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10 May 2021

Rita Hatem
Department of Planning Industry and Environment
4 Parramatta Square, 12 Darcy Street,
Parramatta NSW

Dear Rita,

SECTION 4.55(1A) MODIFICATION STATEMENT- SCEGGS DARLINGHURST CONCEPT PLAN AND STAGE 1 (SSD- 8993)

INTRODUCTION

This Statement of Modification is prepared on behalf SCEGGS Darlinghurst Limited (**the Applicant**) to support a Section 4.55(1A) application in relation to the Concept State Significant Application (**Concept SSD 8993**) for SCEGGS main school campus located at 215 Forbes Street, Darlinghurst (**the site**).

The modification relates to condition *A13 Heritage Conservation Management Plan (CMP)*. SCEGGS is seeking to amend condition A13 to allow the staging of the Heritage CMP for the entire site and to prepare detailed CMPs for Wilkinson House, Barham and Chapel Buildings.

It is also proposed to amend the condition to allow for concurrent submission of the Wilkinson House Detailed CMP and SSDA for Wilkinson House.

No physical built form changes are proposed.

The proposed modifications are minor and have a negligible impact on the level of compliance with the relevant environmental planning instruments and controls. The nature of the application has also been discussed with the Department of Planning and Industry (**DPIE**) via a virtual meeting on 20 April 2021. DPIE confirmed in an email (dated 27th April 2021) that this application is considered to be a Section 4.55 (1A) and is '*substantially the same development*'.

A Heritage Statement prepared by Urbis and supporting this application is attached at Appendix A.

SITE DESCRIPTION

The SCEGGS Darlinghurst campus is located between Forbes and Bourke Streets within the inner-city suburb of Darlinghurst. The total SCEGGS Darlinghurst campus comprises the area highlighted in Figure 1, which includes the main school campus located at 215 Forbes Street, a single terrace at 217 Forbes Street and properties within the St Peters Precinct.

The main school campus comprises both a primary and secondary school, accessed from Bourke Street and Forbes Street respectively.

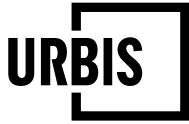
The total SCEGGS Darlinghurst campus comprises several parcels and has a total land area of 13,676sqm. The total campus includes frontages to St Peters Street, St Peters Lane and Thomson Street.

This Modification Application to Concept SSD 8993 however only applies to the main campus site and Wilkinson House (located to the north eastern corner of the main campus), excluding St Peter's Precinct and 217 Forbes Street.

Figure 1 Site location



Source: Six Maps



HERITAGE

Under *Sydney Local Environmental Plan 2012 (SLEP)*, the site is identified as local heritage item (I301):

“SCEGGS including Barham, Church Building and Wilkinson House and their interiors and grounds”.

The site is also within the Darlinghurst heritage conservation area (C13).

APPROVAL HISTORY

Conditional Development Consent of Concept SSD 8993 was granted by the Independent Planning Commission (IPC) on 22 May 2020 for:

Concept Proposal for the redevelopment of SCEGGS including:

- *demolition of Science and Library Building, Old Gym Building, part of additions to Barham Building;*

- *conservation works to the existing Barham Building for use for general school purposes;*

- *three building envelopes and land use comprising:*

- o maximum six storey Multi-Purpose Building envelope for general school purposes and childcare centre and including pick-up/drop-off and car parking facilities;*

- o four storey Wilkinson House building envelope for general school purposes (as amended by Condition A5); and*

- o maximum three storey Administration Building envelope for general school purposes.*

Development Consent was not granted for Stage 1 works to Wilkinson House, including the demolition of existing Wilkinson House, excavation of a basement and construction of a new 4 storey building for general school purposes. SCEGGS is currently in the process of preparing the first detailed SSD application under the Concept Approval (SSD 8993), which is for the adaptive reuse of Wilkinson House for general school purpose, including alteration and additions.

This Section 4.55 (1A) Modification relates to this most recent SSDA concept approval.

PROPOSED MODIFICATION

DETAILS OF PROPOSED MODIFICATIONS

The modification relates to condition A13 Heritage Conservation Management Plan (CMP). SCEGGS is seeking to amend condition A13 to allow staging of the Heritage CMPs and concurrent submission of the Wilkinson House Detailed CMP and SSDA for Wilkinson House.

SCEGGS propose to develop the CMP in four parts including:

- Whole Site: High level strategic CMP for whole of site
- Wilkinson House: Detailed individual CMP as attachment to Whole Site CMP
- Barham: Detailed individual CMP as attachment to Whole Site CMP
- Chapel Building: Detailed individual CMP as attachment to Whole Site CMP

The CMP is proposed to be staged as follows:

- Prior to the lodgement of any future development application, a Whole Site CMP as the overarching heritage strategic management document for the entire site is to be endorsed by the Secretary.
- As part of the Detailed Development Application for Wilkinson House (currently been prepared):
 - Prepare a detailed CMP for Wilkinson House as an Appendix to the entire site CMP. This CMP will address the adaptive re-use of Wilkinson House.
- As part of future subsequent Detailed Development Application associated with the Concept SSD 8993:
 - Prepare further detailed CMPs relating to Barham and/or Chapel Buildings - whichever forms part of the detailed development application.

As detailed in the original SSDA for the site, SCEGGs lack adequately sized flexible learning spaces. Wilkinson House has been used for 20 years by SCEGGs for teaching purposes but is undermining the high quality outcomes for the school, with undersized and poorly shaped classrooms.

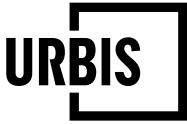
Whilst the IPC did not support the demolition of Wilkinson House, the approval conditions provide opportunity for the adaptive re-use of Wilkinson House. A more sensitive heritage response to Wilkinson House would provide SCEGGs with a significant opportunity to resolve their immediate need for fit-for-purpose, large and flexible learning spaces for current and future students.

However, the preparation of a detailed CMP for the entire School, including Barham and Chapel Buildings before future adaptive reuse works are proposed will be a very lengthy process. The requirement for such detailed CMPs to be prepared prior to any future applications will delay the ability for SCEGGs to move forward with their much needed first stage of works (being the Wilkinson House).

Therefore, SCEGGs propose to amend condition A13 to allow for the endorsement of a Whole Site CMP as the overarching strategic document prior to the lodgement of the first detailed development application and the concurrent submission of the Wilkinson House Detailed CMP with the SSDA for Wilkinson House. This allows for a more iterative and concurrent process of the design development of Wilkinson House and its CMP. The CMPs will be prepared in consultation with both DPIE and Council.

Further, subsequent detailed CMPs for Barham and/or Chapel Buildings will also be prepared as part of any subsequent application associated with the building, to guide the future design of the buildings and reflect the distinct stages of works for the site (which will be subject to separate SSDAs).

The division of the CMP into these four parts will still achieve the intent of the Condition A13, as originally worded. However, will have the added benefit of allowing the document to be split into manageable portions to ensure the timely preparation of each of the stages of works for the SCEGGs campus redevelopment.



The proposed CMP sequencing is consistent with the process adopted for other recent projects Urbis have been involved in, where a CMP has been prepared and lodged concurrently with a detailed DA or was prepared post approval and prior to the commencement of construction. Examples include:

- Stage 2 works for Intercontinental Hotel Former Treasury Building (SSD-10454)
 - SSD was lodged in parallel with the continuing review and endorsement of the CMP.
- Lindfield Learning Village (SSD 8114) - Schools infrastructure NSW.
 - CMP was prepared post approval and prior to the commencement of construction.
- Alterations and additions to Harbour View Hotel at 18 Lower Fort Street, Millers Point (D/2020/256)
 - CMP was prepared and lodged concurrently with the DA.

The Concept Approval (Master Plan for SCEGGs) is envisaged to be delivered over the next 20 years. Delivery of each future stage will depend on aspects of demand and funding in conjunction with obtaining the relevant approvals.

MODIFICATION TO CONDITION A13

Condition A13 is proposed to be amended as follows:

Original condition

A 13 Heritage Conservation Management Plan

A heritage conversation management plan (CMP) is to be prepared for the Site by a suitably qualified heritage consultant and submitted to the satisfaction of the Secretary following consultation with Council. This is to occur prior to any future development applications associated with the Concept Approval being submitted. The CMP should acknowledge the Concept Approval, and address options for the adaptive re-use of Wilkson House.

Amended condition (Amended wording in red):

A13 Heritage Conservation Management Plan

(a) a whole site heritage conversation management plan (CMP) is to be prepared, as the overarching heritage strategic management document for the entire Site and should acknowledge the Concept Approval and all components of the Site. The whole site CMP is to be prepared for the Site by a suitably qualified heritage consultant and submitted to the satisfaction of the Secretary following consultation with Council. This is to occur prior to any future development applications associated with the Concept Approval being submitted.

(b) As part of the Detailed Development Application for Wilkinson House, a detailed CMP for Wilkinson House is to be prepared by a suitably qualified heritage consultant and appended to the approved whole site CMP as referred above. This CMP should address the adaptive re-use of Wilkinson House. The CMP is to be prepared to the satisfaction of the Secretary following consultation with Council.

(c) As part of any subsequent Detailed Development Application associated with the Concept SSD 8993, which incorporates works to Barham and/or the Chapel Building, further detailed CMPs relating to Barham and/or Chapel Buildings (whichever forms part of the subject of the detailed development application) are to be prepared by a suitably qualified heritage consultant and appended to the approved CMP for the entire site as referred above. The CMPs are to be prepared to the satisfaction of the Secretary following consultation with Council.

CONSULTATION WITH COUNCIL AND DPIE

As mentioned previously, the nature of the application has been discussed with DPIE via a virtual meeting on 20 April 2021.

DPIE then provided written advice in the email dated 27 April 2021, confirming that the application can be considered as a Section 4.55 (1A), and suggested changes to the CMP staging. The proposed CMP staging and wording change to condition A13 is consistent with DPIE's advice, where a whole site CMP will be prepared and endorsed by the Secretary prior to the lodgement of any future development application.

City of Sydney Council were also consulted on the 14 April 2021. Contrary to DPIE's advice, Council would like at the very least a CMP for Wilkinson House to be endorsed prior to the submission of the detailed design application, and the appropriate trigger for the endorsement of a site-wide CMP could be prior to determination of the Wilkinson House detailed design application.

We understand that Council will be further consulted by DPIE during the assessment process of this modification application. The project team will also continue to consult with Council and provide copies of the draft whole site and Wilkinson House CMPs for Council's review before submitting to DPIE for endorsement.

SECTION 4.55(1A) ASSESSMENT

SUBSTANTIALLY THE SAME DEVELOPMENT

The NSW Land and Environment Court has established several precedents on what may be considered as being "substantially the same development", and what should be factored into the consideration of this threshold test.

The consideration of this test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be "essentially or materially" the same as that originally approved.

The proposed modifications are "substantially the same" as originally approved for the following reasons:

- The modified development does not propose any changes to the approved land uses on Site.
- The modified development does not propose physical changes to the approved plans. Therefore, it will not result in additional environmental or amenity impact.
- The modified development is consistent with the approved development for the "Concept Proposal for the redevelopment of SCEGGs."

- The proposed CMP staging adopts the intent of the original condition, where a whole site CMP will be submitted prior to any future development applications associated with the Concept Approval. The whole site CMP will be the overarching heritage strategic management document for the entire Site. This will still ensure that the overarching heritage strategies, policies and considerations are addressed before the detailed design of the staged works, ensuring that the best heritage outcome for the site is still achieved. The subsequent detailed CMPs for each building will be appended to the Whole Site CMP and will be prepared at the time of subsequent detailed SSDA submission stage, to inform the design development of each building.

MINIMAL ENVIRONMENTAL IMPACT

The proposed modification is considered to be of minimal environmental impact for the following reasons:

- The proposed modification does not relate to physical built form changes to the approved Concept DA and will not result in additional adverse environmental or amenity impacts to surrounding residents
- The proposed staging and sequencing of the CMP is not dissimilar to the approach to other heritage sites located within the City of Sydney Local Government Area or other school sites of heritage significance such as Lindfield Learning Villahe. Heritage justification is further discussed in Section 0.

SECTION 4.15 ASSESSMENT

The following section considers the proposed modifications against the matters referred to in section 4.15 of the *Environmental Planning and Assessment Act 1979 No 203 (EP&A Act)* that are of relevance to the development and subject application.

The following planning instruments and development control plans are addressed within this section:

- *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*
- *Sydney Local Environmental Plan 2012*
- *Sydney Development Control Plan 2012*

The consistency of the proposed development with each instrument and policy is discussed below.

STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILDCARE FACILITIES) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP) provides the legislative planning framework for the effective delivery of educational establishments and early education and care facilities across the State.

The Education SEPP establishes consistent State-wide assessment requirements and controls, that override development standards contained within other environmental planning instruments.

Part 4 of the Education SEPP identifies school specific development controls, with clause 35 Schools—development permitted with consent containing the relevant controls. The proposal has been assessed against the relevant provisions of Part 4 within the following table.

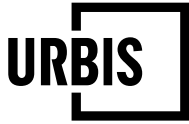
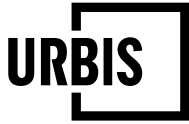


Table 1 – Education SEPP Compliance Table

Clause	Proposal	Compliance
Clause 35 Schools—development permitted with consent		
(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.	The proposed development is in Zone R1 General Residential which is a prescribed zone for the purposes of the Education SEPP.	YES
(2) Development for a purpose specified in clause 39 (1) or 40 (2) (e) may be carried out by any person with development consent on land within the boundaries of an existing school.	Development consent is sought for the proposed modification.	YES
(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.	No changes are proposed to the existing community use of the school facility.	YES
(6) Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration: (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.	No built form changes are proposed as part of this modification application. Therefore the development remain consistent with the design excellence principles described in the Concept SSDA). No changes are proposed to the existing community use of the school facility.	YES
(7) Subject to subclause (8), the requirement in subclause (6) (a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.	The <i>Sydney Local Environmental Plan 2012</i> requires a competitive design process to be completed for certain development. A competitive design process is not required for the project as described below. No built form changes are proposed as part of this modification application. Therefore the development remain consistent with the design excellence principles described in the Concept SSDA	YES



Clause	Proposal	Compliance
	(addressed in the Design Report prepared by Tanner Kibble Denton Architects).	
(8) A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subclause (6) (a) applies that has a capital investment value of less than \$50 million.	Notwithstanding clause 6.21 of the LEP, as the CIV of the proposal is less than \$50 million, a competitive design process is not required.	YES
(9) A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.	Given no built form changes are proposed as part of this modification application, the proposal remains consistent with the Locality Statement of East Sydney and the key relevant controls under Section 3 – General Provisions of the Sydney Development Control Plan.	YES
(10) Development for the purpose of a centre-based child care facility may be carried out by any person with development consent on land within the boundaries of an existing school.	This modification application does not include a centre-based childcare facility.	N/A
(11) Development for the purpose of residential accommodation for students that is associated with a school may be carried out by any person with development consent on land within the boundaries of an existing school.	This modification application does not include any residential accommodation.	N/A

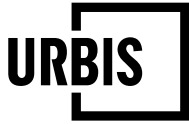
Schedule 4 of the Education SEPP outlines the design quality principles to which consideration must be given in the determining of applications for school developments. No built form changes are proposed. Therefore the development remain consistent with the design quality principles as described in the Concept SSDA.

SYDNEY LOCAL ENVIRONMENTAL PLAN (SLEP) 2012

The site is zoned R1 General Residential within the SLEP. The approved lands uses on the site include ‘educational establishment’ and ‘early education and care facility’, which are permissible with development consent in the R1 General Residential zone.

Accordingly, the proposed development is permitted as ‘development with consent’ on the site. The proposal remain consistent with the objectives of the R1 General Residential zone.

The proposal does not seek to alter building height, floor space ratio (**FSR**), flood planning level or car parking provision under the Concept SSD approval.



The site including Wilkinson House is identified as local heritage item (I301). A Heritage Statement prepared by Urbis (attached at Appendix A) supports the proposed staging and sequencing of the CMPs.

It should be noted that clause 5.10(6) of SLEP does not require the preparation of a CMP prior to submitting a DA. Instead the clause states the consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage CMP before granting consent.

5.10 Heritage conservation

(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

Therefore, the proposed condition amendment is consistent with the process under clause 5.10 of the SLEP.

SYDNEY DEVELOPMENT CONTROL PLAN (SDCP) 2012

Given no built form changes are proposed, the proposal remains consistent with the Locality Statement of East Sydney and the key relevant controls under Section 3 – General Provisions of the SDCP.

LIKELY IMPACTS OF DEVELOPMENT

HERITAGE

A heritage letter has been prepared by Urbis to support this application and is attached at Appendix A.

The heritage letter explains the intent of the CMPs and the rationale to stage the CMPs in accordance with the subsequent detailed applications.

The Whole Site CMP would include, but is not limited to the following scope:

- Detailed historical research on the SCEGGS campus (detailed historical research on Wilkinson House, Barham and Chapel Building to be included as part of individual CMP).
- Comparative analysis of campus.
- High level significance assessment of the overall campus including mapping and gradings of significance of overall built forms and landscape elements (detailed significance assessment and gradings of significance for Wilkinson House, Barham and Chapel Building to be including as part of individual CMPs).
- Identification of opportunities and constraints for the overall campus.
- Preparation of heritage design guidelines for the campus redevelopment.
- Conservation policies and management guidelines for the whole of campus.

The individual CMPs for Wilkinson House, Barham and Chapel buildings will form Appendices to the overall Whole Site CMP and will include detailed analysis of each of the three buildings. These will include, but are not limited to the following scope:

- Integration and linking to whole of site CMP.
- Detailed historical research on the building.
- Comparative analysis.
- Significance assessment and detailed mapping and grading of fabric (all fabric and spaces).
- Identification of opportunities and constraints and development of heritage design guidelines.
- Adaptive reuse options for Wilkinson House including options considered (only for Wilkinson House).
- Preparation of conservation policies and management guidelines specific to the individual building buildings.

Each of the four CMPs will still be prepared prior to finalising any proposed detailed design for each of the stages of the project and in consultation with both DPIE and Council as per the original wording of Condition A13.

The preparation of the Whole of Site CMP and Wilkinson House CMP in the first instance will still ensure that that the overarching heritage strategies, policies and considerations are addressed as part of the detailed design of the staged works, ensuring that the best heritage outcome for the site is still achieved.

The CMP for Wilkinson House will still acknowledge the Concept Approval and will address the options for the adaptive re-use of Wilkinson House.

The preparation of the detailed CMPs for Barham and the Chapel building would be prepared at a later date, prior to undertaking the detailed design of the stage of works in which they will form part, thus ensuring that the significance and relevant policies of each of these buildings will be incorporated and addressed as part of the staged works.

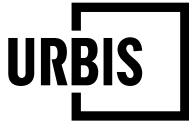
The division of the CMP into these four parts will still achieve the intent of the Condition A13 as originally worded, however, will have the added benefit of allowing the document to be split into manageable portions to ensure the timely preparation of each of the stages of works for the SCEGGs campus redevelopment.

In conclusion, it is considered that the proposed amendments to Condition A13 of Concept SSD 8993 are acceptable from a heritage perspective and will still achieve the intent of the condition as originally worded, while allowing for the timely preparation of each stages of works.

PUBLIC INTEREST

The proposal is in the public interest in that:

- The development is permissible with consent and has been prepared having regard to the objectives of the Education SEPP.
- The proposed development has had regard to relevant applicable statutory planning policies and complies with the objectives of the development controls for the site.



- The proposal will not have any additional impacts on adjoining or surrounding properties or the public domain in terms of traffic, noise and environmental impacts.
- The proposal will continue to provide a high-quality educational environment for staff and students.
- The proposal is a holistic response to ensure heritage conservation and the timely delivery of a much needed larger and more flexible classrooms for the School.

CONCLUSION

This Section 4.55 (1A) modification relates amending condition A13 to allow the staging of the Heritage CMP for the entire site and to prepare subsequent detailed CMPs for Wilkinson House, Barham and Chapel Buildings. It is also proposed to amend the condition to allow for concurrent submission of the CMP and SSDA for Wilkinson House.

In summary the proposed modifications are considered appropriate as:

- The site is zoned R1 General Residential within the SLEP. The approved lands use on the site include 'educational establishment' and 'early education and care facility', which are permissible with development consent in the R1 General Residential zone.
- The modification does not alter approved building height or building footprint of the Concept SSDA. Therefore, will not result in additional amenity or environmental impact and will not alter streetscape presentation.
- The development resulting from the proposed modifications are "substantially the same" as the approved development.
- The proposed CMP staging will still achieve the intent of the Condition A13, as originally worded, however, will have the added benefit of allowing the document to be split into manageable portions to ensure the timely preparation of each of the stages of works for the SCEGGS campus redevelopment.

As demonstrated within this report and the attached documentation, the modified scheme is considered to be acceptable under the relevant considerations of Section 4.15 of the EP&A Act, and as such it is recommended that approval be granted to the proposal as modified.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sarah Horsfield".

Sarah Horsfield
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