



Ultimo Pyrmont Public School

*State Significant
Development
Modification Assessment
(SSD 7503 MOD 2)*

October 2018

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1. Introduction

This report is an assessment of an application seeking to modify the State Significant Development (SSD) approval for the new Ultimo-Pyrmont Public School in the City of Sydney Local Government Area (LGA). The application has been lodged by Department of Education (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This application seeks to modify conditions A7 to A9 of the development consent.

The application was lodged on 30 August 2018 by the Applicant pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant is constructing the new Ultimo Pyrmont Public School at 47-53 Jones Street, Ultimo in the City of Sydney local government area. The site was occupied by the former Ultimo Public School, which comprised three school buildings, covered walkways, shade structures, outdoor courts and car parking, however these structures have been demolished to allow for the construction of the new school.

The site has an area of approximately 5,440m² and is roughly rectangular, with 60m frontages to Jones Street to the east and Wattle Street to the west and a 90m frontage to Quarry Street to the north. The topography of the site falls approximately 15m from east to west. The proposed development location is shown in **Figure 1** and **Figure 2**.

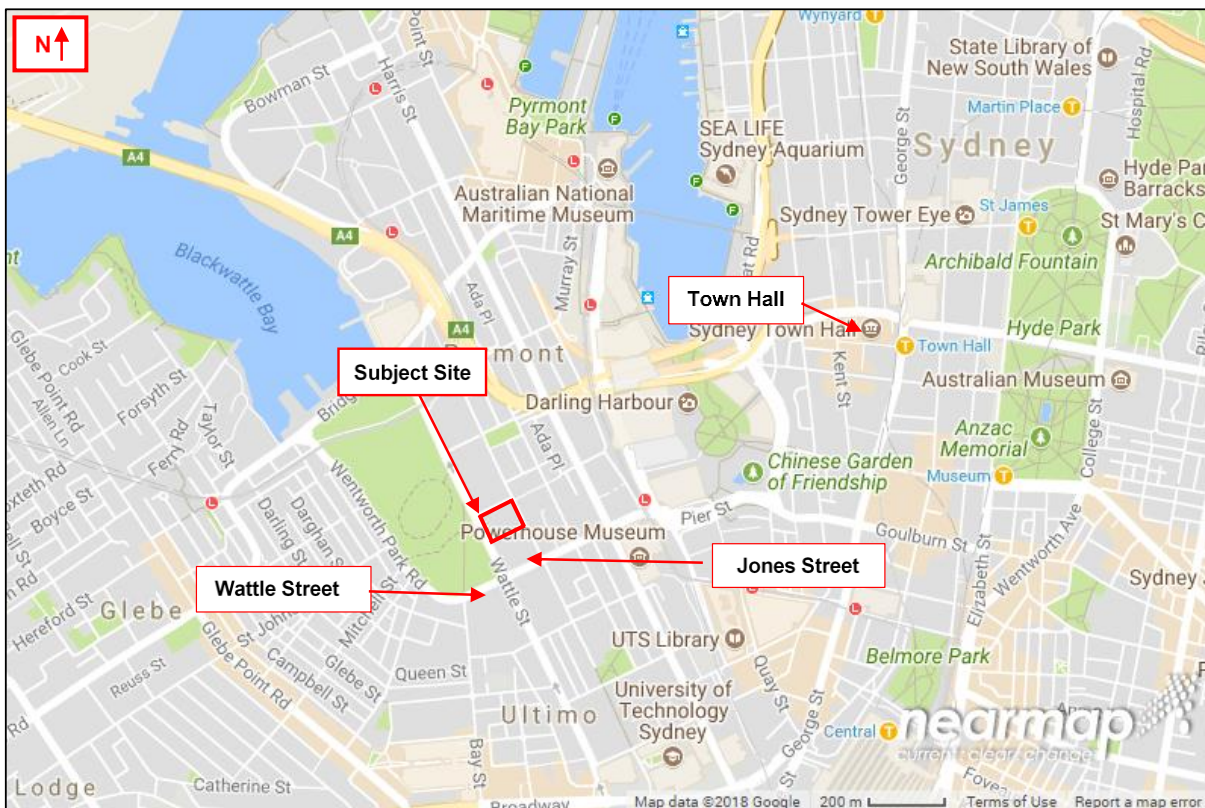


Figure 1 | Site Location (Source: Nearmap 2018)

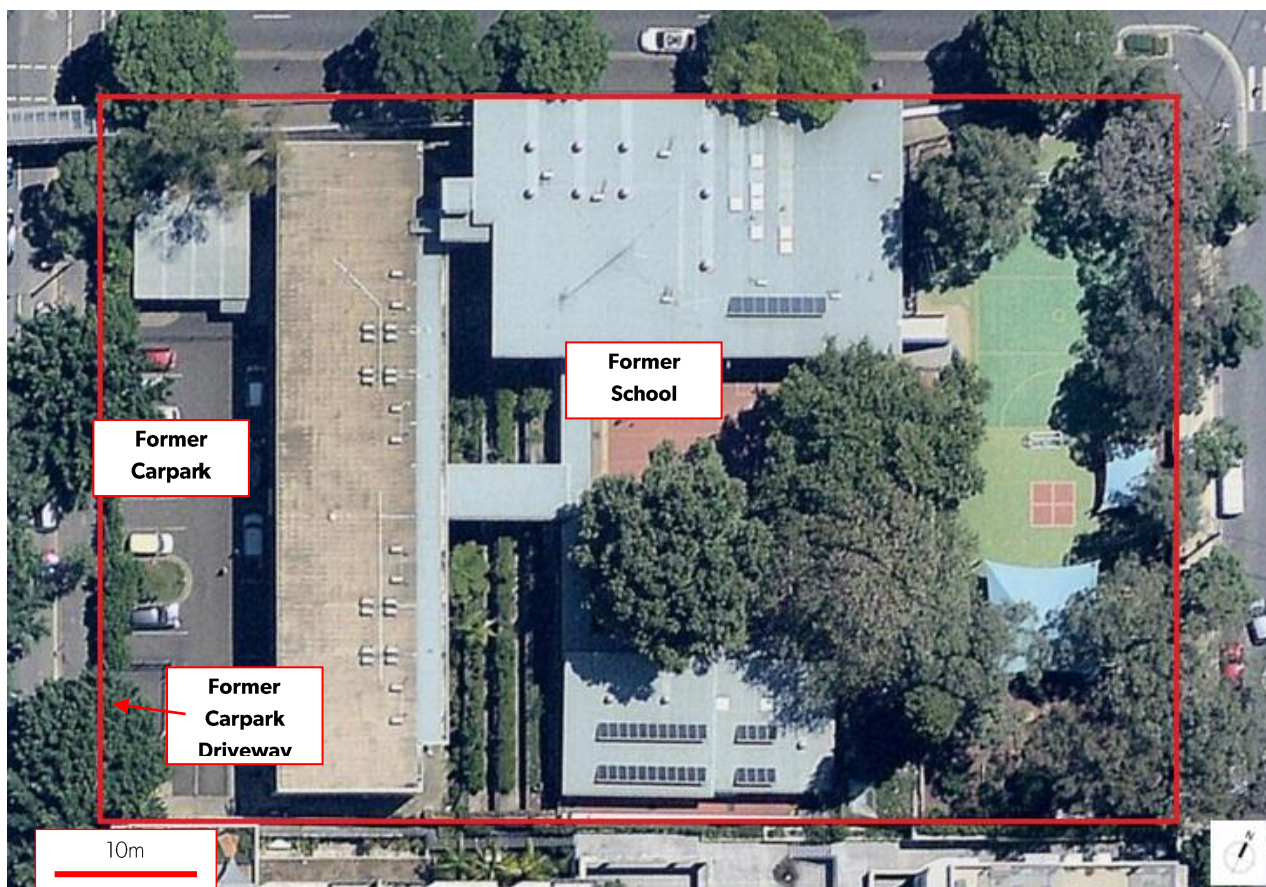


Figure 2 | Former Site Features (Source: Nearmap 2017)

The site is located in an established urban area, which is characterised by a variety of building forms, heights, ages and architectural styles.

Ultimo Public School has been relocated to a temporary site in Wentworth Park during demolition and construction of the new Ultimo-Pyrmont Public School. The temporary school has capacity of 297 students. Once the new Ultimo-Pyrmont Public School is operational, the students will relocate back to the subject site.

The following features surrounding the site are shown in **Figure 3**:

- Wentworth Park is located to the west of the site on the opposite side of Wattle Street
- a large three to seven storey commercial office building (the former Elder & Smith Co Woolstore) is located to the north-west of the site on the opposite side of Quarry Street
- a four-storey residential building setback approximately 11m behind a single-storey building containing a street-front strip of commercial uses
- located to the north-east and east of the site are a four-storey residential building and 'Quarry Green' park
- the four to eight-storey mixed use 'Acacia Gardens' complex is located to the south of the site along the south eastern common boundary
- a two-storey residential building and a four to eight-storey mixed-use building fronting Wattle Street are located immediately adjacent the site.

The Exhibition Centre light rail station is located approximately 330m to the east of the site and the Wentworth Park light rail station is located approximately 360m to the north of the site.



Figure 3 | Surrounding development (Source: Nearmap 2017)

1.2 Approval History

On 13 July 2018, the Executive Director, Priority Projects Assessments, as delegate of the Minister for Planning, granted SSD approval for the development of the new Ultimo Pymont Public School, involving the construction of a one to six storey school building, including 40 learning spaces for 800 students.

The development consent was modified on 21 September 2018 (see **Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Modification to conditions relating to contamination, Aboriginal archaeology and environmentally sustainable design.	Department	4.55(1)	Approved 21 September 2018



2. Proposed Modification

On 30 August 2018, the Applicant lodged an application (SSD 7503 Mod 2) seeking approval to modify conditions relating to design quality excellence. The detail of these conditions is set out below.

Design Quality Excellence

A7. *In order to ensure the design quality excellence of the development is retained:*

- a) *the design architect (Designinc + LacosteStephenson + bm2) is to have direct involvement in the design documentation, contract documentation and construction of the development;*
- b) *the design architect is to have full access to the Site and is to be instructed by the Applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the development; and*
- c) *evidence of the design architect's commission is to be provided to the Planning Secretary prior to certification of any building works, except for Site preparatory works.*

A8. *The design architect for the project must not change without prior approval of the Planning Secretary.*

A9. *To ensure design integrity is maintained, approval of the DIP is required where any significant design change is required, including substitution of approved materials, or design changes to other elements identified as critical in the DIP reports. A copy of any approval issued by the DIP must be provided to the Certifying Authority and the Planning Secretary.*



3. Strategic Context

3.1 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017
- State Environmental Planning Policy No.55 - Remediation of Land
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Environment)
- Sydney Local Environmental Plan 2012.

The Department undertook 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.



4. Statutory Context

4.1 Scope of Modifications

Section 4.55(1A) of the EP&A Act provides that a consent authority may, on an application being made by the applicant, modify a development consent granted by it, involving minimal environmental impact. Any application must be made in accordance with Clause 115 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

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

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

The Minister for Planning is the approval authority for the application. However, the Director Social and Other Infrastructure 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.



5. Engagement

The EP&A Regulation does not require that the application be formally notified. Notwithstanding this, the modification application was made publicly available on the Department's website a. Due to the minor nature of the proposed modification, the modification application was not exhibited by any other means.



6. Assessment

This application seeks to modify conditions relating to Design Quality Excellence A7, A8 and A9 of the consent.

6.1 Design Quality Excellence

The Applicant has proposed changes to conditions A7, A8, and A9 in relation to Design Quality Excellence. Changes include deletions in strikethrough, additions in bold, underlined red text in **Table 2** below.:

Table 2 | Proposed changes to conditions

Existing	Proposed
<p>A7. In order to ensure the design quality excellence of the development is retained:</p> <p>a) the design architect (Designinc + LacosteStephenson + bm2) is to have direct involvement in the design documentation, contract documentation and construction of the development;</p> <p>b) the design architect is to have full access to the Site and is to be instructed by the Applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the development; and</p> <p>c) evidence of the design architect's commission is to be provided to the Planning Secretary prior to certification of any building works, except for Site preparatory works.</p>	<p>A7. In order to ensure the design quality excellence of the development is retained:</p> <p>a) the design architect (Designinc + LacosteStephenson + bm2) is to be consulted in regard to significant design changes to plans outlined in Condition A2 that require a modification under Section 4.55 of the Environmental Planning and Assessment Act 1979. Evidence of consultation must be provided to the Consent Authority for the purpose of this condition and assessment under Section 4.55. Future projects post occupation or non-design modifications are excluded from this condition.</p> <p>b) the design architect is to have full access to the Site and is to be instructed by the Applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the development; and</p> <p>c) evidence of the design architect's commission is to be provided to the Planning Secretary prior to certification of any building works, except for Site preparatory works.</p>
<p>A8. The design architect for the project must not change without prior approval of the Planning Secretary.</p>	<p>A8. The design architect for the project must not change without prior approval of the Planning Secretary.</p>
<p>A9. To ensure design integrity is maintained, approval of the DIP is required where any significant design change is required, including substitution of approved materials, or design changes to other elements identified as critical in the DIP reports. A copy of any approval issued by the DIP must be provided to the Certifying Authority and the Planning Secretary.</p>	<p>A9. To ensure design integrity is maintained, approval of the DIP consultation of the DIP is required in regard to significant design change to plans outlined in Condition A2 that require a modification under Section 4.55 of the Environmental Planning and Assessment Act 1979. Evidence of consultation must be provided to the Consent Authority for the purpose of this condition and assessment under Section 4.55. Future projects post occupation or non-design modifications are excluded from this condition.</p>

The Department has considered the SSD 7503 MOD 2 relating to the proposed changes to the design excellence conditions, which seeks to substantially amend and/or delete Conditions A7, A8 and A9.

The Department provided advice to the Applicant on 30 July 2018 advising that both the City of Sydney and Parramatta Councils have requirements within their Local Environmental Plans where developments over a certain height or of a certain size trigger the need for a design competition. Ultimo Pymont Public School proposal triggered the need for a design competition to be held. At this time the Applicant was also advised that the Department consulted the Government Architect with regard to the Design Excellence conditions (A7, A8 and A9) which were considered to have been appropriately applied to Ultimo Pymont Public School at the time of approval.

The Department’s position was reiterated to the Applicant following submission of the modification application. In response, the Applicant agreed to revised wording of conditions A7 – A9 as discussed in **Table 3** below.

Table 3 | Assessment

	Department’s consideration
A7	<p>The Department acknowledges the Applicant’s concern with regard to the use of the wording ‘the life of the project’. ‘The life of the project’ refers to the construction of the development subject of this SSD, and not future projects which may occur on the subject site. The reference to the life of the project is to be modified as follows:</p> <p>In order to ensure the design quality excellence of the development is retained:</p> <ul style="list-style-type: none"> a) the design architect (Designinc + LacosteStephenson + bm2) is to have direct involvement in the design documentation, contract documentation and construction of the development; b) the design architect is to have full access to the Site and is to be instructed by the Applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life construction of the development; and c) evidence of the design architect’s commission is to be provided to the Planning Secretary prior to certification of any building works, except for Site preparatory works.
A8	<p>The Department notes the Applicant’s concern with regard to the wording within Condition A8, and after consultation with the Applicant has agreed to modify the wording to condition A8 instead of deleting the condition in its entirety as follows:</p> <p>The design architect for the project must not change without prior approval of the Planning Secretary following consultation with GANSW.</p> <p><u>The design architect for the project may only be terminated if the Department of Education has demonstrated to the satisfaction of the Planning Secretary and the Government Architect’s Office that sufficient grounds exist to terminate the contract.</u></p>
A9	<p>The Department recognises that the DIP does not have an approval role, however, the Department considers it appropriate given the commitments within the Brief, that any changes to the inherent design be endorsed by the DIP. Therefore, the Department would be willing to consider amended wording for Condition A9 as follows:</p> <p>To ensure design integrity is maintained, approval the opinion of the DIP is required to be obtained where any significant design change is required, including substitution of approved materials, or design changes to other elements identified as critical in the DIP reports. A copy of any endorsement opinion issued by the DIP must be provided to the satisfaction of the Planning Secretary prior to the finalisation of construction drawings.</p>



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 considers that the amended conditions remain consistent with the Ultimo Pymont Public School Competition Brief documentation, and that the intent behind each condition remains the same. The Department's assessment concludes that the proposed modification is appropriate. Consequently, it is recommended that the modification be approved subject to the recommended modified conditions.



8. 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; and
- **Determines** that the application for Ultimo Pyrmont Public School Modification 2 does not fall 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 refuse the application;
- **agrees** with the key reasons for refusal listed in the draft notice of decision;
- **signs** the attached refusal of the modification Appendix B.

Prepared by:

Iona Cameron

Senior Planner, Social and Other Infrastructure Assessments

Recommended by:

Andrew Beattie

Team Leader
Social and Other Infrastructure Assessments



9. Determination

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

Karen Harragon

Director

Social and Other Infrastructure Assessments

24/10/2018



Appendices

Appendix A – Modification application

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9581

Appendix B – Instrument of Modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9581

Appendix C – Consolidated Consent

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9581