



# Richard Gill School Modification 2

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Amendments to Condition E13  
State Significant Development Modification Assessment  
(SSD-10380 MOD 2)

May 2021



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Title: Richard Gill School – Modification 2

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*Cover image: Indicative view of approved children’s play area (Applicant’s Environmental Impact Statement)*

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# Glossary

Abbreviation	Definition
<b>Applicant</b>	Richard Gill School
<b>AS 2890.6</b>	Australian Standards 2890.6:2009 Parking facilities – Off-street parking for people with disabilities
<b>Council</b>	Muswellbrook Shire Council
<b>Department</b>	Department of Planning, Industry and Environment
<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 2000
<b>Minister</b>	Minister for Planning and Public Spaces
<b>SSD</b>	State Significant Development

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# 1 Introduction

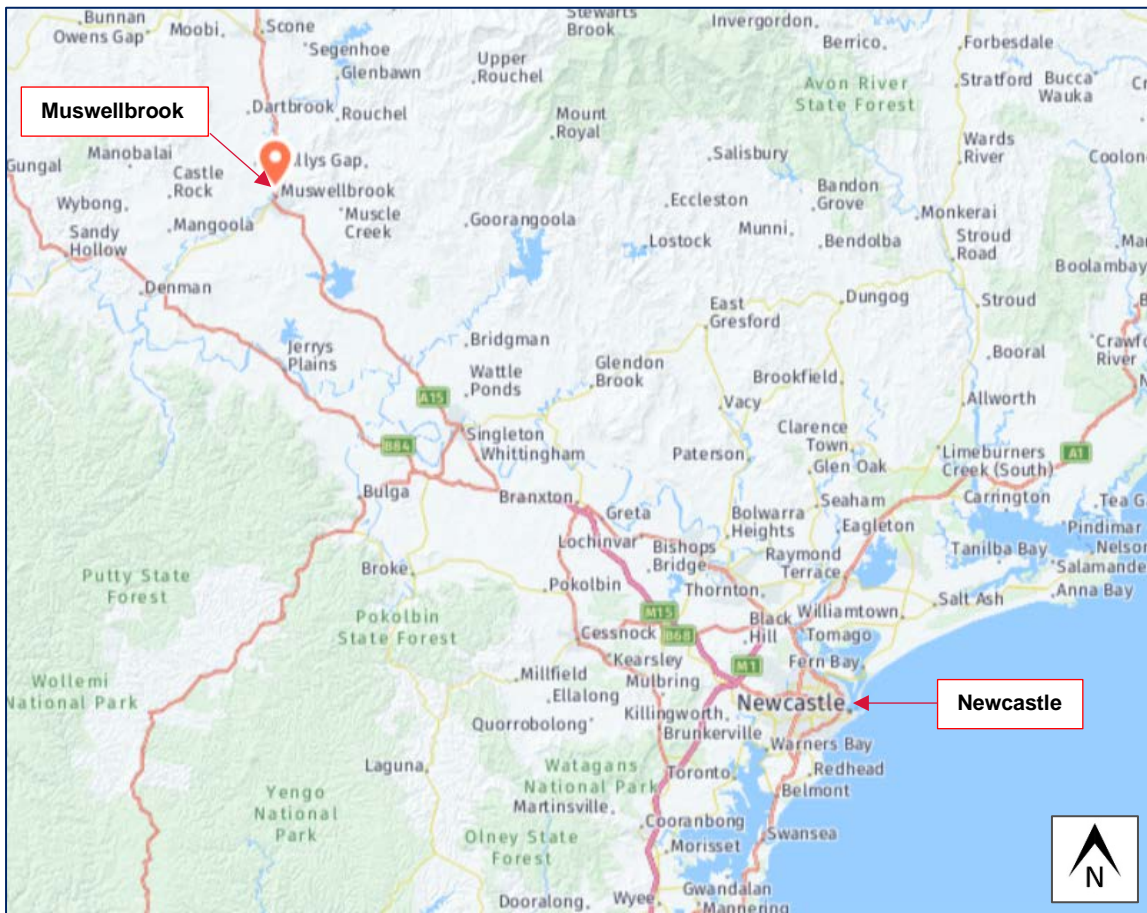
This report provides an assessment of an application to modify the State significant development (SSD) consent for the approved Richard Gill School (the school) in Muswellbrook (SSD-10380).

The modification application seeks consent to amend the conditions of consent that refer to the Australian Standards for accessible car parking spaces.

The application has been lodged by HDB Town Planning and Design on behalf of Richard Gill School (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1 Background

The site is located at 157 Maitland Street, Muswellbrook and is approximately 107 kilometres (km) north-west of Newcastle. The site is legally described as Lot 2 DP 1118310. The regional context is shown in **Figure 1**.



**Figure 1 | Regional Context Map (Source: Nearmap 2021)**

The site has an area of 5.19 hectares (ha) and is irregular in shape, with a 140 metres (m) wide street frontage to New England Highway (also referred to as Maitland Street). The site currently accommodates the Muswellbrook Shire Council's former administrative building (referred to as the RGS Building in **Figure 2**). Vehicle access to the site is provided via a two-way driveway from

Maitland Street. The driveway provides access to two carparks. A car parking area with 35 car spaces is located close to the existing administration building. An existing childcare centre adjoins the second carpark with 13 car spaces. An internal branch of the driveway extends along the eastern boundary to an overflow car parking area immediately adjoining the rear facade (**Figure 2**).



**Figure 2 | Local Context Map (Source: Nearmap 2020)**

## 1.2 Approval history

On 2 September 2020, development consent was granted by the Executive Director, Infrastructure Assessments for the development of the Richard Gill School on the site. The development consent permitted use of the existing Muswellbrook Shire Council administrative building as a new school for up to 50 students (Kindergarten – Year 2) and four staff members, and associated works comprising:

- internal alterations to the existing building to create general learning areas, library, multi-purpose hall and other administrative areas.
- minor external alterations to provide door and window openings.
- provision of a new playground and tree removal.
- internal drop-off and pick-up zone with a mini-bus parking area.
- staff car parking area, hard surface sports court and security fencing.

A previous modification application lodged in December 2020 (SSD-10380 MOD 1) was withdrawn by the Applicant in January 2021. Accordingly, the development consent has not previously been modified.

## 2 Proposed modification

The Applicant proposes amendments to subclauses (b) and (e) of Condition E13 where reference is made to the Australian Standards for accessible car parking spaces. The proposed amendments are indicated in bold and strikethrough below:

### **Car Parking and Bicycle-Parking Arrangements**

- E13. *Prior to the commencement of operation, or other timeframe agreed in writing by the Planning Secretary, evidence must be submitted to the satisfaction of the Certifier that demonstrates that:*
- (a) *appropriate line-marking and wayfinding-signage has been included to identify the:*
    - (i) *drop-off and pick-up zone with appropriate parking restrictions;*
    - (ii) *staff and visitor car parking areas;*
    - (iii) *mini-bus parking, coach parking areas; and*
    - (iv) *overflow car parking area at the rear of the existing building.*
  - ~~(b) *bollard(s) have placed in the shared space of the disabled parking space(s) in accordance with AS 2890.6:2009 Parking facilities – Off-street parking for people with disabilities;*~~
  - (c) *all vehicles can enter and leave the site in a forward direction;*
  - (d) *a minimum of 14 on-site car parking spaces for use by staff during operation of the development has been provided;*
  - (e) *the car parking area with 35 car spaces are provided in the drop-off and pick-up zone and includes two disabled parking spaces **in accordance with AS 2890.6;***
  - (f) *the swept path of the longest vehicle entering and exiting the site in association with the new work, as well as manoeuvrability through the site, is in accordance with the latest version of AS 2890.2; and*
  - (g) *a minimum of three staff and visitor/student bicycle parking spaces are provided;*
  - (h) *the layout, design and security of bicycle facilities comply with the minimum requirements of the latest version of AS 2890.3:2015 Parking facilities - Bicycle parking, and are located in easy to access, well-lit areas that incorporate passive surveillance; and*
  - (i) *appropriate pedestrian and cyclist advisory signs are provided.*

### 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:

- NSW Premier's Priorities, as the proposal intends to improve education standards and academic results by 2023.
- State Infrastructure Strategy 2018 – 2038, as the proposal would provide educational opportunities for people in a special learning program.
- Hunter Regional Plan 2036, as it would deliver a new education facility.

## 4 Statutory context

### 4.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impact as the proposal:

- would not significantly increase the environmental impacts of the project as approved.
- would not involve any further impacts outside the approved disturbance area for the project.
- is substantially the same development as originally approved.

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.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act.

### 4.2 Consent authority

#### Minister's delegate as consent authority

The Minister for Planning and Public Spaces (the Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 26 April 2021, the Team Leader, School Infrastructure Assessments, may determine the application as:

- the relevant local council has not made an objection.
- a political disclosure statement has not been made.
- there were no public submissions by way of objection.

### 4.3 Biodiversity Conservation Act 2016

The Department waived the requirement for the Applicant to submit a biodiversity assessment report (BDAR) under the *Biodiversity Conservation Act 2016*, for the original SSD application. The proposed modification would not change the circumstance or require the submission of or amendments to the previously granted BDAR waiver for the site.

### 4.4 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 section 4.55(1A) matters

Matter	Consideration
Whether the proposed modification is of minimal environmental impact	The proposed modification is considered to be of minimal environmental impact and would not involve

Matter	Consideration
	any additional physical works or impacts outside of the approved disturbance area for the project.
Whether the development to which the consent as modified related is substantially the same development	The proposed modification would not result in any amendments to the site's existing car parking arrangements and would continue to provide a minimum of two accessible spaces. Accordingly, the development, as proposed to be modified, is considered to be substantially the same development for which the consent was originally granted.
Whether notification has occurred, and any submissions have been considered	<p>In accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&amp;A Regulation), the notification requirements for an application under section 4.55(1A) of the EP&amp;A Act do not apply if the application is in respect of SSD. Accordingly, the application was not formally notified or advertised.</p> <p>However, the modification application was referred to Muswellbrook Shire Council (Council) for comment and was made publicly available on the Department's website.</p> <p>The Department's engagement is discussed further in <b>Section 5</b>.</p>
Any submission made concerning the proposed modification has been considered	A submission was received from Council and has been considered by the Department as part of its assessment of the modification application in <b>Section 6</b> .
Any relevant provisions of section 4.15(1) 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-10380. The Department considers the modification application does not result in any significant changes that would alter the conclusions made as part of that assessment.
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-10380. The Department is satisfied that the key reasons for the granting of consent

**Matter****Consideration**

continue to apply to the development, as proposed to be modified.

## 5 Engagement

Clause 117(3B) of the EP&A Regulation specifies that 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. The modification application was, therefore, not formally notified or advertised. However, it was made publicly available on the Department's website and was referred to Council for comment.

Council provided a response to the modification application and advised that it does not raise any issues or concerns.



The site's existing accessible parking spaces do not strictly comply with the prescribed standards under AS 2890.6 in relation to:

- the maximum site gradient, which should not exceed a cross-fall of 1:33 (outdoor parking areas with a bitumen surface).
- the provision of bollards in the shared common space area.

The Applicant's modification report stated that the proposed amendments to Condition E13 to remove reference to AS 2890.6 would eliminate the requirement to remove and dispose off existing bitumen and to undertake unnecessary earthworks to alter the site's gradient. Further, the modification is sought in order to reflect the existing car parking arrangement at the site. The Applicant therefore considered the proposed modification to be of minimal environmental impact.

Council did not raise any issues in response to the proposed modification.

#### *Department's consideration of Condition E13(e)*

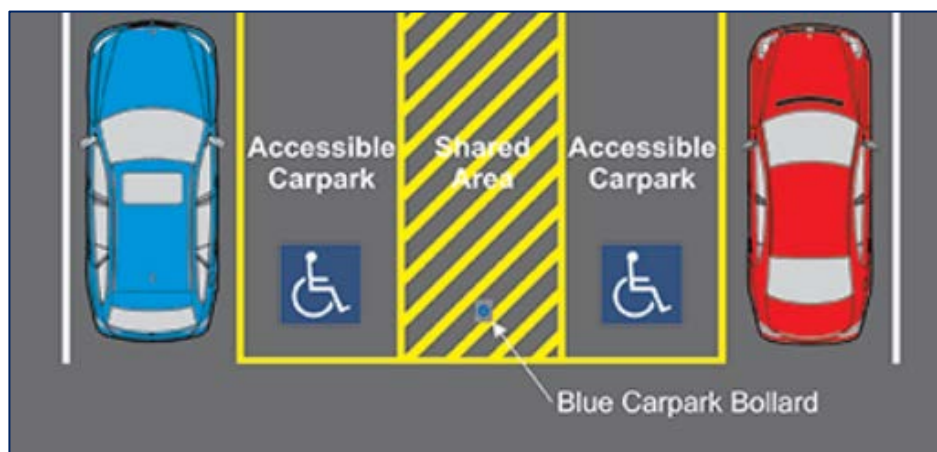
The Department acknowledges that strict compliance with subclause (e) would require the Applicant to undertake partial demolition of the existing 35-space carpark and site earthworks to ensure the maximum site gradient does not exceed a cross-fall of 1:33.

The Department considers the site's existing north-south gradient of 1:25 to be a minor and acceptable departure from the prescribed standard under AS 2890.6. Further, the Department notes that the existing accessible spaces were deemed to be safe and appropriate for use when the site was previously occupied by Council as its administrative centre, prior to vacating the site in October 2020. The Department therefore accepts the Applicant's justification and supports the proposed amendment to subclause (e) of Condition E13.

#### *Department's consideration of Condition E13(b)*

AS 2890.6 requires accessible parking spaces to include a shared common area for the safe transfer of individuals to and from vehicles. It is acknowledged that this is currently provided for on the site (see yellow line-markings in **Figure 4**).

AS 2890.6 also requires the shared common area to be protected by a bollard, installed at a set position and height, which is designed to prevent vehicles from entering the shared common area and potentially risking harm to a disabled person transferring to or from their vehicle. An example of where a bollard should be positioned within a shared common area is shown in **Figure 5**.



**Figure 5** | Example of shared common space area and bollard location (Source: Equal Access)

The Department considers the installation of bollard(s) at the site, in accordance with AS 2890.6, is necessary to ensure the ongoing safety of those that would use the site's accessible car parking spaces. The Department therefore does not support the Applicant's request to delete subclause (b) of Condition E13.

The Department is satisfied there would be no adverse safety or operational impacts as a result of the proposed modification. In summary, the Department supports the proposed amendment to subclause (e) under Condition E13 as the existing site gradient is considered to be a minor and acceptable departure from the required standards. The deletion of subclause (b) is not supported for safety reasons and it is recommended that this requirement be retained as part of the conditions of consent.

The Department has engaged with the Applicant to discuss the amendments to the proposed modification. The Applicant has verbally agreed to the proposed changes and raised no specific concerns till date.

## 7 Evaluation

The Department has reviewed the information provided by the Applicant and assessed the merits of the proposed modification.

The Department considers that the modification is acceptable on the basis that the:

- proposed amendments are minor in nature and seek to ensure that the consent operates as intended.
- application is consistent with the objects of the EP&A Act and continues to be consistent with the strategic directions for the State.
- proposal would not result in any additional or significant environmental impacts.
- development, as modified, would be substantially the same for which consent was originally granted.

Consequently, the Department considers the proposed modification is in the public interest and should therefore be approved.

## 8 Recommendation

It is recommended that the Team Leader, School Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report.
- **determines** that the application SSD-10380 MOD 2 falls within the scope of section 4.55(1A) of the EP&A Act.
- **forms the opinion** under section 7.17(2)(c) of the *Biodiversity Conservation Act 2016* that a biodiversity assessment report is not required to be submitted in relation to this application as the modification will not increase the impact on biodiversity values of the site.
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification.
- **modify** the consent SSD-10380.
- **signs** the attached approval of the modification (**Appendix B**).

Prepared by:



**John Doubleday**  
Para Planning Officer  
School Infrastructure Assessments

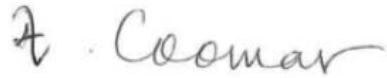
Recommended by:



**Brent Devine**  
Principal Planner  
School Infrastructure Assessments

## 9 Determination

The recommendation is **adopted** by:

A handwritten signature in cursive script that reads "A. Coomar".

13/09/2021

Aditi Coomar

**Team Leader**

**School Infrastructure Assessments**

as delegate of the Minister for Planning and Public Spaces

# Appendices

## **Appendix A – List of documents**

<https://www.planningportal.nsw.gov.au/major-projects/project/41626>

## **Appendix B – Instrument of modification**

<https://www.planningportal.nsw.gov.au/major-projects/project/41626>