

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **24 OCTOBER 2018**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **CRAIG WATSON**
TEAM LEADER DEVELOPMENT ASSESSMENT

ATTACHMENTS:

1. **LOCALITY PLAN**
2. **PROPOSED PLANS**
3. **CIRQA TRAFFIC AND PARKING REPORT ON BEHALF OF APPLICANT**
4. **FRANK SIOW TRAFFIC AND PARKING REPORT ON BEHALF OF COUNCIL**
5. **TREE ENVIRONS REPORT ON BEHALF OF APPLICANT**
6. **SYMATREE REPORT ON BEHALF OF COUNCIL**
7. **REPRESENTATIONS**
8. **APPLICANT'S RESPONSE TO REPRESENTATIONS**
9. **STORMWATER PLAN AND REPORT**
10. **BOTTEN LEVINSON LEGAL OPINION ON BEHALF OF APPLICANT**
11. **MELLOR OLSSON LEGAL OPINION ON BEHALF OF COUNCIL**

HEARING OF REPRESENTORS: **TIM LOOKER**
NICOLE GILBERT
TIMOTHY BROOKS
PETER COVE

HEARING OF APPLICANT: **DEVELOPMENT PLAN CONSENT WITH CONDITIONS**

DA NO.	:	<u>110/00437/18</u>
APPLICANT	:	<u>SWANBURY PENGLASE ARCHITECTS</u>
LOCATION	:	<u>8 COLTON AVENUE, HOVE</u>
DEVELOPMENT PLAN	:	<u>CONSOLIDATED 2 JUNE 2016</u>
ZONE AND POLICY AREA	:	<u>RESIDENTIAL ZONE INSTITUTION POLICY AREA 4</u>
NATURE OF DEVELOPMENT:	:	<u>MERIT</u>
PROPOSAL	:	<u>THREE, TWO STOREY BUILDINGS, LANDSCAPING AND CAR PARKING ALTERATIONS</u>
EXISTING USE	:	<u>PRIVATE SCHOOL</u>
REFERRALS	:	<u>NIL</u>
CATEGORY	:	<u>THREE</u>
REPRESENTATIONS	:	<u>ELEVEN</u>
RECOMMENDATION	:	<u>DEVELOPMENT PLAN CONSENT WITH CONDITIONS</u>

1. Background

The application as originally submitted included the enlargement and fencing of an outdoor play space (to be associated with the Early Learning Centre (ELC)) on Mawson Oval and realignment of

parking spaces on Mawson Oval being the northern portion of the car park adjacent King George Avenue. At its meeting on 28 August 2018 Council deferred its decision to grant land owner consent. To enable planning consideration at this meeting of CAP the plans have been amended by deleting any works on Mawson Oval. This includes relocation of the ELC play space onto the school site (to front and rear of ELC building) and retention of that portion of the car park adjacent King George Avenue in its current configuration.

The application was originally scheduled for consideration by the Panel at its meeting on 26 September 2018. Following receipt of legal opinions on behalf of the applicant and Council regarding the capping of student numbers, the application was withdrawn from that meeting by the applicant to allow proper consideration of the legal advice. This report and recommendation has been amended in consideration of that advice.

2. Site and locality

The subject site extends between King George Avenue and Colton Avenue south of Wattle Avenue and includes a number of single and two storey buildings and on-site parking.

The school site is currently occupied by the Marymount College, which is a girls' middle school with years 6 to 9. The College has a current enrolment of 440 students and 27.2 full time equivalent (FTE) teaching staff and 14.4 FTE non-teaching staff. At its peak there were 540 students with 47 staff. A single vehicle access from King George Avenue serves a carpark for 21 vehicles. The northern portion of that carpark is on the Mawson oval site. Another 5 parking spaces are located to the south of the site and accessed by right of way over a Community Centre car park. There are two existing vehicle access points on Colton Avenue, the southern-most serving an internal driveway, the northern a 26 space car park. In addition to the car park encroachment there is also an existing outdoor classroom/nature play space encroaching onto Mawson Oval. There are a number of mature trees on site including three regulated trees and one significant tree.

Adjoining the school site to the south and west is the Holdfast Bay Community Centre comprising a number of single storey buildings and two separately accessed car parks. Also to the south but accessed from Colton Street are 10 single storey group dwellings. To the east of Colton Street and north of Wattle Avenue are predominantly single storey detached dwellings with some residential flat buildings. On the western side of King George Avenue is the Townsend Park Village comprising the State Heritage listed Townsend House and more recent single storey residential development.

Refer to Attachment 1

3. Proposed Development

Marymount College is in the process of amalgamating with Sacred Heart College, which will result in the relocation of the student and staff population to Sacred Heart's Mitchell Park campus. The existing site will be redeveloped to accommodate a new Catholic Primary School known as the McCauley Community School, which will allow for the closure and relocation of St Teresa's School (Strathmore Terrace, Brighton) to the subject site. The new school will accommodate up to 350 primary school students (reception to year 6) and 28 full time staff and a maximum of 90 Catholic Early Learning Centre (CELC) children and 11 staff at the start of the 2020 school year. The CELC will provide a long day care service for children between the ages of 3 to 5 with operating hours between 6:30am and 6:30pm. The applicant advises that in future years the maximum capacity may be in the order of 500 primary school students plus the 90 ELC children, with a total staff of 44.

The submitted plans depict:

- Demolition of the existing single storey resource centre, two storey classrooms and free standing verandah.
- Construction of three, two storey buildings. Building A comprising admin and years 5 and 6 will be sited in the approximate location of the existing single storey McLaughlin building. Buildings B & C will be constructed side by side to the rear of building A in the approximate location of the existing two storey Adamson building. An elevated pedestrian link and steel framed polycarb canopy will be constructed between buildings B and C. The existing Polding Centre multipurpose hall near the southern boundary and the music and arts building near Colton Avenue will be retained. The new buildings will comprise a mix of texture coloured precast concrete walls, rendered fibre cement and blockwork walls and colorbond metal deck cladding and roof plant screen.
- A new 24 space car park adjacent Colton Avenue and the southern boundary utilising an existing but modified crossover. Staff parking will be relocated from the western car park to the eastern car park.
- Increase from 26 to 28 parking spaces in the existing car park adjacent Colton Avenue.
- Modifications to the existing carpark adjacent King George Avenue to provide a more functional layout.
- Relocation of 5 parking spaces within the existing Community Centre car park 400mm to the south to bring that portion of the car park in alignment with the boundary and to provide an appropriate width path between Building A and that portion of the boundary.
- Removal of some existing non-regulated trees and one regulated tree and replacement with new trees and landscaped areas.

Refer to Attachments 2, 3 and 5

4. Public Consultation

The application was subject to a category 3 public notification. Eleven representations were received. The representations are summarised as follows:

- Increased parking and traffic congestion in King George Avenue and surrounding streets;
- Cirqa report has not adequately considered traffic impacts of future aged care development on Townsend Park site, increased traffic in King George Avenue, parking on Colton Street and medium to long term consequences;
- Further impact on Townsend Park driveway by its additional use for student drop off/pick up;
- Should consider increased on-site parking, incorporation of drive through "drop and go" zone and extension of existing drop off area;
- Safety concerns on Community Centre site with construction activities;
- Minimise dust and noise during construction and include shade cloth screening between school and community centre;
- Clearly identify school car park access on King George Avenue to minimise continuing use of Community Centre car park for student drop off and pick up;
- Survey boundary between School and Community Centre to ensure relocated parking spaces are correctly located;
- Overlooking of adjoining residential properties and opportunity to correct existing problem;
- Impacts on public access to Mawson Oval.

Refer Attachment 7

The applicant's response to the representations is summarised as follows:

- Additional traffic/parking information has been supplied by Cirqa but many of the representations refer to developments not connected with this development;
- Appropriate signage will be erected to identify carpark access;
- There will be no loss of public open space on Mawson Oval;
- Adjoining privacy will be maintained due to distance, existing tree screens on school and adjoining sites and window sill heights; and
- Appropriate surveys will identify site boundaries.

Subsequent to public notification the plans have been amended to exclude any alterations on Mawson Oval and clarification regarding future student numbers has been submitted.

Refer to Attachment 8

HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – NON RESIDENTIAL DEVELOPMENT – COUNCIL WIDE – PRINCIPLES OF DEVELOPMENT CONTROL

Crime Prevention	
1. Development should be designed to maximise surveillance of public spaces through the incorporation of clear lines of sight, appropriate lighting and the use of visible permeable barriers wherever practicable.	Complies.
2. Buildings should be designed to overlook public and communal streets and public open space to allow casual surveillance.	Complies.
3. Development should provide a robust environment that is resistant to vandalism and graffiti.	Complies.
7. Site planning, buildings, fences, landscaping and other features should clearly differentiate public, communal and private areas.	Complies.
8. Buildings should be designed to minimise and discourage access between roofs, balconies and windows of adjoining dwellings.	Complies.
Design and Appearance	
1. The design of a building may be of a contemporary nature and exhibit an innovative style provided the overall form is sympathetic to the scale of development in the locality and with the context of its setting with regard to shape, size, materials and colour.	Complies.
2. Where a building is sited on or close to a side boundary, the side boundary wall should be sited and limited in length and height to minimise: (a) the visual impact of the building as viewed from adjoining properties (b) overshadowing of adjoining properties and allow adequate sun light to neighbouring buildings.	Complies. Significant setbacks from side boundaries.
5. Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.	Complies.
8. The design of multi-storey buildings should not detract from the form and materials of adjacent State and local heritage places listed in <i>Table HoB/ 5 - State Heritage Places</i> or in <i>Table HoB/4- Local Heritage Places</i> .	Complies. The State Heritage Townsend House is a considerable distance from the subject site and will not be impacted.

Design and Appearance (Cont)	
9. Development on land adjacent to a State or local heritage place, as listed in <i>Table HoB/5 - State Heritage Places</i> or in <i>Table Hob/4 - Local Heritage Places</i> , should be sited and designed to reinforce the historic character of the place and maintain its visual prominence.	See above.
10. The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of: (a) windows of habitable rooms (b) upper-level private balconies that provide the primary open space area for a dwelling (c) solar collectors (such as solar hot water systems and photovoltaic cells).	Complies.
11. Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as: (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct (b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.	Complies. Significant spatial separation between school building and adjacent dwellings (35 metres) and no greater overlooking than currently exists.
15. Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.	Complies. Variation in height and articulation to front façade minimise visual impact and add interest.
22. Except in areas where a new character is desired, the setback of development from public roads should be: (a) screened from public view by a combination of built form, solid fencing and/or landscaping (b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles (c) sited away from sensitive land uses.	Complies. Similar to existing road setbacks and retention of mature trees and landscaped areas in front of buildings will ensure appropriate screening.
Energy Efficiency	
1. Development should provide for efficient solar access to buildings and open space all year around.	Complies.
2. Buildings should be sited and designed: (a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings (b) so that open spaces associated with the main activity areas face north for exposure to winter sun (c) to promote energy conservation by maintaining adequate access to winter sunlight to the main ground level of living areas of existing dwellings on adjoining land.	Complies.
3. Except for buildings that take advantage of coastal views, development should promote the efficient consumption of energy through the use of larger but appropriately shaded windows on the north and east building surfaces and smaller windows on the south and west building surfaces.	Generally complies.
4. Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by: (a) taking into account overshadowing from neighbouring buildings (b) designing roof orientation and pitches to maximise exposure to direct sunlight.	Design does not preclude future solar panels.

Hazards	
1. Development should be excluded from areas that are vulnerable to, and cannot be adequately and effectively protected from, the risk of hazards.	Complies.
2. Development located on land subject to hazards as shown on the <i>Overlay Maps - Development Constraints</i> should not occur unless it is sited, designed and undertaken with appropriate precautions being taken against the relevant hazards.	No constraints.
4. Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.	Complies.
5. Development should not be undertaken in areas liable to inundation by tidal, drainage or flood waters unless the development can achieve all of the following: (a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event (b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.	Complies.
14. Development, including land division, should not occur where site contamination has occurred unless the site has been assessed and remediated as necessary to ensure that it is suitable and safe for the proposed use.	Complies.
Heritage Places	
6. Development that materially affects the context within which the heritage place is situated, including development on adjoining properties and on nearby properties where there would be an influence upon the character, integrity and setting, should be compatible with the heritage place. It is not necessary to replicate historic detailing, however design elements that should be compatible include, but are not limited to: (a) scale, bulk and form (b) width of frontage (c) boundary setback patterns (d) proportion and composition of design elements such as rooflines, window and door openings, fencing and landscaping (e) colour and texture of external materials.	Complies. Sufficiently distant from State Heritage Place (Townsend House) as to have no impact.
10. Development of a State or Local Heritage Place, or development on land adjacent to a State or Local Heritage Place should conserve, maintain, enhance and reinforce the historic character of individual buildings and/or the existing streetscape character by exhibiting architectural and roof-form designs, street frontage widths, front and side boundary set-backs, materials, colours, fences and landscape settings which complement and give prominence to historic buildings or their detailing.	Complies.

Interface between Land Uses	
<p>1. Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</p> <ul style="list-style-type: none"> (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants (b) noise (c) vibration (d) electrical interference (e) light spill (f) glare (g) hours of operation (h) traffic impacts. 	Complies. Two Traffic Engineers consider that there will not be significant additional traffic impacts. No additional noise, glare, vibration or pollutants will be generated.
2. Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.	Complies.
5. Sensitive uses likely to conflict with the continuation of lawfully existing developments and land uses considered appropriate for the zone should not be developed or should be designed to minimise negative impacts.	The development is an appropriate redevelopment of an existing non-residential use.
6. Non-residential development on land abutting a residential zone should be designed to minimise noise impacts to achieve adequate levels of compatibility between existing and proposed uses.	School development is anticipated within the Policy Area is reasonably distant from residential properties and will not significantly impact those properties.
7. Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant <i>Environment Protection (Noise) Policy</i> criteria when assessed at the nearest existing noise sensitive premises.	No significant additional noise anticipated.
Landscaping, Fences and Walls	
<p>1. Development should incorporate open space and landscaping and minimise hard paved surfaces in order to:</p> <ul style="list-style-type: none"> (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components) (b) enhance the appearance of road frontages (c) screen service yards, loading areas and outdoor storage areas (d) minimise maintenance and watering requirements (e) enhance and define outdoor spaces, including car parking areas (f) maximise shade and shelter (g) assist in climate control within and around buildings (h) minimise heat absorption and reflection (i) maintain privacy (j) maximise stormwater re-use (k) complement existing vegetation, including native vegetation (l) contribute to the viability of ecosystems and species (m) promote water and biodiversity conservation (n) establish buffers to adjacent development and areas. 	Complies.
<p>2. Landscaping should:</p> <ul style="list-style-type: none"> (a) include mature vegetation, the planting of locally indigenous species where appropriate and species tolerant of salt-laden winds near the coast (b) be oriented towards the street frontage (c) result in the appropriate clearance from powerlines and other infrastructure being maintained. 	Complies. Much of the existing vegetation including two regulated and one significant tree will be retained. Two regulated trees will be removed,
4. Existing substantial vegetation should be retained and incorporated within landscaping of new development where practicable.	Complies.

Orderly and Sustainable Development	
1. Development should not prejudice the development of a zone for its intended purpose.	Complies.
2. The economic base of the region should be expanded in a sustainable manner.	Complies.
9. Development should be undertaken in accordance with the following Structure Plan Map and Concept Plan Maps: (a) <i>Structure Plan Map HoB/1 - Holdfast Bay</i> (b) <i>Structure Plan Map HoB/2 - Brighton and Hove District Centre</i> (c) <i>Concept Plan Map HoB/1 - Jetty Road and Moseley Square</i> (d) <i>Concept Plan Map HoB/2 - Car Parking Areas</i> (e) <i>Concept Plan Map HoB/3 - Foreshore and Patawalonga</i> (f) <i>Concept Plan Map HoB/4 - Buckle Street</i> (g) <i>Concept Plan Map HoB/5 - Extent - Glenelg Foreshore and Patawalonga Zone.</i>	Although within a residential area the development is appropriate given the sites existing school use and anticipation within the Policy Area.
Transport and Access	
5. Land uses that generate large numbers of visitors such as shopping centres and areas, places of employment, schools, hospitals and medium to high density residential uses should be located so that they can be serviced by existing transport networks and encourage walking and cycling.	Complies.
6. Development generating high levels of traffic, such as schools, shopping centres and other retail areas, and entertainment and sporting facilities should incorporate passenger pick-up and set-down areas. The design of such areas should minimise interference to existing traffic and give priority to pedestrians, cyclists and public and community transport users.	Existing drop off area in King George Avenue to be retained.
21. On-site secure bicycle parking facilities should be: (a) located in a prominent place (b) located at ground floor level (c) located undercover (d) located where surveillance is possible (e) well lit and well signed (f) close to well used entrances (g) accessible by cycling along a safe, well lit route.	Complies – Increase in bike parking from 12 to 24.
40. Development should provide off-street vehicle parking and specifically marked disabled car parking places to meet anticipated demand in accordance with zone requirements or, if not specified by the zone, <i>Table HoB/1 - Off Street Vehicle Parking Requirements</i> (with resultant numerical figure rounded to the nearest whole number) unless all the following conditions are met: (a) the site is located within the Glenelg Policy Area 2 (b) an agreement is reached between the Council and the applicant for a reduced number of parking spaces (c) a financial contribution is paid into the Council Car Parking Fund specified by the Council, in accordance with the gazetted rate per car park.	The development will not exceed the parking shortfall associated with the potential maximum enrolment of the existing school. See Summary of Assessment.
41. Development should be consistent with Australian Standard AS: 2890 - Parking facilities.	Complies subject to condition.
45. Parking areas should be sealed or paved in order to minimise dust and mud nuisance.	Complies.
47. Vehicle parking areas should be line-marked to delineate parking bays, movement aisles and direction of traffic flow.	Complies.
Waste	
5. Development should include appropriately sized area to facilitate the storage of receptacles that will enable the efficient recycling of waste.	Complies. Bin storage is to the west of the existing Music and Arts building. Refuse collection will occur during school hours from new south eastern car park.

Regulated Trees	
Objective 1. The conservation of regulated trees that provide important aesthetic and/or environmental benefit.	Complies. The Coastal Tea Tree to be removed does not have any significant amenity or environmental value.
1. Development should have minimum adverse effects on regulated trees.	One regulated trees is to be removed. Two regulated and one significant tree to be retained.
2. A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply: (a) the tree is diseased and its life expectancy is short (b) the tree represents an unacceptable risk to public or private safety (c) the tree is causing damage to a substantial building or structure of value (d) development that is reasonable and expected would not otherwise be possible (e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.	The regulated tree (Coastal Tea Tree adjacent King George Avenue) to be removed is small and as agreed by two arborists does not have attributes worthy of retention. Its removal will allow larger non-paved area around the regulated and significant tree to be retained in the modified car park.
3. Tree damaging activity other than removal should seek to maintain the health, aesthetic appearance and structural integrity of the tree.	Amended plans will improve structural root zones to regulated and significant trees near King george Avenue to be retained by enlarging non-paved areas around their trunks.
Significant Trees	
1. Development should preserve the following attributes where a significant tree demonstrates at least one of the following attributes: (a) makes an important contribution to the character or amenity of the local area; or (b) is indigenous to the local area and its species is listed under the <i>National Parks and Wildlife Act 1972</i> as a rare or endangered native species (c) represents an important habitat for native fauna (d) is part of a wildlife corridor of a remnant area of native vegetation (e) is important to the maintenance of biodiversity in the local environment (f) forms a notable visual element to the landscape of the local area.	Significant River red Gum near King George Avenue to be retained.
2. Development should be undertaken so that it has a minimum adverse effect on the health of a significant tree.	Complies – amended car park plans will retain enlarged and appropriate non-paved areas around its base to maintain structural root zone.

Significant Trees (Cont)	
<p>3. Significant trees should be preserved, and tree-damaging activity should not be undertaken, unless:</p> <p>(a) in the case of tree removal, where at least one of the following apply:</p> <p>(i) the tree is diseased and its life expectancy is short</p> <p>(ii) the tree represents an unacceptable risk to public or private safety</p> <p>(iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area</p> <p>(b) the tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value</p> <p>(c) all other reasonable remedial treatments and measures have been determined to be ineffective</p> <p>(d) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</p> <p>(e) in any other case, any of the following circumstances apply:</p> <p>(i) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree</p> <p>(ii) the work is required due to unacceptable risk to public or private safety</p> <p>(iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area</p> <p>(iv) the tree is shown to be causing or threatening to cause damage to a substantial building or structure of value</p> <p>(v) the aesthetic appearance and structural integrity of the tree is maintained</p> <p>(vi) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</p>	<p>Complies – tree preserved.</p>
<p>4. Development involving ground work activities such as excavation, filling, and sealing of surrounding surfaces (whether such work takes place on the site of a significant tree or otherwise) should only be undertaken where the aesthetic appearance, health and integrity of a significant tree, including its root system, will not be adversely affected.</p>	<p>Complies. Amended car park layout will retain structural root zone.</p>

HOLDFAST BAY (CITY) DEVELOPMENT – ASSESSMENT – RESIDENTIAL ZONE AND POLICY AREAS – OBJECTIVES AND PRINCIPLES OF DEVELOPMENT CONTROL

RESIDENTIAL ZONE	
Objectives	
<p>1. A residential zone comprising a range of dwelling types, including a minimum of 15% affordable housing.</p>	<p>Does not comply but schools are anticipated within the Zone.</p>
<p>2. Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>	<p>Does not comply but the site has a long history as a school.</p>
<p>3. Development that contributes to the desired character of the zone.</p>	<p>Development will not impact the Desired Character.</p>

RESIDENTIAL ZONE (Cont)	
Desired Character	
<p>Development outside of the policy areas will be suburban in nature and evolve in response to progressive infill development of existing individual sites and through consolidation of sites to form larger comprehensive redevelopment opportunities. Infill development outside of the Policy Areas will not compromise the suburban character but will progressively increase dwelling densities through unobtrusive small-scale developments. In this regard, infill development will have a comparable height, mass, scale and setbacks to that of existing dwellings in the relevant locality.</p> <p>The zone's primarily suburban character outside of the policy areas is defined by detached dwellings on individual allotments. Infill development in these suburban areas will contribute to the city's housing diversity through development opportunities that (in order of preference):</p>	Complies.
(a) increase dwelling numbers on allotments that have dual road frontages	Does not comply but maintains existing educational use.
(b) provide low scale dwellings at the rear of large allotments with street frontages wide enough to accommodate appropriate sited and sized driveway access and landscaping	Does not comply but maintains existing educational use.
(c) semi-detached dwellings, where site considerations permit.	Does not comply but maintains existing educational use.
Development outside of the policy areas will comprise:	
<ul style="list-style-type: none"> • Single storey in areas east of Brighton Road, and up to two storeys in areas west of Brighton Road. 	Two storeys but appropriately located to minimize impacts on residential areas.
<ul style="list-style-type: none"> • Buildings both domestic and contemporary in design and character to support and reinforce the essentially suburban character through typical domestic design forms, low front fencing and landscaping. 	The development is of large scale but contemporary design and compatible with existing built form on the site.
<ul style="list-style-type: none"> • Landscaping that will help define the public realm and private property boundaries, and substantial landscaped front yards that will contribute to the locality, with the retention of mature trees. 	Complies.
<ul style="list-style-type: none"> • Development that will enhance and protect streetscape character by minimising driveway access points and width of crossovers and driveways. 	Complies. No new driveways proposed.
<ul style="list-style-type: none"> • Undercroft car parking that will also be avoided on flat sites and sites that slope down from the street level. 	Complies. No undercroft parking proposed.
<ul style="list-style-type: none"> • Buildings that will be stepped and articulated at the front elevation to achieve visual relief and architectural interest as viewed from the street. 	Complies.
<ul style="list-style-type: none"> • materials and finishes that respond to the character of the immediate locality and utilise brick, stone and rendered finishes to provide visual interest to facades. 	Complies.
<ul style="list-style-type: none"> • architectural design and detailing that responds to localised character by way of fenestration, doorways, windows, eaves and roof forms. 	Complies.
<ul style="list-style-type: none"> • setbacks and be orientated to minimise impacts of the privacy of neighbouring residents. 	Complies. New building C is sited approximately 35 to 38 metres from adjoining residential properties to the south.

RESIDENTIAL ZONE (Cont)	
Principles of Development Control	
1. The following forms of development are envisaged in the zone: <ul style="list-style-type: none"> • affordable housing • domestic outbuilding in association with a dwelling • domestic structure • dwelling • dwelling addition • small scale non-residential use that serves the local community, for example: <ul style="list-style-type: none"> • child care facility • health and welfare service • open space • primary and secondary school • recreation area • supported accommodation. 	Complies – development associated with existing primary school.
2. Development listed as non-complying is generally inappropriate.	Complies.
4. Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that: (a) serves the local community (b) is consistent with the character of the locality (c) does not detrimentally impact on the amenity of nearby residents.	Complies.
6. Development should not be undertaken unless it is consistent with the desired character for the zone.	Complies.
INSTITUTION POLICY AREA 4	
Objectives	
1. A policy area accommodating educational, community or institutional land uses, dwellings, residential flat buildings and housing for aged persons.	Complies – maintains existing educational use.
4. A transition in the scale and intensity of development along any interface with the Residential Zone and Residential Character Zone .	Complies. Proposed buildings are a considerable distance from residential properties.
6. Development that contributes to the desired character of the policy area.	Complies.

INSTITUTION POLICY AREA 4 (Cont)	
Desired Character	
<p>Development in the policy area will generally be residential and include medium-density housing forms whilst facilitating the continuing development and operation of institutional activities.</p> <p>All of the institutions listed above have major areas of open space associated with their facilities and hence have the potential for institutional expansion and/or residential development/redevelopment. Also, there is the possibility of the eventual closure of such facilities. Given the size of these landholdings and their ability to absorb higher residential densities without impact on surrounding areas, it is appropriate that these sites accommodate medium density housing forms. The redevelopment of these sites will require a comprehensive planning approach to ensure well designed and integrated residential development is achieved. Any development on these sites must also give due consideration to the retention of heritage places and the setting in which these items are located. Development in the policy area will comprise safe and pleasant streets, a layout of residential sites to take advantage of environmental conditions and topography and attractive development of open space and varied building form to create interest and diversity in the street environment.</p> <p>Two and three storey development will incorporate architectural features that reduce the bulk of the development and add visual interest, such as variations in height, roof form, colours and materials, the provision of balconies and porticos and facade articulation.</p> <p>Height and density will increase towards the centre of the key development sites (being Sacred Heart College, Brighton High School, Minda Incorporated Brighton Campus, Marymount College (the former Mawson High School), Glenelg Primary School, Masonic Homes and Townsend House and decrease at adjoining zone boundaries. The open areas of the schools will be conserved.</p> <p>The impacts of non-residential development and high traffic levels detract from the amenity of the living environment in close proximity to Brighton Road. This part of the policy area is a barrier to linear expansion of existing commercial areas to the north and south, the extension of which would be detrimental to the living environment and the traffic flow on Brighton Road.</p>	<p>Complies – continues existing educational use.</p> <p>Maintains existing use.</p> <p>Complies.</p> <p>Complies – open areas are maintained and buildings setback appropriate distance from residential properties.</p> <p>Not applicable – development primarily confined to existing site.</p>
Principles of Development Control	
<p>1. The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> • community facility • domestic outbuilding in association with a dwelling/residential flat building • domestic structure • dwelling • dwelling/residential flat building addition • educational establishment • housing for aged persons • institutional establishment • residential flat building. 	Complies.
<p>3. Development should not be undertaken unless it is consistent with the desired character for the policy area.</p>	Complies.

INSTITUTION POLICY AREA 4 (Cont)					
Principles of Development Control					
6. Development should not exceed three storeys in height and a vertical wall height at any point, excluding gables, of 10.5 metres above existing natural ground level.			Complies. Building height varies from approximately 8 to 10 metres.		
7. Development should be setback a minimum of 6 metres from the primary road frontage and 3 metres from a secondary road frontage where an adjoining dwelling is setback 8 metres or more. Otherwise, the following minimum distances apply:			Complies. Buildings setback approximately 23 metres from King George Avenue and 44 metres from Colton Avenue.		
Parameter	Primary road frontage (metres)	Secondary road frontage (metres)	Rear boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)	Side boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)	
Single storey development or single storey components of a development	4.5	2	1	1	
Two storey development, or two storey components of a development	4.5	2	3	3	
Three storey development, or three storey components of a development	6	3	6 metres where: (i) the adjacent side or rear wall of that development contains windows (ii) the southern boundary (being the boundary oriented between 45 degrees and 135 degrees of true north and incorporating the southern extremity of the site, as illustrated by 'Figure 3' within Table HoB/2 - Design Principles) of the site adjoins another dwelling site. 3 metres in all other cases.	6 metres where: (i) the adjacent side or rear wall of that development contains windows (ii) the southern boundary (being the boundary oriented between 45 degrees and 135 degrees of true north and incorporating the southern extremity of the site, as illustrated by 'Figure 3' within Table HoB/2 - Design Principles) of the site adjoins another dwelling site. 3 metres in all other cases.	

5. Summary of Assessment

Zone Objectives

The subject site is located within the Residential Zone Institution Policy Area 4. The proposal is in accord with Objective 1 and Principle 1 of Policy Area 4 in so far as the development is associated with an existing educational establishment.

Objective 4 of the Policy Area requires a transition in scale along any interface with the Residential and Residential Character Zones. Residential Zone Principle 4 further requires non-residential development including schools to be of a nature and scale that serves the local community, is consistent with the character of the locality and does not detrimentally impact on the amenity of nearby residents.

The existing Marymount School has a long history with the site. It currently employs some 27 teaching and 14 support staff and accommodates around 440 students though it has peaked at 540 students with 46 teaching and support staff. The subject site does not adjoin a Residential Character Zone. Within the surrounding Residential Zone however the locality is mixed comprising community and residential uses. Opposite the site, on the west side of King George Avenue and within the Policy Area 4, is Townsend Park comprising Townsend House, a State Heritage Place and a large number of single storey group dwellings and open space between that building and King George Avenue. Still within Policy Area 4 and immediately to the south of the subject site is the Holdfast Bay Community Centre comprising a number of single storey buildings facing King George Avenue and single storey group dwellings with access from Colton Avenue. Outside of the Policy Area on the eastern side of Colton Avenue and northern side of Wattle Avenue are primarily single storey detached dwellings.

The development provides appropriate transition to the nearest residential areas (immediately to the south and west within the Policy Area and eastern side of Colton Street outside the Policy Area within the Residential Zone) by maintaining large boundary setbacks, approximately 30 metres to King George Avenue, 35 metres to southern boundary and 43 metres to Colton Avenue, all of which are similar to those existing.

For reasons discussed below the design, scale and siting of the development is considered consistent with the relevant requirements of the Desired Character for the Zone and will not prevent attainment of the objectives for the remainder of the Residential Zone.

Built Form and Amenity Impacts

The Desired Character for the Policy Area 4 portion of the Residential Zone anticipates development up to three storeys in height, buildings both domestic and contemporary in design, on-boundary built form limited in height, length and location, stepped and articulated at the front elevation to achieve visual relief and architectural interest as viewed from the street and to incorporate architectural design and detailing that responds to localised character. Policy Area 4 Principle 6 requires maximum wall heights of 10.5 metres, while Principle 7 requires road and side boundary setbacks of 6 metres.

The proposed buildings are consistent with the anticipated scale comprising 2 storeys with maximum height varying from 8 to 10 metres. The road and side boundary setbacks substantially exceed the minimums anticipated. No walls are proposed on the boundaries.

The street elevations of the proposed buildings are of a contemporary design displaying articulation, visual relief and architectural interest through a combination of building materials, varying wall heights, verandahs and appropriate solid to void areas.

The development will have no significant shading impacts on residential properties, shadows for the most part falling to the south over the open space areas on the school site.

One representation concerns privacy of residential properties to the south and seeks improvements to existing overlooking of those properties. Existing two storey classrooms are approximately 40 metres from the southern boundary and as a site visit has demonstrated do not have significant views over residential properties due to existing trees both on the subject land and adjoining properties and boundary fences/lattice screens. Although slightly closer to the southern boundary proposed building C is still sited approximately 35 to 38 metres from the southern boundary. Residential Development Principle 41(a) is concerned with direct overlooking of private open spaces within 30 metres of the subject windows. While it would be desirable to incorporate higher window sills or appropriate screens on the eastern elevation of building C, having regard to existing conditions (including on-site trees which are to be retained) no unreasonable overlooking will occur.

All roof plant will be surrounded by colorbond screens and are sufficiently distant from residential properties to minimise noise impacts.

Existing refuse collection will be relocated from the carpark adjacent King George Avenue to the western side of the existing Music and Arts building and collected from the new car park adjoining Colton Avenue during school hours. A condition regarding collection times is recommended.

Heritage Impacts

Townsend House, a State Heritage Place is located on land opposite the school in King George Avenue. The building however is sited a considerable distance from the road and separated from the school site by existing and more recent residential development. The proposed development will have no impact on the Heritage Place and accordingly has not been referred to the State Heritage Unit.

Regulated Tree Impacts

There are three regulated trees and one significant tree on the subject site. A regulated Tasmanian Blue Gum is located near Colton Avenue, a regulated Coastal Tea Tree is adjacent King George Avenue on the western side of the existing car park and a regulated River Red Gum and significant River Red Gum are on the eastern side of that car park. Two arborists, one on behalf of the applicant, the other on behalf of Council have examined impacts on the trees.

The Tasmanian Blue Gum, although in a poor condition will be retained and will not be impacted by the development.

The Coastal Tea Tree adjacent King George Avenue is proposed to be removed to provide a more functional car park layout. Both arborists agree that the tree does not have any aesthetic or environmental qualities and it is considered that its removal is consistent with Objectives 1 and 2 of Regulated Trees provisions of the Development Plan.

No additional building encroachments within the root zones of the two River Red Gums are expected, however Council's arborist raised concern with removal of parts of the raised garden as originally proposed. In response the car park layout has been amended by deleting 3 parking spaces to retain and enlarge the garden bed around the two trees. Both arborists are of the opinion that the development as amended will not adversely impact the trees subject to a tree protection plan, which can be incorporated as a condition of approval. Accordingly it is considered that the development is consistent with Regulated Trees Principle 1 and Significant Trees Principles 2 and 4.

Parking and Traffic Impacts

Parking and traffic impacts on adjacent roads particularly King George Avenue was one of the main concerns raised within the representations.

Table HoB/1 in the Development Plan requires 1 parking space/staff member plus an adequate number of visitor spaces. On this basis the existing school generates a parking demand of 42 spaces currently and 47 spaces at a previous peak plus adequate visitor spaces.

Cirqa Traffic Engineers on behalf of the applicant advise that having regard to traffic data recorded at the existing site the school generates a parking demand of 1 space per 5 students (including staff, parent and visitor demands). The existing school therefore generates a total parking demand of 88 spaces currently and 108 spaces at the previous peak. There are currently 53 on-site parking spaces so there is a current shortfall of 35 spaces, which increased to 55 spaces at the previous peak. The existing facilities however could accommodate up to 700 middle school or 765 primary school students without requiring further development approval. If that were to occur the shortfall would be from 85 to 100 spaces.

Cirqa advise that the proposed school with a younger student population is likely to generate slightly higher demand and traditionally peak parking demands for primary schools and Early Learning Centres (ELCs) are 1 space per 4 students. On this basis the proposed school will theoretically generate a demand for 110 spaces increasing to 155 spaces should the peak of 590 students is realised, resulting in a theoretical shortfall of 34 to 79 spaces. Cirqa stress however that in practice the demand would be lower as:

- Peak demands for primary schools and ELCs typically do not coincide;
- A reasonable proportion of the ELCs will have older siblings in the primary school; and
- The school will operate a 'call-up' system for afternoon pick-up where students are released on arrival of parents, which will reduce build-up of parking demand.

Based on recent traffic surveys Cirqa advises that the existing peak hour traffic generation equates to 0.6 trips per student (264 trips). At its previous peak this would equate to 324 trips. If the current school were to accommodate 700 middle school or 765 primary school students there would be 420 to 480 traffic movements. The proposed school is expected to generate 200 to 225 traffic movements. Should the 'aspirational' enrolment of 500 primary students is realised the trip generation would be 300 to 320 movements, similar to the previous peak.

Frank Siow Traffic Engineer has reviewed the submitted information on behalf of Council and has undertaken independent surveys. Frank Siow considers that the Cirqa surveys did not extend sufficiently far to include parent parking demands that were observed in adjacent side streets, such as Murray Street, Townsend Avenue and Wattle Avenue. In particular they observed many parents

waiting for pick up in Wattle Avenue. Given the intent to relocate the existing St Teresa's School to the subject site it also would have been useful to provide parking data for St Teresa's School. In the absence of such data Frank Siow has used parking rates that are typically adopted for schools. These include 1 space per 6 students for primary school parent parking, 1 space per 12 students for middle school parent parking, 0.9 spaces per staff and 1 space per 4 children for Early Learning Centres.

Two scenarios have been considered by Frank Siow, one comprising an enrolment of 350 students plus 90 ELC children, the other an 'aspirational' enrolment of 500 students plus 90 ELC children. In consideration of legal opinions summarised later in this report Frank Siow has amended his original report. The detailed parking calculations and traffic impacts are included in his amended report at Attachment 4. In summary Frank Siow advises:

- The previous peak enrolment (540 students) generated an estimated parking demand of 87 spaces. The proposed 350 students plus 90 ELC children have an estimated demand of 89 spaces but with the increased 24 on-site parking spaces there will now be a surplus of 22 spaces, therefore the net impact is positive.
- If the 'aspirational' enrolment of 500 students plus 90 ELC children is achieved the total estimated demand will be 119 spaces resulting in an increased shortfall of 8 spaces, therefore the net impact will be slightly negative. Frank acknowledges however that some of the students will utilise the OSHC program and in the absence of any supporting data considers it reasonable to assume that 10% of the students will utilise that program. This would be equivalent to 50 students not being picked up during dismissal resulting in a reduction in demand of 8 spaces during the peak parking period. It would therefore be likely that there will be no parking shortfall for this scenario.
- That 10-12 spaces should be set aside for parent parking for the ELC in the front car park and these should be zoned as 15 minute parent parking to encourage turnover with any surplus spaces allocated for drop off and pick up and visitor parking.
- That staff parking be allocated to the Colton Avenue car parks with any surplus spaces allocated for parent parking.
- A general condition should require the parking layout to comply with AS/NZS 2890.1-2004 and AS/NZS 2890.6-2009.
- In comparison with the previous peak enrolment of 540 students the proposed school of 350 students will generate minimum nett change to the peak hour traffic flows i.e. the school will not worsen traffic conditions in adjacent streets.
- If the school reaches the 'aspirational' enrolment of 500 students there will be 80 additional vehicles per hour approximately 40vph in Colton and King George Avenues, which is not considered significant. The OSHC program is likely to reduce some of the short-term traffic flow during dismissal period as some students would be picked up later in the afternoon.
- The assessment should only have regard to the existing situation, concerns expressed in some of the representations regarding future developments are hypothetical.
- Significant short term congestion e.g. queuing to the pick-up bay in King George Avenue is noted however these were significantly reduced in a short period and are commonly observed at many schools. Future queuing conditions should potentially be no worse off than the current situation.
- We are satisfied that the traffic impact should not adversely impact the road network compared with current and long standing conditions.

Three legal opinions have been received, two from Botten Levinson on behalf of the applicant and one from Mellor Olsson on behalf of Council, relating to the ability of Council to limit the number of students by condition. It is generally agreed that:

- It is established law that a condition cannot be used to make good the inadequacies of previous approvals, or, in this case to address any car parking shortfall associated with the existing use.
- The development does not involve a change in use and has certain existing use rights. Although Mellor's consider it is less certain as to whether the ELC component constitutes a change in use they advise that the most likely and safest option would be to approach the matter on the basis that the inclusion of the ELC is not a change in use and comes within the generic 'school' use.
- It would be a misuse of Council's powers to seek to impose a condition which limits student numbers where the existing use does not include a restriction on student numbers. Mellor's consider that it may be possible to assert that there is an implied cap on student numbers in association with the existing use rights, based on the capacity of the current buildings and thereby restrict student numbers to that capacity. While the applicant does not agree with such an approach they advise that should a limit be imposed it should be no less than 765 students, which is the capacity of the existing school.

Having regard to the above it is apparent that the ability to restrict student numbers is severely limited and any restriction will need to have regard to the capacity of the existing school. It is also likely however that the expected student enrolment will be significantly less than the existing capacity. Further, having regard to both traffic consultant reports it is evident that the parking shortfall will be significantly less than that associated with the existing school should it reach its capacity.

In consideration of all the above the development is not seriously at variance with relevant Transport and Access Objectives and Principles.

Conclusion

Given the development does not involve a change in use and there are no restrictions on the existing school use, the planning assessment is primarily restricted to the built form aspects. In any respect the anticipated parking shortfall will be considerably less than what it would be if the current school reached its capacity. While no condition restricting student numbers is recommended those conditions recommended by Frank Siow regarding the use of the existing and proposed car parks to improve their efficiency are considered reasonable.

The development is not considered to be seriously at variance with the Development Plan and has merit for approval for the following reasons:

- The development will facilitate the continuing provision of high quality educational services in the local community;
- The development will not compromise the Zone Objectives given the existing use and character of the locality;
- The scale of the development is reasonable and less than what is anticipated in the Policy Area and is distant from most residential properties;
- The appearance and design of the development will add interest and improve the streetscape of King George Avenue;
- The development will preserve the integrity of the nearby State Heritage Place;

- Additional parking will be accommodated on-site and any parking shortfall will be significantly less than what could occur if the current school reached its capacity;
- The development will not generate significant additional traffic movements in the surrounding streets.

6. RECOMMENDATION

1. The proposed development is NOT seriously at variance with the policies in the Development Plan.
2. Following a detailed assessment of the proposal against the provisions of the Holdfast Bay (City) Development Plan, the Development Assessment Panel resolves to grant Development Plan Consent to Development Application 110/00437/18, subject to the following conditions:

1. That the design and siting of all buildings and structures, site works and storm water management shall be as shown on the plans and information as listed below unless varied by any subsequent conditions imposed herein:

Existing site plan – SK229-B

Site demolition plan – SK230-C

Proposed site plan – SK231-E

Ground floor plan – SK232-E

First floor plan – SK233-B

Roof plan – SK234-C

Elevations – SK235-E

Elevations – SK 236-E

Elevations – Sk237

Materials – SK238

Street and oval elevations – SK239-C

3D views – SK241B

Landscape – SK255C and D

Storm water management plan – 118744-C002-Rev F

Meinhardt storm water design report dated 13 June 2018.

2. That staff parking be allocated and sign marked in the two Colton Avenue car parks and any surplus spaces be allocated for parent parking.
3. That the King George Avenue car park be allocated and sign marked for Early Learning Centre parents with surplus spaces allocated for drop-off/pick-up parking and visitor parking.
4. That the new car park and alterations to the King George Avenue car park be designed to the requirements of AS/NZS 2890.1-2004 and AS/NZS 2890.6-2009.
5. That the entrance to the King George Avenue car park be clearly identified by appropriate signage to the reasonable satisfaction of Council.
6. That the Tree Protection Plan for trees 3 and 4 as attached shall be complied with.

7. That refuse collection be restricted to school hours but occur outside of peak student drop off/pick up times.
8. That the premises shall be maintained, kept tidy, free of graffiti and in good repair and condition to the reasonable satisfaction of Council at all times.
9. That the premises shall not be used, directly or indirectly, for the purpose now approved until all work has been completed in accordance with the plan approved and the conditions of consent have been complied with, except those conditions that continue to apply.
10. That a construction management plan be submitted to and approved by Council prior to construction.
11. That construction shall take place between 7am and 7pm Monday to Saturday and not on Sundays or public holidays. All such work shall be undertaken in such a manner so as not to, in the reasonable opinion of Council, cause any nuisance or annoyance to any of the occupiers of buildings within the locality. Any work outside of these hours requires the written approval of Council.
12. That dust emissions from the site shall be controlled by a dust suppressant or by watering (subject to any relevant water restrictions) regularly to the reasonable satisfaction of Council.
13. That the builder shall at all times provide and maintain a waste receptacle to the reasonable satisfaction of Council on the site in which and at all times all builder's waste shall be contained for the duration of the construction period and the receptacle shall be emptied as required.
14. That all hard building materials, waste and litter on site be stored in a manner that secures it on site during the construction works.
15. That no solid or liquid trade wastes be discharged to the stormwater system.