



planning consultants

17 June 2022
Our Ref: 21007D.6NB (S4.55(2))

Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Sir/Madam

**RE: SECTION 4.55(2) APPLICATION TO MODIFY
DEVELOPMENT CONSENT SSD-11920082
HASTINGS SECONDARY COLLEGE – PORT MACQUARIE CAMPUS
16 OWEN STREET, PORT MAQUARIE**

1.0 Introduction

DFP has been commissioned by School Infrastructure NSW (SINSW) to prepare an application under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify development consent No. SSD 11920082 (as modified). The modifications include:

- Amendment of stair locations to avoid existing services;
- Removal of works to Building L;
- Installation of mechanical plant on canopy roof, east of CAPA building;
- Installation of external stairs to CAPA building;
- Reconfiguration of Building A entry, including reconfiguration of undercover walkway;
- Reconfiguration of landscaping at entrance;
- Addition of landscaping to north of Building B and north of PCYC;
- Alteration of scope of works to Building B;
- Change in materials;
- Change to window placement and louvers on CAPA building;
- Minor internal modifications

A complete list of modifications is listed in the Hastings Modification list prepared by FJMT Studio in **Appendix 1**

This section 4.55(2) application seeks to modify Condition A2 relating to the terms of consent. Specifically, the proposal seeks to modify Condition A2(d) for the purpose of amendments to the approved plans. This section 4.55(2) also seeks to modify Condition B21 to include the additional Mechanical Plant. A full list of proposed modifications is attached in **Appendix 1**. This letter includes the information necessary for the Department of Planning and Environment (DPE) to assess and determine the application including:

- A background outlining the approved development;

- A brief description of the site context;
- Details and reasons for the proposed modifications;
- An environmental assessment; and
- Our conclusion and recommendations.

We have concluded that the proposed modifications will not substantially alter the approved development and accordingly are considered to satisfy the requirements to enable these modifications to be assessed pursuant to section 4.55(2) of the EP&A Act.

The proposed modifications are unlikely to result in any adverse environmental impact and accordingly, we are of the view that the proposed modifications are acceptable in this instance.

2.0 Background

On 1 December 2021, Department of Planning, Industry and Environment (DPIE, now DPE) granted development consent to SSD 11920082 for upgrades to Hastings Secondary College Port Macquarie Campus, including refurbishment of parts of two existing buildings, provision of a two storey Creative and Performing Arts (CAPA) building, joint use PCYC facility, covered outdoor learning area (COLA), new covered walkways and lift connections, and upgrades to the school entrance and signage. Associated works included demolition, tree removal, earthworks, landscaping, stormwater works and services upgrades at 16 Owen Street Port Macquarie – Hastings Secondary College (Port Macquarie Campus)

Condition No. A2 of the Development Consent relates to terms of consent and states:

- “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”:*

Condition No B21 of the Development Consent relates to Operational Noise – Design of Mechanical Plant and Equipment and states:

- “B21. Prior to installation of mechanical plant and equipment:*
- (a) a detailed assessment of mechanical plant and equipment with compliance with the relevant operational noise level criteria as recommended in the Noise & Vibration Impact Assessment for SSDA (SSD-119200820) for Hastings Secondary College – Port Macquarie Campus dated 14 May 2021 and prepared by JHA must be undertaken by a suitably qualified person; and*
 - (b) evidence must be submitted to the Certifier that any noise mitigation recommendations identified in the assessment carried out under (a) have been incorporated into the design to ensure the development will not exceed the operational noise level criteria identified in the Noise & Vibration Impact Assessment for SSDA (SSD-119200820) for Hastings Secondary College – Port Macquarie Campus dated 14 May 2021 and prepared by JHA”.*

3.0 Site Context

3.1.1 Site Description

The site is located approximately 1km south east of the Port Macquarie town centre (which is bound by Short, Clarence, Munster and William Streets) and is less than 250m west from Oxley Beach and 350m south from Town Beach. The site adjoins Oxley Oval to the east, Port City Bowling Club on the northern boundary, Owen Street on the western boundary and Burrawan

Street on the southern boundary. A separate agriculture plot is located west of the campus on Burrawan Street – refer **Figure 1**.

Hastings Secondary College (Port Macquarie Campus) main site is located at 16 Own Street and is legally known as Lot 111 in DP 1270315. The site has two road frontages:

- Owen Street (211.14m); and
- Burrawan Street (130.15m)

Hastings Secondary College (Port Macquarie Campus) comprises a range of educational and ancillary buildings that have been constructed and expanded at various stages since the school commenced operation in 1962, including classrooms, administration/staff facilities, amenities, multi-purpose hall and recreation facilities. The school currently has a maximum building level of two (2) storeys and no-on-site parking.

The separate agriculture plot (which does not form part of this application) is located at 3 Burrawan Street and is legally known as Lot 2 DP 500362, Lot 2 DP 500017, Lot 2 DP 500018 and Lot 1 DP 78729.

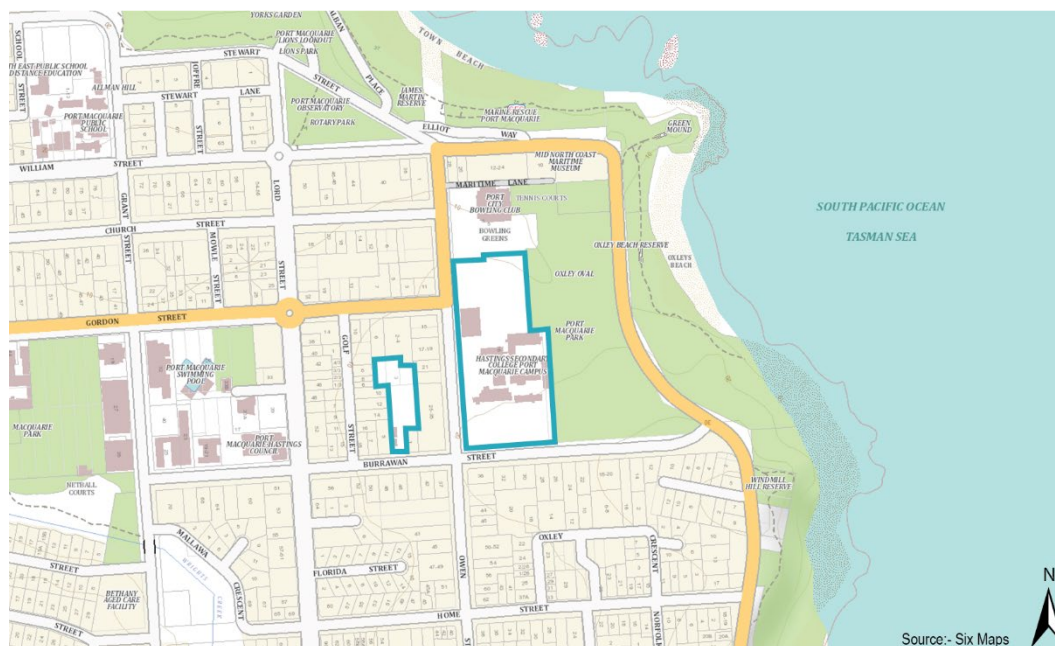


Figure 1 Site Location

3.2 Surrounding Development

Development surrounding the site comprises retail, commercial, residential, and short-term rental accommodation (tourism) land uses. To the north, the site adjoins the Port City Bowling Club, and to the east is Oxley Oval, with Oxley Beach beyond.

4.0 Proposed Modifications

The proposed modifications comprise multiple internal and external alterations and additions, which will require modification to:

- Condition A2(d) to reference the modified plans.
- Condition B21 to include the additional Mechanical Plant.

A full list of proposed modifications is attached in **Appendix 1**. Modifications which are visible from surrounding developments have been outlined below.

The proposed external alterations will alter the Owen Street streetscape through the addition of mechanical plant, external stairs and a reconfiguration of the entrance to Building A and the associated undercover canopy area. Overall, the modifications have minimal visual or height impact to the streetscape when compared to the approved design. The approved height of the development is 13.88m. The height of the CAPA with the mechanical plant is 11.96m. **Figures 2 and 3** are comparisons of the Owen Street elevation with **Figure 2** being the approved elevation and **Figure 3** incorporating the proposed modifications.

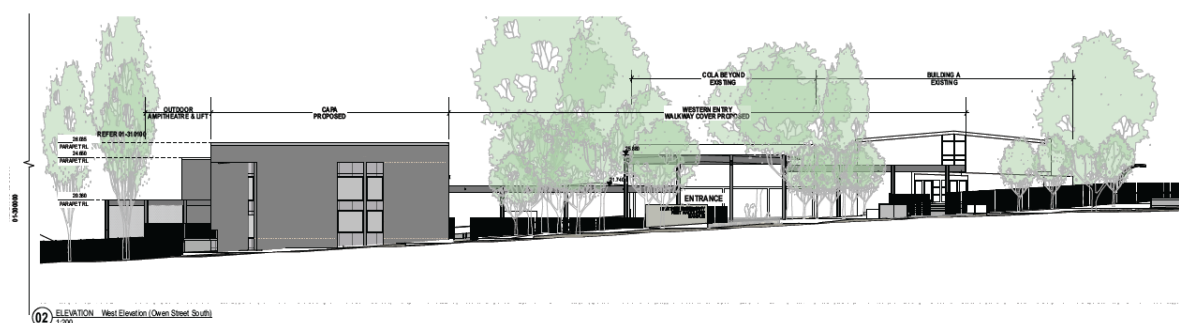


Figure 2 Approved Owen Street, CAPA/ Entry Streetscape

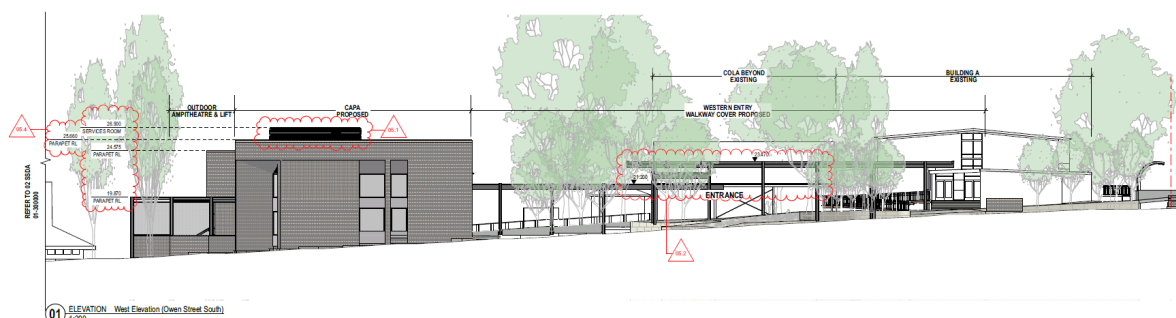


Figure 3 Proposed Owen Street, CAPA/ Entry Streetscape

Figures 4 and 5 are comparisons of the entry landscaping, with **Figure 4** being the approved design and **Figure 5** incorporating the proposed modifications.

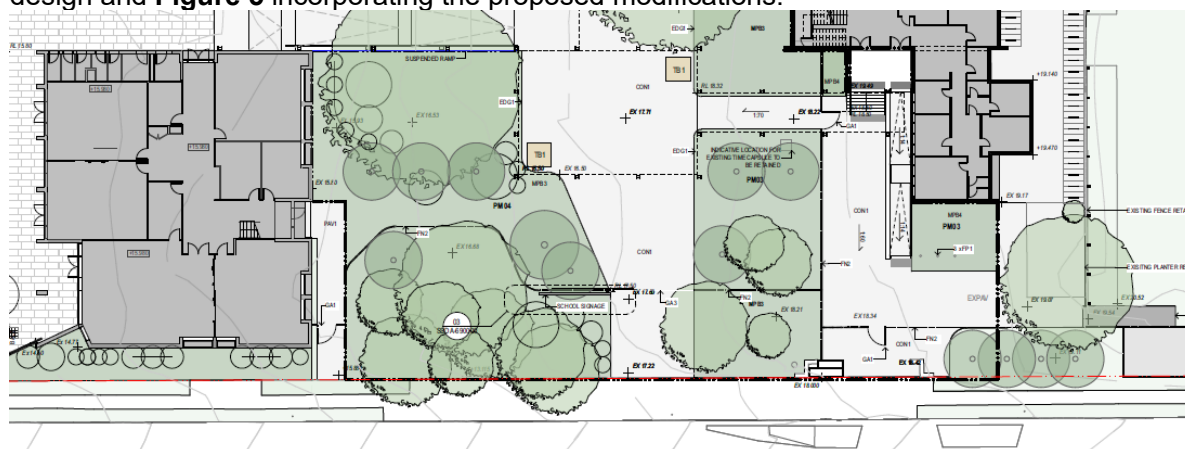


Figure 4 Approved CAPA/ Building A Entry/ Landscape

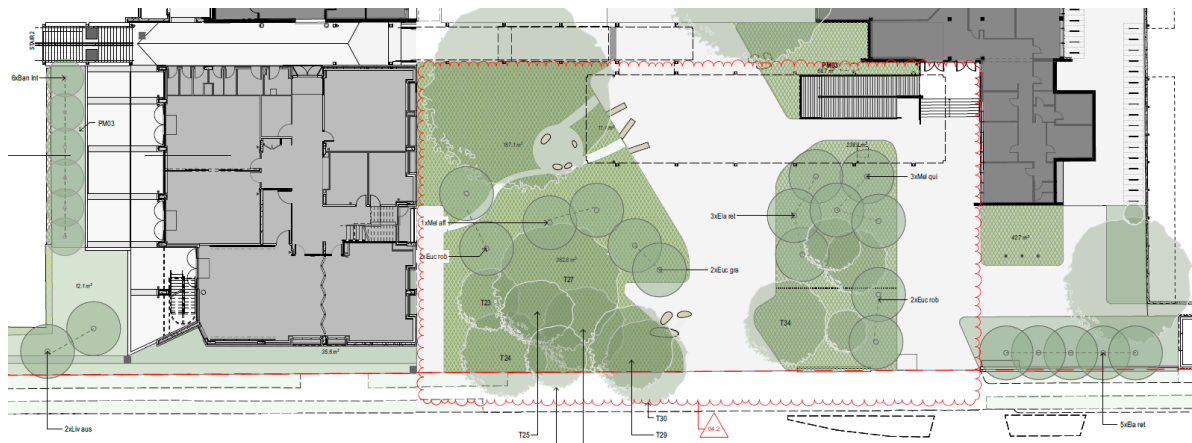


Figure 5 Modified CAPA/ Building A Entry/ Landscape

Figures 6 and 7 are comparisons of the landscaping to the north of building B, with **Figure 6** being the approved design and **Figure 7** incorporating the proposed modifications.

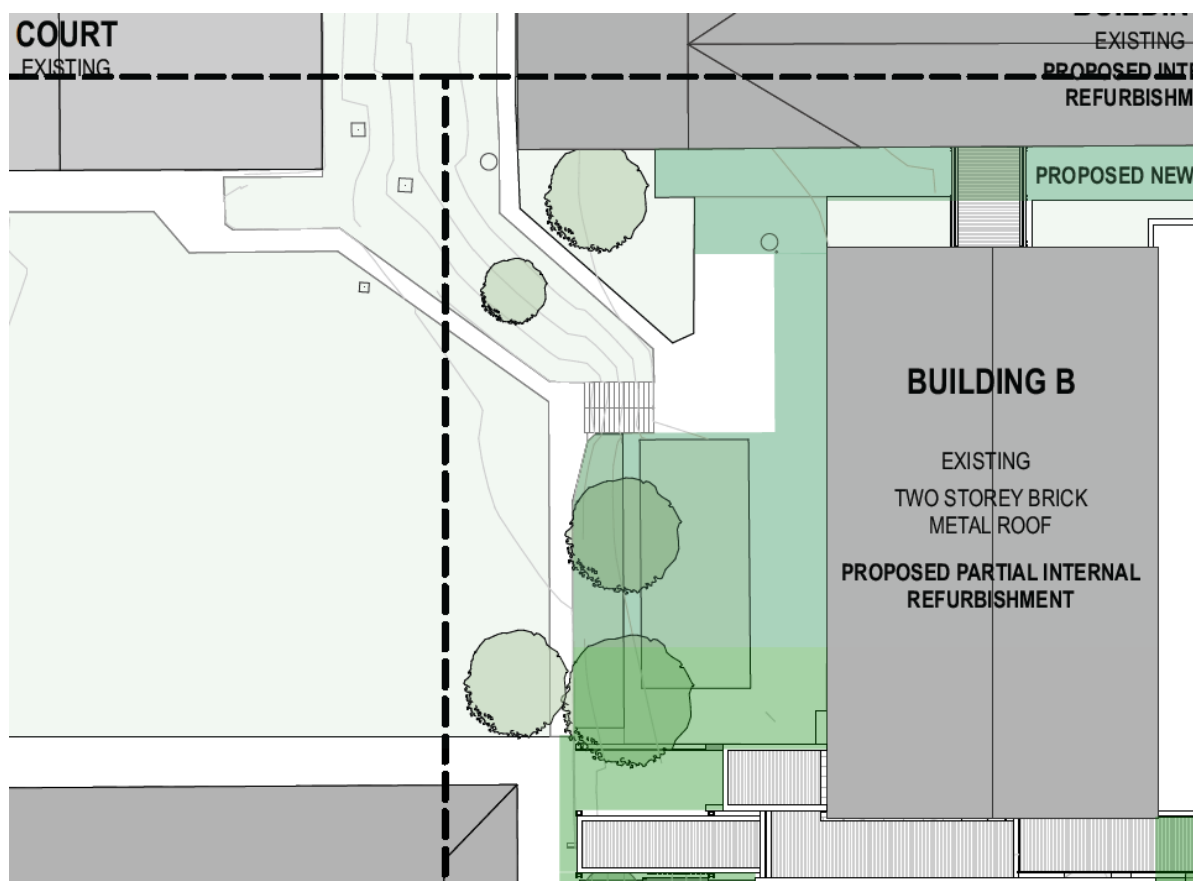


Figure 6 Approved Landscaping north of building B

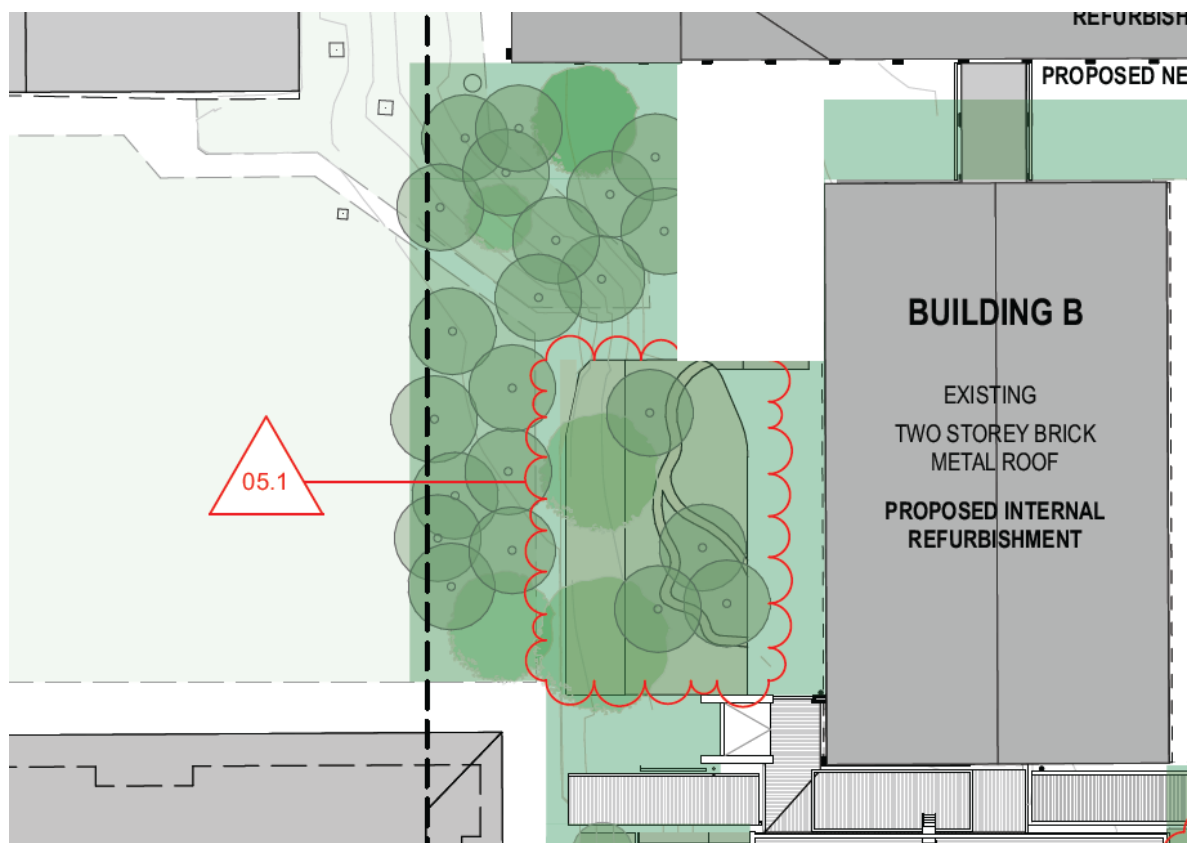


Figure 7 Proposed Landscaping north of Building B

4.1 Proposed Modification to Condition A2(d)

To facilitate the modifications as detailed in **Section 4.1** above, the table in Condition A2 of SSD 11920082 is proposed to be modified as follows:

For the proposed modifications to the conditions as modified under SSD 11920082, the new text proposed is in **red** font, with the text to be deleted shown as ~~strikethrough~~ text, as detailed below.

Architectural Documentation Set prepared by <i>FJMT</i>			
Dwg No.	Rev	Name of Plan	Date
SSDA-100000	07	Cover Sheet	13/4/22
SSDA-120000	05	Site Plan - Existing	
SSDA-120010	05 -06	Site Plan - Proposed	12/2/21 23/2/22
SSDA-130031	04 -07	Site Demolition and Preparation Demolition Plan 0 Building L Ground Floor	12/2/21 13/4/22
SSDA-130032	04 -07	Site Demolition and Preparation Demolition Plan – Building L + Building B Ground Floor	12/2/21 13/4/22
SSDA-130033	04 -07	Site Demolition and Preparation Demolition Plan – Building B Level 1 & Owen Street Entry	12/2/21 13/4/22
SSDA-200000	03	General Arrangement Plans 1:500 General Arrangement Plan – Site Plan 1	19/3/21
SSDA-200001	03	General Arrangement Plans 1:500 General Arrangement Plan – Site Plan 2	19/3/21
SSDA-200002	03 -06	General Arrangement Plans 1:500	19/3/21 13/4/22

Architectural Documentation Set prepared by <i>FJMT</i>			
Dwg No.	Rev	Name of Plan	Date
		General Arrangement Plan – Site Plan 3	
SSDA-200003	03 -06	General Arrangement Plans 1:500 General Arrangement Plan – Site Plan 4	19/3/21 13/4/22
SSDA-200004	03 04	General Arrangement Plans 1:500 General Arrangement Plan – Site Plan 5	19/3/21 23/2/22
SSDA-201010	05 07	General Arrangement Plan – CAPA & New Link Ground Floor Plan	12/2/21 13/4/22
SSDA-201011	05 -07	General Arrangement Plan – CAPA & New Link Level 1 Plan	12/2/21 13/4/22
SSDA-201012	05 06	General Arrangement Plan – CAPA & New Link Roof Plan	12/2/21 23/2/22
SSDA-201020	05 -08	General Arrangement Plan – Building B Refurbishment Level 1 Plan	12/2/21 13/4/22
SSDA-201030	05 -06	General Arrangement Plan – Building L Refurbishment Ground Floor Plan	12/2/21 15/2/22
SSDA-201031	04 -06	General Arrangement Plan – Building L Level 1	23/2/21 13/4/22
SSDA-201060	05 06	General Arrangement Plan – North South Link Lower & Ground Floor	12/2/21 15/2/22
SSDA-201061	05 -06	General Arrangement Plan – North South Link Level 1 Plan	12/2/21 15/2/22
SSDA-201070	04 -05	General Arrangement Plan – School Entry Canopy Plan	23/2/21 23/2/22
SSDA-201071	05 -06	General Arrangement Plan – School Entry Canopy Roof Plan	12/2/21 15/2/22
SSDA-201080	04	General Arrangement Plan – PCYC Lower Ground	23/2/21
SSDA-201081	06	General Arrangement Plan – PCYC Ground Floor	24/11/21
SSDA-201082	06	General Arrangement Plan – PCYC Level 1 Plan	24/11/21
SSDA-201083	05	General Arrangement Plan – PCYC Roof Plan	12/2/21
SSDA-280000	06	Area Calculation Plans GFA Plans	13/4/22
SSDA-280001	09	Area Calculation Plan GFA Plans and Area Schedule	13/4/22
SSDA-280100	02	Area Calculations Outdoor Recreation Area	12/4/22
SSDA-280201	02	Area Calculation Plans UFA Plans	12/4/22
SSDA-300000	04 -05	Site Elevations – West and South	12/2/21 22/2/22
SSDA-300001	04	Site Elevations – East and North	12/2/21
SSDA-310100	04 -05	Elevations – CAPA North & South	12/2/21 21/2/22
SSDA-310101	04 -05	Elevations – CAPA East & West	12/2/21 22/2/22
SSDA-310102	03 -04	Elevations – Building L	23/2/21 12/4/22
SSDA-310200	05	Elevations – PCYC East West	24/11/21
SSDA-310201	05	Elevations – PCYC North & South	24/11/21
SSDA-420100	04 -05	Site Sections	12/2/21 21/2/22
SSDA-420101	04 -05	Site Sections	12/2/21 21/2/22
SSDA-430100	04	Sections – CAPA Section 01, 02	12/2/21
SSDA-430160	02	Sections – North South Link	26/3/21
SSDA-430180	04	Sections – PCYC	12/2/21
SSDA-430181	04	Sections – PCYC	12/2/21
SSDA-610000	05	External Lighting Plan Link Ground TAS Level 1	15/2/22

Architectural Documentation Set prepared by FJMT			
Dwg No.	Rev	Name of Plan	Date
		Block L	
SSDA-610002	05	External Lighting Plan – Link Bridge	12/4/22
SSDA-690000	04 05	Signage – School Main Entrance	12/2/21 23/2/22
SSDA-702020	03	Façade – Building L	13/4/22
SSDA-740000	03	Exterior Finishes Sample Board Architectural	12/2/21
SSDA-740001	03	Exterior Finishes Sample Board Landscape	12/2/21

4.2 Proposed Modification to Condition B21

For the proposed modifications to Condition B21 as modified under SSD 11920082, the new text proposed is in **red** font, with the text to be deleted shown as ~~strikethrough~~ text, as detailed below.

B21. *Prior to installation of mechanical plant and equipment:*

- (a) *a detailed assessment of mechanical plant and equipment with compliance with the relevant operational noise level criteria as recommended in the Noise & Vibration Impact Assessment for SSDA (SSD-119200820) for Hastings Secondary College – Port Macquarie Campus dated 14 May 2021 and prepared by JHA must be undertaken by a suitably qualified person; ~~and~~*
- (b) *a detailed assessment of the new mechanical plant to be installed to the east of the CAPA Building must be undertaken and noise emissions must not exceed the recommended operational noise levels in the Noise & Vibration Impact Assessment for SSDA (SSD-119200820) (for other mechanical plant); and*
- ~~(b)~~ (c) *evidence must be submitted to the Certifier that any noise mitigation recommendations identified in the assessment carried out under (a) **and** (b) have been incorporated into the design to ensure the development will not exceed the operational noise level criteria identified in the Noise & Vibration Impact Assessment for SSDA (SSD-119200820) for Hastings Secondary College – Port Macquarie Campus dated 14 May 2021 and prepared by JHA.*

5.0 Statutory Provisions

Section 4.55 of the EP&A Act contains the provisions that must be considered in determining an application to modify a Notice of Determination. In this regard, the relevant provision is section 4.55(2) of the EP&A Act.

In addition to the EP&A Act, Part 5, Division 1 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) contains the information that must be submitted with an application to modify a consent. The requirements under the EP&A Act and EP&A Regulation are detailed below.

5.1 Section 4.55 of the Act

Section 4.55(2) of the Act applies to modifications where, notwithstanding that the amendments proposed are minor in nature. Specifically, section 4.55(2) provides that a number of matters be addressed, as discussed below.

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) 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)”.***

Comment: As outlined in this submission, the modified development will remain substantially the same as that originally approved, being alterations and additions to an Educational Establishment.

The proposed modifications relate to the development as approved under SSD 11920082. The design modifications result from the detailed design process and will enhance the operations and useability of School through minor internal layout design changes, including compliance with Educational Facilities and Guidelines (EFGS) requirements.

The external modifications and changes to building facades, addition of stairs and plant and redesigned undercover walkways are minor and increase functionality of the refurbishment. The proposed modifications do not increase the overall height of the development from the approved 13.88m. With detailed design the modifications the proposed new height is 11.96m.

It is therefore considered that this proposed modification application will retain substantially the same development as what has been approved under SSD 11920082.

- “(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent”***

Comment: Consultation is to be undertaken by the consent authority.

- “(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”***

Modification applications to State Significant Development that involve a more than minimal environmental impact (Section 4.55(2)) are subject to Section 106 of the EP & A Regulation.2021. Each individual modification is considered to have minimal environmental impact, however, a cumulatively the impact is considered to be more than minimal environmental impact.

Section 106 Notice of modification applications for designated development, State significant development and other development states the following:

- (1) This section applies to a modification application under the Act, section 4.55(2) or 4.56(1) if the original development application was for—***
 - (a) designated development, or***
 - (b) State significant development, or***
 - (c) the following development, if the original development application was made to a consent authority other than a council—***
 - (i) nominated integrated development,***
 - (ii) threatened species development,***

- (iii) *Class 1 aquaculture development.*
- (2) *As soon as practicable after a modification application is lodged, the consent authority must—*
 - (a) *publish a notice on its website that contains the following information—*
 - (i) *a brief description of the development consent, the land to which it relates and the details of the modification sought,*
 - (ii) *a statement that written submissions about the modification may be made to the consent authority during the public exhibition period required under the Act,*
 - (iii) *a statement that, if the application is approved, there is no right of appeal to the Court by an objector, and*
 - (b) *give the notice to each person who made a submission in relation to the original development application.*

Comment: The consent authority will need to notify the modification application in accordance with Section 106.

“(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.”

Comment: The application should be notified in accordance with section 4.55(2)(c). Submissions made during a notification period should be considered.

Subsections (1) and (1A) of section 4.55 do not apply to the proposed modification. Subsection (3) is addressed in **Section 6.0** of this submission.

5.2 Part 5 of the EP&A Regulation 2021, Division 1 Applications for modification of development consent

In accordance with Section 99(1(c)) this modification application will be submitted through the NSW Planning Portal.

Section 99(2) of the EP&A Regulation applies to this application and states:

- (a) *the application must also include particulars of the nature of the modification, and*
- (b) *the applicant must consider the State Significant Development Guidelines in preparing the application*

Comment: The particulars of the nature of the modification are outlined in **Section 4** of this report.

Section 100 of the EP&A Regulation is detailed in Section 6.1.3 of this report.

6.0 Environmental Planning Assessment

Section 4.55(3) of the EP&A Act requires that such of the matters referred to in section 4.15(1) as are of relevance to the proposed modification must be taken into consideration in determining the application for modification. Accordingly, the following subsections provide an assessment of any such relevant matters.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The consent authority approved SSD 11920082 on 1 December 2021, an extract of the summary of the consent authority assessment report is provided below:

‘The Department of Planning, Industry and Environment (Department) considered the merits of the proposal in accordance with relevant matters under section 4.15(1) and the objects of the Environmental Planning and Assessment Act 1979 (EP&A Act), the principles of Ecologically Sustainable Development,

and issues raised in submissions as well as the Applicant's response to these. The Department concludes the proposal is in the public interest and recommends that the application be approved subject to conditions.

The key issues identified with the proposal include traffic, transport and parking, built form and urban design, and visual impacts. The Department is satisfied that these issues have been adequately addressed in the Applicant's Environmental Impact Statement, Response to Submissions (RtS) and Supplementary Response to Submissions (SRtS). Minor outstanding issues can be addressed through the Department's recommended conditions of consent.

The Department considers that the road network has capacity to accommodate traffic generated by the proposal and sufficient car parking is available on site and surrounding streets. The proposed built form and landscaping is acceptable in the context of the site and surrounds, and in consideration of the internal uses of the buildings. While the proposal would result in a significant change to private views to selected properties, the proposal on balance is acceptable having regard to established planning principles.'

6.1 Section 4.15(1)(a) – Planning Controls

6.1.1 Port Macquarie-Hastings Local Environmental Plan 2011

The modifications are consistent with the LEP assessment within the EIS submitted with the SSDA for the alterations and additions to the school and does not result in any non-compliances with Development Standards.

Table 1 – LEP comparison

Development Standard	Approved	Proposed	Compliant
Clause 4.3 - Height of Building Part 19m Part 26.5m	13.88m	13.88m overall height 11.96m CAPA with mechanical plant	Yes
Clause 4.4 – Floor Space Ratio 1.5:1	0.327:1	0.3402:1	Yes Whilst the FSR increases slightly with the proposed modifications from the approved design, the FSR is still compliant with the LEP FSR development standard.
Clause 5.10	The Statement of Heritage Impact (SOHI) makes recommendations for local listings that will be considered by SINSW as part of its heritage management responsibilities.	The SOHI was updated in April 2022 to address the proposed modifications, in particular in relation to Building A and Building B. The revised SOHI notes that the proposed modifications 'on balance has an acceptable impact as it provides for the ongoing, historic and significant use of Building A and B as an integral part of the school campus, and partially reinstates the original presentation of Building A'.	Yes

6.1.2 Port Macquarie-Hastings Development Control Plan 2013

The modifications are consistent with the DCP assessment within the EIS submitted with the SSDA for the alterations and additions to the school and does not result in any non-compliances with the DCP guidelines.

Table 2 – DCP Comparison

Development Standard	Approved	Proposed	Compliant
Part B1 – Advertising and Signage			
Part B1 – Advertising and Signage	<p>The proposed school identification sign is mounted to the entry wall and is located wholly within the boundary of the school.</p> <p>The signage comprises 3 lines of lettering 'HASTINGS SECONDARY COLLEGE PORT MACQUARIE CAMPUS' at 300mm high with a depth of 100mm., however does not impede any walkways, access or landscaping.</p> <p>No lighting of the sign is proposed.</p>	No change to the approved signage is proposed as part of these modifications	Yes
Part B2 Environmental Management			
Waste Management and minimisation	<p>Approved Waste Management Plans identify the likely waste streams to be generated during the construction and operation phases of the development.</p> <p>The Waste Management Plans outline measures to avoid the generation of unnecessary waste, minimise the volume of waste to be collected, and recycle, reuse and recover waste generated by the proposed works.</p>	No Change	Yes
Cut and Fill regrading	<p>Cut and fill approved for both the CAPA and PCYC.</p> <p>CAPA:</p> <ul style="list-style-type: none"> • Cut: 110m³ • Fill: 700m³ • Balance: 590m³ fill • Max fill depth: 1.4m • Max Cut depth: 2m <p>PCYC - approximately 2000m³ predominantly to meet the parking requirements associated with the facility.</p> <p>The cut and fill exceed the maximum 1m, however the topography of the site should be considered when assessing the cut/ fill required</p>	No Change	Yes

Development Standard	Approved	Proposed	Compliant
Part B4 Transport, Traffic Management, Access and Car Parking			
Parking Provision	The provision of 19 new parking spaces and 2 minibus spaces are proposed for the PCYC. No on-street parking is currently provided or proposed for the College as the student numbers are not predicted to grow beyond current levels	No Change	Yes
Parking layout	The proposed carpark for the PCYC has been designed to meet the relevant standards.	No Change	Yes
B5 Social Impact and Crime Prevention			
Social Impact Assessment	<p>Objective</p> <ul style="list-style-type: none"> To ensure adverse impacts are identified and mitigation or avoidance measures are adopted to minimise or eliminate social impact on individuals and the community. <p>A Social Impact Assessment was submitted with the EIS and accepted by DPE</p>	<p>The proposed modifications do not impact on the findings of the Social Impact Assessment.</p> <p>The overall height of the development has been reduced.</p> <p>Overall landscaping for the school refurbishment has been increased and this will result in an improved streetscape outcome.</p> <p>The proposed modifications do not alter the intent of the approval which is to refurbish an existing school resulting in improved amenity for students and staff</p>	Yes
Crime Prevention	The approved designed is in accordance with the CPTED Principles.	The proposed modifications remain consistent with the CPTED Principles and do not result in any design safety issues.	Yes
Part D2 Port Macquarie East			
Building Height	The approved new works have a maximum building height of 13.88m and are in keeping with the character of the local area.	The proposed modifications result in a reduction of overall building height to 10.9m.	Yes
Streetscape and Front Setbacks	<p>Approved setback to the CAPA building is 2.8m.</p> <p>Approved setback to the PCYC is 3m.</p>	Setbacks to Owen Street have not been altered	Yes

6.1.3 Environmental Planning and Assessment Regulations 2021

Section 100 of the EP&A Regulation is applicable to this application:

100 Content of modification application

(1) A modification application must contain the following information—

(a) the name and address of the applicant,

- (b) a description of the development that will be carried out under the development consent,*
- (c) the address and folio identifier of the land on which the development will be carried out,*
- (d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,*
- (e) whether the modification is intended to—*
 - (i) merely correct a minor error, misdescription or miscalculation, or*
 - (ii) have another effect specified in the modification application,*
- (f) a description of the expected impacts of the modification,*
- (g) an undertaking that the modified development will remain substantially the same as the development originally approved,*
- (h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,*
- (i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,*
- (j) whether the modification application is being made to—*
 - (i) the Court under the Act, section 4.55, or*
 - (ii) the consent authority under the Act, section 4.56.*
- (2) Subsection (1)(i) does not apply if the consent of the owner is not required under section 98.*
- (3) If a modification application under the Act, section 4.55(1A) or (2) relates to BASIX development, or BASIX optional development if the development application was accompanied by a BASIX certificate, the application must be accompanied by—*
 - (a) the BASIX certificate, or*
 - (b) a new BASIX certificate if the current BASIX certificate is no longer consistent with the development.*

This application has addressed the requirements of Section 100(1)(a) of EP & A Act throughout this report. The applicant is a public Authority, however, although not required, owners' consent has been obtained.

The development is not subject to section 100 (3) as the development does not relate to a BASIX development.

6.2 Section 4.15(1)(b) – Natural and Built Environmental Impacts

6.2.1 Flora and Fauna

No additional tree removal is proposed as part of the modification application. Additional tree planting/landscaping is proposed at the school entry and north of Building B, consistent with the requirements of condition B26.

6.2.2 View Impacts

As a result of detailed design development, the height of the CAPA building has reduced from the approved 13.88m, therefore, the proposed modifications, including the plant on top of the covered walkway to the east of the CAPA building, does not increase the overall height of the development. . There are no further view impacts to surrounding developments above that already assessed under SSD 11920082.

The overall approved maximum height of the development was 13.88m. The modified height with mechanical plant is 11.96m. The new maximum proposed height is 11.96m.

6.2.3 Acoustic Impact

The addition of a new mechanical plant to the east of the CAPA building on top of the adjoining canopy roof, will have minimal impact to the acoustic amenity of neighbouring properties as the mechanical plant is set back in excess of 25m from the Owen Street frontage.

6.2.4 Heritage

A revised Statement of Heritage Impact (SoHI) was prepared by Purcell in April 2022. The revised SoHI reviewed the approved and proposed modifications to Building A and Building B.

The SOHI notes the proposed modifications *'on balance has an acceptable impact as it provides for the ongoing, historic and significant use of Building A and B as an integral part of the school campus, and partially reinstates the original presentation of Building A'*.

6.3 Section 4.15(1)(b) – Social and Economic Impacts

Due to the nature of the proposed modifications, there will be no change to the social or economic impacts from what was approved within SSD 11920082.

6.4 Section 4.15(1)(c) – Suitability of the Site for Development

SSD 11920082 approved refurbishments to the existing school at 16 Owen Street, Port Macquarie. Matters relating to the suitability of the site for the purposes of upgraded school facilities have been assessed as part of the SSD 11920082. The proposed modification works relate to the approved refurbishment of the existing school and as they are substantially the same as the original approval the site continues to be suitable for the development as modified.

6.5 Section 4.15(1)(d) – Submissions

Should DPE notify the subject application in accordance with section 4.55(2)(c) of the EP & A Act, it must consider any submissions made during a notification period.

6.6 Section 4.15(1)(e) – Public Interest

In accordance with section 4.15(1)(e) of the EP&A Act, the development as modified is considered to be in the public interest. The proposed modifications to SSD 11920082 have been assessed as meeting the provisions of the relevant environmental planning instruments and are consistent with the objects of the *Environmental Planning and Assessment Act 1979* (the Act). As a result, it is considered that the proposed modifications are within the public interest.

7.0 Conclusion and Recommendations

This submission accompanies an application under section 4.55(2) of the EP&A Act to modify Conditions within SSD 11920082.

The proposed modifications comprise multiple internal and external alterations and additions, which will require a modification to Condition A2(d) to reference the modified plans and Condition B21 to include reference to the additional mechanical plant.

The modifications to the approved development will not substantially alter the approved development and accordingly, are considered to satisfy the requirements pursuant to section 4.55(2) of the EP&A Act.

The proposed modifications are considered to have acceptable environmental impacts.

Accordingly, we are of the view that the proposed modifications are acceptable in this particular instance and can be approved under section 4.55(2).



We would be pleased to discuss this application further with DPE officers should that be required and if you have any queries, please do not hesitate to contact Natasha Bartley from our office.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink that reads 'N. Bartley'.

NATASHA BARTLEY

PRINCIPAL PLANNER

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Reviewed:

A handwritten signature in black ink, appearing to be 'E. R. Hart', written over a solid black horizontal line.