



# Kincoppal Rose Bay School Modification 1

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State Significant Development Modification Assessment  
(SSD-10325 MOD 1)

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Cover image: *[Kincoppal-Rose Bay Senior School: Applicant's EIS 2020]*

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# Glossary

Abbreviation	Definition
<b>Applicant</b>	Kincoppal – Rose Bay School
<b>BCA</b>	Building Code of Australia
<b>Council</b>	Woollahra Municipal Council
<b>Department</b>	Department of Planning and Environment
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2021
<b>Minister</b>	Minister for Planning
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>SSD</b>	State Significant Development
<b>WLEP 2014</b>	Woollahra Local Environmental Plan 2014

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# 1 Introduction

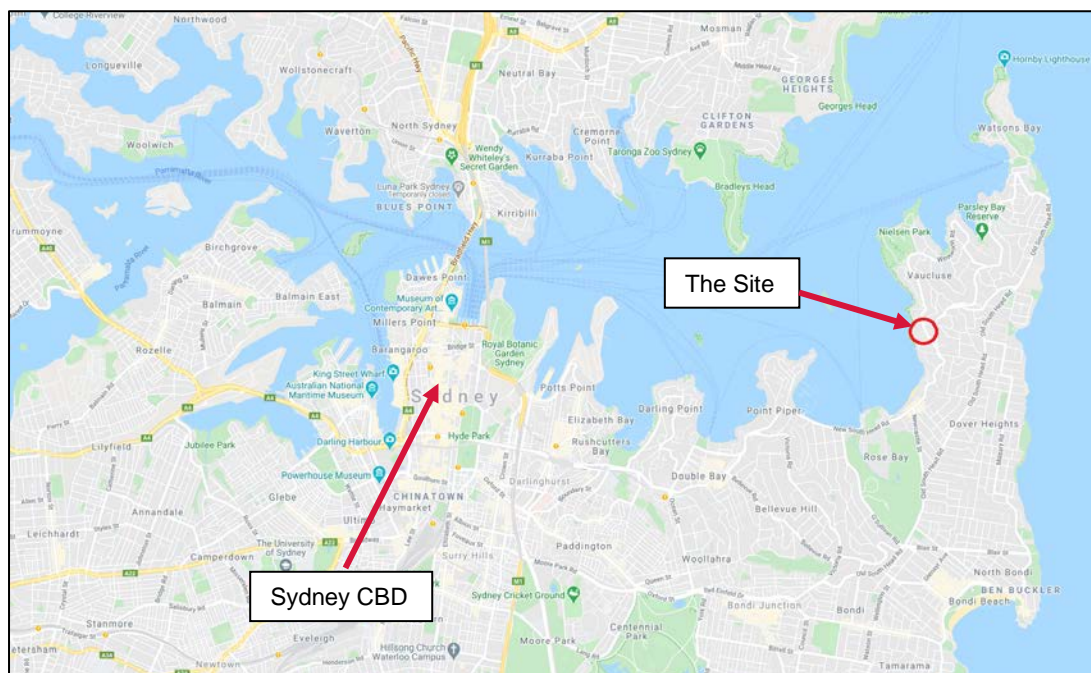
This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) consent for alterations and additions to Kincoppal-Rose Bay School (SSD-10325 Mod 1).

The modification application seeks approval to amend a pedestrian walkway. The amended walkway would include two additional staircases connecting it to the grotto footpath below and the adjacent Sheldon house. This modification would require Condition C2(d) of the consent to be amended to reference updated architectural plans.

The application has been lodged by Kincoppal – Rose Bay School (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1 Site description

The site is located at 2 Vaucluse Road, Vaucluse, within the Woollahra Municipal Council local government area (LGA). The site is located approximately 9km east of the Sydney CBD as shown in **Figure 1**.



**Figure 1 |** Regional context map, indicative location of site (Source: Nearmap 2021)

Lot 104 DP 1092747 is irregular in shape and split in the centre by Vaucluse Road as shown in **Figure 2**.



**Figure 2 |** Boundaries of development site (Source: Applicant's original EIS 2020)

The locality of site is characterised by predominantly low-scale residential development on standard suburban allotments. To the north and east, development is typically residential. To the west is the Sydney Harbour foreshore. To the direct south is residential development and Forsyth Park.

The site is zoned SP2 – Infrastructure (Educational Establishment), has a maximum height of buildings of 9.5m and no maximum floor space ratio, under the Woollahra Local Environmental Plan 2014 (WLEP 2014). It is listed as flood affected, and as a locally significant heritage item 396, being *'Kincoppal, Roman Catholic Convent of the Sacred Heart and school—buildings and interiors, grounds, trees, sandstone and wrought iron fence, gateposts and gates'*.

The site is developed, with multiple buildings of varying size, scale, architectural styles and heritage significance.

## 1.2 Approval history

On 14 October 2021, development consent was granted by the Minister for Planning for alterations and additions to Kincoppal-Rose Bay School in the form of a Concept proposal and detailed Stage 1 proposal. The Concept proposal includes:

- the reconfiguration and expansion to the Hughes centre
- the reconfiguration and expansion to the senior school circulation hub
- the construction of a new building to form an expansion to the existing boarding house facilities

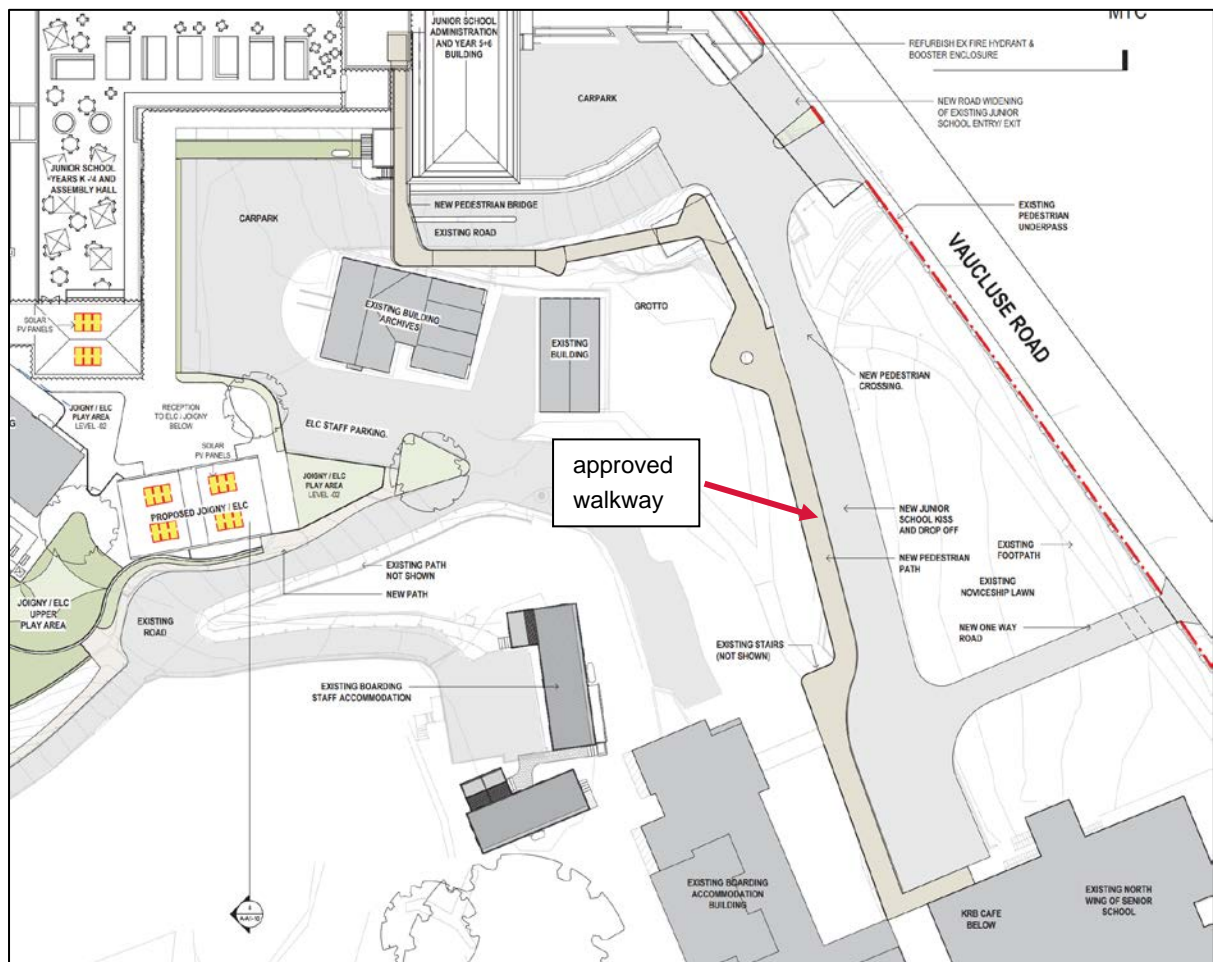
The Stage 1 proposal includes:

- the demolition of pavements, toilet block, building interiors and roofs
- alterations and upgrade works to the existing early learning centre, junior school Barat Burn buildings, year 8 learning centre and senior school main entrance forecourt
- traffic management works including new drop-off pick up facilities, new entrance signage, new vehicular crossing, elevated pedestrian walkway and increased car parking
- improved pedestrian access throughout the school
- landscaping and tree removal
- an Increase in the total number of students up to 1,205

## 2 Proposed modification

The application proposes to modify the elevated timber pedestrian walkway/path which forms part of the works associated with the “junior school traffic management” Stage 1 proposal. The walkway was approved to provide pedestrian access from the café and new drop-off/pick-up area to the Barat Burn building as seen in **Figure 3**. Subsequently the architectural plans listed under Condition C2 would be updated to reflect the new walkway arrangements.

The modified walkway would include two additional staircases connecting it to the grotto footpath below and the adjacent Sheldon house as seen in **Figure 4**. The new stairs would be constructed of steel.



**Figure 3 |** Approved walkway (Source: Applicant’s RTS 2021)

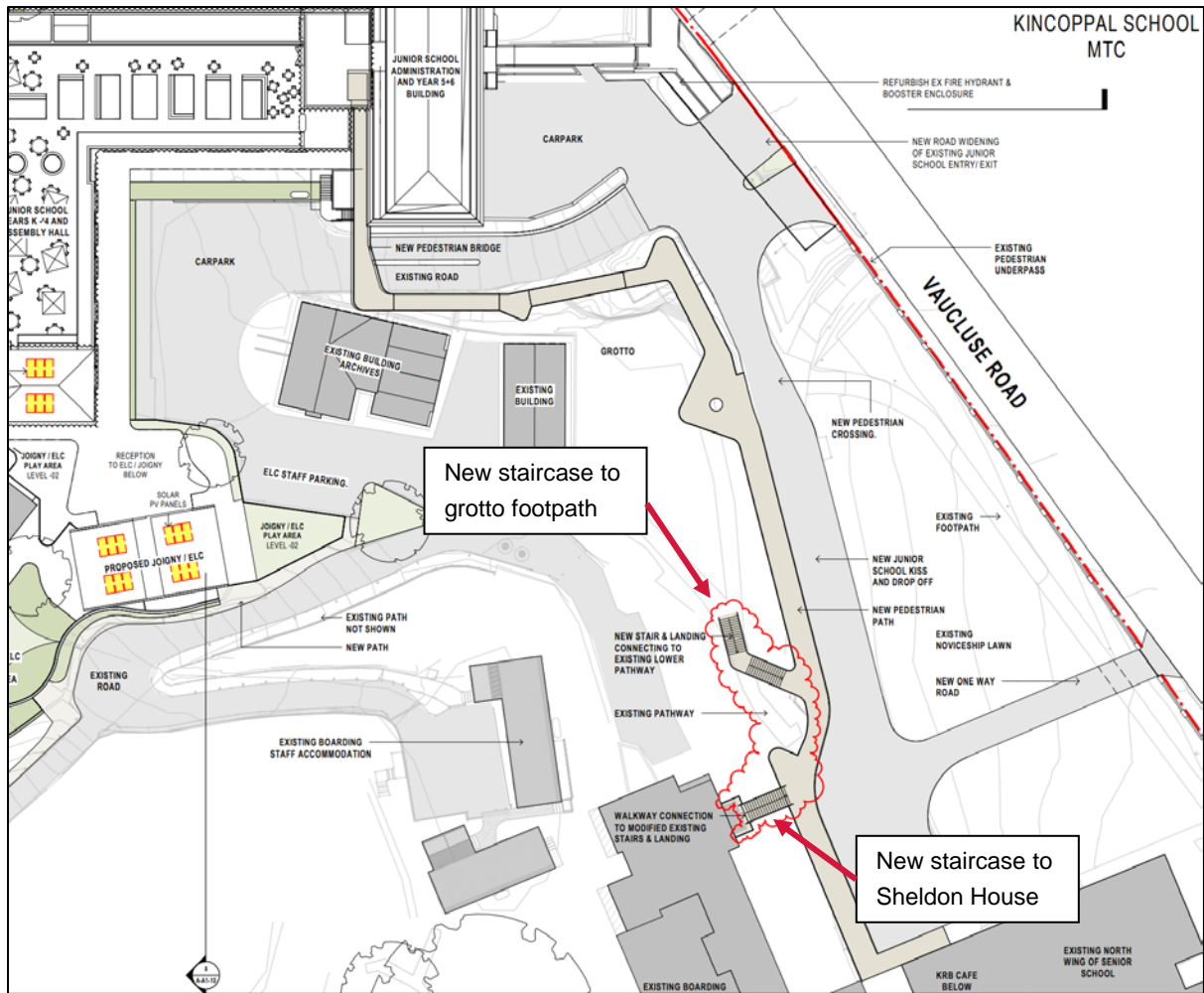


Figure 4 | Proposed walkway modification (Source: Applicants Mod 1 2022)

### 3 Strategic context

The development, as modified, remains consistent with the assessment of the strategic context in the original application and would not alter the key components or outcomes of the proposal. The Department considers the development, as modified, would remain consistent with the relevant provisions of the:

- Premier's Priorities to create jobs and improve education results as it would continue to create 257 construction jobs and 35 operational jobs and provide upgraded education facilities.
- Greater Sydney Region Plan, A Metropolis of Three Cities, as it would continue to provide improved school facilities to meet the growing needs of Sydney.
- NSW *State Infrastructure Strategy 2018-2038*, as it would continue to provide facilities to support modern and technologically enabled learning.
- NSW Future Transport Strategy 2056, as it would continue to provide new education facilities in a location with public transportation options
- The Eastern City District Plan, as it would continue to support the provision of services and social infrastructure to meet the changing needs of the school.

## 4 Statutory context

### 4.1 Scope of modifications

The modification application has been lodged pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the Act). The application ascertains that the proposal can be assessed under this section because it seeks a minor change to access arrangements and there would be no additional environmental impacts because of the modification.

Pursuant to Section 4.55(1A), the consent authority may consider the application to amend development consent provided that:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with—*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

With regard to Section 4.55(1A) (a) and (b), the Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase any environmental impacts of the project as approved, however would have some minor tangible impact relating to the construction of the raised walkway.
- is substantially the same development as originally approved.
- would not involve any further disturbance outside the already approved disturbance areas for the project.

With regard to Section 4.55 (1A) (c) and (d), Section 105(4) of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impacts. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 14 July 2022 and referred to Council for comment. Council did not provide any comment on the proposed modification.

The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application.

## 4.2 Consent authority

### Minister’s delegate as consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister’s delegation dated 9 March 2022, the Team Leader, State Significant Acceleration, may determine the application as:

- the application has not been made by a person who has disclosed a reportable political donation in under section 10.4 of the EP&A Act in connection with the modification application
- there are no public submissions in the nature of objection
- the Council has not made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the EP&A Act.

## 4.3 Mandatory matters for consideration

Section 4.55(1A) of the EP&A Act requires the matters listed in **Table 1** to be considered for a modification application involving minimal environmental impact.

**Table 1** | Consideration of the proposal against the objects of the EP&A Act

Matter	Consideration
<b>Whether the proposed modification is of minimal environmental impact</b>	The proposed modification is considered to be of minimal environmental as discussed in <b>Section 4.1</b> of this report.
<b>Whether the development to which the consent as modified related is substantially the same development</b>	The development, as proposed to be modified, is considered to be substantially the same development for which the consent was originally granted as discussed in <b>Section 4.1</b> of this report.
<b>Whether notification has occurred, and any submissions have been considered</b>	In accordance with the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), the notification requirements for an application under section 4.55(1A) of the EP&A Act do not apply if the application is in respect of SSD.

**Any relevant provisions of section 4.15(1A) of the EP&A Act**

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD-10325. The Department considers that the modification application does not result in any significant changes that would alter the conclusions made as part of that assessment. Notwithstanding, an assessment against relevant matters is provided in **Section 6** of this report.

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**Consideration of the reasons for the granting of the consent that is sought to be modified**

The Department has considered the findings and recommendations of the Department's Assessment Report for SSD-10325. The Department is satisfied that the key reasons for granting consent continue to apply to the development, as proposed to be modified.

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## 5 Engagement

Describe the formal and informal engagement activities undertaken by the Department during the assessment process, and how the obligations under the EP&A Act and EP&A Regulation for public participation have been met. Details of the applicant's/proponent's engagement should only be provided if this has been an issue raised in submissions.

### 5.1 Department's engagement

Section 105(4) of the EP&A Regulation specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impacts. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 14 July 2022 and referred to Council for comment. Council did not comment on the proposed amendment.

## 6 Assessment

The Department has considered the modification application in the context of the approved development (SSD-10325) in its assessment as well as Section 4.15 of the EP&A Act. Consideration of the proposed amendments are discussed below.

### 6.1 Heritage

The Department is satisfied that the proposed stairs would not have any significant adverse heritage impacts. A discussion is provided below in this regard.

#### *Heritage listings*

The site is listed as heritage item 396 within Schedule 5 of the WLEP 2014 and contains the following description: “*Kincoppal, Roman Catholic Convent of the Sacred Heart and school—buildings and interiors, grounds, trees, sandstone and wrought iron fence, gateposts and gates*”. The listing is related to the junior and senior school grounds and excludes land on the eastern side of Vacluse Road that is not subject to this application.

KRB is also located within the immediate vicinity of the following properties/places listed within the WLEP 2014:

- Item 325 “*Kambala School—building formerly Tivoli and interiors, gateposts, gates and flanking walls with railing facing Tivoli Avenue, 2 Norfolk Island Pines*” located at 794 New South Head Road
- Item 365 “*Hermit Bay Slipway and landing*” located at Hermit Bay
- Item 393 “*St Michael’s Anglican Church—church and interiors, grounds, sandstone works, gateposts and iron arch, obelisk*” at St Michael’s Place

The site is also located within 100m of Claremont Wharf and baths which are listed as a heritage item in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 as item 56 “*group of remains of wharf, baths and waterfront relics – including former Tivoli Pier and former Thorne’s (or Claremont) Wharf*”.

#### *Heritage assessment*

The two new staircases would be added to the walkway within the junior school as seen in **Figure 3** and **4**. The staircases would be constructed of steel and would not be visible from Vacluse Road or the public domain given the site slopes away from the road. Condition C9 of the consent requires the detailed design of the walkway, including its location and its materiality impact to be designed in consultation with a heritage architect. The modification is supported by a heritage impact statement.

The news staircase to the grotto footpath would be in proximity of existing cut sandstone steps between the Noviceship Lawn and the grotto. The cut sandstone steps would be retained and visible, however less functional than they currently area. The heritage statement confirms that the new steps in conjunction with the existing cut sandstone steps would appear as part of the complex layering of access paths across the site which is consistent with the objectives of the approved heritage conservation management plan.

The new staircase to Sheldon house would be constructed over an existing staircase that is too low to connect the walkway. The heritage statement confirms that the existing staircase is not considered to have any heritage significance and is out of view from most of the site.

The Department is satisfied that the two additional staircases would not have any adverse impact on the heritage significance of the site, or any nearby items.

## 7 Evaluation

The Department has reviewed the Applicant's Modification Report and its attachments. The Department has assessed the merits of the modification proposal and is satisfied that all environmental issues associated with the proposal have been thoroughly addressed. The approved development would not significantly change as a result of the proposed modification.

The proposed modification would not have significant impacts on the surrounding environment and the development would remain consistent with the original consent. Further, the Department's existing conditions of consent and the recommended conditions of consent would ensure the ongoing environmental management of the development.

The Department considers that the application is consistent with the objects of the EP&A Act and continues to be consistent with strategic directions for the State.

The Department concludes the impacts of the proposed modification are acceptable. Consequently, the Department considers the development is in the public interest and the modification application should be approved.

## 8 Recommendation

It is recommended that the Team Leader, Stage Significant Acceleration as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the Kincoppal Rose Bay School Modification 1 application falls within the scope of Section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision;
- **modify** the consent SSD 10325
- **signs** the attached approval of the modification (**Appendix B**).

**Recommended by:**



**Caleb Ball**

A/Senior Planner

State Significant Acceleration

## 9 Determination

The recommendation is **Adopted** by:



**Gabriel Wardenburg**

Team Leader

State Significant Acceleration

as delegate of the Minister for Planning

# Appendices

## **Appendix A – Modification report**

<https://www.planningportal.nsw.gov.au/major-projects/projects/modification-1-modification-new-stairs-condition-c2>

## **Appendix B – Notice of modification**

<https://www.planningportal.nsw.gov.au/major-projects/projects/modification-1-modification-new-stairs-condition-c2>