

24 March 2021

DOC21/286334

Karen Harragon
Director, Social and Other Infrastructure
Department of Planning, Industry and Environment
12 Darcy Street
PARRAMATTA NSW 2124

Dear Karen,

School Infrastructure NSW (SINSW) on behalf of the Department of Education (DoE) is seeking to modify Conditions A2, C22(c), D5 and D33(c) of the development consent for the Picton High School Redevelopment (SSD 8640) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

The proposed modifications seek to:

- (i) update the landscape plans identified in Conditions A2, C22(c) and D36 to reflect the removal of the Red River Gum tree (*Eucalyptus camaldulensis*) which was located adjacent to Building B and the proposed replacement planting of three (3) Forest Red Gums (*Eucalyptus tereticornis*) in this location; and
- (ii) include a new condition which requires pre-construction dilapidation reporting to be undertaken prior to the commencement of certain works adjacent to the northern boundary of the site associated with the construction of the car park.

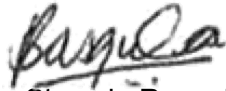
The proposed modifications to the wording of conditions A2, C22(c) and D36, and the proposed new condition, together with justification for the proposed changes is outlined at **Attachment 1**. Documentation in support of the request for modification is provided as follows:

- **Attachment 2** – correspondence from Horticultural Management Services dated 16 October 2019 documenting the condition of the aforementioned River Red Gum;
- **Attachment 3** – correspondence (email) from Wollondilly Shire Council dated 8 November 2019 granting approval for the removal of the River Red Gum;
- **Attachment 4** – amended landscape drawings which document the removal of the aforementioned tree as well as replacement planting of 3 new trees in the same location;
- **Attachment 5** – correspondence from Ecoplanning Pty Ltd in relation to s 7.17 of the *Biodiversity Conservation Act 2016*;
- **Attachment 6** – location of residential properties adjacent to the northern boundary of the site; and
- **Attachment 7** - supporting documentation prepared by Taylor and JMA Solutions in relation to vibration monitoring and dilapidation reporting for works along the northern boundary of the site.

It is considered that the modification can be assessed under section 4.55(1A) of the EP&A Act as it involves substantially the same development and the proposed amendments would have minimal environmental impact. A response to Part 6, Division 12, clause 115 of the Environmental Planning and Assessment Regulation 2000 has been included at **Attachment 8**.

DoE looks forward to working with the Department to resolve the matters outlined above. Should you require any additional information please contact Helen Mulcahy from our Statutory Planning Team on 0437 184 280 or via email at Helen.Mulcahy@det.nsw.edu.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sherwin Rasquinha".

Sherwin Rasquinha
Project Director
School Infrastructure NSW



Proposed Revisions to Conditions of Consent

- A2 The development may only be carried out:
- (a) in compliance with the conditions of this consent
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) generally in accordance with the EIS and Response to Submissions;
 - (d) in accordance with the approved plans in the table below

Landscape Plans prepared by Arcadia Landscape Architecture

Dwg No.	Rev	Name of Plan	Date
	B E	Vision Landscape Masterplan	February 2018 December 2020
	C	Cultural + Heritage Items	May 2018
	C	Landscape Sections	May 2018
	C	Landscape Sections – Section A-A	May 2018
	C	Landscape Sections – Section B-B	May 2018
	C	Landscape Sections – Section C-C	May 2018
	B	Materials Pavement	February 2018
	B	Materials Pavement	February 2018
	B E	Detail Entry Forecourt	February 2018 December 2020
	B E	Detail Terraced Lawns	February 2018 December 2020
	B	Materials Terraced Lawns	February 2018
	B	Detail Social Hub	February 2018
	B	Materials Social Hub	February 2018
	B	Detail Education Trail	February 2018
	B	Materials Education Trail	February 2018

Discussion / Justification

On 16 October 2019, Horticultural Management Services conducted an inspection of a (then) existing Red River Gum tree (*Eucalyptus camaldulensis*) located adjacent to Building B (see **Figure 1**).



Figure 1: Tree Inspected by Horticultural Management Services and subsequently removed with the approval of Wollondilly Council

The inspection concluded the subject tree was in poor health and structural condition as a result of what was likely to have been a lightning strike and recommended that it be removed to address work health and safety concerns. A copy of correspondence from Horticultural Management Services is included at **Attachment 2**.

Proposed Revisions to Conditions of Consent				Discussion / Justification
	B	Details Agricultural & Environmental Learning	February 2018	School Infrastructure NSW (SINSW) subsequently sought approval from Wollondilly Shire Council (Council) to remove the subject tree. Council's Tree Management Officer granted approval to remove the tree on 8 November 2019 (see Attachment 3). The tree was removed on 22 November 2020. SINSW notes that the tree removal was undertaken in a process outside the scope of the SSD consent (i.e. via Council approval). However in order to ensure the approved drawings reflect the situation on the ground, SINSW seeks approval to amend Condition A2 to update the following approved landscape plans: • Landscape Master Plan; • Detail Entry Forecourt Plan; • Detail Terraced Lawn Plan; • Tree Size Specification and Formal Softscape Areas; and • Tree Retention and Removal Strategy. A total of three (3) replacement trees are proposed to be planted in the location of the (now removed) River Red Gum. Amended landscape drawings are included at Attachment 4. Section 7.17(2) of the Biodiversity Act states that (emphasis added): (2) The provisions of this Division relating to applications for development consent or State significant infrastructure approvals apply to any such application for modification as follows— (a) the provisions apply in relation to the original development as proposed to be modified, (b) a biodiversity development assessment report is required to be submitted and taken into consideration if this Division applies to the original development as proposed to be modified even if a biodiversity development assessment report was submitted in connection with the application for the original development or even if this Division did not apply to the original development (for example, because the modification results in the development exceeding the biodiversity offsets scheme threshold), (c) however a further biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification (or
	B	Vision Natural Trail	February 2018	
	B	Softscape Planting Character	February 2018	
		Softscape Tree Size Specification & Formal Softscape Areas	March 2019 November 2020	
SSD-SK	0002	Front entry – Landscaping and Security	27/07/2018	
	E F	Design Tree Retention + Removal Strategy	January 2019 November 2020	

Proposed Revisions to Conditions of Consent	Discussion / Justification
	determining the environmental assessment requirements for the application) is satisfied that the modification will not increase the impact on biodiversity values, (d) the biodiversity development assessment report submitted with the application for modification is to take into account any measures already taken to avoid, minimise or offset the impact on biodiversity values in connection with the consent or approval before the proposed modification, (e) if an application for the original development as proposed to be modified would have been required to be refused because of serious and irreversible impacts on biodiversity values, the application for modification is required to be refused. Ecoplanning prepared the Biodiversity Assessment Report that was approved as part of the original SSDA. The correspondence at Attachment 5 provides a review of the tree removal and proposed replacement planting and confirms that the impact of the development on biodiversity values will not be increased as a result.
C22. For the duration of the construction works: (a) street trees must not be trimmed or removed unless it forms part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property; (b) all street trees must be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, must be replaced, to the satisfaction of Council; (c) all trees on the site that are not approved for removal must be suitably protected during construction as per recommendations of the Arboricultural Assessment and Tree Management Plan prepared by Horticultural Management Services dated 12 February 2018, Arboricultural Assessment and Tree Management Plan Addendum prepared by Horticultural Management Services dated 19 October 2018, and Arboriculture Assessment Report Addendum prepared	The modification request seeks approval to re-word Condition C22(c) to include reference to the correspondence prepared by Horticultural Management Services dated 16 October 2019 which documents the arboricultural assessment made in relation to the River Red Gum which is the subject of this modification.

Proposed Revisions to Conditions of Consent	Discussion / Justification
by Horticultural Management Services dated 15 March 2019, <u>as amended by the letter prepared by Horticultural Management Services dated 16 October 2019.</u> (d) if access to the area within any protective barrier is required during these works, it must be carried out under the supervision of a qualified arborist. Alternative tree protection measures must be installed, as required. The removal of tree protection measures, following completion of the works, must be carried out under the supervision of a qualified arborist and must avoid both direct mechanical injury to the structure of the tree and soil compaction within the canopy or the limit of the former protective fencing, whichever is greater.	
PROPOSED NEW CONDITION B40 Works adjacent to the northern property boundary B40 Prior to the commencement of any civil works or works associated with the construction of the car park adjacent to the northern boundary of the site, the Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report. The report will detail the current structural condition of the existing residential buildings and structures on the properties located to the north of the Site, including No. 468 Argyle Street and Nos. 27-39 Coachwood Crescent (inclusive). The report must be submitted to the satisfaction of the Certifying Authority.	There are a number of residential properties located immediately to the north of the Picton High School site (refer Attachment 6). The existing consent does not include a condition which requires pre-construction dilapidation reporting. To date this has not been an issue as the majority of construction works have been conducted at some distance from the adjoining residential properties. Condition Nos. C18, C19 and C20 of the existing consent set out the vibration criteria for the project. Condition C19 stipulates that vibration compacting equipment must not be used within 30m (zone of influence) of residential buildings unless vibration monitoring confirms compliance with the vibration criteria set out in C18. Civil works and the construction of the approved at-grade car park, which will necessitate the use of vibration equipment and are adjacent to the northern boundary of the school site, are programmed to commence shortly. In order to satisfy post-construction dilapidation reporting requirements set out in Condition D5, SINSW requests the inclusion of a new condition to capture a pre-construction dilapidation reporting methodology for the abovementioned residential properties.

Proposed Revisions to Conditions of Consent	Discussion / Justification
	As detailed in the supporting documentation at Attachment 7, vibration monitors have been installed at No. 468 Argyle Street and at No. 27 Coachwood Crescent to establish benchmark records for vibration impact on these properties and pre-dilapidation reports have been prepared for each of the following properties: • No. 468 Argyle Street • Nos. 27 – 39 Coachwood Crescent (inclusive) Attachment 7 also plots the 30m zone of influence. The following methodology is proposed: • Determine (and map) the Zone of Influence of the construction in accordance with the following standard definition included in more contemporary consents issued by DPIE in respect of SI projects: - The horizontal distance from the edge of the excavation site or any construction zone (including site haulage routes) to twice the maximum excavation depth • Document the vibration monitoring which has been undertaken on the site throughout the construction phase. This should include, but not necessarily be limited to commencement date, details of equipment, responsibility for maintaining the equipment, and identification (map) of monitoring station locations. • Structural engineer to prepare a report (including all the details set out above) which analyses the vibration monitoring data set and makes an assessment of the vibration levels within the zone of influence, drawing a conclusion about the likelihood of adverse impacts and making recommendations for further investigation / rectification works if required. • Report to be submitted to the Certifying Authority. Having regard to the above, SINSW requests the inclusion of a new Condition to capture a pre-construction dilapidation reporting methodology for the abovementioned residential properties which will in turn, facilitate compliance with the requirement for post-construction dilapidation survey set out in Condition D5.

Proposed Revisions to Conditions of Consent	Discussion / Justification
D36. Prior to occupation of the building, the Applicant must prepare a Landscape Management Plan to manage the revegetation and landscaping works on-site, to the satisfaction of the Planning Secretary. The plan must: (a) Include revised landscape plan as per condition B4 to include planting in accordance with the approved Softscape Tree Size Specification & Formal Softscape Areas (Issue B C) prepared by Arcadia Landscape Architecture dated March 2019 November 2020 and at least 14 additional canopy trees; (b) detail the species to be planted on-site; (c) include details of the area surrounding the education trail is to be rehabilitated with local native plants; (d) include details that the native trees to be removed from the site are to be salvaged, including tree hollows and tree trunks (greater than 25cm in diameter and 3m in length) and used to enhance habitat at the site; (e) include details of the installation of artificial nest boxes which are suitable to native fauna; (f) detail that the seeds from native plants to be removed is collected and used in the landscape area; (g) provide an ongoing weed control and maintenance program to maintain the existing and new remnant native vegetation; (h) describe the monitoring and maintenance measures to manage revegetation and landscaping works; and (i) comply with the principles of Appendix 5 of <i>Planning for Bush Fire Protection 2006</i>.	SINSW seeks approval to amend Condition D36 to update the approved Tree Size Specification and Formal Softscape Areas to reflect the removal of the subject tree and the planting of three (3) replacement trees in its previous location. Amended landscape drawings are included at Attachment 4.

Attachment 2

Letter from Horticultural Management Services dated 16 October 2019



Attachment 3

**Tree Removal Approval November 2019
Wollondilly Council**



Attachment 4

**Amended Landscape Plans
Arcadia**



Attachment 5

**S 7.17 Biodiversity Act 2016 Assessment
Ecoplanning Pty Ltd**

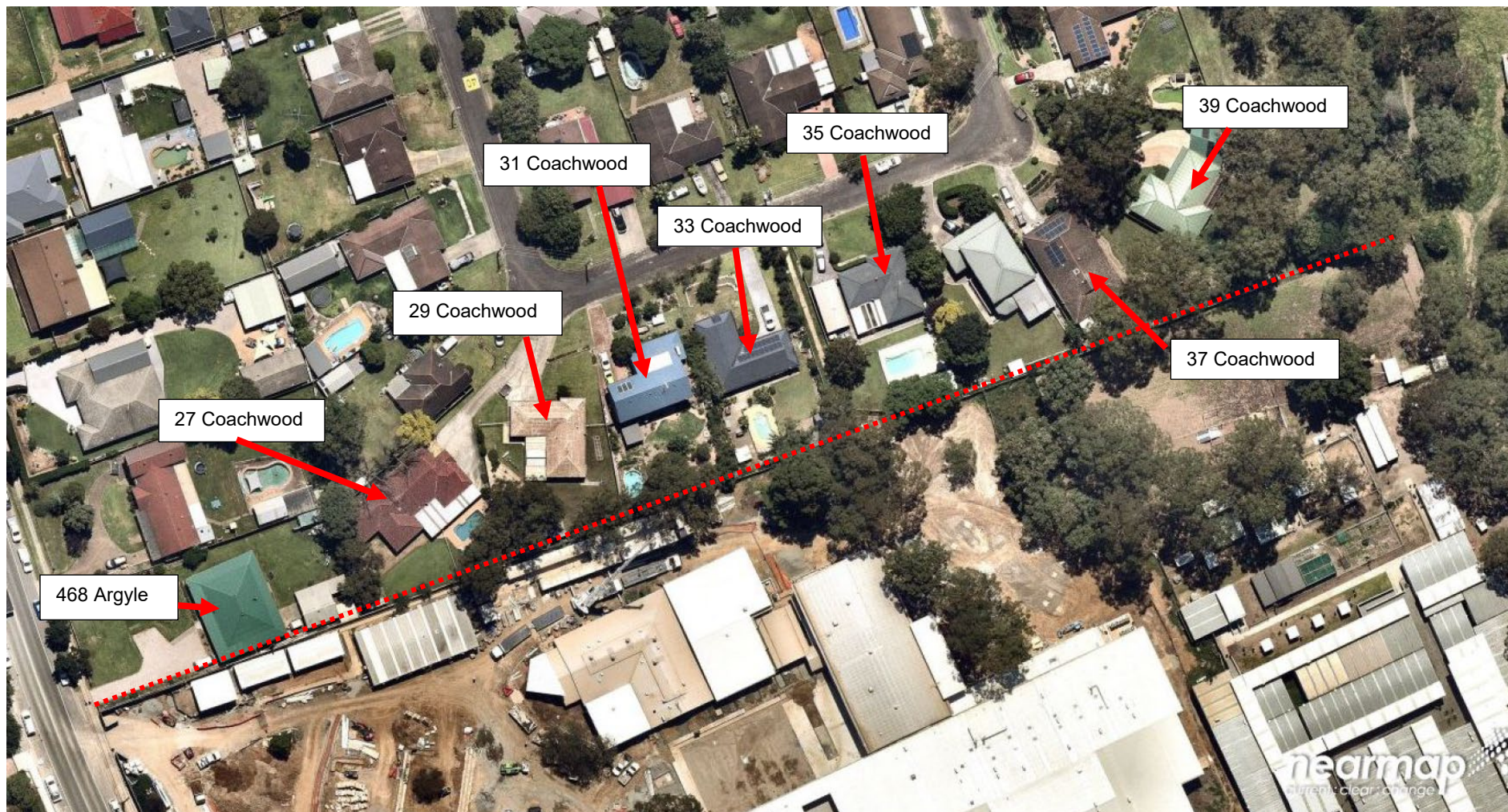


Attachment 6

Location of residential properties relative to the northern site boundary







Attachment 7

Supporting documentation from Taylor and JMA Solutions in relation to Vibration Monitoring



Attachment 8

**Response to requirements under Part 6, Division 12, Clause 115 of the
Environmental Planning & Assessment Regulation 2000**



Part 6, Division 12, Clause 115

No.	Requirement	Response
(1)	An application for modification of a development consent under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act must contain the following information:	
(a)	the name and address of the applicant,	NSW Department of Education GPO Box 33, Sydney NSW 2001
(b)	a description of the development to be carried out under the consent (as previously modified),	Picton High School redevelopment including: • demolitions of buildings and associated excavation; • the retention and refurbishment of buildings; • the construction of a two and three storey building connecting existing retained buildings; • the reconfiguration of car and bus drop-off/pick-up areas, including new access from Wonga Road and an internal access road; • increase in onsite car parking with a capacity of 141 spaces; • Increase in teaching space to accommodate 1,580 students and 125 staff; • removal of 99 trees; and • associated landscaping works.
(c)	the address, and formal particulars of title, of the land on which the development is to be carried out,	480 Argyle Street Picton Lot 2 DP 520158
(d)	a description of the proposed modification to the development consent,	The proposed Modification seeks to: (i) update the landscape plans identified in Conditions A2, C22(c) and D36 to reflect the removal of the Red River Gum tree (<i>Eucalyptus camaldulensis</i>) which was located adjacent to Building B and the proposed replacement planting of three (3) Forest Red Gums (<i>Eucalyptus tereticornis</i>) in this location; and (ii) include a new condition which requires pre-construction dilapidation reporting to be undertaken prior to the commencement of certain works adjacent to the northern boundary of the site associated with the construction of the car park and associated access driveway.
(e)	a statement that indicates either:	
(i)	that the modification is merely intended to correct a minor error, mis-description or miscalculation, or	N/A
(ii)	that the modification is intended to have some other effect, as specified in the statement,	The modification is intended to allow for: • replacement tree planting (3 new trees) to compensate for the removal of a fatally storm-damaged tree; • pre-construction dilapidation reporting for residential properties to the north of the school site.
(f)	a description of the expected impacts of the modification,	The proposed modifications to the consent are not expected to manifest in any adverse impacts. The modifications will: • allow for replacement tree planting (at a ratio of 3:1), which will enhance the landscape outcome for the site,

No.	Requirement	Response
		particularly in terms of canopy cover; and will ensure the appropriate monitoring and management of construction impacts. No other impacts are expected.
(g)	an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,	The modification will result in the development remaining substantially the same as the development that was originally approved.
(g1)	in the case of an application that is accompanied by a biodiversity development assessment report, the reasonable steps taken to obtain the like-for-like biodiversity credits required to be retired under the report to offset the residual impacts on biodiversity values if different biodiversity credits are proposed to be used as offsets in accordance with the variation rules under the Biodiversity Conservation Act 2016,	Not applicable
(h)	if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),	Not applicable
(i)	a statement as to whether the application is being made to the Court (under section 4.55) or to the consent authority (under s 4.56), and, if the consent authority so requires, must be in the form approved by that authority.	Not applicable
(2)	The notification requirements of clause 49 apply in respect of an application if the consent of the owner of the land would not be required were the application an application for development consent rather than an application for the modification of such consent.	Not applicable.
(3)	In addition, if an application for the modification of a development consent under section 4.55(2) or section 4.56(1) of the Act relates to residential apartment development and the development application was required to be accompanied by a design	Not applicable.

No.	Requirement	Response
	verification from a qualified designer under clause 50(1A), the application must be accompanied by a statement by a qualified designer.	
(3A)	The statement by the qualified designer must—	
(a)	verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and	Not applicable.
(b)	provide an explanation of how:	
(i)	the design quality principles are addressed in the development, and	Not applicable
(ii)	in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and	Not applicable
(c)	verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted	Not applicable
(3B)	If the qualified designer who gives the design verification under subclause (3) for an application for the modification of development consent (other than in relation to State significant development) does not verify that he or she also designed, or directed the design of, the development for which the consent was granted, the consent authority must refer the application to the relevant design review panel (if any) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.	Not applicable
(4)	If an application referred to in subclause (3) is also accompanied by a BASIX certificate with respect to any building, the design quality principles referred to in that subclause need not be verified to the extent to which they aim:	
(a)	to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of the building or in the use of the land on which the building is situated, or	Not applicable
(b)	to improve the thermal performance of the building.	Not applicable

No.	Requirement	Response
(5)	The consent authority may refer the proposed modification to the relevant design review panel but not if the application is for modification of a development consent for State significant development.	Not applicable
(6)	An application for the modification of a development consent under section 4.55 (1A) or (2) of the Act, if it relates to development for which the development application was required to be accompanied by a BASIX certificate or BASIX certificates, or if it relates to BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied), must also be accompanied by the appropriate BASIX certificate or BASIX certificates	Not applicable
(7)	The appropriate BASIX certificate for the purposes of subclause (6) is:	
(a)	if the current BASIX certificate remains consistent with the proposed development, the current BASIX certificate, and	Not applicable
(b)	if the current BASIX certificate is no longer consistent with the proposed development, a new BASIX certificate to replace the current BASIX certificate.	Not applicable
(8)	An application for modification of a development consent under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act relating to land owned by a Local Aboriginal Land Council may be made only with the consent of the New South Wales Aboriginal Land Council.	Not applicable
(9)	The application must be accompanied by the relevant fee prescribed under Part 15.	\$5,000 for an application made under section 4.55(1A) of the <i>Environmental Planning and Assessment Act 1979</i>
(10)	A development consent may not be modified by the Land and Environment Court under section 4.55 of the Act if an application for modification of the consent has been made to the consent authority under section 4.56 of the Act and has not been withdrawn.	Not applicable