

2 May 2019

14448
Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Anthony Witherdin (Director of Modification Assessments)

Dear Mr Witherdin,

SECTION 4.55 (1A) MODIFICATION APPLICATION – STATE SIGNIFICANT DEVELOPMENT APPLICATION 6952 WENONA SCHOOL

This Section 4.55(1A) is submitted to the NSW Department of Planning and Environment on behalf of Wenona School Limited pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 6952 which relates to the approval of the educational facility at Wenona School, North Sydney.

This application relates to the proposed relocation of the approved kiosk substation in accordance with the Architectural Plans at **Attachment A** and the Electrical Service Plans at **Attachment B**. The relocation is minor and is proposed for the purpose of accommodating a fire resistant wall. The inclusion of the wall is considered necessary to provide additional fire protection for occupants of the nearby building and persons using the adjacent egress path.

The application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 4.55(1A) of the EP&A Act. The application should be read in conjunction with the following:

- Architectural Plans prepared by Tonkin Zulaikha Geer Architects (**Attachment A**);
- Electrical Service Plans prepared by Connect Infrastructure (**Attachment B**);
- Structural Design Certificate prepared by Taylor Thomson Whitting (TTW) (**Attachment C**); and
- Fire Engineering Statement prepared by Warringtonfire (**Attachment D**).

1.0 Background

Development consent (SSD 6952) was granted on 18 December 2015 by the NSW Department of Planning and Environment for the redevelopment of Wenona School involving construction of a six storey education building, a new pedestrian overpass crossing above Elliott Street, alterations and additions to existing buildings and associated landscaping.

The approval also granted consent to the installation of a 500kVA kiosk substation on the site's Miller Street frontage located directly to the north of a *Lophostemon Confertus* (Brush Box tree) which was proposed for retention. The SSD nominated that the kiosk substation be located on the Miller Street side of the building given there is a requirement for it to be placed in proximity of the main switch room. The precise location of the kiosk substation was to be certified at a later date to ensure compliance with Ausgrid's standards.

In determining the location of the substation at the SSD phase, a number of alternative options were considered. Specifically, two locations along the Miller Street frontage and one position along the Elliott Street frontage. These locations were discounted for a range of reasons, including:

- their location in relation to openable windows and doors;
- the requirement for unimpeded vehicle access for a heavy vehicle and mounted crane;
- the maximum acceptable length of cables between the substation and switchboard within the school;
- safety of the public and personnel working on and around the substation;
- the location of existing services and infrastructure; and
- the separation between the substation and other potential sources of fire.

A modification to SSD 6952 (MOD 2) was approved on 21 November 2018 for the repositioning of the substation. The location of the substation was informed by the factors detailed below:

- The relationship to an existing reinforced concrete structure that forms part of the building and the substation. Specifically, Ausgrid concluded that the located of the substation over the concrete structure did not meet its requirements with regards to trenching, footings and earthing associated with the substation.
- The requirement to provide a blast distance of 3m from the proposed substation to the adjacent classroom windows located to the north east. If a 3m separation is not achievable, Ausgrid requires the inclusion of a non-ignitable blast resistant barrier around the perimeters of the substation.

In consultation with Council it was determined that the substation would need to be re-positioned to ensure that its location did not conflict with the below ground concrete structure and was a sufficient distance from the adjacent classroom window. The location necessitated the removal of the *Lophostemon Confertus* (Brush Box tree) positioned to immediate south.

Subsequent to the approval of MOD 2, it has been determined that the substation is required to incorporate a fire resistant wall along its northern and eastern perimeters to achieve compliance with the relevant Ausgrid requirements and to provide increased protection in rare instance there is a fire within the substation. As such, this application seeks consent for the slight repositioning of the substation to the south. The relocation is minor and does not result in an inconsistency with other Ausgrid requirements addressed under SSD 6952 (MOD 2), including the requirement for the substation to provide no encroachment on the concrete slab located to the north and the need to provide a blast separation distance. No further tree removal is required or proposed.

During the design process, the project team have consulted with the adjacent neighbour to the south at 243 Miller Street and Council who were invited to review the documentation associated with the modification. The owners of the neighbouring property have confirmed that they are satisfied with the positioning of the substation. Likewise, Council have not raised concern with the proposed modification.

2.0 Description of Proposed Modifications

The proposed modifications are illustrated in the Architectural Drawings at **Attachment A**. The modification relates to the repositioning of the substation 2.25m to the south, as shown in **Figures 1 - 2**. The proposed positioning of the substation represents a minor relocation.

Consistent with the approval, the substation maintains a separation distance from the adjacent classroom window in excess of 3m to ensure that there is sufficient blast protection. It is also noted that the proposed location does not encroach on the below ground reinforced concrete structure positioned to the north along the Miller Street frontage.

The modification also seeks consent for the inclusion of a 120/120/120 fire resistant wall with a height of 1.8m (refer to **Figure 3** and **Attachment D**). The wall will be located along the northern and eastern perimeters of the substation where it interfaces with the adjacent classrooms and pedestrian pathway that provides access to the gymnasium. The fire-resistant wall will consist of reinforced blockwork and is included for the purpose of maximising protection in the unlikely instance there is a fire within the substation. The fire resistant wall will sit external to the fence that is approved to surround the substation.



Figure 1 Approved location of substation

Source: Connect Infrastructure

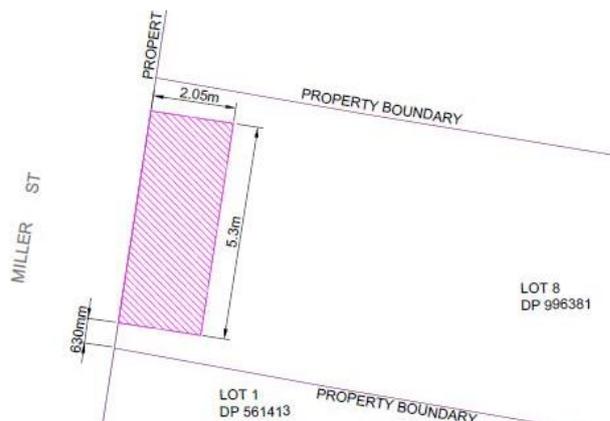


Figure 2 Proposed location of substation

Source: Connect Infrastructure

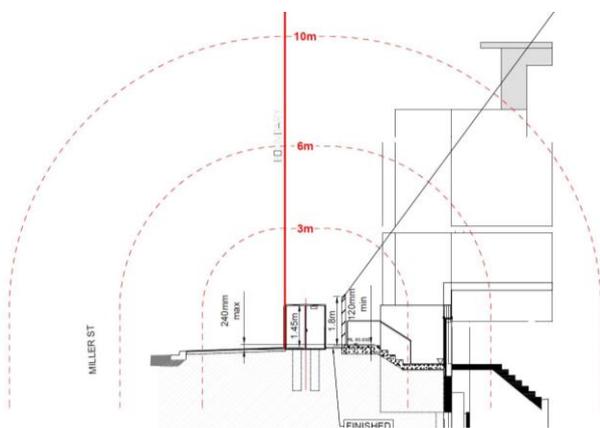


Figure 3 Proposed section view of substation

Source: Connect Infrastructure

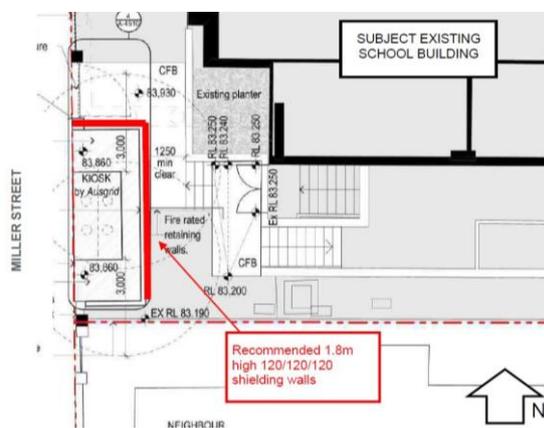


Figure 4 Location of fire resistant retaining walls

Source: Warringtonfire

3.0 Description of Proposed Modifications

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

Terms of Consent

A2. The Applicant shall carry out the development generally in accordance with the:

- a) State Significant Development Application SSD 6962;
- b) Environmental Impact Statement, except where amended by the Response to Submissions;
- c) Section 96(1A) – Modification Application to SSD 6952 Wenona School prepared by JBA Urban Planning Consultants Pty Ltd dated 10 August 2016;
- d) Section 4.55(1A) Modification Application – State Significant Development Application 6952 Wenona School prepared by Ethos Urban dated 6 July 2018;
- e) Section 4.55(1A) Modification Application – State Significant Development Application 6952 Wenona School prepared by Ethos Urban dated 8 May 2018; and
- f) The following drawings, except for:
 - i) Any modifications which are Exempt or Complying Development; and
 - ii) Otherwise provided by the conditions of consent.

Architectural (or Design) Drawings prepared by Tonkin Zulaikha Greer Architects		
Drawing No.	Name of Plan	Date
A-0010	General Demolition	29.07.16
A-0011	No. 255 Miller Street Level 1 Demolition Plan	29.07.16
A-0012	No. 255 Miller Street Level 2 Demolition Plan	29.07.16
A-0013	No. 255 Miller Street Level 3 Mez Demolition Plan	29.07.16
A-0014	No. 255 Miller Street Level 4 Demolition Plan	29.07.16
A-0015	No. 255 Miller Street Level 5 Demolition Plan	29.07.16
A-0016	No. 255 Miller Street Level 6 Demolition Plan	29.07.16
A-1001 A-0005	Site Plan Grid Set Out & Site Plan	30.4.18 30.04.19
A-1002	Level 0 Plan	29.07.16
A-1003	Level 1 Plan	29.07.16
A-1004	Level 2 Plan	17.07.18
A-1005	Level 3 Plan	30.04.18
A-1006	Level 4 Plan	26.06.18
A-1007	Level 5 Plan	07.05.18
A-1008	Level 6 Plan	29.07.16
A-1009	Roof Plan	29.07.16
A-2001	Elevation Miller Street	29.07.16
A-2002	Elevation Elliott Street	04.07.18
A-2003	North & Judith Dey Western Elevations, Section H-H	26.06.18
A-3000	Section A-A	07.05.18
A-3001	Section B-B, C-C	29.07.16
A-3002	Section C-C	29.07.16
A-5002	Materials Schedule	29.07.16
Project No. SC08715	Establish Substation – Sheet 1 of 5	30.10.2017 24.04.2019
Project No. SC08715	Establish Substation – Sheet 2 of 4 5	30.10.2017 24.04.2019
Project No. SC08715	Establish Substation – Sheet 3 of 4 5	30.10.2017 24.04.2019
Project No. SC08715	Establishment Substation – Sheet 4 of 4 5	30.10.2017 24.04.2019
Project No. SC08715	Establish Substation – Sheet 5 of 5	24.04.2019

4.0 Substantially the Same Development

Pursuant to Section 4.55(1A) of the EP&A Act, the consent authority may modify the development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- it retains the same use as the approved development in that it provides an educational establishment;
- the re-location of the kiosk substation represents a minor change and is not a substantial amendment;
- the proposed modifications do not seek to modify the type of educational facilities provided by the development;
- the proposed modifications do not necessitate amendments to the approved building envelope and will therefore not amend the development’s bulk, mass and scale.
- the environmental impacts are the same as the approved development, with the introduction of the fire retaining wall necessary in order to improve safety for occupants.

The proposed modification will result in a development that is substantially the same as the approved development. The modification of the SSD approval can therefore be lawfully made under Section 4.55(1A) of the EP&A Act.

5.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under Section 4.55(3), the consent authority must also take into consideration the matters referred to in Section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the application.

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

5.1 Section 4.15(1)(a) Planning Instruments

The EIS submitted with the original DA addressed the proposed development’s level of compliance against relevant planning instruments, including:

- *Environmental Planning and Assessment Act 1979* (EP&A Act);
- *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP);
- *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure);
- *State Environmental Planning Policy 55 – Remediation* (SEPP 55);
- *North Sydney Local Environmental Plan 2013* (North Sydney LEP 2013);
- *North Sydney Development Control Plan 2013* (North Sydney LEP 2013);
- *North Sydney Section 94 Contributions Plan 2013*;
- *NSW 2021*;
- *A Plan for Growing Sydney*
- *NSW Long Term Transport Masterplan 2012*;
- *Sydney’s Cycling Future 2013*;
- *Sydney’s Walking Future 2013*; and

- Healthy Urban Development Checklist, NSW Health.

The proposed modifications do not substantially alter the development and are proposed for the purposes of an educational establishment. As the proposed changes are minor and do not require the amendment of the approved development's bulk, mass and scale, compliance with relevant planning instruments remains unchanged.

North Sydney LEP 2013

The site is located within the 'B4 – Mixed Use' zone. Within this land use zone, the proposed amendment is permitted with consent. The proposal will comply with the aims of the zone, as it will:

- continue to provide for an educational establishment in an accessible location, and will add to the vibrancy of the mixed-use centre;
- will contribute to the achievement of a high quality safe urban environment; and
- result in minimal visual disruption.

North Sydney DCP 2013

Clause 11 of the *State Environmental Planning Policy (State and Regional Development) 2011* provides that development control plans do not apply to State Significant Development Applications. Notwithstanding, the EIS that accompanied the SSD gave consideration to the DCP. The proposal does not amend the proposal's compliance with the North Sydney DCP.

5.2 Section 4.15(1)(b) Environmental Impacts

The EIS submitted with the original application addressed the likely environmental impacts of the development, including:

- Consistency with Relevant EPIs, Policies and Guidelines
- Urban Design and Built Form
- Heritage
- Parking and Traffic
- Amenity Impacts
- Tree Removal and Ecological Impacts
- Stormwater Management
- Construction Impacts
- BCA and Fire Safety
- Accessibility
- Structural Adequacy
- Soils, Geotechnical and Groundwater
- Environmentally Sustainable Development
- Crime Prevention Through Environmental Design
- Development Contributions
- Site Suitability
- Public Interest

Compliance with relevant strategic and statutory plans and policies has been considered above. The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. However, the following matters warrant further assessment.

Built Form and Amenity

The proposed relocation of the kiosk substation is minor in extent and will have no adverse impact on the appearance of the approved development. As confirmed by supporting subconsultant reports addressed below, the relocation of the kiosk substation will not result in additional environmental impacts and will improve the amenity of the approved development by enhancing fire safety.

Visual Impact

The assessment of the kiosk substation under SSD 6962 (MOD 2) considered the visual impact of the proposed substation on the streetscape. Positioned at the frontage of Miller Street, the substation will have some level of visibility. The inclusion of a non-ignitable blast resistant barrier was initially contemplated under SSD 6962 (MO2). In the assessment report it was noted that the:

erection of such a barrier would not be feasible and would adversely impact on the appearance of the site and character of the streetscape. Importantly, the barrier would also adversely impact on the quality of the environment of the affected classroom.

As addressed previously, the proposal seeks consent for the inclusion of a fire resistant barrier in order to satisfy Ausgrid’s requirements. Notwithstanding the concerns noted by the Department in relation to streetscape impacts, the fire resistant barrier will be located along the eastern and northern perimeters of the kiosk substation. Consequently, it will not be visible from the Miller Street frontage. As per the approved development, the substation will continue to be partially concealed by a metal fence that corresponds with the materiality of the existing fence along Miller Street (refer to **Figure 5**). Accordingly, the appearance of the substation when viewed from the street frontage will remain generally unchanged from the approved development.

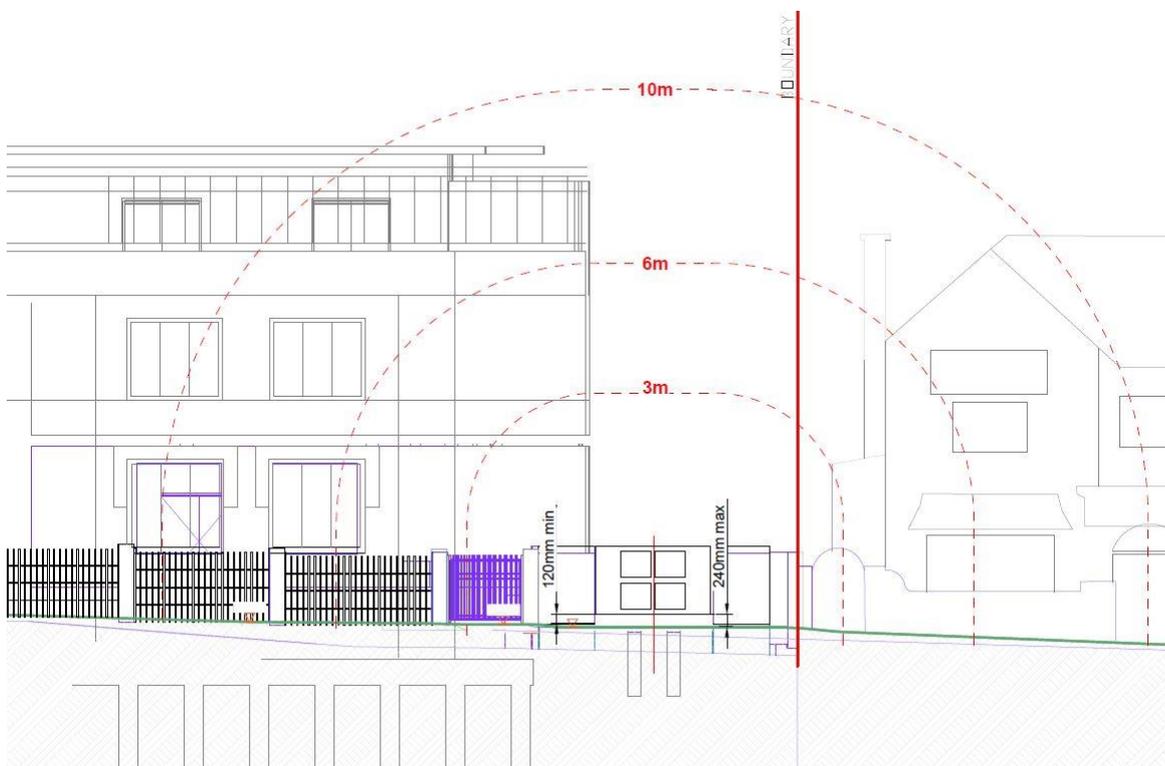


Figure 5 Substation and approved fence as viewed from the Miller Street frontage

Source: Connect Infrastructure

Ausgrid Design Standards

Warringtonfire has prepared a Fire Safety Statement to confirm that the revised location of the substation achieves compliance with the relevant Ausgrid Network Standards and Australian Standards.

The statement indicates that the inclusion of the fire resistant wall is proposed for the purpose of satisfying the Ausgrid Network Standard NS141 which sets out the separation distance requirements for kiosk substations and buildings that are subject to fire risk (refer to **Attachment D**). In undertaking their assessment, Warringtonfire have noted the following key factors:

- that the proposed fire resistant wall be constructed to the engineering requirements of Council and the relevant Australian Standards (including AS 3798 and AS 4678);
- the design of the substation has been prepared by suitably qualified engineers;
- the piles of the substation are capable of supporting the load of the substation; and
- that the fire resistant wall have a minimum fire resistance level of 120/120/120.

When accounting for the above, the Statement confirms that the proposed fire resistant wall is capable of satisfying the requirements of NS141..

In addition to the above, the planning assessment for SS6962 (MOD 2) originally had regard to compliance with Ausgrid's requirements. It was noted that the location of the substation over the below ground concrete structure to the north of the approved kiosk substation would not satisfy Ausgrid's requirement with respect to trenching, footings and the earthing of the substation.

As shown at **Appendix A**, the minor relocation of the substation proposed under the subject application will not encroach on the concrete structure. In this respect, the proposal will not result in a non-compliance with the relevant Ausgrid standards. Moreover, the location of the substation will continue to satisfy the requirement for a minimum blast separation distance of 3m between the substation and the building (refer to **Attachment A** and **Attachment B**).

Fire Safety Assessment

Warringtonfire have prepared a Fire Safety Assessment which is included at **Attachment D**. It notes that a fire resistant wall is required given the building's population predominantly comprises children who are more susceptible to risk. It recommends that a 120/120/120 wall with a minimum height of 1.8m be provided around the substation to shield the discharge pathway located to the north.

The proposal seeks to incorporate an RFL 120/120/120 fire resistance wall with a height of 1.8m along the northern and eastern perimeters of the substation. Ausgrid have confirmed that there is specific height requirement and that a wall height recommended by a suitably qualified fire engineer should be adopted. In light of this, Warringtonfire have confirmed that the height and design of the proposed fire resistance wall will provide sufficient protection in the rare instance that there is a fire within the substation and will enable occupants to evacuate and pass by the substation kiosk without direct exposure to flames.

Structural Assessment

TTW has prepared a Structural Assessment which is included at **Attachment C**. The assessment has reviewed the design of the substation kiosk with respect to the relevant structural design standards nominated under the Australian Standards. TTW confirm that the design of the structure is capable of achieving compliance with the relevant standards and is sufficient to support the load of the kiosk substation.

BCA and Fire Safety

Warringtonfire has prepared a Fire Statement which is include at **Attachment C**. The Statement addresses the proposed fire retaining wall and the proposal's overall compliance with the provisions of the Building Code of Australia (BCA).

The Statement confirms that there are no applicable BCA deemed-to-satisfy provisions pertaining to the protection of external discharge pathways from non-fire-isolated exits from a building. Notwithstanding, there are provisions relating to the requirement for adequate separation between the kiosk substation and internal parts of an adjacent building in order to prevent the spread of fire. Specifically, provision C2.13 of the BCA states that an electricity substation must:

- be separated from any other part of the building by construction having an FRL of not less than 120/120/120; and
- have any doorway in that construction protected with a self-closing fire door having an FRL of not less than – 120 /120/30.

The Statement confirms compliance with the aforementioned requirements. It is also noted that without the fire resistant wall, the pathway leading from the gymnasium has the potential to be exposed to the internal parts of the school building due to the absence of non-fire-resisting external walls and unprotected window openings.

5.3 Section 4.15(1)(c) Suitability of the site for the proposed development

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original DA.

6.0 Conclusion

This Section 4.55(1A) application seeks consent to finalise the location of the approved substation. The modifications will improve safety for occupants. They will not alter the environmental impacts assessed and approved as part of the existing development consent associated with SSD 6952 nor will they give rise to any additional adverse amenity impacts. In accordance with Section 4.55(1A) of the EP&A Act, the Department may modify the consent as the proposed modifications are:

- substantially the same development as that originally approved;
- the modifications will remove safety risks and ensure compliance with Ausgrid's requirements; and
- the proposal will not result in any unacceptable adverse environmental, social or economic impacts.

In light of the above, we therefore recommend that the proposed modification is supported by the Department.

We trust that this information is sufficient to enable assessment and approval of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact the undersigned on 9956 6962 or at adesgrand@ethosurban.com or ktudehope@ethosurban.com.

Yours sincerely,



Alicia Desgrand
Urbanist, Planning
02 9956 6269
adesgrand@ethosurban.com



Kate Tudehope
Associate Director, Planning
02 9956 6962
adesgrand@ethosurban.com