



# ***Wenona School***

*State Significant  
Development  
Modification Assessment  
(SSD 6952 MOD 2)*

November 2018

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# Glossary

Abbreviation	Definition
Consent	Development Consent
Council	North Sydney Council
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SRZ	Structural Root Zone
SSD	State Significant Development



## Executive Summary

This report provides an assessment of an application to modify the state significant development (SSD) approval for the new education building at Wenona School at 255-265 Miller Street and 6 Elliott Street, North Sydney. The Applicant is Ethos Urban on behalf of Wenona School Limited, and the proposal is located within the North Sydney local government area (LGA).

On 18 December 2015, development consent was granted by the Executive Director, Priority Projects Assessments, as delegate of the Minister for Planning, for a new education building at Wenona School (SSD 6952).

The modification application seeks approval for the relocation of a proposed kiosk substation, and the removal of a *Lophostemon Confertus* (Brush Box tree) on the Miller Street frontage of the site to facilitate the relocated substation.

The Department of Planning and Environment (the Department) gave notification of the application from 27 August 2018 to 10 September 2018 by sending notices to Council and surrounding landowners. The Department received three public submissions and a submission from North Sydney Council. The key issues raised in the submissions relate to the lack of demonstrated need for the removal of the tree and the impact on the streetscape as a result of its removal.

The Department has considered the above issues in its assessment, along with built form and environmental amenity. The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

The Department considers that the Applicant has adequately demonstrated that the relocation of the substation and the removal of the Brush Box tree is necessary to provide an essential service to the redeveloped school. The Department further considers that the proposed modification involves minimal environmental impacts and is substantially the same development as originally approved. The proposal is in the public interest and is recommend for approval subject to conditions.



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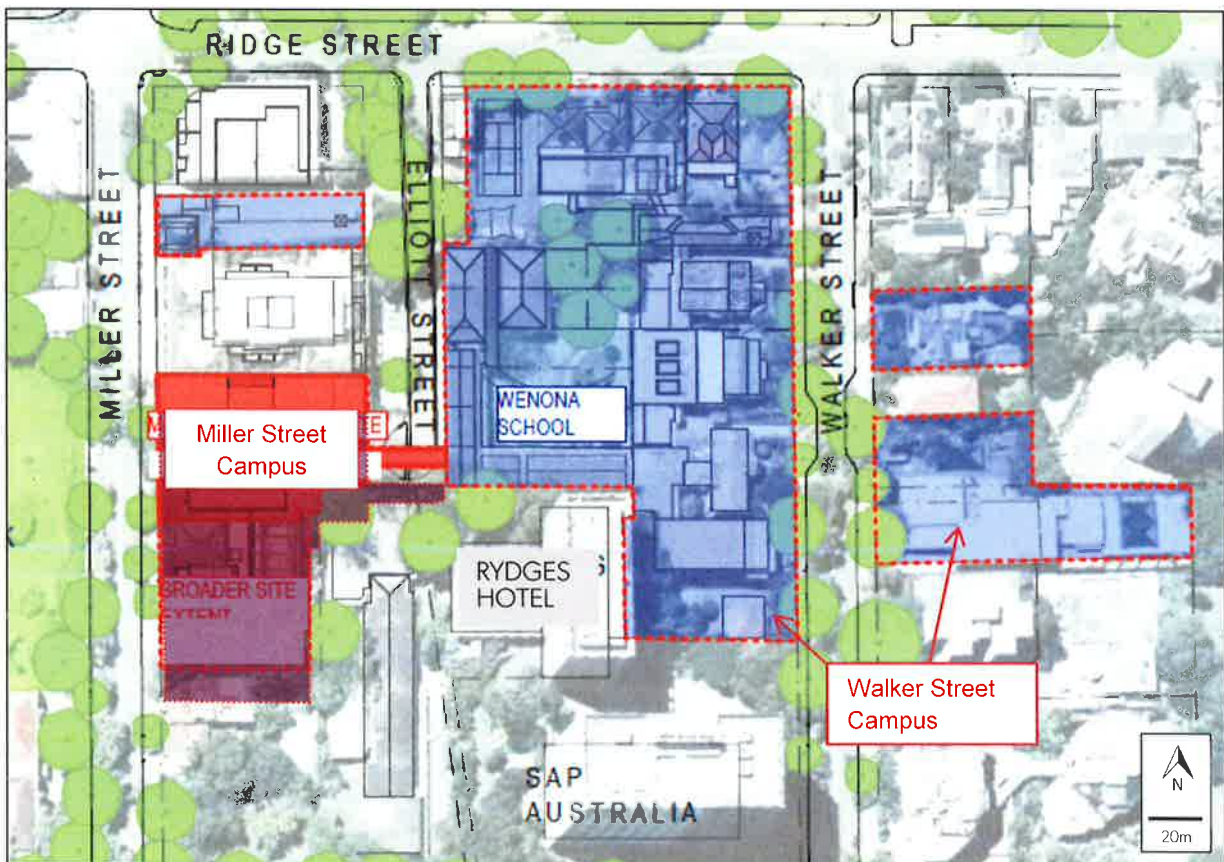
# 1. Introduction

This report provides an assessment of an application to modify the state significant development (SSD) approval (SSD 6952) for the new education building at Wenona School, North Sydney. The modification application seeks approval to relocate a proposed kiosk substation and remove a *Lophostemon Confertus* (Brush Box tree) on the Miller Street frontage to facilitate the substation. The application was lodged on 8 May 2018 by Ethos Urban on behalf of Wenona School Limited (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1 Background

Wenona School (the site) is located within the North Sydney local government area (LGA). The site is comprised of two campuses extending over a number of parcels with a total area of 1.7 hectares (see **Figure 1**). The proposed new education building, which is currently under construction, is located on the Miller Street Campus at 255-265 Miller Street and 6 Elliott Street. This runs from Miller Street through to Elliott Street. Wenona's Walker Street campus is located on the eastern side of Elliott Street running through to the eastern side of Walker Street. The two campuses are connected by an existing pedestrian walkway bridge over Elliott Street.

Civic Park and the Council Chambers are located west of the Miller Street campus, on the opposite side of Miller Street. A two storey building is located to the south of the campus which is occupied by a professional services centre. The Rydges Hotel is located to the east, and a multi-storey apartment building is located to the north of the campus.



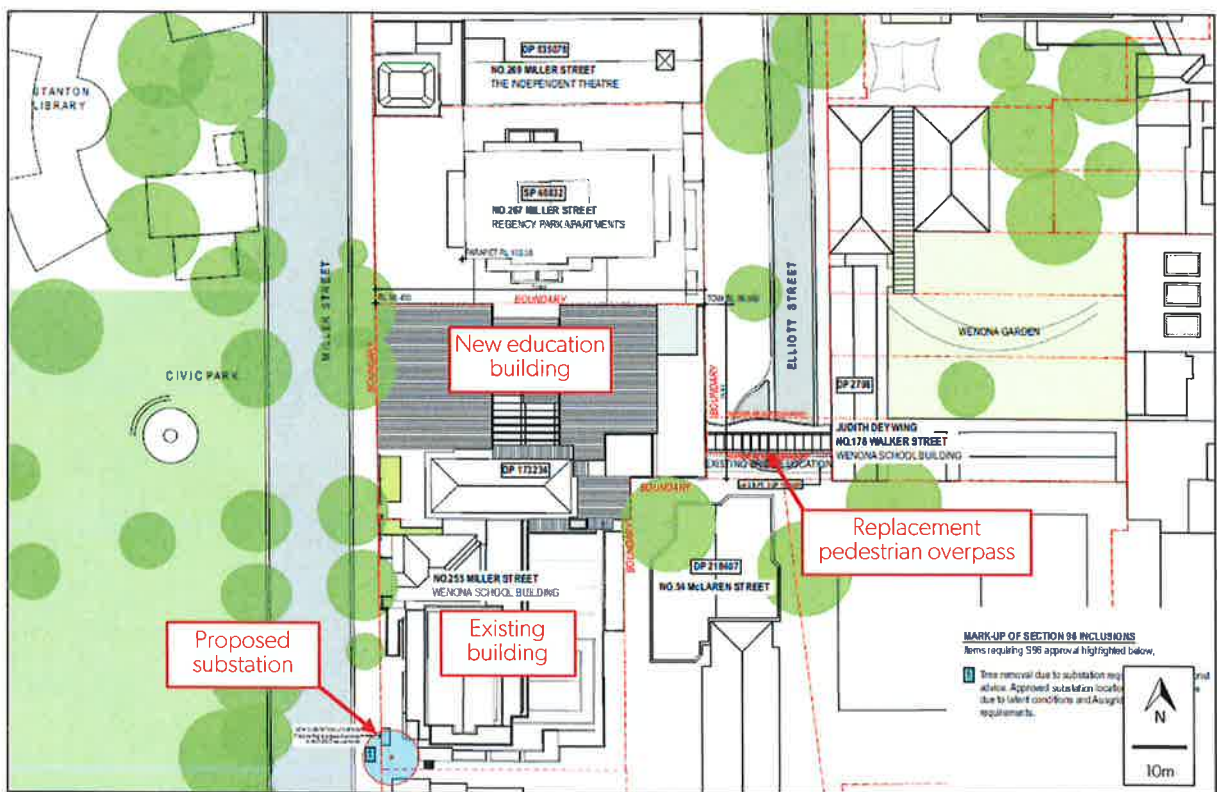
**Figure 1** | Site location (Source: SSD 6952 MOD 1 2017)

## 1.2 Approval History

On 18 December 2015, development consent was granted by the Executive Director, Priority Projects Assessments, as delegate of the Minister for Planning, for a new education building on the site (SSD 6952). The development includes the following works:

- Demolition of the existing childcare centre at 263 Miller Street, existing office building at 265 Miller Street, and existing pedestrian link over Elliott Street.
- Construction of a new six storey (three storeys above Miller Street) education establishment building containing swimming pools, teaching spaces and staff areas.
- Construction of a new pedestrian overpass crossing Elliott Street.
- Minor alterations and additions to the existing Miller Street Campus building at 255 Miller Street including new connections, change rooms, plant and a new lift.
- Retention and relocation of existing sandstone pillars and gateposts.
- Installation of new substation on Miller Street frontage.
- Associated landscaping and planting.

The approved layout of the development is shown in **Figure 2** including the location of the proposed substation.



**Figure 2** | Proposed location of substation (Source: SSD 6952 MOD 2, 2018)

The substation is proposed to be installed on the Miller Street frontage of the site to provide increased power supplies to the enlarged school facilities. The substation comprises a 500kVA kiosk substation located within a wider compound (substation easement) to provide safety clearance and access to the equipment. The approved plans show the substation to be located directly to the north of a Brush Box tree to be retained.

The development consent has been modified on two occasions as detailed in **Table 1**.

**Table 1** | Previously approved modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Internal and external changes to the building design	Minister	4.55(1A)	23 February 2017
MOD 3	Minor external modifications to the new education building, Judith Dey Wing and two access pits adjacent to the Miller Street frontage	Department	4.55(1A)	21 September 2018



## 2. Proposed Modification

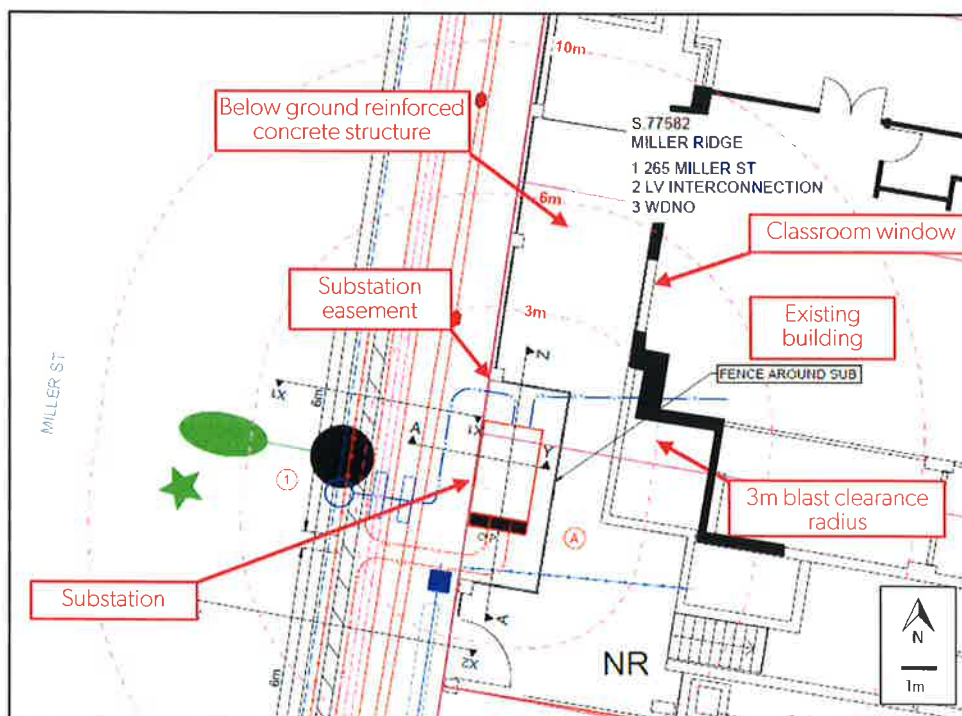
The Applicant has lodged a section 4.55(1A) modification application (SSD 6952 MOD 2) seeking approval for:

- the relocation of the kiosk substation on the Miller Street frontage.
- the removal of a *Lophostemon Confertus* (Brush Box tree) located to the south of the substation.
- installation of a metal fence around the perimeter of the substation with a gate to its south to match the existing fencing along Miller Street.

The Applicant states that the modification is required as the initial design of the substation did not consider:

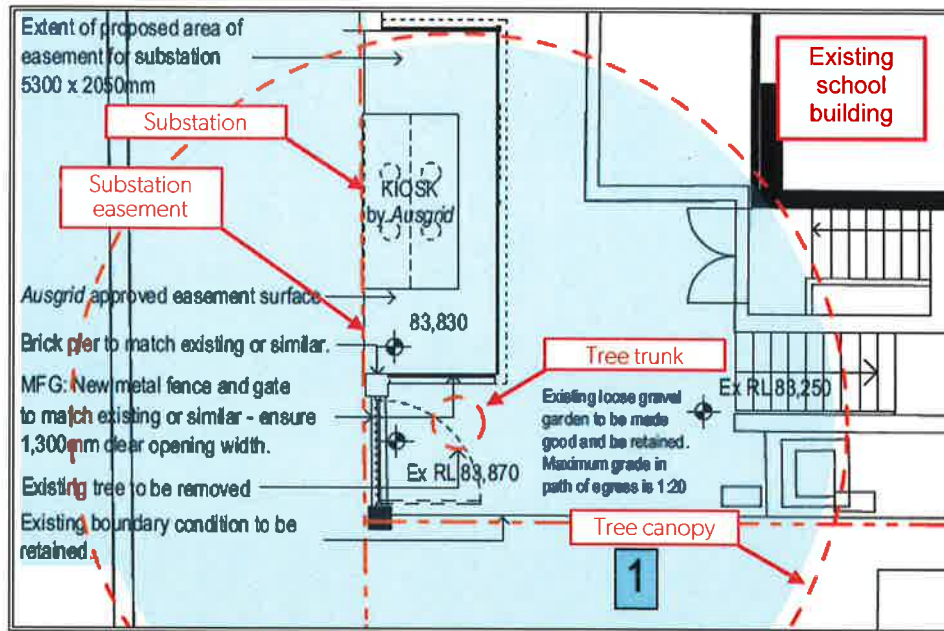
- a below ground reinforced concrete structure forming part of the adjoining school building. The location of the substation over this structure would not meet Ausgrid requirements, specifically in relation to trenching and footings for, and earthing of, the substation.
- the correct blast distance from the proposed substation. It has since been determined that this extends to 3 metres from the substation which would result in an existing classroom window being located within the blast distance. Ausgrid requirements provide that a window must not be located within the blast distance unless it is protected by a non-ignitable blast resistant barrier. Erection of such a barrier would not be feasible and would adversely impact on the appearance of the site and character of the streetscape. Importantly, the barrier would also adversely impact on the quality of the environment of the affected classroom.

The proposed modification seeks to relocate the substation approximately 0.6 metres to the south, to relocate the substation outside of the existing below ground reinforced concrete structure and have the existing classroom window located outside of the blast distance. The proposed position of the substation is shown in **Figure 3**.

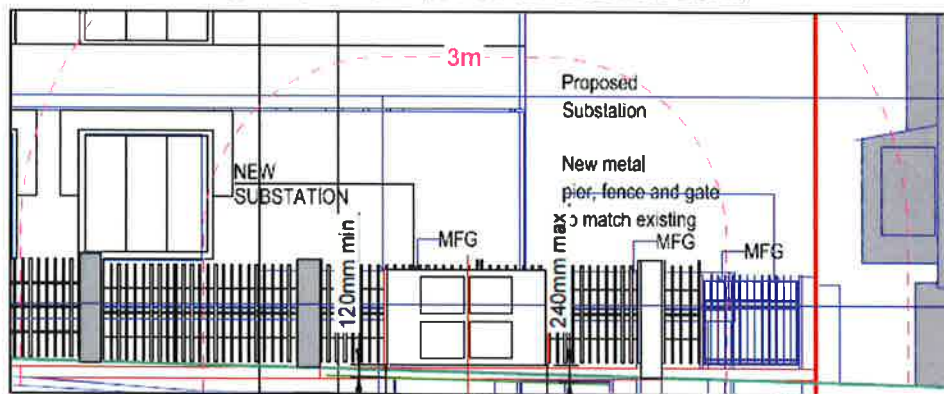


**Figure 3** | Site plan of proposed substation (Source: SSD 6952 MOD 2 2018)

The relocation of the substation places it within 0.3 metres of the Brush Box tree adjacent to the southern boundary of the site. Ausgrid specifications require the tree to be removed because of the proximity of the tree to the substation and surrounding easement. The location of the substation in relation to the tree is shown in **Figures 3** and **4**. The proposed elevation of the proposed substation and fencing is shown in **Figure 5**. A view of the tree from Miller Street is shown in **Figure 6**.



**Figure 4** | Detail plan (Source: SSD 6952 MOD 2 2018)



**Figure 5** | Proposed elevation (Source: SSD 6952 MOD 2 2018)



**Figure 6** | View the Brush Box tree from Miller Street (Source: Google Streetview Dec 2017)



## 3. Strategic Context

The Department considers that the proposed development is appropriate for the site given:

- it is consistent with Premier's Priorities to improve education results through the provision of new and improved teaching and education facilities.
- it is consistent with A Metropolis of Three Cities - The Greater Sydney Plan, as it proposes new school facilities to meet the growing needs of Sydney.
- it is consistent with the State Infrastructure Strategy Update 2018-2038, as it proposes:
  - facilities to support the growth in demand for secondary student enrolments.
  - a school design to accommodate infrastructure and facilities sharing with communities.
- it is consistent with the NSW Future Transport Strategy 2056 as it would provide an improved educational facility in a highly accessible location.
- it is consistent with the vision outlined in the Greater Sydney Commission's revised North City District Plan, as it would support the provision of services and social infrastructure to meet people's changing needs.
- it is consistent with State Infrastructure Strategy 2018 – 2038 Building the Momentum as it proposes investment in the non-government school sector to provide modern learning environments for students.



## 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 impacts as the proposal:

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

The Department of Planning and Environment (the Department) is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act, and should be assessed and determined under section 4.55(1A) of the EP&A Act, rather than requiring a new development application to be lodged.

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the matters set out in **Table 2** are addressed in respect of all applications that seek modification approval.

**Table 2** | Section 4.55(1A) matters for considerations

Section 4.55(1A) matters for consideration	Comment
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<b>Section 6</b> provides an assessment of the impacts of the proposal. The Department is satisfied the proposal would have minimal environmental impacts.
(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	The proposed modification would not result in any apparent change to the overall form and massing of the proposed development. There would be no additional visual or amenity impacts on the surrounding areas. The Department is satisfied that the proposal is substantially the same development for which consent was originally granted.
(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 or advertising of applications for modification of a development consent, and	The Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) does not require that the application be notified. Notwithstanding this, the Department notified North Sydney Council (Council) and surrounding landowners as provided in <b>Section 5</b> of this report.

(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.

Three public submissions and a submission from Council were received in response to the notification of the application. Details of the comments provided are included in **Section 5** and the Department's consideration of the issues raised is included in **Section 6** of this report.

## 4.2 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation dated 11 October 2017, the Executive Director, Priority Projects Assessments may determine the application as

- the relevant local council has not made an objection.
- a political disclosure statement has not been made.
- there are less than 25 public submissions in the nature of objections.



# 5. Engagement

## 5.1 Department's Engagement

The EP&A Regulation does not require the application to be notified. Notwithstanding this, the Department notified the application from 27 August 2018 to 10 September 2018 by sending notices to Council and surrounding landowners.

## 5.2 Summary of Submissions

The Department received three public submissions (including one submission outside of the notification period) and one submission from Council. A summary of the submissions is provided in **Table 3** and a full copy of the submissions is provided in **Appendix C**.

**Table 3** | Summary of Submissions

Submitters	Number	Position
<b>Council</b>	1	
• Tree removal and impacts on streetscape		Comments / Concerns
<b>Community</b>	3	
• Tree removal and impacts on streetscape		Comments / Concerns

## 5.3 Council submission

The Council provided the following comments in relation to the proposed modification:

- The tree to be removed is a mature specimen with a great prominence on the Miller Street streetscape and the loss of the tree would have a negative impact on the streetscape.
- Any replacement tree would take several years to attain the height and spread of the existing tree.
- The arborist report submitted with the application does not conclude that the tree must be removed.
- Further information is required regarding the removal of the tree and evidence that there is no alternative in terms of substation design or location, in the form of an updated arborist report.
- It is recommended that the Department be satisfied that there is no alternative to the removal of the tree before approving the modification.
- If approval is granted, at least two comparable replacement trees (super-advanced specimens) should be required to be planted to the Miller Street frontage, required through amended plans or conditions of consent.

## 5.4 Public submissions

Three public submissions were received which raised the following objections to the proposal:

- Removal of the tree will have significant impacts on amenity and the streetscape.
- The removal of the tree is contrary to the advice of the Applicant's arborist.
- Ausgrid has not followed the arborist's advice to retain the tree.
- A replacement tree should be provided as close as possible to the existing tree which should be of a similar appearance.

- The trees on the east side of Miller Street create a visual bridge across Miller Street to the public park on the west side. The removal of trees as part of the new Sydney Metro station means that the retention of the remaining trees along the street should be given a high priority.

## 5.5 Response to submissions

While the Department did not require the Applicant to provide a formal response to submissions, the Applicant was required to provide further information on the requirements for the positioning of the substation, the need to remove the Brush Box tree and details of the proposed replanting.

On 26 October 2018 and 5 November 2018, the Applicant provided further information comprising:

- an explanation of:
  - the selection of the site for the substation at the southern end of the Miller Street frontage
  - the need to remove the tree given the proposed location of the substation
  - why the substation cannot be moved northwards to avoid impacting on the tree.
- a copy of Ausgrid site selection requirements.
- plans illustrating the location of the substation, the location of the tree and other constraints affecting the location of the substation.
- a letter from an arborist setting out details of the structural root zone (SRZ) of the tree and need to remove it.
- confirmation that the Applicant is willing to undertake replacement planting greater than at a ratio of one-for one.

### Site selection

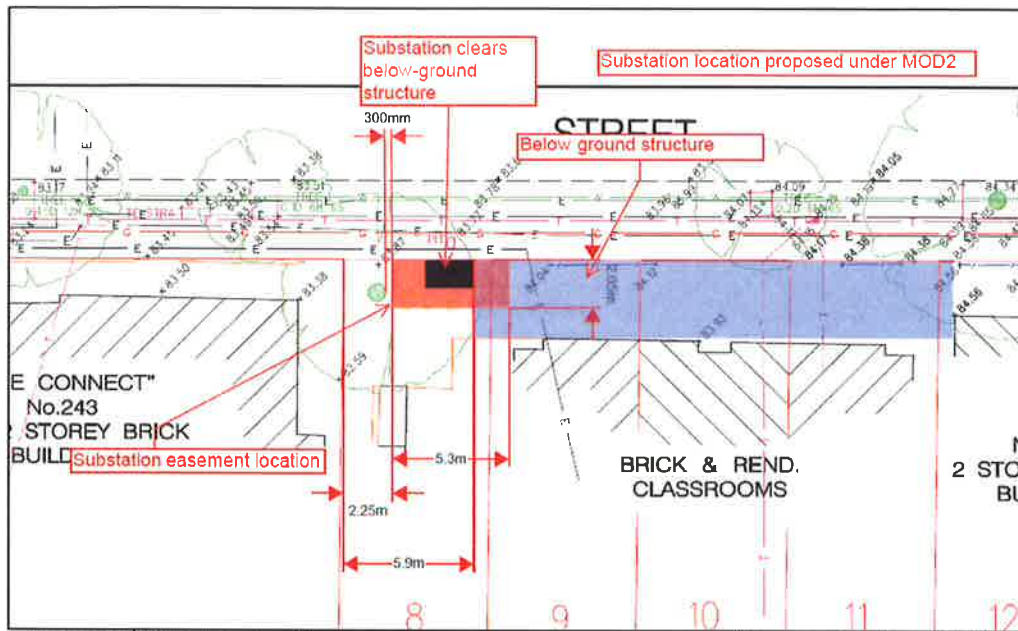
The Applicant advises that a number of locations were considered for the proposed substation prior to the submission of the original SSD application, including two on the Miller Street frontage of the site and one on the Elliott Street frontage. These were assessed against a number of factors, including the:

- proximity to openable windows and doors.
- need for a level unobstructed site with clear unimpeded access for a heavy vehicle and mounted crane.
- maximum acceptable length of cables between the substation and switchboard within the school.
- safety of the public and personnel working on and around the substation.
- location of existing services and infrastructure.
- separation between the substation and other potential sources of fire.

The assessment concluded that the site at the southern end of Miller Street was the only site that met all of the requirements. This location was proposed in the original SSD application.

Following the issue of the SSD approval, the detailed design was undertaken and identified the need to locate the substation further to the south than originally proposed in order to meet Ausgrid site design requirements. Specifically, this was required to avoid a below ground reinforced concrete structure forming part of the adjoining school building and existing windows in the building as discussed in **Section 2**.

A plan showing the proposed location of the substation in relation to the below ground reinforced concrete structure is shown in **Figure 7**.



**Figure 7** | Plan showing the proposed location of the subdivision (Source: Applicant 2018)

### Need for removal of the tree

The Applicant has advised that Ausgrid site selection and design requirements (included in the application documents contained in **Appendix A**) provide that a tree, shrub or plants other than lawn grass are not permitted within a substation site. In this context, a tree is considered to include the SRZ of the tree. The SRZ of the Brush Box tree has been calculated as extending for a distance of 3.4 metres from the trunk of the tree which extends into the substation easement that is located 0.3 metres from the trunk. Accordingly, the Ausgrid requirements provide that the tree has to be removed.

The letter from the Applicant's arborist further advised that the tree must be removed as the proposed substation easement extends into the SRZ of the tree. The arborist noted that the SRZ provides stability to the tree with the woody root growth and soil cohesion necessary to hold the tree upright. The placement of the substation within the SRZ as proposed would be fatal to the tree making it unsafe.

### Proposed replanting

The Applicant has confirmed that it is willing to consider a higher ratio of replanting than that originally proposed. The Applicant has requested this to be a requirement of a condition of consent to allow the location and species of planting to be finalised in consultation with Council and the Department.



## 6. Assessment

The Department has considered the modification application in the context of the original approved development in its assessment. The Department considers the key issues raised in the application to be tree removal and impacts on amenity and streetscape.

### 6.1 Tree removal, amenity and streetscape

The Department acknowledges the concerns raised by submitters and Council with respect to the removal of the tree and its impact on the streetscape, along with the inconclusive information originally submitted with the modification application in relation to the need to remove the tree. In consideration of these concerns, the Department required the Applicant to provide further information on the requirements for the location of the substation, the need to remove the tree and proposed replacement planting as discussed in **Section 5.5**.

The Department has considered the further information provided by the Applicant and concludes that the removal of the tree is necessary to facilitate the installation of the substation required to provide essential infrastructure to the school. The Department notes the Applicant's advice regarding the limited potential to relocate the substation, due to the need for proximity to the electricity supply point and school switchboard, together with clearance requirements to existing infrastructure, structures, building openings, fire hydrants and other fire sources.

Having regard to the impact of the removal of the tree, the Department notes that the Arboricultural Impact Report submitted with the original Environmental Impact Statement concluded that the tree (identified as tree 13) was in good health, was of high landscape significance and should be a high priority for retention. The Department recognises the condition of the tree and the positive contribution it makes to the character and amenity of Miller Street.

The Department however considers that the removal of the tree will not have a significant adverse impact on the character and amenity of the area, given the dominant contribution of the street trees along Miller Street and the recessed position of the Brush Box behind the street tree line. See **Figure 8** for a view of the street trees along Miller Street from a position approximately 60 metres north of the Brush Box tree.



**Figure 8** | View of trees along Miller Street looking southward opposite Civic Park (Source: Google Streetview Dec 2017)

The landscaping provided in Civic Park directly opposite the site further contributes to the verdant character of Miller Street and the wider area. Replacement planting on site as recommended by Council and proposed by the Applicant will also compensate for the loss of the tree and contribute to the character and amenity of the street. On this basis, the Department is satisfied that the removal of the tree is appropriate and has recommended an additional condition of consent to require the design and implementation of proposed replanting.

## 6.2 Other Issues

Other issues raised by the modification application include built form and amenity, and heritage. These issues are addressed in **Table 4**.

**Table 4** | Summary of other issues raised

Issue	Findings	Recommended Condition
<b>Built form and amenity</b>	<ul style="list-style-type: none"> <li>The proposed relocation of the kiosk substation is minor in extent. The substation would generally be in a similar location to the approved location, being at the southern end of the Miller Street frontage. The design of the kiosk substation would not otherwise change from that approved.</li> <li>The Department is satisfied that the proposed modification would not change the overall appearance of the proposed development. It is considered that the proposal would not result in any adverse visual or amenity impacts on the streetscape or surrounding area having regard to built form and scale.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions are recommended.</li> </ul>
<b>Heritage</b>	<ul style="list-style-type: none"> <li>The site is located in close proximity to heritage listed items along Miller Street under the North Sydney Local Environmental Plan 2013, namely: <ul style="list-style-type: none"> <li>“house” at Nos 255-257 Miller Street</li> <li>“The Independent theatre” at No 269 Miller Street</li> <li>“North Sydney Council Chambers (including fountain in park adjacent to Council Chambers” and “North Sydney Council Chambers” at No 200 Miller Street</li> <li>“Shop” at Nos 232-231 Miller Street</li> <li>“Shop” at Nos 243 Miller Street.</li> </ul> </li> <li>The site is also located in close proximity to the McLaren Street Heritage Conservation Area and the Walker and Ridge Heritage</li> </ul>	<ul style="list-style-type: none"> <li>A condition is recommended to require the design and implementation of replacement planting as discussed in <b>Section 6.1</b>.</li> </ul>

Conservation Area included in the North Sydney Local Environmental Plan 2013.

- The Department is satisfied that the proposed relocation of the kiosk substation and the removal of the Brush Box tree would not significantly change the setting of, and would respect / retain views to, the listed heritage items and buildings in the heritage conservation area. In addition, the existing street trees along Miller Street, landscaping in Civic Park, and the proposed replanting would maintain the landscape setting.
- On this basis, the Department is satisfied that the proposed modification would not have a detrimental impact on the heritage significance of the listed items or the heritage conservation area.



## 7. Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- the relocation of the kiosk substation would not alter the built form of the proposed development with respect to scale or overall appearance.
- it would not result in any significant adverse visual or amenity impacts on the surrounding area.
- it would enable the provision of an essential service for the school.

Consequently, the proposal is in the public interest and it is recommended that the modification be approved subject to conditions.



## 8. Recommendation

It is recommended that the Executive Director, Priority Projects Assessment, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report.
- **determines** that the application SSD 6592 MOD 2 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 grant approval to the application.
- **modify** the consent SSD 6952.
- **signs** the attached approval of the modification (**Attachment A**).

Recommended by:

**Andrew Beattie**

Team Leader

Schools Infrastructure Assessments

Recommended by:

**Karen Harragon**

Director

Social and Other Infrastructure Assessments



## 9. Determination

The recommendation is: **Adopted** / Not Adopted by:

**David Gainsford**

21/11/18

Executive Director

Priority Projects Assessments



# Appendices

## **Appendix A – List of Documents**

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9323](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9323)

## **Appendix B – Submissions**

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9323](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9323)

## **Appendix C – Notice of Modification**

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9323](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9323)