

7 April 2021

2190130

Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street,
Parramatta, NSW 2150

Dear Sir,

SECTION 4.55(1A) MODIFICATION APPLICATION, SSD-8640 PICTON HIGH SCHOOL REDEVELOPMENT – 480 ARGYLE STREET, PICTON

This application has been prepared by Ethos Urban on behalf of School Infrastructure New South Wales (SI NSW), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify State Significant Development Consent SSD-8640 relating to the Picton High School redevelopment at 480 Argyle Street, Picton.

The modification relates to the removal of part (d) of condition D36 known as D36(d) of State Significant Development Consent SSD-8640 as it cannot be reasonably and feasibly satisfied due to the absence of the subject tree hollows prior to the school's redevelopment and safety conflicts associated with reusing removed trees with a diameter of 25cm and length of 3m within the landscaping. It is critical to the timely delivery of the Picton High School redevelopment, as the issuing of the Occupation Certificate is contingent on its removal.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Landscape Management Letter (**Attachment A**)
- Arborist Letter (**Attachment B**)

1.0 Consent proposed to be modified

On 20 December 2018, the NSW Department of Planning and Environment (DPE) granted development consent for State Significant Development (SSD) 8640 for the Picton High School redevelopment, including:

- the demolition of buildings and associated excavation;
- the retention and refurbishment of buildings;
- the construction of a two and three storey building connecting existing retained buildings;
- the reconfiguration of car and bus dropoff/pickup areas, including new access from Wonga Road and an internal access road;
- an increase in onsite car parking with a capacity of 141 spaces;
- increase in teaching space to accommodate 1,580 students and 125 staff;
- removal of 92 trees; and
- associated landscaping works.

SSD 8640 has been modified previously on two occasions, as follows:

MOD 1 which was approved on 38 June 2019 for:

- construction of two additional support unit classrooms as an extension to the existing building, with landscape access ramp;
- amendments to the STE(a)M building footprint and form;
- additional automotive extension to existing metalworks building;
- update of rubbish collection location;
- installation of solar panels;
- installation of signage;
- reconfiguration of parking areas; and
- amendments to Green Star rating requirements.

MOD 2 which is currently being assessed by the Department of Planning, Industry and Environment, seeks to:

- amend the following conditions conditions A2, C22 and D36(a) to incorporate updated landscape plans;
- amend conditions 33 and 34 relating to contamination and site auditing; and
- include a new condition B6A that requires the preparation and submission of preconstruction dilapidation reports.

This application seeks approval for a third modification of the consent and seeks to delete sub-condition D36(d) as it cannot be reasonably and feasibly satisfied. Sub-condition D36(d) states the following:

Landscaping

D36. Prior to occupation of the building, the Applicant must prepare a Landscape Management Plan to manage the revegetation and landscaping works on-site, to the satisfaction of the Planning Secretary. The plan must:

...

- (d) *include details that the native trees to be removed from the site are to be salvaged, including tree hollows and tree trunks (greater than 25cm in diameter and 3m in length) and used to enhance habitat at the site;*

...

2.0 Site Description

2.1 Site Location and Context

The site is located at 480 Argyle Street, Picton within the Wollondilly Local Government Area. Located in the Macarthur Region of New South Wales, it is 80km south-west of Sydney, 30km south-west of Campbelltown and 20km south-west of Camden. Picton is located on Stonequarry Creek, a tributary of the Nepean River. The town is accessible via the Old Hume Highway and the Picton Railway Station, located on the Southern Highlands Line.

Picton High School is located approximately 3km south of the town centre, and 2km south of the railway station. It is in a semi-rural area.

The site's locational context is shown at **Figure 2**.

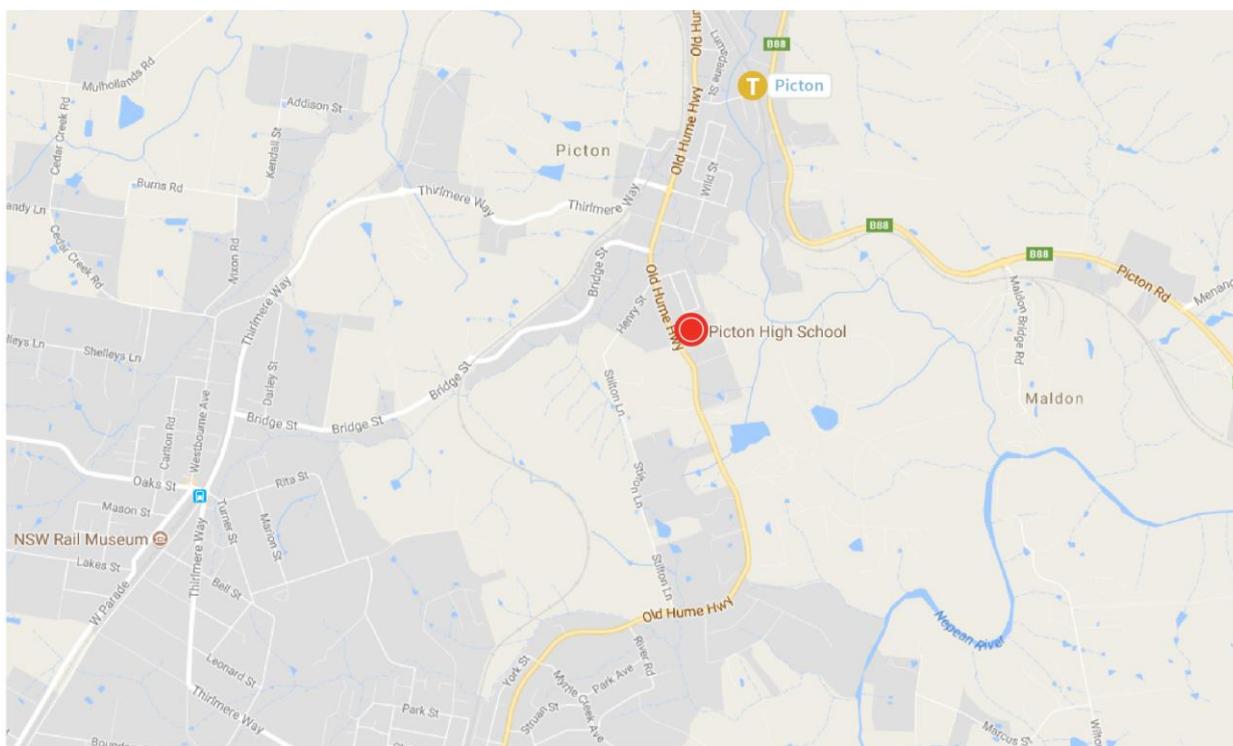


Figure 1 Picton High School Locational Context

Source: Ethos Urban

2.2 Site Description

Picton High School is contained within a single lot legally described as Lot 2 in DP520158, is 5.691 hectares in area and is owned by the NSW Department of Education. While the school is being redeveloped, short-term portable classrooms and administration buildings are located within the southern eastern corner of the site on the former oval (refer to **Figures 3**).

The existing co-educational comprehensive high school was established in 1958 with further upgrades and additions added to the growing school in the 1960’s, 1980’s and 2011. It is currently undergoing significant redevelopment as per SSD-8640 that was approved in late 2018. It is the only public high school in the LGA. The school has grown incrementally since its inception and there are currently more than 1,000 students enrolled in years 7-12.

An aerial photo of the site is shown at **Figure 3**.



 Site Boundaries

Figure 2 Site Aerial

Source: Nearmap & Ethos Urban

3.0 Proposed modifications to the consent

The proposed modification to State Significant Development Consent SSD 8640 comprises the removal of sub-condition D36(d).

The proposed modification is described in more detail below.

3.1 Modification to the development

The proposed modification is limited to the removal of part (d) of Condition D36 known as D36(d) which requires the Landscape Management Plan to include details of how the native trees to be removed from the site are to be salvaged, including tree hollows and tree trunks (greater than 25cm in diameter and 3m in length) to be used to enhance habitat at the site.

It is proposed to be removed as sub-condition D36(d) cannot reasonably and feasibly be satisfied for the following reasons:

- There were no native tree hollows located on the site prior to the tree removal, as confirmed by the arborist, Horticultural Management Services (refer to Arborist Letter at **Attachment B**); and
- The use of tree trunks greater than 25cm in diameter and 3m in length within the landscaping of the site would be in conflict with ESFG DG14 “Safety (Accident Avoidance) and General Security” and DG90 “Landscape Design”. As such, student safety would be compromised as tree trunks or tree hollows cannot be securely fixed to prevent slip, trips falls, and crushing injuries.

3.2 Modification to conditions

The proposed modification described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in **bold italics**.

Landscaping

D36. Prior to occupation of the building, the Applicant must prepare a Landscape Management Plan to manage the revegetation and landscaping works on-site, to the satisfaction of the Planning Secretary. The plan must:

- (a) Include revised landscape plan as per condition B4 to include planting in accordance with the approved Softscape | Tree Size Specification & Formal Softscape Areas prepared by Arcadia Landscape Architecture dated March 2019 and at least 14 additional canopy trees;*
- (b) detail the species to be planted on-site;*
- (c) include details of the area surrounding the education trail is to be rehabilitated with local native plants;*
- ~~*(d) include details that the native trees to be removed from the site are to be salvaged, including tree hollows and tree trunks (greater than 25cm in diameter and 3m in length) and used to enhance habitat at the site;*~~
- (e) include details of the installation of artificial nest boxes which are suitable to native fauna;*
- (f) detail that the seeds from native plants to be removed is collected and used in the landscape area;*
- (g) provide an ongoing weed control and maintenance program to maintain the existing and new remnant native vegetations;*
- (h) describe the monitoring and maintenance measures to manage revegetation and landscaping works; and*
- (i) comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.*

Reason for modification: Condition D36(d) of the State Significant Development Consent cannot be reasonably and feasibly satisfied as there were no existing tree hollows and tree trunks found on the site post-demolition and the use of tree trunks greater than 25cm in diameter and 3m in length within the landscaping of the site would result in unacceptable conflict with student safety and the relevant safety standards as mentioned above. The removal of part (d) of this condition will therefore allow the Landscape Management Plan to be certified pre-occupation. This is critical as the issue of the occupation certificate is contingent on the removal of Condition D36(d). As such, any delays in the certification and approvals process present risks to the timely commencement of the operation of the redeveloped school which is imminent.

4.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- retains the original approved use, being an education facility;
- will continue to operate in accordance with the approved student and staff numbers;
- will continue to provide the required number of car parking numbers and maintains access arrangements; and
- retains the approved landscaping intent and does not materially affect the landscaping outcome.

5.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

5.1 Compliance with statutory plans

The proposed modifications do not alter the original SSDA’s compliance with statutory plans.

5.1.1 Wollondilly Local Environmental Plan 2011

The site is located in the R2 Low Density Residential zone, in which educational establishments are permissible. The proposed modification is permissible as it does not change the site’s approved use as an educational establishment. It will continue to meet the zone objectives as the redeveloped high school will provide a facility that meets the day to day requirements of residents.

5.1.2 Landscaping

A Landscape Management Letter has been prepared by Arcadia and is provided at **Attachment A**. The letter provides additional information and justification regarding the landscape measures undertaken or adjusted for the Picton High School redevelopment, specifically relating to Condition D36(d) of State Significant Development Consent 8640.

The letter has noted the re-use of tree hollows specified in SSDA condition D36(d) was not able to be achieved as there were no tree hollows found on the site prior to school redevelopment, which is further supported by a letter from the Arborist found at **Attachment B**.

Arcadia have also stated the removal of the sub-condition D36(d) will benefit the design in terms of safety, as it was concluded incorporating tree trunks greater than 25cm in diameter and 3m into the design would conflict with student safety and use of student spaces. Specifically, it would conflict with ESFG DG14 “Safety (Accident Avoidance) and General Security” and DG90 “Landscape Design”, and would result in an unacceptable compromise to student safety due to tree trunks or tree hollows being unable to be securely fixed to prevent slip, trips, falls and crushing injuries.

5.2 Reasons given for granting consent

In their assessment of the original SSD Application, the Department of Planning, Industry and Environment considered that the key matters associated with the assessment of the proposal related to:

- Traffic, access and parking;
- Built form, urban design and landscaping; and
- Amenity.

Conditions were recommended by DPIE to satisfactorily address any outstanding, residual construction or operational issues. It is noted that reuse of removed trees was not raised as an issue during assessment.

DPIE concluded the application was consistent with the objectives of the *Environmental Planning and Assessment Act 1979* and was consistent with the State’s strategic planning objectives for the site as set out in the *A Plan for Growing Sydney*, as it would improve education results through the provision of new and improved teaching

facilities. Approval was also given due to the impacts of the development being considered as acceptable and can be appropriately mitigated.

Overall, the proposed modification does not materially alter the key assessment matters and continues to give effect to the intent of the conditions imposed. Therefore, it is consistent with the original reasons for granting consent.

6.0 Conclusion

The proposed modification of the approved Picton High School redevelopment project seeks approval for the removal of part (d) of condition D36 known as D36(d) of the State Significant Development Consent due to the absence of the subject tree hollows prior to the school's redevelopment and safety conflicts associated with reusing removed trees with a diameter of 25cm and length of 3m within the landscaped area.

In accordance with section 4.55(1A) of the EP&A Act, the Department of Planning, Industry and Environment may modify the consent as:

- the proposed modification is of minimal environmental impact;
- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the removal of the sub-condition D36(d) will ensure student safety within the redeveloped school; and
- the proposed modification continues to comply with relevant planning controls and strategic justification of the originally approval.

In light of the above, we therefore recommend that the proposed modification is supported by the Department of Planning, Industry and Environment.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification.

Yours sincerely,



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