the performance of nearby intersections as:

- *there is no increase in school staff, student or car parking numbers, therefore the additional traffic generation relates only to the operation of the proposed childcare centre and service vehicles.*
- *the proposed increase in vehicle movements during peak periods (Table 15) is minor in the context of the existing vehicle movements and is unlikely to result in a noticeable difference when compared to the existing situation.*
- *the proposal would result in only very minor additional delays at the key intersections and would not impact on the LoS of nearby intersections.*
- *appropriate sustainable travel measures can be encouraged through the preparation and implementation of a GTP that is intended to encourage a shift away from a reliance on private vehicle use.*
- *the TPMP includes pick-up/drop-off instructions, including clarification that the porte-cochere of the Horizon building is not to be used for u-turns and cars should not be parked across driveways.*

162. The Department's AR concluded:

..the traffic impacts of the proposal are acceptable and can be appropriately managed and mitigated. In addition to the school population cap condition, the Department recommends conditions requiring:

- *future detailed DA(s) include a detailed TIA, which considers the traffic generation and operational traffic impacts resulting from the detailed design of the development.*
- *future detailed DA(s) include a GTP [Green Travel Plan].*
- *the preparation and implement of a GTP prior to the occupation of the new Wilkinson House building.*

Commission's Findings

163. The Commission acknowledges the concerns of the community in relation to car parking and traffic management outlined in paragraphs 149 and 150.
164. The Commission notes that TfNSW raised no objection to the proposed car parking provision. The Commission agrees with the Department's assessment regarding the minor increase in car parking on the Site, as explained in paragraph 159 above. The Commission is of the view the relocation of the seven existing school car parking spaces and the addition of 15 new carparking spaces is acceptable.
165. The Commission notes that the Applicant has stated (see paragraph 155) that there will be no increase in students or staff associated with the school and the additional children and staff associated with the childcare centre will have a negligible impact upon current traffic flows, intersection performance and congestion levels.
166. The Commission agrees with the Department's Assessment that "the proposal would have minimal impact on the surrounding road network and the performance of nearby intersections" for the reasons set out in paragraph 161. The Commission agrees with the Department (see paragraph 162) that the traffic impacts of the proposal are acceptable and can be appropriately managed and mitigated.
167. The Commission agrees with the Department's statement in paragraph 160 that the TIA strongly relies on there being no increase in student and staff numbers and the childcare centre having a maximum capacity of 45 places. The Commission therefore considers it appropriate to adopt the Department's recommended condition capping the maximum number of students and staff and childcare places. Conditions A8 and A10 will allow for minor variation to numbers to allow for unexpected fluctuations
168. The Department has also recommended conditions requiring future DAs to include a detailed TIA as stated in paragraph 162. These conditions are imposed by the Commission.
169. The issue of the re-opening of St Peter's Street is discussed under Other Issues in Section 6.6 of the Department's AR and the Commission agrees with the Department's assessment and conclusions that the opening of this street is not a matter that can be pursued in this Application.

5.4 Other Issues

170. The Commission agrees with the Department's Assessment on the 'Other Issues' not already discussed above (St Peters Street) that are relevant to the Concept Plan. Comments are made on particular issues as follows:

Child care centre

171. The issues raised in public submissions during the exhibition referred to the increased size and capacity of the school, which included the new child centre. This was referred to in Table 12 of the Department's AR and 27% of public submissions noted this as an adverse impact.
172. The public comments received by the Commission did not focus on the childcare centre except in relation to the potential traffic impacts which have been considered in Section 5.3.1 of this Report.
173. Paragraphs 37 to 39 of this Report refer to the assessment presented by the Applicant and assessed by the Department with regard to the requirements of the Education SEPP. The Commission concurs with section 6.6 of the Department's AR and the assessment that that the future amenity impacts of the child care centre can be addressed in the future DA for the actual premises, and that:

...the inclusion of a child care centre is within the Site is acceptable subject to the previous comments [including noting the reduction from 90 to 45 places] and recommended conditions set out in the report (amenity, traffic, noise and maximum capacity) and compliance with the design and operational requirements of the CPG.

Landscaping

174. The Council's comments to the Commission dated 8 April 2020 recommended changes to the recommended conditions of consent in relation to landscaping conditions being satisfied in future DAs.
175. The Department's AR states:

The Department considers the proposed concept landscaping is acceptable noting that it proposes an indicative landscape design that maximises the efficient and appropriate use of spaces and includes the planting of various native trees and plants in accordance with the City of Sydney Landscape Code

The Department is satisfied that future detailed DA(s) would be capable of demonstrating a high standard of landscape design, the provision of acceptable hard and soft planting and replacement trees and vegetation.

The Department has recommended a condition requiring future detailed DA(s) include a Landscaping Plan.

176. The Commission agrees with the Department's statement in paragraph 175 and has adopted the condition requiring that future DAs include a Landscaping Plan. The Commission has reviewed the Council's recommended conditions referenced in paragraph 174 and has adopted some of these as requirements for future development application/s, but not as conditions of the Concept Proposal.

Operational waste and recycling

177. The Department's AR notes that the Applicant has confirmed that the school has an existing waste and recycling storage area adjacent to the main entrance. As there is no proposed increase in student numbers it is not necessary to provide new/additional waste or recycling facilities. The Department notes that the recommended student cap condition ensures that there would be no increase in student and/or staff numbers. Therefore, the Department agrees that additional waste and recycling storage facilities are not required beyond the existing facilities.
178. The Department has recommended a condition requiring future detailed DAs to include an Operational Waste Management Plan.
179. The Commission agrees with the Department's findings in paragraph 177 and has imposed the Department's recommended conditions requiring future DAs to require an Operational Waste Management Plan (**WMP**), with the additional reference for the WMP to address the Council's policy.

Bicycle parking

180. The Council in its submission to the Department on the RtS stated: "The City's previous encouragement of additional bike parking and EOTF is maintained in light of the applicant's commitment to shift to active and sustainable transport nodes".
181. The Department has undertaken an assessment of bicycle parking in section 6.3.3 of the Department's AR. The Department's AR states: "The Department supports the proposed provision of 50 bicycle parking spaces...". The Department also stated that the Project will result in the removal of the existing 19 bicycle spaces and the Applicant has not demonstrated where, or if, these existing spaces would be re-provided. The Department concluded: "As the bicycle parking is proposed as part of the Concept Proposal, the Department considers that matters of detailed design, location and operation are more appropriately addressed as part of the assessment of future detailed DA(s)".
182. The Commission agrees with the Department in paragraph 181 that proposed bicycle parking can be addressed in future development applications.

5.5 Objects of the EP&A Act and Public Interest

Applicant's Consideration

183. The Applicant's RtS states the Development is in the public interest for the following reasons:
- *The proposal has been prepared having regard to Council's planning policies and generally complies with the aims and objectives of the controls for the site;*
 - *Subject to the various mitigation measures recommended by the specialist consultants as summarised in Section 9 of this Report, the proposal does not have any unreasonable environmental or social impacts on adjoining properties or the public domain;*
 - *The site is well serviced by public transport and various walking and cycling routes and encourages more efficient management of vehicles around the site through a consolidated drop-off/pick-up zone at Bourke Street;*
 - *The proposal will result in the development of a high-quality educational environment for staff and students that:*

- Provides flexible working environments that can accommodate full classroom sizes;
 - Supports a fulfilling and diverse extra-curricular experience;
 - Provides an inclusive, supportive and secure pastoral environment for both primary and secondary school students; and
 - Provides efficient and environmentally sustainable facilities.
- The proposal has been designed to make a positive contribution to the overall built form of the site, having regard to topography and the heritage significance. The proposed built forms are sympathetic to the character of the surrounding neighbourhood and respect visual privacy of and significant views from neighbouring residential dwellings;
 - The proposal will contribute positively to energy efficiency and environmental sustainability. The design has incorporated many ESD features to reduce energy consumption during the life of the proposed development; and
 - The proposal has been revised and reduced in response to the submissions received during the exhibition period to reduce potential negative impacts on views and privacy.

Department's Assessment

184. The Department's AR states: "The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act". The Department's consideration is set out in Table 8 of the Department's AR.

185. The Department's AR states: "On balance, the Department is satisfied that the proposal would be in the public interest".

Commission's Findings

186. The Commission is of the view that the Concept Proposal is in the public interest, with the exception of the demolition of Wilkinson House for the reasons set out in Section 5.1 of this Report. As also identified in Section 5.1, the Commission finds that the Stage 1 Works are not in the public interest.

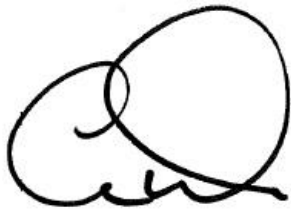
6 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

187. The views of the community were expressed through public submissions and comments received as part of the exhibition and Commission's determination processes. The Commission carefully considered all of these views in making its decision. The way in which these concerns were taken into account by the Commission is set out in **Section 5** above.

188. The Commission has carefully considered the Material before it.

189. The Commission has determined that development consent to the Application be granted in part. The Concept Proposal is approved with the exception of the demolition of Wilkinson House, and the consequential placement of temporary demountable classrooms on the Sports Hall. The Concept Envelope for the Wilkinson House part of the Site has been amended to reflect the existing envelope. The Stage 1 Works (the demolition of Wilkinson House, the construction of the replacement Wilkinson House building and the temporary demountable classrooms on the Sports Hall) are not approved.

190. The partial approval of the Application is subject to conditions of the Concept Plan and Conditions to be satisfied in future development applications, as set out in Schedule 2 to the approval.
191. Condition B20 has been imposed by the Commission to ensure that any future development application that relates to Wilkinson House fully considers the matters identified in Section 5.1 of this Report, in terms of the heritage significance of the building and the need for detailed justification, should any future application contemplate the loss of any heritage fabric.



Chris Wilson (Chair)
Member of the Commission



Professor Helen Lochhead
Member of the Commission