



Alesco Senior College - Argenton

*State Significant
Development Assessment
(SSD 9683)
December 2019*

December 2019

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
BC Act	Biodiversity Conservation Act 2016
BDAR	Biodiversity Development Assessment Report
CIV	Capital Investment Value
Consent	Development Consent
Council	Lake Macquarie City Council
CPTED	Crime Prevention Through Environmental Design
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
HNELHD	Hunter New England Local Health District
Infrastructure SEPP	State Environmental Planning Policy (Infrastructure 2007)
LEMP	Long-Term Environmental Management Plan
LMDCP	Lake Macquarie Development Control Plan 2014
LMLEP	Lake Macquarie Local Environmental Plan 2014
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
ONMP	Operational Noise Management Plan
OTAMP	Operational Transport and Access Management Plan
PCSI	Preliminary Contaminated Site Investigation
Planning Secretary	Planning Secretary of the Department of Planning, Industry and Environment
RAP	Remedial Action Plan
RtS	Response to Submissions

SEARs	Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TAIA	Transport and Accessibility Impact Assessment
TfNSW	Transport for NSW
TfNSW(RMS)	Transport for NSW (Roads and Maritime Services) (former Roads and Maritime Services)



Executive Summary

This report provides an assessment of a state significant development (SSD) application (SSD 9683) for the change of use of an existing premises at 7 James Street, Argenton to provide a new educational facility, Alesco Senior College Argenton, for up to 65 students in grades 10 - 12. The Applicant is Alesco Senior College and the proposal is located within the Lake Macquarie local government area (LGA).

The proposal seeks approval to use an existing building for the purposes of an educational facility for students in grades 10 - 12 who are unable to complete their education within a traditional setting. The college will offer learning for between 45 students and 65 students and operate Monday to Friday, 8am to 4pm. No new built form is proposed for this development, however associated landscaping, fencing and remediation is proposed.

The proposal has a Capital Investment Value (CIV) of \$61,473 and would generate nine operational jobs. The proposal is SSD under clause 15(1) of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is development for the purpose of development for the purpose of a new school (regardless of the CIV).

The application was publicly exhibited between 21 June 2019 and 18 July 2019 (28 days). The Department of Planning, Industry and Environment (the Department) received a total of seven submissions, including six from public authorities, and one public submission objecting to the proposal.

The key issues raised in the submissions included site suitability, pathway upgrades, landscaping, site contamination, education design principles, accessibility, noise and privacy impacts, and safety and security.

The Applicant's Response to Submissions (RtS) included further information and responses to the key issues raised in the submissions. The RtS included a fencing and landscape plan, a Remedial Action Plan (RAP) and revised the number of proposed maximum students from 80 to 65. Comments from Council and one public submission were provided in response to the RtS.

The Department identified traffic, access, parking impacts and landscaping as the key issues for assessment. The Department has considered the above issues in its assessment, along with concerns raised in the submissions, and concludes that some proposed mitigation and management measures require further refinement. As such a number of conditions have been recommended to address the remaining issues, including:

- revised landscape plan with an objective to increase privacy to adjoining residences.
- site remediation.
- provision of an acoustic assessment to consider the need for migration measures to indoor learning spaces.
- preparation of an operational management plan and operational community consultation strategy.

The Department is satisfied that the impacts of the proposal have been addressed in the EIS, RtS and concludes the residual impacts can be adequately managed through the recommended conditions. The Department has considered the merits of the proposal in accordance with relevant matters under section 4.15(1), the objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the principles of ESD, and issues raised in all submissions as well as the Applicant's response to these. The Department is satisfied that the subject site is suitable for the proposal and would provide a beneficial educational establishment for future students. The Department concludes the proposal is in the public interest and recommends that the application be approved subject to conditions.



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The application seeks approval for the change of use of the existing building from a community facility to an educational establishment, including two outdoor student areas and associated landscaping.

1.1 Site description

The map shows the Newcastle area with various suburbs labeled. A red pin marks the location of the site at 7 James Street. A red box highlights the text "The site". Major roads like the M1, M15, and A15 are shown. The Hunter Wetlands National Park is also visible.

The site has an area of approximately 1,500m² and is rectangular in shape, with a 37m frontage to James Street to the south-east. The site is generally flat and contains the existing community facility building approximately 400m² in area, a double carport and an extensive asphalt area at the south-east which is used as a carpark. There are small gardens and scattered trees at the carpark edges and within the setback to James Street.

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Figure 2 | Local Site Context (Source: SIX Maps 2019)



Figure 3 | Site as viewed from James Street (Source: Applicant's Environmental Impact Statement (EIS))

1.2 Surrounding development

The site is bounded by residential dwellings to the north, east and west, with James Street to the south and the railway line located beyond that. Argenton Public School is located approximately 250m south-west of the site and Argenton Community Hall is to the north-east (**Figure 2**).

The buildings surrounding the site are generally single storey. The surrounding roads are local roads. The closest State Classified Road is Lake Road approximately 300m to the north-west of the site. The local roads are approximately 8 - 12m wide.

1.3 Previous site approvals

The site has been subject to various local development consents issued by Council, including:

- DA-69/1980 Gymnasium (Health Clinic).
- DA-870/1981 Additions to Gymnasium.
- DA-639/2002 Addition to recreation facility and associated works.
- DA-2456/2007 Community Facility & Carport.

The site has been used as a gymnasium between 1999 to 2008 and a community facility from 2008.

2. Project

The key components and features of the proposal (as refined in the Response to Submissions (RtS)) are provided in **Table 1** and are shown in **Figures 4 to 6**.

Table 1 | Main Components of the Project

Aspect	Description
Project Summary	Change of use to an existing premises to an educational establishment including associated landscaping and remediation
Public domain and landscaping	- Two outdoor hardstand areas - Additional planting and raised garden beds around the perimeter of the site - New perimeter fencing
Uses	Educational establishment
Access	Pedestrian and vehicle access retained from James Street
Car parking	Retention of existing on site car park providing 16 car parking spaces, including one disabled car parking space
Bicycle parking	Two spaces proposed (by condition)
Hours of operation	- Classroom hours: - Monday to Thursday: 9am to 2:30pm - Friday: 9am to 1:15pm - Operational hours: Monday to Friday: 8am to 4pm
Signage	No new signage is proposed
Jobs	Nine operational jobs
Student Numbers	Maximum 65 students
CIV	\$61,473
Remediation	Containment works to be undertaken prior to commencement of use

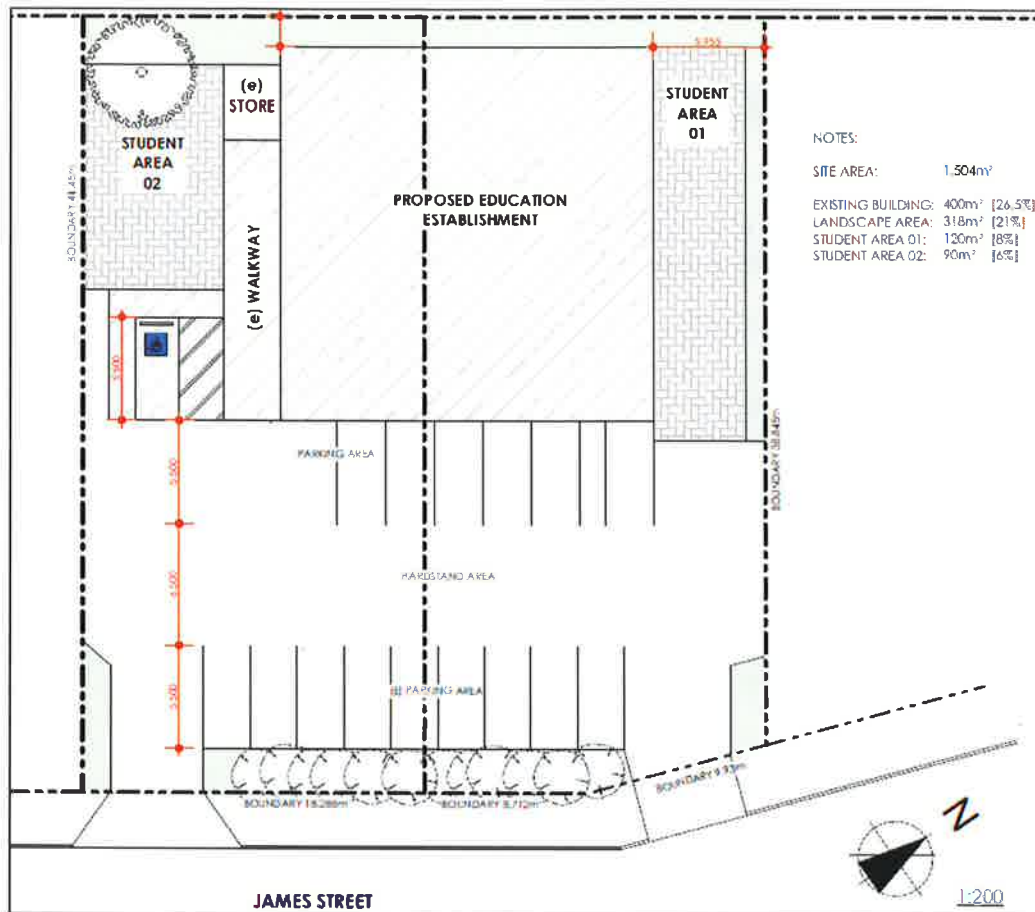


Figure 4 | Proposed external site layout (Source: Applicant's EIS)



Figure 5 | Proposed internal floor plan (Source: Applicant's EIS)

2.1 Physical Layout and Design

The existing building includes four rooms that will be used as classrooms, two office spaces, a staff room, kitchen and toilets. The proposal does not seek approval to amend the physical layout or design of the existing building. However, additional hardstand student areas, landscaping and fencing are proposed. **Figure 6** shows the layout of the proposed landscaping.

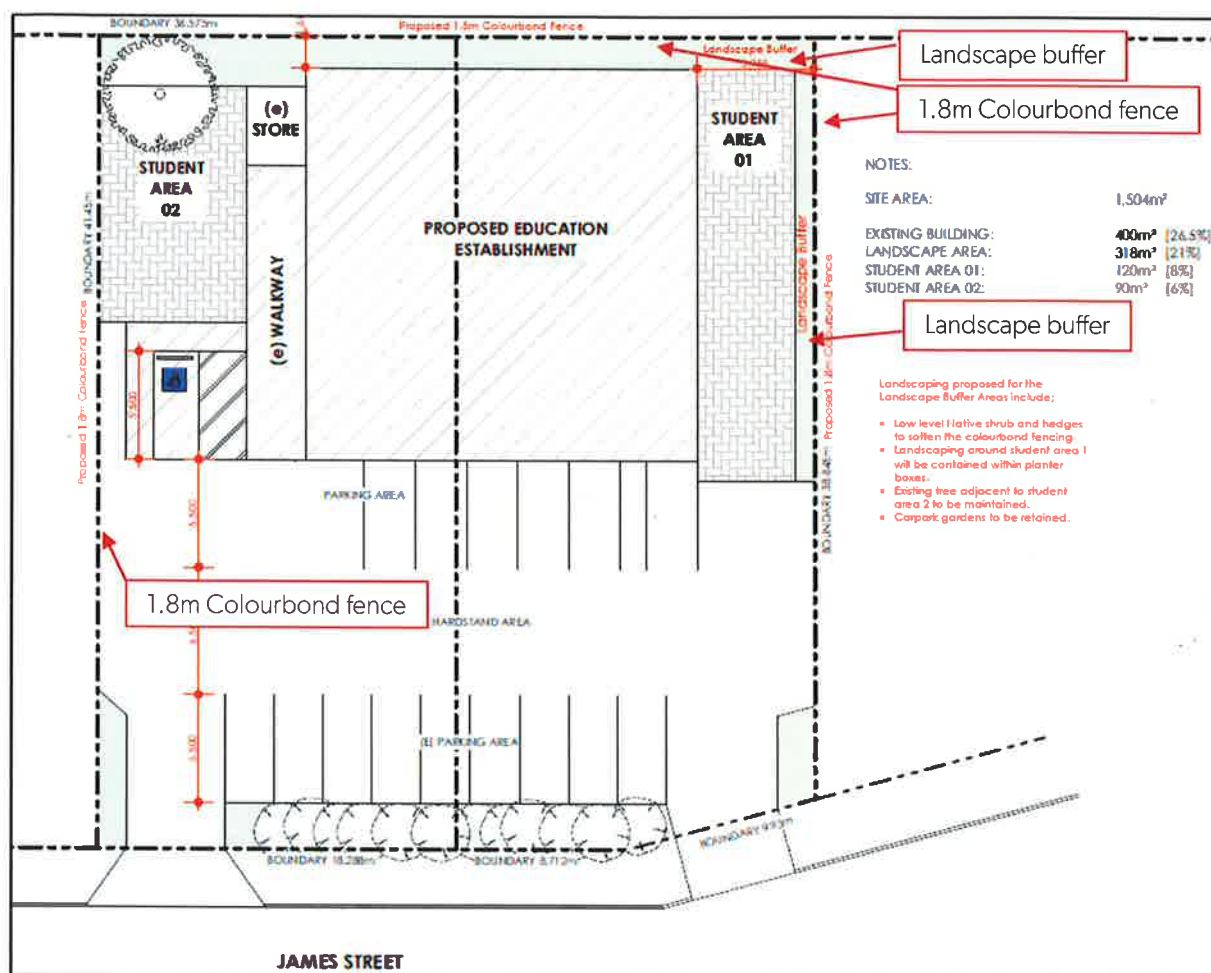


Figure 6 | Proposed Landscaping and Fencing Plan (Source: Applicant's RtS)

2.2 Uses and Activities

The proposal is for the use of the site as an educational establishment for up to 65 students in grades 10-12 who are unable to complete their education within a traditional setting. No out of hours community use of the college is proposed.



3. Strategic Context

Alesco Senior College is a non-government independent school specifically designed for the inclusion of young people who are unable to complete their education within a traditional setting. The college started in 2002 and now provides learning opportunities to people in years 9 – 12 in various campuses across Newcastle, Lake Macquarie, Port Stephens and the Upper Hunter regions. The college aims to provide students with an environment where they can complete their Higher School Certificate or undertake Vocational Education and Training. The college has identified an educational and social need for the school in the Argenton area and as such proposes the creation of a campus in Argenton for years 10 – 12.

The Department considers that the proposal is appropriate for the site given:

- it is consistent with NSW Premier's Priorities, as the proposal intends to improve education standards and academic results for people who are unable to complete their education within a traditional setting.
- it is consistent with the State Infrastructure Strategy 2018 – 2038, as the proposal would provide educational opportunities for people in a special learning program and allow people to complete their Higher School Certificate and Recognition of School Achievement.
- it is consistent with the Hunter Regional Plan 2036, as it will deliver a new education facility.
- it would support nine operational jobs.



4. Statutory Context

4.1 State Significant Development

The proposal is SSD under section 4.36 (development declared SSD) of the EP&A Act as the proposal is for the purpose of a new school under clause 15 of Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP).

The Minister for Planning and Public Spaces is the consent authority under section 4.5 of the EP&A Act. In accordance with the then Minister for Planning and Public Space's delegation to determine SSD applications, signed on 11 October 2017, the Executive Director, Infrastructure Assessments may determine this application as:

- the relevant Council has not made an objection.
- there are less than 25 public submissions in the nature of objection.
- a political disclosure statement has not been made.

4.2 Permissibility

The site is identified as being located within the R2 – Low Density Residential zone under the Lake Macquarie Local Environmental Plan 2014 (LMLEP). An educational establishment is permissible in the R2 zone under clause 35 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP). Therefore, the Minister for Planning and Public Spaces or a delegate may determine the carrying out of the development.

4.3 Mandatory Matters for Consideration

4.3.1 Environmental planning instruments

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 taken into account 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.

4.3.2 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant.

A response to the objects of the EP&A Act is provided at **Table 2**.

Table 2 | Response to the objects of section 1.3 of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal would deliver jobs and provide education to enhance the economic and social welfare of the community, while not impacting on the state's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The Department has conditioned measures to deliver ecologically sustainable development (ESD), as discussed below (Section 4.3.3).
(c) to promote the orderly and economic use and development of land,	The proposed development facilitates the change of use of an existing building to accommodate an educational facility, the merits of which are considered in Section 6
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposal would not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats. The proposal involves the change of use of an existing building and no vegetation is proposed to be removed.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The site does not include any heritage items and is not near to any conservation areas. The proposal would not impact on any nearby local heritage items.
(g) to promote good design and amenity of the built environment,	The proposal relates to a change of use and would not affect the design or impacts of the existing building.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal does not seek to construct any buildings. The proposal would promote proper maintenance of existing buildings in accordance with the recommended conditions of consent.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal (Section 5.1), which included consultation with Council and other public authorities and consideration of their responses (Section 5.1 and 6).
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in Section 5.1 , which included notifying adjoining landowners, placing a notice in newspapers and displaying the proposal on the

Department's website and at Council during the exhibition period.

4.3.3 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle.
- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The Department recognises the limited opportunities for ESD considering the existing built form, however a number of ESD initiatives and sustainability measures could be included such as:

- efficient heating, ventilation and air conditioning selection.
- use of energy efficient LED lighting and lighting control systems with dimmable fittings where appropriate.
- water efficient equipment, fixtures and fittings to minimise hot water consumption and subsequently reduce energy demand.

The Department has recommended a condition that requires the Applicant to detail and implement ESD measures prior to the commencement of operation.

The Department has considered the proposed development in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous assessment of the environmental impacts of the proposed development. Having considered the objects of the EP&A Act, including the encouragement of ESD in its assessment of the application, the Department considers the application can promote ESD subject to the recommended conditions.

4.3.4 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the Environmental Planning and Assessment Regulation (EP&A Regulation) cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

4.3.5 Planning Secretary's Environmental Assessment Requirements

The EIS is compliant with the Planning Secretary's Environmental Assessment Requirements (SEARs) and is sufficient to enable an adequate consideration and assessment of the proposal for determination purposes.

4.3.6 Section 4.15(1) matters for consideration

Table 3 identifies the matters for consideration under section 4.15 of the EP&A Act that apply to SSD in accordance with section 4.40 of the EP&A Act. The table represents a summary for which additional information and consideration is provided for in **Section 6** (Assessment) and relevant appendices or other sections of this report and EIS, referenced in the table.

Table 3 | Section 4.15(1) Matters for Consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided in Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan (DCP)	Under clause 11 of the SRD SEPP, DCPs do not apply to SSD. Notwithstanding this, the objectives of the relevant controls under the Lake Macquarie Development Control Plan 2014 (LMDCP), where relevant, has been considered in Section 6 of this report.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6 of the EP&A Regulation), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(a)(v) any coastal zone management plan	Not applicable.
(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	Impacts have been appropriately mitigated or conditioned - refer to Section 6 of this report.
(c) the suitability of the site for the development	The site is suitable for the development as discussed in Sections 3, 4 and 6 of this report.
(d) any submissions	Consideration has been given to the submissions received during the exhibition period. See Sections 5 and 6 of this report.
(e) the public interest	Refer to Sections 6 and 7 of this report.

4.3.7 Biodiversity Conservation Act 2016

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are "to be accompanied by a biodiversity development assessment report (BDAR), unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values."

The proposed works are not likely to have a significant impact on biodiversity values. The delegated Planning Agency Head in the Planning and Assessment Group of the Department and the delegated Environment Agency Head in the Environment, Energy and Science Group (EESG) of the Department determined that the application is not required to be accompanied by a BDAR and as such a biodiversity waiver was issued on 3 April 2019.

5. Engagement

5.1 Department's Engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from Friday 21 June 2019 until Thursday 18 July 2019 (28 days). The application was exhibited at the Department and on its website and at Lake Macquarie City Council's (Council) office.

The Department placed a public exhibition notice in the Lake Macquarie Times on 20 June 2019 and notified adjoining landholders and relevant state and local government authorities in writing. A Department representative visited the site to provide an informed assessment of the development.

The Department has considered the comments raised in the public authority and public submissions during the assessment of the application (**Section 6**) and/or by way of recommended conditions in the instrument of consent at **Appendix C**.

5.2 Summary of Submissions

The Department received a total of seven submissions, comprising six submissions from public authorities including Council and one submission from the public objecting to the proposal. A summary of the issues raised in the submissions is provided at **Section 5.3** and **5.4** below and copies of the submissions may be viewed at **Appendix A**.

5.3 Public Authority submissions

A summary of the issues raised in the public authority submissions is provided at **Table 4** and copies of the submissions may be viewed at **Appendix A**.

Table 4 | Summary of public authority submissions to the EIS exhibition

Council

Council does not object to the proposal, however it provided comments in relation to:

- clarification as to internal building modifications.
- the need for any unauthorised works existing on site to be formalised via a building certificate prior to use.
- concern about the site's suitability as an educational facility and impact on surrounding sensitive uses.
- non-compliance with design principles in Schedule 4 of the Education SEPP.
- the need for further detailed investigation of contamination as part of any remedial action plan.
- the need for an acoustic assessment to determine the potential impact of the development on adjoining residential premises, and the potential noise impact on the development from the rail corridor.
- details around the implementation and management of students not being permitted to drive to the site.
- the need for concrete footpath connections from Lake Road to James Street.
- the need for a Disability Access Audit.
- the need for a Landscape Plan to address the design quality principles in the Education SEPP.
- the need for a current Annual Fire Safety Statement.
- legal rights to drain over 140 Montgomery Street.

NSW Environment Protection Authority (EPA)

EPA provided the following comments:

- it does not appear that the proposal would be a scheduled activity as listed in Schedule 1 of the *Protection of the Environment Operations Act 1997*, nor is the proposal being undertaken by a NSW Government education provider.
- Council would be the appropriate regulatory authority for any environmental pollution matters.

Transport for NSW (Roads and Maritime Services) (TfNSW(RMS))

TfNSW(RMS) provided the following comments:

- consideration be given to appropriate sight line distances and the location of the proposed driveway to promote safe vehicle movements.
- internal arrangements on site are matters for the consent authority.

Environment, Energy and Science Group of the Department (EESG)

- EESG noted that a BDAR waiver has been granted and stated it has no comments in relation to biodiversity, Aboriginal cultural heritage, flooding or flood risk.

Transport for NSW (TfNSW) and Sydney Trains

TfNSW/Sydney Trains recommended the following conditions, should the application be supported:

- preparation of an acoustic assessment to ensure site suitability with respect to rail noise.
- clear access be provided to the rail corridor at the existing access gates on James Street.

Hunter New England Local Health District (HNELHD)

- HNELHD confirmed that it supports the proposed contamination management strategy that the slag fill contaminated area to be capped with hardstand material and recommended that an ongoing management and maintenance plan be developed.

5.4 Public Submissions

A summary of the key issues raised in the one public submission is provided below and a copy of the submission may be viewed at **Appendix A**.

The public submission raised concerns in relation to:

- safety impacts of the proposal on adjoining residential dwellings, notably the inadequacy of the fence separating the site and the rear of properties fronting onto Montgomery Street and that this fence has damaged panels.
- amenity concerns including littering and property damage and privacy.

5.5 Response to Submissions

Following the exhibition of the application the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in submissions.

On 31 October 2019, the Applicant provided a RtS (**Appendix A**) on the issues raised during the exhibition of the proposal. The RtS included a Remedial Action Plan (RAP) and a fencing and landscaping plan.

The RtS included the following amendments to the proposal:

- reduction in proposed maximum student numbers from 80 to 65.
- additional boundary landscaping and fencing.

The RtS was made publicly available on the Department's website and was referred to Council for comment.

An additional submission was received from Council and one from a public submitter. As both the submissions were received outside the statutory community participation period, the Department did not place these on its website. Notwithstanding, the comments have been considered in the Department's assessment and a summary of the comments raised is provided in **Table 5**.

Table 5 | Summary of public authority and public submissions on the RtS

Council

Council confirmed the RtS had provided a detailed response addressing the concerns raised in its original submission and provided the following comments:

- the RtS addressed the design quality principles outlined in the Education SEPP.
- the comparable examples of the Applicant's existing premises in other locations demonstrates that the school can achieve beneficial learning outcomes within the limited space of these premises.

Public Submission

The public submission provided the following comments:

- the fence separating the site and the rear adjoining dwellings on Montgomery Street remains damaged.
- the existing damaged fence is 2.1 m high, whereas the fence proposed in the RtS is 1.8m. This is not high enough to divide residential and school uses, particularly when rubbish has and continues to be thrown onto the adjoining dwelling.
- the tree at the rear of the site that is proposed to remain overhangs the adjoining property and has caused the existing Colourbond fence to buckle.



6. Assessment

The Department has considered the EIS, the issues raised in submissions and the Applicant's RtS in its assessment of the proposal. The Department considers the key issues associated with the proposal are:

- traffic, access and parking; and
- landscaping.

Each of these issues is discussed in the following sections of this report. Other issues that were taken into consideration during the assessment of the application and are discussed at **Section 6.3**.

6.1 Traffic, Access and Parking

The site presently has access via separate entry and exit driveways off James Street. There is existing on-street parking available on the James Street frontage, however this is not relied upon for this proposal.

The Application was supported by a Transport and Accessibility Impact Assessment (TAIA), which provides an assessment of the proposal's potential traffic, transport and parking related impacts. It is noted that the TAIA was based on the originally proposed maximum of 80 students, which has since been reduced in the RtS to 65.

6.1.1 Construction Traffic

The TAIA notes that the school is proposed to operate from the existing building and car park, therefore construction traffic associated with the proposal will be minimal and limited to facilitate minor internal works within the site. The TAIA anticipates that construction vehicles, no longer than 12.5 m standard rigid trucks, will access the site using a direct travel route from Lake Road and Victoria Street to reach the site at James Street (**Figure 7**).



Figure 7 | Anticipated construction vehicle route (red line) (Base source: Nearmap 2019)

Council, TfNSW(RMS) or TfNSW did not raise concerns in relation to regards to construction traffic generation, subject to implementing appropriate traffic measures and providing appropriate sight line distances.

The Department recognises that the proposal includes minimal construction works (limited to landscaping and remediation) and would generate limited construction traffic.

The Department has recommended a condition requiring all construction vehicles (excluding site personnel vehicles) to be contained wholly within the site to ensure any potential impacts of construction activities are appropriately mitigated. On this basis, the Department concludes that there would be no detrimental impacts to the locality during the minor works phase.

6.1.2 Operational Traffic Generation

The proposed development has the potential to create additional traffic generation impacts through the proposed student numbers (now 65 but modelled at 80 as initially proposed) and nine staff.

The TAIA noted that students from Alesco Senior College are not permitted to drive themselves to school. In response to the Department's request for further information, the Applicant advised that the driving restriction is contained in Alesco's existing 'Student Management Policy' which is further discussed in **Section 6.1.4**.

The TAIA used client observations at other Alesco College facilities to anticipate that 80% of students will utilise public transport, of which 40% will use train services and the remaining will take the bus. The TAIA assumes that all nine staff members would drive to the site. The expected traffic generation of the site during the school morning and afternoon peak periods on the basis of this expected mode share is shown in **Table 6**.

Table 6 | Traffic generation

Category	AM Arrival	AM Departure	PM Arrival	PM Departure
Private	16	16	16	16
Staff	9	0	0	9

The TAIA detailed the existing and proposed AM and PM peak hour traffic volumes, including development traffic at the intersection of Victoria Street / Montgomery Street and Victoria Street / Robert Street. Traffic surveys were undertaken on these intersections and the TAIA concluded the predicted additional vehicle trips could be accommodated within the existing road network and would have minimal impact on the operational performance of these intersections (with Level of Service A (Good operation) maintained on the nearby intersections).

The Department has assessed the information provided within the EIS and the advice provided by Council, TfNSW(RMS) and TfNSW and considers that the additional traffic movements as a result of the proposal would not significantly impact on the surrounding road network which has capacity to accommodate the additional traffic.

6.1.3 Car Parking, Bicycle Parking and Access

6.1.3.1 Car Parking

The proposal relies on the existing on site car parking area containing 16 car parking spaces, including one accessible space. The Lake Macquarie Development Control Plan 2014 (LMDCP), requires secondary schools to have one car parking space per 1.5 full-time equivalent staff, plus one space per 50 students, equating to a need of six staff spaces and two student spaces (eight in total). The Applicant states that a total of 16 parking spaces, including one disabled parking space is proposed to be provided on site for staff.

No student parking is proposed as the Applicant has advised that students are not permitted to drive to school as under its Student Management Policy. To ensure this policy is implemented and monitored, the Department has recommended a condition requiring the preparation of an Operational Transport and Access Management Plan (OTAMP) prior to the commencement of operation that sets out the arrangements to ensure compliance with this policy.

Notwithstanding, the college would only require two spaces as per the LMDCP which could be accommodated on site. Furthermore, given the low density residential nature of the area, even if the college did allow students to drive there is sufficient on street capacity to accommodate to two spaces.

The TAIA reviewed the car park layout against the relevant Australian Standards and concluded that it meets the minimum requirements for bay width, bay length and aisle width. However, the TAIA recommended that a bollard be placed in the shared space of disabled parking space in accordance with AS 2890.6. The Department has recommended this as a condition.

Overall, the Department notes that the proposal seeks to use the existing car parking area on site which is in excess of the LMDCP requirements. As such the car parking provisions are considered adequate.

6.1.3.2 Bicycle parking

The EIS did not provide for any bicycle parking on site and the LMDCP does not specify rates for the provision of bicycle spaces. The Department notes that the TAIA recommended that a Class C bicycle rack to hold two bicycles should be provided. Given that students of the college predominately rely on public transport and that the site is at a distance from nearby public transport stops (see **Section 6.1.5**), the Department considers that the provision of two bicycle spaces is appropriate. As such, the Department has recommended a condition requiring a Class C bicycle parking facility be installed to ensure a minimum of two bicycle spaces are provided on site.

6.1.3.3 Vehicular and Pedestrian Access

Access and egress to the site is proposed to continue to occur via the separate entry and exit driveways off James Street. The Applicant stated that the existing vehicle entry and exits measure approximately 5m in width and provides for one-way movement, however the plans do not indicate this. The TAIA recommended that two signs be erected indicating 'no exit' and 'no entry' at each driveway. Accordingly, the Department has recommended a condition to this effect to ensure road safety is maintained.

The Department notes the pedestrian access is also proposed to continue occur through the driveway off James Street. The Department has recommended a condition requiring the pedestrian access to be clearly marked (i.e. painted) on the shared driveway.

Access to the rail corridor

The TfNSW and Sydney Trains submission stated that there are rail corridor access gates used by Sydney Trains located on the corner of James and Victoria Street opposite the site and recommended a condition to ensure the gate access remains clear at all times. The Department acknowledges the importance of clear access to the rail corridor and has recommended conditions to ensure clear access is maintained throughout construction and operation.

6.1.4 Student Drop-off and Pick-up

The Applicant seeks to use the existing car park for the drop-off and pick-up of the approximately 20% of total students (13 students) anticipated to use this mode of transport. There are 16 car parking spaces and one disabled car parking space currently on site. The TAIA states that assuming all nine staff arrive by vehicles and use

the car park, there will be seven vacant spaces which could be used by visitors and parents for the drop-off and pick-up. The TAIA considers that this will not pose any detrimental impact on road safety.

The TAIA notes that any spill-over drop-off and pick-up activity could occur in front of the site on James Street as there is sufficient space that would not affect the amenity of nearby residents. The TAIA notes that if any traffic and parking issues are observed on James Street once the school becomes operational, consideration could be given to the implementation of a school drop-off and pick-up zone to encourage parking turnover, subject to approval by Council's local traffic committee.

The Department notes that it did not receive any comments on student drop-off and pick-up. In consideration of the limited number of students being dropped off and picked up, and the anticipated availability of car spaces, the Department considers that the proposed drop-off and pick-up arrangement is suitable subject to a condition requiring operational management procedures for pick-up and drop-off parking to be addressed in the OTAMP.

6.1.5 Active Transport

The TAIA anticipates that approximately 80% of students will utilise public transport, with 40% catching the train and the rest catching the bus. The nearest bus stops are approximately 450m away on Lake Road, and the train station is at Cockle Creek, approximately 1.3km south-west (**Figure 8**).



Figure 8 | Public transport area map (Base source: Nearmap 2019)

The Applicant stated that students catching the train would either walk from the station or utilise bus services between the station and the bus stops on Lake Road. The students would then need to walk from Lake Road to the school. As such, the proposal would generate additional pedestrian movements on the road network. As mentioned in **Section 6.1.3.2** considering the distance of the site from the Cockle Creek railway station, the Department has recommended a condition that the Applicant provide at least two on site bicycle spaces.

The TAIA noted that there is an existing lack of footpaths on parts of the local road network and State classified Lake Road (**Figure 9**), however it noted that is an existing deficiency and there is no nexus for the Applicant to provide these. The TAIA indicated that the local streets have wide verges (3 - 5m) which can be used by

pedestrians, which in this case would be students in years 10 – 12 and at least 15 years old and thus capable of dealing with the traffic environment without adult supervision.



Figure 9 | Route from the site to the bus stops (Source: Applicant's TAIA)

Council's submission to the EIS recommended that to facilitate connection from the transport stops on Lake Road, a 1.2m wide concrete footpath be provided to connect the site with the existing footpath at the corner of Victoria and Robert Street. In response, the Applicant provided additional justification in the RtS outlining that the existing local area is devoid of footpaths, the road verges are wide and clear, and other facilities in the immediate area including Argenton Public School, operate with no pedestrian facilities. Council did not provide any further comments on this in its response to the RtS.

The Department acknowledges the conclusions in the TAIA with regard to the existing wide verges on adjoining streets and older age of the students. In consideration of these matters and the relatively low number of students on site, the Department is satisfied the provision of footpaths is not required by the Applicant. As detailed above, the Department has recommended a condition requiring the Applicant to prepare an OTAMP to set out arrangements to manage and access safe and appropriate arrangements to the school.

6.2 Landscaping

In response to the Department's queries following consideration of the EIS, the Applicant's RtS proposed additional landscaping and fencing around the site boundary and included a plan showing this (**Figure 10**). This included retaining the carpark gardens, retaining the existing tree adjacent to Student Area 2 and creating landscape buffers comprising:

- low level native shrub and hedges to soften the Colourbond fencing.
- landscaping around Student Area 1 contained within planter boxes.

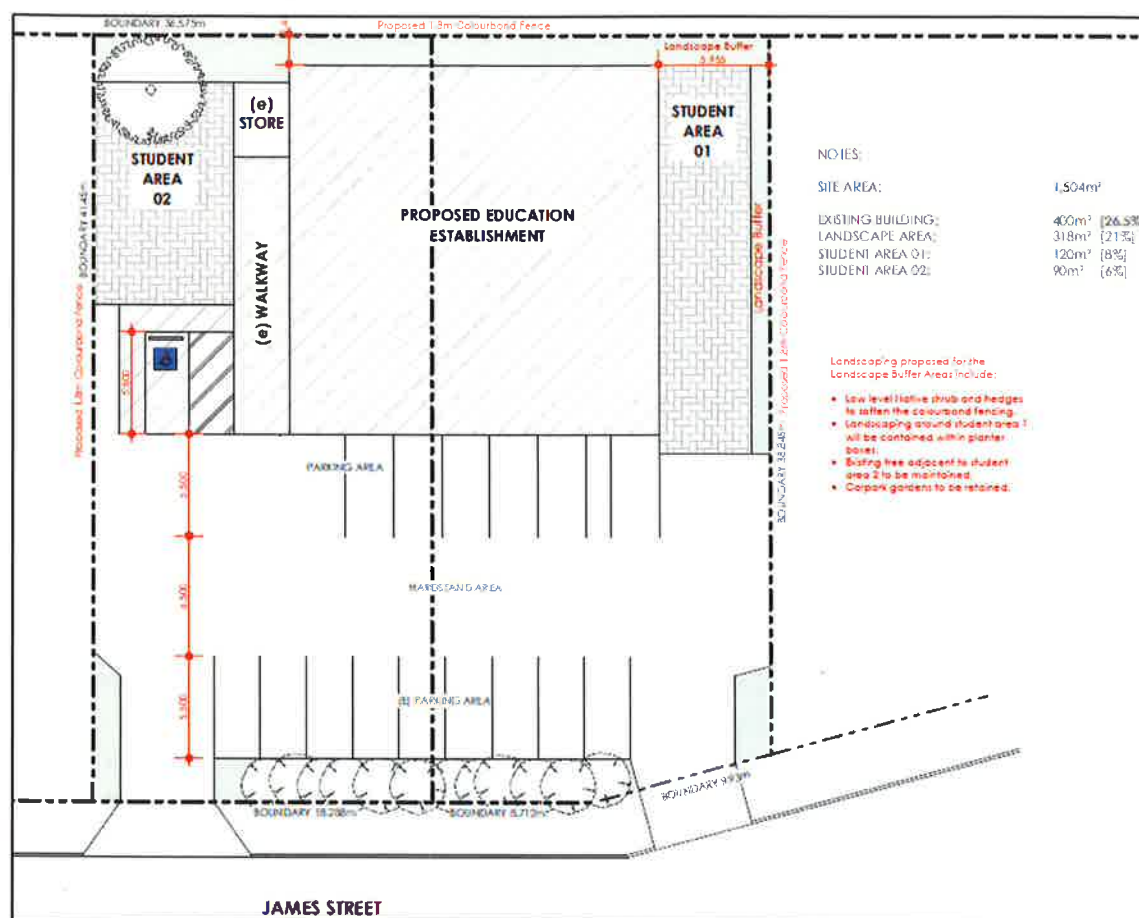


Figure 10 | Proposed Landscaping and Fencing Plan (Source: Applicant's RtS)

Comments were received from a public submitter in response to the RtS that raised concern regarding the proposed fence height (1.8m) being lower than the existing fence height (2.1m). The submission noted that rubbish has been thrown over the fence from the site into adjoining residential backyards and that the new fence should be higher than 1.8m to ensure separation between the residential and school uses so no further rubbish can be thrown over.

The Department considers that a higher fence would improve privacy to the adjoining residences from the site. As such, the Department has recommended a condition requiring the proposed perimeter fence to a minimum height of 2.1m.

The Department also considers there is an opportunity for the proposed landscaping to mitigate any negative impacts on adjoining residences, such as rubbish being thrown over the fence. The Department considers that the proposed landscape buffer would result in a positive contribution to the existing site, an improved transition to the perimeter fence and an increased buffer between the outdoor areas and the adjoining residences. The Department has recommended conditions requiring the submission of a Landscape Plan and Landscape Management Plan showing details of the proposed planting and providing for the ongoing maintenance of the landscaping. Further, to ensure the proposed landscape buffer provides a beneficial distance and separation of uses, the Department has recommended a condition requiring the proposed vegetation in the north-western perimeter boundary landscape buffer to reach a height at maturity of at least 3m.

The Department notes the existing tree in the north-west corner of the site and that the Applicant proposes to retain this tree. There is hardstand proposed in this area as part of Student Area 02. As such, the Department has recommended that tree protection measures be implemented in accordance with the relevant Australian Standard for any work proposed to take place within the tree protection zone. The Department has also

recommended that the section of paving around the tree is to be of a permeable material to provide moisture and avoid compaction of the tree root zone.

6.3 Other Issues

The Department's consideration of other issues is provided at **Table 7** below.

Table 7 | Summary of other issues raised

Issue	Findings	Department's Consideration and Recommended Conditions
Site Contamination	• A Preliminary Contaminated Site Investigation (PCSI) was included with the EIS to assess the site for potential lead contamination as the site is approximately 250m away from the former Pasminco lead and zinc smelter. • The PCSI advised: ○ a total of seven soil samples were collected from three borehole and two test pit locations at the site. ○ no ground or surface water were encountered. ○ elevated lead concentration exceeding the adopted human health and ecological criteria was found in one soil sample believed to consist of mixed fill material containing slag. ○ the extent of slag is considered to be limited to the area to the north-east of the site where the Applicant proposes to place hardstand to create an outdoor student area referred to as 'Student Area 01.' ○ containment is a suitable remedial strategy and will create a suitable break in the source-receptor pathway. • The PCSI concluded that the site could be made suitable for the proposed use subject to the preparation of a Remedial Action Plan (RAP), a validation report and a Long-Term Environmental Management Plan (LEMP). • HNELHD supported the containment management approach.	• The Department has reviewed the information provided in the EIS and RtS and the advice of Council and the HNELHD. The Department is satisfied that the Applicant has demonstrated that the site is suitable for the proposed use subject to remediation and has recommended conditions requiring: ○ remediation of the site in accordance with the RAP. ○ submission of a Site Audit Report and Section A Site Audit Statement prepared by an EPA accredited Site Auditor to verify the suitability of the site for the proposed educational use. ○ compliance with the unexpected finds protocol in the RAP. • The Department notes that a Site Auditor is able to require further information such as a validation report and preparation of a LEMP. • Overall, the Department considers the Applicant has adequately addressed clause 7 of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) and that the site can be made suitable for its intended use.

- Council's submission to the EIS noted the need for a RAP, validation and long-term management.
- The Applicant provided a RAP with the RtS for 'Student Area 01.' The RAP considers there is potential for slag fill material to extend under the existing structure in this area of the site, however as it is proposed to remain, it considered the risk of exposure is managed.
- The RAP identified three options for remediation of the site including:
 - no action.
 - the management of contaminated soils on site.
 - offsite disposal of contaminated soils.
- The RAP recommended the onsite management of contaminated soils.
- The RAP concluded that "this option is considered feasible and appropriate for the site as it would manage/eliminate exposure pathways to human and/or ecological receptors".
- Council reviewed the RtS and did not provide any further comments in relation to contamination.

Noise Impacts

Rail Corridor

- Council and TfNSW/Sydney Trains stated that an acoustic assessment is needed to determine the potential noise impact on the proposal from the adjoining rail corridor, as per clause 87 of the State Environmental Planning Policy (Infrastructure 2007) (Infrastructure SEPP) and the *Development Near Rail Corridors and Busy Roads – Interim Guidelines*.
- TfNSW/Sydney Trains recommended a condition requiring this acoustic assessment prior to issue of an occupation certificate. Where it is found that internal noise levels are greater than the required dB(A) level, corrective

Rail Corridor

- The Department notes the potential impacts from the rail corridor on the proposal and supports the recommendations of TfNSW and Sydney Trains.
- As such, a condition has been recommended requiring an acoustic assessment to determine the potential noise impact on the proposal from the rail corridor.

measures must be carried out to ensure the internal noise levels are compliant with the requirements of this consent.

- The Applicant noted in its RtS that it would comply with this recommended condition.

Operational noise

- The proposed use has the potential to generate noise impacts, particularly from the two proposed outdoor hardstand areas.
- Council requested an acoustic assessment to determine the potential impact of the development on adjoining residential premises.
- The Applicant in the RtS stated that a noise assessment could be prepared prior to the issue of any occupation certificate however, noted that no amplified music, PA systems or bells would be used and anticipates.
- The Applicant stated as the class sizes are small, any noise from the site would be less than that of previous uses of the site that included a gymnasium.
- The Department did not receive any public objections or submissions regarding future operational or rail noise impacts.
- Council did not provide any further comments on noise impacts in response to the RtS.

Operational noise

- The Department has considered the potential noise impacts as a result of the proposal on adjoining residences. Student activities have been considered and deemed unlikely to result in unacceptable noise as:
 - the college proposes a relatively low number of students.
 - no outside education is proposed for the two outdoor hardstand areas.
 - the hardstand areas will be used by students on breaks during day time hours and are separated from each other which will disperse both students and noise.
 - the hardstand areas primarily abut the rear of adjoining residences and non-habitable rooms.
 - a landscape buffer is proposed on the north-western and north-eastern boundaries which could diffuse noise.
- To ensure any potential noise impacts are mitigated and managed, the Department has recommended a condition for an Operational Noise Management Plan (ONMP) to be prepared and submitted to the Certifying Authority prior to the commencement of operation. The ONMP will include a complaints management procedure to provide for the registration, consideration

and response of any noise complaints.

- The Department concludes the potential noise impacts of the proposed development can be managed through the recommended conditions of consent.

Construction Noise

- The proposal involves minimal construction works as it comprises a change of use of an existing building. Construction activities are limited to landscaping and remediation works.

Construction Noise

- The Department is satisfied that the construction noise impacts of the proposal would not be significant given the limited nature of construction works proposed.
- The Department has recommended conditions to mitigate the impacts of the works, including limiting construction to within standard hours set out in Interim Construction Noise Guidelines.

Social Impact

- The Applicant provided a Social and Community Impact Statement with the RtS. The Statement noted that there is a strong need for smaller learning environment schools like Alesco, especially in more remote and economically disadvantaged areas.
- The Statement outlined the potential positive impacts of the proposal, including the provision of an education facility that specialises in individualised education and future pathways that equip local students with the knowledge and skill to take up opportunities in the local area.
- The Statement noted potential negative impacts include traffic congestion at school start and finish times and heightened operational noise, however the social benefit outweighs these.
- The Department considers that the college would provide social benefits to the community. The college would operate using the existing community facilities building on the site and would be an effective use of the site.
- The Department considered traffic and noise impacts in **Section 6.1** and **6.3** and recommended suitable conditions.
- The Department considers no further additional conditions or amendments are necessary.

Safety and Security

- Council and the Department requested additional information to show how the proposal addresses the Crime
- The Department considers that the Applicant has sufficiently addressed safety and security in the RtS and that the proposal would provide

	Prevention Through Environmental Design (CPTED) principles. • The Applicant provided additional information in the RtS including: ○ the school is proposed to be fully fenced with the ability to lock the site after and during the school day. ○ the small nature of the school and outdoor spaces does not lend itself to people loitering in the area. ○ a security company is to be employed to protect the premises. ○ staff supervise students at all times. ○ the school has an existing strict policy around behavior and students are withdrawn if they involve themselves in certain activities such as vandalism, including off site. • The Applicant also addressed the CTPED principles in the RtS providing information on natural surveillance, natural access control, territorial reinforcement and maintenance. • Council did not provide any further comments in response to the RtS. • A public submission was received in response to the RtS which raised concern with the height of the proposed new perimeter fence being lower than existing and that items have been thrown over it into adjoining residential backyards.	sufficient opportunities for natural surveillance and access control. • In response to the public submission, the Department has recommended conditions requiring the proposed perimeter fence to be at least 2.1m in height and the landscaped buffer vegetation to reach at least 3m in height at maturity. • The Department considers that this, coupled with the proposed landscape buffer planting, would ensure that the proposal does not increase safety impacts to adjoining backyards.
Accessibility	• Council made comments about the need for the building to comply with accessibility standards.	• The Department accepts Council's comments and has recommended a condition requiring a Disability Access Audit to consider the existing access requirements on site. Any mitigation works recommended by the audit are to be undertaken.
Residential amenity	• The proposal seeks a change of use to the existing facility to an educational establishment. The existing building is a single storey building with a carport.	• As there is no new built form, the Department considers the proposal would not have any additional off site overshadowing or view impacts. • The Department has recommended a condition that requires the

	• Concern was raised in the public submission regarding privacy to the adjoining rear residences. • The Applicant's RtS included the construction of a new 1.8m fence along the three perimeters adjoining the residences. • The Department did not receive any submissions regarding overshadowing or view impacts from Council, agencies or the public.	proposed perimeter fence to be at least 2.1m in height to maintain privacy. • The Department has also recommended a condition requiring the submission of an Operational Community Consultative Strategy that sets out arrangements for ongoing engagement with the community and methods for how complaints would be considered, managed and escalated. • Subject to the recommended conditions, the Department considers that the proposal would not have any adverse impacts on residential amenity.
Internal fit-out and BCA	• The Department requested additional information to confirm whether the internal layout proposed to facilitate the functioning of the school is compliant with the Building Code of Australia (BCA) requirements. • The Applicant in the RtS confirmed that the school would be a public building and would be classified as a Class 9(b) building. The Applicant stated that a building certificate could be provided prior to operation of the school which would detail any works, if any, required to satisfy this classification.	• The Department has recommended a condition requiring the submission of an occupation certificate for the whole building to the Certifier prior to operation. • The Department has also recommended a condition that requires an updated Fire Safety Certificate to be provided prior to operation that addresses the proposed education use. An Annual Fire Safety Statement would also be required.
Recreation and outdoor space	• Council in its submission to the EIS, raised concerns regarding the lack of outdoor and indoor space proposed to be provided and its suitability of the site for educational purposes. • In response to these concerns, the Applicant provided examples of its similar schools in the Cessnock, Port Stephens and Greater Lakes LGAs to demonstrate that the proposed site is comparable to these other successfully run campuses.	• The Department recognises that Alesco is a unique educational provider and as such considers the proposed existing building would provide a suitable environment for students. • The additional proposed landscaping would improve the amenity of the site and the retained tree would provide a shaded outdoor area for student use.

- After meeting with the Applicant and considering the Applicant's RtS, Council recognised that Alesco is different to traditional schools and can deliver beneficial learning outcomes.

6.4 Public Interest

On balance, the Department is satisfied that the proposal would be in the public interest. The proposal would benefit the community as it would provide up to 65 students with the opportunity for a tailored and unique learning environment designed to improve educational outcomes for students who are not able to maintain education in a mainstream setting. The proposal addresses the directions and actions of the Hunter Regional Plan and the State Infrastructure Strategy and would provide nine operational jobs. Overall, it is considered that the proposal would have acceptable environmental impacts subject to recommended conditions of consent.

7. Evaluation

The Department has reviewed the EIS, RtS and assessed the merits of the proposal, taking into consideration advice from the public authorities, including Council. Issues raised in the public submission have been considered and all environmental issues associated with the proposal have been thoroughly addressed.

The proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979* and is consistent with the State's strategic objectives as set out in the Hunter Regional Plan 2036 as it would create a specialised educational facility providing a tailored learning environment for students in the area experiencing difficulty in mainstream schooling.

The proposal is suitable for the site and the identified residential amenity, noise and traffic impacts are considered satisfactory on balance and in the context of the benefit the proposal would provide for the local community. The Department has recommended conditions to manage the potential construction and operational impacts on the surrounding land uses.

The proposal is considered to be in the public interest as it would provide public benefits including:

- delivering increased education facilities to cater for the Lake Macquarie LGA.
- providing education facilities in an area in reasonable proximity to existing public transport facilities.
- delivery of nine operational jobs.

The Department concludes the impacts of the proposal are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent. Consequently, the Department considers the proposal is in the public interest and should be approved subject to conditions.



8. Recommendation

It is recommended that the Executive Director, Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of SSD 9683; and
- **signs** the attached development consent and recommended conditions of consent (**Appendix C**)

Prepared by:

Lawren Drummond

Planning Officer

Social and Infrastructure Assessments

Recommended by:

Jason Maslen

Team Leader

School Infrastructure Assessments

Recommended by:

Karen Harragon

Director

Social and Infrastructure Assessments



9. Determination

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

David Gainsford

Executive Director

Infrastructure Assessments

13/12/19.



Appendices

Appendix A – List of Documents

The following documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows:

1. Environmental Impact Statement:
<https://www.planningportal.nsw.gov.au/major-projects/project/10651>
2. Submissions:
<https://www.planningportal.nsw.gov.au/major-projects/project/10651>
3. Applicant's Response to Submissions:
<https://www.planningportal.nsw.gov.au/major-projects/project/10651>

Appendix B - Statutory Considerations

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report included references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

Controls considered as part of the proposal are:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)
- State Environmental Planning Policy (Infrastructure 2007) (Infrastructure SEPP)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)
- Draft State Environmental Planning Policy (Environment) (Draft Environment SEPP)
- Lake Macquarie Local Environmental Plan 2014 (LMLEP)

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

Table B1 | SRD SEPP compliance table

Relevant Sections	Consideration and Comments	Complies
3 Aims of Policy: The aims of this Policy are as follows: (a) to identify development that is State significant development	The proposed development is identified as SSD.	Yes
8 Declaration of State significant development: section 4.36 (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The proposed development is permissible with development consent. The proposal is for the purpose of a new school (regardless of the capital investment value) under clause 15 (educational establishments) of Schedule 1.	Yes

State Environmental Planning Policy (Infrastructure 2007) (Infrastructure SEPP)

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the state by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The development is for the purposes of an educational establishment and is adjacent to a rail corridor, and in accordance with clause 87 of the Infrastructure SEPP, the consent authority must take into consideration any

guidelines that are issued by the Planning Secretary for the purposes of this clause (Development Near Rail Corridors and Busy Roads – Interim Guideline).

The Department has consulted and considered the comments from the relevant public authorities (**Section 5** and **6**). The Department has considered noise impacts from the rail corridor in its assessment (**Section 6.3**) and has recommended conditions of consent (see **Appendix C**).

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The Education SEPP aims to simplify and standardise the approval process for child care centres, schools, TAFEs and universities while minimising impacts on surrounding areas and improving the quality of the facilities. The Education SEPP included planning rules for where these developments can be built, which development standards can apply and constructions requirements. The application has been assessed against the relevant provisions of the Education SEPP.

Clause 42 of the Education SEPP states that Development consent may be granted for development for the purpose of a school that is State significant development even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted.

Clause 57 of the Education SEPP requires traffic generating development that involve addition of 50 or more students to be referred to Transport for NSW (Roads and Maritime Services)(TfNSW(RMS)). The application was referred to TfNSW(RMS) in accordance with this clause.

Clause 35(6)(a) requires that the design quality of the development should be evaluated in accordance with the design quality principles set out in Schedule 4. An assessment of the development against the design principles is provided in **Table B2**.

Table B2 | Consideration of the Design Quality Principles

Design Principles	Response
Context, built form and landscape	The proposal does not seek to create any new built form and is utilising the existing building. The existing landscaping and vegetation is proposed to be maintained and new perimeter landscaping and outdoor hardstand areas for student breaks are to be provided.
Sustainable, efficient and durable	The proposal seeks to use the existing building for the school, and thereby reduce the environmental impacts associated with demolishing and rebuilding. The Department recognises therefore there is limited opportunity to implement ESD measures, however has recommended a condition requiring ESD initiatives be provided where appropriate. The Applicant has a policy of students not being permitted to drive to school, and as such it is anticipated that 80% of students will use public transport. The Department has recommended two bicycle parking spaces be provided on site to promote sustainable travel modes.
Accessible and inclusive	The Department notes the existing building is single storey and the site is generally flat. Nonetheless, the Department has recommended a condition

requiring the submission of a Disability Access Audit to consider the sites accessibility against the access requirements of the Building Code of Australia.

Health and Safety	Physical and outdoor recreation area are not proposed on site and would be undertaken offsite as required such as on Council playing fields and public parks such as Speers Point Park. The proposal has considered the Crime Prevention Through Environmental Design principles. The site would have fences on all sides with the ability to lock and secure the site.
Amenity	The Department acknowledges the concerns raised in Council's submission to the EIS regarding the lack of outdoor and indoor space proposed to be provided and its suitability for educational purposes. In response, the Applicant provided examples of its similar adapted schools in the Cessnock, Port Stephens and Greater Lakes LGAs to demonstrate that the proposed site is comparable to these other successfully run campuses. The Department notes that after meeting with the Applicant and the Applicant's RtS, Council recognised that Alesco is different to traditional schools and can deliver beneficial learning outcomes. The Department recognises that Alesco is a unique educational provider and as such considers the proposed existing building would provide a suitable environment for students. The additional proposed landscaping will improve the amenity for the site and the retained tree will provide a shaded outdoor area for student use.
Whole of life, flexible, adaptable	The proposal flexibly adapts the existing community use facility to enable the college to provide education for up to 65 students in years 10-12. The college selected the site as it was deemed suitable to replicate one of several other schools operated by Alesco that have followed the same model of re-purposing an existing building.
Aesthetics	The proposal does not seek to change the built form or design of the existing building. The proposed additional landscaping would improve the appearance of the overall site and integrate with the existing landscape.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a state-wide approach to the remediation of contaminated land. SEPP 55 aims to promote the remediation of contained land to reduce the risk of harm to human health and the environment by specifying under what circumstances consent is required, specifying certain considerations for consent to carry out remediation work and requiring that remediation works undertaken meet certain standards.

The Applicant submitted a preliminary site investigation for the site which identified a soil sample that contained elevated lead concentrations in area of the proposed hardstand Student Area 01. In response to the Department's queries, the Applicant provided a Remedial Action Plan (RAP) with the RtS that recommended on site management of contaminated soils through geotextile fabric marker layer and placement of hardstand material.

The Department considers in accordance with clause 7 of SEPP 55, the investigations undertaken of the subject site demonstrate that the site can be made suitable for its intended use. Contamination is considered in more detail in **Section 6.3** of this report.

The Department has recommended conditions for the appointment of a Site Auditor and an unexpected find protocol to ensure the proper management of remediation. Overall, subject to conditions the Department is satisfied that the site can be adequately remediated to ensure that the site is suitable for its intended use.

Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)

The Draft Remediation SEPP will retain the overarching objective of SEPP 55 promoting the remediation of contaminated land to reduce the risk of potential harm to human health or the environment.

Additionally, the provisions of the Draft Remediation SEPP require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant, categorise remediation work based on the scale, risk and complexity of the work and require environmental management plans relating to post-remediation management of site or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to council.

The Department is satisfied that the proposal is consistent with the objectives of the Draft Remediation SEPP.

Draft State Environmental Planning Policy (Environment) (Draft Environment SEPP)

The Draft Environment SEPP is a consolidated SEPP which proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Once adopted, the Draft Environment SEPP will replace seven existing SEPPs. The proposed SEPP will provide a consistent level of environmental protection to that which is currently delivered under the existing SEPPs. Where existing provisions are outdated, no longer relevant or duplicated by other parts of the planning system, they will be repealed.

Given that the proposal is consistent with the provisions of the existing SEPPs that are applicable, the Department concludes that the proposed development will generally be consistent with the provisions of the Draft Environment SEPP.

Lake Macquarie Local Environmental Plan (LMLEP) 2014

The LMLEP 2014 aims to encourage the development of housing, employment, infrastructure and community services to meet the needs of the existing and future residents of the Lake Macquarie LGA. The LMLEP 2014 also aims to conserve and protect natural resources and foster economic, environmental and social well-being.

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of the LMLEP 2014 and those matters raised by Council in its assessment of the development (refer to **Section 6**). The Department concludes the development is consistent with the relevant provisions of the LMLEP 2014. Consideration of the relevant clauses of the LMLEP 2014 is provided in **Table B3**.

Table B3 | Consideration of the LMLEP 2014

LMLEP 2014	Department Comment/Assessment
Clause 2.3 Zone Objectives and Land Use Table	The site is zoned R2 Low Density Residential. The proposed development being an educational establishment is not permissible in the zone. However, under clause 35 of the Education SEPP, development for the purpose of a school may be carried out by any person with development consent on land in a prescribed

zone. The R2 zone is identified as a prescribed zone under the Education SEPP, making the proposal permissible with development consent within the zone.

Clause 4.3 Height of buildings	The site is subject to a maximum building height control of 8.5m under the LMLEP. No building construction is proposed.
Clause 4.4 Floor Space Ratio	The site is not subject to a maximum floor space ratio control under the LMLEP. No additional floor space is proposed.
Clause 5.10 Heritage conservation	There are no listed heritage items on the site and is it not within a heritage conservation area. The site is in the vicinity of a local heritage listed item the 'Speers Point Steam Tram Line', however this is on the southern side of the rail corridor. The proposal does not include any new built form and as such the proposal would not have any impacts on heritage.
Clause 7.1 Acid sulfate soils	The site is identified as containing Class 5 Acid Sulfate Soils. The proposal would not lower the groundwater on any adjacent sites and there is no adjacent Class 1,2 3 or 4 land. As such, the water table would be not lowered below 1 m AHD on adjacent Class 1, 2, 3 or 4 land.
Clause 7.3 Flood planning	The site is not identified as a flood prone site. Accordingly, no flood assessment was required.
Clause 7.21 Essential services	The proposal is consistent with this clause as the site and existing building are already supplied by essential services.

Other Policies

In accordance with Clause 11 of the SRD SEPP, Development Control Plans do not apply to State significant development. Notwithstanding, the objectives of relevant controls under the Lake Macquarie DCP, where relevant, have been considered in **Section 6** of this report.

Appendix C – Recommended Instrument of Consent/Approval