



New Inner Sydney High School

*State Significant
Development
Modification Assessment
(SSD 7610 MOD 3)*

December 2018

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Glossary

Abbreviation	Definition
Consent	Development Consent
Council	City of Sydney
CTPMP	Construction Traffic and Pedestrian Management Plan
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
SSD	State Significant Development



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1. Introduction

This report provides an assessment of an application to modify the state significant development (SSD) approval (SSD 7610) for the New Inner Sydney High School. The application has been lodged by the NSW Department of Education (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application seeks approval to amend conditions B31 (Car parking and service layout), B36 (Paving design over trees 1 and 17) and B37 (Public domain works) of the consent to adjust the timing required to satisfy these conditions from 'prior to commencement of building works' to 'within six months of the commencement of building works'.

1.1 Background

The subject site comprises the former Cleveland Street Intensive English High School located at 242A and 244 Cleveland Street, Surry Hills (the site). The site abuts Prince Alfred Park to the north and west, and fronts onto Chalmers Street to the east and Cleveland Street to the south. The site is 5,695 square metres in area.

At the time that the original SSD application was lodged, the site contained three locally listed heritage buildings fronting Chalmers Street and a three-storey 1960's (non-listed) building on the western side of the site. Early construction works have since commenced on site and the 1960's building and associated covered walkways have been demolished.

An existing carpark and service vehicle driveway is located in the south-western corner of the site with access from Cleveland Street. The former main entrance to the site is located on the Chalmers Street.

The location and context of the site are shown in **Figures 1** and **2**.

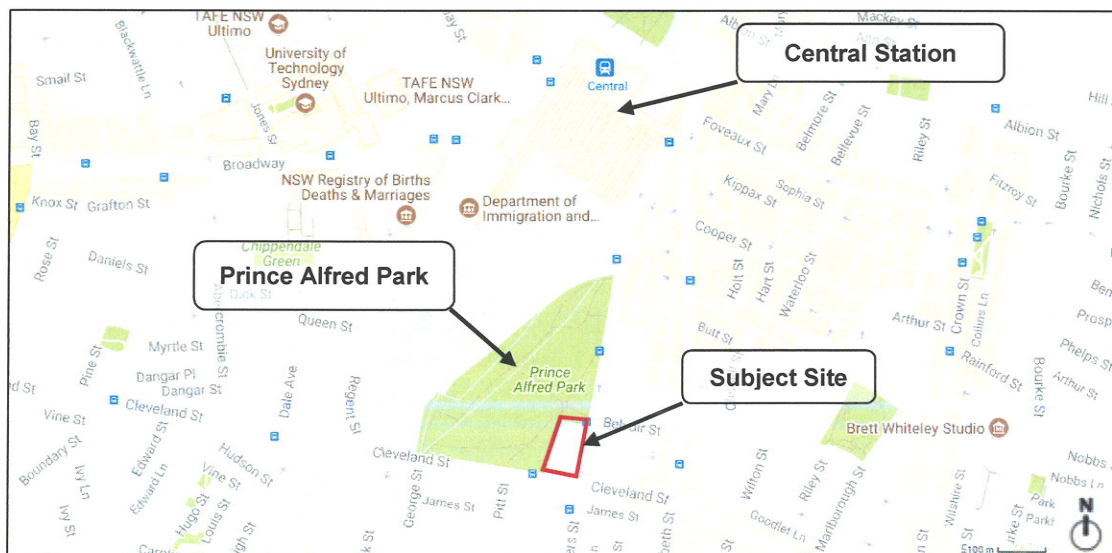


Figure 1 | Site location (Source: Nearmap 2018)



Figure 2 | Aerial view of the site (Source: Nearmap 2018)

1.2 Approval history

On 28 February 2018, the Executive Director Priority Projects Assessments, as delegate of the Minister for Planning, granted SSD approval for the development of the New Inner Sydney High School, involving:

- redevelopment of the existing Cleveland Street Intensive English High School
- demolition of Building 4 and associated covered walkways
- adaptive reuse of existing heritage-listed buildings and
- a proposed new 13 storey building, including basement and rooftop basketball court.

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	Clarification of the timing for satisfaction of conditions B33 (Tree protection) and B34 (Further justification for tree removal) of the consent. Condition B35 was also revised as a consequence of these modifications.	Executive Director, Priority Projects Assessments	4.55(1)	1 June 2018
MOD 2	Adjustments to the timing for satisfaction of conditions A7 (Design modification), B23 (Final excavation reports), B36 (Paving design over trees 1 and 17) and B46 (Stormwater and drainage works design) of the consent.	Executive Director, Priority Projects Assessments	4.55(1A)	21 September 2018

On 27 September 2018, the Director Social and Other Infrastructure Assessments granted a six month extension to the time allowed to satisfy the requirements of condition B47 (Anticipated flooding and mitigation). The extension requires the condition to be satisfied within nine months of the commencement of construction.



2. Proposed Modification

The Applicant has lodged a section 4.55(1A) modification application (SSD 7610 MOD 3) seeking approval to amend conditions B31 (Car parking and service layout), B36 (Paving design over trees 1 and 17) and B37 (Public domain works) of the consent. The modification seeks to adjust the timing required to satisfy these conditions from 'prior to commencement of building works' to 'within six months of the commencement of building works'. As the building works (which includes the construction of foundations of the proposed building) are programmed to commence in January 2019, the modification would require the conditions to be satisfied by July 2019.

The detail of the conditions, as previously modified in the case of condition B36, is set out below. Further information on the requirements of these conditions, and the reason for the requested modification, is provided in **Section 6**.

- B31. *Plans demonstrating compliance with the following requirements shall be submitted to the satisfaction of the Certifying Authority prior to the commencement of building works:*
- a) *All vehicles must enter and leave the site in a forward direction;*
 - b) *minimum of 8 on-site car parking spaces for use during operation of the Development and constructed in accordance with the latest version of AS2890.1-1993; all vehicles should enter and leave the Inner Sydney School Site in a forward direction;*
 - c) *all operational vehicles accessing the Site, including the loading dock, are to be limited to Medium Rigid Vehicles or smaller only, unless otherwise agreed by Secretary;*
 - d) *all demolition and construction vehicles (excluding worker vehicles) are to be contained wholly within the Site and vehicles must enter the Site before stopping;*
 - e) *appropriate pedestrian advisory signs are to be provided at the egress point of the car park;*
 - f) *all works/ regulatory signposting associated with the proposed development shall be at no cost to the relevant roads authority;*
 - g) *the swept path of the longest vehicle entering and exiting the Inner Sydney School Site in association with the new work, as well as manoeuvrability through the Sites, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement; and*
 - h) *the safety of vehicles and pedestrians accessing adjoining properties, where shared vehicle and pedestrian access occurs, is to be addressed.*
- B36. *Prior to the commencement of building works, the area of proposed paving over the root zones of both tree 1 (Moreton Bay fig) in the Site's south west and the area of proposed 'suspended slab' paving around tree 17 (Queensland kauri tree) near Building 3 must be designed in consultation with Council and a qualified arborist to ensure the non-compaction of the root zones of these significant trees.*
- B37. *Prior to the commencement of building works, a Public Domain Plan must be prepared by a suitably qualified professional, in consultation with Council with regard to Council's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, including:*
- a) *details the removal of the heritage sandstone plinth wall including adjustment to the interface between Prince Alfred Park and Chalmers Street;*
 - b) *boundary treatments along the interfaces with Prince Alfred Park;*
 - c) *footpath and furniture details;*
 - d) *road pavement, traffic measures, vehicle crossovers, pedestrian ramps*
 - e) *kerb and gutter;*
 - f) *plant schedule;*
 - g) *lighting;*
 - h) *soil depth of planters;*
 - i) *signage and other public domain elements;*
 - j) *detailed plans and elevations, colours and materials of fencing and gates; and*
 - k) *details of any stormwater treatment/diversion/infiltration features.*

The Public Domain Plan must be submitted to the Secretary for approval prior to commencement of building works.



3. Statutory Context

3.1 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 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 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	Section 6 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 the City of Sydney (Council) as provided in Section 5 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.	One submission was received from Council. This has been considered in the Department's assessment as set out in Section 6 .



4. Engagement

4.1 Department's engagement

The EP&A Regulation does not require the application to be notified. Notwithstanding this, the Department gave notice to Council and made the application made publicly available on the Department's website.

4.2 Summary of submissions

One submission was received from Council in relation to the proposed modification to condition B31 (Car parking and service layout).

A copy of the submission may be viewed at **Appendix A** and the comments made have been summarised below:

- The information provided in the modification application is limited and no detailed justification for the proposed modifications has been provided.
- The modification to condition B31 (Car parking and service layout) is not supported as it is prudent to require the matters to be satisfied prior to commencement of building works.
- Modification of condition B31 as proposed would not allow sufficient time to allow any issues raised by Council to be resolved.
- Part (d) of condition B31 relates to construction and demolition works which must be satisfied prior to these works starting.

The Department has considered the comments raised in Council's submission (see **Section 6**).

3.2 Consent authority

The Minister for Planning is the consent 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 and
- there are no public submissions in the nature of objections.



5. Assessment

The Department has considered the modification application in the context of the original approved development in its assessment. The Department's assessment of the modifications proposed in the application is provided in **Table 3**.

Table 3 | Department's assessment of the proposed modifications

Condition	Comment / Assessment
B31 Car parking and service layout	Condition B31 requires the preparation of a plan of the proposed operational car parking and service vehicle layout for the site. This is to be submitted to the Certifying Authority and to Council (in part) prior to the commencement of building works. The Applicant advises: • a draft layout has been reviewed by the Certifying Authority and discussed at a meeting held with Council. As a result these consultations, a number of minor amendments have been made to ensure compliance with the requirements of the condition. • with the above amendments incorporated, the proposed layout meets the requirements of the condition, including with regard to the number of spaces to be provided, the required swept paths to be accommodated and the protection of nearby trees. • the car parking and service vehicle layout cannot be finalised until proposed flood mitigation measures have been agreed with Council under condition B47 of the consent. This is because the car parking and service vehicle layout incorporates a number of the proposed flood mitigation measures. • the design of the flood mitigation measures is well advanced and considerable consultation has occurred with Council. • the car parking and service vehicle layout would be finalised in consultation with Council immediately following the agreement of the flood mitigation measures (required by February 2019) and well ahead of the programmed commencement of the car parking and service vehicle works in April 2020. The additional time requested (to July 2019) would not therefore prevent the timely satisfaction of the condition prior to the subject works being undertaken. The Department notes the comments made by Council, including in relation to the level of information provided and the need for time to allow any issues with the design to be resolved. In response to these comments, the Department required the Applicant to provide additional information (included in the above summary) in relation to the need for the modification and compliance of the draft layout with the requirements of the condition.

The Department has considered the information provided and is satisfied that the modification of the condition as requested is appropriate for the following reasons:

- The finalisation of the car parking and service vehicle layout is dependent on the agreement of flood mitigation measures which is required by February 2019.
- Consultation with Council has commenced and changes to the layout have been incorporated to address the comments made and achieve compliance all the requirements of the condition.
- The additional time would not unduly delay or prevent the satisfaction of the condition as the works detailed in the plan are programmed to occur a considerable time (April 2020) after the proposed timeframe for satisfaction of the condition (July 2019).

Council's comment in relation to part (d) of the condition is noted. This part of the condition requires that all demolition and construction vehicles (excluding worker vehicles) are to be contained wholly within the site and that vehicles must enter the site before stopping.

The Department notes that condition B31 is generally concerned with the finalisation of the design of permanent car park and access arrangements on the site. Part (d) however relates to vehicle management arrangements during the construction phase of the project which are otherwise dealt with in the Construction Traffic and Pedestrian Management Plan (CTPMP) required under condition B58 of the consent. The inclusion of part (d) in condition B31 is therefore considered to be inappropriate.

To rectify this issue, and ensure the appropriate operation of the condition, the Department proposes that part (d) of the condition be deleted as part of the modification. The Department is satisfied that this would not have any adverse impacts on traffic safety or efficiency as the intent of part (d) is addressed through the CTPMP required under condition B58 of the consent.

B36 Paving design over trees 1 and 17

Condition B36 requires that the design of areas of paving over two retained trees (trees 1 and 17) is to be undertaken in consultation with Council and a qualified arborist. The condition, as modified in SSD 7610 MOD 2, requires this to be satisfied prior to the commencement of building works.

The Applicant advises that the design of the paving has commenced in consultation with the project arborist. This work has confirmed that the suspended pavement slab over tree 17 is to be supported by screw pile foundations. The design however cannot be finalised until further detailed root mapping is completed in January 2019. This is required to ensure that the screw pile foundations do not impact on the roots of the tree. Once the root mapping is finalised, the design will be completed in consultation with Council.

The Applicant further advises that the modification of the condition would not adversely affect the timely resolution of the matter as the paving is not planned to be constructed until April 2020.

The Department recognises that tree protection is a significant issue on the site and is satisfied that the modification of the condition is appropriate to enable the root mapping works to be completed and considered in the final paving design.

The modification would not adversely impact upon trees 1 and 17 as the construction of the paving would not occur until the later stages of the building works (April 2020) and after the condition has been satisfied (July 2019). The Department is therefore satisfied that ongoing construction would not result in any adverse environmental impacts or prejudice the design of the paved areas.

B37 Public domain works

Condition B37 requires a Public Domain Plan to be prepared in consultation with Council which details proposed works within the public domain, including the surrounding streets and Prince Alfred Park interface. The plan must be submitted for the approval of the Secretary prior the commencement of building works.

The Applicant advises that the design of the public domain works cannot be finalised until proposed flood mitigation measures have been agreed with Council under condition B47 of the consent. Design of the public domain works has commenced and initial consultation has occurred with Council. The design of the flood mitigation measures is also well advanced and considerable consultation has occurred with Council. Further consultation is scheduled for early December 2018.

The Applicant further advises that the public domain work design would be finalised in consultation with Council immediately following the agreement of the flood mitigation works (required by February 2019) and well ahead of the programmed commencement of the public domain works in December 2019.

The Department has considered the information provided by the Applicant and is satisfied that the modification of the condition is appropriate to allow the public domain works design to be finalised following the agreement of the flood mitigation measures. The Department however recommends that the condition be modified to require the Public Domain Plan to be submitted to the Secretary prior to the commencement of any footpath or public domain works. This would allow additional time for the finalisation of the design as requested by the Applicant, while ensuring the plan is agreed prior to the any public domain works occurring on site. It is also recommended that the condition be modified to clarify that a copy of the paving design be submitted to the Certifying Authority and the Secretary.

On this basis, the Department considers that the proposal would not have any adverse impacts on environmental amenity and would not prevent the timely satisfaction of the requirements in consultation with Council.



6. *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 it changes the required timeframe for satisfaction of certain matters and does not otherwise change the nature of the development or the assessed environmental impacts.

Consequently, it is recommended that the modification be approved.



7. 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.
- **determines** that the application SSD 7610 MOD 3 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 7610.
- **signs** the attached approval of the modification (**Attachment A**).

Recommended by:


Jason Maslen
Senior Planning Officer

Recommended by:


Andrew Beattie
Team Leader
School Infrastructure Assessments



8. Determination

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

13/12/18

Karen Harragon

Director

Social and Other Infrastructure Assessments



Appendices

Appendix A – List of documents

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9727

Appendix B – Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9727

Appendix C – Notice of modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9727