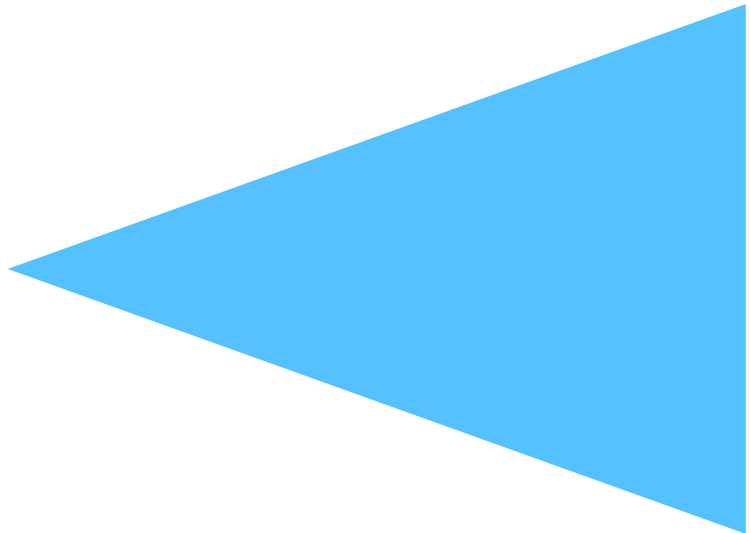




APPROVED AMITY COLLEGE SCHOOL PROJECT SSD-9227

PT. LOTS 1 & 2 DP 525996 No. 85 BYRON ROAD & No. 63 INGLEBURN ROAD,
LEPPINGTON, NSW

s.4.55(2) Modification Application Report: SSD 9227 MOD 1



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AMITY COLLEGE SCHOOL PROJECT SSD-9227

s.4.55(2) Modification Application Report:
SSD 9227 MOD 1

Proposed Accelerated Staging of Project

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s.4.55 application Amity College SSD 9227 approved school, Leppington NSW



	Appendices	
	Revised architectural drawings, prepared by Gran Associates Australia (Appendix A)	
	Revised engineering drawings, prepared by Martens & Associates, consulting engineers (Appendix B)	
	Revised landscape drawings, prepared by Michael Siu, landscape architect (Appendix C)	

1. Overview

Outline Planning Consultants Pty Ltd have been commissioned by Amity College Australia to prepare and to lodge an application under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') to modify Development Consent SSD-9227 in order to allow the staging of the approved school project to be brought forward, along with some other minor changes to the overall development.

This submission has been prepared in support of the section 4.55(2) application ('SSD 9227 MOD 1') and includes the information necessary for the Planning Secretary and the Department of Planning, Industry and Environment to assess and to determine the modification application including:

- Reasons for the proposed modification and benefits of the accelerated staging program sought.
- A description of the approved school development the subject of Development Consent SSD-9227 and details of the modification sought. **Figures 1 and 2** shows the location of the approved school development site (labelled 'Project Site') in a regional and local context.
- Proposed modified conditions of consent.
- Assessment of the proposed modification pursuant to section 4.55(2)(a) of the EP&A Act: the **first 'test'** applicable to this s.4.55(2) modification application, namely, that it is 'substantially the same' development. This 'test' needs to be first satisfied before the second 'test' is applied per the 7 June 2019 decision of the Chief Judge of the NSW Land and Environment Court, Preston CJ, in the seminal judgement in *Arrage v Inner West Council* [2019] NSWLEC 85.
- Assessment of the proposed modification under the heads of consideration set down under s.4.55(3) and s.4.15(1) of the EP&A Act: the **second 'test'** applicable to this s.4.55(2) modification application.
- Our conclusion and recommendations.

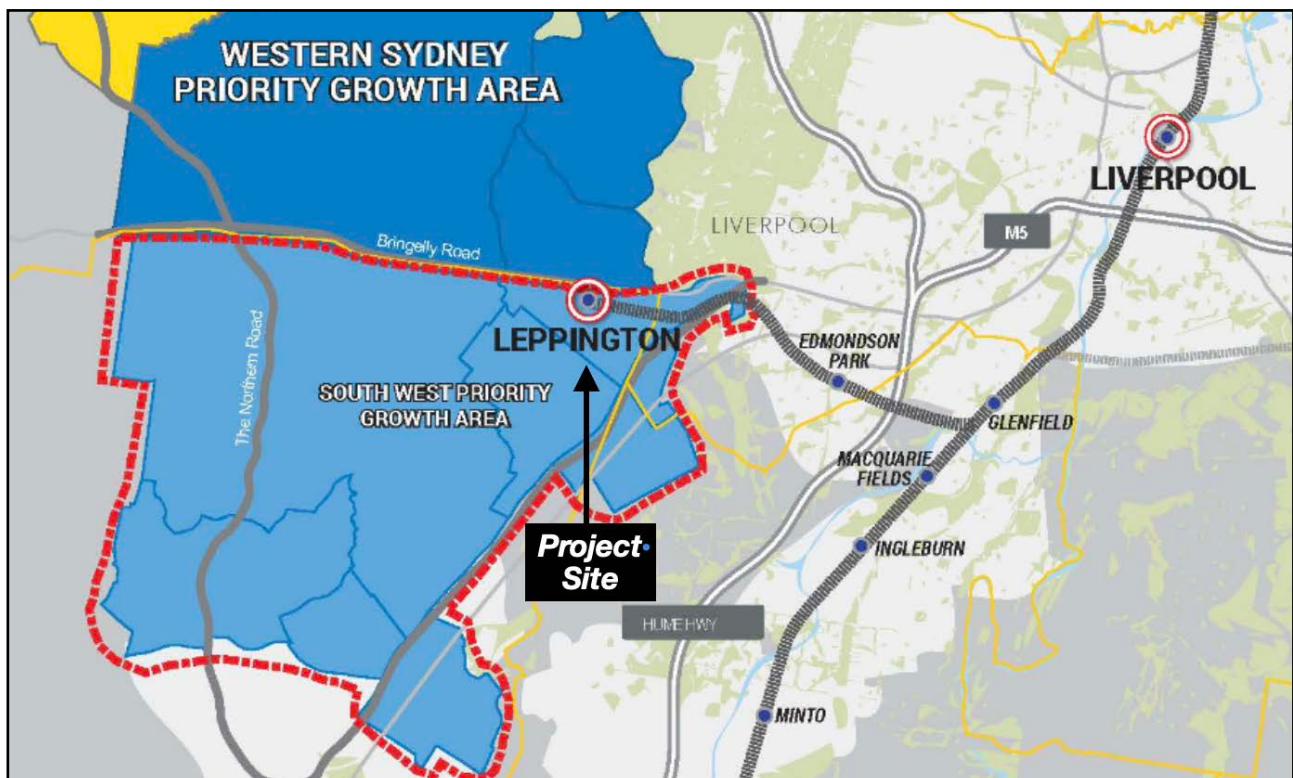


FIGURE 1: The Project Site is located within Leppington, in Sydney's South West Priority Growth Area

s.4.55 application Amity College SSD 9227 approved school, Leppington NSW



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Town Planners & Project Managers



The proposed modification is substantially the same development as that approved (s.4.55(2)(a)) and has acceptable environmental impacts as the approved development (s.4.15(1)), thus satisfying s.4.55(3) of the EP&A Act.

In summary, the proposed modifications are unlikely to result in any significant changes in overall environmental impacts given that, in the main, it seeks to bring forward the staging of the project, with minor changes only to the other elements of the project.

Accordingly, Outline Planning Consultants Pty Ltd are of the view that the proposed modifications are acceptable in this particular instance and warrant approval.

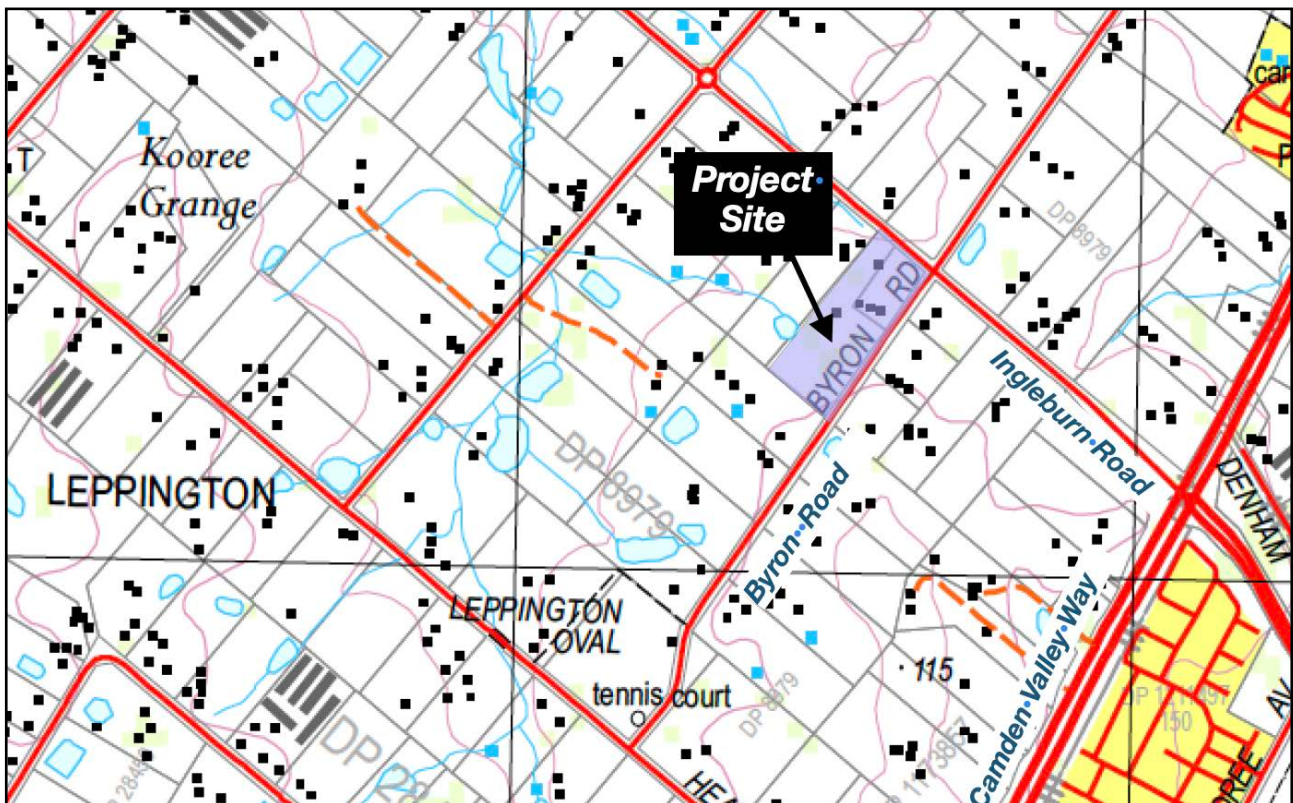


FIGURE 2: Local context

(Map Base Source: excerpt Land and Property Information Liverpool 9030-2S 1:25,000 online map 1km grid)



■ 2. Reasons for the Proposed Modification (SSD 9227 MOD 1) and Benefits

The Amity College Leppington school project was one of only two non-government 'green-fields' school projects accorded 'fast-track' status under the Planning Acceleration Program in 2020 (Tranche 3), to support the State's immediate and long-term economic recovery from the COVID-19 crisis.

The project was granted Ministerial Approval by the Minister's delegate on 14 July 2020. The approved new school will ultimately have a kindergarten, a primary school and a secondary school with a maximum capacity of 1,000 students. The proposed modification does not seek to change the development in this regard. The revised Stage 1 proposes a Primary School accommodating up to 300 students.

2.1 2.1 Increased Block Grant Authority Funding Means Accelerated Staging of Project

The trigger for this request to accelerate the staging of the project- the principal feature of the modification proposed- arises from Amity College being successful in recently securing a larger-than-expected injection of upfront funding from the NSW Government, facilitated through the Block Grant Authority AIS NSW.

The assumed limitations in funding the school development over time by the Block Grant Authority AIS NSW was the only factor that determined the staging of the project, as set down in the original DA documentation for SSD 9227.

This has meant that the overall capital works budget for the intended, revised Stage 1 works has now been significantly increased, to in excess of \$15.5 million. This significant increase in funding availability at the outset of the project has meant that Amity College can now bring forward the intended staging of the school project such that Stages 1, 2 and parts of Stages 3 and 4 can now be undertaken at project commencement, that is, as a revised Stage 1. The proposed modification reflects the accelerated staging program now made possible through this increased funding.

Minor changes to the design of the school are also proposed including configuration of school rooms, which results in a change to the 1st floor of the Primary School building and facade, as well as fire access, facilities, drainage and stormwater, the latter required under the current consent. A number of conditions are also now redundant following satisfaction of the relevant consent condition. A correction is also proposed to consent Condition B9(i), which incorrectly identifies 15 angled on street car parking spaces along the western kerbside of the northern Local Street (Road 2) as on-site car parking spaces. These off-site car parking spaces need to be deleted from this consent condition table. In the alternative, the table could be amended to include these car parking spaces, however, the spaces would need to be described as car parking spaces provided by the project, rather than on-site car parking spaces.

2.2 2.2 Site Remediation Works of Known Contaminated Land Completed

Since the grant of approval, Amity College has undertaken the required (and extensive) remediation works on the school site in accordance with the approved Remediation Action Plan referred to in the SSD 9227 consent. This includes extensive site excavation, earthworks and disposal of contaminated soils. The cost of these works alone are of the order of about \$1.3 million. Refer also to section 3.2 for further details.

2.3 2.3 Indicative Date of Commencement of Construction of Stage 1 of School

Amity College has issued tenders for early civil works associated with Stage 1 in **March 2021**. The indicative date of commencement of early civil works is **late May 2021**. The (Stage 1) School will be ready for occupation in Term 1 of 2023.

s.4.55 application Amity College SSD 9227 approved school, Leppington NSW

2.4 2.4 Benefits of Accelerated Stage 1 Amity College School Project

The bringing forward of this school infrastructure investment not only means faster delivery of the school project but also the following benefits will accrue, including:

- The majority of the Primary School, housing some 300 primary school students and including basement car parking accommodating a total of 62 spaces as well as 17 spaces in the drop-off zone, will be built at project commencement ie. revised Stage 1.
- A Primary School building complex is to be constructed in the revised Stage 1 of the project, including basement car parking facilities. Temporary demountable classrooms will not be required.
- Substantial- and permanent- landscaping of the school campus will begin in earnest at project commencement. This will reap amenity benefits in the near future, once this landscaping becomes established.
- Early establishment of school play areas and sports court, previously planned for later stages of the school project.
- It will generate much needed boost to the NSW economy at the same time as generating job opportunities for the NSW construction industry as well as professional teachers and support staff.

In other words, not only has the project shown itself to be a 'shovel-ready' project in the short term, it aims to achieve a major increase in both capital expenditure and job creation opportunities early on in the life of the school project, thus supporting the the State's immediate economic recovery from the COVID-19 crisis.

This decision to bring forward the staging of the school project is also consistent with Camden Council's submission to the exhibited school project DA, requesting that the school staging be brought forward.

This will be the first new school in the rapidly growing Leppington precinct and will encourage the growth of this precinct.

In this regard the Amity College school project is located in one of the fastest growing areas of Sydney, where the demand for school places will be the greatest.

The Greater Sydney Commission's *Our Greater Sydney 2056 Western City District Plan– connecting communities* (March 2018) estimates that an extra 77,978 students will need to be accommodated in both government and non-government schools in the Western Sydney District by 2036, with the growth projected to be greatest in Camden local government area, with an extra 26,403 students, or one third of all students, predicted over this time.

The revised staging now sought is detailed in the following attached s.4.55(2)Modification Report, with a summary, comparing the currently approved staging with that now proposed, provided in the text of this submission.

3. The Modification Application (SSD 9227 MOD 1)

3.1 3.1 Summary: Modifications Proposed SSD 9227 MOD 1

The development, as proposed to be modified ('SSD 9227 MOD 1'), is substantially the same development as that originally approved in that:

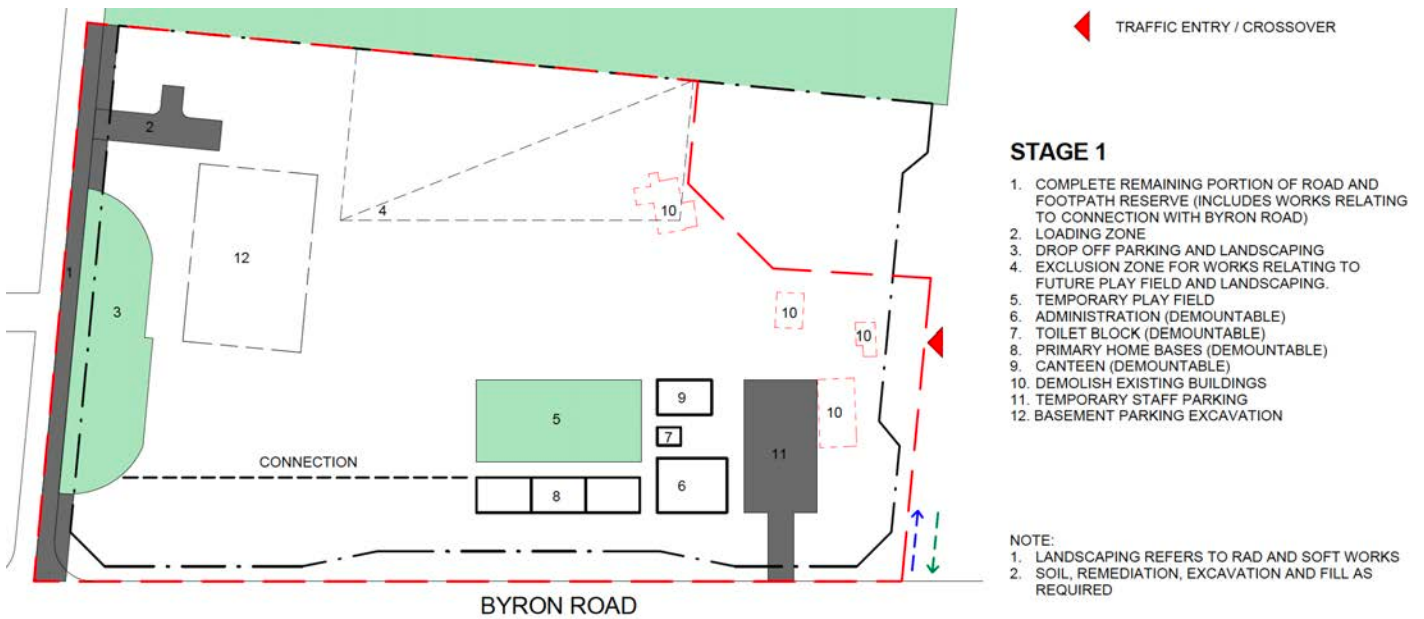
- **Accelerated staging of approved school with no change to building footprint:** The design of the school development remains essentially the same, with the most significant change being a bringing forward of the various stages of the overall school development, with an improved visual impact arising from a change to the building facade facing Byron Road near the corner of Pluto Avenue, a minor change to the 1st floor of the school building as a result of reconfiguration of staff facilities and rooms, as well as provision for fire access, toilets and stormwater infrastructure.
- **Essential character of the approved school is unchanged:** The modification sought does not change the essential characteristics of the approved school development, including the overall design, capacity and operation of the school, and how the site relates to neighbouring land, or the provision of both vehicular or pedestrian connections through the site.
- **No change in student or staff numbers:** There is no change in the approved school in terms of student or staff numbers or school building capacity arising from the modification sought, other than bringing forward staff and student numbers in the already approved development.
- **No change to hours of operation of approved school:** It remains a school with the same hours of operation as that currently approved.
- **Accelerated permanent landscaping commencing in revised Stage 1:** In bringing forward the staging of the school, significant- and permanent- landscaping can commence on site from project commencement. Moreover, most of the earthworks required for the site can commence in Stage 1, thus reducing the impact of future earthworks and heavy machinery in later stages of the school project.
- **No change to overall impacts associated with the approved school development:** As addressed in **Section 7** below, the modified development does not substantially change the approved environmental impacts or adopted mitigation and management strategies for stormwater and flooding, noise and vibration, access and parking, sustainability, or the ultimate built form, visual impacts and landscaping outcome for the site. Accordingly, no further measures are required to either minimise, manage or monitor these impacts.
- **Accelerated engineering works:** The proposed modification will result in bringing forward the already approved earthworks and engineering works, including drainage works and road works.

The development, as proposed to be modified, is therefore considered to be substantially the same development. Refer to Table 6.1 for a comparison of the approved school development and the modifications sought in this application.

3.2 3.2 Modification: Revised Staging Proposed

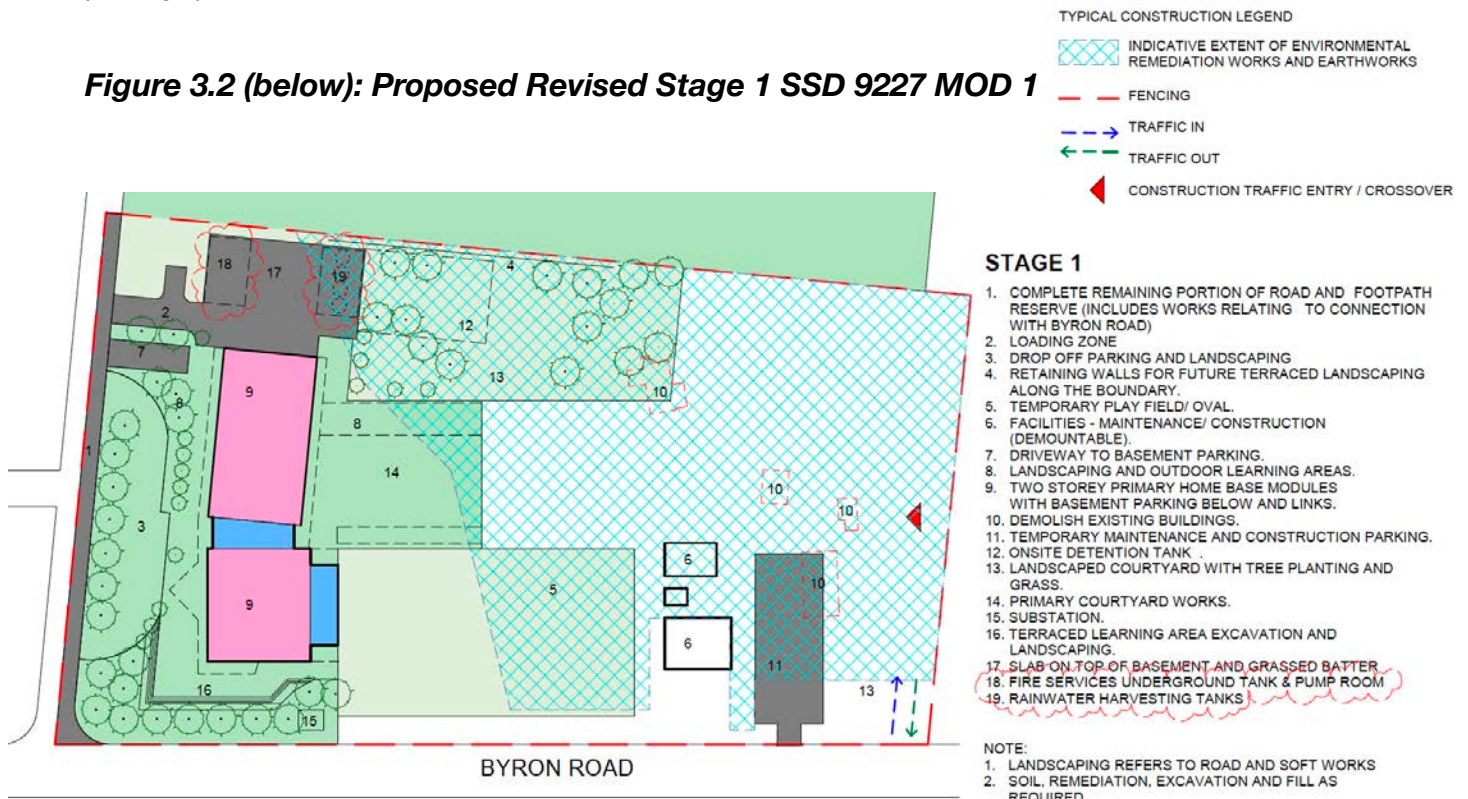
The main feature of the modification application will be the proposed acceleration of the staging of development on the site the subject of the SSD 9227 consent. The revised staging plans for Stage 1 also reflect the extent of site clearing and excavation works that have been required in order to carry out remediation of the site- not reflected in the original engineering or architects designs referred to in the consent. To assist in better understanding the changes proposed, the accompanying figures show the above revised staging plans, prepared by Gran Associates Australia, as compared to the currently approved staging plans.

Figure 3.1 (below): Currently approved Stage 1 per SSD 9227 consent



The currently approved Stage 1 provides for a school accommodating up to **75 students** in **temporary** school buildings with **17 permanent car parking spaces** (on site pick up/drop off) and 10 temporary parking spaces.

Figure 3.2 (below): Proposed Revised Stage 1 SSD 9227 MOD 1



The proposed Stage 1 provides for a school accommodating up to **300 students** in **permanent** school buildings with **62 permanent car parking spaces** (17 on site pick up/drop off spaces + 45 basement car parking spaces) + 10 temporary parking spaces (maintenance and construction parking). Site remediation works have involved clearing and excavation works over the site, shown cross-hatched on the figure above.

Figure 3.3 (below): Currently approved Stage 2 per SSD 9227 consent

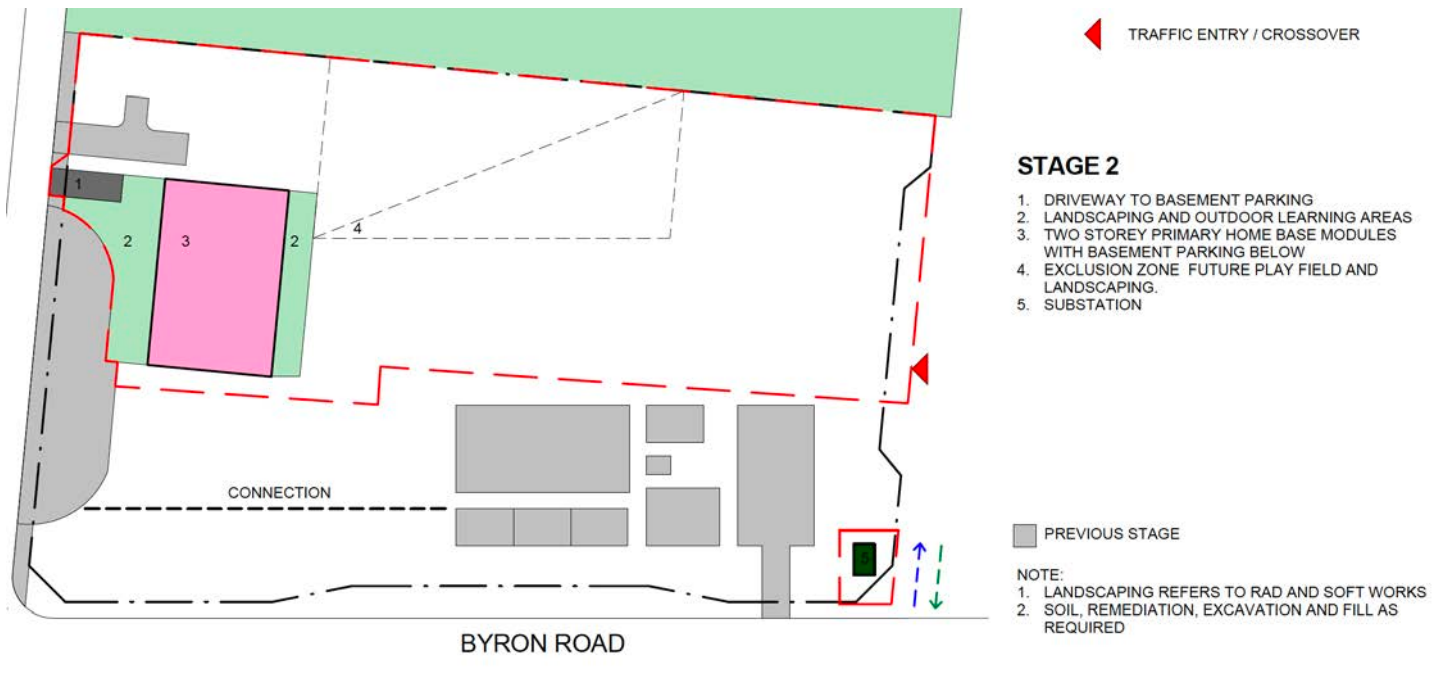


Figure 3.4 (below): Proposed Revised Stage 2 SSD 9227 MOD 1

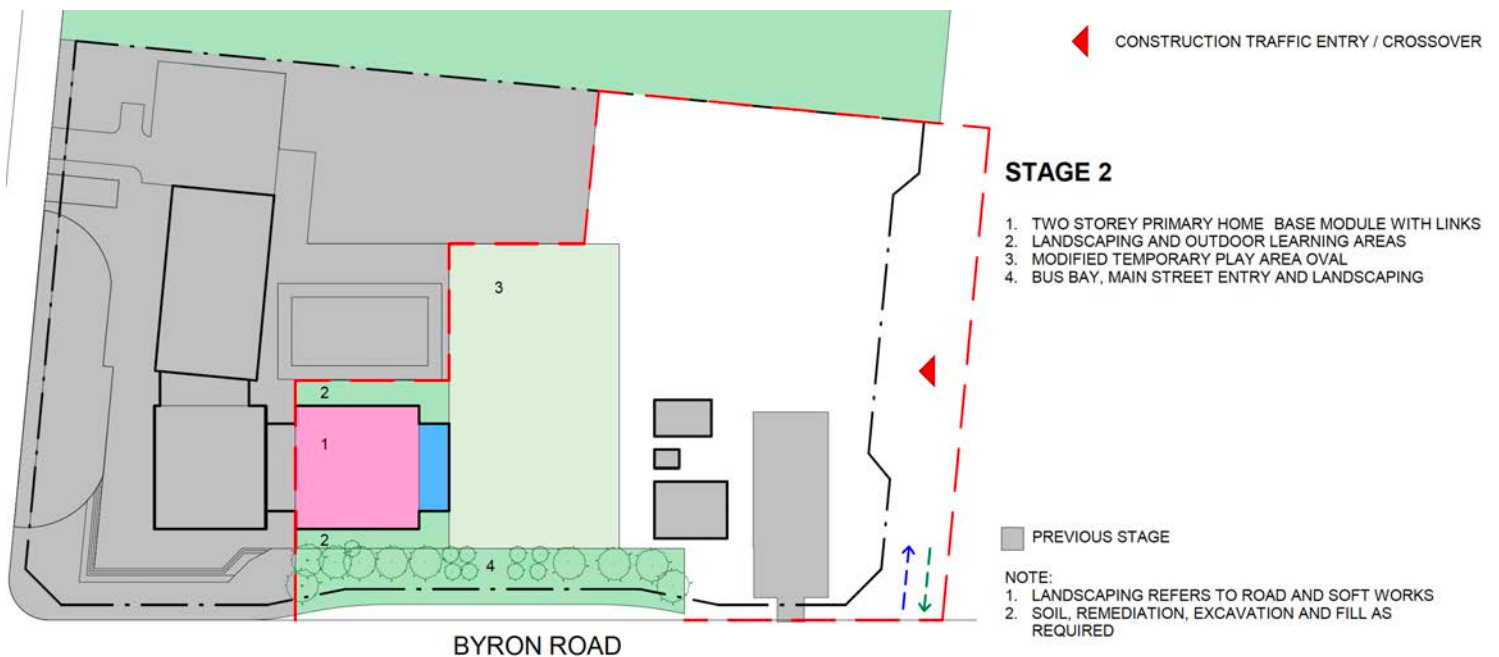


Figure 3.5 (below): Currently approved Stage 3 per SSD 9227 consent

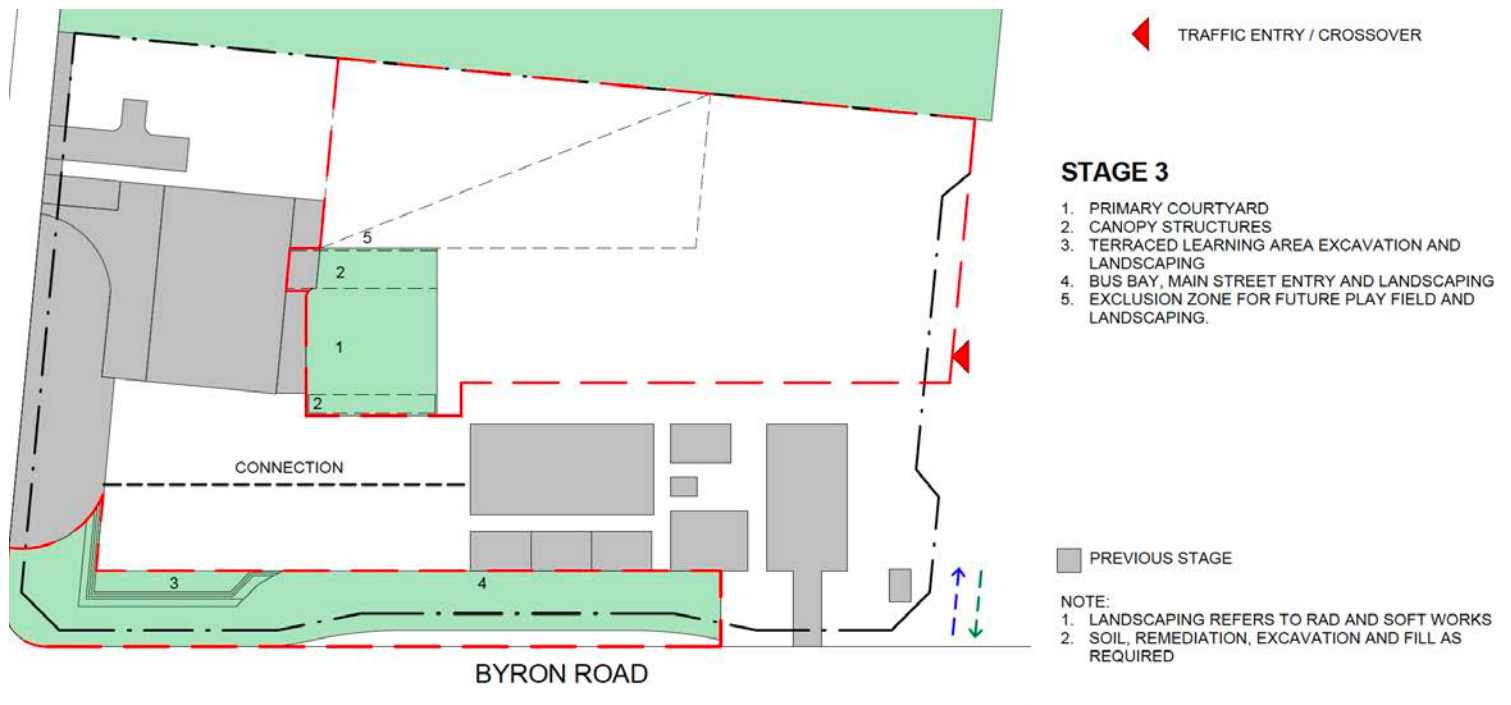


Figure 3.6 (below): Proposed Revised Stage 3 SSD 9227 MOD 1

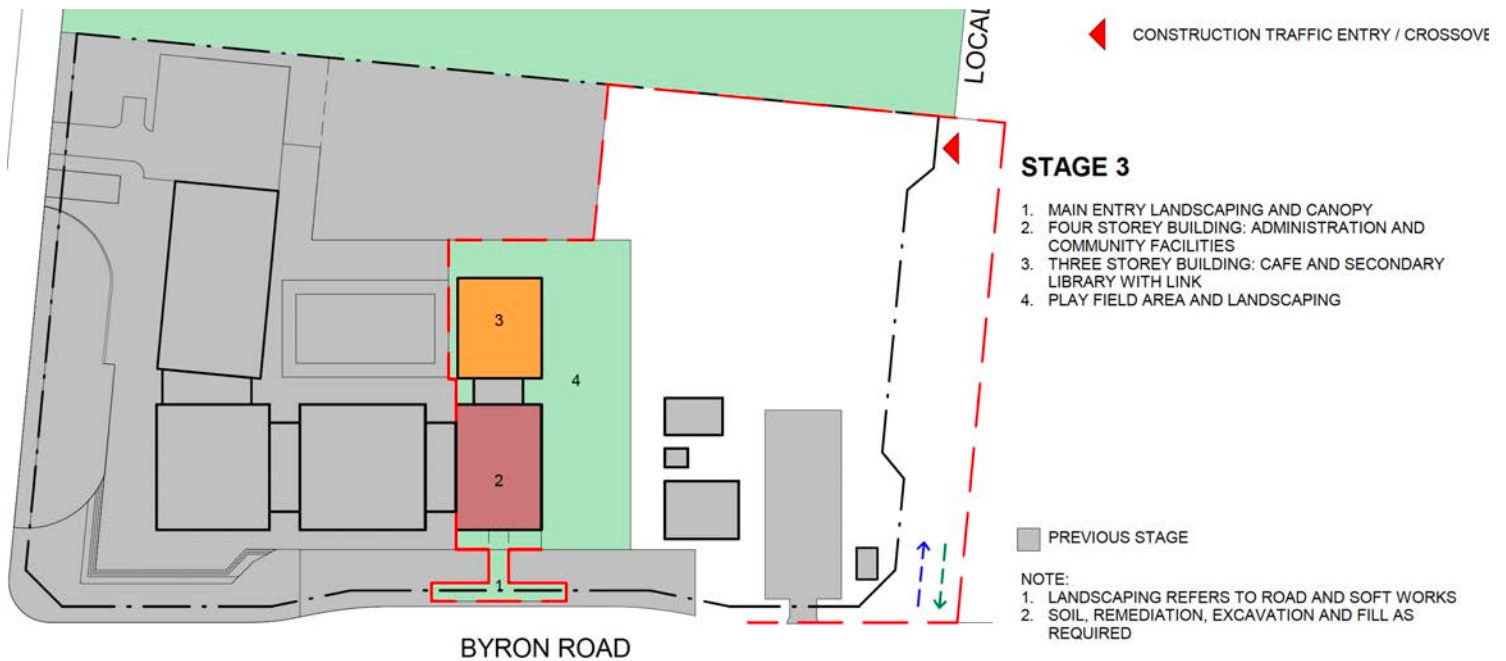


Figure 3.7 (below): Currently approved Stage 4 per SSD 9227 consent

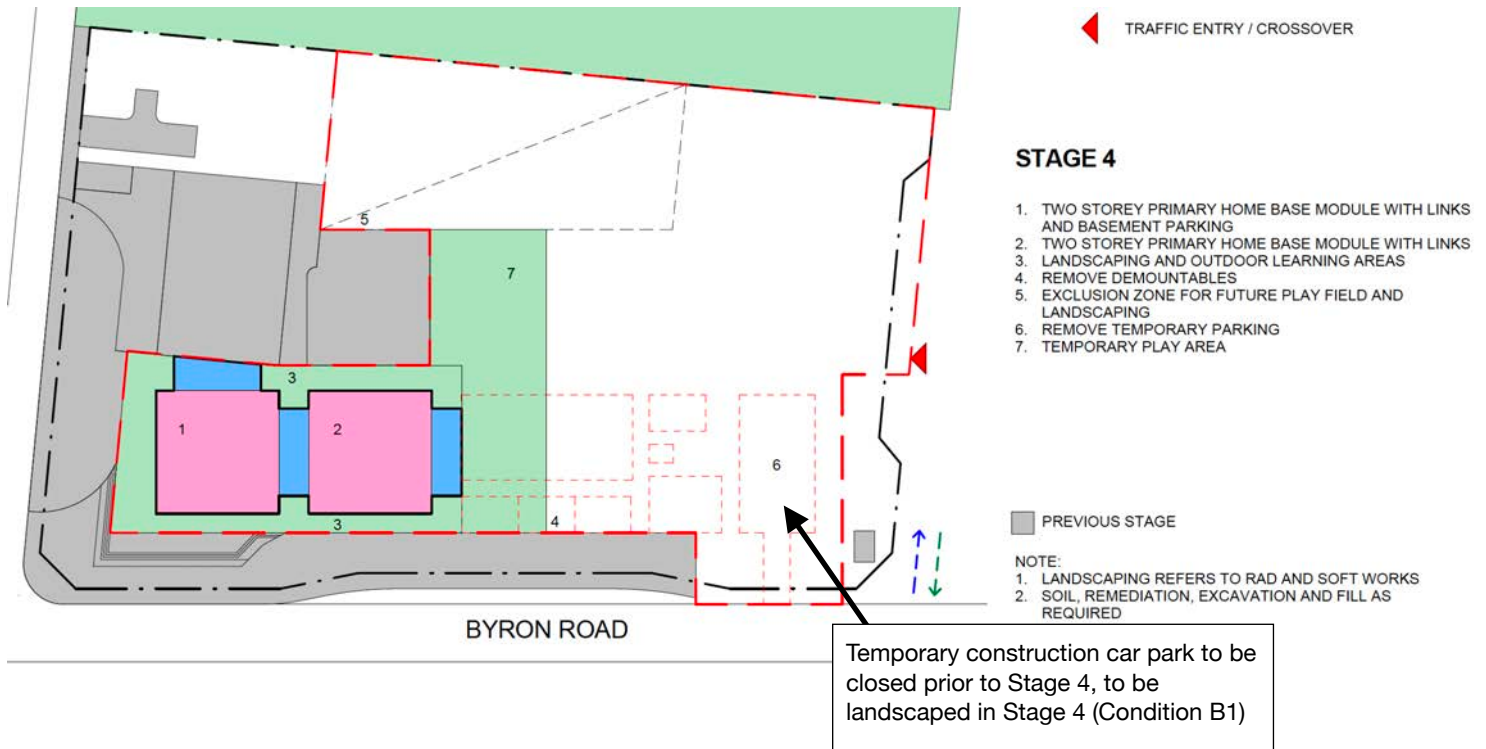


Figure 3.8 (below): Proposed Revised Stage 4 SSD 9227 MOD 1

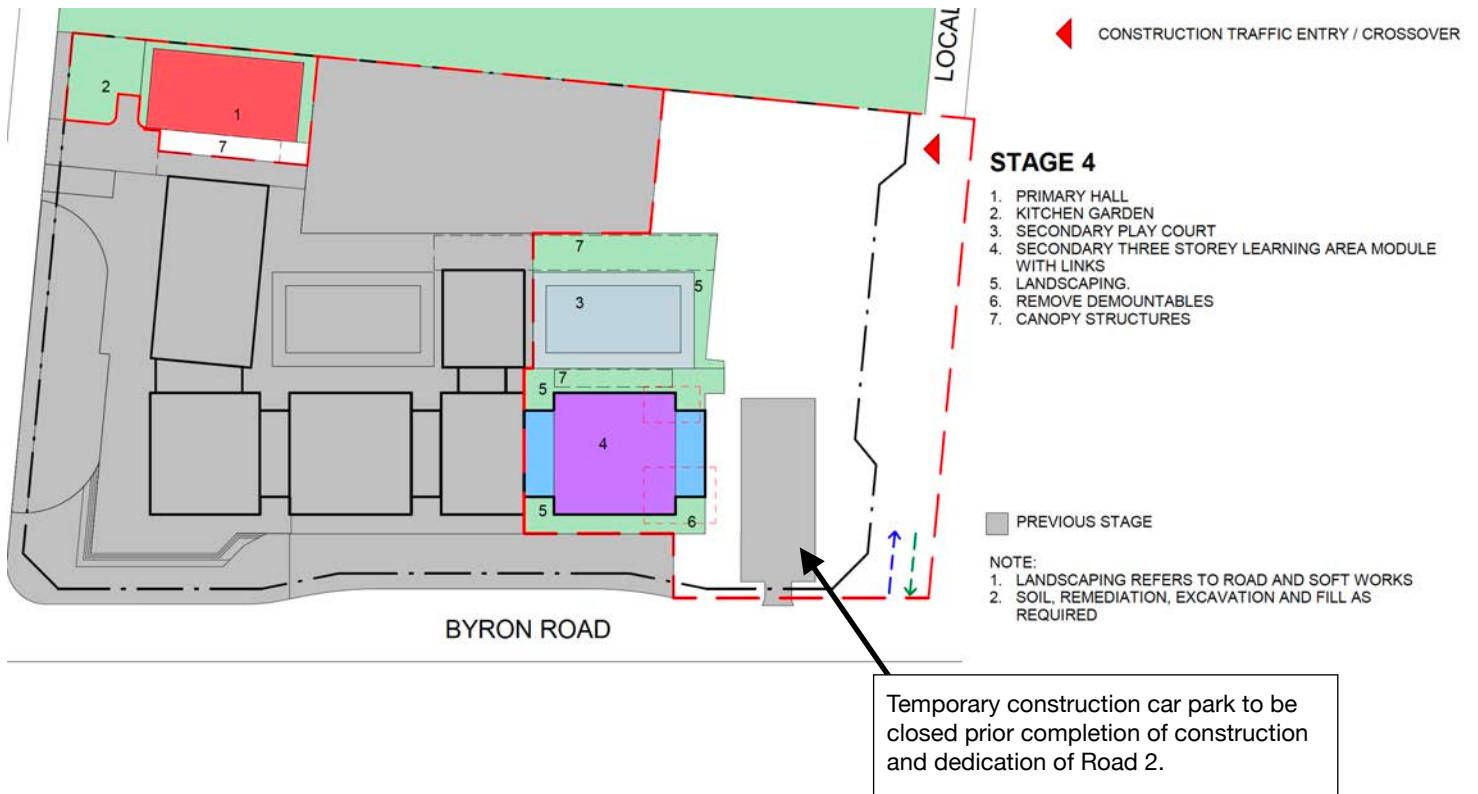


Figure 3.9 (below): Currently approved Stage 5 per SSD 9227 consent

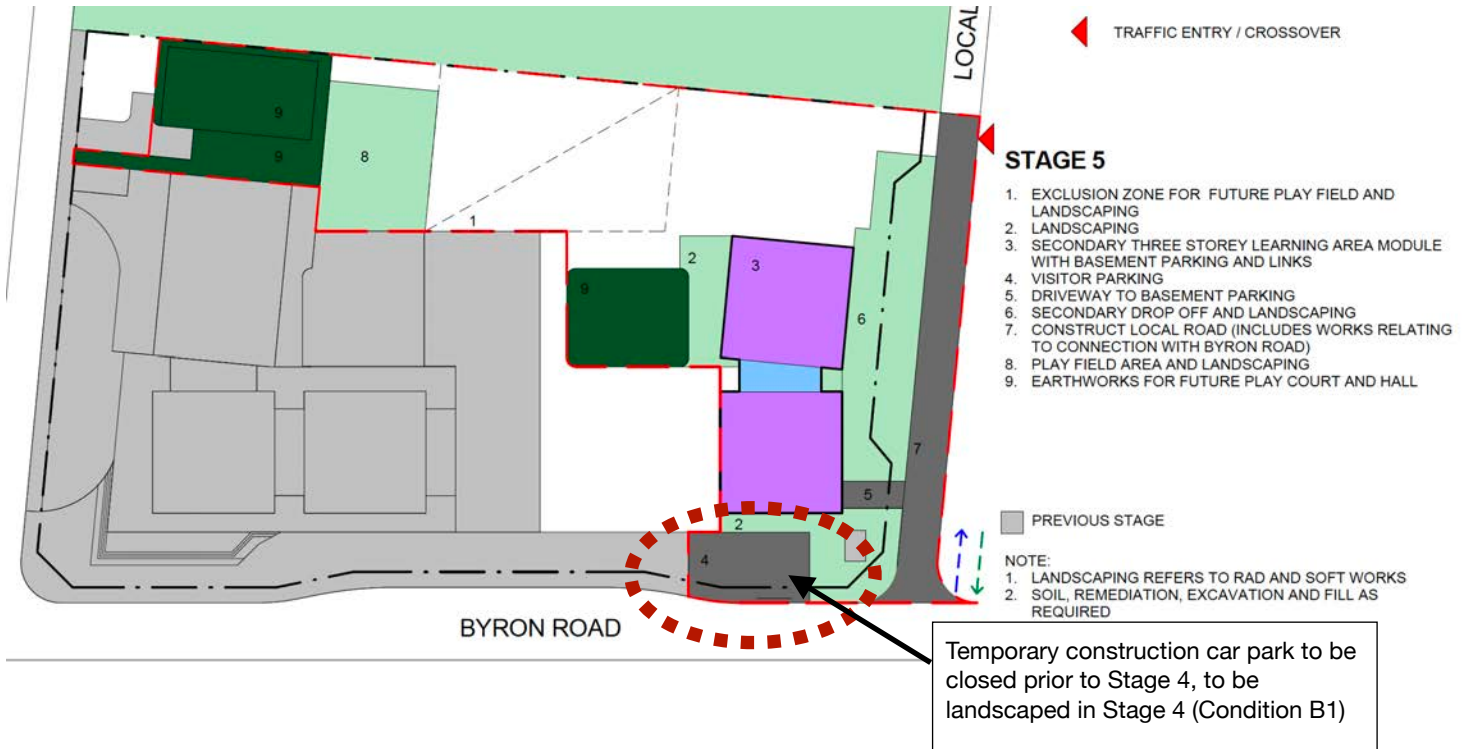


Figure 3.10 (below): Proposed Revised Stage 5 SSD 9227 MOD 1

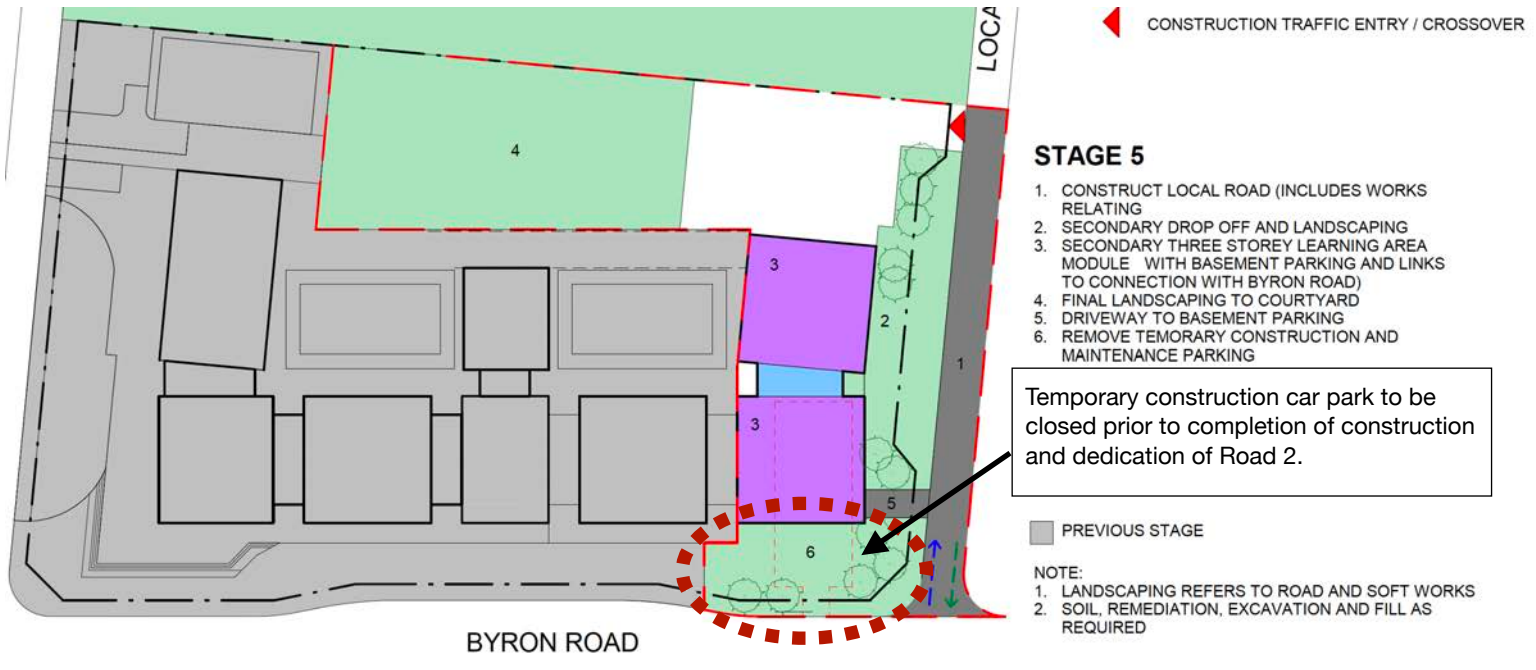


Figure 3.11 (below): Currently approved Stage 6 per SSD 9227 consent

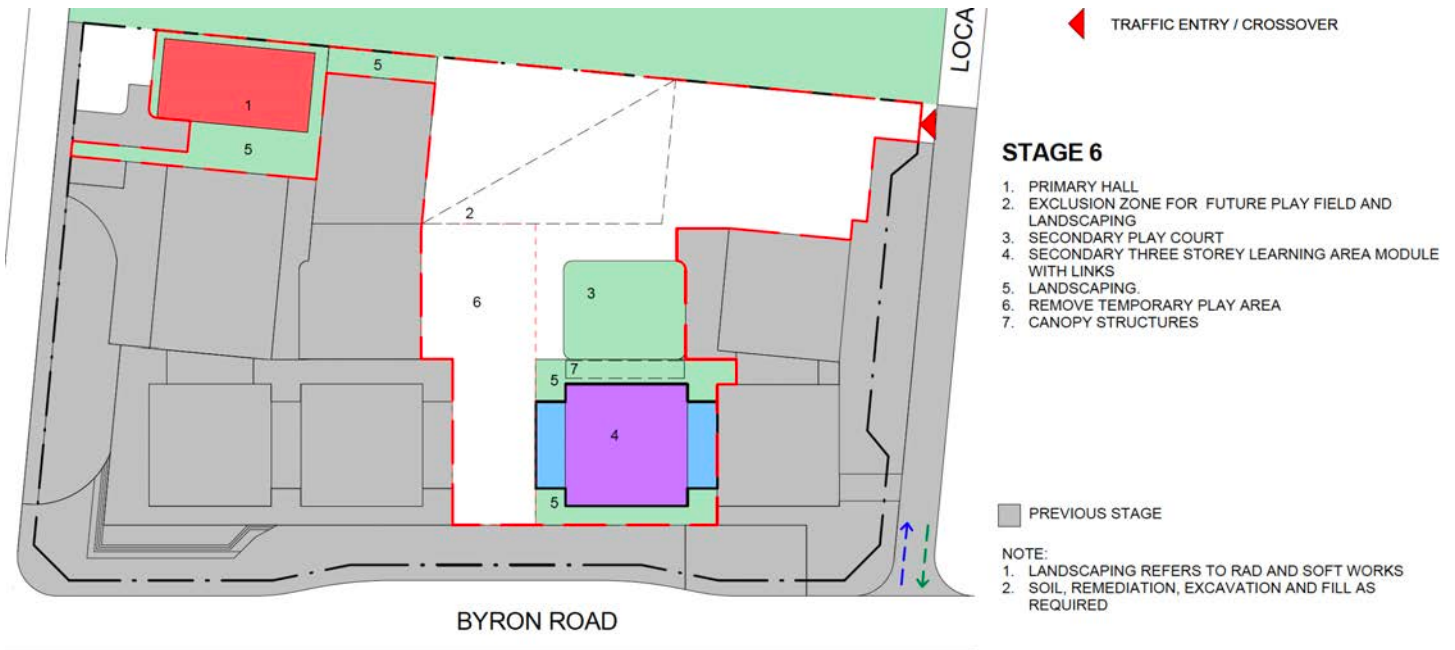


Figure 3.12 (below): Proposed Revised Stage 6 - Completion of School Project SSD 9227 MOD 1

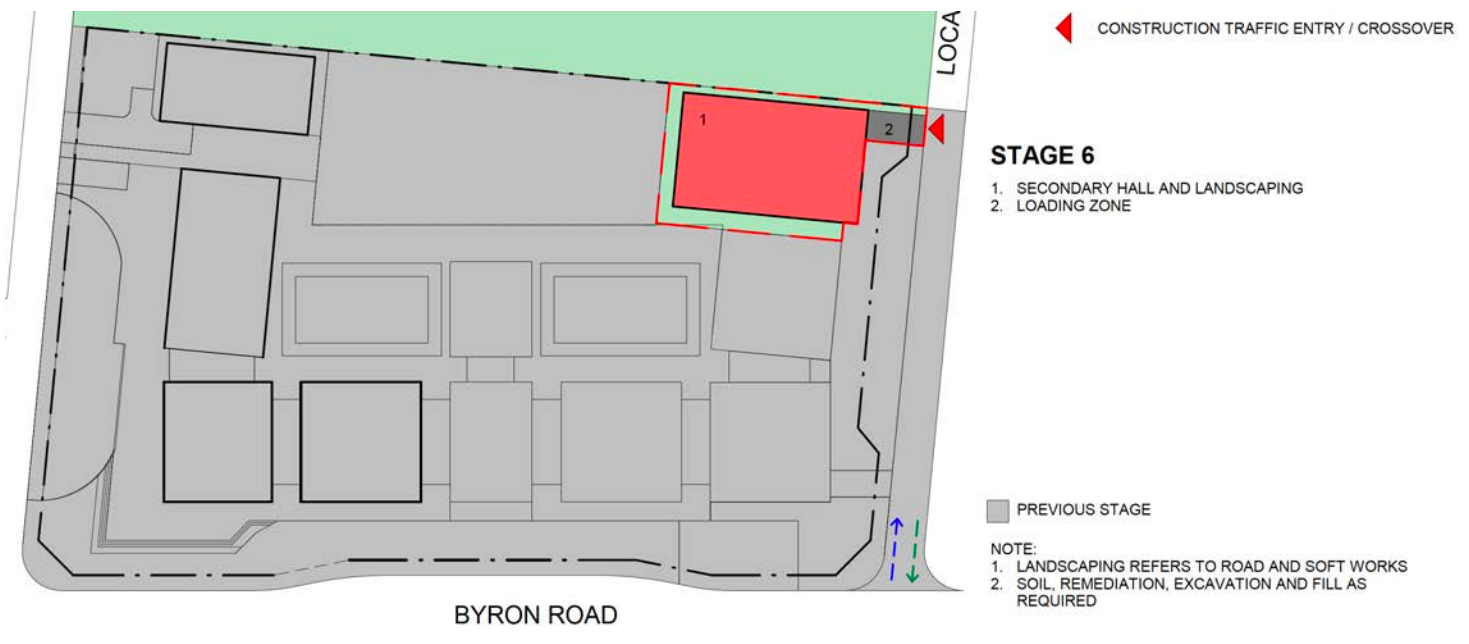
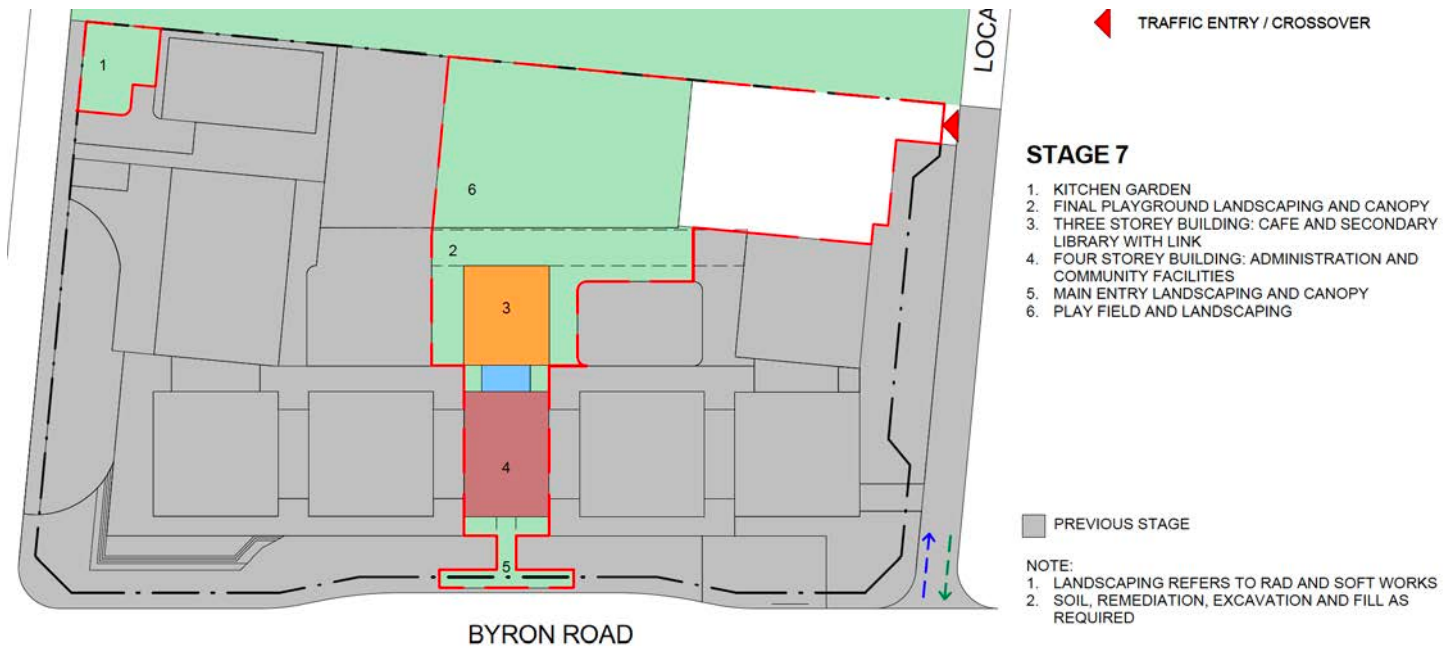
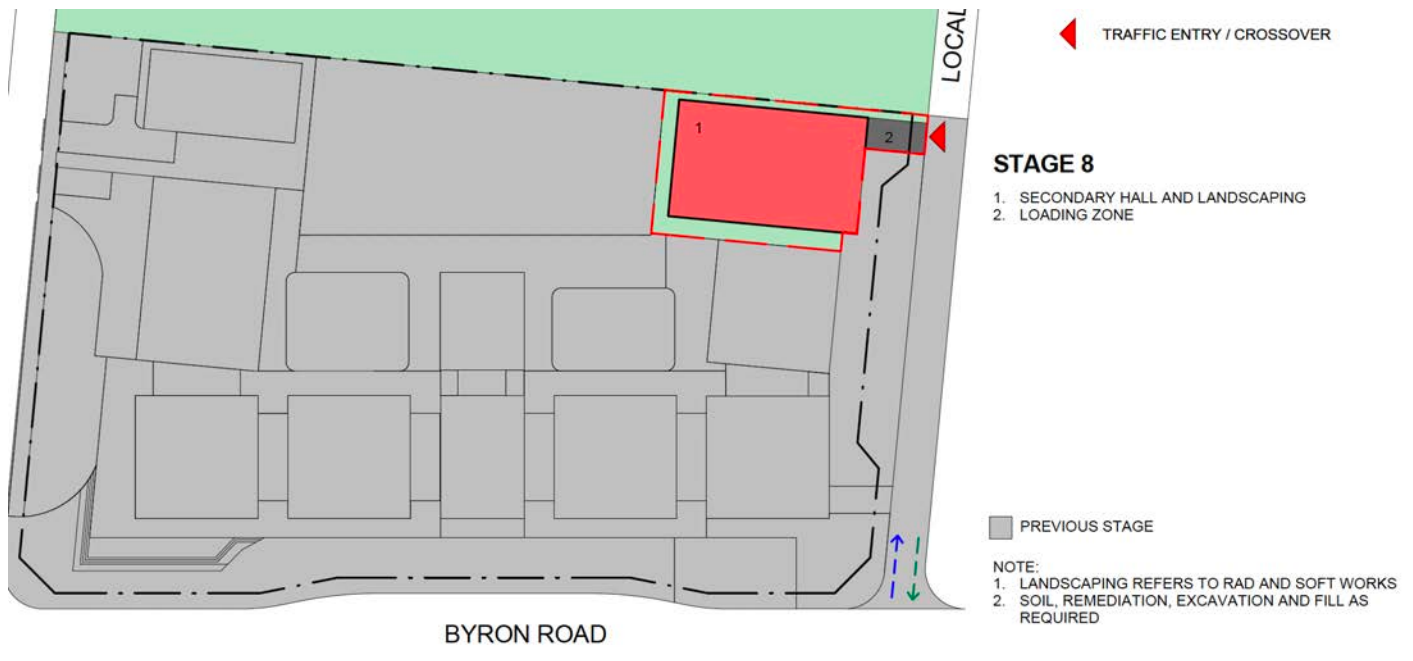


Figure 3.13 (below): Currently approved Stage 7 per SSD 9227 consent



(NOTE: There is no revised Stage 7. Project is completed by revised Stage 6)

Figure 3.14 (below): Currently approved Stage 8 per SSD 9227 consent



(NOTE: There is no revised Stage 8. Project is completed by revised Stage 6)

3.3 Site Remediation Works and Site Clearing Undertaken

As the extent of the revised Stage 1 works involves a larger initial development 'footprint', including extensive site disturbance associated with site remediation works, the engineering design drawings and landscape have been duly revised in order to accommodate this work. For instance, the amount of net fill required on the site has increased by a little over 2,000 cubic metres, to make up for the volume of contaminated soil that has had to be removed from the site. The earthworks and cut and fill drawings have been revised accordingly. Refer also to Figure 3.2 for extent of remediation works.

In accordance with the requirements of condition C38 of the consent, remediation of the site has been carried out in accordance with the Remediation Action Plan entitled '*Remediation Action Plan – Proposed New Amity College Campus, Lot 1 DP 525996 No 85 Byron Road and Lot 2 DP 525996 No 63 Ingleburn Road Leppington NSW*', dated 30/5/2019 prepared by GeoEnviro Consultancy. This remediation work has been substantially completed. The remediation investigations and excavation work has revealed more widespread contamination of the site than previously thought, necessitating the removal of a little over 2,000 cubic metres of contaminated material from the site, including removal of about 250 cubic metres of illegally dumped stockpiles deposited on the site shortly after consent was issued, as well as extensive site clearing- refer to accompanying January 2021 drone photography.



Photograph: Site remediation works underway December 2020



Photograph above: The extent of cleared areas subject to the approved site remediation works is clearly visible from this January 2021 drone photograph of the site, viewed from the west. Byron Road is in the background. (approx. North point shown)



Photograph above: The Revised Stage 1 will be undertaken generally within the forested area shown, as well as in a part of the remediated areas on the site (shown as cleared area), in the January 2021 drone photograph, viewed from the east. A security fence runs around the entire site perimeter. Existing residential development is to the south of Pluto Avenue. (approx. North point shown)



Photograph above: April 2021. View of contaminated areas, 3 (left), 4 (foreground) and 5 (background) following removal of contaminated material to landfill, and following filling and levelling with clean fill.

The bringing forward of building works in a revised Stage 1 development will involve a much larger initial development 'footprint' than that identified in the currently approved Stage 1 DA design. This 'footprint' comprises extensive stripping and excavation work undertaken during the remediation of the site, the clearing of virtually all trees on site, and additional fill to be imported onto the site to make up for the volume of contaminated material removed from the site during the site remediation process undertaken between November 2020 to April 2021. This necessitates revised landscaping and engineering plans for the new Stage 1, including but not limited to a revised earthworks grading plan, sediment and erosion control plan, and cut and fill plan- refer to revised drawings prepared by consulting engineers Martens & Associates for the development, in particular during Stage 1, in **Figures 3.15-3.17**.

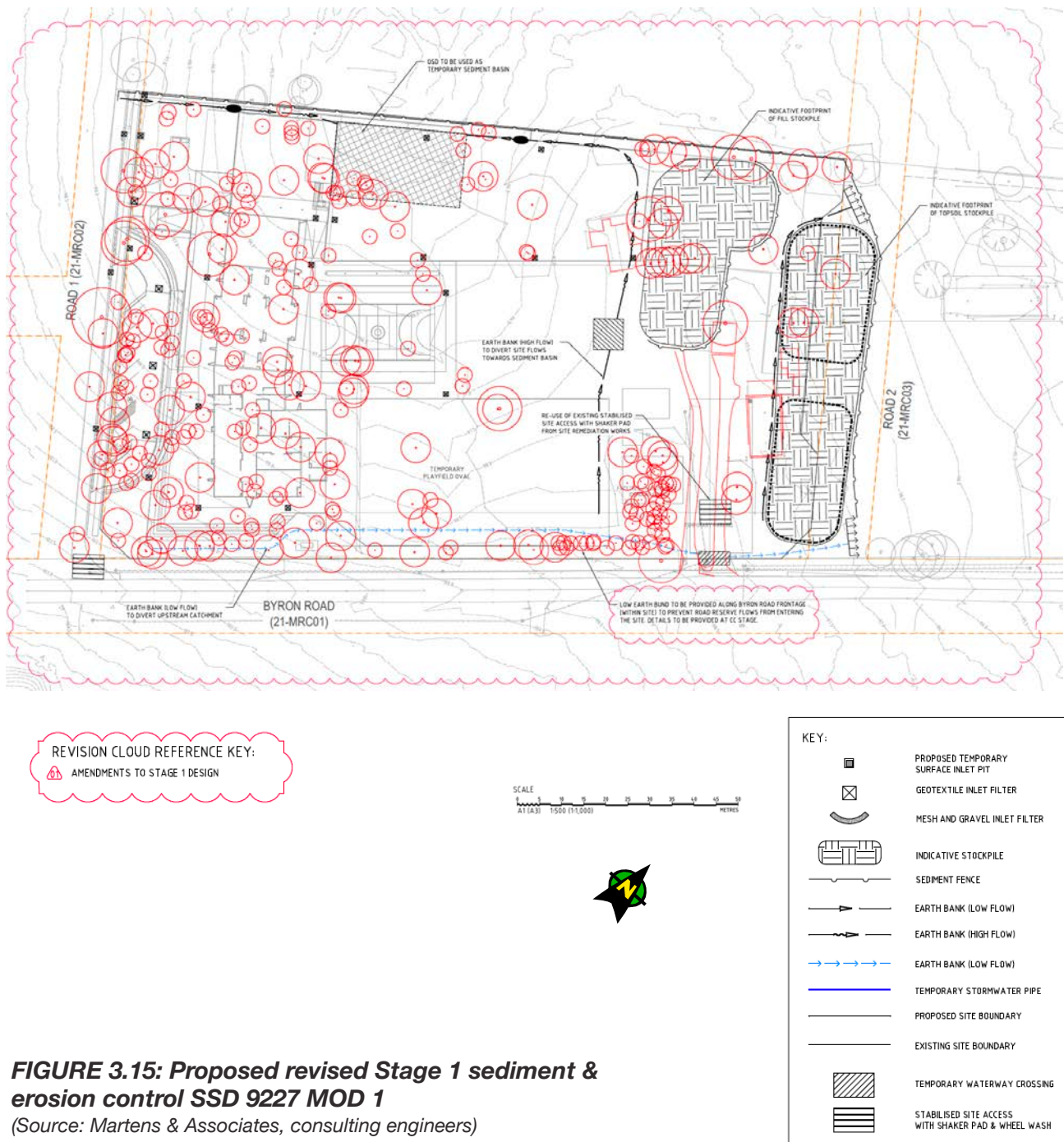


FIGURE 3.15: Proposed revised Stage 1 sediment & erosion control SSD 9227 MOD 1
 (Source: Martens & Associates, consulting engineers)

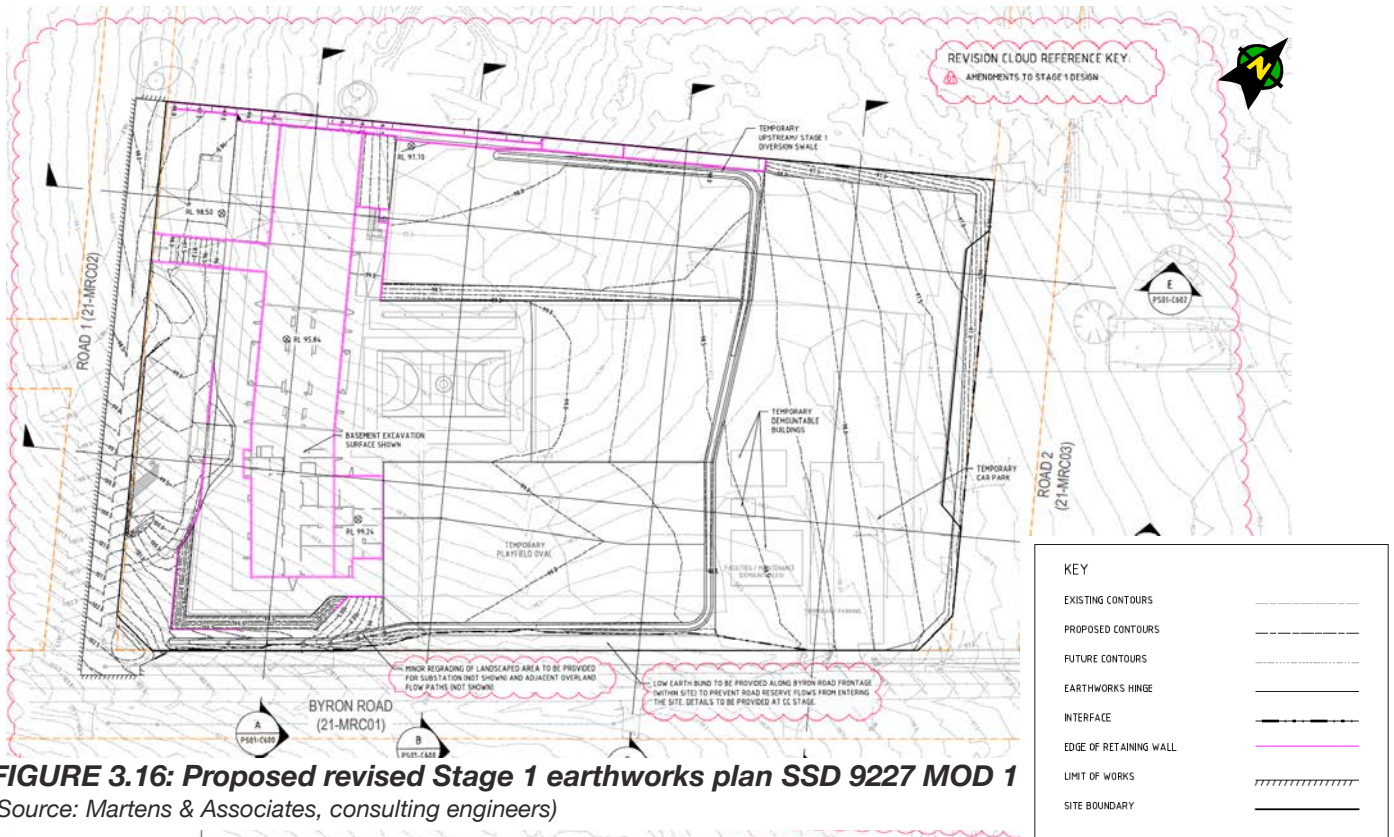


FIGURE 3.16: Proposed revised Stage 1 earthworks plan SSD 9227 MOD 1
(Source: Martens & Associates, consulting engineers)

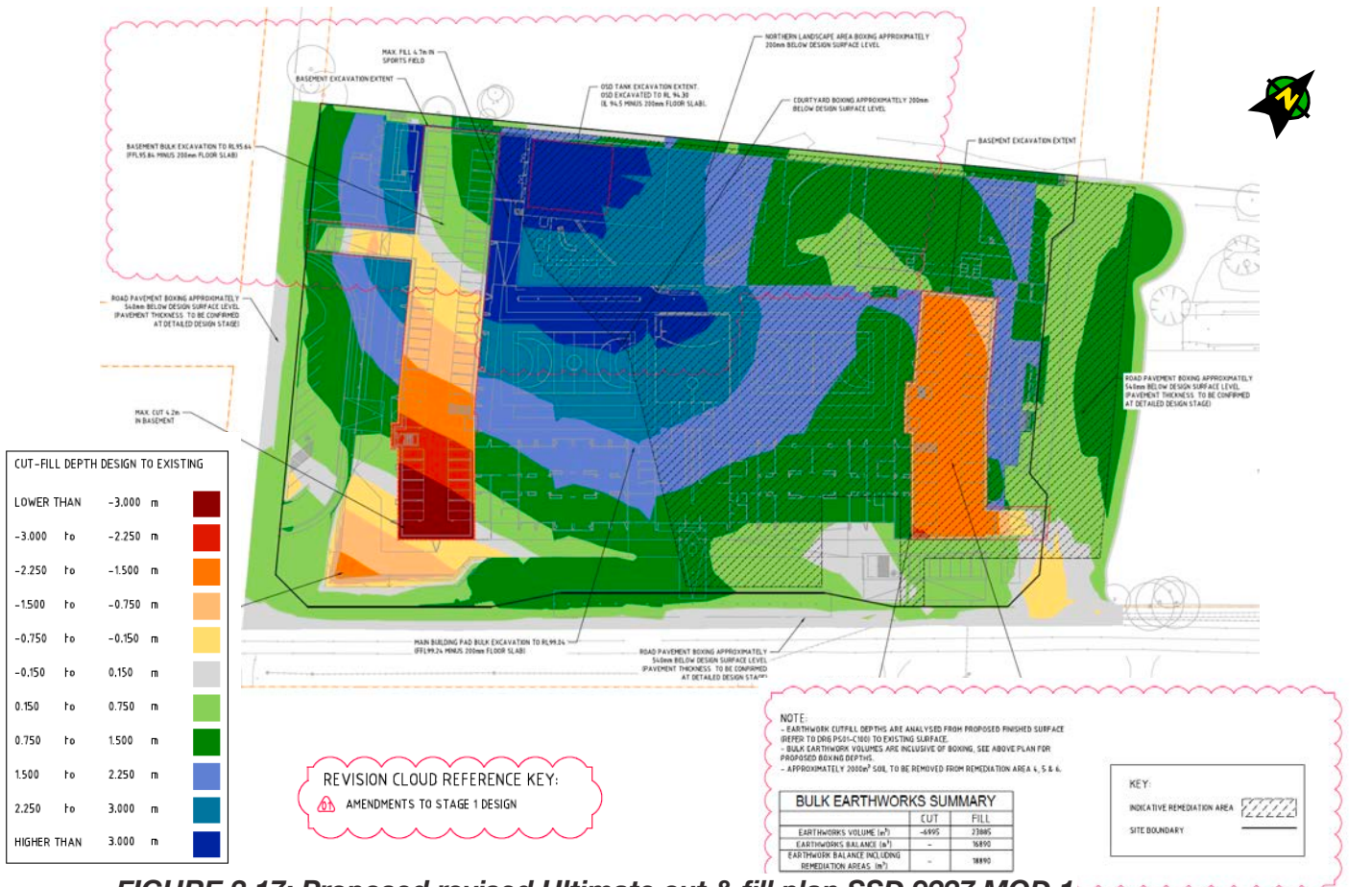


FIGURE 3.17: Proposed revised Ultimate cut & fill plan SSD 9227 MOD 1
(Source: Martens & Associates, consulting engineers)

s.4.55 application Amity College SSD 9227 approved school, Leppington NSW



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The full revised set of engineering drawings accompanies this submission.

3.4 Revised Landscape Plans Proposed by this Modification Application

The currently approved landscape plans do not reflect the clearing of vegetation arising from the approved remediation works or currently approved site engineering works. The modification corrects this error, at the same time as updating the extent of clearing required to accommodate the works now proposed in the revised Stage 1. It proposes extensive-and permanent-landscaping to be established from the outset, much earlier than that as currently approved. A comparison of landscaping now proposed as against that permitted in the currently approved consent is summarised in the accompanying Table 3.1.

Table 3.1: Amity College Leppington revised vs existing landscaping by stage

Stage of School	Landscaping provided: current Development Consent SSD-9227	Landscaping to be provided: revised staging proposed by this modification (SSD 9227 MOD 1)
Stage 1	▶ No permanent landscape works are proposed in the currently approved Stage 1, save for a narrow corridor of land between Pluto Avenue and the approved school pick up/drop off zone. ▶ Temporary playing field provided off Byron Road.	▶ Permanent landscaping provided at the entry to and for the full frontage of the two 2 storey primary school buildings modules. Includes landscaping in and around the school pick up/drop off zone and Pluto Avenue. ▶ Permanent landscaping in and around the two primary school buildings. ▶ Creation of terraced learning area and associated landscaping on school site near the corner of Byron Road and Pluto Avenue. ▶ Construction of permanent retaining walls and associated landscape treatment. ▶ Extensive permanent landscaping and play areas provided, including permanent tree plantings and landscaping in main school play area. ▶ Construction of large (temporary) school playing field adjoining Byron Road.
Stage 2	▶ Permanent landscaped strips either side of first primary school building module. 2 storey Primary School building.	▶ Permanent landscaping provided either side of the third 2 storey primary school buildings module. ▶ Construction of Byron Road bus bay parking area, entry and associated landscaping.
Stage 3	▶ Construction of Byron Road bus bay parking area, entry and associated landscaping. ▶ Landscaping around sealed sports court and terraced learning area.	▶ Construction of temporary school playing field and surrounding landscaping adjoining the four storey Administration building and 3 storey School Library building.
Stage 4	▶ Permanent landscaping provided either side of the second and third 2 storey primary school building modules. ▶ Temporary play area.	▶ Construction of Secondary School play court and associated landscaping. ▶ Landscaping around perimeter of 3 storey Secondary School building.
Stage 5	▶ Temporary landscaping commences on lower central school courtyard. ▶ Construction of landscaping around two 3 storey Secondary School building modules.	▶ Construction of landscaping around two three storey Secondary School building modules and frontage to Road 2 and small section of Byron Road frontage. ▶ Construction of roadside plantings Road 2.
Stage 6	▶ Secondary School playing court and landscaping. ▶ Landscaping around Primary School Hall.	▶ Construction of Secondary School Hall with surrounding landscaping.
Stage 7	▶ Finalisation of main school play area and associated landscaping near Library Building.	NOTE: Under revised staging plan proposed the project is to be completed by revised Stage 6
Stage 8	▶ Landscaping around Secondary School Hall.	NOTE: Under revised staging plan proposed the project is to be completed by revised Stage 6

Stage 1 enables permanent plantings of trees to be established on the school campus at project commencement. The proposed planting will include native trees and diversity of native plants appropriate to the educational and campus setting that will enhance amenity and building performance.

The early establishment of permanent tree plantings at project commencement will provide a 'green link' between the school development and the zoned future public open space area adjoining the school to the west as well as providing a 'green edge' to the two street frontages. These early plantings will assist in screening and soften hard landscapes, in particular the Primary School building when viewed from nearby housing areas. In short, the early establishment of large-scale plantings of trees on the school site will be of considerable importance to the built and natural environment and make a significant contribution to the amenity of the neighbourhood at Leppington.

The full revised set of landscaping drawings accompanies this modification application. The revised design also provides for an overall increase in landscaping and a reduction in hard surfaces devoted to walkways, parking and driveways, as summarised in the accompanying Table 3.2 and illustrated in **Figure 3.18**.

Table 3.3: Amity College Leppington play areas and landscaping - revised vs existing consent

Space Provided School Project	Original SSD 9227 approved area	Revised area now proposed in this s.4.55 modification (SSD 9227 MOD 1)
Site Coverage	7,081m ²	7,081m ²
Impervious Play Area eg sports courts	7,159m ²	7,159m ²
Pervious Play Area	1,573m ²	1,573m ²
Landscaped Area including Pervious Play Area	4,405m ²	4,733m ²
Open Walkways/Parking/Driveways	3,015m ²	2,687m ²

Source: Gran Associates Australia architects



FIGURE 3.18: Proposed revised school play areas and landscaping SSD 9227 MOD 1

(Source: Gran Associates Australia, architects)

3.5 Revised Student Numbers and Parking & Timing Proposed by this Modification Application

The current consent incorrectly describes what will be on-site parking in the table accompanying consent Condition B9(i).

The table includes the 15 angled on-street (ie. off site) car parking spaces along the western kerbside of the northern Local Street, suitable for pick-up and drop-off parking during school times. These spaces will be accommodated within a proposed new Local Street (Road 2) to be constructed by Amity College and dedicated to Council as part of a public road reserve, in Stage 5 of the project.

As such, this consent condition is in error in identifying these spaces as 'on site' spaces- hence the need for this modification of this consent condition.

Allowing for correction of this error, and allowing for the bringing forward of the project, Table 3.4 provides a comparison between the student and staff numbers and car parking provided under the current consent versus the revised staging plan the subject of this modification application SSD 9227 MOD 1.

Table 3.4: Car parking and student/staff numbers- revised (ie. SSD 9227 MOD 1) vs existing staging

Stage of School Project	Total student (current consent no.s in brackets)	Total staff (current consent no.s in brackets)	Total on-site car spaces (current consent no.s in brackets)	Total drop-off spaces (current consent no.s in brackets)	Total on-site bicycle spaces (current consent no.s in brackets)
Stage 1	300 (75)	24 (9)	62 (10- see Note 1)	17 (17)	20 (0)
Stage 2	500 (250)	39 (25)	62 (28- see Note 1)	17 (17)	36 (20)
Stage 3	500 (250)	43 (25)	62 (28- see Note 1)	17 (17)	36 (36)
Stage 4	700 (500)	58 (43)	62 (45- see Note 1)	17 (17)	46 (36)
Stage 5	1,000 (750)	83 (63)	94 (77- see Notes 1,2)	32 (32 see Note 2)	46 (46)
Stage 6	1,000 (1,000)	85 (81)	94 (94- see Notes 1, 2)	32 (32 see Note 2)	62 (46)
(Stage 7)	(1,000)	(83)	(94- see Notes 1,2)	(32 see Note 2)	(62)
(Stage 8)	(1,000)	(85)	(94- see Notes 1,2)	(32 see Note 2)	(62)

[NOTES: 1. On site construction parking -includes 10 spaces identified as temporary staff car park/visitor parking in original consent plans. 2. The consent includes the 15 angled on street car parking spaces along the western kerbside of the northern Local Street, suitable for pick-up and drop-off parking during school times. The consent is in error in identifying these spaces as 'on site' spaces- hence the need for revision of the parking figures as illustrated in Table 2.2 above.]

The above table clearly shows the significant increase in on-site car parking provided in the early stages of the revised project, when compared to that provided for in the current consent. 79 permanent car parking spaces are now proposed for the revised Stage 1 of the project, compared to zero permanent car parking spaces in the original consent [NOTE: this does not include the 10 temporary car parking spaces proposed].

Table 3.4 also shows the significant increase in both student numbers and staff employed on site in the early stages of the revised project, when compared to that provided for in the current consent. This significant increase in staff numbers at project commencement (ie. Stage 1) will also support the State's immediate economic recovery strategy from the COVID-19 crisis through the provision of increased job opportunities at the school. The construction and operation of the school was originally proposed to be delivered through eight stages over 10-15 years. The staging will now be undertaken over an accelerated time period- likely to be of the order of 10 years or less.

3.6 Revised Building Form and Internal Changes Proposed by this Modification Application

The building footprint and configuration of the approved school buildings remains intact with SSD 9227 MOD 1 (refer **Figure 3.19**), with minor changes only involving an additional 76m² of floor space- an increase of only 0.4% of the total floor space approved for the SSD 9227 development. Almost two thirds of this additional floor space is required by Condition B9 of the consent. No changes are proposed to building heights of the layout of the school. In summary, the changes in the building form proposed relate to:

- Minor changes have been made to the configuration of classrooms and internal spaces, necessitating minor changes to the building form, orientation and floor space on the 1st floor. An amenities building has been relocated to the Byron Road frontage from the Pluto Avenue frontage, with no resultant encroachment of the approved building setback. These changes are proposed to involve an additional 29m² of floor space. Refer **Figure 3.20**.
- The facade of the Primary School building facing Byron Road has been improved with the inclusion of larger windows, providing additional visual relief when viewed from Byron Road- refer **Figure 3.21**.
- The architects drawings also provide for an additional space devoted to access, stairwells, and end-of-trip facilities in the basement car park as required by the Condition B9 of consent (refer **Figure 3.22**).
- In addition to the above, the modification seeks approval for additional below ground water storage, as required by Condition B10 and C20 of the consent, and a relocated substation proximate to the Primary School building. Refer to drawings accompanying and forming a part of this modification application. [NOTE: Pursuant to the provisions of clause 42 of *State Environmental Planning Policy Infrastructure 2007* substations do not require development consent. The substation has been shown in the modified application drawings for administrative convenience.] Refer **Figure 3.22**.

Further details of the changes to the revised ultimate development drawings are as follows:

■ Site Plan Drawing DA-010 and Ground Floor Plan Drawing DA-100: Figure 3.19

- ▶ Substation relocated to near the Primary School.
- ▶ Landscaping shown over land previously proposed as visitor parking, in the north-east corner of the school campus, as required by Condition B1(a) of the Development Consent for SSD-9227. [NOTE: Condition B1 is now redundant, superseded by this modification]
- ▶ Ramp down to basement car park, as required by Condition B9(g) of the consent.

■ First Floor Plan Drawing DA-101: Figures 3.20 & 3.21

- ▶ Slight reorientation of School Common Room to the west. This results in changes to all school rooms in the vicinity. Refer to Figure 3.19 comparing the “before” and “after” effects of this proposed change to the layout and orientation of this part of the Primary School.
- ▶ Amenities room projects marginally further from building, but still is within the approved building setback in this part of the school. [NOTES: 1. The approved plan allows a southern projection of the building footprint to accommodate an amenities section. This projection has been removed under the modification. 2. Net increase in amenities provided, principally for female staff, and in accordance with BCA requirements]
- ▶ An additional skylight is proposed, to improve light penetration within the school building.
- ▶ Landscaping shown over land previously proposed as visitor parking, in the north-east corner of the school campus, as required by Condition B1(a) of the Development Consent for SSD-9227.
- ▶ Path and stairs down to Primary School basement car park, as required by the BCA egress requirements and Condition B9(g) of the consent.

- ▶ Larger windows are provided facing Byron Road, reducing the amount of blank walls (provided for in the approved scheme), thus improving the overall visual appearance of the school building when viewed from local streets. Refer also to elevation provided.

■ Second Floor Plan Drawing DA-102:

[No change]

■ Third Floor Plan Drawing DA-103:

[No change]

■ Roof Plan Drawing DA-104:

- ▶ Slight reorientation of School Common Room wing to the west.

■ Basement Floor Plan Drawing DA-105: Figure 3.22

- ▶ Path and stairs down to Primary School basement car park, as required by BCA access requirements and SSD 9227 consent Condition B9(g).
- ▶ Provision for end-of-trip facilities, as required by SSD consent Condition B9(e).
- ▶ Provision for fire isolated egress passageway, as required by the BCA.
- ▶ Provision for accessible parking spot per the Australian Standard.
- ▶ Provision for pump rooms and water storage for fire services water and for rainwater harvesting tanks- the latter previously shown in the approved plans at ground level, as required by Condition B10 and C20.



FIGURE 3.19: Revised site plan for ultimate development of school campus SSD 9227 MOD 1. Minimal changes proposed to overall site layout (changes highlighted by a revision cloud).
(Source: Gran Associates Australia, architects)

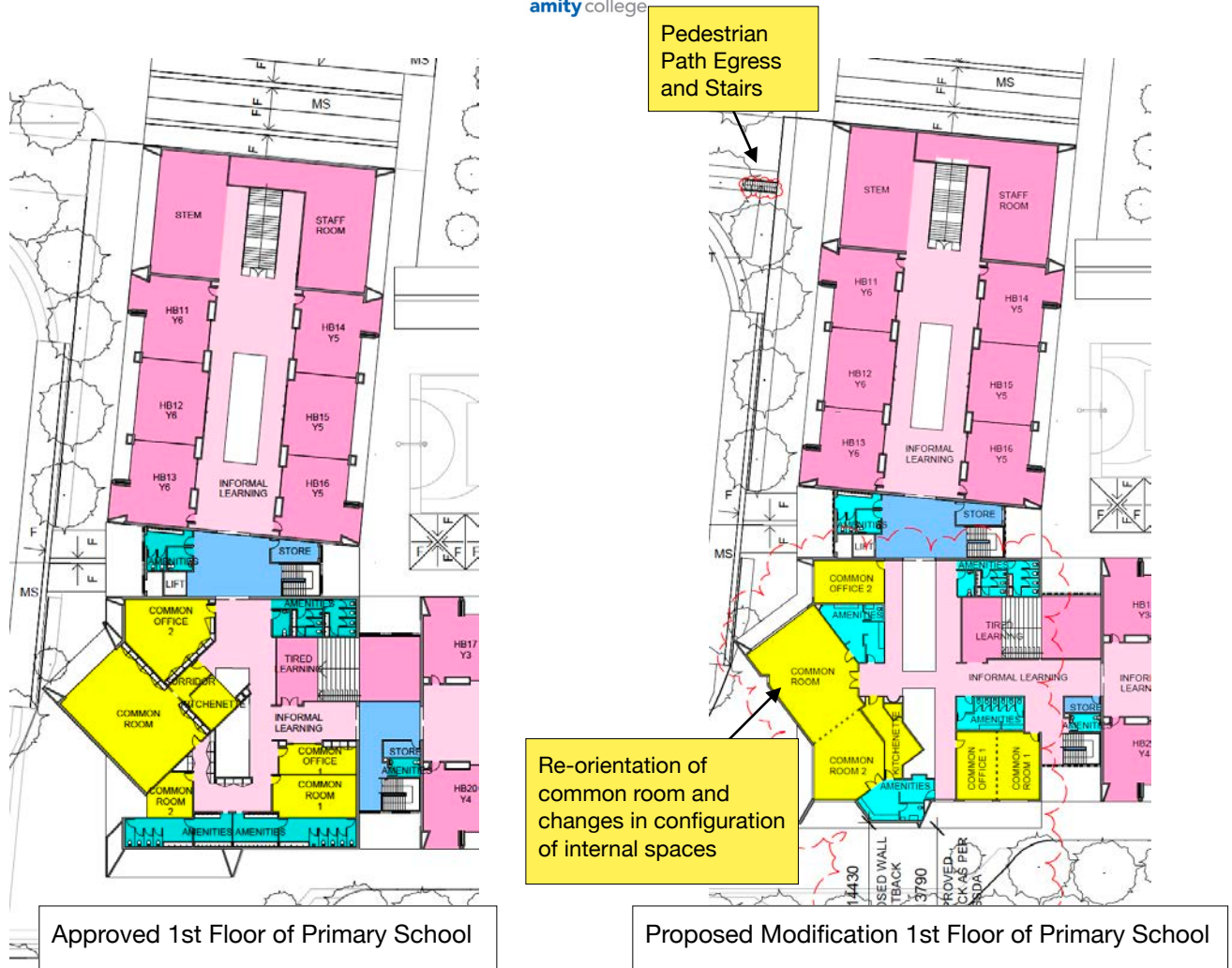


FIGURE 3.20 (above): Revised 1st Floor of Primary School compared to original approved DA plan. Minor changes changes

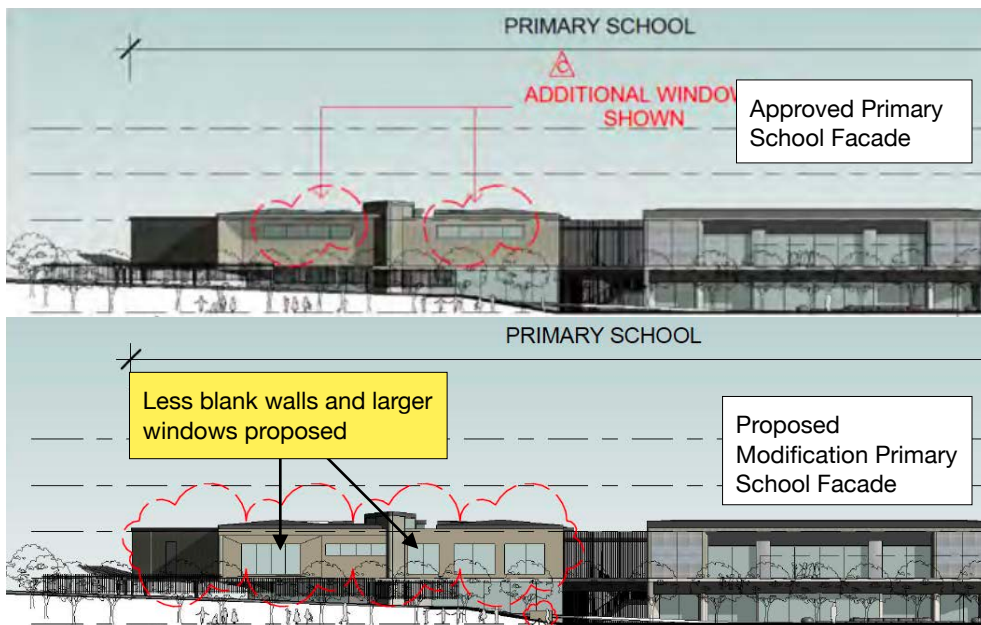


FIGURE 3.21 (left): Revised facade Byron Road frontage of Primary School. Larger windows and less blank walls provided- a visual improvement.
(Source: Gran Associates Australia, architects)

NOTE: This modified facade also shown on Materials & Colour Schedule as well as one of the Materials, Colours and Precedents drawings- refer to Section 4.2 for list of amendments to approved drawings

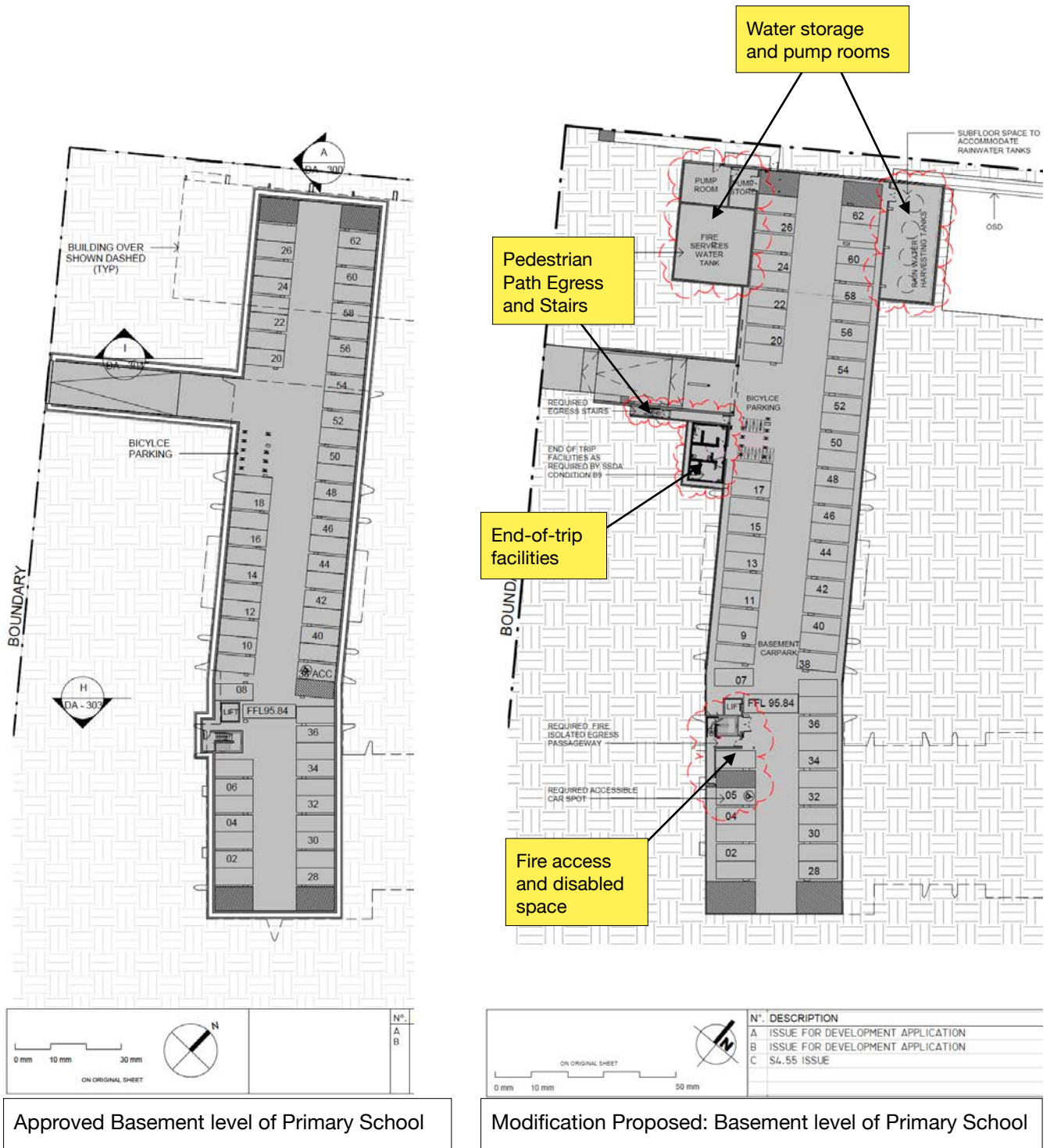


FIGURE 3.22 (above): Revised basement car park level of Primary School under SSD 9227 MOD 1 compared to original approved DA plan. The changes proposed, for water storage, pump rooms, access and end-of-trip facilities, are in response to the requirements of Conditions B9, B10 and C20 of the consent. (changes highlighted by a revision cloud).
(Source: Gran Associates Australia, architects)

In addition to the above changes, some of the General learning Areas (GLAs, classrooms) will be used for administrative floor space on a temporary basis, pending construction of the main administration building in proposed Stage 3. The location and number of GLAs affected will change over the life of Stages 1 and 2.

3.7 Engineering Changes Arising from Modification

The changes to the engineering plans arising from the modification proposed (SSD 9227 MOD 1) are primarily as a consequence of the reference to Stage 1 engineering works in the consent, and the resultant need to comprehensively update the Stage 1 engineering plans to account for the acceleration of the staging of the school project and the enlarged development footprint resulting.

Martens & Associates, consulting engineers, have prepared revised engineering plans showing how the revised staging will work, in particular in terms of stormwater drainage, erosion and sediment control and on-site earthworks.

The principal changes to the engineering drawings relate to the following:

- The Stage 1 works area, including extent of sediment and erosion control works, reflects the accelerated staging proposed- refer PS08-B100 and PS08-B301. The plans show the area subject to remediation undertaken to date, with stockpiles shown as part of the sediment and erosion control plan and stormwater plans for revised Stage 1. OSD used for sediment basin in Stage 1 in lieu of open sediment basin as originally proposed.
- The revised Stage 1 bulk earthworks and grading plan reflects the accelerated staging proposed and remediation works undertaken - refer PS08-C100-C501. Earthworks details upgraded for ultimate stage to reflect the Stage 1 works- refer PS08-C501-C603. Ultimate cut and fill almost identical to that approved, with an additional allowance for additional fill to replace contaminated fill removed from the site- refer PS08-C500.
- Minor extension of Stage 1 road works extended

Refer also to Section 3.3.

4. Revised Staging & Conditions of Consent

4.1 4.1 Summary: Conditions of Consent Affected by Modification

The proposed modification (SSD 9227 MOD 1) affects a number of the consent conditions, principally Condition A2 relating to approved plans and drawings, as summarised in the accompanying Table 4.1.

Table 4.1: Conditions of consent SSD 9227 affected by proposed modification (summary)

SSD Consent Condition No.	Consent condition terms	How affected by modification proposed
A2	Refers to approved plans accompanying the consent	Condition A2(c) refers to the modification ie. SSD 9227 MOD 1. The following plans have been revised under Condition A2(d): - Architectural plans prepared by Gran Associates Australia Pty Ltd relating to staging, reflecting the accelerated staging proposed, as well as minor changes to floor plans and building facade treatment. - Landscape plans prepared by Michael Siu Landscape Architects, reflecting the accelerated staging proposed. - Civil works plans prepared by Martens & Associates Pty Ltd being reflecting the accelerated staging proposed.
A3-A10	[No changes]	
A11-A15	[No changes]	
A16-A33	[No changes]	
A34	Limits the single storey demountables in Stage 1 to 7 years	This condition no longer required for accelerated staging of the school development. Single storey demountables no longer required in Stage 1. Instead permanent school buildings (Primary School) to be erected in Stage 1.
A35	[No change]	
B1	Requires deletion of visitor parking by Stage 4	This condition now effectively made redundant by the modification. The revised staging plan has now deleted the visitor parking area, located near the corner of Byron Road and Road 2, from Stage 1, well ahead of the stage referred to in the consent. Instead, this area has been earmarked for construction parking and allied uses only, and not for (school) visitor parking. The modification seeks approval to have this temporary parking area removed prior to Stage 5, wherein it will be landscaped in part with a Secondary School building over the residue in accordance with Condition B1(c) of the consent [NOTE: no change to building footprint].
B2	Byron Road road works proposed by Stage 3	The revised, accelerated staging plan now has these road works commencing in Stage 2.
B4	[No changes]	
B5, B6	Road works northern road (Road 2) in Stage 5	[No changes. These road works are still proposed in revised Stage 5]
B7-B8	[No changes]	
B9 (e), (g) & (i)	End-of-trip facilities, access ramps and on-site car parking spaces, drop-off / pick-up spaces and bicycle parking spaces provided by stage	End-of-trip facilities now provided in basement car park (Condition B(e)), an access ramp provided down to basement car park (Condition B(g)). The inclusion of these facilities has increased floor space provided. The table in Condition B9(i) of the consent is in error in identifying car parking spaces within the proposed Road 2 as 'on site' spaces, when in fact they will be located within a future Council road reserve, yet to be dedicated to Council- hence the need for revision of the parking figures.

B10	<i>Drainage in basement, need for additional water storage, pumping facilities</i>	<i>The requirement for additional rainwater storage and pumping facilities has been incorporated into the revised design plans, in accordance with this condition of consent.</i>
B11-B19	<i>[No changes]</i>	
C1-C7	<i>[No changes]</i>	
C8	<i>Demolition statement required</i>	<i>Demolition statement already provided, prior to demolition commencing on site.</i>
C9-C12	<i>[No changes]</i>	
C13	<i>Stormwater management</i>	<i>Martens & Associates have prepared amended stormwater management system drawings, reflecting the accelerated staging program, following consultation with Camden Council.</i>
C14-C30	<i>[No changes]</i>	
C31	<i>Construction parking area to be designated</i>	<i>The revised staging plan has now deleted the visitor parking area, located near the corner of Byron Road and Road 2, from Stage 1, well ahead of the stage referred to in the consent. Instead, this area has been earmarked for construction parking and allied uses only, and not for (school) visitor parking. The modification seeks approval to have this temporary parking area removed prior to Stage 5, wherein it will be landscaped in part with a Secondary School building over the residue.</i>
C32	<i>Revised landscape plans</i>	<i>The revised landscape plans sought by condition C32(a) now form a part of the revised landscape DA set.</i>
C33-C34	<i>Connection to water and sewer</i>	<i>Sydney Water now proposes a sewer main along a part of Pluto Avenue, with connection now possible to this line. This line can service development associated with the Primary School, in the southern half of the school campus, but not the northern section.</i>
C35	<i>Electricity conneciton</i>	<i>The modification provides for a relocation of the electrical substation to near the new Primary School building.</i>
C34-C42	<i>[No changes]</i>	
D1-37	<i>[No changes]</i>	
E1-E46	<i>[No changes]</i>	
F1-F18	<i>[No changes]</i>	

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4.2 Proposed Modification of the Development Consent- SSD 9227 MOD 1

The proposed modified conditions are as follows (~~omit~~ and ~~add~~).

“A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) generally in accordance with the EIS and Response to Submissions ~~and SSD 9227 MOD 1~~;
- (d) in accordance with the approved plans in the table below:

Survey plans prepared by Total Surveying Solutions			
Dwg No.	Rev	Name of Plan	Date
180370_C	-	Plan Showing Detail & Levels Over Lots 1 & 2 in DP 525996 Sheets 1 to 3	9/7/2019
Subdivision plan prepared by TSS Total Surveying Solutions			
Dwg No.	Rev	Name of Plan	Date
191149-1	C	Plan of Proposed Subdivision of Lots 1&2 DP 525996	19/7/19
Architectural Plans prepared by Gran Associates			
Dwg No.	Rev	Name of Plan	Date
O10	D E	Site Plan	31/7/19 16/4/21
100	D E	Ground Floor Plan	19/11/19 16/4/21
101	B C	First Floor Plan	31/5/19 16/4/21
102	B	Second Floor Plan	31/5/19
103	B	Third Floor Plan	31/5/19
104	B C	Roof Plan	31/5/19 16/4/21
105	B C	Basement Floor Plan	31/5/19 16/4/21
110	A	Typical Home Base Plan Ground Floor 01	30/4/19
111	A	Typical Home Base Plan Ground Floor 02	30/4/19
112	A	Typical Home Base Plan First Floor 01	30/4/19
113	A	Typical Home Base Plan First Floor 02	30/4/19
200	B	North & East Elevations	31/5/19
201	C D	South & West Elevations	19/11/19 16/4/21
300	B	Section AA & BB	31/5/19
301	B	Section CC & DD	31/5/19
302	B	Section EE & FF	31/5/19
303	B	Section GG & HH	31/5/19
304	B	Section II	31/5/19
310	A	Typical Home Base Cross Section	30/4/19
320	A	Typical Home Base Section Detail	2/7/19
321	A	Typical Circulation Link (Lift/Stairway) Sectional Detail	2/7/19
600	C E	Staging Plan Stage 1	3/7/19 16/4/21
601	C E	Staging Plan Stage 2	3/7/19 16/4/21
602	C E	Staging Plan Stage 3	3/7/19 16/4/21
603	C E	Staging Plan Stage 4	3/7/19 16/4/21

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604	G E	Staging Plan Stage 5	3/7/19 16/4/21
605	G E	Staging Plan Stage 6	3/7/19 16/4/21
606	G	Staging Plan Stage 7	3/7/19
607	G	Staging Plan Stage 8	3/7/19
800	A	Materials, Colours and Precedents	30/4/19
801	A B	Materials, Colours and Precedents	30/4/19 16/4/21
802	A	Materials, Colours and Precedents	30/4/19
803	A	Materials, Colours and Precedents	30/4/19
804	A B	Materials & Colour Schedule	30/4/19 16/4/21

Landscape Plans prepared by Michael Siu

Dwg No.	Rev	Name of Plan	Date
LC2/6	A C	Landscape Master Plan	28/5/19 13/4/21
LC3/6	A C	Landscape – Oval	28/5/19 13/4/21
LC4/6	A C	Library Terrace & Plant Schedule	28/5/19 13/4/21
LC5/6- K23503	A C	Landscape Staging Plan	28/5/19 13/4/21
LC6/6- K23503	A C	Landscape Staging Plan	28/5/19 13/4/21

Civil Works Plans prepared by Martens & Associates Pty Ltd

Dwg No.	Rev	Name of Plan	Date
PS01 PS08 -A050	H A	Development Overview Plan	20/11/19 28/4/21
PS01 PS08 -B100	H B	Stage 1 Overview Plan	20/11/19 29/4/21
PS01-B300	I	Sediment & Erosion Control and Clearing Plan (Ultimate Development)	24/4/20
PS01 PS08 -B301	G B	Sediment & Erosion Control and Clearing Plan (Stage 1)	20/11/19 29/4/21
PS01-B305	B	Sediment & Erosion Control Rusle Calculation	11/7/19
PS01-B310	C	Sediment & Erosion Control Details Sheet 1	28/6/19
PS01-B311	B	Sediment & Erosion Control Details Sheet 2	28/6/19
PS01 PS08 -C100	H A	Earthworks Grading Plan (Ultimate Development)	20/11/19 28/4/21
PS01 PS08 -C101	B A	Earthworks Grading Plan (Stage 1)	20/11/19 29/4/21
PS01 PS08 -C500	F A	Bulk Earthworks Cut-Fill Plan (Ultimate Development)	20/11/19 28/4/21
PS01 PS08 -C501	D B	Bulk Earthworks Cut-Fill Plan (Stage 1)	20/11/19 29/4/21
PS01 PS08 -C600	E A	Earthworks Section (Sheet 1)	20/11/19 28/4/21
PS01 PS08 -C601	G A	Earthworks Section (Sheet 2)	20/11/19 28/4/21
PS01 PS08 -C602	G A	Earthworks Section (Sheet 3)	20/11/19 28/4/21
PS08 -C603	A	Earthworks Section (Sheet 4)	28/4/21
PS01-D100	H	Roadworks Plan (Ultimate Development)	20/11/19
PS01 PS08 -D101	E B	Roadworks (Stage 1)	20/11/19 29/4/21
PS01-D200	D	Concept Future Byron Road (21-MRC01) Longitudinal & Typical Section	28/6/19
PS01-D201	F	Road 1 (21-MRC02) & Primary Drop-Off (21-MSC01) Longitudinal & Typical Sections	20/11/19
PS01-D202	C	Road 2 (21-MRC03) & Future Road (21-MRC03A) Longitudinal & Typical Sections	20/11/19
PS01-D300	F	Roadworks Details Plan	20/11/19

[Reason for the above modifications:

- ▶ For reasons of clarity, this proposed modification report is referred to as 'SSD 9227 MOD1' and is referred to as such in revised Condition A2(c).
- ▶ Plan numbers, revisions and details need to be changed to reflect the updated plans and drawings that accompany this section 4.55 application.
- ▶ The Architects drawings reflect the changes proposed to staging of project, changes to the 1st floor, basement and Byron Road facade, as well as amendments required by Conditions C9, C10 and B1 of the consent- the latter condition of consent now effectively redundant as a result of this modification application.
- ▶ The landscape architects plans have been duly amended to reflect the change in staging of the project, as well as the landscape requirements of Condition B1(c) of the consent- the latter condition of consent now effectively redundant as a result of this modification application.
- ▶ The engineering drawings have been duly amended to reflect the accelerated staging of the project, the need for a major re-design of engineering works for the revised Stage 1 of the project over a much larger development footprint, the extensive site remediation carried out to date, comments by Camden Council regarding the need for all stormwater flows to be contained within the Byron Road road reserve, and minor extension of road works in Pluto Avenue to the souther-western boundary of the school site.]

~~“Temporary Use of Demountables during Construction Stage 1~~

~~A34. The single-storey demountables as part of construction Stage 1 must only be on the site for seven years from the issue of the relevant occupation certificate.”~~

[Reason for the above modification:

The s.4.55 modification proposes permanent school buildings only to be erected in the revised Stage 1 of the project, with no demountable school buildings proposed. This condition of consent is now redundant.]

~~“Modified plans~~

~~B1. To ensure pedestrian safety and additional soft surface area fronting Byron Road, the Applicant must submit an amended landscape plan and site plan to the satisfaction of the Certifier, prior to the issue of the construction certificate for construction Stage 1, including:~~

- ~~(a) the deletion of nine visitors' parking spaces fronting Byron Road along with the vehicular access proposed in Stage 4;~~
- ~~(b) evidence to demonstrate that no access (either vehicular or pedestrian) is proposed at this location after Stage 3; and~~
- ~~(c) additional landscaping and planting of this location to be implemented in Stage 4.”~~

[Reason for the above modification:

The s.4.55 modification proposes to have no visitor parking in the location on Byron Road from project commencement. Instead, this area will be used as a construction compound, including provision for parking facilities for construction workers, during each staged construction works until the end of Stage 4, when it will be closed prior to completion of construction and dedication of Road 2. This area will then be landscaped, as required by Condition B1(c). Previous concerns raised by Camden Council related to the proximity of the access point of this car park being too close to Road 2, once opened to traffic. This concern has now been resolved through the implementation of the above measures.]

“Road Works and Design Requirements

B2. Prior to the issue of a construction certificate for Byron Road roadworks proposed under construction Stage 3 2, the Applicant must submit the following design plans to the satisfaction of Council:”

[Reason for the above modification:

The s.4.55 modification seeks to accelerate the staging of the project. The Byron Road road works are now proposed in revised Stage 2 of the project, hence the need to change this condition.]

Condition B9(i)

“(i) the total number of on-site car parking spaces, drop-off / pick-up spaces and bicycle parking spaces for use during operation of the development, provided in accordance with the Table below:

Construction Stage	Total student population	Total staff numbers	Total Number of on-site car spaces- (does not include additional spaces provided in Road 2)	Total on-site drop-off/pick up spaces	Total on-site bicycle spaces
Stage 1	75 300	8.5 24	10 62	17	0 20
Stage 2	250 500	25 39	28 62	17	20 36
Stage 3	250 500	25 43	28 62	17	36
Stage 4	500 700	43 58	45 62	17	36 46
Stage 5	750 1,000	63 83	87 94	32	46
Stage 6	1,000	81 85	104 94	32	46 62
Stage 7	1,000	83	104	32	62
Stage 8	1,000	85	104	32	62

[Reason for the above modifications:

- ▶ The revised figures represent the accelerated staging of the project now sought in this s.4.55 modification application. All of the development will now be completed by Stage 6, hence the need to delete reference to Stages 7 and 8. The revised staging program seeks the establishment of a Primary School at project commencement, having a capacity of 300 students and 24 staff, with 62 on-site parking spaces as well as a further 17 spaces in the school pick up/drop off zone.
- ▶ The table accompanying this condition of consent shows includes 15 angled on street car parking spaces along Road 2, suitable for pick-up and drop-off parking during school times. The consent is in error in identifying these spaces as ‘on site’ spaces, hence the need for correction.]

[Amendment to table accompanying consent condition C13]

“Stormwater Management System

C13. Prior to the commencement of works for each relevant construction stage (not including demolition works) the Applicant must design an operational stormwater management system for the development in accordance with Council’s requirements, in consultation with Council, and submit it to the satisfaction of the Certifier. The system must:

(a) be designed by a suitably qualified and experienced person(s) incorporating the results of hydraulic modelling and the size of the on-site detention tank in accordance with condition B14;

(b) be generally in accordance with the conceptual design in the EIS as listed in the following plans:

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Civil Works Plans prepared by Martens & Associates Pty Ltd			
Dwg No.	Rev	Name of Plan	Date
PS01 PS08 -E100	I A	Drainage (Ultimate Development)	24/4/20 6/5/21
PS01 PS08 -E101	F A	Drainage Plan	24/4/20 6/5/21
PS01 E110	B	Basement Floor Plan (Ultimate Development)	24/4/20
PS01 PS08 -E200	G A	OSD and Drainage Details	24/4/20 6/5/21
PS08 -E201	A	Table Drain & Kerb Flow Calculation	6/5/21
PS01 PS08 -E300	F A	Drainage Longitudinal Sections (Sheet 1)	24/4/20 6/5/21
PS01 PS08 -E301	F A	Drainage Longitudinal Sections (Sheet 2)	24/4/20 6/5/21
PS01 PS08 -E302	F A	Drainage Longitudinal Sections (Sheet 3)	24/4/20 6/5/21
PS01 PS08 -E303	E A	Drainage Longitudinal Sections (Sheet 4)	24/4/20 6/5/21
PS01 -E304	F	Drainage Longitudinal Sections (Sheet 5) & Pit Schedule	24/4/20
PS01 PS08 -E310	B A	Drainage Longitudinal Sections (Sheet 6) & Pit Schedule	24/4/20 6/5/21

“

[Reason for the above modifications:

- ▶ Minor changes only to ultimate on-site drainage system draining to on-site detention (OSD). Complete revision of Stage 1 drainage (E101) to reflect accelerated staging proposed and expanded development footprint.
- ▶ No change to basement car park drainage (E110), however, revised drawing revision number/date has been employed.]
- ▶ Minor changes to design of OSD (E200) and drainage connections. PS01-E304 sheet no longer required and has been deleted from the above drawing set.]

“Landscaping

C32. Prior to the commencement of construction for construction Stage 1, updated landscape plans must be submitted to and approved by the Planning Secretary and must include the following:

- (a) updates to Landscape Plan LC3/6 title Landscape – Oval, dated 28/5/2019 prepared by Michael Siu Landscape Architects to include deciduous tree species for 50% of the replacement / new tree plantings in and around the oval and the spill-out area;*
- (b) include details of street tree planting along the verges of Road 1 and Road 2 in accordance with the species in the Camden Growth Centre Precincts Development Control Plan;*
- (c) include details to demonstrate that in case of removal of each individual tree hollow, it is replaced at a minimum 1:1 ratio with nest boxes; and*
- (d) be consistent with the Applicant's Management and Mitigation Measures within the EIS.”*

[Reason for the above modifications: The landscape plans have been duly revised and submitted to the Planning Secretary in accordance with the above condition of consent. As such, this condition of consent is now redundant.]

[No amendment to Condition C33 is currently proposed, despite the fact that the new Primary School building will now be serviced by a Sydney Water sewer main running through the site and thence along Pluto Avenue. Condition C33 is worded such that it does not preclude this additional connection.]

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■ 5. Section 4.55 Modification: Statutory Matters

5.1 5.1 Overview: Types of Modifications and Modification Sought

The [NSW Environmental Planning & Assessment Act 1979](#) (EP&A Act) establishes the system of development approvals in NSW. The power to modify development consents is provided in Section 4.55 (formerly s.96) of the EP&A Act, which confers three separate powers to modify a development consent:

- Modifications involving errors etc.- contained in s.4.55(1). Not applicable to this application.
- Modifications with minimal environmental impact- contained in s.4.55(1A). Not applicable to this application.
- Other modifications- contained in s.4.55(2). Subs (2) confers the more general and widely based power provided the development is substantially the same development and provided other conditions are fulfilled as set out in s.4.55(2) (c) and (d).

Sub-section 4.55(2)(a) relevantly provides:

“(2) Other modifications. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) 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), “

This modification application, SSD 9227 MOD 1, is one made under s.4.55(2) of the EP&A Act, which is more general in nature and which does not contain any wording that implies “minor” or “minimal” environmental impact. In fact, the Court has found that even if there is a significant increase in the environmental impact associated with a s.4.55(2) application this does not necessarily preclude approval, provided that it is substantially the same development as that already permitted under an existing development consent per in [Wolgan Action Group Incorporated v Lithgow City Council](#) [2001] NSWLEC 199 Talbot J at [23] ([Wolgan](#)), referred to below.

s.4.55(2) (b) is not relevant to this application, because no concurrence of the Minister is required.

It is relevant to note that the words “to modify a development consent” is used. Related to the above to ‘modify’ means to alter without radical transformation per [Sydney City Council v Ilenace Pty Ltd](#)[1984] 3 NSWLR 414 and [Agricultural Equity Investments Pty Ltd v Westlime Pty Ltd \(No 3\) \(Westlime\)](#) at [173] cited by Pain J in [Central Coast Council v 40 Gindurra Road Somersby Pty Ltd \(No 2\)](#) [2019] NSWLEC 171 at [147].

The modification power under s.4.55 of the EP&A Act is free-standing, and is unaffected by the prohibitions or restrictions which apply elsewhere in Part 4 of the EP&A Act. Importantly, a modification is not the granting of consent (s.4.55(4)). This is a fundamental characteristic of the power to modify a development consent.

Accordingly, this Section 4.55 application does not seek the grant of a development consent; merely an approval to modify an existing Ministerial Approval for SSD 9227 issued on 14 July 2020. The power under s 4.55 is simply one to “modify the consent”, that is, the the object of the modification is the consent itself, not the development, as explained by Preston CJ in [Scrap Realty Pty Limited v Botany Bay City Council](#) [2008] NSWLEC 333 (19 December 2008).

Modifications are not ‘development’. As a result, s.4.12 of the EP&A Act has no application and neither does Part 2 of Schedule 3 of the *Environmental Planning & Assessment Regulation 2000* per Lloyd J in *Concrite Quarries Pty Ltd v Wingecarribee Shire Council* [2000] NSWLEC 97 (4 May 2000). Moreover, in considering the language used in s.35 of Schedule 3, it is clear that reference is being made to development involving alterations or additions, not a modification to a consent.

5.2 5.2 Other Relevant s.4.55(2) Considerations

The assessment of any modification application needs to be considered in terms of the decisions of the Court, and in particular that of Chief Judge of the NSW Land and Environment Court, Preston CJ, in *Arrange v Inner West Council* [2019] NSWLEC 85 dated 7 June 2019 at [24-31] (*Arrange*), including the following:

■ “First, the essential elements to be identified are not of the development consent itself, but of the development that is the subject of that development consent. The comparison required by s 4.55(2) is between two developments: the development as modified and the development as originally approved..” (*Arrange* at [24])

■ “Second, the essential elements are not to be identified “from the circumstances of the grant of the development consent”; they are to be derived from the originally approved and the modified developments. It is the features or components of the originally approved and modified developments that are to be compared in order to assess whether the modified development is substantially the same as the originally approved development.”(*Arrange* at [25]).

■ A modified development is substantially the same development as the originally approved development (ie Development Consent SSD-9227), and must be “essentially or materially” the same or “having the same essence” as the originally approved development. However, a comparison between the essential features of the originally approved and modified developments in order to undertake a comparative exercise is not mandatory (*Arrange* at [27]). [NOTE: The so-called ‘Moto test’ (*Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280) where qualitative and quantitative elements of the development are to be compared, is no more than dicta and is not a test that a consent authority is obliged to apply when assessing a modification application, per the decision of Preston CJ in *Arrange*]. A comparison of the essential elements of the originally approved development versus that now proposed by the proposed modification is summarised in the accompanying Table 6.1.

■ Related to the above, a comparison of the environmental impacts of carrying out the modified development compared to the originally approved development is one potential means of assessing whether or not the modification is ‘substantially the same’, however, it is an option only, not a mandatory requirement (*Arrange* at [28]).

“But if that way is selected, then the material and essential features or elements are to be identified from the originally approved and modified developments, not from the circumstances in which the original development consent was granted.” (*Arrange* at [29]).

Nevertheless, there are limits to such an approach. Thus, in *Wolgan* Talbot J said at [23]:

“...Even if the present applicant is correct in that there will be a significant increase in the environmental impact of the haul road that, nevertheless, does not necessarily preclude a conclusion that the development, to which the consent as modified relates, is substantially the same development as that already permitted.”

■ The modification power is beneficial and facultative (ie. conferring a faculty, privilege, permission, or the power of doing or not doing something).

As such, s 4.55 of the EP&A Act “is to be construed and applied in a way that is favourable to those who seek to benefit from the provision” per *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWSC 163 at [440], most recently confirmed by the Chief Judge of the Land and Environment Court in *Arrage* at [51-55].

Stated another way, this means that the statutory provision is to be construed and applied in a way that is favourable to those who seek to benefit from the provision.

■ Regarding approvals of modification applications, in the seminal case of *1643 Pittwater Road Pty Ltd v Pittwater Council* [2004] NSWLEC 685 McClellan CJ held that when an application is made to modify an existing consent, the consent authority has a discretion to make changes to the consent, by way of the imposition of new or amended conditions, that were not sought by the applicant. At [40]-[41] his Honour said:

“40. As a consequence, when an application is made to modify an existing consent, it will almost always be a request to modify a consent which has been granted subject to conditions. In these circumstances it would be impossible to consider the impact of the modification without an understanding of the effect of the existing conditions upon the modified consent. For the same reason it would be unreal to require a consent authority to evaluate an application to modify a consent without considering whether conditions made necessary by the modifications should be imposed.

41. To my mind, the discretion of a consent authority to impose conditions should only be confined if the parliament has provided for it in clear terms. Otherwise, the conventional approach to the exercise of a power to approve or refuse consent should be adopted. In the present case, the statute contains no suggestion that the discretion is confined and, accordingly, I am of the opinion that conditions may be imposed by a consent authority when determining an application for modification.”

The **first ‘test’** of a modification application is whether or not the proposal is ‘substantially the same’ development- Section 4.55(2)(a) of the EP&A Act.

This must be determined **first** before any assessment under s.4.15(1) of the EP&A Act is undertaken per Preston CJ in *Arrage* at [42]:

*“It is true that s 4.55(3) requires a consent authority to take into consideration such of the matters in s 4.15(1) of the EPA Act as are of relevance to the development the subject of the modification application and that one of those matters is the applicable environmental planning instruments, which would include in this case MLEP. But that consideration occurs “in determining an application for modification of a consent” under s 4.55. This determination cannot occur unless and until the preconditions in s 4.55(2) have been satisfied, one of which is in s 4.55(2)(a) that the consent authority has formed the positive opinion of satisfaction 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)”. **The consent authority is therefore not bound by s 4.55(3) to consider the provisions of applicable environmental planning instruments at the stage of determining whether the precondition in s 4.55(2)(a) is met.**” [our emphasis]*

In short, only **after** the **first ‘test’** of a modification application is met can the modification be considered in terms of the **second ‘test’**, namely, a consideration such of the matters in s.4.15(1) of the EP&A Act as are of relevance to the modification , as required by s.4.55(3) of the EP&A Act.

6. The First Modification 'Test': 'Substantially the Same' Development

6.1 Overview and Comparison of Existing Consent vs Proposed Modification

The **first 'test'** of a modification application is whether or not the proposal is 'substantially the same' development. The **first 'test'** must be satisfied prior to any assessment of the relevant heads of consideration under s.4.15(1).

The 'substantially the same' test has been the subject of case law and is relatively settled.

Section 4.55(2)(a) 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 term "substantially" means "essentially or materially having the same essence" (*Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 and endorsed in *Agricultural Equity Investments Pty Ltd v Westlme Pty Ltd (No 3)* [2015] NSWLEC 7 at [173]).

This Section 4.55(2) application does not seek the grant of a development consent, merely an approval to modify the existing Development Consent SSD-9227 relating to the Amity College development project. The following Table 6.1 compares the currently approved SSD 9227 consent plans with that now proposed.

Table 6.1: Amity College Leppington Comparison with original DA Consent for SSD-9227

Project Element of	Description of main features of currently approved school development SSD-9227	This s.4.55 application- SSD 9227 MOD 1
Project summary	Construction of a new school (K – 12) for 1000 students, comprising boundary adjustment, site preparation, vegetation clearing, bulk earthworks, site remediation, construction of two - four storey buildings, basement and at-grade car parking, landscaping, internal and external roadworks and stormwater works.	No change in overall projection description
Floor space & FSR	Gross floor area of 15,540m ² (fully developed). FSR of 0.717:1 (based on area of school campus, excluding new roads of 21,660m ²)	Minor change only. Gross floor area of 15,616m ² (fully developed) ie. an FSR of 0.720:1. Of the additional 76m ² of floor space proposed 47m ² comprises ramps and end-of-trip facilities required per Condition B9 of the consent ie. 62% of the additional floor space proposed. The other additional 29m ² of floor space arises from a minor reconfiguration of the 1st floor of the Primary School building.
Site coverage ie. built upon area	7,081m ² (32.69% of school site area, excluding local roads).	No change
Site area	2.2ha	No change
Site preparation works	- Demolition and site clearing. - Bulk earthworks resulting in 7,166 cubic metres (m³) of cut and 24,111m³ of fill (with 16,945m³ of imported fill material).	Minor change to bulk earthworks given the extensive site remediation undertaken to date, the volume of contaminated material removed from the site to date, and the accelerated staging of the project.

Remediation	Category 1 remediation works involving implementation of a Remedial Action Plan for identified asbestos and hydrocarbon contaminants.	No change [NOTE: The contaminated areas identified in the contamination report accompanying the EIS have now been remediated]
Subdivision and easements	Boundary adjustments for existing Lots 1 and 2 DP 525996 to create the future site boundary for the school site.	No change
Staging of the school project	Eight (8) stages are proposed, over a period of 10-15 years.	Accelerated staging proposed. Currently approved stages 1-4 to be included in a revised Stage 1. Six (6) stages are now proposed, over a period of 10 years or less.
Buildings form and building components	The demountable buildings in Stage 1 will be one storey in height. The permanent school will comprise buildings of variable height, ranging from two storeys on the southern side (Primary School), up to three storeys for the Secondary School, and a maximum of 4 storeys for the main administration building. Heights of school buildings above natural ground level are as follows: ▶ Primary School buildings: 8.78m-12.96m above natural ground level. ▶ Primary School hall: 10.87m-13.97m above natural ground level. ▶ Secondary school building: 12.6m-15.47m above natural ground level. ▶ Secondary school hall: 10.15-11.81m above natural ground level. ▶ Central administration building and library: 14.49m- 15.87m above natural ground level.	Minor changes only. ▶ No change in height of any school buildings. ▶ No change in building footprint of any school buildings. ▶ No change in the location of school buildings. ▶ 7.4% increase in landscaped areas provided on the site due to reduction in sealed surfaces and relocation of above ground rainwater tanks to below ground. ▶ Minor change in building form to accommodate fire stairs and toilets required by BCA, a minor reorientation of the 1st floor common room. ▶ Improved building facade treatment to Primary School near corner of Byron Road and Pluto Avenue. ▶ As a result of the accelerated staging of the project, no demountable school buildings will be required in Stage 1.
Bicycle parking	62 bicycle spaces across the campus	No change
Student & staff numbers	▶ Once completed, the development will accommodate up to 1,000 students. ▶ A total of 85 full-time equivalent staff for the school is proposed, when fully developed.	No change in overall numbers , however, anticipated student and staff numbers to be brought forward with accelerated staging eg. In revised Stage 1 there will be 300 students (75 in current consent for Stage 1) and 24 staff (9 in current consent for Stage 1). Refer to Section 3.5 for further details.
Roadworks and services	▶ Construction of half road width of Pluto Avenue (referred to as Road 1). ▶ Construction of a new future local road off Byron Road (referred to as Road 2). ▶ Construction of bus bay on Byron Road and half-width road construction. ▶ Stormwater drainage within the road reserves.	No change, with the exception of additional below ground water and stormwater storage

Parking	▶ On site parking provided in drop off/pick up zone + basement car parking provided in Primary School and Secondary School buildings. ▶ Two loading bays provided, for Primary School and Secondary School buildings. ▶ Additional on-street parking to be constructed in Road 2, prior to dedication to Council.	No change in the approved, overall parking [NOTE: correction required to error in the table accompanying consent Condition B9(i), which relates to on-site car spaces]
Access	▶ Main pedestrian access from Byron Road. ▶ Primary and secondary student only access off Roads 1 and 2, respectively. ▶ Separate loading bays and basement car park ramps provided from Roads 1 and 2. ▶ Visitor parking and vehicular access off Byron Road- allowed until prior to Stage 4.	Substantially the same. Minor change only sought re: parking and vehicular access off Byron Road. Parking for construction traffic off Byron Road only allowed after revised Stage 1, with no visitor parking allowed after Stage 1. Vehicular access and parking in this area allowed until (revised) Stage 4, when required for building purposes.
Landscaping, school play areas	▶ School play areas 8,732m² (40.3% of site, excluding local roads and perimeter landscaped area). Includes impervious play areas (7,159m²) and pervious play areas (1,573m²) + 3,998m² (18.45% of site) being perimeter landscaped area. ▶ With the exception of landscaping in and around the school pick up/drop off zone and Pluto Avenue, no permanent landscape works in current Stage 1. ▶ Two small landscaping strips proposed in Stage 2, and around sealed sports court and Byron Road frontage in Stage 3. ▶ Strip landscaping proposed around Primary School buildings, with one temporary play area provided in Stage 4.	Provision of permanent landscaping is to be accelerated with proposed modification. In particular, in revised Stage 1: ▶ Permanent landscaping at school entry to and frontage of Primary School building. Includes landscaping in and around the school pick up/drop off zone and Pluto Avenue. ▶ Permanent landscaping in and around the two Primary School buildings. ▶ Creation of terraced learning area and associated landscaping near the corner of Byron Road and Pluto Avenue. ▶ Extensive permanent landscaping and play areas provided, including permanent tree plantings and landscaping in main school play area, as well as landscaping around sealed sports court. ▶ Construction of large (temporary) school playing field adjoining Byron Road.
Uses	▶ Educational establishment including ancillary food and drink premises ▶ Community use of multi-purpose halls and other school facilities.	No change
Hours of operation	▶ General operating hours: 7.00am and 9.00pm (out-of-hours community and school use inclusive). ▶ Service vehicles and deliveries between 7.00am to 5.00pm. ▶ Construction hours are between 7.00am-6.00pm Monday to Friday, and 8.00am to 1.00pm on Saturday.	No change
Jobs	Modest employment in Stage 1: demountables only	Potential for a total 124 construction jobs to be created in revised Stage 1 under the accelerated construction program proposed.
CIV	\$64,353,300	No change to overall cost of works. Approx. \$15.5 million of works to be undertaken in revised Stage 1.

6.2 Quantitative and Qualitative Aspects of Proposed Modification vs Existing SSD 9227 Consent

For the sake of completeness, and notwithstanding the the decision of Preston CJ in *Arrange*, who found that such a test is not required at law, the following compares the qualitative and quantitative elements of the development as modified (SSD 9227 MOD 1) as against the existing SSD 9227 approved development.

■ Quantitative Differences

- ▶ The proposed modification does not change the purpose or type of for which the development is being carried out, namely, for a construction of a new school (K – 12) for 1,000 students, comprising boundary adjustment, site preparation, vegetation clearing, bulk earthworks, site remediation, construction of two - four storey school buildings, provision for basement and at-grade car parking, landscaping, internal and external roadworks and stormwater works.
- ▶ No increase is sought in terms of the student or staff numbers in the ultimate approved school development under Development Consent SSD-9227. However, under the accelerated staging program proposed significantly more staff will be employed at project commencement than is currently the case.
- ▶ The proposed modification does not alter the scale of the development. All buildings will be to the same height as that currently approved by Development Consent SSD-9227.
- ▶ No change in existing approved building setbacks from Byron Road or any future road is proposed by the modification.
- ▶ The modification seeks approval for an additional 76m² total floor space, of which approximately 62% of is floor space is that required by the existing consent. The remainder (29m²) is additional floor space.
- ▶ Compared to the original Development Consent SSD-9227, this modification seeks no change in overall car parking proposed, either on or off site, with parking remaining in the locations as shown in the current consent.
- ▶ No change in the approved hours of operation of the school ie. 7.00am-9.00pm Monday to Friday, with community use of school facilities permitted between 7.00am-9.00pm daily.
- ▶ No change in the approved hours of construction ie. 7.00am-6.00pm Monday to Friday, and 8.00am to 1.00pm on Saturday.
- ▶ The proposed modification does not give rise to any new significant environmental impacts compared to the approved development in terms of the relevant matters for consideration under Section 4.15(1) of the EP&A Act. Refer to Section 7 for further details.
- ▶ The proposed modification seeks significant permanent landscaping on site from project commencement. Under the current Development Consent SSD-9227 the planting out of permanent landscaping is delayed until Stage 3 and 4 of the approved development.
- ▶ The proposed modification seeks an increase in the amount of permanent landscaping established on the school campus.
- ▶ The same area of land is proposed to be subject to earthworks and related engineering works.
- ▶ The modification remains consistent with applicable plans, policies and controls.

■ Qualitative Differences

- ▶ Accelerating the staging of the project enables the school campus to be attractively landscaped from project commencement, rather than at a later stage. This will enable the early establishment of screening vegetation. These impacts will be to the benefit of the visual amenity of the neighbourhood.
- ▶ The proposed modified plans retains the same use, namely, that of a school and the same building typology, as that for which consent was granted. It remains a school development with no change in

building height and minor changes to the footprint in order to meet fire and BCA standards. These changes do not materially change the development or the essence of the approved school development.

- ▶ The changes to the design do not ‘transform’ the development, nor does it change its essence or render it something other than ‘substantially the same development’..
- ▶ The proposed modification changes in no way the overall impact of development on the school site. There will be no change in the area of land that needs to be cleared, drained or remediated under the current Development Consent SSD-9227. All constraints were assessed prior to the grant of the original consent.
- ▶ The modification will still result in a design almost identical to that found under Development Consent SSD-9227. It continues to one that is commensurate with anticipated demand, educational standards and relevant school building requirements, and will continue to create quality places and outcomes.
- ▶ The site is still be intended for use for school purposes, with shared use of parking spaces with the neighbouring church- the sharing of access and car parking spaces flagged in the original development application. The proposed development thus retains the same school-related uses as for Development Consent SSD-9227 and in this respect there is no material change in the essence of the development.
- ▶ The carrying capacity of the school buildings, as modified, is not altered from that contained in the original approved scheme ie. 1,000 students and 85 full time equivalent school-related jobs. The modifications do not the increase the number of staff or students approved to use the buildings.
- ▶ No apparent changes are proposed in terms of the location or types or arrangement of school buildings as compared to that provided in Development Consent SSD-9227. In this regard the essential character of the approved school campus will not be changed as a result of the modifications sought.
- ▶ The environmental impacts as previously assessed remain substantially the same and have not been intensified or are capable of meeting relevant environmental criteria as a result of the revised design.
- ▶ Related to the above, the revised scheme will be an improvement of the orderly and economic implementation of the school development as set down in Development Consent SSD-9227. School buildings will be of the same bulk, scale and character to that approved. The proposed landscaping will be brought forward to ensure that the visual impact of the modified development is demonstrably improved.

6.3 6.3 Conclusion: ‘Substantially the Same’ Development

From the above, the proposed modification, being SSD 9227 MOD 1, is considered to be ‘substantially the same’- if not a significant improvement- as the originally approved development and not a ‘radical transformation’ from the Development Consent SSD-9227 originally issued in July 2020, summarised below:

- The comparison required by s 4.55(2) between two developments, namely, the development as modified and the development as originally approved, confirms that the modified proposal satisfies the ‘substantially the same’ test in this regard. Table 6.1 shows the predominant change arises from an acceleration of the staging of the project, with minor changes elsewhere proposed.
- Related to the above, the features or components of the originally approved and modified developments have been compared in Table 6.1, showing that the modified development is substantially the same as the originally approved development.
- The modified development is substantially the same development as the originally approved development (ie Development Consent SSD-9227), and is ‘essentially or materially’ the same and/or has ‘the same essence’ as the originally approved development.

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■ Related to the above, a comparison of the environmental impacts of carrying out the modified development compared to the originally approved development is one potential means of assessing whether or not the modification is ‘substantially the same’, however, it is an option only, not a mandatory requirement (*Arrange* at [28]). Table 4.1 shows that no part- or very little- of the currently approved development is to be changed, in particular relating to:

- ▶ Overall project components. The modification seeks to accelerate the rate at which these project components are to be built on the site, hence the change in staging proposed.
- ▶ The modification differs from the currently approved scheme in that **major building works are now proposed at the outset of the project, having the potential to generate 124 construction jobs. Moreover, it will provide for additional jobs being created, for 24 school staff.**
- ▶ Landscaping. The modification seeks to accelerate the rate at which permanent landscaping is to be established on the school site campus, resulting in demonstrable improvements in visual amenity, both for students and residents alike.
- ▶ Car parking (no change to ultimate number of car parking spaces provided on site).
- ▶ Provision of road works (no change).
- ▶ Floor space (minor increase only in floor space provided, mainly in order to satisfy the requirements contained in the consent conditions C9 and C10).
- ▶ Building heights (no change).
- ▶ Site preparation works. The modification seeks to accelerate the rate at which this project component is undertaken on the site.
- ▶ Subdivision (no change).
- ▶ Hours of operation (no change).
- ▶ The modification will bring forward the provision of school spaces capable of use by the community.

The substantive change sought in this modification application is acceleration of the project, that is, bringing forward the staging of the already approved school development, rather than changing the nature of the overall school development itself.

In a similar vein, the environmental impacts associated with the overall development were considered prior to the grant of consent for SSD-9227, with no additional environmental impacts likely to arise from the modified scheme now proposed, save for an improved visual impacts resulting from a changed building facade of the Primary School building when viewed from local roads. Refer also to Sections 3.6 and 7.1 for further details in this regard.

In both quantitative and qualitative terms, the proposed modification is ‘essentially (and) materially’ the same as the original consent (*Westlime*)- the substantive change relating to the acceleration, or bringing forward, of the staging plans for the development.

Further, it can be seen from a review of the plans that the form of development proposed in the modification application is essentially the same as the original consent in regard to matters including but not limited to building height and massing, road works, land clearing, remediation, drainage, parking, access, student numbers, or hours of operation. No change is proposed to the school buildings proposed or other key design elements in the modification. Essentially, the change in staging brings forward forward a range of site works approved in the original consent, the impacts of which having been previously considered in detail in the original development application prior to the grant of consent for SSD-9227.

In short, none of the design modifications (described in Section 3), whether considered individually or as a whole, will substantially alter the essence of Development Consent SSD-9227.

Moreover, the proposed modifications are also beneficial in comparison to the development for which consent was originally granted.

Therefore by its nature the modification will result in a development that is 'substantially the same' as the development for which consent was originally granted, thus satisfying the requirements in Section 4.55(2) of the EP&A Act.

Having regard to the above, the proposed modification thus satisfies the **first 'test'**.

As the first 'test' has been satisfied, the modification can now be assessed under the terms of the **second 'test'** , namely, a consideration such of the matters in s.4.15(1) of the EP&A Act as are of relevance to the modification , as required by s.4.55(3) of the EP&A Act.

7. The Second Modification ‘Test’: s.4.15(1) Assessment

7.1 7.1 Overview: the Second ‘Test’ of a Modification

If a modification is shown to be ‘substantially the same development’-as concluded in the preceding Section 6- the **second ‘test’** is thus activated.

Section 4.55(3) of the EP&A Act provides that a consent authority to take into consideration such of the matters referred to in section 4.15(1) **as are of relevance** [our emphasis] to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent. In other words, not every head of consideration under section 4.15(1) needs to be assessed; only those heads considered to be of relevance to the specific modification application.

Section 4.15(1) provides:

“(1) In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

(v) Repealed

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.”

In evaluating the original development application and accompanying EIS for SSD 9227 the Department of Planning Industry and Environment concluded in the Executive Summary inter alia:

“The Department of Planning, Industry and Environment (the Department) considers the application is consistent with the objects of the Environmental Planning and Assessment Act 1979 (EP&A Act) including ecologically sustainable development and the Greater Sydney Commission’s Western City District Plan.

The Department is satisfied that the site is suitable for the proposed new buildings and would provide new and improved educational facilities for the locality and future users of the site. The Department is satisfied that the key issues (traffic and access, drainage and stormwater, built form and urban design and noise and vibration) were satisfactorily considered by the Applicant and found to be acceptable with the inclusion of environmental mitigation measures and recommended conditions of consent.”

The main feature of the proposed modification (SSD 9227 MOD 1) will be to accelerate the staging of construction of the school project. This accelerated staging will not only result in the earlier provision of permanent landscaping and resultant positive visual amenity, but also in terms of the earlier provision of permanent school classrooms and increased on-site car parking facilities.

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The accelerated project brings forward the provision of school facilities, and in particular permanent landscaping and facilities capable of community use. It will have minimal environmental impacts and accordingly should not impact the Department's conclusions reached for the original development application for SSD 9227. A summary of the overall compliance of the development, as modified, with the above s.4.15 matters for consideration is set out in the accompanying Table 7.1.

Table 7.1: Compliance with Relevant Section 4.15 Matter of the EP&A Act (Summary)

Relevant matters for consideration s.4.15	Compliance of SSD 9227 MOD 1
(a)(i) The provisions of: Any environmental planning instrument	The site enjoys a consent for the operation of a school. The EP&A Act allows modifications to any consent. The approved school development is permitted by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and is specifically zoned for the purposes of a school: SP2 Infrastructure (Educational Establishment). It accords with good urban design principles and school planning principles per State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, as well as with the Indicative Layout Plan for the Leppington Precinct. Remediation of the site has been undertaken in accordance with SEPP No. 55. The modification does not change the above.
(a)(iii) Any development control plan	The applicable development control plan is the Camden Growth Centre Precincts Development Control Plan. The approved school includes the construction of Local Streets adjoining the northern and southern boundaries of the new school, being entirely consistent with the objectives of this DCP and the Indicative Layout Plan. The modification does not alter these features of the approved scheme. [NOTE: DCPs do not apply to State Significant Development]
(a)(iv) The regulations	Subclause 115(1) of the EP&A Regulation 2000 details the information required to be submitted with an application to modify a Development Consent under section 4.55. These details are contained in this report, and accompanying letter and application form.
(b) Likely impacts	▶ The modified development is substantially the same development as that for which consent was originally granted (refer Section 6), thereby maintaining the acceptable environmental impact assessment and site management regime associated with the currently approved SSD 9227 school development. ▶ The main feature of the modification is to bring forward the various stages of the currently school project, the impact of which has been previously assessed and found to be acceptable. Accelerating the school project will mean more jobs, more investment in school infrastructure and the provision of essential educational services to the community earlier than originally predicted -positive social and economic impacts. ▶ Existing arrangements to ensure the safe ongoing construction and operation of the school will be unaffected by the proposed modification. One notable change is the proposed retention of a car park off Byron Road for one additional stage, but only for construction-related purposes and prior to the opening of Road 2 to traffic. ▶ There will be no likely adverse impacts on the environment or the amenity of the Leppington neighbourhood resulting from the proposed modification. ▶ The modification will not involve any further disturbance outside the already approved overall disturbance area of the approved school project. ▶ In accelerating the staging the modification will enable the early establishment of permanent landscaping and school play areas over much of the site, a proposed change that will result in positive outcomes for students and local residents alike.
(c) Suitability of the site	The suitability of the site for a school was comprehensively addressed prior to the grant of the Ministerial Approval in July 2020.
(e) Public interest	The proposed modification is considered to be in the public interest as it has positive social outcomes, maintains student amenity and has minimal environmental impacts.

7.2 Section 4.15(1)(a)(i) Planning instruments

The EIS submitted with the original Development Application (DA) for SSD 9227 addressed the proposed development's level of compliance against relevant planning instruments. It is noteworthy that in the Department's planning report accompanying the Ministerial Approval dated July 2020 the following was noted, including but not limited to:

- The land proposed for the (now approved) school is specifically zoned for that purpose, namely, SP2 (Educational Establishments). The proposed modification relates to the same, minimally changed development components forming a part of Development Consent SSD 9227.
- *"Under section 4.15 of the EP&A Act, the consent authority is required to take into consideration any environmental planning instrument (EPI) that is of relevance to the development the subject of the development application. Therefore, the assessment report must include a copy of, or reference to, the provisions of any EPIs that substantially govern the project and that have been considered in the assessment of the project. The Department has undertaken a detailed assessment of these EPIs in Appendix B and is satisfied the application is consistent with the requirements of the EPIs."* The proposed modification does not propose any changes that impact on this conclusion.
- The proposed modification introduces design measures required by the BCA and the consent. For example, it introduces fire access stairs and the provision of end-of-journey facilities. Given these minimal design changes, the proposed modification will continue to comply with good urban design principles and school planning principles set down in *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. Remediation of the site has already been undertaken on the school site in accordance with *State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)*- refer to Figure 3.2.
- The school project complies with the relevant objects of the EP&A Act. In fact, the modification introduces further beneficial impacts, in particular in terms of the following objects:
 - ▶ Promotes the social and economic welfare of the community by bringing forward the staging of the project, enabling increased jobs, investment and educational facilities in the region.
 - ▶ Facilitating the orderly and economic development and use of the land as a school, but with an accelerated staging program. It is also noteworthy that in their submission to the Department Camden Council requested the proposed staging should be amended to ensure the earlier delivery of more substantial infrastructure and open space works for improved amenity of the users. The proposed modification (SSD 9227 MOD 1) satisfies this request.

The compliance of the proposed modification with other relevant planning instruments are further considered the accompanying tables.

Table 7.2: Compliance with Other Relevant Planning Instruments (Summary)

Relevant planning instrument	Compliance of SSD 9227 MOD 1
State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Appendix 9 Camden Growth Centres Precinct Plan	Refer also to accompanying Table 7.3. The site of the approved school is zoned SP2 Infrastructure (Educational Establishment). under this SEPP. The assessment of the original DA by the Department gave recognition to the fact that: ▶ The use of the site for a school is a permissible use under this state planning policy.. ▶ The SP2 zone has no stipulated building height or Floor Space Ratio (FSR) limits.
State Environmental Planning Policy (No. 64 – Advertising and Signage	The modification does not seek to change the currently approved signage described in SSD 9227 consent conditions E26 to E33.

State Environmental Planning Policy (No. 19 – Bushland in Urban Areas (SEPP 64))	The assessment of the original SSD 9227 DA by the Department found that: “The proposal would have no impact on the adjoining open space and protect the vegetation within this site. Adverse impacts on the stormwater flows on to this site post development can be managed via an appropriately designed stormwater system and on-site detention tanks.” The modification provides for additional appropriately designed, below-ground stormwater system and on-site detention tanks.
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017	The assessment of the original SSD 9227 DA for the school by the Department found that the school complied with the this state planning policy, referred to in the Department’s assessment report as the ‘Education SEPP’ and summarised in the following: “The proposed school complies with the relevant development standards under the Education SEPP.” The modification involves minimal change to the overall design of the school project- in the main incorporating design changes required by the consent and the BCA. ▶ The modification proposes bringing forward the building of the project, along with earlier landscaping, the latter likely to result in much improved visual and student amenity. ▶ No change in the height of approved school buildings or overall building form. ▶ Extensive on-site car parking is now proposed at project commencement. The car park accessed off Byron Road is proposed to accommodate construction parking and facilities only. This car park area will be shut down prior to the opening of the northern Road 2. ▶ No change proposed to out-of-hours use of the school by the community. The modification enables earlier use of school facilities than under the current consent SSD 9227. ▶ The modification seeks to improve the design of the school project in bringing forward the provision of substantial areas of landscaping at project commencement, providing extensive (and permanent) play facilities for students, as well as enabling the school to better integrate with the neighbourhood through early provision of landscaping and improved visual appearance in the treatment of the facade on that part of the building near the corner of Pluto Avenue and Byron Road, in satisfaction of clause 35(6)(a) of this state planning policy (Design principles: Context, Built Form and Landscaping, Amenity, Aesthetics). ▶ The modification also proposes further minor changes in order to meet accessibility requirements under the BCA, as well as providing for the increased provision of substantial on-site car parking provided in the basement car parking under the Primary School at project commencement, in satisfaction of clause 35(6)(a) of this state planning policy (Design principle: Accessible and Inclusive).
State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)	The original development DA502/2015 has been previously assessed and found to be compliant with the provisions of State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55). The same SEPP 55 management protocols will be maintained on site with the modifications proposed. ▶ A Remediation Action Plan (RAP) was prepared in response to contamination in various locations identified on the school development site. The remediation works carried out to date in these known locations are virtually complete- refer Section 3.3 for further details.. ▶ The proposed modification does not impinge upon or change the demolition and remediation works identified in the original EIS and consent conditions C8, C38 and C39 respectively. ▶ Moreover, the proposed modification does not impinge upon or change the (future) unexpected contamination procedures/ protocols already in place (consent condition C6). [NOTE: Since the grant of consent in July 2020 the area identified as being contaminated in the GeoEnviro Consultancy contamination report has been remediated]

The compliance of the proposed modification with relevant sections of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Appendix 9 Camden Growth Centres Precinct Plan* is further considered the accompanying Table 7.3.

Table 7.3: Compliance State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Appendix 9 Camden Growth Centres Precinct Plan

Relevant provision	Compliance of SSD 9227 MOD 1
Clause 2: Aims	Complies, having regard for the following aspects of the proposed modification: ▶ Improved provision for recreational facilities having regard for substantial increase in open space and play areas in the (revised, modified) first stage of the school project. ▶ Improved quality environment having regard for substantial increase in permanent landscaping, to be provided in the (revised, modified) first stage of the school project. ▶ Improved employment and economic growth arising from the substantial increase in investment (to \$15.5 million) and increase in construction workforce and school staff numbers arising from modification sought.
Clause 2.3: Land Use Zones	The site of the approved school is within land zoned SP2 Infrastructure (Educational Establishments). The modification does not seek to change the extent of land to be developed for school purposes.
Clause 2.7: Demolition	Existing dwellings and sheds have already been demolished as part of site remediation process required under Condition C38 of the SSD 9227 consent. [NOTE: That part of the site identified as being contaminated in the EIS was remediated during the period November 2020-April 2021]
Clauses 4.3 (Height of Buildings) and 4.4 (Floor Space Ratio)	No building height or FSR controls apply to the approved school site.
Clause 5.3: Development near zone boundaries	No change in development near the zone boundary, save for stormwater and rainwater collection systems. These (below ground level) changes do not in any way affect the integrity or usability or compatibility of the neighbouring RE1 zoned lands.
Clause 5.9: Preservation of Trees or Vegetation	The Department's assessment of the original SSD 9227 DA found that: "The site is biodiversity certified under the former Threatened Species Act 1995. Council and the Department raise no objections to the removal of the existing vegetation within the site". Consent previously issued for the removal of all all native vegetation on that part of the site zoned SP2. No additional land clearing proposed by this modification application.
Clause 6.1: Public Utility Infrastructure	The Department's assessment of the original SSD 9227 DA found that: "The Applicant has satisfactorily established that appropriate water, sewer, and electricity connections can be made available for the site." No additional servicing requirements arise from the proposed modifications. Given that a Sydney Water sewer line is now proposed to run along the Pluto Avenue frontage, through the school site, the opportunity now exists for connection of the Primary School to connect to this Sydney Water sewer line to service the revised Stage 1 school development.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 sets down seven design quality principles in Schedule 4 that apply to schools, to ensure that school infrastructure is well designed and responsive to its purpose and location. These are provided in Schedule 4 of this state planning policy. The design of the school, as modified, is almost identical to that as originally approved.

The compliance of the proposed modification with the planning and design principles in Schedule 4 are summarised in the accompanying Table 7.4.

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Table 7.4: Compliance with Design Principles in Schedule 4 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Design Principle	Compliance of SSD 9227 MOD 1
Site Context, built form and landscape: Schools should be designed to respond and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage	Complies. Previously considered in the assessment of the original school DA prior to the granting of Ministerial Approval in July 2020. The proposed modification also seeks the following changes: ▶ Improved provision for recreational facilities and open space and play areas in the (revised, modified) first stage of the school project. ▶ Improved quality environment having regard for substantial increase in permanent landscaping in the (revised, modified) first stage of the school project.. ▶ Improved facade treatment of the proposed Stage 1 Primary School building facing Byron Road, near the corner of Pluto Avenue and Byron Road.
Sustainable, efficient and durable: Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements	Complies. The modified design has been proposed in response to these changing needs, with flexibility enabling further changes.
Accessible and inclusive: Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours	Complies. Drop-off zone is still proposed to be used by the community with the modification. In fact, the modification brings forward the provision of school facilities capable of being used out-of-hours by the community.
Health and safety: Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.	Complies. Significant increase in the amount of landscaped open space and school play facilities proposed by the modification. The modification also proposes additional end-of-trip facilities in the Primary School basement car park.
Amenity: Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.	Complies. In accelerating the staging of the school project additional pleasant and engaging spaces will be provided. In bringing forward substantial landscaping within the school site the visual impact of the approved school development will be further improved.
Whole of life, flexible and adaptive: School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning	Complies. This design principle adopted in the current approved development. The proposed modification will not compromise this design principle.
Aesthetics: School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements	Complies. Greatly enhanced and extensive landscaping on the site will have positive impacts in terms of aesthetics.

Part 7 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 sets out general development controls for traffic-generating development. In this regard no changes are proposed to the already approved car parking and access arrangements. [NOTE: Previously these traffic provisions were contained in State Environmental Planning Policy (Infrastructure) 2007- since deleted]

7.3 Section 4.15(1)(a)(iii) Any Development Control Plan

The *Camden Growth Centre Precincts Development Control Plan* ('the DCP') was prepared pursuant to the provisions of (then) Section 72 of the *Environmental Planning and Assessment Act 1979*. It was adopted for the Leppington Priority Precinct on 8 December 2015. Under the provisions of clause 11 of *State Environmental Planning Policy (State & Regional Development) 2011*, DCPs do not apply to SSD developments.

The proposed modification adjusts the staging of the project, whilst maintaining existing project elements referred to in the DCP, including provision for local streets. The modification does not seek to change any element that has relevance to the *Camden Growth Centre Precincts Development Control Plan* considered when consent was granted to the original DA. Schedule 5 provides figures only. These figures are for the Leppington Priority Precinct and support the objectives, controls and design principles for development planning and design in Part 2 of the main body of the DCP. The Indicative Layout Plan for the Leppington Precinct forms a part of the DCP.

Refer to accompanying Table 7.5.

Table 7.5: Compliance with Camden Growth Centre Precincts Development Control Plan ('the DCP')

Relevant Schedule 5 DCP provision	Compliance of SSD 9227 MOD 1
Indicative School Location: Figure 2-10 of Schedule 5	Complies. No change to overall layout or project elements forming a part of the approved school.
Provision for Local Roads, to north (Road 2) and to the south (Road 1- half road construction) and upgrades to Byron Road	Complies. No change to the provision of Road 1 (half-road construction) or Road 2 (northern road) or Byron Road road works. The modification does not seek to change the location or extent of these road works, however, the construction of Road 2 and Byron Road road works are now likely to be provided much sooner than that as originally proposed/approved.
Water cycle management	Complies. Improved stormwater and rainwater storage facilities are proposed-considered to be beneficial. No other substantive changes are proposed.
Contamination	Complies. Almost all of the land identified as being contaminated land has already been remediated.
Pedestrian and cycleways	Complies. No change in approved development. Shared footpath proposed along Byron Road street frontage up to Ingleburn Road.
Demolition	Complies. All demolition work has been carried out on site in accordance with Australian Standard AS2601-1991, <i>The Demolition of Structures</i> . Security fencing has been installed around the perimeter of the school site prior to work commencing.
Crime Prevention through Environmental Design	Complies. No change proposed.
Construction Environmental Management	Complies. No change proposed.

The proposed modification is consistent with the relevant provisions of the DCP.

7.4 Section 4.15(1)(a)(iv) The Regulations

The term “the Regulations” applies to the *Environmental Planning & Assessment Regulation 2000* (EP&A Regulation 2000). Clause 115 of the (EP&A Regulation 2000) stipulates the information that must be submitted with any application to modify a consent, with clause 118 of the EP&A Regulation 2000 containing the requirements for notification of any modification application. All demolition works have been undertaken in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*. The compliance of this modification application with relevant clause 115 requirements under the EP&A Regulation 2000 are detailed in the accompanying Table 7.6.

Table 7.6: Compliance with Relevant Provisions of EP&A Regulation 2000

Relevant Clause 115 EP&A Regulation 2000 requirement	Compliance of SSD 9227 MOD 1
1(a) the name and address of the applicant	Complies. Outline Planning Consultants Pty Ltd on behalf of Amity College.
(b) a description of the development to be carried out	Complies. Refer to preceding sections of this s.4.55(2) report for details of modification for which approval is sought.
(c) the address, and formal particulars of title, of the land on which the development is to be carried out	Complies. Part Lots 1 and 2 in Deposited Plan 525996, No. 85 Byron Road and No. 63 Ingleburn Road, at Leppington.
(d) a description of the proposed modification to the development consent	Complies. This s.4.55(2) report details the modification proposed, supported by architect's drawings and other documentation and drawings accompanying this application.
(e) a statement that indicates either: (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation, or (ii) that the modification is intended to have some other effect, as specified in the statement	Complies. This is a s.4.55(2) application, the details of which are provided in this report.
(f) a description of the expected impacts of the modification	Complies. Refer to Section 7.5 for details. Acceptable impacts are anticipated.
(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved	Complies. Refer to Section 6 confirming that this is the case.
(g1) biodiversity development assessment	Not applicable.
(h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application	Complies. Owners consent accompanies this s.4.55(2) application.
(i) and (j)	Not applicable.

7.5 Section 4.15(1)(b) Likely Impacts

Section 4.15(1)(b) of the EP&A Act requires an assessment of relevant likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality. In this regard, the EIS submitted with the original SSD 9227 Development Application (DA) addressed the proposed school development and its impact on the environment. [NOTE: As required by the consent, engineers Martens & Associates have consulted with Camden Council regarding relevant conditions of consent.] It is considered that the proposed development, as modified, will result in the same or similar environmental impacts as the approved scheme.



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Outline Planning Consultants Pty Ltd
Town Planners & Project Managers

This is because the main feature of the proposal is to bring forward the staging of the project. The likely impacts associated with the development have been previously assessed, with no substantive additional impacts associated with the proposed modification- refer Table 7.7.

Table 7.7: Likely, Relevant Impacts of Proposed Modification

Relevant Impact	Compliance of SSD 9227 MOD 1
Planning and the built environment	<i>Complies. Previously considered and found to be satisfactory when the original DA was assessed, prior to the grant of Ministerial Approval in July 2020. The modified development is substantially the same as that approved with the main change being the acceleration of the staging program. Refer to Section 3.2 for details. The impacts of the modifications sought will have no change to overshadowing or visual impacts (building height, scale) when viewed from nearby vantage points. Improvements to the facade of the Primary School are proposed, resulting in improved visual impacts. The modifications are considered to be satisfactory and will not differ from the overall impacts of the original SSD 9227 DA.</i>
Landscape	<i>Complies. Previously considered and found to be satisfactory when the original DA was assessed, prior to the grant of Ministerial Approval in July 2020. Substantial increase in permanent landscaping, brought forward as a result of the accelerated building program now proposed in this modification, with a marginal increase in the overall landscaped area. The resultant revised landscape plan It will achieve a cohesive and appealing urban design outcome that effectively integrates with built form elements and is responsive to the site context, and is superior to the currently approved landscape scheme. Refer to Section 3.4 for further details.</i>
Impact on vegetation, biodiversity	<i>Complies. The proposed modifications occur with the approved development footprint and no further vegetation clearing is proposed as part of this modification application. Much of the site is already cleared as a result on on-site remediation works. The modification proposes an overall increase in the area to be revegetated within the approved school site.</i>
Traffic, access and parking	<i>Complies. The provision of on-site car parking is to be brought forward as a result of the modification. A significant increase in permanent on-site car parking provided is proposed in the early stages of the revised project, when compared to that provided for in the current consent. For example, 79 permanent car parking spaces are now proposed for the revised Stage 1 of the project, compared to zero permanent car parking spaces in the original consent. Refer to Section 3.5 for further details. The modification seeks to enable construction parking and allied uses to remain on a section of the site near proposed Road 2, however, this should result in no adverse traffic impacts, nor should it give rise to any concerns by the Department, given that this access point will be closed off and landscaped in part prior to the construction and subsequent dedication of Road 2.</i>
Student amenity	<i>Complies. The s.4.55(2) application seeks the establishment of the Primary School building, as well as play areas and outdoor open spaces, as a part of the revised Stage 1 of the project. These will result in significant improvements to overall student amenity.</i>
Acoustic impacts	<i>Complies. No changes proposed.</i>
Earthworks, clearing, site remediation	<i>Complies. The modification will not result in any increase in the area to be disturbed by earthworks or remediation works. Much of the site is already cleared as a result on on-site remediation works.</i>
Amenity, safety, security	<i>Complies. The modification will improve neighbourhood amenity due to the bringing forward of permanent landscape works on site. Security measures already forming a part of the consent will be retained. Additional stairs are provided in order to meet BCA requirements.</i>
Drainage	<i>Complies. Improved stormwater and rainwater storage facilities provided.</i>
Services	<i>Complies. New connection to proposed Sydney Water sewer that is to run within the school site fronting Pluto Avenue.</i>

The staging of the project originally proposed was in response to likely availability of funding for the project, and not for environmental reasons. This has now completely changed given the major injection of funds now available for this SSD school development.

With the revised staging program for the Amity College Leppington site, landscaping, the creation of permanent open space areas, and environmental measures, such as use of permanent on-site detention of stormwater, construction of retaining walls and the like, are merely being brought forward, without changing impacts previously assessed in the EIS. Martens & Associates, consulting engineers, have prepared revised engineering plans showing how the revised staging will work, in particular in terms of stormwater drainage, erosion and sediment control and on-site earthworks.

The currently approved preliminary Construction Environmental Management Plan (CEMP), prepared by Outline Planning Consultants Pty Ltd, has the flexibility to accommodate the revised staging program for the project. The revised staged development will have no impact to any potential dust or odour as all appropriate measures will be set in place as per the CEMP throughout the development. The engineering drawing prepared by Martens & Associates CEMP have detailed the erosion and sediment control measures to be implemented for the revised Stage 1. Traffic, noise and safety impacts have been considered in the original EIS, and will be contained through implementation of the various measures already contained in the CEMP and revised design drawings. The landscaping program will be brought forward as a result of the revised staging proposed.

7.6 7.6 Section 4.15(1)(c) Suitability of the site for the proposed development

The site has existing approval for use as an educational establishment and has been previously assessed as suitable prior to the grant of the Ministerial Approval in July 2020.

7.7 7.7 Section 4.15(1)(e) Public Interest

The proposed modifications are not expected to give rise to additional concerns beyond those originally raised. The school project was previously assessed and found to be in the public interest. The modified development is substantially the same as that approved in July 2020, with additional benefits as outlined in Section 2 of this s.4.55(2) report.

The modified development will continue to provide a development that meets the needs of the school, as well as achieving good amenity outcomes. It is noteworthy that in their submission to the Department, Camden Council requested that the proposed staging should be amended to ensure the delivery of more substantial infrastructure and open space works earlier for improved amenity of the users. The modification delivers on all fronts in that:

- It proposes to bring forward the timing and delivery of the school with a time frame for completion of the project reduced from 10-15 years (as currently approved by the consent for SSD 922) to 10 years or less (proposed by the modification SSD 9227 MOD 1).
- It proposes to bring forward the timing and delivery of a school with more open space works for the improved amenity of both residents and school users alike. This includes the bringing forward of delivery of permanent landscaping and oval plantings.
- It proposes to bring forward the timing and delivery of a school infrastructure.

On this basis, the development as modified will maintain- if not improve- the significant public benefits outlined in the original EIS for the DA.

8. Summary Evaluation and Conclusions

The proposed modification, being SSD 9227 MOD 1, not only brings forward the construction staging for the new Amity College school, but will also bring forward increased levels of infrastructure spending, staffing and construction job opportunities, as well as school facilities including on-site car parking.

In so doing, the modifications sought, being SSD 9227 MOD 1, will give support to and align with to the State's immediate economic recovery strategy from the COVID-19 crisis. Moreover, the bringing forward of the staging for this project will assist in stimulating the New South Wales economy out of what is arguably its slowest growth in a decade. Construction of school project is programmed to commence in early 2021, with opening of the school to students in Term 1 of 2023.

Other improvements are also included in the modification application, relating to such matters such as access, provision of facilities and improved street facade, and stormwater and rainwater storage. The revised staging plans also allow for the establishment of extensive areas of permanent landscaping from the outset. Under the current Development Consent SSD-9227 the planting out of permanent landscaping is delayed until Stage 3 and 4 of the currently approved development.

The proposed SSD 9227 MOD 1 modification is substantially the same as previously approved and will result in satisfactory environmental impacts, in satisfaction the jurisdictional requirements of s.4.55(2), s.4.55(3) and s.4.15(1) of the EP&A Act having regard for the following:

- It proposes to bring forward the timing and delivery of the school with a shorter time frame for completion of the overall project. The overall capital works budget for the intended, revised Stage 1 works has now been significantly increased, to in excess of \$15.5 million. This significant increase in funding availability at the outset of the project has meant that Amity College can now bring forward the intended staging of the school project such that Stages 1, 2 and parts of Stages 3 and 4 can now be undertaken at project commencement, that is, as a revised Stage 1.
- The development as modified is substantially the same development as the development for which consent was originally granted. The layout of the school remains virtually unchanged from that shown the approved development, save for a minor change on the 1st floor of the Primary School near the corner of Byron Road and Pluto Avenue. As such, no real change to the overall environmental impacts of the project, as originally assessed in the EIS, are proposed.
- The changes proposed by SSD 9227 MOD 1 will be beneficial in nature, with impacts that reflect these positive changes, including: bringing forward the permanent landscaping of the site, bringing forward the provision of on-site car parking and school play spaces, student amenity generally, as well as improving the visual appearance of the Primary School building when viewed from Byron Road.
- The modifications proposed are, when considered in both qualitative and quantitative terms, substantially the same development having regard to the developments in their proper context.
- The proposed modifications do not result in any additional adverse impacts, nor impacts to surrounding neighbours.

As such, there are no jurisdictional impediments to approval of the SSD 9227 MOD 1.

Accordingly, the proposed modification application is considered to be acceptable in this particular instance and can be approved under section 4.55(2) of the EP&A Act.

APPENDIX A

Revised architectural drawings, prepared by Gran Associates Australia

APPENDIX B

Revised engineering drawings, prepared by Martens & Associates, consulting engineers

APPENDIX C

Revised landscape drawings, prepared by Michael Siu, landscape architect