

**URBIS**

# **CRANBROOK SCHOOL SSD-8812**

Section 4.55(1A) Modification No. 3

Prepared for  
**CRANBROOK SCHOOL**  
4 November 2021

**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Jacqueline Parker
Consultant	Brigitte Bradley
Project Code	SA6890
Report Number	1

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

© Urbis Pty Ltd  
50 105 256 228

All Rights Reserved. No material may be reproduced without prior permission.

You must read the important disclaimer appearing within the body of this report.

**[urbis.com.au](http://urbis.com.au)**

# CONTENTS

<b>1.</b>	<b>Introduction .....</b>	<b>1</b>
1.1.	Project Overview .....	1
1.2.	Report Structure.....	1
1.3.	Site and Surrounding Context.....	1
1.4.	Existing Approval .....	2
1.4.1.	Original SSD-8812.....	2
1.4.2.	SSD-8812-MOD-1 .....	2
1.4.3.	SSD-8812-MOD-2 .....	2
1.4.4.	Consultation.....	3
<b>2.</b>	<b>Strategic Planning Framework .....</b>	<b>4</b>
<b>3.</b>	<b>Description of Modifications .....</b>	<b>5</b>
3.1.	Proposed Amendments .....	5
3.1.1.	Physical Layout and Design .....	5
3.1.2.	References to Indemnity Requirements .....	5
3.2.	Proposed Amendments To Conditions Of Consent.....	5
<b>4.</b>	<b>Statutory Context .....</b>	<b>8</b>
4.1.	Section 4.55(1A) Assessment .....	8
4.2.	Minimal Environmental Impact.....	8
4.3.	Substantially the Same Development.....	8
<b>5.</b>	<b>Evaluation of the Modified Project .....</b>	<b>10</b>
5.1.	Assessment of Statutory Instruments .....	12
5.2.	Development Control Plan .....	14
5.3.	Planning Agreements and Developer Contributions.....	14
5.4.	Regulations .....	14
5.5.	Likely Impacts Of The Development.....	15
5.6.	Suitability of the Site .....	15
5.7.	Submissions.....	15
5.8.	Public Interest .....	15
<b>6.</b>	<b>Conclusion.....</b>	<b>16</b>
	<b>Disclaimer.....</b>	<b>17</b>
<b>Appendix A</b>	<b>Architectural Plans</b>	
<b>Appendix B</b>	<b>Civil Plans</b>	
<b>Appendix C</b>	<b>Section 138 Approval</b>	
<b>Appendix D</b>	<b>Legal Advice</b>	

## FIGURES

Figure 1 Site Aerial .....	2
----------------------------	---

## TABLES

Table 1 Strategic Planning Framework .....	4
Table 2 Consideration of Reasons for Approval.....	10
Table 3 Identification of Statutory Requirements for the Project.....	12
Table 4 Review of Statutory Instruments.....	12

# 1. INTRODUCTION

## 1.1. PROJECT OVERVIEW

This report has been prepared by Urbis on behalf of Cranbrook School (the 'Applicant') to accompany a Section 4.55(1A) application seeking to modify the original State Significant Development 8812 (SSD-8812), relating to development at 5 Victoria Road, Bellevue Hill, legally described as Lot 1 DP663630; Lots 9 – 18 DP9005; and Lots A – C DP186768.

The proposed modification specifically seeks to modify:

- Condition A2 of SSD-8812 to support minor design modifications to the approved loading bay and associated facilities to reflect works approved by Woollahra Council under Section 138 of the *Roads Act 1993*.
- Conditions E36 to E40 of SSD-8812 to remove reference to requirements for Cranbrook to indemnify Woollahra Municipal Council against claims associated with the works/areas that will be subject to positive covenants and easements.

## 1.2. REPORT STRUCTURE

This planning report identifies the subject site and the surrounding locality, details the approved development and subsequent work, describes the proposed modification and provides an assessment against the relevant matters for consideration, pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

- Section 1: Introduction and Project Background
- Section 2: Strategic Context
- Section 3: Description of Modifications
- Section 4: Statutory Context
- Section 5: Engagement
- Section 6: Evaluation of Merits

## 1.3. SITE AND SURROUNDING CONTEXT

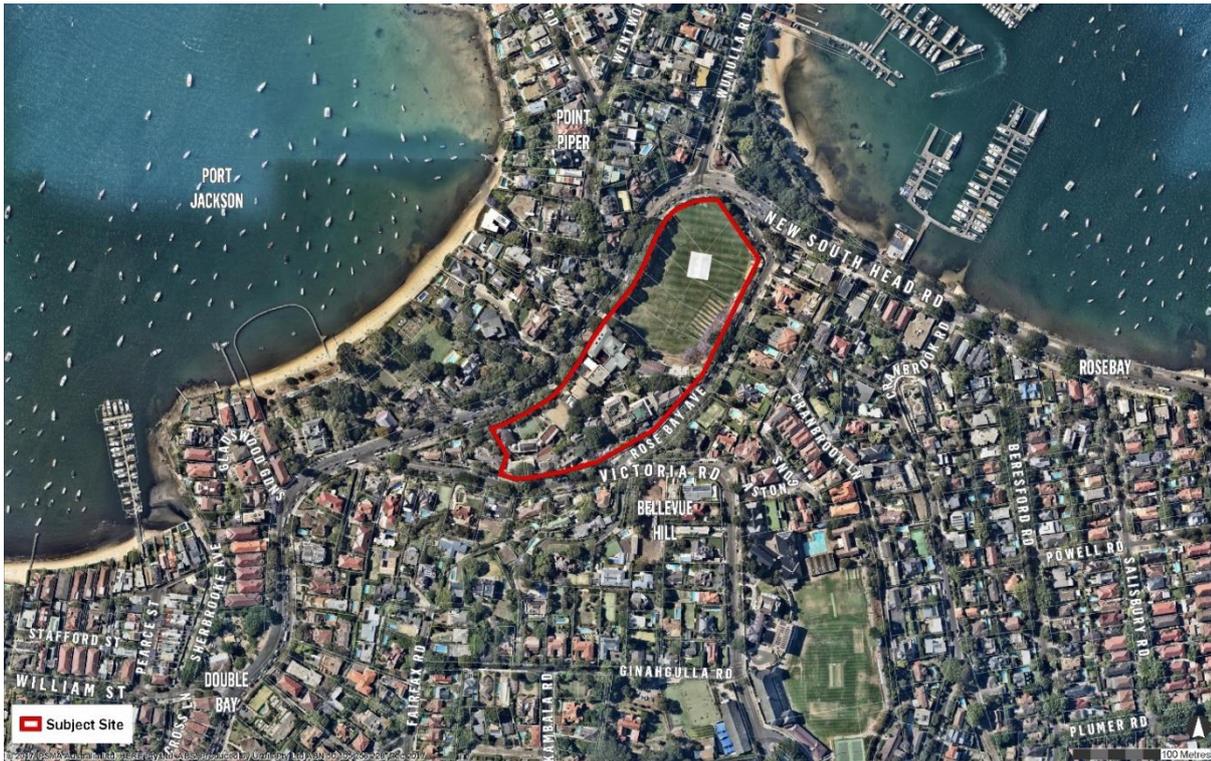
The subject site is located at 5 Victoria Road, Bellevue Hill and is legally described as Lot 1 DP663630; Lots 9-18 DP9005; and Lots B and C DP186768. A location plan is provided at **Figure 1**. The site is located within the Woollahra local government area (LGA). The campus is located to the south east of New South Head Road and covers an area of approximately 4.342 hectares.

The site is a prominent feature along New South Head Road due to the scale of the school buildings, the open space and fencing and landscaping associated with the Hordern Oval. The School is located in the established residential suburb of Bellevue Hill opposite Point Piper.

The context of the site is characterised by:

- **North:** The site is bounded to the north and north-east by New South Head Road, beyond which is medium and low density residential development, and Sydney Harbour.
- **East:** The site is bordered to the east by Rose Bay Avenue, beyond which is low density residential development, and pockets of medium density residential development. Further east of the site is the Scots College, another independent boy's school.
- **South:** The site is bounded to the south by Victoria Road, beyond which is low density residential development.
- **West:** The site is bordered to the west by low density residential development comprising of three adjoining houses to the south west. The Woollahra Council Chambers and Woollahra Library are located further west of the site on the opposite side of New South Head Road adjacent to a small pocket of medium density residential development.

Figure 1 Site Aerial



Source: Urbis

## 1.4. EXISTING APPROVAL

### 1.4.1. Original SSD-8812

On 13 September 2019 approval was granted by the Department of Planning for the alterations and additions of Cranbrook School by way of SSD 8812. Specifically, consent was granted to:

- Redevelopment of the northern portion of the campus through the demolition of the existing Mansfield Building and War Memorial Hall to facilitate the construction of the New Centenary Building and associated landscaping.
- Construction of a new Aquatic & Fitness Centre (AFC) containing a 50m swimming pool, a 25m Learn to Swim pool, a multipurpose sports court, gym and ancillary functions across approximately 4,728sqm of new accommodation.
- Construction of a new 124 space car park to ease pressure on the surrounding road network for parking servicing the school.
- Excavation and reconstruction of Horden Oval above the AFC and car park.

No variation to the student cap was sought.

### 1.4.2. SSD-8812-MOD-1

An application to modify SSD 8217 was lodged in November 2019 to remove Condition B3 which required the payment of Development Contributions. This modification did not propose any physical changes to the approved scheme. This modification was determined by way of refusal on 2 July 2020.

### 1.4.3. SSD-8812-MOD-2

An additional modification (SSD-8812-MOD-2) was lodged in October 2020 to modify condition A2 to reflect minor design modifications to the approved aquatic and fitness centre (AFC) and Centenary Building. This modification was approved on 30 November 2020.

#### **1.4.4. Consultation**

Extensive stakeholder consultation commenced in 2017 for the original SSDA and involved direct engagement with immediate neighbours, communication to 1,000 surrounding addresses, face-to-face briefings with key stakeholder groups, media briefings to reach the wider Eastern Suburbs community and drop-in sessions where interested parties could ask further questions about the proposal.

##### **Scoping Meeting**

As part of the modification process, an initial Scoping Meeting for this subject MOD 3 was held on 19 August 2021 via teleconference with members of DPIE's Social and Infrastructure Assessments team. DPIE confirmed that further consultation with Council will be required as the modification relates directly to conditions proposed by Council.

##### **Consultation with Council**

An email was sent to member of Woollahra Council's Property Team on 13 August 2021 confirming Cranbrook's intention to lodge a Section 4.55(1A) modification to remove the requirement to indemnify Woollahra Council as part of the easements and positive covenants for the site. Acknowledgment from Council was received on 1 September 2021 which confirmed that the legal instruments in relation to the proposed easements were being prepared and would exclude the indemnity provisions.

As such, this Modification Report aims to ensure that the conditions of consent reflect Council and Cranbrook's discussions and removes any reference to the indemnity requirements.

## 2. STRATEGIC PLANNING FRAMEWORK

In accordance with the requirements of the SEARs, the proposal's consistency with the relevant strategic planning documents and policies is included in **Table 2** below. This includes *The Greater Sydney Regional Plan – A Metropolis of Three Cities*, the *Eastern City District Plan* and *Future Transport Strategy 2056*. The proposed modifications do not affect the consistency of the approved development with the strategic planning framework as established through the original SSDA.

Table 1 Strategic Planning Framework

Document	Aims Relevant to Proposal	Consistency
A Plan for Growing Sydney	The relevant Region Plan is now <i>The Greater Sydney Regional Plan – A Metropolis of Three Cities</i> . This document forms part of the integrated planning framework for Greater Sydney. The Region Plan is built on a vision of three cities; the Western Parkland City, the Central River City and the Eastern Harbour City. The 40-year vision to 2056 brings new thinking to land use and transport patterns to boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth.	The proposal is consistent with the <i>Greater Sydney Regional Plan, A Metropolis of Three Cities</i> by providing improved academic and non-academic facilities to match the educational aspirations of the School
NSW Long Term Transport Master Plan 2012	<p>The Greater Sydney Services and Infrastructure Plan is Transport for NSW's 40-year plan for transport in Sydney.</p> <p>The focus of the plan is to enable people and goods to move safely, efficiently and reliably around Greater Sydney, including having access to their nearest centre within 30 minutes by public transport, 7 days a week.</p> <p>The transport system will also support the liveability, productivity and sustainability of places on our transport networks. Achieving this will require more efficient modes of transport – public transport, shared transport and walking and cycling – to play a greater role.</p>	The proposal is consistent with the <i>NSW Long Term Transport Master Plan 2012</i> due to its close proximity to public transport, pedestrian connections and parking onsite.
Better Placed – An integrated design policy for the built environment of NSW 2017	<p><i>Better Placed – An integrated design policy for the built environment of NSW 2017</i> is the New South Wales Government Architect Office's (GANSW) policy to guide design.</p> <p>The policy is based on seven objectives that define the key considerations in the design of the built environment which were met by the approved development.</p>	Comments from GANSW were implemented into the approved development and have not been modified by this application.
Greater Sydney Commission's Eastern City District Plan	The District Plan contains strategic directions, planning priorities and actions that seek to implement the objectives and strategies within the Region Plan at the district-level.	The proposal is consistent with the <i>Eastern City District Plan</i> through the delivery of upgraded, world class educational facilities to meet Sydney's growing educational needs.

## 3. DESCRIPTION OF MODIFICATIONS

### 3.1. PROPOSED AMENDMENTS

No changes are proposed to the project area, uses and activities or timing of the approved development.

#### 3.1.1. Physical Layout and Design

The Section 4.55(1A) modification seeks to modify Condition A2 of the consent to SSD-8812 in order to support minor design modifications to the approved loading bay and associated facilities located on Rose Bay Avenue. The modifications are required to reflect ongoing design development and ensure that the approved development and associated stamped plans align with works approved by Woollahra Municipal Council (Council) under Section 138 of the *Roads Act 1993*. This modification specifically seeks consent to modify the following design elements:

- Minor changes to the location of the approved loading bay and layback;
- Adjustments to pram ramp adjacent to loading area; and
- Adjustments to the location of the boundary fence along the north-eastern boundary of the Hordern Oval.

Updated architectural drawings prepared by Architectus are enclosed in **Appendix A**. Updated civil plans prepared by AECOM are enclosed in **Appendix B**. A copy of the Roads Approval is enclosed in **Appendix C**.

#### 3.1.2. References to Indemnity Requirements

This Section 4.55(1A) modification also seeks to modify the Conditions E36 to E40 of SSD-8812. The current wording of the conditions requires Cranbrook to indemnify Woollahra Municipal Council (Council) against claims associated with the works/areas that will be subject to positive covenants and easements.

As noted in the legal advice prepared by Collins, Biggers and Paisley (**Appendix D**), the imposition of such indemnities is considered unreasonable and not considered lawful within the terms of section 4.17 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposed modification would not remove the requirement to register the covenants and easements required, but would remove reference to the requirement for an indemnity.

As the proposed changes relate specifically to conditions written by Council, the proposed changes to the conditions have been discussed with Council and agreed to prior to the lodgement of the modification report.

### 3.2. PROPOSED AMENDMENTS TO CONDITIONS OF CONSENT

This section outlines the proposed replacement and/or rewording of the description of the approved development and conditions of consent. The proposed modifications are shown by a strike through the deleted text and red text for new text.

#### Terms of Consent

A2. *The development may only be carried out:*

...

(d) *in accordance with the approved plans in the table below:*

Architectural Plans prepared by Architectus Ground Pty Ltd			
Dwg No.	Rev	Name of Plan	Date
CR-DA-0051	1	Site & Context Analysis – Location Plan	20/04/2018
CR-DA-0063	2	Campus Analysis – Demolition Plan	26/04/2018
CR-DA-0064	2	Campus Analysis – Demolition Axonometrics	26/04/2018
CR-DA-0065	2	Campus Analysis – Proposed Site Works	26/04/2018
CR-DA-0066	2	Campus Analysis – Proposed Site Works Axonometrics	26/04/2018
CR-DA-2500	2	Campus Analysis – Existing and Proposed Sections	26/04/2018
CR-DA-4000	2	Finishes Board	07/08/2018

CB-DA-0002	1	Existing Plans	20/04/2018
CB-DA-0003	2	Demolition Plans	26/04/2018
CB-DA-1001	<del>6</del> 7	GA Plan – Roof Level	<del>08/09/2020</del> 08/10/2021
CB-DA-1002	<del>4</del> 5	GA Plan – Roof Level	<del>08/09/2020</del> 08/10/2021
CB-DA-1003	5	GA Plan Level 05	08/09/2020
CB-DA-1004	4	GA Plan – Level 04	08/09/2020
CB-DA-1005	<del>4</del> 5	GA Plan – Level 03	<del>07/10/2020</del> 08/10/2021
CB-DA-1006	3 4	GA Plan – Level 02	08/09/2020
CB-DA-1007	3 4	GA Plan – Level 01	08/09/2020
CB-DA-2001	4	GA Elevation – North – South	14/12/2018
CB-DA-2002	4	GA Elevation – East – West	14/12/2018
CB-DA-2501	3	GA Section AA – BB	14/12/2018
CB-DA-2502	3	GA Section CC – DD	14/12/2018
CB-DA-2503	3	GA Section – EE Building Height	14/12/2018
CB-DA-5001	1	Façade Section	07/08/2018
CB-DA-9001	2	Perspective 01	07/08/2018
CB-DA-9002	2	Perspective 02	07/08/2018
CB-DA-9003	2	Perspective 03	07/08/2018
CB-DA-9004	2	Perspective 04	07/08/2018
CB-DA-9005	1	Perspective 05	07/08/2018
AF-DA-0502	2	Demolition Oval GA Plan	16/04/2019
AF-DA-1001	6	GA Plan 00 Oval	07/10/2020
AF-DA-1002	7	GA Plan B1 Concourse	07/10/2020
AF-DA-1003	4	GA Plan B2 Pool	07/10/2020
AF-DA-1004	2	GA Plan B3 Subfloor	07/10/2020
AF-DA-2001	6	Elevations	29/01/2019
AF-DA-2501	5	Sections AA – CC	29/01/2019
AF-DA-2502	6	Sections DD – FF	07/10/2020
AF-DA-5001	1	Façade Section	07/08/2018
AF-DA-9001	2	Perspective 01	07/08/2018
AF-DA-9002	3	Perspective 02	07/08/2018

### Covenant for Works on Council Property

E36. Prior to the issue of the final Occupation Certificate and to ensure that all private structures on Council public road reserve are in accordance with Council's "Policy for Managing Encroachments on Council Road Reserves" (**except to the extent it requires an indemnity**), the person with the benefit of this consent, being the owner of Cranbrook School, must enter into a legal agreement with Council for the associated landscaping and placement of private structures on Council's property.

### Covenant for the Works on Council Property

E37. ~~The owner must enter into a~~ **legal agreement the owner must enter into and other requirements (referred to in Condition E36) are** as follows:

- (a) ~~the registration on the title to the subject property to which this a~~ **Public Positive Covenant pursuant to S88E of the Conveyancing Act 1919 burdening the subject property and benefitting the Council and providing for the indemnification of Council from any claims or actions, and providing for the ongoing maintenance of any private structures encroaching on the public road reserve for which consent has been given, such as steps, retaining walls, sitting furniture, access ways, overhang balconies, awnings, signs and the like. This process has an estimated timeframe of 2 months.**
- (b) **the Public Positive Covenant must be submitted to Council for approval prior to registration;**
- (c) ~~the wording of the Public Positive Covenant must be in accordance with Council's standard format and the Instrument must be registered~~ **under the Real Property Act 1900 (NSW) in the relevant folios of the Land at the Land Property Information office prior to the issue of the relevant Occupation Certificate**

- (d) ~~the property owner must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the Public Positive Covenant. The property owner must pay Council monetary compensation for the Public Positive Covenant, as determined by the Council, and must also pay all of Council's associated costs~~

#### **Creation of Easement for Access for the Public Footpath Located within Private Property**

- E38. ~~Prior to the issue of the final Occupation Certificate for the Aquatic and Fitness Centre, an easement for access must be created on the Cranbrook School Certificate of Title for any portion of the proposed public footpath adjacent to New South Head Road and located within the School's property boundary.~~
- E39. ~~The owner must enter into a legal agreement~~ **the owner must enter into (referred to in Condition E38) are** as follows:
- (a) ~~the procuring of an easement for access in favour of Woollahra Council from Cranbrook School in terms satisfactory to the Council under the Conveyancing Act 1919 permitting the public footpath structures to remain on Cranbrook School Property;~~
  - (b) **the easement for access must be submitted to Council for approval prior to registration; the property owner must pay of all Council's reasonable associated costs with the legal agreement.**
  - (c) **the easement for access must be registered under the Real Property Act 1900 (NSW) in the relevant folios of the Land prior to the issue of the relevant Occupation Certificate; and**
  - (d) **Cranbrook School must pay Council's reasonable associated costs with the drafting, negotiation and registration of the legal agreement.**

#### **Positive Covenant and Work-As-Executed Certification of Stormwater Systems'**

- E40. On completion of construction work, stormwater drainage works must be certified by a professional engineer with Works-As-Executed drawings submitted to the Principal Certifying Authority detailing:
- (a) ~~compliance with conditions of development consent relation to stormwater;~~
  - (b) ~~the structural adequacy of the on-site detention system (OSD)~~
  - (c) ~~that the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;~~
  - (d) ~~pipe invert levels and surface levels to Australian Height Datum;~~
  - (e) ~~contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits; and~~

~~Prior to the issue of a final Occupation Certificate, a Positive Covenant must be submitted to Council for approval prior to registration providing for the on-going maintenance of the on-site detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The Positive Covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Lands Title Office.~~ **then be registered under the Real Property Act 1900 (NSW) in the relevant folios of the Land prior to the issue of the relevant Occupation Certificate.**

## 4. STATUTORY CONTEXT

### 4.1. SECTION 4.55(1A) ASSESSMENT

Section 4.55 of the EP&A Act provides a mechanism for the modification of development consents. This section of the EP&A Act sets out the statutory requirements and heads of consideration for the assessment of such a modification application, depending on whether the application is made under Section 4.55(1), 4.55(1A) or 4.55(2).

As is relevant to this application, pursuant to Section 4.55(1A), a consent authority may, subject to and in accordance with the *Environmental Planning and Assessment Regulation 2000* (the Regulations), modify a development consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (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*
- (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 of a development consent, and*
- (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.*

*Subsections (1) and (2) and (5) do not apply to such a modification.*

Further, subsection (3) requires that the consent authority must 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 consent that is sought to be modified.

This section assesses the proposed modifications in accordance with Section 4.55 of the EP&A Act including a comprehensive assessment of whether the modified proposal is substantially the same as the original approval.

### 4.2. MINIMAL ENVIRONMENTAL IMPACT

In accordance with Section 4.55(1A)(a), the amended scheme is considered to have a minimal environmental impact for the following reasons:

- The proposed physical modifications do not result in any changes to the approved bulk, scale and height of the structures on the site.
- The proposed modification can satisfactorily meet existing conditions of consent and mitigation measures relating to SSDA-9649.
- The proposed alterations to the loading bay and associated works do not result in intensification of use and reflects changes discussed with Woollahra Council as outlined in **Section 1.4.4**.

### 4.3. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposal has been assessed to determine whether the modified development would be substantially the same as the approved development.

The proposed modification does not result in any changes to the following key features of the approved development:

- Building Height
- Gross Floor Area

- Number of staff or students on site
- Number of car, motorcycle or bicycle spaces

The proposed modifications do not substantially change the development for which consent was originally granted for the reasons with physical changes proposed to reflect works approved by Council under the Roads Act.

The amendments to Conditions E36-40 will still result in the requirement for registration of covenants which was the intention of the original conditions.

Based on the above, the modified proposal is considered substantially the same as the approved development.

## 5. EVALUATION OF THE MODIFIED PROJECT

In its determining the SSD, the Minister/DPIE provided the reasons for the grant of the consent. **Table 2** demonstrates the proposed changes to the approved development do not impact on this justification:

Table 2 Consideration of Reasons for Approval

Reason	Response
<i>The following matters were taken into consideration in making this decision:</i>	
<ul style="list-style-type: none"> <li>the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;</li> </ul>	A detailed assessment of the proposed modifications has been undertaken in accordance with the provisions of Section 4.15 of the EP&A Act. This assessment is detailed in <b>Section 8</b> of this report and demonstrates the proposal's ability to remain consistent with the relevant provisions.
<ul style="list-style-type: none"> <li>the prescribed matters under the Environmental Planning and Assessment Regulation 2000;</li> </ul>	The proposed modifications remain consistent with prescribed matters under the Regulations.
<ul style="list-style-type: none"> <li>the objects of the Act;</li> </ul>	<p>The proposed modifications remain consistent with the objectives of the EP&amp;A Act, in that they result in substantially the same development as that previously approved and that the proposal will</p> <ul style="list-style-type: none"> <li>Facilitate Ecologically Sustainable Development;</li> <li>Promote the orderly and economic use and development of land in accordance with industry requirements;</li> <li>Continue to protect species of conservation value;</li> <li>Promote and conserve built and cultural heritage;</li> <li>Promote good design; and</li> <li>Promote proper building construction, maintenance and operation.</li> </ul>
<ul style="list-style-type: none"> <li>all information submitted to the Department during the assessment of the development application;</li> </ul>	All information submitted to the Department during the assessment of the development application, along with additional information considered in the Department's Assessment Report remains relevant. Where changes are proposed, additional information is supplied within this report or supporting documentation.
<ul style="list-style-type: none"> <li>the findings and recommendations in the Department's Assessment Report; and</li> </ul>	Whilst some of the detailed components of the project have changed, the design and operation of the site in a manner contemplated by this modification are consistent with the main premise, findings and recommendations made in the Department's Assessment Report.
<ul style="list-style-type: none"> <li>the views of the community about the project</li> </ul>	The impacts of the proposal, particularly on the adjoining receivers to the west were carefully

Reason	Response
	considered by the DPIE. The impacts resulting from the proposed modifications do not substantially alter or increase these impacts.
<p><i>The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision. The key reasons for granting consent to the development application are as follows:</i></p>	
<ul style="list-style-type: none"> <li>▪ <i>the project would provide a range of benefits for the region and the State as a whole, including additional and enhanced teaching facilities along with improved amenities for the school and public use, 296 construction jobs, eight full time equivalent jobs and \$125 million capital investment.</i></li> </ul>	The proposal remains consistent with the economic and financial benefits it will deliver.
<ul style="list-style-type: none"> <li>▪ <i>the project is permissible with development consent, and is consistent with NSW Government policies including:</i> <ul style="list-style-type: none"> <li>○ <i>A Metropolis of Three Cities - The Greater Sydney Plan;</i></li> <li>○ <i>State Infrastructure Strategy 2018-2038;</i></li> <li>○ <i>NSW Future Transport Strategy 2055;</i></li> <li>○ <i>and</i></li> <li>○ <i>Eastern City District Plan.</i></li> </ul> </li> </ul>	The development, inclusive of the proposed modifications, remains permissible with development consent and consistent with the government policies as outlined in <b>Section 2</b> of this report.
<ul style="list-style-type: none"> <li>▪ <i>the impacts on the community and the environment, including heritage, trees and landscaping, residential amenity, traffic and parking, and drainage impacts can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. The consent authority has imposed conditions to manage impacts in relation to potential construction and operational impacts on surrounding land uses;</i></li> </ul>	The proposed modifications do not result in an increase to known or create new impacts as discussed in <b>Section 4.3</b> of this report.
<ul style="list-style-type: none"> <li>▪ <i>the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and</i></li> </ul>	The proposed development remains consistent with the approach to managing issues raised during consultation. Where changes are required to conditions of consent, these have been justified within this report and remain substantially the same as the approved development.
<ul style="list-style-type: none"> <li>▪ <i>weighing all relevant considerations, the project is in the public interest.</i></li> </ul>	The development inclusive of the proposed modifications remains in the public interest.

## 5.1. ASSESSMENT OF STATUTORY INSTRUMENTS

**Table 3** categorises and summarises the relevant requirements in accordance with the DPIE *State Significant Development Guidelines*, including section references identifying where each matter is addressed within the Modification Report.

Table 3 Identification of Statutory Requirements for the Project

<b>Statutory Relevance</b>	<b>Action</b>	<b>Consistency with Approved Development</b>
<i>Power to grant approval</i>	Schedule 1 of the SRD SEPP identifies development for the purposes of 'alterations and additions to an existing school' to be SSD if it:  <i>'has a capital investment value of more than \$20 million'</i>  The proposed works gave a project value more than \$20 million and meet the minimum threshold for SSD.	The proposed modification to the approval of SSD-8812 will remain consistent with this SEPP and is appropriately characterised as SSD.
Permissibility	The site is zoned SP2 Educational Establishment in accordance with the WLEP 2014. An educational establishment is permissible with consent in the SP2 Zone.	The proposed modification remains permissible within the SP2 zone as all works relate to the existing educational establishment.

The following environmental planning instruments, policies and guidelines have been considered in the assessment of this modification proposal:

- *State Environmental Planning Policy (State & Regional Development) 2011;*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No. 64 – Advertising and Signage;* and
- *Woollahra Local Environmental Plan 2014.*

The proposed modifications to SSD-8812 are such that it is considered there will be no material alteration to the level of compliance achieved with the applicable EPIs, as shown in **Table 3** below.

Table 4 Review of Statutory Instruments

<b>Schedule/Clause</b>	<b>Provision</b>	<b>Consistency</b>
<b>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</b>		
Clause 35 Schools development permitted with consent	The proposed development is in Zone SP2 Infrastructure which is a prescribed zone for the purposes of the ESEPP.	The proposed modification to the approval of SSD-8812 remains permissible within the SP2 zone.
Clause 42 State significant development for the purpose of schools	Allows the proposal to contravene a development standard imposed by the ESEPP or any other environmental planning instrument under which the consent is granted:	The proposed modification does not result in any exceedance of development standards.

<b>Schedule/Clause</b>	<b>Provision</b>	<b>Consistency</b>
Clause 57 Traffic-generating development	This clause applies to development for the purpose of an educational establishment: <i>(a) that will result in the educational establishment being able to accommodate 50 or more additional students, and</i> <i>(b) that involves:</i> <i>(i) an enlargement or extension of existing premises, or</i> <i>(ii) new premises,</i> on a site that has direct vehicular or pedestrian access to any road.	The proposed modification does not result in any additional students on site.
Schedule 4 Design Quality Principles	The original application includes a formal response to the Schedule 4 School Design Principles.	The proposed changes do not result in any changes to the proposed buildings and remain consistent with the School Design Principles.
<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>		
Clause 7 Contamination and remediation to be considered in determining development application	A Phase 1 Preliminary Site Investigation (PSI) has been undertaken by Douglas Partners as part of the approved development which found that the risk of significant contamination being present is low.	Minor changes are proposed to the approved road works so to be consistent with the s138 Approval granted by Woollahra Council as Roads Authority. These works will not result in additional excavation on site. As such, the modification will have no impact on the findings of the existing PSI.
<b>State Environmental Planning Policy No. 64 – Advertising and Signage;</b>		
Clause 8 Granting of consent to signage Clause 13 Matters for consideration	Clause 8 and Clause 13 of SEPP 64 prevents development consent from being granted to signage unless the consent authority is satisfied that it is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.	No changes to existing or additional signage are proposed as part of this modification.
<b>Woollahra Local Environmental Plan 2014</b>		
Clause 2.3 Zoning and Permissibility	The site is zoned as 'SP2 Infrastructure – Educational Establishment'. The proposed development is classified as an 'educational establishment' and is therefore, permissible with consent.	The proposed modification remains permissible within the SP2 zone as all works relate to the existing educational establishment.
Clause 4.3	'J2' or 9.5m	The approved works have a maximum height from existing

Schedule/Clause	Provision	Consistency
Height of Buildings		ground levels of approximately 16.72m. No additional height is sought as part of this modification.
Clause 4.4 Floor Space Ratio	N/A	No change.
Clause 5.10 Heritage Conservation	The site is a local heritage item (Item 44) under the WLEP 2014. There are a number of locally listed heritage items on the site, and immediately surrounding it.	The proposed modification does not relate to any of the heritage items on the site and has no impact on the overall heritage significance of Cranbrook School.
Clause 6.1 Acid Sulfate Soils	The site is identified as being Class 5 Acid Sulfate Soils.	The approved works are not expected to lower the groundwater on any adjacent sites. The water level will not be lowered below RL 1 m AHD on adjacent Class 1, 2, 3 or 4 land.
Clause 6.2 Earthworks	Development consent is required for earthworks.	No additional earthworks associated with this project are proposed as part of this modification.

## 5.2. DEVELOPMENT CONTROL PLAN

The Woollahra Development Control Plan 2015 (WDCP 2015) provides guidelines to guide the design and assessment of development applications for land covered by the WLEP 2014. The WDCP 2015 contains specific controls for education establishments in Part F of the DCP.

However, under Clause 11 of *State Environmental Planning Policy (State and Regional Development) 2011*, the application of Development Control Plans is excluded when assessing SSD projects. Notwithstanding this, the approved development was assessed against the key relevant controls of the WDCP 2015. Given the minimal changes proposed, the modified development does not result in any changes to the ongoing compliance with the WDCP 2015.

## 5.3. PLANNING AGREEMENTS AND DEVELOPER CONTRIBUTIONS

As noted in Condition B3 of SSD-8812:

Development Contribution

*B3. Prior to the issue of any construction certificate, a Section 94A levy totalling \$1,106,490, is to be paid to Council in accordance with Section 7.12 of the EP&A Act and Schedule 1 of Woollahra Section 94A Development Contributions Plan 2011. Prior to payment Council can provide the value of the indexed levy.*

No change is proposed to this condition and payment has already been made by Cranbrook.

## 5.4. REGULATIONS

The application has been prepared and assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

## 5.5. LIKELY IMPACTS OF THE DEVELOPMENT

The proposed modifications have been assessed considering the potential environmental, economic and social impacts as outlined below:

- **Natural Environment:** The proposed modifications do not impact any current vegetation found on site and will remain protected by the existing construction mitigation measures outlined in the approved application. The proposed works will not affect the findings and recommendations of the Biodiversity Assessment Report (BDAR) prepared by Travers Bushfire & Ecology as part of the approved SSD application.
- **Built Environment:** The modification does not result in any changes to the approved built form on site. All physical changes proposed are consistent with the roadwork approval previously granted by Woollahra Council under Section 138 of the Roads Act. While the School is listed as a local heritage item (Item 44) under the WLEP 2014, the proposed modification does not relate to any of the heritage items on the site and has no impact on the overall heritage significance of Cranbrook School or the nominated buildings contained within the WLEP heritage listing.
- **Social and Economic:** the proposal remains consistent with the approved application by providing a high quality education establishment. This modification does not result in any changes to the approved student numbers or operational hours of the School. The proposed modifications will not result in any exceedance of the current cap.

## 5.6. SUITABILITY OF THE SITE

As demonstrated within this report and the original EIS in respect to the approved SSD 7348, the proposed development as modified is expected to reflect design development and ongoing discussions with Council.

The site remains suitable for the proposed development for the following reasons:

- The land is zoned 'SP2 Educational Establishment' under the WLEP. The proposed development is permissible with consent and consistent with the land use objectives of SP2 zoning;
- The proposal is consistent with the objectives of all relevant planning controls and achieves a high level of planning policy compliance and design excellence;
- There are no significant environmental constraints limiting development;
- The proposal has no impacts on the heritage significance of the School; and
- The proposal is not expected to exacerbate the existing traffic flow conditions with amendments to the loading dock expected to improve loading facilities along Rose Bay Avenue.

## 5.7. SUBMISSIONS

This Section 4.55(1A) application may be notified. Any submissions received in response to the public exhibition will be reviewed as part of the assessment process.

## 5.8. PUBLIC INTEREST

The proposed development is considered in the public interest for the following reasons:

- The proposal is consistent with the objectives of the EP&A Act and the proposal encourages the economic and orderly development of the land.
- The proposed development is permitted with consent and the proposed modifications do not alter this permissibility.
- The proposal does not generate adverse environmental impacts or impact the amenity of the adjoining properties or the public domain.
- The removal of the indemnity requirement has been agreed by Council.
- The proposed changes to the roadworks are to ensure consistency with the roadwork approval granted by Woollahra Council under s138 of the Roads Act.

## 6. CONCLUSION

This Modification Report has been prepared in support of a Section 4.55(1A) application to modify SSD-8812. On 13 September 2019, approval was granted to SSD-8812, for the redevelopment of Cranbrook School.

A detailed assessment of the proposed changes has been included within this report. An assessment of the proposal against the requirements of Section 4.55(1A) of the EP&A Act has been undertaken, which is supported by documentation annexed to this report. This assessment has concluded that the changes proposed remain consistent in nature and generate only a minor environmental impact as compared with the development originally approved by SSD-8812.

Further, an assessment against the requirements of section 4.15 of the EP&A Act has been undertaken to address the impacts resulting from the proposed changes. This assessment concludes that the proposed changes do not result in an unreasonable increase to known impacts, nor result in additional impacts.

Consideration of the proposal against Section 4.15 and Section 4.55(1A) of the EP&A Act has concluded that the proposed modifications are acceptable for the following reasons:

- The approved use, being for the purpose of an educational establishment, remains unchanged. The proposed changes do not alter the anticipated school population numbers.
- The quantitative elements of the approval, including gross floor area, height of buildings, spatial arrangement, will not be substantially altered by the proposed modifications.
- The proposed works are minor in nature and are proposed so to align with the roadworks that have been approved by Woollahra Council under Section 138 of the Roads Act.
- Removal of the requirements for indemnification of Council have been agreed by Woollahra Municipal Council.
- The proposal as modified will continue to align with aims and objectives of relevant State and local planning instruments, and planning guidelines, as discussed within this report.

The proposed modifications have been assessed in the context of the original development consent and are considered to remain substantially the same as that assessed and approved by way of SSD-8812. Having considered all relevant matters, we conclude that the modifications can be supported by the DPIE and Minister for Planning, as the consent authority.

# DISCLAIMER

This report is dated 4 November 2021 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Cranbrook School (**Instructing Party**) for the purpose of s 4.55 modification (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

# APPENDIX A

# ARCHITECTURAL PLANS

# APPENDIX B

# CIVIL PLANS

# APPENDIX C

# SECTION 138 APPROVAL

# APPENDIX D

# LEGAL ADVICE

