

General Purpose Standing Committee No. 3

Inner city public primary school enrolment capacity and redevelopment of Ultimo Public School

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Terms of reference

That General Purpose Standing Committee No. 3 inquire into and report on inner city public primary school enrolment capacity and the redevelopment of Ultimo Public School, and in particular:

- (a) the total costs of the project to date including consultancy fees
- (b) the estimated costs of the alternative sites for a new Ultimo Public School
- (c) the reasons the alternative sites were dismissed by the Government
- (d) the costs of rehousing Ultimo Public School students in Wentworth Park while the school is rebuilt
- (e) the impact of the Bays Precinct development on future enrolment capacity in the inner city, and
- (f) any other related matters.

The terms of reference were self-referred by the committee 17 August 2016.¹

¹ *Minutes*, NSW Legislative Council, 23 August 2016, pp 1062-1063.

Committee details

Committee members

The Hon Michael Gallacher MLC*	Liberal Party	<i>Chair</i>
The Hon Natasha Maclaren-Jones MLC	Liberal Party	<i>Deputy Chair</i>
The Hon John Graham MLC*	Australian Labor Party	
The Hon Courtney Houssos MLC	Australian Labor Party	
The Hon Sarah Mitchell MLC	The Nationals	
Revd the Hon Fred Nile MLC	Christian Democratic Party	
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* The Hon Michael Gallacher MLC replaced the Hon Ben Franklin MLC from 17 November 2016.

* The Hon John Graham MLC substituted for the Hon Walt Secord MLC from 4 November 2016 for the duration of the inquiry.

* Mr David Shoebridge MLC substituted for Mr Justin Field MLC from 16 November 2016 for the duration of the inquiry.

Chair's foreword

Sydney is growing, and the pressures of this are being felt in all areas of city life. In the area of education, the NSW Department of Education is grappling with ever rising enrolments in inner city public primary schools due to substantial population and demographic changes over the past 10 years, and is seeking to utilise the resources available to it to ensure all the children residing in the inner city who wish to attend a public school can be accommodated.

The catalyst for this inquiry was the decision by the NSW Department of Education to redevelop one inner city primary school, Ultimo Public School, on its current site, after pulling out of a deal to purchase an alternative 1.2 hectare site located nearby on the corner of Fig and Wattle Streets from the City of Sydney. Following a process of community engagement that led to the nomination of the Fig and Wattle site as the preferred site, and an announcement by the Minister for Education that a deal to purchase the site had been reached, the department later decided not to proceed with the purchase due to complexities relating to the remediation of the site and the costs associated with that remediation.

Having examined the circumstances surrounding this decision, the committee considers that there are some important lessons to be learned. The inability of the department and the City of Sydney to agree on access terms for further testing was a key failure in the process. It is also unfortunate that the purchase deal was announced before the department was able to satisfy itself beyond any doubt that remediation to its requisite standard could be achieved for an acceptable cost, and that it spent \$1.12 million in public money on project fees and expenses in the interim. The fact that alternative options for developing the site were not progressed also represents a missed opportunity.

Looking to the future, the department is now proceeding with a plan to build a new school on the current site by 2019, with construction of a temporary 'pop-up' school to house students during the rebuild due to commence shortly. It is important that the department continues to engage with parents, students and other community members to ensure that the rebuild meets the very high standard that stakeholders rightly expect.

Looking at the bigger picture, it is clear that enrolment pressures on inner city public primary schools will only increase in coming years, especially given urban transformation projects such as the Bays Precinct. Tools such as the department's inner city schools cluster model can be used effectively to manage these pressures, but they must also recognise the importance of connecting schools with their immediate neighbourhood and community. It is also critical that the department's demographic projections are accurate and that the department can work effectively within the state planning framework to ensure that land is available for the schools of the future. To this end, we recommend that the department's demographic projections be subjected to a regular third party review process, and be shared with councils in appropriate circumstances. The committee also recommends formalised coordination between the department and state planning bodies, strengthened whole of government oversight in future land negotiations for schools, and an audit of public land in areas of significant population growth.

Finally, I would like to acknowledge the valuable contribution made by inquiry participants, and thank my committee colleagues and the secretariat for their work during the inquiry.



The Hon Michael Gallacher MLC
Committee Chair

Recommendations

- Recommendation 1** **13**
That the NSW Department of Education amend the inner city school cluster model to acknowledge that public schools provide an important sense of community and to afford greater emphasis to connecting schools with their immediate neighbourhood and community.
- Recommendation 2** **14**
That the NSW Department of Education subject its demographic projections to a regular third party review process.
- Recommendation 3** **14**
That the NSW Government formalise coordination between UrbanGrowth NSW, the NSW Department of Planning and Environment and the NSW Department of Education to ensure that school building programs are determined with the most up-to-date and accurate information on development pressures.
- Recommendation 4** **14**
That the NSW Department of Education share its demographic projections with councils in appropriate cases and on a confidential basis, to ensure a cohesive and consistent approach to city planning.
- Recommendation 5** **42**
That the Minister for Education consider strengthening whole of government oversight and support for the NSW Department of Education in future land negotiations for schools.
- Recommendation 6** **42**
That the NSW Government conduct an audit of public land in all areas of significant population growth in New South Wales to identify suitable locations for new schools and expansion of existing schools.
- Recommendation 7** **42**
That the NSW Department of Education, when assessing land for the purposes of remediation, rely on the standards set by the relevant authority such as the Environment Protection Authority, unless the department can demonstrate that a higher standard is required.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 17 August 2016.

The committee received 68 submissions and one supplementary submission.

The committee held one public hearing on 25 November 2016 at Parliament House in Sydney.

The committee also conducted a site visit on 11 November 2016 which included visits to:

- Department of Education offices at Ultimo
- Ultimo Public School
- the Fig and Wattle site, Ultimo
- Anzac Park Public School, Cammeray.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Managing enrolment capacity in Sydney's inner city

This chapter examines the factors impacting on public primary school enrolments in the inner city, including population growth and changes in demography and the potential impact of the Bays Precinct development. The chapter then goes on to examine the work of the NSW Department of Education in managing enrolment capacity in schools situated within this area.

Factors affecting school enrolments in the inner city

- 1.1 The committee received evidence from a range of stakeholders identifying population growth and demographic changes as key factors affecting the enrolment capacity of public primary schools in the inner city. Other factors at play include the limited availability of public land in the inner city and the emergence of the Bays Precinct redevelopment. This section examines each of these factors.

Growth of Sydney's inner city population and changes in demography

- 1.2 The last few decades have seen significant growth in the population of Sydney's inner city, not least in the last ten years. In her evidence to the committee, Ms Clover Moore, Lord Mayor of Sydney, advised that between 2005 and 2015, the city's population increased by 46,500 people, or nearly 30 per cent, with the residential population now more than 205,000 people.²
- 1.3 This growth has been particularly apparent in the Ultimo-Pyrmont area. In fact, the Lord Mayor told the committee that this area is now the most densely populated in the country:

Ultimo-Pyrmont has overtaken Kings Cross-Potts Point to become the most densely populated area in Australia. The 1986 census recorded 2,631 people living in Ultimo-Pyrmont. With urban renewal, particularly the Building Better Cities program of the 1990s, the number of residents in Ultimo-Pyrmont has increased to 22,540 in 2015. To recap on that, from 1986 when there were approximately 2,500 people to 2015 when there were 22,540, the population increased, as you can see, by 20,000.³

- 1.4 The committee heard that this overall population growth has resulted in a significant increase in school enrolments in the inner city, particularly for primary schools. The Lord Mayor advised that since 2012, enrolments 'have skyrocketed by more than 13 per cent, nearly 3.5 times the State average.'⁴ An example of this trend can be seen at Bourke Street Public School, a primary school located in the inner city suburb of Surry Hills. A 2015 report by the NSW Auditor-General noted that this school had seen enrolment growth of 255.2 per cent between 2009 and 2014.⁵

² Evidence, Ms Clover Moore, Lord Mayor of Sydney, 25 November 2016, p 25.

³ Evidence, Ms Moore, 25 November 2016, p 25.

⁴ Evidence, Ms Moore, 25 November 2016, p 25.

⁵ NSW Auditor-General, *Financial Audit Report, Volume Eleven 2015, Education and Communities* (December 2015), p 48.

- 1.5 According to the City of Sydney, the pressure on primary school enrolments is set to continue, with the number of primary school aged children forecast to increase by over 50 per cent between 2015 and 2025.⁶ This is consistent with the NSW Department of Planning and Environment's 2016 NSW Population and Household Projections, referred to in the NSW Department of Education's submission.⁷ This document suggests that in the Sydney local government area, the 'five to nine' age group is set to increase from 4,850 in 2016 to 7,450 in 2026, representing an increase of about 53 per cent.⁸
- 1.6 Looking even further ahead, the Greater Sydney Commission's Draft Central District Plan, which covers Sydney's inner city, estimates that by 2039:
- ... there will be 41% growth in school-aged children that will create demand for school places ... with the largest increases expected in the Bayside, Sydney, Randwick and the Inner West local government areas.⁹
- 1.7 The committee heard that increased demand for inner city living was a key driver of the growth in the population of the inner city and the resulting pressure on schools. According to the department:
- The inner Sydney area and its surrounds are experiencing urban renewal through the construction of new infill housing developments, the movement of families back into inner Sydney and increasing numbers of families remaining in the area.
- As a consequence, the growth in the number of school-aged children living in inner Sydney is placing increasing pressure on public education services in the area.¹⁰
- 1.8 Similarly, in his evidence to the committee Mr Anthony Perrau, Executive Director, Asset Management, NSW Department of Education, observed that:
- ... Sydney is facing a once in a generation enrolment surge and, unfortunately for us, or fortunately for the city, it is happening in the built-up infill areas. People are wanting to live back in those areas ...¹¹
- 1.9 However, the committee heard that the closure or amalgamation of three inner city primary schools during the 1990s has also played a part in the enrolment capacity challenge now facing the remaining schools.¹² According to the Lord Mayor, the decision to close these schools was

⁶ Submission 27, City of Sydney, p 1. According to the submission, this excludes any projections of population growth from the Bays Precinct.

⁷ Submission 67, NSW Department of Education, p 11.

⁸ NSW Department of Planning and Environment, *2016 NSW Population and Household Projections – Sydney Metro LGA Data* (7 October 2016), <http://www.planning.nsw.gov.au/Research-and-Demography/Demography/Population-projections>.

⁹ Greater Sydney Commission, *Draft Central District Plan* (November 2016), pp 79-80.

¹⁰ NSW Department of Education, *Inner Sydney high school community consultation*, <http://www.dec.nsw.gov.au/about-us/news-at-det/announcements/inner-sydney-high-school-consultation>.

¹¹ Evidence, Mr Anthony Perrau, Executive Director, Asset Management, Department of Education, 25 November 2016, p 7.

¹² Evidence, Ms Moore, 25 November 2016, p 25. The three primary schools that were amalgamated or closed were Redfern Public School, Waterloo Public School and Alexandria Public School.

reflective of an attitude ‘towards the end of the nineties that people in this area would not be having children’.¹³

- 1.10** A 2002 inquiry by the Legislative Council’s General Purpose Standing Committee No. 1 into the proposed closure and restructuring of government schools in inner Sydney noted that demographic and other evidence at the time indicated that overall public school enrolments in inner Sydney had declined by approximately 50 per cent between 1984 and 2001.¹⁴ However, that inquiry also received evidence highlighting the difficulty of predicting the inner city’s population, particularly given uncertainty about the amount of medium density development that would occur in the future, as well as who would live in such developments.¹⁵ The committee concluded that: ‘[t]here are inherent, substantial, uncertainties in predicting populations and in particular projecting the likely populations within a certain age bracket in a tightly defined area into the future.’¹⁶
- 1.11** Whatever the demographic information available at the time, the Lord Mayor commented that these closures have meant that inner city schools are now ‘... full or close to full, with current options for expanding or opening new schools limited and expensive in the densely developed inner city environment.’¹⁷
- 1.12** Indeed, the limited availability of public land in the inner city was another factor identified by stakeholders as adding to the challenge of managing school enrolments. In particular, the committee heard that procuring land for additional public school infrastructure in emerging growth areas such as Green Square comes at a higher cost due to property prices.¹⁸ As the Hon Adrian Piccoli MP, Minister for Education observed, ‘[e]nrolment pressure in the inner city costs more to resolve than it does in the south-west or on the North Coast.’¹⁹
- 1.13** This concern was reflected in several submissions received in this inquiry, which noted the limited availability and high cost of land in the inner city²⁰, and emphasised the importance securing public available land for community purposes, such as the provision of additional public schools.²¹ In this context, a number of inquiry participants expressed dissatisfaction that, as property values in the inner city have risen and the amount of stamp duty collected has

¹³ Evidence, Ms Moore, 25 November 2016, p 36.

¹⁴ General Purpose Standing Committee No. 1, NSW Legislative Council, *Proposed Closure and Restructuring of Government Schools in Inner Sydney* (2002), p 6.

¹⁵ General Purpose Standing Committee No. 1, *Proposed Closure and Restructuring of Government Schools in Inner Sydney*, pp 52-53.

¹⁶ General Purpose Standing Committee No. 1, *Proposed Closure and Restructuring of Government Schools in Inner Sydney*, p 91.

¹⁷ Evidence, Ms Moore, 25 November 2016, p 25.

¹⁸ Evidence, General Purpose Standing Committee No. 3, Budget Estimates 2016-2017, The Hon Adrian Piccoli MP, Minister for Education, 29 August 2016, p 7.

¹⁹ Evidence, The Hon Adrian Piccoli MP, 29 August 2016, p 16.

²⁰ Submission 42, Ms Jenny Leong MP, p 4 and Submission 34, Ultimo Pymont Education Campaign Committee, p 3.

²¹ Submission 21, Ms Lisa O'Brien, p 3 and Submission 51, Ms Susanna Segal, p 2.

increased, there has not been a corresponding investment in social infrastructure such as public schools.²² For example, the Lord Mayor told the committee that:

Between 1996 and 2016 across the City of Sydney area the total stamp duty collected is estimated at \$8 billion of which \$0.7 billion has come from Ultimo-Pyrmont and \$0.5 billion so far from Green Square. Major physical and social infrastructure has been delivered by the city and developers—we are delivering our responsibility—but investment by the New South Wales Government has not kept up. There is a lack of urgency to tackle the shortfall of school places and provide for rapid growth, especially in our major urban renewal areas.²³

The Bays Precinct

1.14 The Bays Precinct Urban Transformation Program is a project with the potential to significantly impact enrolment capacity in inner city primary schools. Located about 2 km west of the Sydney Central Business District, the Bays Precinct, which includes the White Bay Power Station, Glebe Island, White Bay, Rozelle Bay, Rozelle Rail Yards, Blackwattle Bay and the Sydney Fish Markets, is set to be revitalised ‘as a world-class, iconic foreshore destination’.²⁴ The government’s A Plan for Growing Sydney states that:

The Bays Precinct Urban Transformation Program will transform these currently underused areas for the economic, cultural and social benefit of Sydney and the state. The Precinct’s great heritage values, proximity to the city and foreshore position present exciting new opportunities for residential, retail and commercial development and entertainment and leisure facilities.²⁵

1.15 While the Bays Precinct Urban Transformation Program is being led by UrbanGrowth NSW, the NSW Department of Education is as a key stakeholder in the project.²⁶

1.16 In relation to the impact of future residential developments in the Bays Precinct on enrolment demand, the department stated that its current enrolment projections are consistent with the Department of Planning and Environment’s forecasts, which so far have not factored in private dwellings in the Bays Precinct.²⁷ Accordingly, the department advised that the Bays Precinct ‘is an unknown for us at this stage’,²⁸ and that school infrastructure requirements and

²² Submission 4, Miss Jaime Walling, p 1; Submission 7, Name suppressed, p 1; Submission 20, Name suppressed, p 3; Submission 27, City of Sydney, p 3; Submission 28, Mrs Michelle Lawrence, p 1; Submission 29, Ultimo Public School P&C Association, p 16; Submission 32, Mr Marcus Peterson, p 2; Submission No 34, Ultimo Pyrmont Education Campaign Committee, p 3; Submission 50, Pyrmont Community Group, p 7; Submission 51, Ms Susanna Segal, p 1; Submission 68, Mr Kevin Langdon, p 4.

²³ Evidence, Ms Moore, 25 November 2016, p 26.

²⁴ NSW Department of Planning and Environment, *A Plan for Growing Sydney* (December 2014), p 26.

²⁵ NSW Department of Planning and Environment, *A Plan for Growing Sydney* (December 2014), p 26.

²⁶ UrbanGrowth NSW, *The Bays Precinct Urban Transformation Program* (March 2016), <http://www.urbangrowth.nsw.gov.au/assets/Fact-Sheets/MUTP-UrbanGrowth-NSW-factsheet-The-Bays-Precinct-1603.pdf>.

²⁷ Submission 67, NSW Department of Education, p 11.

²⁸ Evidence, Mr Perrau, 25 November 2016, p 5.

planning will not be available until details of the anticipated residential development in the Bays Precinct are also made available.²⁹

- 1.17** However, the NSW Department of Education also informed the committee that a potential ‘outcomes document’ provided by UrbanGrowth NSW to the NSW Department of Education in 2015 indicated that there could be up to 2,760 dwellings located in the Bays Market District area of the Bays Precinct, which is located within the Ultimo Public School catchment area.³⁰ The department further advised the committee that this development is expected to result in approximately 200 primary school children, of whom only some will attend public schools:

Based on historical trends, it is anticipated that approximately 200 primary school children could be generated from this development. Approximately 115 of these children could be expected to attend a government school based on current enrolment shares.³¹

- 1.18** Mr Perrau told the committee that, whatever the demand on school enrolments, the department was involved in the project development process to ensure that schooling needs will be catered for. Mr Perrau stated that:

Depending on how the Bays Precinct plays out, there could be a bigger demand than we currently expect. But I think it is important to assure the Committee that as part of that development process the Committee has education at the table, so we are there with them, and that they take it on board as critical infrastructure and we will be ensuring that, depending on what the outcome is, that there needs to be some consideration for schooling.³²

- 1.19** For its part, the City of Sydney advised the committee that its understanding is that the Bays Precinct ‘is planning for more than 10,000 new residents’.³³ This uncertainty, and the parallel planning processes between UrbanGrowth NSW and the NSW Department of Education, risk a repeat of past mistakes with school capacity failing to keep up with development pressures. This issue is discussed in detail below.

The department’s approach to managing enrolment capacity in the inner city

- 1.20** The NSW Department of Education employs a number of strategies to manage fluctuating school enrolment demands over the short, medium and long term.³⁴ These strategies are designed to ensure that ‘we can accommodate any students that wish to come to public schools in New South Wales’,³⁵ and include:

²⁹ Submission 67, NSW Department of Education, p 11.

³⁰ Submission 67, NSW Department of Education, p 11.

³¹ Submission 67, NSW Department of Education, p 11.

³² Evidence, Mr Perrau, 25 November 2016, p 5.

³³ Submission 27, City of Sydney, p 1.

³⁴ Submission 67, NSW Department of Education, p 1.

³⁵ Evidence, Mr Peter Riordan, Deputy Secretary, Corporate Services, NSW Department of Education, 25 November 2016, p 1.

... enforcing the Department's school enrolment policy to restrict out of area enrolments, reviewing school catchment boundaries to improve utilisation across schools in a local area, conversion of existing school buildings and providing demountable classrooms.³⁶

1.21 The committee heard that the department also has in place a specific strategy for managing enrolment capacity in inner city schools, known as the Inner Sydney Primary and Secondary Schools Asset Planning Strategy (2014 to 2026). This strategy was designed to guide the development and redevelopment of inner Sydney schools to accommodate projected increases in public school student populations to 2026,³⁷ and covers:

- a total of 24 primary schools and nine secondary schools
- projected primary and secondary student growth in the local government areas of City of Sydney and Leichhardt
- growth in the Marrickville local government area for secondary schools
- other measures to utilise existing assets and build capacity to meet projected increases in student populations.³⁸

1.22 According to the department's submission, the strategy was developed in December 2013 with the assistance of the Inner City Schools Working Party.³⁹ The working party was established by the Minister for Education to assist the department in addressing the increase in school-aged children in the inner city⁴⁰ and includes representatives from the department, the City of Sydney as well as parents. The department noted that the strategy forms part of its 'broader planning strategy and action plans for schools across Sydney'.⁴¹

1.23 As noted in a recent report by the NSW Auditor-General, the department has also developed a new school cluster planning model as part of its School Assets Strategic Plan.⁴² Such a model is currently in place to manage inner city schools, in addition to demography work undertaken by the department and coordination with planning authorities. These approaches are discussed below, along with related concerns expressed by inquiry participants.

³⁶ Submission 67, NSW Department of Education, p 1.

³⁷ Submission 67, NSW Department of Education, p 3.

³⁸ Government response, Legislative Assembly petition, Reinstatement of the Inner City Schools Working Party, The Hon Adrian Piccoli MP, Minister for Education, 11 November 2015, p 1.

³⁹ Submission 67, NSW Department of Education, p 3.

⁴⁰ Submission 9, Pyrmont Action Incorporated, p 2; Submission 25, Mr William d'Anthes, p 3; Media Release, The Hon Adrian Piccoli MP, Minister for Education, 'New site chosen for Ultimo/Pyrmont school', 15 December 2014.

⁴¹ Submission 67, NSW Department of Education, p 3.

⁴² NSW Auditor-General, *Financial Audit Report, Volume Thirteen 2016, Education* (December 2016), p 47.

The school cluster planning model in the inner city

1.24 The cluster planning model involves assessing and managing school enrolment demands not school-by-school, but across a number of schools within a particular geographic area. According to the NSW Auditor-General:

School cluster planning assesses schools in a region or district to identify the best way to deliver school assets to a cluster rather than individual schools. It identifies the most effective and efficient asset solution within a cluster of five to 15 schools by reviewing the cluster's:

- demographic trends
- asset condition
- catchment boundaries
- site sizes
- consolidation opportunities
- co-location with other services.⁴³

1.25 In relation to review of catchment boundaries, the department advised that adjusting these boundaries was a commonly used method to manage enrolments within a cluster of schools. In his evidence to the committee, Mr Murat Dizdar, Executive Director, Public Schools NSW, NSW Department of Education stated that:

It is quite common for us, particularly in built up areas, to make boundary adjustments. I indicate to the Committee that we do that in full consultation with all of the school communities—not just one—where those boundary adjustments may impact. It is a constant in our line of work whereby we would look at making modifications and changes. There have been cases in which we have brought boundaries in and restricted the intake area for a particular school and then gone back and expanded what that looks like. So we work with our assets, our personnel and our demographers to constantly analyse the data. We work with our principal who has the site information and make boundary adjustments where necessary.⁴⁴

1.26 The school cluster for Sydney's inner city currently comprises seven schools. The following table sets out, for each school, the size of the site, the number of student enrolments in 2015 and projected for 2020, and the number of classrooms.

⁴³ NSW Auditor-General, *Financial Audit Report, Volume Thirteen 2016, Education*, (December 2016), p 47.

⁴⁴ Evidence, Mr Murat Dizdar, Executive Director, Public Schools NSW, NSW Department of Education, 25 November 2016, p 10.

Table 1 Inner city school cluster

	Size of school site	2015 student enrolments	2020 projected student enrolments	Number of classrooms
Ultimo Public School	0.54 hectares	311	352	14 permanent and one demountable classroom on site
Glebe Public School	0.8 hectares	220	245	13 permanent classrooms on site, with a demand for 10 classrooms
Fort Street Public School	0.22 hectares	159	204	7 permanent classrooms on site, with a demand for all 7 classrooms. A proposed upgrade of the school and the Observatory Hill EEC will provide the school with 6 additional classrooms, taking the number of permanent classrooms to 13 and the school's capacity to 340 students
Plunkett Street Public School	0.79 hectares	53	66	4 permanent classrooms on site, with a demand for 3 classrooms
Crown Street Public School	0.62 hectares	270	324	12 permanent classrooms on site, with a demand for all 12 classrooms
Forest Lodge Public School	0.56 hectares	316	331	13 permanent classrooms on site, with a demand for all 13 classrooms
Darlinghurst Public School	0.59 hectares	286	398	11 permanent classrooms on site, with a demand for 12 classrooms.

Submission 67, NSW Department of Education, Attachment Item C, Tab 27, p 4.

1.27 With regard to this cluster of schools, the department advised that it has several projects either planned or currently underway which will ensure that student enrolment demand will be met to 2036.⁴⁵ This includes the upgrade and expansion of Fort Street Public School, which was approved in the 2016-2017 Budget and which is anticipated to be completed by early 2021.⁴⁶ Projects in adjoining clusters which will also assist in managing future demand within the cluster include:

- An upgrade of Bourke Street Public School, which will increase its capacity to accommodate up to 440 students. The project is currently in construction and is anticipated to be completed by mid-2017.⁴⁷

⁴⁵ Evidence, Mr Perrau, 25 November 2016, p 10.

⁴⁶ Submission 67, NSW Department of Education, p 1.

⁴⁷ Submission 67, NSW Department of Education, p 1.

- Redevelopment of the Alexandria Park Community School to provide a Kindergarten to Year 12 school that will accommodate up to 2,200 students.⁴⁸ This project is expected to go to tender in late 2017.⁴⁹

1.28 The redevelopment of Alexandria Park Community School in Green Square was announced in May 2016, with the Minister for Education noting that:

Green Square is one of the fastest growing areas in Sydney and the planned expansion at Alexandria Park is a key part of our plan to meet the expected demand for public school places.⁵⁰

1.29 Green Square is another large urban transformation program being led by UrbanGrowth NSW, with the town centre planned to include around 4,000 dwellings.⁵¹ In her evidence to the committee, the Lord Mayor emphasised the importance of planning for further public school infrastructure to meet the needs of a much larger population in this area, stating:

In coming years Australia's most densely populated area will be the larger renewal area of Green Square. Initially designated by the State Government for redevelopment in 1996, since 1999 the population has grown by more than 18,000 people and the area will be home to 61,000 residents when complete around 2031. ... The city's research identified that Green Square needed one new primary school and one new high school in 2016, with an additional four new primary schools by 2031.⁵²

1.30 The Lord Mayor told the committee that the City of Sydney welcomed the planned expansion of Alexandria Park Community School and is working with the NSW Department of Education to investigate further options for Green Square.⁵³ Similarly, Mr Perrau commented at the hearing that the department 'is working very closely with the council at the moment, looking at options for Green Square.'⁵⁴

Concerns about the cluster model in the inner city

1.31 A number of stakeholders expressed concerns about the cluster model, particularly as it operates in the inner city area. For example, Mr William d'Anthes, former President, Ultimo Public School Parents and Citizens Association, argued that it was not feasible to manage enrolment demands within the cluster because of where schools are located. Mr d'Anthes told the committee:

Even so, if you use that cluster format, the schools are not in the right place to increase the numbers and they will not answer the needs that we see coming up, that

⁴⁸ Submission 67, NSW Department of Education, p 1.

⁴⁹ Answers to questions on notice, NSW Department of Education, 21 December 2016, p 2.

⁵⁰ Media Release, The Hon Adrian Piccoli MP, Minister for Education, 'More student places for inner city families', 4 May 2016.

⁵¹ NSW Department of Planning and Environment, *A Plan for Growing Sydney* (December 2014), p 112.

⁵² Evidence, Ms Moore, 25 November 2016, p 25.

⁵³ Evidence, Ms Moore, 25 November 2016, p 25.

⁵⁴ Evidence, Mr Perrau, 25 November 2016, p 13.

almost anyone can see coming up, apparently, except for the demographers from the Department of Education.⁵⁵

- 1.32** Similarly, the committee heard about potential logistical difficulties involved in sending children to a school located outside their immediate neighbourhood. Ms Elizabeth Elenius, Convenor, Pymont Action Incorporated, noted how time-consuming it is to travel from one end of the city to another, stating:

To ship the kids from here to Fort Street and back might look good as the crow flies but logistically it is impossible. Even getting to Glebe is hard from Pymont. You can draw lines on a map but the map is not reflecting the reality of the traffic.⁵⁶

- 1.33** In addition, a number of inquiry participants also highlighted the importance of local schools in fostering a sense of community.⁵⁷ For example, Ms Barone told the committee:

Schools create a sense of community; it is where people gather, it is where parents do things, where sport happens and all the rest of it...[w]here you meet your neighbours. Most people meet and make their lifelong friends through the parent groups in their local communities. You do not want people travelling from Green Square, children having to travel from Green Square outside of that town centre, because it is not good for them, it is not good for community, it puts more cars on the road.⁵⁸

- 1.34** This sentiment was echoed by Ms Mary Mortimer, Convenor, Ultimo Pymont Education Campaign Committee, who objected to the notion of distributing children across different schools in the inner city school cluster to deal with fluctuating enrolment demand. Ms Mortimer commented that:

... [A] school is part of the community. Children need a school in the community. The department talks about a cluster of seven schools across the city as if children are pawns who can be moved from here to there if there is more capacity over there than here. Children need to go to their own school and build a community in Pymont and Ultimo which is a highly successful, well integrated community. The community is concerned about the school and involved with the school. The school is involved with the community. That can only happen if the school is in the community and able to take all the children of the community.⁵⁹

⁵⁵ Evidence, Mr William d'Anthes, Former President, Ultimo Public School Parents and Citizens Association, 25 November 2016, p 51.

⁵⁶ Evidence, Ms Elizabeth Elenius, Convenor, Pymont Action Incorporated, 25 November 2016, p 62.

⁵⁷ Submission 13, Ms Manuela Epstein, p 1; Submission 23, Mrs Stella Phelan, p 1; Submission 29, Ultimo Public School Parents and Citizens Association, p 1.

⁵⁸ Evidence, Ms Monica Barone, Chief Executive Officer, City of Sydney, 25 November 2016, pp 36-37.

⁵⁹ Evidence, Ms Mary Mortimer, Convenor, Ultimo Pymont Education Campaign Committee, 25 November 2016, pp 61-62.

Demographic projections and coordination with planning authorities

1.35 In its submission, the NSW Department of Education advised that it continually reviews school enrolment projections for inner city primary schools.⁶⁰ This work is undertaken by demographers employed by the NSW Department of Education, who undertake both ‘short and long term student population forecasts based on data provided by the Department of Planning and Environment’.⁶¹ This data includes:

- NSW Population and Household Projections
- Sydney Metropolitan Housing Supply Forecasts.⁶²

1.36 In his evidence to the committee, Mr Perrau stated that the NSW Department of Education’s current projections were consistent with these forecasts, and that its demographic processes had recently been subject to third party review:

We use the figures and the projections of the Government through the Department of Planning and working with the Department of Planning to come up with projections of enrolment. To give some confidence to the Committee: just recently our demographic processes have been reviewed by Treasury and Treasury had a third party review them; they have been reviewed by INSW [Infrastructure NSW] and they were third-party reviewed by the Department of Planning as part of another process. Each review found them to be robust.⁶³

1.37 Mr Perrau also assured the committee that the department’s demographic projections for the seven primary schools in the inner city had been done ‘to a great degree of detail so we know what the demand will be and we now know how we can deal with that demand’.⁶⁴

1.38 In addition to demography, the committee heard that the department coordinates with other government agencies to plan for the allocation of land for future public schools in growth areas. In particular, Mr Peter Riordan, Deputy Secretary, Corporate Services, NSW Department of Education noted that the department is represented on the Greater Sydney Commission⁶⁵ and further, has been in productive discussions with UrbanGrowth NSW. Mr Riordan told the committee:

We have been successful in getting UrbanGrowth and government to accept that schools are essential infrastructure when planning is being done. Now that was not always the case. I am now much more confident, if you had asked me the question two or three years ago, that when we sit at the table people have accepted that a school is part of essential infrastructure. When they are designing renewed urban environments to increase densities in our city we will be able to work with those government bodies in order to ensure there are spaces for local schools.⁶⁶

⁶⁰ Submission 67, NSW Department of Education, p 11.

⁶¹ Answers to supplementary questions, General Purpose Standing Committee No. 3, Budget Estimates 2016-2017, The Hon Adrian Piccoli MP, Minister for Education, 22 September 2016, p 34.

⁶² Submission 67, NSW Department of Education, p 11.

⁶³ Evidence, Mr Perrau, 25 November 2016, p 5.

⁶⁴ Evidence, Mr Perrau, 25 November 2016, p 10.

⁶⁵ Evidence, Mr Riordan, 25 November 2016, pp 7.

⁶⁶ Evidence, Mr Riordan, 25 November 2016, pp 7-8.

- 1.39 Similarly, Mr Perrau advised that in all current UrbanGrowth NSW priority precincts, the department ‘is at the table discussing how education will be catered.’⁶⁷

Concerns about the department’s demographic projections and planning

- 1.40 Notwithstanding the NSW Department of Education’s assurances, the committee received evidence from several inquiry participants questioning the reliability of the department’s demographic projections and ability to plan for demand from future housing developments, given that previous projections have not been borne out.

- 1.41 Based on his 18 years’ experience living in Ultimo, Mr d’Anthes conveyed to the committee his frustration with the inaccuracy of the department’s earlier projections, and expressed concern that these mistakes are being repeated:

... [T]he demography of the department has been woeful ... it has not been correct ever, in my experience, and certainly not with [Ultimo Public School] ... I have been around since 1998 when they were talking about closing the school and sending all our children over to Glebe because there were going to be no children in our area because it was high rise. That sort of mentality has continued, even when we were talking about the demographic possibilities for the school in Wattle Street, and the point was made—and I made it myself—“Have you taken into account such large developments”, upcoming at that time, “at Darling Harbour and also Central Park? Have you looked at those? And what about areas across the city generally?” The answer from the demographer was “No”. I found that unbelievable and I continue to find it unbelievable.⁶⁸

- 1.42 This sentiment was echoed by Ms Mortimer, who argued that the department’s ‘predictions of population growth and the need for more public school places have a long history of underestimation’.⁶⁹

- 1.43 The committee also heard that, contrary to the department’s claim that it works with local government in developing its demographic projections,⁷⁰ the department had not been sharing this information with the City of Sydney. The Lord Mayor gave evidence that:

It has been the city’s experience that the Department of Education does not share its enrolment demand management methodology or the enrolment data and forecasts used to plan for future school provision. As a consequence the city did its own research on likely school needs for Green Square based on forecast population growth and demographic profile analysis.⁷¹

Committee comment

- 1.44 It is clear from evidence before the committee that the last five to ten years has seen a substantial increase in student enrolments—in inner city Sydney, driven by a growing population

⁶⁷ Evidence, Mr Perrau, 25 November 2016, p 5.

⁶⁸ Evidence, Mr d’Anthes, 25 November 2016, p 51.

⁶⁹ Evidence, Ms Mortimer, 25 November 2016, p 60.

⁷⁰ Evidence, Mr Perrau, 25 November 2016, p 5.

⁷¹ Evidence, Ms Moore, 25 November 2016, p 25.

of parents with small children living in this already densely populated area. It is also clear that enrolment pressure on public schools – and primary schools in particular – will only increase in coming years and decades, particularly given major urban transformation programs such as the Bays Precinct and Green Square.

- 1.45** The committee acknowledges the work done by the NSW Department of Education to manage changing enrolment patterns in inner city public primary schools, including the development of a cluster model covering seven schools within the inner city area. This model is clearly not without its challenges, especially for parents whose children cannot be accommodated at their nearest school and who have to travel longer distances to drop them off. The sense of community that is created by a having a school that all local children can attend is also of undeniable value.
- 1.46** While the committee believes it would be impracticable for the department to manage enrolment capacity school-by-school, given its obligation to ensure that all students who wish to go to a public school can be accommodated, there clearly should be a greater focus in the cluster model on the benefit of children attending their local school. A cluster model is plainly more efficient and offers the department great flexibility in managing fluctuating demand, which is particularly important in an area as densely populated as inner city Sydney. But it also goes without saying that public education and school communities are about a good deal more than just efficient administration. Local schools provide a sense of community. They are gathering places for neighbours and often life-long friendships are formed amongst students and parents alike. For these reasons we believe that the cluster model should be amended to acknowledge these factors and provide a greater emphasis on connecting schools with their immediate neighbourhood and community.

Recommendation 1

That the NSW Department of Education amend the inner city school cluster model to acknowledge that public schools provide an important sense of community and to afford greater emphasis to connecting schools with their immediate neighbourhood and community.

- 1.47** More generally, the committee was pleased to hear that the Inner Sydney Primary and Secondary Schools Asset Planning Strategy (2014-2026) was developed with the input of the Inner City Schools Working Party, which includes local parents and staff from the City of Sydney in addition to departmental representatives. Engaging with these stakeholders and keeping the community informed should continue to form an important part of the department's approach to managing enrolment capacity going forward.
- 1.48** As for demographic projections concerning the inner city, the committee notes the department's assurance that these have been developed to great degree of detail and that student enrolment demand will be met to 2036. However, some skepticism is understandable given that past demographic predictions failed to foresee the growth in the number of school-aged children living in the inner city, leading to the closure of some primary schools.
- 1.49** The committee is encouraged that the NSW Department of Education has recently subjected its demographic projections to review by Treasury, Infrastructure NSW, the NSW

Department of Planning and an independent third party. The committee believes that this kind of third party review should be undertaken regularly, to ensure that the demographic projections on which the NSW Department of Education relies are as accurate as possible. Further, in the absence of certainty from UrbanGrowth NSW as to the size and scale of the Bays Precinct development there remains a good degree of uncertainty and estimation in demographic projections. Clearly this is sub-optimal. There is a need for a more coordinated approach to education and planning strategies that ensures that school building programs are determined with the most up-to-date and accurate information on development pressures.

Recommendation 2

That the NSW Department of Education subject its demographic projections to a regular third party review process.

Recommendation 3

That the NSW Government formalise coordination between UrbanGrowth NSW, the NSW Department of Planning and Environment and the NSW Department of Education to ensure that school building programs are determined with the most up-to-date and accurate information on development pressures.

- 1.50** In addition, we note the department's evidence that it works with local governments in developing its demographic projections. However, the committee believes the department should take the next step and share these projections with councils – in appropriate cases and on a confidential basis – to ensure the two levels of government have a cohesive and consistent approach to city planning and to reduce unnecessary and presumably costly duplication.
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Recommendation 4

That the NSW Department of Education share its demographic projections with councils in appropriate cases and on a confidential basis, to ensure a cohesive and consistent approach to city planning.

- 1.51** Finally, the committee was encouraged to hear that the NSW Department of Education is represented on the Greater Sydney Commission and has been constructively engaging with UrbanGrowth NSW, which is leading the Bay Precinct and Green Square projects in the inner city. It is critical that the department continue to be given a meaningful voice in the planning process for such major urban developments, to ensure that the parents who live there will have local schools for their children to attend.
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Chapter 2 The redevelopment of Ultimo Public School

While the previous chapter looked at the challenge of managing enrolments in Sydney's densely populated inner city more generally, in this chapter the committee focuses on the redevelopment of one particular school: Ultimo Public School. It commences by discussing the NSW Department of Education's initial plan to relocate the school to the City of Sydney-owned Fig and Wattle site, and then examines the subsequent decision not to proceed with that site and instead to redevelop the school at its current location. The chapter also considers the costs involved in the redevelopment project.

Overview

- 2.1 Ultimo Public School is located on the corner of Wattle and Quarry Streets, in the inner city suburb of Ultimo. It is opposite Wentworth Park and services the students of the Ultimo and Pyrmont suburbs who live within the catchment area. Ultimo Public School is one of the seven primary schools in the inner city schools cluster, with a current enrolment of 320 students.⁷²
- 2.2 In recognition of the need to significantly expand the school's enrolment capacity, the NSW Department of Education announced in late 2013 that a new school would be developed in the Ultimo/Pyrmont area, with the preferred site being a large parcel of land owned by the City of Sydney Council. The site is located on the corner of Fig and Wattle Street, Ultimo (hereafter 'the Fig and Wattle site'), 200 metres down the road from the current school. The Fig and Wattle site is nearly three times larger than the current school site.
- 2.3 Following negotiations between the department and the council over a 12-month period, the Hon Adrian Piccoli MP, Minister for Education, announced that the department had come to an agreement to purchase the site in December 2014 for a price of \$74 million. Six months later, the department withdrew from the sale process on the basis that it had become aware that remediating contamination on the site would be much more costly than initially thought, making the venture financially unviable. However, the council and local school community have maintained that this explanation is disingenuous, and that the department withdrew from the deal for political reasons.
- 2.4 This chapter examines the department's decision to purchase the Fig and Wattle site, negotiations leading up to the agreement to purchase the site and the subsequent decision by the department to abandon the site. The chapter then discusses the department's decision to redevelop the school on its current site.
- 2.5 A timeline of key events is included as Appendix A.

⁷² Submission 67, NSW Department of Education, p 9.

Decision to redevelop the school on the Fig and Wattle site

- 2.6** In late 2012 the NSW Department of Education established the Inner City Schools Working Party to assist in the ongoing review of public primary and secondary education in the inner Sydney area.
- 2.7** In 2013, the first task of the working party was to consider the public education needs for growing numbers of primary-aged school students in the Ultimo/Pymont area. The composition of the Inner City Schools Working Party that considered the Ultimo Public School project included departmental staff from the Public Schools section and the Asset Management Directorate, the Principal of Ultimo Public School, as well as representatives from the Ultimo Public School Parents and Citizens Association and the City of Sydney.

Inner City School Working Party recommendation

- 2.8** The establishment of the Ultimo/Pymont Working Party was part of the department's long term strategy to meet demand for what the department had estimated to be an additional 28 teaching spaces to 2026.⁷³ The working party met every month, including in the period leading up to the selection of the preferred site for a primary school in the Ultimo/Pymont area.⁷⁴
- 2.9** Work undertaken by the Ultimo/Pymont Working Party identified and evaluated seven locations for the provision of additional new permanent teaching spaces to meet demand. The criteria included:
- meeting the project demand for teaching spaces
 - meeting the facility standards and future focussed learning
 - cost and value for money
 - stakeholder and community feedback
 - location and accessibility
 - site capability and constraints
 - area and quality of outdoor space
 - added benefits to community and minimum disruption to school operation.⁷⁵
- 2.10** Utilising a weighting system taking into account each of these criteria, the Ultimo/Pymont Working Party unanimously found that the most suitable option was to build a new public school on land at Fig and Wattle Streets, Ultimo owned by the City of Sydney.⁷⁶ The department informed the committee that this site was preferred due to its large size, subject to the cost of acquiring the land from the City of Sydney:

⁷³ Submission 67, NSW Department of Education, Attachment Item B, Tab 1, p 35.

⁷⁴ Evidence, Dr Sylvia Corish, Director, Public Schools NSW, Inner City Strategy, NSW Department of Education, 25 November 2016, p 6.

⁷⁵ Submission 67, NSW Department of Education, Attachment Item B, Tab 1, p 35.

⁷⁶ Submission 67, NSW Department of Education, Attachment Item B, Tab 1, p 36.

This was the preferred option identified by the Working Party, primarily because the 1.2 hectare site was large enough to build capacity and meet long term enrolment demand. The Working Party noted that its preference for this option was dependent on the final implications of land acquisition and cost, which were subject to negotiations with the landowner, City of Sydney Council.⁷⁷

- 2.11** In making its recommendation, the working party was aware that the site was contaminated and would require remediation.⁷⁸
- 2.12** The other options considered by the working party, in order of suitability against the criteria, were:
- a new Ultimo/Pymont Primary School at 100 Harris Street, Pymont
 - expansion of Glebe Primary School
 - expansion of existing Ultimo Primary School
 - redevelopment of existing Ultimo Primary School for high rise mixed use with new school
 - a new Ultimo/Pymont Primary School (other potential sites in Pymont)
 - expansion of Fort Street Primary School.⁷⁹

Announcement and subsequent negotiations with the City of Sydney

- 2.13** The department received the working party's recommendation to proceed with the Fig and Wattle site on 15 October 2013.⁸⁰ The department accepted this recommendation and the Minister subsequently announced that a new school would be developed in the Ultimo/Pymont area, with the preferred site being the Fig and Wattle site.⁸¹ Negotiations to purchase the site from the City of Sydney, which has held the site for 105 years,⁸² commenced in November 2013.⁸³
- 2.14** It was common ground during the negotiations between the department and the City of Sydney that the market value of the land was \$100 million.⁸⁴ There was also agreement that the site was contaminated and required remediation, with the department telling the committee there was 'no disagreement that the site is highly contaminated'.⁸⁵ The council's position was that it would absorb the costs of remediating the contamination.⁸⁶

⁷⁷ Submission 67, NSW Department of Education, p 3.

⁷⁸ Submission 67, NSW Department of Education, p 3.

⁷⁹ Submission 67, NSW Department of Education, Attachment Item B, Tab 1, p 35.

⁸⁰ Submission 67, NSW Department of Education, Attachment Item C, Tab 3, p 1.

⁸¹ Submission 67, NSW Department of Education, Attachment Item C, Tab 25, p 1.

⁸² Answers to questions on notice, City of Sydney, 21 December 2016, p 1.

⁸³ Submission 67, NSW Department of Education, Attachment Item C, Tab 3, p 1.

⁸⁴ Submission 67, NSW Department of Education, Attachment Item C, Tab 3, p 1.

⁸⁵ Evidence, Mr Anthony Perrau, Executive Director, Asset Management, NSW Department of Education, 25 November 2016, p 2.

⁸⁶ Evidence, Ms Monica Barone, Chief Executive Officer, City of Sydney, 25 November 2016, p 29.

- 2.15** Twelve months passed between the Minister's announcement that the Fig and Wattle site was the preferred site and the Minister's subsequent announcement that an agreement had been reached between the department and the council to purchase the Fig and Wattle site. The primary issues of contention during those negotiations were the extent to which the site should be remediated and associated costs, and the extent to which the council would discount the purchase price with respect to that remediation.⁸⁷
- 2.16** In June 2014, the department engaged consultants McLachlan Lister to project manage the Ultimo Public School project. In addition to liaising with contractors including the environmental scientist, architect and site auditor, a key aspect of McLachlan Lister's role involved engaging with local parents and community members to see their views on the project and to keep them informed of progress.⁸⁸ Engagement strategies included a regularly updated project website, information booths at community centres and shopping centres, workshops, field trips to other school sites and projects with students.⁸⁹
- 2.17** In July 2014, environmental scientists Douglas Partners prepared a report for the department on contamination at the Fig and Wattle site. This report outlined options for remediation, including:
1. removing contamination and capping sections of the site that were contaminated, known as 'hotspotting'
 2. removing fill to a depth of three metres and then capping the entire site
 3. capping the entire site
 4. removing all fill to a depth of approximately nine metres.⁹⁰
- 2.18** The department wrote to the council in June 2014, noting estimated remediation costs of \$25 million based on the second remediation option.⁹¹ On 21 July 2014, Douglas Partners provided formal advice estimating the cost of the 'hotspotting' option at \$9.441 million, and the removal of fill to a nominated depth and then capping the site at \$23.27 million.
- 2.19** The council maintained throughout the negotiations that only capping of the site was required, and that the removal of fill was unnecessary.⁹² The council's response to the department noted the estimated cost of remediation for residential/commercial development was \$4.45 million, based on an estimate prepared by its consultants, JBS&G Australia and Altus Page Kirkland.⁹³ This represented the site's highest and best use. According to the council, remediation of the site to meet Environment Protection Authority guidelines for an education facility would cost an estimated \$5.35 million.⁹⁴

⁸⁷ Submission 67, NSW Department of Education, Attachment Item C, Tab 3.

⁸⁸ Evidence, Ms Mary Casey, Project Consultant, McLachlan Lister, 25 November 2016, p 19.

⁸⁹ Evidence, Ms Casey, 25 November 2016, p 19.

⁹⁰ Submission 67, NSW Department of Education, Attachment Item C, Tab 13, p 3.

⁹¹ Submission 27, City of Sydney, Attachment 1, page 1.

⁹² Tabled document, City of Sydney, *Correspondence with NSW Department of Education 2014-2016*, 25 November 2016, p 7.

⁹³ Submission 67, NSW Department of Education, Attachment Item C, Tab 2, p 1.

⁹⁴ Submission 67, NSW Department of Education, Attachment Item C, Tab 2, p 1.

- 2.20** Given the different positions of the department and the council in relation to the standard and associated costs of remediation, the committee heard that negotiations included a meeting between two independent environmental consultants in August 2014 to value the remediation costs. The committee heard that although this process was never completed, matters between the environmental consultants progressed as far as agreement on the following:
- that the site was to be remediated to meet SEPP 55, the state environment planning policy covering remediation of contaminated land,
 - that the estimated cost of remediation to meet SEPP 55 was in the order of \$7.5 million.⁹⁵
- 2.21** The committee did not hear evidence as to whether, and if so what type of remediation was agreed between the consultants.
- 2.22** In addition, from the beginning of negotiations, the council had a strong preference that the sale include the construction and transfer back to council of a child care centre on the site. Discussions also canvassed the possibility of building other facilities on the school site for shared use with the community, including netball or other games courts, and the transfer of land held by the department elsewhere in the City of Sydney to council.⁹⁶
- 2.23** On 6 August 2014, the department offered to purchase the site for \$67 million, representing a land valuation of \$100 million, less remediation costs of \$25 million and the costs associated with the building of a child care centre of \$8 million.⁹⁷ This offer was rejected by the council. On 8 September 2014, the department made a further offer of \$74 million, representing a land valuation of \$100 million, less a discounted remediation cost of \$18 million and the costs associated with the building of a child care of \$8 million.⁹⁸
- 2.24** On 19 September 2014, the council countered with a proposed sale price of \$82.5 million, representing \$7.5 million for decontamination costs, \$2 million towards a contingency for remediation costs and \$8 million towards the child care centre.⁹⁹
- 2.25** At a meeting between the Lord Mayor, the Minister for Education, council officers and departmental staff on 13 November 2014, the removal of excavated fill from the site was discussed. The council outlined that the removal of soil was contributing to a price differential of \$14.6 million, being the difference between the cost of remediating the site to the standard the council's environmental scientists believed appropriate, and the estimated cost of removing three metres of fill as well as capping the site. The council stated that removing three metres of fill did not provide any greater safety benefit than the scope of works proposed by the council, namely capping.¹⁰⁰

⁹⁵ Evidence, Mr Kim Woodbury, Chief Operating Officer, City of Sydney, 25 November 2016, p 27; Submission 67, NSW Department of Education, Attachment Item C, Tab 2, p 2.

⁹⁶ Evidence, Ms Barone, 25 November 2016, p 29-30.

⁹⁷ Submission 67, NSW Department of Education, Attachment Item C, Tab 21, pp 2-3.

⁹⁸ Submission 67, NSW Department of Education, Attachment Item C, Tab 21, p 3.

⁹⁹ Submission 67, NSW Department of Education, Attachment Item C, Tab 2, p 2.

¹⁰⁰ Tabled document, City of Sydney, *Correspondence with NSW Department of Education 2014-2016*, pp 5-6.

- 2.26** On 25 November 2014 the department withdrew its offer of \$74 million, concerned about the lack of progress in the negotiations and wishing to pursue other options to redevelop the school.¹⁰¹
- 2.27** On 9 December 2014 the Lord Mayor wrote to the Minister outlining a resolution by the council to sell the site to the NSW Government for \$74 million, including the construction and transfer of a child care centre.¹⁰²
- 2.28** On 12 December 2014 the Minister wrote to the Lord Mayor, accepting the proposed purchase price of \$74 million subject to the following conditions:
- council confirming acceptance of the conditions by 19 December 2014
 - council providing the department with clear and unfettered access to the whole site as soon as possible before 31 July 2015 to allow decontamination works to commence
 - payment of the \$74 million to be made in two equal instalments, with the first instalment to be made on exchange on 31 July 2015, and the second to be made by 31 July 2016
 - settlement and transfer of title upon payment of the second instalment on 31 July 2016
 - department to design and construct, to council requirements and specification, an 80-space childcare centre for a maximum cost of \$8 million
 - at completion of the construction contract the childcare centre to be surveyed and transferred to council under a strata title arrangement.¹⁰³
- 2.29** On 18 December 2014, the Lord Mayor wrote to the Minister agreeing to these conditions.¹⁰⁴ To facilitate the earlier transfer of the title, the Lord Mayor outlined that the department could obtain full access to the property if appropriate security was provided in the contract of sale. In the absence of such security, the Lord Mayor outlined that access prior to settlement would need to be governed by a licence agreement.¹⁰⁵
- 2.30** On 15 December 2014 the Minister for Education announced that an agreement had been reached with council to purchase the Fig and Wattle site.¹⁰⁶ This decision was welcomed by the school community and local residents.

Decision not to proceed with the Fig and Wattle site

- 2.31** Around six months after the Minister's announcement that the department had agreed to purchase the Fig and Wattle site from the City of Sydney for \$74 million, the department rescinded the deal. The department advised the City of Sydney of this on 12 June 2015.¹⁰⁷

¹⁰¹ Submission 67, NSW Department of Education, Attachment Item C, Tab 5, p 2.

¹⁰² Submission 67, NSW Department of Education, Attachment Item C, Tab 5, p 5.

¹⁰³ Submission 67, NSW Department of Education, Attachment Item C, Tab 6, p 1.

¹⁰⁴ Submission 67, NSW Department of Education, Attachment Item C, Tab 7, p 1.

¹⁰⁵ Submission 67, NSW Department of Education, Attachment Item C, Tab 7, p 1.

¹⁰⁶ Media release, The Hon Adrian Piccoli MP, Minister for Education, 'New site chosen for Ultimo/Pymont school', 15 December 2014.

- 2.32** During the inquiry, two competing narratives emerged as to why the deal fell through. On the one hand, the department pointed to evidence that emerged only after the deal was announced indicating that the site was not a viable option for a school after all, both in terms of risk to health and safety of students and staff and the cost of remediation.¹⁰⁸ In particular, the department relied on expert advice indicating that the cost of remediating the site to a level necessary to guarantee the safety and wellbeing of current and future students and staff, and to meet the expectations of the local community, could exceed \$53 million.¹⁰⁹ According to the department, this made the site financially unviable, with ‘the full redevelopment cost of a new school on the site ... as high as \$177 million (on average a primary school costs between \$25 and \$40 million to construct)’.¹¹⁰
- 2.33** On the other hand, the City of Sydney and members of the local community believe that remediating the site to the necessary standard will cost far less than the department claims. For example, the City of Sydney characterised the \$53 million estimate as a ‘wild overstatement’.¹¹¹ Similarly, Mr Kevin Langdon, current President, Ultimo Public School Parents and Citizens Association, called the estimate a ‘grossly inflated and unwarranted worst-case remediation scenario’.¹¹²
- 2.34** This section of the chapter examines the evidence underlying these competing narratives, as well as other concerns around the department’s decision not to proceed with the Fig and Wattle site.

Remediation of the site and associated costs

- 2.35** It is clear that from the outset, the department was sensitive to managing the risks associated with a contaminated site. Through the Government Architect’s Office, the NSW Department of Education engaged the following bodies to assess the contamination of the Fig and Wattle site and propose appropriate remediation methodologies:
- Douglas Partners, the environmental consultant
 - Environ, the site auditor
 - Cetec, the peer reviewer.
- 2.36** The department told the committee that it had initiated the peer review to satisfy itself that the remediation options proposed for the site would meet its requirements to use the site as a school.¹¹³ Douglas Partners gave evidence that, while ‘slightly unusual’, the inclusion of a peer reviewer was an additional level of scrutiny due to the sensitive nature of the site and to increase transparency.¹¹⁴

¹⁰⁷ Submission 27, City of Sydney, Attachment 1, p 4.

¹⁰⁸ Submission 67, NSW Department of Education, p 6.

¹⁰⁹ Submission 67, NSW Department of Education, p 7.

¹¹⁰ Submission 67, NSW Department of Education, p 7.

¹¹¹ Submission 27, City of Sydney, p 2.

¹¹² Evidence, Mr Kevin Langdon, President, Ultimo Public School Parents and Citizens Association, 25 November 2016, p 47.

¹¹³ Answers to questions on notice, NSW Department of Education, 21 December 2016, p 2.

¹¹⁴ Evidence, Mr Christopher Kline, Principal, Douglas Partners, 25 November 2016, p 41.

2.37 It was agreed by the council and the department that the remediation standards relevant to the proposed work at the Fig and Wattle site were those set out by the Environment Protection Authority (EPA).¹¹⁵

The remediation action plan

2.38 On 12 March 2015, Douglas Partners prepared a draft remediation action plan for the site. The plan had the following objectives:

- to provide a summary of the contamination issues identified at the site
- to identify the principles for remediation of the site
- to review the remediation options and identify those most applicable for the project
- to identify additional works likely to be required for implementation of the preferred remediation works
- to assist the Government Architect Office and the NSW Department of Education to determine the remediation strategy to be adopted for the project
- to allow implementation of the remediation in conjunction with a detailed remediation and validation plan, which would be prepared following the identification of the preferred remediation strategy.¹¹⁶

2.39 The remediation action plan outlined that the remediation acceptance criterion was ‘no acceptable risk to human health or the environment’, noting that further details would be provided in a subsequent remediation and validation plan.¹¹⁷ The remediation action plan also noted the importance of community consultation and engagement,¹¹⁸ and drew attention to relevant EPA guidelines.

2.40 Of particular relevance were the EPA guidelines setting out the preferred order in which contaminated soil is to be remediated and managed. The guidelines provide that in the first instance, soil should be treated on site to destroy or reduce the associated hazard to an acceptable level. Subsequent remediation options include the off-site treatment of excavated soil, the removal of soil and replacement with clean fill, and finally the consolidation and isolation of the soil on-site by containment within a properly designed barrier.¹¹⁹

2.41 Following the preparation of its draft remediation action plan in March 2015, Douglas Partners provided the department with an overview plan in April 2015. The plan outlined four remediation options:

- Option 1 – hotspotting removal and capping of contaminants
- Option 2 – removal of three metres of soil, followed by capping of site

¹¹⁵ Evidence, Ms Barone, 25 November 2016, p 27.

¹¹⁶ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, p 1.

¹¹⁷ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, p 20.

¹¹⁸ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, p 20.

¹¹⁹ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, pp 21-22, quoting Department of Environment and Conservation NSW, *Guidelines for the NSW Site Auditor Scheme (2nd edition)*, April 2006, p 38.

- Option 3 – capping of site only
- Option 4 – full removal of contaminated soil.¹²⁰

2.42 At the hearing, Douglas Partners confirmed that all of these options were appropriate methodologies for decontaminating the site in preparation for the building of a primary school.¹²¹ Following questioning from the committee, Douglas Partners agreed that every option prepared in its remediation action plan protected the welfare of children.¹²²

Advice to the department

2.43 On 4 March 2015, peer reviewers Cetec indicated that Option 4, the removal of all contaminated soil and ground water from the site would achieve the best local environmental outcome within the project timeframe. Cetec outlined its concerns in terms of the wider environment, noting that removal of contaminated soil would have the effect of transferring the problem somewhere else.¹²³

2.44 On 5 May 2015, project managers McLachlan Lister convened a workshop with Douglas Partners, the Government Architects Office and quantity surveyors Mitchell Brandtman to review the options and agree to a costing approach.¹²⁴ Option 1 was not discussed at the workshop as insufficient data was available to develop this option.¹²⁵ Similarly, Ms Mary Casey, Project Consultant, McLachlan Lister, told the committee that the council's proposed option of just capping the site – option 3 – was dismissed as being unsuitable for a school site:

We had everyone in the room to try to work with the data that we had and come up with options. One of the options we looked at was council's proposed option, but that was dismissed early in the discussion as not being appropriate for a school, as stated in the site auditor's report, the Sinclair Knight Merz report. It was Dr Ian Swane's estimation that that capping solution would work for a residential or commercial site, as has been discussed already this morning. We were looking at what else would be possible.¹²⁶

2.45 The committee heard that there was preliminary consensus between Douglas Partners, Cetec, Environ, the Government Architect's Office and Mitchell Brandtman that option 2 – the removal of three metres of soil, followed by encapsulation – was 'the preferred remediation solution', subject to verification following further access to the site and more robust testing.¹²⁷ Douglas Partners told the committee that option 2 was preferred because it 'not only protected the welfare of children but also gave flexibility for the development on the site'.¹²⁸ Mr Christopher Kline, Principal, Douglas Partners, explained:

¹²⁰ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, p 35.

¹²¹ Evidence, Mr Kline, p 40.

¹²² Evidence, Mr Kline, p 44.

¹²³ Submission 67, NSW Department of Education, Attachment Item C, Tab 20, p 5.

¹²⁴ Submission 67, NSW Department of Education, Attachment Item C, Tab 1, p 8.

¹²⁵ Submission 67, NSW Department of Education, Attachment Item C, Tab 1, p 6.

¹²⁶ Evidence, Ms Casey, 25 November 2016, p 15.

¹²⁷ Submission 67, NSW Department of Education, Attachment Item C, Tab 18, p 1; Evidence, Ms Casey, 25 November 2016, p 15.

¹²⁸ Evidence, Mr Kline, 25 November 2016, p 44.

A three metre cap means that services can be installed without excavating into contaminated material, footings can most likely be constructed, you can have ordinary plantings and things like that.¹²⁹

2.46 Illustrations of the remediation options, estimated cost summaries and the preferred remediation solution were formally submitted to the NSW Department of Education under a covering letter from McLachlan Lister dated 15 May 2015.¹³⁰ This letter noted that the budget for remediation was between \$9 and \$25 million, and estimated the cost of option 2 at \$30 million. The letter stated:

The business case estimated that the remediation works might cost anywhere between \$9M and \$25 million, and a sensitivity test showed that at the upper end the overall cost/benefit assessment remained positive.

This letter seeks to advise you that the preliminary consensus of our environmental engineer, peer reviewer, and environmental auditor is that the preferred remediation solution involves the removal of approximately 3m depth of existing fill material across a substantial part of the site, replacing with clean fill as a cap and surrounding the site with a barrier wall extending to bedrock to prevent further ingress of contaminants from outside the future school boundary.

This advice is given based on an assessment of historic site investigation data and is subject to verification once access to the site is provided and a more robust geotechnical and contaminant survey performed. We consider that whilst this will refine the remediation solution and provide current data to support approval of the solution by EPA, we do not consider the options will radically change.

This solution is recommended on the basis that it achieves the best balance of cost of treatment and likelihood of acceptance by EPA and community given the intended use of the site, as it:

- Does not transfer the problem to another location
- Minimises ongoing monitoring/care
- Provides a clear and robust separation between the end users of the site and the residual contaminated material.

We have estimated the cost for this solution at \$30M.¹³¹

2.47 In its evidence to the committee, McLachlan Lister emphasised that the remediation options considered were not equivalent in terms of risk and that the viability of option 2 was still subject to further testing. Ms Casey told the committee:

They were not equivalent in terms of risk. The two capping solutions, as we discussed, had venting and ongoing maintenance requirements and the only option that removed that requirement was complete remediation. This letter was basically saying that the preliminary consensus, based on the information we had, was that the \$30 million

¹²⁹ Evidence, Mr Kline, 25 November 2016, p 44.

¹³⁰ Submission 67, NSW Department of Education, Attachment Item C, Tab 1, Appendix D; also Item C, Tab 18.

¹³¹ Submission 67, NSW Department of Education, Attachment Item C, Tab 18, pp 1-2.

solution might work, but it was subject to verification once access to the site was provided and a more robust geotechnical and contaminant survey performed.¹³²

2.48 Ms Casey also stated that the purpose of the letter was to highlight that the experts' preferred approach, being option 2, was more expensive than the initial brief: \$30 million as opposed to an initial budget for remediation of \$9 million to \$25 million.¹³³ As noted above, the agreed purchase price of \$74 million included a discount of \$18 million to cover remediation costs. This cost is midway between the higher and lower cost estimates provided for option 2.

2.49 As for the issue of venting, McLachlan Lister advised the department that Douglas Partners, Environ and Cetec had agreed that options 2 and 3 would both 'likely require some level of gas venting and ongoing monitoring, which could pose challenges in a school environment'.¹³⁴ The department's submission referred to expert advice it had received indicating that:

This venting would most likely take the form of vent stacks up the side or through the buildings and, depending on the actual concentrations of gas-generating contaminants encountered, a mechanical extraction system may also be required. In the circumstances of this site (tucked into the side of a hill), even a mechanical system may find it difficult to dissipate the gas successfully.¹³⁵

2.50 However, at the hearing the committee heard that whether option 2 would in fact require venting was not conclusively known. Douglas Partners stated that: 'We have an idea of the contaminants of concern but at this stage the need for what you are referring to as venting, that has not been proven'.¹³⁶

The need for further site testing

2.51 As noted above, there was consensus between the department's expert advisers that the site required further invasive testing such as drilling, in order to confirm the suitability of the remediation options, including option 2. Douglas Partners' remediation action plan of March 2015 noted that:

- additional data relating to the quality of the groundwater was required to confirm the appropriateness of remediation options 1 and 2¹³⁷
- in circumstances where either or both options 1 and 2 were not possible due to ground water contamination, options 3 and 4 would both continue to be appropriate
- options 3 and 4 did not require any further data to confirm their suitability
- further data was required in relation to option 4 due to 'considerable current uncertainty regarding cost and time frame'.¹³⁸

¹³² Evidence, Ms Casey, 25 November 2016, p 15.

¹³³ Evidence, Ms Casey, 25 November 2016, p 16.

¹³⁴ Submission 67, NSW Department of Education, Attachment Item C, Tab 1, p 6.

¹³⁵ Submission 67, NSW Department of Education, pp 6-7.

¹³⁶ Evidence, Mr Kline, 25 November 2016, p 39.

¹³⁷ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, pp 36-37.

¹³⁸ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, pp 39-41.

2.52 The remediation action plan concluded that the site could be rendered suitable for the proposed development, subject to appropriate further investigation and subsequent remediation.¹³⁹ Douglas Partners confirmed this in its oral evidence to the committee, with Mr Kline stating:

We got to the point where we produced an overview remediation action plan. That required a series of further investigations ... At this stage we have only an overview remediation action plan so we have a limited dataset – enough to determine a number of remediation options, but we do not have all the detail that would ordinarily go into a remediation plan that says: These are the depths and these are the extents of contamination that require remediation.¹⁴⁰

2.53 The committee heard that an additional reason Douglas Partners sought to undertake further drilling work was to confirm that the soil vapour results were as low as the initial tests indicated:

They were going to do additional soil vapour assessment, because the first time around the results were low and they had expected them to be higher. They wanted to do some additional groundwater investigation, so drilling, installing the wells and sampling of water.¹⁴¹

2.54 Similarly, Cetec's peer review outlined that it agreed with the strategy for additional testing, which included detailed groundwater investigation, further vapour investigation, identification and delineation of soil contamination sources and testing for hazardous waste disposal.¹⁴²

2.55 Under the agreement between the department and the City of Sydney reached in December 2014, access to the site prior to settlement was to be by way of a license agreement.¹⁴³ However, the committee heard evidence that the council and the department were unable to agree on the terms of such a license agreement, which would have allowed the department to enter the site to carry out and complete the testing prior to the exchange date of 31 July 2015, due to the site being tenanted.¹⁴⁴ The council's evidence to the committee was that it was concerned that providing access to the site for drilling works whilst the tenants were still on site might constitute a breach of the council's lease with the tenants, potentially endangering the council's ability to provide vacant possession of the site on exchange.¹⁴⁵

2.56 The City of Sydney also told the committee that rather than issue a licence to enable more invasive testing, the council offered to bring forward the contract exchange date along with the removal of the tenants, so that the department could access the site.¹⁴⁶ The council noted

¹³⁹ Submission 67, NSW Department of Education, Attachment Item C, Tab 19, p 55.

¹⁴⁰ Evidence, Mr Kline, 25 November 2016, p 39.

¹⁴¹ Evidence, Dr Greg Dasey, Principal Hydrogeologist, JBS&G Australia Pty Limited, 25 November 2016, p 34.

¹⁴² Submission 67, NSW Department of Education, Attachment Item C, Tab 20, pp 5-6.

¹⁴³ Submission 67, NSW Department of Education, Attachment Item C, Tab 7, p 1.

¹⁴⁴ Evidence, Ms Casey, 25 November 2016, p 22.

¹⁴⁵ Evidence, Ms Barone, 25 November 2016, p 34; Evidence, Mr Nicholas Male-Perkins, Property Development Manager, City of Sydney, 25 November 2016, p 34; Evidence, Ms Clover Moore, Lord Mayor, City of Sydney, 25 November 2016, p 37.

¹⁴⁶ Evidence, Mr Male-Perkins, 25 November 2016, p 35.

that it had been informed by the department that it would not have the funds to exchange on the property until the new financial year, with the council then offering to exchange on a no-balance basis.¹⁴⁷

- 2.57** There was no evidence as to whether the council had discussed with the tenants the possibility of allowing the department onto the site to carry out testing. However, in its evidence Douglas Partners noted that the further testing required ‘may have caused disruption to a tenant’, with Mr Kline stating: ‘We have to bring on a drill rig and we need access to specific parts of the site. So if they had activities in that part of the site they may have been disrupted’.¹⁴⁸

The department’s conclusion that full remediation was necessary

- 2.58** Having received advice from its experts and in the absence of further testing, the department formed the view that the only safe remediation option from a risk management perspective was option 4 – full removal of all contaminated soil. This option was costed at \$53.85 million by the department’s quantity surveyors, Mitchell Brandtman, on 11 May 2015.¹⁴⁹

- 2.59** In its briefings to the Minister, the department highlighted the importance to public health and risk management of fully remediating the Fig and Wattle site, in addition to the construction of a permeable wall to ensure that contaminated groundwater from surrounding sites did not flow back into the site. The ministerial briefings indicated that the geotechnical and scientific advice had considered the contaminants, the variable groundwater flows and the likelihood of the presence of noxious gases, and that venting of noxious gases would be required indefinitely. For this reason, the department preferred to remove all contaminants:

[T]he only way to guarantee the health and wellbeing of current and future generations of Ultimo and Pyrmont students and staff is to remove all contaminated soil and groundwater completely.¹⁵⁰

- 2.60** The department noted that it had adopted a variety of site decontamination methodologies over the years, and that its first preference was always full removal of contaminants, ‘in light of the best available advice from experts and with the health and safety of students and staff paramount’.¹⁵¹

- 2.61** When asked at the hearing about its concerns regarding the capping of the site in accordance with option 3, the department explained that it considered capping inappropriate for a primary school site:

[C]apping did not give us enough certainty about the students, primary school in particular ... the nature of the contaminants are a concern to us and if you just cap the site ... you still have to vent it. I do not think it is appropriate ... to have a primary school and staff on a site where I am still venting noxious gases.¹⁵²

¹⁴⁷ Evidence, Mr Male-Perkins, 25 November 2016, p 35.

¹⁴⁸ Evidence, Mr Kline, 25 November 2016, p 43.

¹⁴⁹ Submission 67, NSW Department of Education, Attachment Item C, Tab 14, p 1.

¹⁵⁰ Submission 67, NSW Department of Education, Attachment Item C, Tab 28, p 2

¹⁵¹ Submission 67, NSW Department of Education, Attachment Item C, Tab 28, p 2.

¹⁵² Evidence, Mr Perrau, 25 November 2016, pp 2-3.

- 2.62** Responding to the suggestion that the Fig and Wattle site was large and that venting could occur at a distance from the school buildings and play area, Mr Anthony Perrau, Executive Director, Asset Management, NSW Department of Education, stated that he did not think any level of venting around school buildings was appropriate.¹⁵³ Mr Perrau characterised this approach as ‘safety-first’,¹⁵⁴ observing that a school site demanded a higher standard than that applicable to commercial developers, who ‘may be happy to accept a lower standard but we are not, for kids’.¹⁵⁵
- 2.63** On the basis of its conclusion that full remediation was necessary, on 20 May 2015 the department advised the Minister that the Fig and Wattle site no longer viable at the agreed price due to greater than anticipated site contamination and associated remediation costs. This was followed by a further ministerial briefing dated 11 June 2015, noting the department’s recommendation to terminate negotiations in relation to the Fig and Wattle site. On 12 June 2015, department advised council that it was no longer proceeding with purchase.
- 2.64** When questioned about the department’s conclusion that full remediation was necessary and how this sat with the consensus reached by the experts, Ms Casey acknowledged that while the expert consensus was that option 2 may be feasible, the department had other criteria that were a priority: ‘as the project manager I am more focused on making sure that we get a commercial outcome but the department is more focused on the safety of children’.¹⁵⁶
- 2.65** Douglas Partners also gave evidence to the committee regarding the standards applicable to remediating contaminated sites, particularly school sites. Douglas Partners outlined that it was not aware of any higher standard for schools than the EPA standard it applied when preparing the overview remediation action plan:
- The standard that we have used is the standard set by the NSW Environmental Protection Authority (EPA). It is nationally endorsed so it is the standards that you would use for any childcare centre or primary school.¹⁵⁷
- 2.66** Douglas Partners told the committee that all four of the options presented in its remediation action plan satisfied this standard, with Mr Kline, Principal, Douglas Partners, stating: ‘all the options we provided adequately assessed the technical aspects to be protective of human health, irrespective of whether we are talking about children or childcare centres’.¹⁵⁸
- 2.67** In addition, Douglas Partners drew a distinction between its role presenting remediation options that meet EPA standards, and a risk assessment to be undertaken by the department bearing in mind issues such as ongoing maintenance, liability and community concerns. Ms Nerilee Edwards, Associate, Douglas Partners, stated in her evidence that:

From the beginning I was always told that the Department of Education was concerned about leaving residual contamination, there being a potential ongoing liability and concern to the school community. It was not our role to say if that was

¹⁵³ Evidence, Mr Perrau, 25 November 2016, p 7.

¹⁵⁴ Evidence, Mr Perrau, 25 November 2016, p 6.

¹⁵⁵ Evidence, Mr Perrau, 25 November 2016, p 6.

¹⁵⁶ Evidence, Ms Casey, 25 November 2016, p 17.

¹⁵⁷ Evidence, Mr Kline, 25 November 2016, p 41.

¹⁵⁸ Evidence, Mr Kline, 25 November 2016, p 45.

acceptable or not. It was our role to say whether it met the EPA standards. The other considerations, as you said, are not a hard, defined standard. They are part of a risk assessment that any developer will do in developing a site with contamination.¹⁵⁹

2.68 Similarly, Mr Kline observed that the community consultation aspect of such a risk assessment did not form part of Douglas Partners' brief:

We are there to provide the technical detail on the risks as they present themselves and then the consultative process around the emotional aspects of it are beyond our involvement.¹⁶⁰

2.69 Douglas Partners also stated that whilst the department might not have articulated a higher, objective standard in relation to remediation, they raised concerns about residual contamination being present on the site from the beginning.¹⁶¹ Ms Edwards told the committee:

They never said that there was another standard, but from the beginning they did raise concerns about residual contamination being present on the site. They did not say, "This is the standard we need to meet," but that was something they mentioned they had concerns about.¹⁶²

2.70 As noted above, the department's conclusion that full remediation was the only option acceptable from a risk management perspective was at odds with the position taken by the City of Sydney. Its expert advice was that the removal of all excavated fill from the Fig and Wattle site was unnecessary. Dr Greg Dasey, Principal Hydrogeologist, JBS&G Australia, told the committee that this was because that option would involve the removal of large amounts of material that is 'completely acceptable to remain on the site'.¹⁶³

2.71 The view of members of the Ultimo Public School Parents and Citizens Association involved in the Inner City School Working Party was that the Government deliberately chose a higher remediation figure to justify discontinuing with the purchase of the Fig and Wattle site.¹⁶⁴ Ms Janine Barrett, a former President of the association, argued that the department's conclusion that the site required full remediation was based on an unarticulated standard:

[A]t an extraordinary P&C meeting held at Ultimo Public School in 2015, Murat Dizdar, Executive Director, Public Schools NSW said: 'the Department fully decontaminates sites. They do not cap sites where they build schools. Full decontamination is a benchmark set by the DEC and they will not deviate from this'. But they have never explained what that benchmark is and what full decontamination actually is.¹⁶⁵

¹⁵⁹ Evidence, Ms Nerilee Edwards, Associate, Douglas Partners, 25 November 2016, p 42.

¹⁶⁰ Evidence, Mr Kline, 25 November 2016, p 42.

¹⁶¹ Evidence, Ms Edwards, 25 November 2016, p 45.

¹⁶² Evidence, Mr Kline, 25 November 2016, p 45.

¹⁶³ Evidence, Dr Dasey, 25 November 2016, p 32.

¹⁶⁴ Evidence, Ms Janine Barrett, former President, Ultimo Public School Parents and Citizens Association, 25 November 2016, p 49.

¹⁶⁵ Evidence, Ms Barrett, 25 November 2016, p 52.

- 2.72 Accordingly, Ms Barrett expressed the view that the higher costs associated with full remediation simply provided ‘the convenient excuse they needed to be able to back out of the promise that they had made and they never intended to honour’.¹⁶⁶

Concerns with the decision not to proceed with the site

- 2.73 The decision not to proceed with the purchase of the Fig and Wattle site was the cause of disappointment within the Ultimo school and local community, as well as the City of Sydney. The committee heard that some members of the school community feel let down by the department,¹⁶⁷ and that there is a ‘distinct lack of trust’ that the department will deliver on its promises.¹⁶⁸
- 2.74 This section outlines concerns expressed by stakeholders during the inquiry regarding the department’s decision.

Timing of decision

- 2.75 As a key player in the potential redevelopment of the Fig and Wattle site, the council stated that it was devastated when the deal fell through. At the hearing, the Lord Mayor told the committee:

There is a desperate need for an increased number of education facilities to be provided in that area. We have worked really hard to try to make it happen. We were devastated, frankly, when we found out that the Government was going to pull out. We were devastated and so were the community. We were really upset about it.¹⁶⁹

- 2.76 Given the City of Sydney’s position that adequate remediation of the site could be achieved for \$18 million (the amount it had agreed to discount the purchase price) or less, the Lord Mayor stated that her understanding was that the department reneged on the deal for political reasons: ‘The election was over, it was not something that could help the Government after the election and so the proposal was to withdraw’.¹⁷⁰
- 2.77 As adverted to above, these concerns were shared by members of the Parents and Citizens Association. For example, Ms Barrett outlined to the committee her belief that the announcement to build the school on the Fig and Wattle site was a deliberate political strategy to neutralise the issue of Ultimo Public School prior to the last state election:

This is a very, very hot topic in our area. As you know, this is the most densely populated area in the whole of New South Wales—in fact, Australia, I believe—and education is a key area. In terms of politics, everybody was talking about this and the Minister would certainly have been aware of that. I believe he made the promise just to make it go away.¹⁷¹

¹⁶⁶ Evidence, Ms Barrett, 25 November 2016, p 57.

¹⁶⁷ Evidence, Mr Langdon, 25 November 2016, p 54.

¹⁶⁸ Evidence, Ms Barrett, 25 November 2016, p 54.

¹⁶⁹ Evidence, Ms Moore, 25 November 2016, p 30.

¹⁷⁰ Evidence, Ms Moore, 25 November 2016, pp 30-31.

¹⁷¹ Evidence, Ms Barrett, 25 November 2016, p 49.

2.78 Similarly, Mr Langdon contended that the decision not to proceed to with the Fig and Wattle site was not the result of any new information that had come to light:

What bothers me is that from the time the department agreed to the deal to the time the department reneged on the deal there was no new evidence of additional contamination. So they went into it with their eyes wide open—that there were elements of contamination and they were given recommendations that it was okay to build a school there. From that point on to the point they reneged they did not get new information that there was elevated contamination that they would not be able to deal with.¹⁷²

2.79 The committee also heard from members of the Parents and Citizens Association involved in the Ultimo/Pymont Working Party that the department had already moved away from the Fig and Wattle site as the preferred site *before* the Minister’s announcement that the site had been selected for the redevelopment. Ms Barrett told the committee that, at a meeting seven days before the Minister’s December 2014 announcement, departmental representatives attempted to ‘steer’ her and Mr William d’Anthes, another former President of the association, towards the option of redeveloping the school on its current site.¹⁷³

2.80 In its answers to questions on notice, the department emphasised that it had paid a considerable amount of money to determine the levels and severity of the contamination of the Fig and Wattle site, before becoming aware of a detailed contamination report prepared for the City of Sydney in 2005. This report, in the form of a site audit statement, indicated that the site was not suitable for a primary or secondary school. The department expressed the view that earlier disclosure of the 2005 report could have led to the mutually acceptable position that the only appropriate course of action would be the complete removal of all contaminants from the Fig and Wattle site.¹⁷⁴ The 2005 report is at odds with the detailed consideration from three contamination experts during the sale process and their consensus that the site could be remediated to meet the uniformly accepted environmental standards as set by the EPA.

A missed opportunity

2.81 One of the key messages coming through from many inquiry participants was that the abandonment of the Fig and Wattle site represented a missed opportunity, given its:

- size and potential in providing multi-functional infrastructure to both the school and local communities
- proximity to public transport, including light rail
- location opposite parkland and close to dense residential development.¹⁷⁵

2.82 For example, the City of Sydney argued that given the demographic changes occurring in the inner city, the site was an opportunity to ‘future-proof’; in other words, to provide a school that could accommodate up to 1,000 students at a time when future enrolments from the Bay

¹⁷² Evidence, Mr Langdon, 25 November 2016, p 53.

¹⁷³ Evidence, Ms Barrett, 25 November 2016, p 57.

¹⁷⁴ Answers to questions on notice, NSW Department of Education, p 3.

¹⁷⁵ Evidence, Ms Barone, 25 November 2016, p 33; Evidence, Ms Moore, 25 November 2016, p 38.

Precinct are unknown and general enrolments from the inner city catchment are predicted to rise.¹⁷⁶ Ms Barone, Chief Executive Officer, City of Sydney, noted in her evidence that the site would have enabled students in the Ultimo/Pymont area to attend school in their locality, without having to travel to other parts of the inner city cluster.¹⁷⁷

2.83 Many individual submission authors emphasised that the size of the site allowed not only for a school with greater enrolment capacity, but more recreation and green space for students living in a densely populated urban environment.¹⁷⁸ Comments from submission authors included:

- ‘kids should be able to run around in a safe local public school that has plenty of green space’¹⁷⁹
- ‘[p]laytime is such a vital aspect of learning in primary school’¹⁸⁰
- ‘[c]hildren need green space to run around and develop naturally, especially those who live in apartments and public housing’¹⁸¹
- ‘[s]port and space are so important in an age of increasing obesity and other health related issues’¹⁸²
- ‘[n]ot to provide adequate playing space denies children the chance to develop their full potential’¹⁸³
- ‘there are several public schools with smaller populations and generous playgrounds, the inequity is apparent’.¹⁸⁴

2.84 Finally, the City of Sydney was also critical of the department for failing to pursue commercial options that would have made the Fig and Wattle site financially viable, such as incorporating

¹⁷⁶ Evidence, Ms Moore, 25 November 2016, p 36.

¹⁷⁷ Evidence, Ms Barone, 25 November 2016, p 36.

¹⁷⁸ Submission 1, Mr Mick Tague, p 1; Submission 4, Miss Jaime Walling, p 1; Submission 10, Name suppressed, p 1; Submission 11, Ms Beverley Blanch, p 1; Submission 12, Rev Robin Davies, p 1; Submission 13, Ms Manuela Epstein, p 1; Submission 14, Itzel Ornelas, p 1; Submission 15, Li Yee Beh and Lee Juan Chiang, p 1; Submission 16, Mr Allan Aquino, p 1; Submission 17, Ms Marika Kalyuga, p 1; Submission 18, Mrs Liane Langdon, p 1; Submission 20, Name suppressed, p 1; Submission 21, Ms Lisa O’Brien, p 3; Submission 25, Mr William d’Anthes, p 3; Submission 26, Mrs Janine Barrett, p 4; Submission 28, Mrs Michelle Lawrence, p 1; Submission 31, Mr Andrew Lawrence, p 1; Submission 32, Mr Marcus Peterson, p 1; Submission 35, Mr David Green, p 1; Submission 37, Ms Janet Sayer, p 1; Submission 51, Ms Susanna Segal, p 4; Submission 52, Dr Jenny Blain, p 1; Submission 54, Ms Ayaka and Mr Oscar Sanchez, p 1; Submission 55, Ms Tessa Boucher, p 1; Submission 56, Name suppressed, p 1; Submission 58, Name suppressed, p 1; Submission 59, Name suppressed, p 1; Submission 60, Ms Gabriela Martin, p 1; Submission 61, Mr Denis Lusaic, p 1; Submission 62, Ms Kiri Valsamis, p 1; Submission 63, Dr Shwetha Hegde, p 1; Submission 64, Name suppressed, p 2.

¹⁷⁹ Submission 14, Itzel Ornelas, p 1.

¹⁸⁰ Submission 51, Ms Susanna Segal, p 4.

¹⁸¹ Submission 11, Ms Beverley Blanch, p 1.

¹⁸² Submission 21, Ms Lisa O’Brien, p 3.

¹⁸³ Submission 34, Ultimo Pymont Education Campaign Committee, p 4.

¹⁸⁴ Submission 10, Name suppressed, p 1.

more community facilities or subdividing the site, building the school on a smaller area and selling the rest to commercial developers.¹⁸⁵ The department's evidence in this regard was that mixed development was not supported by the community¹⁸⁶ and that subdividing the site would render the land available to the department closer to the size of the current school site:

I can get the same result on the current site. I do not have to pay any money for the land, I would get the enrolment that I need and I do not have any contamination issues.¹⁸⁷

Costs incurred

- 2.85** During the course of the inquiry, the committee heard concerns expressed by numerous submission authors about the amount of money that had been spent pursuing the Fig and Wattle site which could not be recouped. In particular, a number of submissions addressed the money spent on consultancy fees in relation to a project – the building of a school on the Fig and Wattle site – that would never proceed.¹⁸⁸

Decision to redevelop the current site

- 2.86** The Ministerial briefings indicate that following its decision not to proceed with the purchase of the Fig and Wattle site, the department focused on redeveloping Ultimo Public School on its current site.¹⁸⁹ The committee heard that this was the preferred option, together with an expansion of Fort Street Public School, for several reasons:

[The schools] have the greatest demand from projected increases in student enrolments and capacity for expansion. Wentworth Park is also ideally situated adjacent to Ultimo Public School to provide additional outdoor space for students. The school currently utilises around 0.5 hectares of Wentworth Park for outdoor space and recreation. An existing pedestrian bridge, which will be retained through the redevelopment, provides safe access to the Park.¹⁹⁰

- 2.87** The redevelopment involves:

- the construction of new school with an expanded enrolment capacity of up to 800 students, up from the current enrolment of around 320 students¹⁹¹
- relocating the students that currently attend Ultimo Public School to a temporary 'pop-up' school on Wentworth Park for the construction period of the new school, which will be approximately two years.¹⁹²

¹⁸⁵ Submission 27, City of Sydney, p 2; Evidence, Ms Barone, 25 November 2016, p 33.

¹⁸⁶ Evidence, Mr Perrau, 25 November 2016, p 7.

¹⁸⁷ Evidence, Mr Perrau, 25 November 2016, p 7.

¹⁸⁸ Submission 2, Mr Jean-Pierre Alexandre, p 2; Submission 4, Miss Jaime Walling, p 1; Submission 20, Name suppressed, p 1; Submission 29, Ultimo Public School P&C Association, pp 3-4; Submission 30, Ms Maggie Lum, p 1; Submission 34, Ultimo Pymont Education Campaign Committee, pp 1-2; Submission 50, Pymont Community Group, pp 3 and 6.

¹⁸⁹ Submission 67, NSW Department of Education, Attachment Item C, Tab 27, p 1.

¹⁹⁰ Submission 67, NSW Department of Education, p 9.

¹⁹¹ Submission 67, NSW Department of Education, p 9.

2.88 The committee heard that progress had already been made in relation to the redevelopment, with the department stating:

We have effectively completed a full design competition, we have a design for the new site, we have planning approval for the pop-up school on Wentworth Park and we are ready to go. We have briefed the community. We are effectively about to launch into doing contract documentation, which would then be tendered, and it would be on with delivering a new school, which we have always promised.¹⁹³

2.89 The department stated that it was on track to deliver the new Ultimo Public School in 2019.¹⁹⁴

The pop-up school

2.90 The committee heard evidence from a number of stakeholders, particularly parents of students at the school, expressing concerns regarding the proposed pop-up school on Wentworth Park.¹⁹⁵ These concerns relate to potential contamination in Wentworth Park, the quality of demountable classrooms, and security on the site. This section outlines these concerns, as well as the department's evidence in this regard.

Potential contamination in Wentworth Park

2.91 In preparing for construction of the pop-up school, the architects commissioned Environmental Investigation Services to undertake an environmental site assessment for the Wentworth Park site. On 2 June 2016, Environmental Investigation Services reported that:

- the soil results for lead and Benzo(a)pyrene Toxicity Equivalence Quotient were above the site assessment criteria
- the soil vapour results did not indicate a problem with the soil or groundwater
- there was no evidence of any issues with ground gas
- the site is suitable for a pop-up school subject to stated recommendations.¹⁹⁶

2.92 Environmental Risk Sciences, an environmental consultant, undertook a subsequent human health risk assessment, which also concluded that the site was suitable for the proposed use as a pop-up school.¹⁹⁷ The assessment identified lead levels at one location, which will be outside the school security fence, covered by decking and inaccessible to students and staff of the school.¹⁹⁸

¹⁹² Submission 67, NSW Department of Education, p 9.

¹⁹³ Evidence, Mr Perrau, 25 November 2016, p 4.

¹⁹⁴ Evidence, Mr Perrau, 25 November 2016, p 4.

¹⁹⁵ Evidence, Ms Barrett, 25 November 2016, p 57.

¹⁹⁶ Submission 67, NSW Department of Education, Attachment Item F, Tab 1, p 36.

¹⁹⁷ Submission 67, NSW Department of Education, Attachment Item F, Tab 3, p 12.

¹⁹⁸ Submission 67, NSW Department of Education, p 11.

- 2.93** One of the key concerns expressed by members of the school community was that the department was using different standards for the Wentworth Park and Fig and Wattle sites.¹⁹⁹ For example, Mr Langdon argued that whilst the department was not prepared to accept remediation in accordance with EPA standards at the Fig and Wattle site, it appeared prepared to accept these same standards in relation to contamination on the Wentworth Park site:

I know for a fact that they are not applying the same standards. For instance, on the Fig and Wattle streets site they were citing that they need to go beyond the EPA regulations. As a member of the project reference group that is focusing on the rebuild of the existing site as well as the pop-up school site, I had concerns when I learned that there were contaminants on the pop-up school site and I specifically asked a question in the project reference group meeting as to the standards being applied to the pop-up school site. Again I was told directly that they are complying with the EPA standards. So it caused me to question why is it okay to apply only EPA level standards to a contaminated site for a pop-up school when you said that it is the department's standard to go well beyond that for the safety of the children.²⁰⁰

- 2.94** During the hearing, the committee sought to clarify with the department whether the Wentworth Park site was being held to the same high standard of remediation as the Fig and Wattle site. In its answer the department highlighted that the two sites were different and required differing approaches:

We are talking about different kinds of contamination. The contamination of Wentworth Park is contamination that probably exists all over that party of Sydney, which is effectively ash or fly ash that was used as fill in that area. The type of contamination is what we call bound, not loose. It is caught up in ash on that site. In two separate reports from two expert environmental advisors, advice is that that level of contamination is not significant to be a danger to a primary school, because people have been running around on Wentworth Park for about 100 years. We could have made the case that it has been a park for that long and put a primary school on there with kids playing there. But the department, as I previously indicated, sets a very high standards, so we tested it.²⁰¹

- 2.95** Ms Casey, the project manager, gave the committee an assurance that the remediation standards being applied at Wentworth Park were the same as the standards applied to the Fig and Wattle site.²⁰² Some participants in the inquiry noted the fact that the department had said in relation to the Fig and Wattle site that it would accept no contamination on a site to be used by a school and then immediately proposed the pop-up school on a site with significant contamination. This concern was put to the committee, not to suggest there was a health and safety concern with the pop-up site given the precautions being taken, but rather to suggest an inconsistent position being adopted by the department.

¹⁹⁹ Evidence, Mr Langdon, 25 November 2016, p 52; Evidence, Mr William d'Anthes, 25 November 2016, p 52; Evidence, Ms Barrett, 25 November 2016, p 52; Evidence, Ms Elizabeth Elenius, Convenor, Pymont Action Incorporated, 25 November 2016, p 64.

²⁰⁰ Evidence, Mr Langdon, 25 November 2016, p 52.

²⁰¹ Evidence, Mr Perrau, 25 November 2016, p 4.

²⁰² Evidence, Ms Casey, 25 November 2016, p 17.

Demountable classrooms and security issues

2.96 Mr Langdon, current President of the Ultimo Public School Parents and Citizens Association, noted that the demountables being used for the pop-up school involved a 27 per cent reduction in classroom space per child. It was his evidence that this was not optimal for a learning environment.²⁰³

2.97 In this regard, the department noted the temporary nature of the pop-up school and the fact that the quality of demountable class rooms has improved in recent years, with Mr Perrau telling the committee:

The quality of the demountable that we produce nowadays is very different to the quality of the demountable that you may have seen in photographs. These are excellent teaching spaces, brand new, fitted out and air-conditioned. If you talk to teachers they will tell you they often prefer to be in these kinds of spaces because they are more comfortable. The quality of the school we will produce there will be high.²⁰⁴

2.98 The department provided the following images of the temporary school in Barton Road, Artarmon while Artarmon Public School is redeveloped, which is similar to the demountables that will be used for the pop-up school at Wentworth Park.²⁰⁵



²⁰³ Evidence, Mr Langdon, 25 November 2016, p 58.

²⁰⁴ Evidence, Mr Perrau, 25 November 2016, p 8.

²⁰⁵ Answers to questions on notice, NSW Department of Education, p 2.



Source: *Answers to questions on notice, NSW Department of Education, 21 December 2016, Attachment C.*

- 2.99** Another concern expressed by parents related to the security of the students on the Wentworth Park site, given the ‘significant homeless contingent’ living under the nearby light rail station.²⁰⁶

The new school

- 2.100** A concept design for the new Ultimo Public School was announced on 2 November 2016 following a three-stage procurement process, including a design excellence competition.²⁰⁷ According to the department, the design of the new school is intended to maximise the site’s accommodation capacity and open play space.²⁰⁸ McLachlan Lister told the committee that the competition-winning concept design includes 4,903 square metres of open space, utilising both at grade and roof areas.²⁰⁹
- 2.101** The department’s project website provides the following image of the successful concept design:

²⁰⁶ Submission 31, Mr Andrew Lawrence, p 1; Evidence, Mr Langdon, 25 November 2016, p 58.

²⁰⁷ NSW Department of Education, *Next step announced for development of new Ultimo Public School* (2 November 2016), <http://ultimopyrmontps.com.au/announcing-the-architects-for-the-new-ultimo-public-school/>.

²⁰⁸ Submission 67, NSW Department of Education, p 9.

²⁰⁹ Answers to questions on notice, Ms Mary Casey, Director, McLachlan Lister, 16 December 2016, p 3.



Source: NSW Department of Education, *Next step announced for development of new Ultimo Public School* (2 November 2016), <http://ultimopyrmontps.com.au/announcing-the-architects-for-the-new-ultimo-public-school/>.

- 2.102** A number of inquiry participants expressed positive views about the concept design that has been selected. For example, in his evidence to the committee, architect Mr Ron Powell described the concept design as inventive and imaginative,²¹⁰ while Mr Langdon called the design ‘very dynamic’.²¹¹ Similarly, Mr d’Anthes stated that ‘[g]iven the strictures, they have done as well as they possibly can’.²¹²
- 2.103** However, the committee also heard evidence about the constraints of redeveloping Ultimo Public School on its current site.
- 2.104** One issue raised was the impact of increasing student capacity from 320 to 800 on the play area and time available to students of Ultimo Public School. The committee heard that the school currently shares Wentworth Park on a roster basis with the International Grammar School and St Andrews Cathedral School.²¹³ Based on this roster system, the 320 Ultimo Public School students are restricted in their use of Wentworth Park as a play area to three 40-minute sessions per week.²¹⁴ Mr d’Anthes made the observation that an enrolment of 800 students ‘would mean probably a lesser amount of time’.²¹⁵

²¹⁰ Evidence, Mr Ron Powell, Architect, 25 November 2016, p 69.

²¹¹ Evidence, Mr Langdon, 25 November 2016, p 55.

²¹² Evidence, Mr d’Anthes, 25 November 2016, p 52.

²¹³ Evidence, Mr d’Anthes, 25 November 2016, p 48.

²¹⁴ Submission 28, Mrs Michelle Lawrence, p 1; Submission 50, Pyrmont Community Group, p 8.

²¹⁵ Evidence, Mr d’Anthes, 25 November 2016, p 48.

- 2.105** As for the playground space available within the school, Ms Barrett noted the importance of play space to students' sense of wellbeing and that students were currently not able to run around or kick a ball in the playground.²¹⁶
- 2.106** It was also noted that whilst at present the current Ultimo Public School only accommodates primary school students, the new design will also include childcare facilities. Parents of students currently at the school noted that the limited space will also need to be shared not only with up to 480 additional school students, but also up to 80 childcare children.²¹⁷
- 2.107** Another concern expressed in relation to rebuilding the school on the current site was that it will only be able to accommodate 800 students, as opposed to the 1,000 student capacity that the Fig and Wattle site would have offered. While the department gave evidence that it will be able to accommodate the additional 200 projected students across the other six schools in the inner city school cluster,²¹⁸ Ms Barrett questioned how long it would take for the new school to be at full capacity given the Bays Precinct and other new developments in the area.²¹⁹

Costs

- 2.108** The committee was informed that total expenditure on the Ultimo Public School redevelopment project as at 31 August 2016, including consideration of the Fig and Wattle site, was \$2.4 million.²²⁰ According to the department, this expenditure was spread over a period of four years and included initial planning, design and project management fees for the Fig and Wattle site, as well as project fees and expenses relating to the pop-up school and the rebuild on the current site.²²¹
- 2.109** A breakdown of this expenditure is provided below, in addition to estimates associated with various options considered.

²¹⁶ Evidence, Ms Barrett, 25 November 2016, p 51.

²¹⁷ Evidence, Mr Langdon, 25 November 2016, p 55.

²¹⁸ Evidence, Mr Perrau, 25 November 2016, p 10.

²¹⁹ Evidence, Ms Barrett, 25 November 2016, p 59.

²²⁰ Submission 67, NSW Department of Education, p 1.

²²¹ Submission 67, NSW Department of Education, p 1.

- 2.110** The costs associated with the alternative site considered by the department, being the Fig and Wattle site, including estimates received for proposed work, are as follows:

Table 2 Fig and Wattle site

Item	Amount	Paid or estimate
Purchase of land, complete removal of contaminated fill or Purchase of land, partial removal of fill and capping	\$177.9 million ²²² or \$155.3 million ²²³	Estimate
Project fees and expenses to 31 August 2016	\$1.12 million ²²⁴	Paid
<i>Less the sale of the current school site</i>	<i>– \$54 million²²⁵</i>	<i>Estimate</i>
Total estimated cost of a school at Fig and Wattle	\$102.42 to \$125 million	

- 2.111** The costs associated with establishing a pop-up school at Wentworth Park during the redevelopment of the current Ultimo Public School site, including estimates received for proposed work, are as follows.

Table 3 Pop-up school at Wentworth Park

Item	Amount	Paid or estimate
Total costs including construction, leasing, authority fees and design fees	\$6 million ²²⁶	Estimate
Project fees and expenses to 31 August 2016	\$357,188 ²²⁷	Paid
Total estimated cost of the pop-up school	\$6.36 million	

²²² Submission 67, NSW Department of Education, Attachment Item C, Tab 28, p 1.

²²³ Submission 67, NSW Department of Education, Attachment Item C, Tab 28, p 1.

²²⁴ Submission 67, NSW Department of Education, p 2.

²²⁵ Tabled document, City of Sydney, *Correspondence with NSW Department of Education 2014-2016*, p 8.

²²⁶ Submission 67, NSW Department of Education, p 10.

²²⁷ Submission 67, NSW Department of Education, p 3.

- 2.112 The costs associated with redeveloping the current Ultimo Public School site, including quotations received for proposed work are as follows:

Table 4 Redevelopment of current site

Item	Amount	Paid or estimate
Cost of demolition and rebuild	\$42 million ²²⁸	Estimate
Project fees and expenses to 31 August 2016	\$926,285 ²²⁹	Paid
Total estimated cost of the redeveloped school on the current site	\$42.93 million	
Total estimated cost of the pop-up school	\$6.36 million	
Total estimated cost of a redeveloped school on the current site, including the pop-up school	\$49.28 million	

Committee comment

- 2.113 The focus of this inquiry has been to examine in detail the NSW Department of Education's decision-making in relation to the redevelopment of Ultimo Public School, a primary school located in the most densely-populated area in the country and whose enrolments are forecast to substantially increase in coming years. In particular, this committee has sought to understand why the department pulled out of its decision to purchase the Fig and Wattle site from the City of Sydney.
- 2.114 The committee believes that the failure of the City of Sydney and the department to agree on a suitable use for the remediated Fig and Wattle site given the extreme population pressures, the size of the site and its proximity to the Bays Precinct redevelopment is a missed opportunity.
- 2.115 The significance of this site from a planning and whole of government point of view, over and above the potential use of the site for a school, does not seem to have formed a part of the discussion. Options for subdivision and multiple use of this large and strategically located block of land were not adequately considered. To take advantage of future opportunities like this, further whole of government consideration is required, including consideration of strengthened oversight and support for the NSW Department of Education, as well as an audit of public land in areas of significant population growth to identify suitable locations for new and expanded schools.

²²⁸ NSW Department of Education, *Ultimo remediation*, <http://www.dec.nsw.gov.au/about-us/news-at-det/announcements/ultimo-remediation>.

²²⁹ Submission 67, NSW Department of Education, p 2.

Recommendation 5

That the Minister for Education consider strengthening whole of government oversight and support for the NSW Department of Education in future land negotiations for schools.

Recommendation 6

That the NSW Government conduct an audit of public land in all areas of significant population growth in New South Wales to identify suitable locations for new schools and expansion of existing schools.

- 2.116** It has been the department's position throughout the inquiry that its priority is providing safe schools for both students and teachers. The department was always aware that some remediation of the Fig and Wattle site would be required in order to achieve a school site that met its safety standards. The inability of the department and the City of Sydney to agree the access terms for further testing is a key failure in this process and has left questions relating to the remediation costs unanswered that may have been able to be resolved. This lack of cooperation is regrettable. Without this crucial information the department formed the view that the only remediation process that would satisfy it from a risk management perspective would involve fully remediating the site, because other methods of remediation would likely involve either leaving contaminants on site or having permanent vents on the site.
- 2.117** There can be no argument that schools must ensure that they are safe and protect children from harm. This is a fundamental premise that overrides concerns as to cost or convenience. The department should rely on the standards set by the relevant authority such as the Environment Protection Authority, unless they can demonstrate that a higher standard is required.
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Recommendation 7

That the NSW Department of Education, when assessing land for the purposes of remediation, rely on the standards set by the relevant authority such as the Environment Protection Authority, unless the department can demonstrate that a higher standard is required.

- 2.118** It is undoubtedly unfortunate that \$1.12 million in public money was spent on project fees and expenses for the Fig and Wattle site. There is no doubt that with good will and cooperation access could have been arranged to the Fig and Wattle site to allow for further environmental testing if necessary. The failure of the two agencies, here the NSW Department of Education and the City of Sydney, to come to a mutually acceptable sale and redevelopment option is a matter of intense frustration to the local community. As noted above, the City of Sydney provided multiple different options, including partial sale and partial residential/commercial development to the department to make the Fig and Wattle site a
-

more financially attractive option. None of these options were progressed and this has been a missed opportunity.

- 2.119** The committee is not aware precisely when the council's 2005 site audit statement, which indicated that the site was not suitable for a primary or secondary school, came to the department's attention. However, based on the department's evidence that it became aware of the report only after having spent a considerable amount of money determining extent of contamination on the site, it appears to have been relatively late in the piece. More timely disclosure of this report may well have ruled out consideration of remediation option 2 earlier in the proceedings and saved the department a significant amount of money.
- 2.120** One thing that came through loud and clear throughout this inquiry was the community's enthusiasm about the benefits of the Fig and Wattle site, and their disappointment when the plan to build the new school on it was abandoned. With the benefit of hindsight, one of the lessons from this project is that it may have been more prudent for the department to have satisfied itself beyond any doubt that remediation to the requisite standard could be achieved for an acceptable cost, before agreeing on a purchase price and announcing a deal with the City of Sydney. The fact that the expert advice that proved to be critical was received after a deal was reached and announced to the public is unfortunate, and has fuelled speculation among some in the community, as well as the council, about the department's motives.
- 2.121** The committee acknowledges the loss of trust that has occurred between some members of the school community and the department during the past three years. These parents want nothing more than to see their children educated in a learning environment that caters to their educational and recreational needs, and understandably so. It cannot have been easy to see the department announce that it would build the new school on a uniquely large site with the universal support of the community, only to see the deal fall apart a matter of months later.
- 2.122** That being said, the department is now moving forward with the new redevelopment, with construction of the pop-up school due to commence shortly. While there is much work still to be done, the committee was impressed by the concept design that has been selected for the new permanent school. The committee urges parents and other community members to continue to engage with the department to ensure that the rebuild meets the very high standard that they, and this committee, rightly expect of schools in New South Wales.

Appendix 1 Timeline of key events

Date	Event
2005	Site audit statement commissioned by City of Sydney indicates Fig and Wattle site not appropriate for use as a primary school or secondary school
15 October 2013	Inner City Schools Working Party recommends the construction of a new Ultimo Public School on the Fig and Wattle site
November 2013	Minister announces Fig and Wattle as preferred site for new school Department of Education commences negotiations with Council to purchase Fig and Wattle site
February 2014	Department receives valuation for Fig and Wattle site of \$100 million
7-23 April 2014	Initial field work undertaken by the Department's environmental scientists, Douglas Partners
June 2014	McLachlan Lister engaged to project manage the Ultimo/Pymont Public School project Government Architect's Office commissioned as design consult team Meetings between Council and Department to discuss purchase
9 July 2014	Email from Council to Department requiring purchase offer to include childcare centre, netball or other games courts with public access in perpetuity and a land swap
21 July 2014	Douglas Partners report on site contamination
August 2014	Environ engaged by Government Architect's Office as environmental auditor
6 August 2014	Department offers \$67 million to purchase Fig and Wattle site
13 August 2014	Council rejects offer, advises that maximum remediation allowance is \$9.5 million
29 August 2014	Environmental consultants meet to work towards an agreement on remediation approach and costs
9 September 2014	Department retreats from process commenced 29 August, seeks agreement on its remediation approach costed at \$22.54 million, and offers to discount the remediation cost to \$18 million. Department offers \$74 million for the purchase of the site
19 September 2014	Council agrees to remediation costs of \$9.5 million and will sell for \$82.5 million
19 September 2014	Department reiterates offer of \$74 million
25 November 2014	Offer withdrawn by Department
9 December 2014	Council offers to sell for \$74 million
12 December 2014	Minister agrees to purchase for \$74 million, with conditions

Date	Event
15 December 2014	Minister visits Ultimo Public School and announces that the new school will be on the Fig and Wattle site
18 December 2014	Council agrees to the conditions, and adds a further requirement that the Department obtain a license to enter the land for further testing before settlement if no security is offered
January 2015	Cetec engaged as independent peer reviewer
February 2015	Council issues conditions for site works and non-invasive investigations
3 March 2015	Department requests access for non-invasive and invasive works
12 March 2015	Douglas Partners finalises draft remediation action plan
18 March 2015	Council issues draft licence agreement for access to site, which excludes drilling
28 March 2015	State election
Late March 2015	Cetec peer review of remediation action plan
April 2015	Comments from peer reviewer and site auditor on the draft remediation action plan and consensus on the recommendation to combine three metre fill removal with capping Negotiations between Council and Department regarding license agreement. Council expresses concern that early access for drilling works would put June exchange date at risk
20 April 2015	Douglas Partners' overview remediation action plan provided to Department
24 April 2015	Council and Department's legal representatives meet and agree that exchange and settlement to be in mid to late June following vacant possession
1 May 2015	Department requests remediation costings from McLachlan Lister Negotiations continue over license agreement
5 May 2015	Workshop attended by Douglas Partners, Government Architect's Office, McLachlan Lister and Mitchell Brandtman to cost remediation options
10/11 May 2015	Mitchell Brandtman remediation costings prepared: <ul style="list-style-type: none"> • option 2 at \$31.28 million (cap and 3 metre fill removal) • option 3 at \$10.46 million (cap only) • option 4 at \$53.85 million (complete removal of fill)
15 May 2015	McLachlan Lister writes to Department advising that the experts' preliminary consensus is that option 2 is the preferred remediation option at an estimated cost of \$30 million, and encloses costings from Mitchell Brandtman for other options
18 May 2015	Department instructs McLachlan Lister to put on hold further work while it considers the remediation options

Date	Event
20 May 2015	Ministerial briefing – Fig and Wattle site no longer viable at agreed price due to greater than anticipated site contamination and associated remediation costs
12 June 2015	Department advises Council that it is no longer proceeding with purchase
June 2015	Department decides to proceed with redevelopment of school on current site
24 September 2015	McLachlan Lister reports on relocation options for the school
2 June 2016	Environmental site assessment report by Environmental Investigation Services for pop-up school at Wentworth Park
15 July 2016	Environmental Investigation Services provides additional site assessment
30 August 2016	Environmental Risk Sciences prepares Human Health Risk Assessment for Wentworth Park

Appendix 2 Submissions

No	Author
1	Mr Mick Tague
2	Mr Jean-Pierre Alexandre
3	Council of Ultimo and Pymont Associations
4	Miss Jaime Walling
5	Mr David Zaoui
6	Name suppressed
7	Name suppressed
8	Mr Keith Johnson
9	Pymont Action Incorporated
10	Name suppressed
11	Ms Beverley Blanch
12	Rev Robin Davies
13	Ms Manuela Epstein
14	Ms Itzel Ornelas
15	Li Yee Beh and Lee Juan Chiang
16	Mr Allan Aquino
17	Ms Marika Kalyuga
18	Mrs Liane Langdon
19	Name suppressed
20	Name suppressed
21	Ms Lisa O'Brien
22	Name suppressed
23	Mrs Stella Phelan
24	Pymont Ultimo Chamber of Commerce
25	Mr William d'Anthes
25a	Mr William d'Anthes
26	Mrs Janine Barrett – partially confidential
27	City of Sydney
27	City of Sydney – attachments 1 and 2
28	Mrs Michelle Lawrence
29	Ultimo Public School P&C Association - partially confidential
30	Ms Maggie Lum

No	Author
31	Mr Andrew Lawrence
32	Mr Marcus Peterson
33	Ultimo Village Voice
34	Ultimo Pymont Education Campaign Committee - partially confidential
35	Mr David Green
36	Name suppressed
37	Ms Janet Sayer
38	Mr Ron Powell
39	Name suppressed
40	Name suppressed
41	Mrs Xu Gao
42	Ms Jenny Leong MP, Member for Newtown
43	Mr Damien Hawcroft - partially confidential
44	Mr Yimmy Seifert
45	Name suppressed
46	Name suppressed - partially confidential
47	Ms Patricia Johnson
48	Name suppressed
49	Mrs Samantha Peterson
50	Pymont Community Group - partially confidential
51	Ms Susanna Segal
52	Dr Jenny Blain
53	Mr Thomas Lockley
54	Ms Ayaka and Mr Oscar Sanchez
55	Ms Tessa Boucher
56	Name suppressed
57	Name suppressed
58	Name suppressed
59	Name suppressed
60	Ms Gabriela Martin
61	Mr Denis Luzaic
62	Ms Kiri Valsamis
63	Dr Shwetha Hegde
64	Name suppressed - partially confidential
65	Mr Duncan Bourne

No	Author
66	NSW Teachers Federation
67	NSW Department of Education
67	NSW Department of Education – attachment Item B, Tabs 1 and 2
67	NSW Department of Education – attachment Item C, Tabs 1 to 29 (some partially confidential)
67	NSW Department of Education – attachment Item F, Tabs 1 to 3 (all partially confidential)
68	Mr Kevin Langdon - partially confidential

Appendix 3 Witnesses at hearings

Date	Name	Position and Organisation
Friday 25 November 2016 Jubilee Room Parliament House, Sydney	Mr Peter Riordan	Deputy Secretary, Corporate Services, Department of Education
	Mr Anthony Perrau	Executive Director, Asset Management, Department of Education
	Mr Murat Dizdar	Executive Director, Public Schools NSW, Department of Education
	Dr Sylvia Corish	Director, Public Schools NSW, Inner City Strategy, Department of Education
	Mr Tony McCabe	Group Director, Capital Works, Department of Education
	Ms Mary Casey	Project Consultant, McLachlan Lister
	Ms Clover Moore	Lord Mayor, City of Sydney
	Ms Monica Barone	Chief Executive Officer, City of Sydney
	Mr Kim Woodbury	Chief Operating Officer, City of Sydney
	Mr Nicholas Male-Perkins	Commercial Manager, City of Sydney
	Dr Greg Dasey	Principal Hydrologist, JBS & G
	Mr Chris Kline	Principal, Douglas Partners
	Ms Nerilee Edwards	Associate, Douglas Partners
	Mr Kevin Langdon	President, Ultimo Public School Parents and Citizens Association
	Ms Janine Barrett	Former President, Ultimo Public School Parents and Citizens Association
	Mr William d'Anthes	Former President, Ultimo Public School Parents and Citizens Association
Ms Elizabeth Elenius	Convenor, Pyrmont Action Incorporated	
Ms Mary Mortimer	Convenor, Ultimo Pyrmont Education Campaign Committee	
Mr Ronald Powell	Architect, Powell and Associates	

Appendix 4 Minutes

Minutes no. 31

Wednesday 17 August 2016

General Purpose Standing Committee No. 3

Members' Lounge, Parliament House, Sydney, 12.59 pm

1. Members present

Mrs Maclaren-Jones, *Deputy Chair*

Mr Franklin (*by teleconference*)

Mrs Houssos (*by teleconference*)

Mrs Mitchell (*by teleconference*)

Revd Nile

Mr Secord

Mr Shoebridge (substituting for Ms Barham for the duration of the inquiry into enrolment capacity in inner city public primary schools)

2. Previous minutes

Resolved, on the motion of Mr Franklin: That draft minutes no. 30 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 9 August 2016 – Letter from Mr Secord, Mrs Houssos and Revd Nile requesting a meeting of GPSC No. 3 to consider a proposed self-reference into enrolment capacity in inner city public primary schools
- 10 August 2016 – Email from Mr Shoebridge to secretariat, advising that Mr Shoebridge will be substituting for Ms Barham for the duration of the inquiry into enrolment capacity in inner city public primary schools.

4. Consideration of terms of reference

The Deputy Chair tabled the following proposed self-reference:

Inquiry into inner city public primary school enrolment capacity and the redevelopment of Ultimo Public School

1. That General Purpose Standing Committee No. 3 inquire into and report on inner city public primary school enrolment capacity and the redevelopment of Ultimo Public School, and in particular:
 - (a) the total costs of the project to date including consultancy fees
 - (b) the estimated costs of the alternative sites for a new Ultimo Public School
 - (c) the reasons the alternative sites were dismissed by the Government
 - (d) the costs of rehousing Ultimo Public School students in Wentworth Park while the school is rebuilt
 - (e) the impact of the Bays Precinct development on future enrolment capacity in the inner city, and
 - (f) any other related matters.

Resolved, on the motion of Revd Nile: That the committee adopt the terms of reference.

5. Conduct of the inquiry into enrolment capacity in inner city public primary schools

5.1 Proposed timeline

Resolved, on the motion of Revd Nile: That the committee adopt the following timeline for the administration of the inquiry:

- that the closing date for submissions be 18 September 2016
- that the committee hold a ½ day site visit and 1 ½ days of public hearings in late September or early October, with dates to be determined by the Deputy Chair after consultation with members regarding their availability
- that the committee report in the last non-reserve sitting week of November 2016.

5.2 Stakeholder list

Resolved, on the motion of Mr Shoebridge: That the secretariat circulate to members the Deputy Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

5.3 Advertising

Resolved, on the motion of Mr Shoebridge: That the inquiry be advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales, including local inner city media outlets.

6. Proposed new self-reference

Mr Secord tabled a letter signed by three committee members requesting a meeting to consider an inquiry into the provision of education to students with a disability or special needs in New South Wales schools.

The committee noted that under the resolutions establishing the committee, the Committee Clerk is required to convene a meeting of the committee within seven days.

7. Adjournment

The committee adjourned at 1.10 pm, *sine die*.

Sharon Ohnesorge

Clerk to the Committee

Minutes no. 32

Wednesday 24 August 2016

General Purpose Standing Committee No. 3

Members' Lounge, Parliament House, Sydney, 1.02 pm

1. Members present

Mrs Maclaren-Jones, *Deputy Chair*

Mr Franklin

Mrs Houssos

Mrs Mitchell

Revd Nile

Mr Secord

Mr Shoebridge (substituting for Ms Barham for the duration of the inquiry into students with disability or special needs in New South Wales schools)

2. Previous minutes

Resolved, on the motion of Mrs Houssos: That draft minutes no. 31 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 22 August 2016 – Email from Mr Shoebridge to secretariat, advising that Mr Shoebridge will be substituting for Ms Barham for the duration of the inquiry into students with disability or special needs in New South Wales schools
- 23 August 2016 – Email from Mr Shoebridge to secretariat, forwarding correspondence from Children and Young People with Disability Australia proposing a broader terms of reference for the proposed self-reference inquiry into the students with disability or special needs in New South Wales schools.

4. Consideration of terms of reference

The committee noted the letter tabled at its meeting on 17 August 2016 proposing the following self-reference:

Inquiry into the provision of education to students with a disability or special needs in government and non-government schools in New South Wales

That General Purpose Standing Committee No. 3 inquire into and report on the provision of education to students with a disability or special needs in government and non-government schools in New South Wales, and in particular:

- (g) equitable access to resources for students with a disability or special needs in regional and metropolitan areas
- (h) the impact of the Government's 'Every Student Every School' policy on the provision of education to students with a disability or special needs in New South Wales public schools
- (i) developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations
- (j) complaint and review mechanisms within the school systems in New South Wales for parents and carers, and
- (k) any other related matters.

Resolved, on the motion of Mr Shoebridge: That the committee adopt the terms of reference.

5. Inquiry into enrolment capacity in inner city public primary schools

5.1 Inquiry timetable

Resolved, on the motion of Mr Shoebridge: That the Deputy Chair circulate to members further proposed hearing/site visit and report deliberative dates, and that members agree to the dates via email, unless a meeting is required to resolve any disagreement.

6. Conduct of the inquiry into students with disability or special needs in New South Wales schools

6.1 Proposed timeline

Resolved, on the motion of Revd Nile: That the committee:

- request a briefing by the Ombudsman's Office, to be scheduled during a lunch adjournment in the September sittings
- defer advertising the inquiry, sending stakeholder letters and determining a timetable for the inquiry until after the briefing by the Ombudsman's Office.

7. Adjournment

The committee adjourned at 1.13 pm, until Monday 29 August 2016 at 8.45 am in the Jubilee Room (Budget Estimates hearing).

Sharon Ohnesorge
Clerk to the Committee

Minutes no. 38

Thursday 15 September 2016

General Purpose Standing Committee No. 3

Waratah Room, Parliament House, Sydney, 1.04 pm

1. Members present

Mrs Maclaren-Jones, *Deputy Chair*

Mrs Houssos

Mrs Mitchell (until 1.22 pm)

Mr Shoebridge (from 1.06 pm)

2. Previous minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes nos. 33, 34, 35, 36 and 37 from Budget Estimates be confirmed.

3. Inquiry into students with disability or special needs in New South Wales schools**3.1 Briefing by NSW Ombudsman's Office**

The committee was briefed on the work of the Ombudsman's Office relating to the issues being considered in the inquiry from the following officials:

- Mr Steve Kinmond, Deputy Ombudsman and Community and Disability Services Commissioner
- Ms Kathryn McKenzie, Director, Disability
- Ms Meredith Brown, Principal Investigator.

3.2 Conduct of the inquiry

Resolved, on the motion of Mr Shoebridge: That:

- the closing date for submissions be Sunday 29 January 2017
- the committee hold four public hearings in late February/March 2017 (with a reserve hearing date in June 2017) in Sydney, Newcastle, and potentially in the Illawarra and other regional locations, with exact dates to be determined once the 2017 sitting calendar is finalised
- the committee report by Thursday 10 August 2017.

3.3 Stakeholder list

Resolved, on the motion of Mrs Houssos: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

3.4 Advertising

The committee noted that the inquiry will be advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

4. Inquiry into enrolment capacity in inner city public primary schools

4.1 Site visit on 11 November 2016

Resolved, on the motion of Mr Shoebridge: That the committee adopt the following itinerary for a half-day site visit on the morning of Friday 11 November 2016, commencing at 9.00 am:

- tour of Ultimo Public School
- viewing of the site of the temporary school on Wentworth Park
- viewing of any models of the temporary school and the planned new permanent school
- tour of the Fig and Wattle Street site, if possible
- tour of Anzac Park Public School, a new school in Cammeray.

4.2 Report deliberative

The committee noted that the report deliberative is confirmed for Monday 6 February 2017.

5. Adjournment

The committee adjourned at 2.04 pm, until Friday 11 November 2016 at 9.00 am (site visit for the inquiry into enrolment capacity in inner city public primary schools).

Sharon Ohnesorge
Clerk to the Committee

Minutes no. 40

Friday 11 November 2016

General Purpose Standing Committee No. 3

Parliament House, Macquarie Street, 1.00 pm

1. Members present

Mrs Maclaren-Jones, *Deputy Chair*

Mrs Houssos

Mr Graham (substituting for Mr Secord for the duration of the inquiries into enrolment capacity in inner city public primary schools and students with disability or special needs in New South Wales schools)

Mrs Mitchell

Mr Shoebridge

2. Apologies

Mr Franklin

Revd Nile

3. Correspondence

Received

- 4 November 2016 – Email from the Leader of the Opposition to the Clerk of the Parliaments advising that Mr Graham will be substituting for Mr Secord for the duration of the inquiries into enrolment capacity in inner city public primary schools and students with disability or special needs in New South Wales schools.

4. Inquiry into enrolment capacity in inner city public primary schools

4.1 Site visit to Ultimo and Anzac Park Public School

The committee visited:

- NSW Department of Education offices at Ultimo to view models of the planned temporary and permanent new Ultimo Public School sites
- Ultimo Public School

- the Fig and Wattle Street site, Ultimo
- Anzac Park Public School, Cammeray.

The committee was accompanied by representatives from the City of Sydney at the Fig and Wattle Street sites, and representatives from the NSW Department of Education at the other sites.

5. Adjournment

The committee adjourned at 4.10 pm, until Friday 25 November 2016 (public hearing for inquiry into enrolment capacity in inner city public primary schools).

Sharon Ohnesorge
Clerk to the Committee

Minutes no. 41

Friday 25 November 2016
 General Purpose Standing Committee No. 3
 Jubilee Room, Parliament House, Sydney, 8.45 am

1. Members present

Mr Gallacher, *Chair*
 Mrs Maclaren-Jones, *Deputy Chair*
 Mr Graham
 Mrs Houssos
 Mrs Mitchell
 Revd Nile
 Mr Shoebridge (substituting for Mr Field for the duration of the inquiries into enrolment capacity in inner city public primary schools and students with disability or special needs in New South Wales schools)

2. Apologies

3. Election of Chair

The Committee Clerk called for nominations for the Chair.

Revd Nile moved: That Mr Gallacher be elected Chair of the Committee.

Mr Shoebridge moved: That Mrs Houssos be elected Chair of the Committee.

The Clerk informed the Committee that, there being two nominations, a ballot would be held.

Ballot conducted.

The Clerk announced the result of the ballot as follows:

Mr Gallacher: 4 votes

Mrs Houssos: 3 votes.

Mr Gallacher, having a majority of the members present and voting, was therefore declared elected Chair of the Committee.

4. Draft minutes

Resolved, on the motion of Revd Nile: That draft minutes nos 39 and 40 be confirmed, subject to a typographical correction to draft minutes no 39.

5. Correspondence

The committee noted the following items of correspondence:

Received

- 5 October 2016 – Email from Dr Sarah Willard Gray to secretariat regarding General Purpose Standing Committee No. 4's 2013 inquiry into the use of cannabis for medical purposes
- 13 October 2016 – Email from Dr Ronelle Hutchinson, Manager Policy and Advocacy, Speech Pathology Australia to secretariat, expressing an interest in appearing at a hearing for the inquiry into students with disability or special needs in New South Wales schools
- 19 October 2016 – Letter from Mr John Dixon, General Secretary, NSW Teachers Federation to Chair, requesting an extension to the submission closing date for the inquiry into students with disability or special needs in New South Wales schools
- 11 November 2016 – Email from Ms Tina Williams, Councillor for North Coast Region, NSW Aboriginal Land Council to secretariat, regarding progress from the inquiry into reparations for the Stolen Generations in New South Wales
- 16 November 2016 – Email from Ms Janine Barrett providing a copy of an Inner City Schools Working Party agenda dated 8 December 2014 regarding the redevelopment of Ultimo Public School
- 16 November 2016 – Email from Mr Field advising that Mr Shoebridge will be substituting for Mr Field for the duration of the inquiries into enrolment capacity in inner city public primary schools and students with disability or special needs in New South Wales schools.

6. Inquiry into enrolment capacity in inner city public primary schools

6.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 4, 5, 8, 11, 12, 13, 14, 15, 16, 17, 18, 21, 23, 24, 27, 30, 31, 32, 33, 35, 37, 38, 41, 42, 44, 47, 49, 51, 52, 53, 54, 55, 60, 61, 62, 63, 65, 66 and 67.

6.2 Partially confidential submissions

Resolved, on the motion of Mrs Mitchell: That the committee:

- keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 6, 7, 10, 19, 20, 22, 36, 39, 40, 45, 46, 48, 56, 57, 58, 59 and 64
- keep the following information confidential, as per the recommendation of the secretariat: names and/or identifying and sensitive information in submissions nos. 2, 3, 9, 25, 26, 28, 29, 34, 43, 50, and 68, save for the names of third parties appearing as witnesses at the hearing.

Resolved, on the motion of Mr Shoebridge: That the committee keep potential adverse mention in submission no 29 confidential, as per the recommendation of the secretariat.

6.3 Attachments to submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of attachments to submission no 27 (City of Sydney) and submission no 67 (Department of Education), subject to keeping the following information confidential:

- in the attachments to submission nos 27 and 67: the names of third parties not appearing as witnesses at the hearing, as per the recommendation of the secretariat
- in submission no 67 Attachment Item C, Tab 25: author and consultation details at the end of page two, as per the request of the Department
- in submission no 67 Attachment Item C, Tab 27: the last row in the table on page three, as per the request of the Department.

6.4 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Peter Riordan, Deputy Secretary, Corporate Services, Department of Education
- Mr Anthony Perrau, Executive Director, Asset Management, Department of Education
- Mr Murat Dizdar, Executive Director, Public Schools NSW, Department of Education
- Dr Sylvia Corish, Director, Public Schools NSW, Inner City Strategy, Department of Education
- Mr Tony McCabe, Group Director, Capital Works, Department of Education.

The evidence concluded and the witnesses withdrew.

The following witness were sworn and examined:

- Ms Mary Casey, Project consultant, McLachlan Lister.

Ms Casey tendered the following document:

- Document entitled 'Consultation to date'.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Clover Moore, Lord Mayor, City of Sydney
- Ms Monica Barone, Chief Executive Officer, City of Sydney
- Mr Kim Woodbury, Chief Operating Officer, City of Sydney
- Mr Nicholas Male-Perkins, Commercial Manager, City of Sydney
- Dr Greg Dasey, Principal Hydrologist, JBS&G.

Ms Moore tendered the following document:

- Correspondence dated 24 October 2014 to 11 February 2016 between the Department of Education and the City of Sydney.

The evidence concluded and the witnesses withdrew.

The following witness were sworn and examined:

- Mr Chris Kline, Principal, Douglas Partners
- Ms Nerilee Edwards, Associate, Douglas Partners.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Kevin Langdon, President, Ultimo Public School P&C Association
- Ms Janine Barrett Former, President, Ultimo Public School P&C Association
- Mr William D'Anthes, Former President, Ultimo Public School P&C Association.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Elizabeth Elenius, Pymont Action Incorporated
- Ms Mary Mortimer Ultimo, Pymont Education Campaign Committee.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Ron Powell, Architect, Powell & Associates.

Mr Powell tendered the following documents:

- Document entitled 'Conceptual diagram prepared by Mr Stewart Morgan'.

The evidence concluded and the witness withdrew.

The public and media withdrew.

The public hearing concluded at 4.29 pm.

6.5 Tended documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered during the public hearing:

- ‘Consultation to date’, tendered by Ms Casey
- Correspondence dated 24 October 2014 to 11 February 2016 between the Department of Education and the City of Sydney, tendered by Ms Moore
- ‘Conceptual diagram prepared by Mr Stewart Morgan’, tendered by Mr Powell.

7. Inquiry into students with disability or special needs in New South Wales schools

7.1 Extension of inquiry timeframe

Resolved, on the motion of Mr Shoebridge: That, as previously agreed, the committee:

- extend the submission closing date to 26 February 2017
- hold four public hearings in late March/April 2017, with dates to be determined by the Chair after consultation with members regarding their availability.

8. Inquiry into Budget Estimates 2016-2017

8.1 Consideration of Chair’s draft report – Budget Estimates 2016-2017

Resolved, on the motion of Revd Nile:

That the draft report be the report of the committee and that the committee present the report to the House;

That the transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, minutes of proceedings and correspondence relating to the Budget Estimates hearings be tabled in the House with the report;

That upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, minutes of proceedings and correspondence relating to the Budget Estimates hearings, be published by the committee, except for those documents kept confidential by resolution of the committee;

That the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

That the report be tabled on Friday 2 December 2016.

9. Adjournment

The committee adjourned at 4.35 pm, until Monday 6 February 2016, 9.30 am, Room 1254, Parliament House (enrolment capacity report deliberative).

Sharon Ohnesorge
Clerk to the Committee

Draft minutes no. 42

Monday 6 February 2017

General Purpose Standing Committee No. 3

Room 1254, Parliament House, Sydney, 9.38 am

1. Members presentMr Gallacher, *Chair*Mrs Maclaren-Jones, *Deputy Chair*

Mr Graham

Mr Moselmane (substituting for Mrs Houssos)

Dr Phelps (substituting for Mrs Mitchell)

Mr Shoebridge

2. Draft minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes no 41 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 29 November 2016 – Email from Celia Anthony, Co-Chair, NSW Reconciliation Council to secretariat, enclosing copy of a letter sent to the Premier on 28 November 2016 regarding the Government response to the committee's report entitled 'Reparations for the Stolen Generations in New South Wales: Unfinished business'
- 15 December 2016 – Email from the Hon Shaoquett Moselmane MLC, Opposition Whip to secretariat, advising that Mr Mookhey will be substituting for Mrs Houssos for the duration of the inquiry into students with disability or special needs in New South Wales schools
- 7 December 2016 – Email from Mr Kevin Langdon, President, Ultimo Public School Parents and Citizens Association to secretariat, providing further information in response to a question asked at the hearing
- 19 December 2016 – Letter from Ms Janine Barrett, former President, Ultimo Public School Parents and Citizens Association to secretariat, providing clarification of an aspect of her evidence.

4. Inquiry into enrolment capacity in inner city public primary schools**4.1 Public submissions**

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: supplementary submission no. 25a.

4.2 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- McLachlan Lister Pty Ltd
- City of Sydney.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee keep the Department of Education's answer to question on notice no. 1 confidential, as per the request of the author, on the basis that it contains commercially sensitive information.

4.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled 'Inner city public primary school enrolment capacity and redevelopment of Ultimo Public School', which, having previously been circulated, was taken as being read.

Chapter 1.

Resolved, on the motion of Mr Shoebridge: That paragraph 1.18 be amended by omitting ‘Mr Perrau assured’ and inserting instead ‘Mr Perrau told’.

Resolved, on the motion of Mr Shoebridge: That paragraph 1.19 be amended by inserting at the end: ‘This uncertainty, and the parallel planning processes between UrbanGrowth NSW and the NSW Department of Education, risk a repeat of past mistakes with school capacity failing to keep up with development pressures. This issue is discussed in detail below.’

Resolved, on the motion of Mr Shoebridge: That paragraph 1.46 be amended by:

- a) omitting ‘However,’ and inserting instead ‘While’
- b) inserting ‘there clearly should be a greater focus in the cluster model on the benefit of children attending their local school.’ after ‘public school can be accommodated’
- c) inserting at the end: ‘But it also goes without saying that public education and school communities are about a good deal more than just efficient administration. Local schools provide a sense of community. They are gathering places for neighbours and often life-long friendships are formed amongst students and parents alike. For these reasons we believe that the cluster model should be amended to acknowledge these factors and provide a greater emphasis on connecting schools with their immediate neighbourhood and community.’

Resolved, on the motion of Mr Shoebridge: That the following new recommendation be inserted after paragraph 1.46:

‘Recommendation X

That the NSW Department of Education amend the inner city school cluster model to acknowledge that public schools provide an important sense of community and to afford greater emphasis to connecting schools with their immediate neighbourhood and community.’

Resolved, on the motion of Mr Shoebridge: That paragraph 1.49 be amended by inserting at the end: ‘Further, in the absence of certainty from UrbanGrowth NSW as to the size and scale of the Bays Precinct development there remains a good degree of uncertainty and estimation in demographic projections. Clearly this is sub-optimal. There is a need for a more coordinated approach to education and planning strategies that ensures that school building programs are determined with the most up-to-date and accurate information on development pressures.’

Resolved, on the motion of Mr Shoebridge: That the following new recommendation be inserted after Recommendation 1:

‘Recommendation X

That the NSW Government formalise coordination between UrbanGrowth NSW, the NSW Department of Planning and Environment and the NSW Department of Education to ensure that school building programs are determined with the most up-to-date and accurate information on development pressures.’

Chapter 2.

Mr Shoebridge moved: That paragraph 2.30 be amended by inserting at the end: ‘This decision, announced just months before the 2015 state election, was welcomed by the school community and local residents.’

Dr Phelps moved: That the motion of Mr Shoebridge be amended by omitting ‘announced just months before the 2015 state election’.

Amendment of Dr Phelps put and passed.

Original question of Mr Shoebridge, as amended, put and passed.

Resolved, on the motion of Mr Shoebridge: That paragraph 2.48 be amended by inserting at the end ‘This cost is midway between the higher and lower cost estimates provided for option 2.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.73 be amended by omitting ‘from some’ after ‘the cause of disappointment.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.81 be amended by inserting at the end: ‘The 2005 report is at odds with the detailed consideration from three contamination experts during the sale process and their consensus that the site could be remediated to meet the uniformly accepted environmental standards as set by the EPA.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.96 be amended by inserting at the end: ‘Some participants in the inquiry noted the fact that the department had said in relation to the Fig and Wattle site that it would accept no contamination on a site to be used by a school and then immediately proposed the pop-up school on a site with significant contamination. This concern was put to the committee, not to suggest there was a health and safety concern with the pop-up site given the precautions being taken, but rather to suggest an inconsistent position being adopted by the department.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.108 be amended by omitting ‘Conversely, and as noted above,’ before ‘another concern expressed in relation to’.

Resolved, on the motion of Mr Graham: That the following new committee comment and recommendations be inserted after paragraph 2.114:

‘Committee comment

The committee believes that the failure of the City of Sydney and the department to agree on a suitable use for the remediated Fig and Wattle site given the extreme population pressures, the size of the site and its proximity to the Bays Precinct redevelopment is a missed opportunity.

The significance of this site from a planning and whole of government point of view, over and above the potential use of the site for a school, does not seem to have formed a part of the discussion. Options for subdivision and multiple use of this large and strategically located block of land were not adequately considered. To take advantage of future opportunities like this, further whole of government consideration is required.’

Recommendation X

That the Minister for Education consider strengthening whole of government oversight and support for the NSW Department of Education in future land negotiations for schools.

Recommendation X

That the NSW Government conduct an audit of public land in all areas of significant population growth in New South Wales to identify suitable locations for new schools and expansion of existing schools.’

Resolved, on the motion of Mr Graham: That paragraph 2.115 be amended by:

- a) omitting ‘When it became clear that other methods of remediation would likely involve either leaving contaminants on site or having permanent vents on the site, the department formed the view that the only remediation process that would satisfy it from a risk management perspective would involve fully remediating the site. As this option was costed at \$53.85 million, the department determined that remediating the site was not financially viable, and decided not to proceed with the purchase.’
- b) inserting instead ‘The inability of the department and the City of Sydney to agree the access terms for further testing is a key failure in this process and has left questions relating to the remediation costs unanswered that may have been able to be resolved. This lack of cooperation is regrettable. Without this crucial information the department formed the view that the only remediation process that would satisfy it from a risk management perspective would involve fully remediating the site, because other methods of remediation would likely involve either leaving contaminants on site or having permanent vents on the site.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.116 be omitted: ‘The committee strongly agrees that the safety of students must be the department’s first priority when building a school. It is also important to recognise that the department makes decisions about individual schools in the context of

finite funds available to manage and develop its assets across the board.’, and the following new committee comment and recommendation be inserted instead:

‘Committee comment

There can be no argument that schools must ensure that they are safe and protect children from harm. This is a fundamental premise that overrides concerns as to cost or convenience. The department should rely on the standards set by the relevant authority such as the Environment Protection Authority, unless they can demonstrate that a higher standard is required.

Recommendation X

That the NSW Department of Education, when assessing land for the purposes of remediation, rely on the standards set by the relevant authority such as the Environment Protection Authority, unless the department can demonstrate that a higher standard is required.’

Resolved, on the motion of Mr Shoebridge: That paragraph 2.117 be amended by:

- a) omitting ‘However on balance, and notwithstanding the City of Sydney’s view that safe remediation could have been achieved for less than \$10 million, the committee believes that the department was justified in rejecting remediation option 2 involving partial removal of fill and capping at a cost of \$31.28 million. This is because, without being able to conduct further testing on the site, the department could not rule out the possibility that it would be required to vent noxious gases on the site indefinitely. The committee also believes that pursuing full remediation of the site, as a cost of \$53.85 million, would not have been a responsible use of public money.’
- b) inserting instead ‘There is no doubt that with good will and cooperation access could have been arranged to the Fig and Wattle site to allow for further environmental testing if necessary. The failure of the two agencies, here the NSW Department of Education and the City of Sydney, to come to a mutually acceptable sale and redevelopment option is a matter of intense frustration to the local community. The City of Sydney provided multiple different options, including partial sale and partial residential/commercial development to the department to make the Fig and Wattle site a more financially attractive option. None of these options were progressed and this has been a missed opportunity.’

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 2.117:

‘On the best expert evidence available the Fig and Wattle site still can be remediated to a standard that the EPA agrees would safely accommodate a school. The best evidence is that the remediation would be in the order of \$9 million to \$25 million and therefore in the range agreed for remediation between the Council and NSW Government for remediation of \$18 million. Given the substantially greater size of the Fig and Wattle site, the uncertainty in the school enrolment projections arising from the Bays Precinct development and the benefits of accommodating children at a genuinely local public school this option should be immediately reinstated by the state government.’

Question put.

The committee divided.

Ayes: Mr Graham, Mr Moselmane, Mr Shoebridge.

Noes: Mr Gallacher, Mrs Maclaren-Jones, Dr Phelps.

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Shoebridge moved: that paragraph 2.118 be omitted.

Question put and negatived.

Mr Shoebridge moved: That the paragraph 2.119 be amended by omitting ‘With the benefit of hindsight, one of the lessons from this project is that it may have been more prudent for the department to have satisfied itself beyond any doubt that remediation to the requisite standard could be achieved for an acceptable cost, before agreeing on a purchase price and announcing a deal with the City of Sydney. The fact that the expert advice that proved to be critical was received after a deal was reached and announced

to the public is unfortunate, and has fuelled speculation among some in the community, as well as the council, about the department's motives.'

Question put.

The committee divided.

Ayes: Mr Graham, Mr Moselmane, Mr Shoebridge.

Noes: Mr Gallacher, Mrs Maclaren-Jones, Dr Phelps.

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Shoebridge moved: That paragraph 2.121 be omitted and the following new committee comment and recommendation be inserted instead:

'Committee comment

The new design for the Ultimo school is impressive given the very real site constraints and its extremely limited size. If it becomes the new school then it will no doubt be a positive learning environment. However its very limited size means there is a real likelihood it will hit capacity constraints in the near future. This is not in the best interests of the school community or local residents. For this reason the committee urges immediate reconsideration of the Fig and Wattle site, and close adherence to the advice of contamination experts in promptly negotiating a final sale price from the City of Sydney. There is no doubt whatsoever that this would both rebuild trust with the local community and provide the optimal education outcome for the inner city.'

Recommendation X

That a new recommendation be inserted after paragraph 2.121: 'Recommendation X: That the NSW Government immediately reconsider the Fig and Wattle site, and close adherence to the advice of contamination experts, in promptly negotiating the purchase of the site from the City of Sydney for the much needed inner city school.'

Question put.

The committee divided.

Ayes: Mr Graham, Mr Moselmane, Mr Shoebridge.

Noes: Mr Gallacher, Mrs Maclaren-Jones, Dr Phelps.

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Resolved, on the motion of Mr Graham: That paragraph 2.121 be amended by:

- a) omitting 'The committee was pleasantly surprised to see the standard of the demountables that will be used for the pop-u school, and accepts the department's assurances that it is applying consistent safety standards for the pop-up school' after 'school due to commence shortly'
- b) omitting 'also' after 'much work still to be done, the committee was'

Resolved, on the motion of Dr Phelps: That:

- a) The draft report as amended be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- h) That the report be tabled on Monday 13 February 2016.

5. Inquiry into students with disability or special needs in New South Wales schools

5.1 Hearing dates

The committee has previously agreed to hold four public hearings in Sydney, Newcastle, and potentially the Illawarra and other regional locations in late March/April 2017. The committee noted the following two confirmed hearing dates, as agreed by email:

- Monday 27 March 2017
- Monday 3 April 2017.

Resolved, on the motion of Mr Shoebridge: That the two further hearing dates be Monday 8 May 2017 and Monday 15 May 2017, subject to the secretariat confirming members' availability.

5.2 Managing submissions

Resolved on the motion of Mr Shoebridge: That the secretariat adopt the following approach when circulating submissions to committee members prior to the next meeting which raise issues of confidentiality or adverse mention:

- Where a submission author has requested that sensitive or identifying information be kept confidential, or where the secretariat has identified issues of confidentiality or adverse mention, that this information be highlighted rather than redacted for the committee's consideration
- All partially confidential submissions be circulated by email
- Fully confidential submissions be hand delivered to members' offices on yellow paper.

6. Next meeting

The committee adjourned at 10.47 am, until Monday 27 March 2017 (public hearing for inquiry into students with disability or special needs in New South Wales schools).

Sharon Ohnesorge
Clerk to the Committee

Appendix 5 Dissenting statements

The Hon John Graham MLC and the Hon Shaoquett Moselmane MLC, Australian Labor Party

We note the committee did not accept recommendations which would've seen the department of education site decision be reconsidered. In my view this has weakened an otherwise detailed and strong report.

The best outcome would be for negotiations to recommence immediately, with a view to a creative use of this remarkable and strategically placed site, which might include a school, other NSW Government uses alongside other potential City of Sydney uses. Such an approach would require the City to take a more flexible approach to the purchase price.

The announcement of the purchase of the Fig and Wattle st site by the NSW Government before the NSW Election, and then the subsequent abandonment of the sale after the election has left the community deeply concerned with the process.

The failure of the City of Sydney and the department to agree on a suitable use for the remediated Fig and Wattle site given the extreme population pressures, the size of the site, and its proximity to the Bays precinct redevelopment is a major missed opportunity.

The incident reflects a lack of whole of government planning in the course of such land negotiations. The committee's recommendations that the Minister strengthen such planning, and that an audit be conducted so as to tackle this problem systematically, provide hope that such an incident will not be repeated.

Mr David Shoebridge MLC, The Greens

This is a typical Sydney story. Everyone can see that there is a crying community need for a new and expanded inner city school. Everyone can see that the valuable parcel of public land on the corner of Fig and Wattle Streets would be the best place for the new school. However a toxic mix of poor politics and public penny-pinching risks this public land being sold off to developers. Students, school communities and the future of inner city public education are treated as expendable while deals and counter-deals are made and broken. No wonder people are giving up on politics.

It's still not too late for this to be fixed. The Fig and Wattle Street site is still owned by the City of Sydney. The proposed redevelopment of the existing Ultimo School site has not yet gone to contract. With goodwill, the newly appointed Minister for Education can sit down with the City of Sydney and make the Fig and Wattle site work.

In this committee we heard loud and clear from the Ultimo school community that they don't want their children to spend three years in a demountable school while their school is bulldozed and redeveloped into a crowded multi-story development. They want their children to continue at Ultimo while the Fig and Wattle site is redeveloped into a first class public school that will have plenty of room to meet the needs of this and future generations of public school students. Their plan is simple, it is in the best interests of their children and it is future-proof.

All of the problems that have been posed with the Fig and Wattle site are easily remedied. The department of Education has said they don't know for sure the level of contamination and want further testing. There is no doubt that with goodwill and co-operation access can be arranged to the Fig and Wattle site to allow for further environmental testing if necessary. This can happen tomorrow if the political will is there.

On the best expert evidence available, the Fig and wattle site can be remediated to a standard that the EPA agrees would safely accommodate a school. The best evidence is that the cost of remediation would be in the order of \$9 to \$25 million and therefore well within in the range agreed for remediation between the Council and NSW Government for remediation of \$18 million.

The failure of the Department of Education and the City of Sydney to stick to a mutually acceptable sale and redevelopment option is a matter of intense frustration to the local community. The City of Sydney provided multiple different options, including partial sale and partial residential/commercial development to the Department of Education to make the Fig and Wattle site a more financially attractive option. However none of these options appears to have been seriously considered by the NSW government. This lack of imagination and lack of flexibility is frustrating to say the least.

Given the substantially greater size of the Fig and Wattle site, the uncertainty in the school enrolment projections arising from the Bays Precinct development and the benefits of accommodating children at a genuinely local public school the Fig and Wattle option must be immediately reinstated by the State government.

The new design for the Ultimo school is impressive given the very real site constraints and its extremely limited size. If it becomes the new school then it will no doubt be a positive learning environment.

However its very limited size means there is a real likelihood it will hit capacity constraints in the near future. This is not in the best interests of the school community or local residents.

Some of the systemic failures that we identified as a committee have been addressed in the recommendations in the main report. Each of those recommendations was reached by consensus and they go some way to addressing these systemic problems for the future. However none of them will assist the Ultimo school community's current needs.

For this reason I believe the government must immediately reconsider the Fig and Wattle site, and then listen to the best advice of contamination experts in promptly negotiating a final sale price from the City of Sydney. There is no doubt whatsoever that this would both rebuild trust with the local community and provide the optimal education outcome for the inner city.

Public land in the inner city has no better use than for a public school. The long suffering residents of Pyrmont and Ultimo deserve a new public school that is more than a stop-gap, they deserve a school that will last them into the future.