

ASSESSMENT REPORT

O'CONNELL STREET PRIMARY SCHOOL, PARRAMATTA SSD 7372 MOD 4

1. INTRODUCTION

This report is an assessment of an application seeking to modify the State Significant Development (SSD) approval (SSD 7372) for the adaptive reuse and establishment of a new public primary school at 3 Marist Place and 24A O'Connell Street, Parramatta (formerly the Kings School) in the Parramatta Local Government Area (LGA).

The application has been lodged by Ethos Urban Planning Consultants, on behalf of the NSW Department of Education (the Applicant), pursuant to section 96 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This modification application seeks to modify the timing of post determination approval requirements to facilitate the early occupation of the school and remove potential delays to the commencement of operations

2. SUBJECT SITE

The site is located immediately north of the Parramatta central business district (CBD), on the northern side of the Parramatta River. The site context and site location are shown in **Figure 1**.

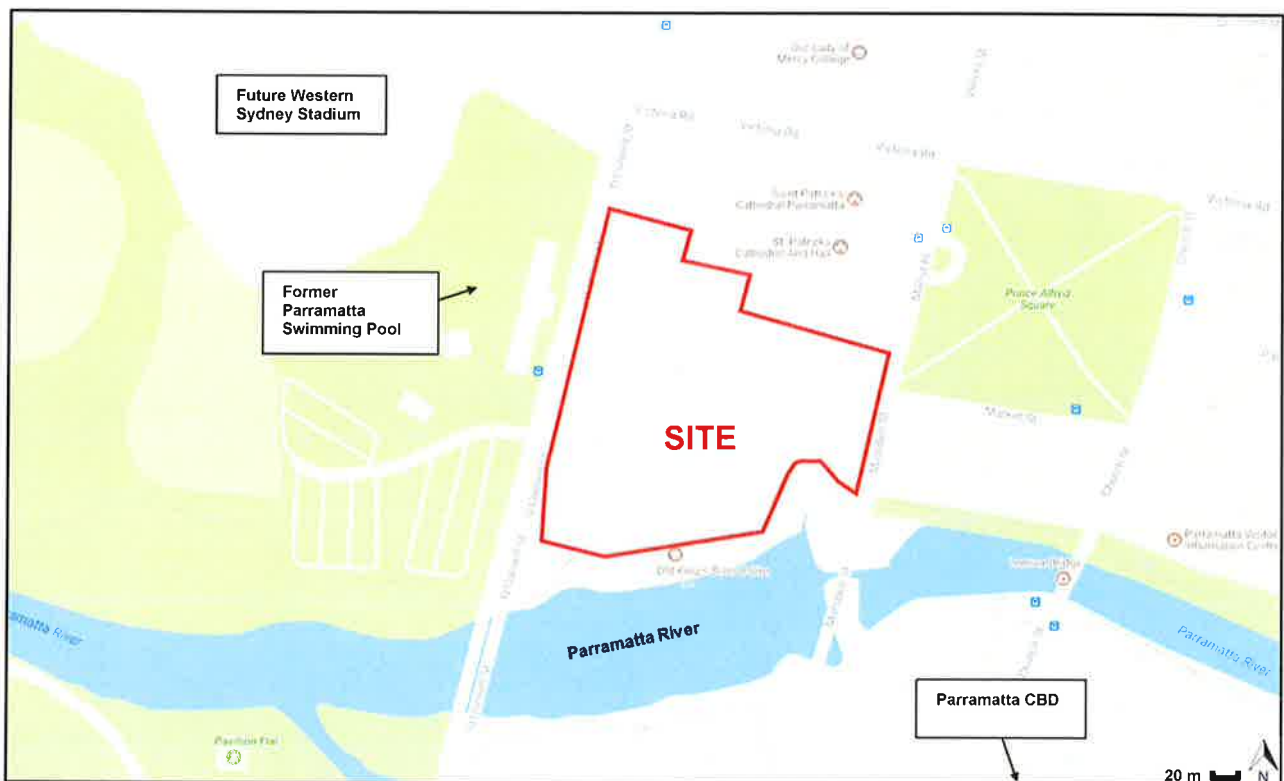


Figure 1: Site Location (Base source: Nearmap).

The site is bound by O'Connell Street to the west, Marist Street/Place to the east and the Parramatta River to the south. The site shares its northern boundary with properties fronting Victoria Road, O'Connell Street, Marsden Street and Marist Place.

The surrounding area is characterised by a variety of development types and land uses. Immediately adjoining the northern boundary of the site is the St Patricks Cathedral, associated community church buildings and a surface car park. The site is also located opposite Prince Alfred Park and the Riverside Theatre on Marsden Street/Place.

The construction site to the west on the opposite side of O'Connell Street, was formally occupied by the Parramatta Swimming Centre and Parramatta Stadium. However, both facilities have now been demolished as part of the redevelopment of that site for the new Western Sydney Stadium.

The site's relationship and the surrounding context is shown in **Figure 2**. Photographs of areas on and surrounding the site affected by the proposed modifications and existing built form are shown in **Figures 3 to 5**.

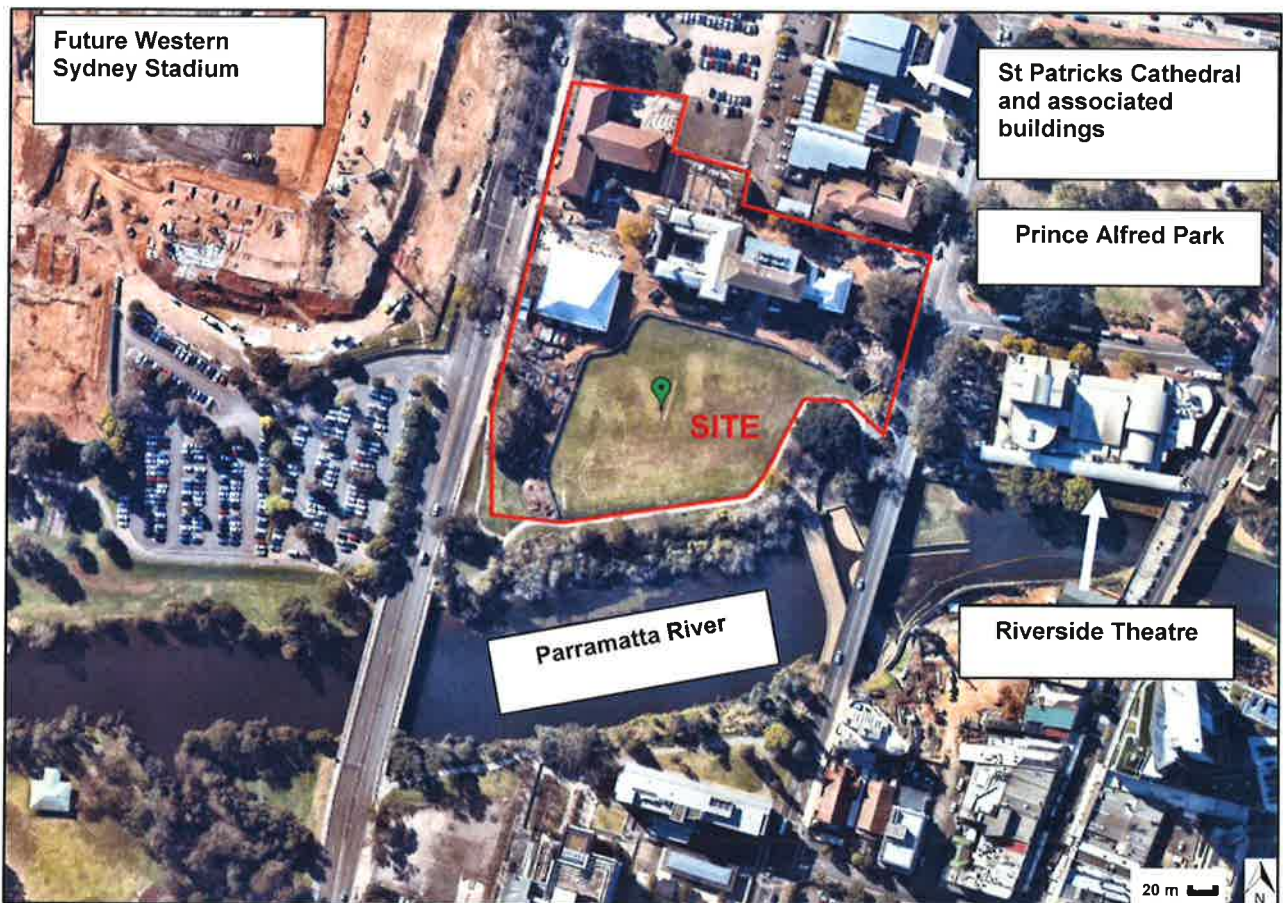


Figure 2: Aerial view of the site and its surroundings (Base source: Nearmap).



Figure 3: Marsden Street frontage of the site.



Figure 4: View looking north towards the school buildings from oval, adjacent to the carpark.



Figure 5: View looking at the O'Connell Street carpark (under construction).

3. APPROVAL HISTORY

3.1. Relevant site approval history

On 21 February 2017, the Executive Director, Priority Projects Assessments, approved SSD application (SSD 7372) for the redevelopment of the site for the purpose of a new public primary school, comprising of:

- demolition and refurbishment of existing buildings
- construction of new school hall and covered outdoor learning area
- establishment of a bus and student pick-up and drop-off area on Marist Place and Market Street
- reconfiguration of existing car parking areas off O'Connell Street and Marist Place
- site remediation works, including removal of underground storage tanks
- removal of trees and new landscaping to accommodate passive and active recreational uses.

In approving the application, the Department imposed conditions relating to dispute resolution, site contamination, boundary fencing, the Marist Place/Market Street student set-down/pick-up and pedestrian access arrangements, which relate to this proposed modification application.

On 12 July 2017, the Director, Modification Assessments, approved SSD modification application SSD 7372 MOD 1 for the extension of construction hours.

On 28 June 2017, a modification application (SSD 7372 MOD 2) was lodged seeking approval to extend the roof plant platform and balustrade/screen and for the addition of 10 new solar panels. This modification application has not been determined and is currently under assessment.

On 23 August 2017, the Sydney West Central Planning Panel (the Panel) approved development application DA/80/2017, for the construction of temporary one to two storey demountable school buildings for 1,000 students on the existing school oval, including associated access works, tree removal and signage. The approval included the demolition of the temporary school buildings and return to use as an oval after one year of operation.

It is noted that the application (DA/80/2017) was initially recommended for refusal by City of Parramatta (Council) and by the Panel due to the site's flood risk. However, under section 89(1)(a) of the EP&A Act, a consent authority (other than the Minister) cannot refuse consent to a Crown development application, except with the approval of the minister.

The development application was therefore referred to the Minister for determination. In considering the application, an independent review from an expert hydrology consultant to assess the flood risks on the site was commissioned. The independent review determined that subject to good floodplain management and conditions of consent, the users of the site will not be exposed to significant flood risks and that the temporary use of the site is appropriate. As a result of this review and as per the requirements of section 89A(1) of the EP&A Act, the Minister directed the Sydney West Central Planning Panel to approve the application subject to conditions of consent and the following reasons:

1. The information provided by an independent hydrology consultant satisfies the Minister that the potential flood risks can be managed through the proposed conditions of consent.
2. The temporary use of the site is appropriate.

On 6 November 2017, modification application (SSD 7372 MOD 3) was approved for the following works and subsequent amendments to the consent:

- erection of 18 new light posts and 15 light bollards to the south of Buildings A and B along the pedestrian path towards the O'Connell Street car park and the existing car park accessed off Marist Place
- removal of the existing lighting infrastructure on site including:
 - 2 flood lights facing the oval
 - 4 bollards on staircase leading to and from the oval
 - removal of building façade floodlights from Building B
 - removal of wall mounted lights from Building C.

3.2. Relevant neighbouring approval history

On 24 November 2015, the Panel approved a mixed use development (DA/799/2014) on the land located between St Patricks Cathedral and the subject site. The approval permits the demolition of existing structures, construction of an office building, chancery building, parish hall, and a six storey 77 unit residential flat building. Construction has not commenced on the above approval.

4. PROPOSED MODIFICATION

The proposed modification application (MOD 4) seeks to modify the timing of post determination approval requirements to facilitate the early occupation of the school and remove potential delays to the commencement of 2018 term one, day one operations by amending conditions of consent regarding site contamination, boundary fencing, Marist Place/Market Street student set-down/pick-up areas and pedestrian access arrangements.

Details and discussion of the proposed addition of new conditions and modifications to the existing development consent are addressed in **Section 7** of this report. In summary, the new conditions and modifications are as follows:

- modifications to Condition D1. Site Contamination
- modifications to Condition D4. Student Set-Down and Pick-Up - Market Street
- modifications to Condition D5. Pedestrian Crossing – Marist Place and Market Street
- addition of Condition Boundary Fencing
- addition of Condition Final Student Set-Down and Pick-Up – Market Street

- addition of Condition Final Pedestrian Crossing – Marist Place and Market Street
- addition of Condition A5. Approvals by the Secretary.

5. STATUTORY CONSIDERATION

5.1 Modification of approval

Section 96(1A) of the EP&A Act requires the consent authority to be satisfied the matters listed at **Table 1** are addressed in respect of all applications that seek modification approvals.

Table 1: Section 96(1A) matters for consideration

Section 96(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact	Section 7 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the environmental impacts of the proposed modifications to the development consent relating to site contamination, boundary fencing and the Marist Place/Market Street student set-down and pick-up and pedestrian access arrangements, can be appropriately managed by way of conditions so that they are of minimal overall impact.
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).	The proposed modifications only involve changing the timing in which certain final deliverables of the originally approved development are completed. The proposed modifications remain ancillary to the originally approved development and the proposal would result in development that is substantially the same as originally approved.
The application has been notified in accordance with the regulations	This modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
Any submission made concerning the proposed modification has been considered.	The Department notified the application to the New South Wales Environmental Protection Authority, Roads and Maritime Services, Transport for New South Wales and City of Parramatta Council. Comments were received from all four authorities and is discussed further in Section 6 and 7 of this report.

5.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State and Environmental Planning Policy (State and Regional Development) 2011
- State and Environmental Planning Policy No. 55 – Remediation of Land
- State and Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- Parramatta Local Environmental Plan 2011

The Department has undertaken a comprehensive assessment of the proposed development against the abovementioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Social Infrastructure and Other Assessments may determine the application under delegation as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

6. CONSULTATION

6.1 Consultation

In consideration of the proposed works identified in the Applicant's Modification 4 EIS, the following authorities were notified of the application seeking comments where necessary:

- City of Parramatta Council (Council)
- Transport for New South Wales (TfNSW)
- Roads and Maritime Services (RMS)
- New South Wales Environment Protection Agency (EPA).

6.1.1 Council

Council stated that they generally support the proposed modification and made the following comments regarding the proposed modifications:

Approvals by the Secretary (Condition A5)

- Council considers that two months is too short a timeframe to allow for the resolution of issues given that the proposal would need to be reviewed by Council staff, the Traffic Committee and elected representatives.

Department's consideration

Council's comment has been noted, see further discussion in **Section 7.4** of this report.

Boundary Fencing and Site Contamination (Condition D1 & D3)

- temporary fencing must be installed to restrict access to the portion of the school grounds that requires site audit documentation prior to occupation and to secure the school along the parade ground boundary adjacent to the river from public entry.

Department's consideration

Matters regarding the boundary fencing and site contamination are discussed further in **Sections 7.1 and 7.3** of this report. It is considered that the need or requirement for fencing to areas subject to the site audit statement while school operations have commenced will be appropriately managed by the site auditor. With the exception for the provision of temporary fencing (as recommended in **Section 7.3** of this report) until the final solution is approved and constructed, no other changes are proposed to boundary fencing that are considered to require additional provisions to restrict public entry.

Temporary Student Set-down and Pick Up Area (Works Plan)

- whilst proposed Condition D4 references the works plan, insufficient certainty is provided as to when the final solution is to be provided. A delivery time frame should be secured as part of this development consent
- Council's Traffic Committee has reviewed the accompanying works plan and it is scheduled for final endorsement at the Council meeting to be held on the 11 December 2017. The permanent solution is also being considered for endorsement at this meeting
- the urban design department emphasise that the pedestrian access paving and material treatment is to integrate seamlessly with the existing adjacent footpaths. The location of pedestrian crossing blisters should necessitate the extension of drainage infrastructure in order to suitably maintain civil assets.

Department's Comment

The above comments raised by Council have been noted and considered as part of the assessment as discussed further in **Section 7.2** of this report. The Department notes that the proposed changes to Marist Place, Market Street and Marsden Street to cater for the student set-down and pick-up requirements was endorsed by Council in the meeting on 11 December 2017.

6.1.2 TfNSW

TfNSW stated that based on the documentation provided with the application and RMS's involvement with discussions in the design of the pedestrian crossing, TfNSW requested that the Department consider the submission provided by RMS.

Department's consideration

The Department takes note of the TfNSW submission and will refer accordingly to the RMS submission as discussed below.

6.1.3 RMS

RMS made the following comments:

- detailed design approval has been issued for the ultimate signalised pedestrian crossing layout on 21 November 2017
- the delivery of the crossing could be completed prior to commencement of school operation, subject to Department of Education approval for a civil works contractor
- amendments to Conditions D4 and D5 are considered unnecessary as a result of the approved signalised pedestrian crossing and will result in further delays and increased costs to deliver suitable access and pick-up/drop-off arrangements
- should there be any requirement to further modify the arrangements of on-street pick-up/drop-off parking, these changes can be proposed at the Local Traffic Committee and implemented by Council should it be recommended by the Committee (and if endorsed by Council).

Department's consideration

The above comments raised by RMS have been noted and considered as part of the assessment in **Section 7.2** of this report.

6.1.4 EPA

EPA requested that the comments made be considered in conjunction with its submission dated 15 August 2016; made during the original SSD 7372 assessment. Additionally, EPA made the following comments:

- the EPA confirms its previous advice and recommendations concerning site remediation and certification of the suitability of the site for its proposed use and considers that any revised condition should reflect that advice and recommendations.

Department's consideration

The Department has considered the above comments as part of the assessment of this modification application. Refer to the discussion in **Section 7.1** of this report.

6.2 Applicant's Response to Submissions (RtS)

In response to the matters raised in the submissions provided by Council, RMS, TfNSW and EPA the Applicant submitted an RtS (via email correspondence dated 7 December 2017) in order to address and clarify concerns raised in the public authority submissions.

The RtS included the following further information:

- justification for the interim solution for set-down and pick-up provisions (in response to RMS comments) as a contingency provision due to the Christmas holidays and authority approval process making it extremely challenging to deliver the permanent solution by the end of January 2018
- Council requirements for temporary fencing/restricting access to areas requiring site audit documentation and the Parade ground entry is considered to be onerous as site audit statement does not apply to the oval
- the interim student set-down and pick-up area as the final option will be in place 6 months after school operation commences.
- the drainage upgrades were deemed to be not required by Council's Civil Assets division.

7. ASSESSMENT

The Department has considered the Applicant's Modification 4 EIS in the context of the original approved development in its assessment of the proposal. The Department considers the key issues associated with the modification application are the addition and amendments as listed below:

- Site Contamination
- Access Arrangements
- Boundary Fencing
- Approvals by the Secretary.

7.1 Site Contamination

This modification application seeks to amend the condition relating to the submission of information (the Long Term Contamination Management Plan) required for the Site Audit Report and Site Audit Statement, to ensure that potential delays being caused by notifying Council and other agencies is reduced. The amendments aim to provide the Site Auditor the ability to approve the Long Term Contamination Management Plan and thereby, reduce the period to prepare and submit the Site Audit Report and Statement. The existing condition in the development consent is as follows:

*D1. The Applicant shall submit to the Certifying Authority a **Site Audit Report** and **Site Audit Statement** prepared by an EPA accredited site auditor following the completion of works and prior to the issue of an Occupation Certificate. The site audit report and site audit statement must verify that the land is suitable for the uses proposed under this consent.*

The proposed modification of the condition is as follows:

*The Applicant shall submit to the Certifying Authority a Site Audit Report and Site Audit Statement prepared by an EPA accredited site auditor following ~~the completion of the works and prior to the issue of an Occupation Certificate~~ **occupation of the land to which the site audit report and site audit statement relate**. The site audit report and site audit statement must verify that the land is suitable for the uses proposed under this consent **and will be subject to any conditions required by the EPA accredited Site Auditor relating to long-term contamination management**.*

Department's Consideration

As referenced earlier in **Section 6** of this report, the EPA's original submission on the SSD application, dated 15 August 2016 made the following comments:

- EPA identified that the need to undertake a detailed assessment of potential site contamination following demolition of existing buildings, and infrastructure, including information about groundwater as a site-specific concern
- the following recommendations be made a requirement for the proponent
 - to prepare and implement an appropriate procedure for identifying and dealing with finds of site contamination, including –
 - asbestos containing materials
 - lead-based paint
 - PCBs associated with old light fittings and electrical equipment.
 - to development and implement site clean-up and remediation as necessary.
- the EPA strongly recommended that the proponent engage a site auditor accredited under the Contaminated Land Management Act 1997 to ensure the site is made suitable for the proposed use.

When considering the EPA's original comments, it is considered that the proposed modifications to the condition do not detrimentally impact upon the original concerns and issues raised.

It is noted that the intent of the original condition was for the Site Audit Report and Site Audit Statement to be submitted and approved by the Certifying Authority prior to the issue of an Occupation Certificate.

Furthermore, it is considered that in the instance where by other areas of the site are issued with an interim Occupation Certificate, the areas not covered by the Site Audit Report and Site Audit Statement would not be occupied until the requirements of the condition have been met. By having the Site Auditor manage the site in this manner, it is considered to provide suitable protection to other occupants on the site until it is confirmed that the entire site can be used for the approved development.

Additionally, the original SSD 7372 development consent contained condition C26. *Site contamination issues during construction*, which requires the Department to be notified, and for any construction works to cease, should any new information be discovered which has the potential to alter previous conclusions about site contamination. The Certifying Authority will determine whether future investigation or the need for remediation is required before construction works can commence. These requirements will still be in place within the development consent and is considered sufficient additional protection for the amenity and safety of the public and school community.

In order to provide greater certainty that the site can be remediated appropriately for the intended school use, further amendments are recommended to the proposed condition to also state the following:

- the requirement for containment cells to be registered on title within 12 months from the long term contamination management plan being endorsed
- no occupation to occur to areas on site that have not been deemed suitable as per the site audit report and Section A site audit statement
- evidence showing compliance with the condition being submitted to the Secretary prior to the issue of the Occupation Certificate.

The above recommendations will ensure that areas of the site can be occupied prior to the completion of all remediation works.

Therefore, it is considered that in principle the amendments to the condition are acceptable as the site is still subject to the requirements originally identified by the EPA (as discussed in **Section 6** of the report).

7.2 Access Arrangements

Due to protracted discussions between the Applicant, RMS, TfNSW and Council regarding the set-down/pick-up and pedestrian crossing access arrangements, an interim solution is necessary in order to facilitate the commencement of school operations on term one, day one 2018. While the interim solutions are in place, the Applicant will continue to seek the final approval and complete construction of the permanent access arrangements within a designated timeframe.

The current conditions regarding the pedestrian crossing within the development consent states:

D4. The final location of the student set-down and pick-up area is to be determined in consultation and agreement with Council and Transport for NSW, and established prior to the commencement of school operations. Details of consultations undertaken and the final location of the student set-down and pick-up area are to be submitted to the Department for information.

D5. The Applicant shall investigate suitable pedestrian crossing options to ensure school students/pedestrians can safely cross both Marist Place and Market Street. Options are to be considered in consultation and agreement with Council and RMS and may include, but not be limited to, the establishment of a signalised pedestrian crossing or other suitable treatment. The crossing(s) is to be implemented prior to the commencement of school operations. Details of consultations undertaken and the final location and design of the crossing(s) is to be submitted to the Secretary.

The Applicant proposes the deletion of these two conditions and their replacement with the following:

D4. Interim Student Set-Down and Pick-Up and Pedestrian Crossing – Market Street and Marist Place

An interim set-down and pick up area and interim (non-signalised) pedestrian crossing is to be designed by the Applicant in consultation with Council and implemented prior to commencement of school operations. This interim arrangement is to be consistent with the plans titled 'Works Plan 2017 11 08 (rev 2) - 2nd Option A' and will be implemented for the student set-down and pick-up area and pedestrian crossing until a permanent arrangement can be agreed with Council and RMS.

Department's Consideration

As discussed earlier, RMS stated that it did not see justification to extend the timeframe for which the signalised pedestrian crossing is constructed and therefore, by extension considers that a temporary pedestrian crossing arrangement is not required. It is noted that approval for the design of the signalised pedestrian crossing was issued on 21 November 2017.

Additionally, Council stated that greater certainty was required as to the timing of when the final design was to be constructed/implemented and that the pedestrian access paving and material treatment is to integrate seamlessly with the existing adjacent footpaths. Furthermore, the location of pedestrian crossing blisters would necessitate the extension of drainage infrastructure in order to suitably maintain civil assets.

While it is acknowledged that a detailed design for the pedestrian crossing has been approved by RMS, the Department considers that due to timing constraints; the construction of the final pedestrian crossing will most likely not be completed upon the commencement of the school year in 2018 and forms sufficient justification for the implementation of a temporary solution. It is considered that the proposed modification to allow for a temporary non-signalised pedestrian crossing will act as a suitable measure while the more permanent solution is finalised and constructed. The temporary arrangements will ensure that traffic flows around the site on Market Street and Marist Place are not detrimentally impacted any more than what was originally approved and will ensure the safety of teachers, students and visitors to the school.

The Applicant's RtS outlines that the temporary option is to be in place for 6 months. It is considered that this timeframe is sufficient in which the final solution can be approved and constructed as well as ensuring that the process is expedited. It is also noted that an interim solution has already been supported by Council.

In order to ensure that that interim provisions are appropriately designed and in accordance with the relevant requirements, the Department recommends that the requirement to consult with RMS in addition to Council is retained in the modified condition. This will also ensure that the condition is consistent with the existing conditions in the development consent.

As a result of the proposed deletion of condition D4, the following new conditions are proposed to be inserted into the development consent:

Final Student Set-Down and Pick-Up – Market Street

The final location of the student set-down and pick-up area is to be determined in consultation and agreement with Council, and established within 6 months of commencement of school operations. Details of consultations undertaken and the final location of the student set-down and pick-up area are to be submitted to the Department for information.

Final Pedestrian Crossing – Marist Place and Market Street

The Applicant shall investigate suitable pedestrian crossing options to ensure school students/pedestrians can safely cross both Marist Place and Market Street. Options are to be considered in consultation and agreement with Council and RMS and may include, but not be limited to, the establishment of a signalised pedestrian crossing or other suitable treatment. The

crossing(s) is to be implemented within 6 months of commencement of school operations. Details of consultations undertaken and the final location and design of the crossing(s) is to be submitted to the Secretary.

Department's Consideration

As discussed earlier in this report, the implementation of temporary solutions is considered to be acceptable. The two proposed new conditions are supported in principle as they are in keeping with the original intent of conditions D4 and D5. It is recommended that the temporary solution be in place for 6 months from the date of the development consent and provide sufficient time when considering the final design has received approval from Council (as of 11/12/17). It is considered that the addition of the two additional conditions will not detrimentally affect the original intention of the conditions, while allowing for an extended amount of time for the final solution to be achieved in a manner that satisfies the Applicant and public authorities.

7.3 Boundary Fencing

In order to ensure that any delays as a result of unforeseen contamination or archaeology towards the construction of boundary fencing do not delay the commencement of school operations, an additional period of 4 months is requested for the construction works as well as modifications to the existing conditions in the development consent.

The existing condition in the development consent states:

D3. The Applicant shall construct fencing along the southern boundary of the site prior to the commencement of school operations. The fencing shall be designed to prevent students from accessing the adjoining Parramatta River and to deter unauthorised access to the school grounds. The detailed design of the fencing including height, alignment and material shall be developed in consultation with the Heritage Council of NSW, Council and the Office of the Government Architect. Gates shall be incorporated as part of the design to allow the community use of the school oval outside of school hours and direct access across the oval to Western Sydney Stadium (subject to agreement between Council and the Department of Education, or representatives). The final design of the fencing is to be submitted to the Secretary for approval prior to installation.

The proposed modification to the condition are shown below in bold and strikethrough:

~~The Applicant shall construct fencing along the southern boundary of the site prior to the commencement of school operations.~~ *The fencing shall be designed to prevent students from accessing the adjoining Parramatta River and to deter unauthorised access to the school grounds. The detailed design of the fencing including height, alignment and material shall be developed in consultation with the Heritage Council of NSW, Council and the Office of the Government Architect. Gates shall be incorporated as part of the design to allow the community use of the school oval outside of school hours and direct access across the oval to Western Sydney Stadium (subject to agreement between Council and the Department of Education, or representatives). The final design of the fencing is to be submitted to the Secretary for approval prior to installation.*

In addition to the modification to condition D3, the following condition is proposed to be inserted into the development consent:

The boundary fence approved under Condition D3 is to be completed within 4 months of the commencement of school operations.

The Applicant submits the following justification for the inclusion of the condition:

Whilst it is anticipated that the fence could be delivered within less than 4 months, unknown factors such as unforeseen contamination or archaeology may delay construction. It is requested that a timeframe of 4 months be granted to ensure that ample time is available to resolve any unexpected issues that may arise.

Department's consideration

It is considered that while it is reasonable to request an extension of time for the delivery of the boundary fence, it is not considered an appropriate option of having the school commence operations without appropriate boundary fencing to provide safety to students and appropriately establish the site boundaries. The original assessment for SSD 7372 identified safety of school children and the deterrence of unauthorised access to the grounds during and after school hours as reasons for requiring boundary fencing.

Therefore, the addition of the condition above is considered to be acceptable subject to amendments recommended to Conditions D3 requiring temporary hoarding style fencing along the school boundary (in the same areas that the final solution is to be). It is recommended that the condition state that the fence is not to be solid in order to allow for passive surveillance. The condition is to also state that the fencing must be installed a manner that can be reversible and not result in significant disturbance to the site at ground level and be wholly located within the boundaries of the subject site. This will also help alleviate concerns raised by Council in its submission and will ensure that the site is appropriately demarcated from the public domain.

7.4 Approvals by the Secretary

The Applicant proposes to add the following condition to the development consent in Part A ADMINISTRATIVE CONDITIONS to address dispute resolution issues that have already occurred as part of the post determination approval process with other agencies. The proposed condition is as follows:

If any terms of the approval specify that an agreement is to be made between the proponent and a government agency or Council, all parties are to act reasonably. If no agreement is reached between 2 months of commencement of negotiations, the issue can be referred to the Secretary for a decision. Full details of the discussions and the dispute are to be provided in order for the Secretary to make decisions.

The Applicant justifies the addition of the above condition by stating that it will facilitate an efficient planning process and enable the consent conditions to be met in a timely and practical manner. It is also stated that the condition will ensure that all parties act reasonable during negotiation of the final solution.

Department's Consideration

It is considered that the proposed addition of this condition is not necessary as the existing development consent contains condition A7. *Dispute Resolution* that states the following:

In the event of a dispute between the Applicant and a public authority, in relation to an applicable requirement in this consent or relevant matter relating to the Development, either party may refer the matter to the Secretary for resolution. The Secretary's resolution of the matter shall be binding on the parties.

The Department is of the opinion that the existing condition in the development consent is sufficient in regard to managing/resolving disputes and agreement issues between the Applicant and other agencies or authorities. Therefore, the Department does not support the addition of this new Administrative Condition.

8. CONCLUSION

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 the proposed modification is appropriate on the basis that:

- the proposed interim arrangements will ensure that a suitable solution to access arrangements is in place, while the more detailed and final solutions are approved by public authorities and subsequently constructed

- the development will remain substantially the same and any impacts are not detrimental to the originally approved development
- the development consent already contains a condition that appropriately deals with dispute resolution
- conditions have been recommended for the proper implementation and management of temporary measures regarding boundary fencing, set-down/pick-up and pedestrian access arrangements.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED that the Director, Social and Other Infrastructure Assessments, as delegate of the Minister for Planning:

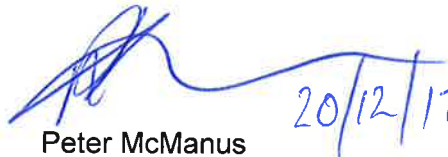
considers the findings and recommendations of this report;

approves the application under section 96 (1A), subject to conditions; and

- signs the notice of modification (Appendix A).



Navdeep Shergill
Planner
School Infrastructure Assessments



Peter McManus
Team Leader
School Infrastructure Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8891

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8891

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8891

3. Applicant's RtS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8891