

City of Ryde Submission

MEEP - Schools Project Modification (SSD-9343-Mod-4)

Seeking to delete public domain works, footpaths, pedestrian crossing
and extension of construction work hours

Submission Date: 22 November 2021

EXECUTIVE SUMMARY

Thank you for inviting Council to comment on the proposed modification of the Schools Project under SSD-9343-Mod-4 (Reference No. PAE-31458957). This submission is being made in response to SSD-9343-Mod-4 lodged with the Department of Planning, Industry and Environment (DPIE).

Lack of public exhibition

Council notes that this modification application (MOD 4) has not been publicly exhibited by DPIE despite its implication on the community and the potential impact in terms of the safety and amenity of the students, parents, road users and residents. Council contends that the application should be publicly exhibited.

Representation by community

Strong representations have been made by residents and the Meadowbank Public and Marsden High School P&C Groups in relation to inadequate infrastructure such as footpath, cycle ways and pedestrian crossings and connectivity for safety of the students. It is reasonable for local communities to expect delivery of schools include the necessary upgrades to allow children to safely access those schools.

Risks to the safety of school children as a result of proposed modifications

Council had previously raised issues relating to increased infrastructure that would be required because of the school project. Not all issues raised by Council during initial consultation were taken into consideration for implementation by Department of Education and DPIE. The issues were watered down by conditions of SSD consent as it captured only selected public domain upgrade works. For example, inadequate car parking, inadequate pedestrian infrastructure upgrades and so on. In addition based on the trip demand generated by the school development, Council considers that the infrastructure required to be delivered by the Schools project under the approved consent is inadequate to mitigate the traffic/transport and road safety issues expected to be generated by the development.

Council is extremely disappointed that the indications provided early in the project that it would be supported by the necessary infrastructure appear to be watered down. In particular, the DPIE, in its initial assessment of the proposal had identified a number of challenges relating to pedestrian access and the necessary upgrades required to support the schools. Now some of these works are being abandoned by the state government to the detriment of the community.

As such, Council cannot support the applicant's proposal to cut back on the infrastructure works required under the current consent without appropriate alternatives. The risks to the safety of school children and others travelling within the precinct are too great.

Incorrect details in the application/ planning report

The Planning Report states that Council has requested for most of the proposed modifications included in the application (MOD 4) "during consultation" which probably refers to site meetings for work verification that Council Officers were requested to attend. Contrary to the details contained in the application, Council wishes to make it clear that Council has never requested for the deletion of this

important infrastructure upgrade required under the Consent. Council emails (mostly providing updates) and minutes written by the applicant's representative based on discussions that may have taken place at the site are without Council's written endorsement or confirmation. Email exchanges seeking an update or status of a plan can hardly be construed as document indicating Council's official position on such matters of critical importance for the locality. In that sense the application for modification is misleading.

Summary of proposed modifications under MOD 4:

The application seeks to modify SSD9343 as follows:

- Delete Condition B44(a) to delete Pedestrian Infrastructure Improvements required along Western side of Hermitage Road.
- Amend Condition B44(c) to replace the word "eastern" with the word "western" to refer to the works required on western side of Bowden Street.
- Amend Condition B44(d) Pedestrian Infrastructure Improvements so the southern side of Squire Street footpath is 1.35m instead of 2.5m.
- Amend Condition C5(c) to allow construction activities to be undertaken outside of the approved hours where a variation is approved in advance by the Planning Secretary or their nominee if appropriate justification is provided for the work.
- Delete Condition D9(b) to delete a pedestrian crossing on See Street that was required under this condition.
- Delete Condition D10 to delete provision of a wombat pedestrian crossing or alternative pedestrian infrastructure upgrade works at the northern end of Mellor Street near/at its intersection with Victoria Road.
- Delete Condition D12 which relies on Condition D10.
- Delete Condition D14(h) relating to need for upgraded luminance levels of streetlights.
- Amend Condition D15 Public Domain Upgrades to allow timing flexibility where existing overhead/inground services or approvals cause potential delays to the works in Condition D14.
- Amend Conditions E21 Public Domain Works as Executed Plans so the timing aligns with the completion of the public domain works.
- Amend Condition E22 Compliance Certificate – External Works so the timing aligns with the completion of the public domain works.

Council officers have undertaken a review of the proposal. While some of the amendments are agreed to, a number of concerns are being raised which relate to the proposed deletion of the pedestrian infrastructure upgrades.

Details of the above issues are included in the submission with Council's strong objection to the removal of a number of critical pedestrian infrastructure upgrades that was mandated under the SSD conditions.

Each of the proposed amendments and issues associated with it are discussed below:

1. The application proposes to delete Condition B44(a), that is, removal of pedestrian infrastructure improvements from the western side of Hermitage Road.

The applicants planning report provides the following reasons for seeking to delete upgrade works from the western side of Hermitage Road:

- a) *There is significant timing and cost constraints on the Hermitage Road works due to the complexity of relocating multiple services that are located in the proposed works area.*
- b) *There is minimal demand and low expected usage of Hermitage Road by pedestrians and cyclists.*
- c) *The focus of pedestrian infrastructure improvements is on the preferred travel routes of Bowden Street and Macpherson Street from Victoria Road where the majority of pedestrian and cyclist demand is anticipated.*

City of Ryde Response:

City of Ryde strongly objects to the proposed deletion of works required under Condition B44(a) for the reasons provided below and seeks that the works as required under this condition be completed to ensure connectivity and safety of the children and users of the road.

Council had reiterated via correspondence from Assets and Infrastructure Team that the requirement to construct a 1.2m wide footpath on Hermitage Road adjoining the elevated SUP walkway is to be shown on the revised plans.

The pedestrian/cyclist infrastructure facilities along the western side of Hermitage Road are critical for accommodating the safe movement of pedestrians and cyclists to and from the school. The demand generated by the school will undoubtedly be significant. The justification provided by the applicant for the removal of Condition B44(a) is unsatisfactory for the following reasons:

- The designated on-street kiss and ride facility along the southern side of Rhodes Street is inadequate to support the student pick-up/drop-off demand generated by the schools, which are proposed to have an ultimate population of 2,620 students. As such, many students are expected to:
 - Be dropped off/picked up along the western side of Hermitage Road and walk from there to the schools.
 - Board and alight public buses which stop at West Ryde Railway Station or the bus stop along the northern side of Victoria Road to the east of Hermitage Road
 - Walk and cycle from their homes to the schools, noting in particular the catchment for the high school will be concentrated in areas to the north of the new schools, and the need to support active travel which supports the health of school children.

Further, the lack of parking provided on site will result in staff parking along the western side of Hermitage Road and walking to the site.

Therefore, the removal of Condition B44(a), which requires the applicant to provide a 2.5m wide shared user path along the western side of Hermitage Road will present an unacceptable risk to the safety of staff, parents/ guardians, visitors, and in particular, school children who will be forced to interact with heavy vehicles and all other vehicles accessing the industrial sites on the eastern side of the road, or walk on the road itself on the western side. It would be negligent for the proponent not to provide this infrastructure.

- The Schools project was approved on the basis of the transport study prepared by GTA Consultants/Stantec dated 14 October 2019. Section 8.2 of this study specifically recommended for the *“continuation of the existing Hermitage Road shared path from the Sydney Water driveway to the Rhodes Street site access”* to help to support approximately 650 cycling trips per day to and from the school given *“There are limited cyclist provisions surrounding the site, which is considered insufficient to support the cyclist demand associated with the proposed development, particularly given students will be the main cyclists to and from the site”*. The latest information submitted by the applicant in support of the deletion of Condition B44(a) based on low pedestrian and cyclist demand therefore contradicts the original assessment that led to the approval of the development.
- The DPIE Assessment Report for the Schools SSD Application had relied upon these improvements as a requirement/ precondition for the project to proceed. The report had noted that road and pedestrian upgrades are required to provide safe routes to the school site and that the School would provide sufficient pedestrian access as per the conditions. The conditions required public domain enhancements and installation of pedestrian crossings/ road upgrades to provide appropriate and safe crossing points on nearby roads (pvii). Condition B44(a) is one of those conditions. Council fails to understand how this is still the case when these conditions are being removed/ deleted.
- Students accessing the new school site from Victoria Road (closest to West Ryde station) do not have a safe access to school. The community has expressed frustration that there are no alternate arrangements provided that will work.
- The new footpath adjacent to the SUP along the western side of Hermitage Road is intended to provide safe and efficient pedestrian connectivity to the school entrance for students picked-up and dropped-off along the western side of Hermitage Road. In this regard, it is strongly advised that the provision of this at-grade footpath be included as part of the public domain works that is to be delivered by SINSW at no cost to Council as it is primarily for the benefit of the future schools, which is in line with condition B45(b) of the consent.

2. The Application proposes to amend Condition B44(c) to replace the word “eastern” with the word “western” to refer to the works required on western side of Bowden Street – connecting SUP from Victoria Road to Macpherson Street.

Council Response:

No issues are raised in relation to this matter as it will correctly reflect where the works are required. Council had acknowledged via 21/5/2020 correspondence to the applicant that works under this condition are for western side of Bowden Street and not the eastern side.

Council does not consider the change in the location of the SUP from the eastern side to the western side of Bowden St to be an issue as it is better aligned with the future raised pedestrian/cyclist crossing across Macpherson Street and the future SUP along the southern side of Macpherson Street, which is required to be delivered by the applicant in accordance with Condition B44.

3. Amend Condition B44(d) Pedestrian Infrastructure Improvements so the southern side of Squire Street footpath is 1.35m not 2.5m.

Council Response:

City of Ryde objects to the proposed reduction in the width of the pathway in absence of other related works that would be required to mitigate the impact reduced width. A safe access arrangement for pedestrians being dropped off/picked up from the western side of the Hermitage Road will be required.

Extract of the relevant Condition:

Pedestrian Infrastructure Improvements

B44. Within six months of the commencement of construction, the Applicant must prepare a public domain enhancement strategy in consultation with Council and submit this to the satisfaction of the Planning Secretary to encourage walking and cycling to the school. The Strategy must include details for the delivery of 2.5 metre Shared User Paths along the following locations prior to commencement of operation of the schools unless otherwise agreed in writing by the Planning Secretary under condition B45 or unless otherwise nominated below:

(a) the western side of Hermitage Road;

(b) the southern side of Macpherson Street, between Mellor and Bowden Streets;

(c) the ~~eastern~~ western side of Bowden Street, from Victoria Road to Macpherson Street;

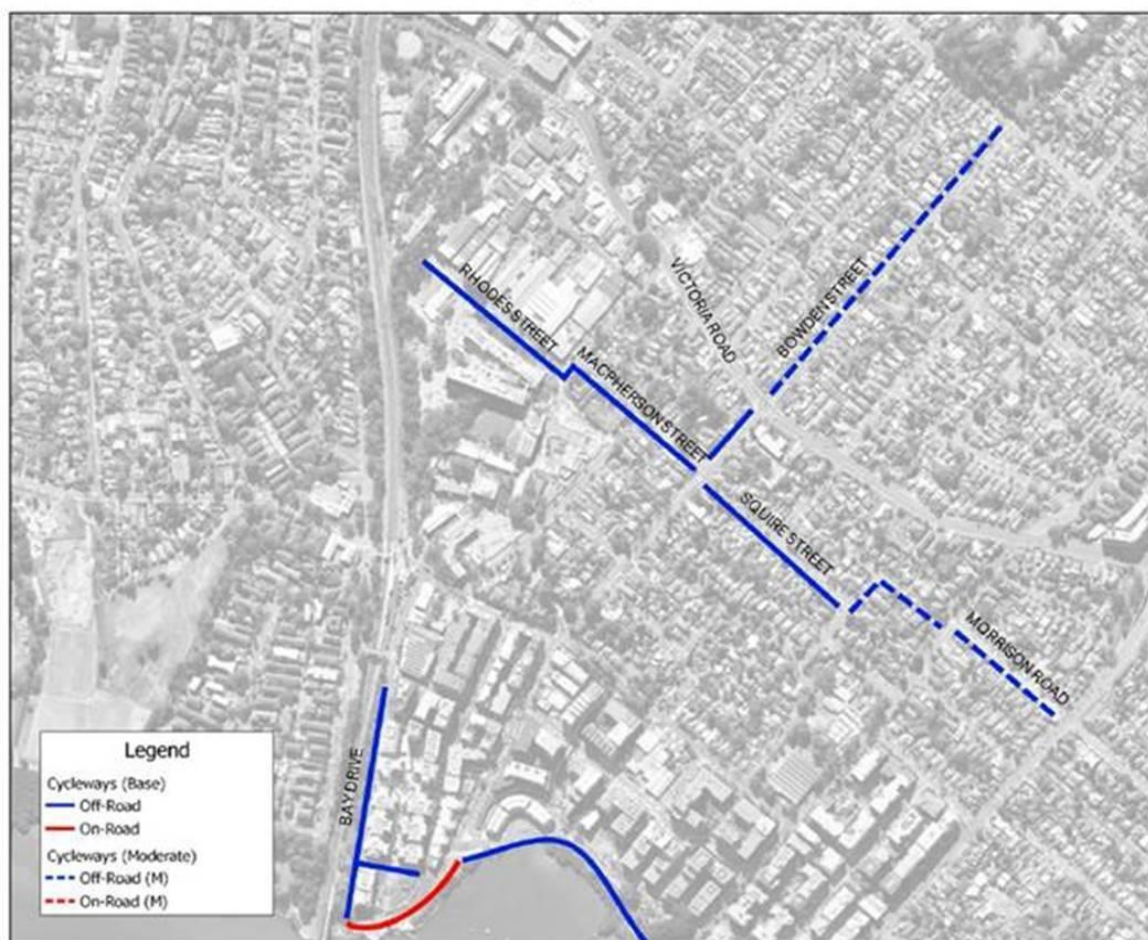
(d) the southern side of Squire Street to a width of 1.35 metres; and

(e) the southern side of Rhodes Street;

The proposed reduction in the width of the cycle path contradicts the recommendations provided within the latest Draft Transport Plan (School Travel Plan) prepared by GTA Consultants/ Stantec on behalf of the applicant dated 8 November 2021.

The Report was prepared to address Condition D17 of the consent, whereby section 1.7.2 of the Plan specifically recommends for an off-road cycle path within Squire Street. See extract below of Figure 1.27 of the Plan for reference.

Figure 1.27: Recommended Moderate Scenario Cycling Infrastructure



A concession for a reduction to the width of the off-road path (from 2.5m to 1.35m) along the southern side of Squire Street can be considered provided other works such as the provision of a 1.2m wide footpath along the western side of Hermitage Road in addition to the 2.5m wide shared user path (as previously recommended by Council staff and shown within the approved Construction Certificate civil plans) can be delivered by the applicant, which would be considered an appropriate trade-off. A 1.2m wide footpath on the western side of Hermitage Road would provide safe access for pedestrians being dropped off/picked up on this side of the road.

- 4. Proposed amendment to Condition C5(c) to allow construction activities to be undertaken outside of the approved hours where a variation is approved in advance by the Planning Secretary or their nominee if appropriate justification is provided for the works.**

Council Response:

Council raises objection to any change to the approved standard construction hours with an exception for works required in an emergency to avoid loss of life or damage to property.

Several residents have complained about the construction works being carried out outside of the approved hours in regard to the TAFE development (adjoining site), with no proper recourse for complaints to be heard and dealt with by the SI and DPIE. Residents have advised that they are directed to Council rather than their complaints dealt with in accordance with protocols set up under the Consent. Council has raised this issue as part of the Independent Audit recently conducted pursuant to Condition A of SSD-9343. A copy of the submission sent for the Independent Audit is attached (**ATTACHMENT 2**).

The Interim Construction Noise Guideline 2009 (ICNG) includes noise management level (NML) guidelines and standard hours of construction which apply to NSW. While Condition C5 allows for a more generous construction hours than the ICNG, aligning with Council's adopted standard hours, any further extension (or a variation) would not be acceptable given the extent of breach and lack of acceptable recourse experienced by the residents with respect to works carried out at the adjoining TAFE site.

Council is of the view that the noise generated outside of normal construction periods will have adverse impacts to our residents who have also suffered considerably from the works that have been undertaken in this precinct.

Any further variation to allow works outside of standard hours is not supported.

- 5. Proposed to delete Condition D9(b) that requires provision of a pedestrian crossing on See Street where it intersects with Macpherson Street.**

The Planning Report (by URBIS dated 2 November 2021) seems to imply that that this modification was requested by Council during site meetings. The reason provided by the applicant is that "it is not required" and that its deletion was "requested by Council". The Planning Report (URBIS) states that Council has requested for this modification "during consultation" which probably refers to site meetings for work verification that Council Officers were requested to attend. Contrary to the details contained in the application, Council wishes to make it clear that Council has never requested for the deletion of this important infrastructure upgrade required under this Condition. Council Officers have responded to emails (mostly providing updates) and minutes written by the applicant's representative based on discussions that may have taken place at the site are without Council's written endorsement or confirmation. Email exchanges seeking an update or status of a plan can hardly be construed as

document indicating Council's official position on such matters of critical importance for the locality.

Email exchanges regarding project updates and have been uploaded on the SSD website as a support document for the application. Such a document can hardly be relied on as basis for seeking to water down the required public domain upgrade works, especially when correspondence have been provided by Council reaffirming that the works are required and the applicant must complete these works in accordance with the conditions of consent.

City of Ryde respectfully disputes this assertion by the applicant and advises that Council did not seek or formally agree to this request. The pedestrian crossing on See Street should be provided for safety of students and parents crossing the road to access the school. Any alternatives or other options have not been formally agreed to date.

It should be noted that the significant pedestrian demand reflected within the applicant's School Transport Plan (see extract of Figure 1.23 of the Plan below for reference) would suggest that a pedestrian crossing on See Street at Macpherson Street is warranted.

Figure 1.23: Projected Student and Parent/ Caregiver Pedestrian Volumes – Moderate Scenario



Base Image Source: Nearmap

Council Officers do not support the removal of this condition. However, Council would be open to alternative works as an appropriate trade-off to this requirement in accordance with the condition if consent.

6. Proposed to delete Condition D10 that requires provision of a wombat pedestrian crossing or alternative pedestrian infrastructure upgrade works at the northern end of Mellor Street near/at its intersection with Victoria Road.

Council objects to the deletion of Condition D10.

The relevant Condition reads as follows:

D10. Prior to the commencement of the operation of the new schools, the Applicant must consult with Council and TfNSW in relation to the need for the provision of a wombat pedestrian crossing or alternative pedestrian infrastructure upgrade works at the northern end of Mellor Street near/at its intersection with Victoria Road.

Council Officers do not support the removal of this condition. However, Council would be open to alternative works as an appropriate trade-off to this requirement in accordance with the condition if consent.

It is important to note that the Condition also requires input from Transport for NSW (TfNSW). The implementation of this condition requires approval from both Council and TfNSW. TfNSW have indicated on numerous occasions that they do not support the proposal for a pedestrian crossing across Mellor St near to Victoria Road, due to traffic (e.g. queuing onto Victoria Rd) and pedestrian safety implications. This view is reiterated in their latest correspondence to the applicant on the school travel plan (email from TfNSW to the applicant dated 16/11/2021). As such Council would be open to alternative works as an appropriate trade-off to this requirement in accordance with the condition if consent.

7. Proposed to delete Condition D12 in relation to the need for the provision of a wombat pedestrian crossing at the northern end of Mellor Street near/at its intersection with Victoria Road.

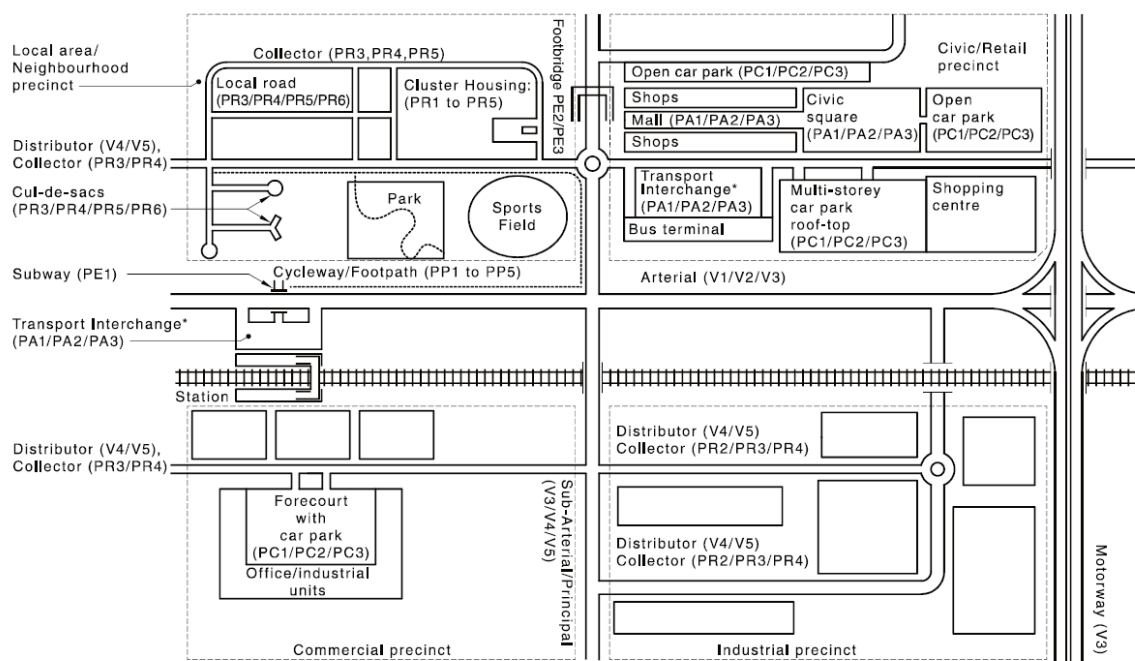
Council Officers do not support the removal of this condition as it relies on the outcome of consultation under Condition D10. Council would be open to alternative works as an appropriate trade-off to this requirement in accordance with the condition if consent.

8. Delete Condition D14(h) relating to new streetlights that were to be installed/ upgraded to the correct luminance.

City of Ryde Response:

This item must remain unchanged and must be enforced as per the approved condition D14 (h), dated 21/05/2021. This is a new development and the existing streetlights must be brought up to the current Australian Standards. This development will increase the road users pattern flow for this area, as such it must comply with current AS1158 (figure 2.19 below), distributor/collector roads needs to be lit to V5/PR2. This requirement as per Australian Standard AS1158 will ensure a safe movement of people and vehicles on public roads, and hence from a safety compliance perspective the new developments should ensure the compliance to this

standard for the new school development.



Extract from AS1158 – Figure 2.19
(showing roads types and illumination design requirements)

9. **Amend Condition D15 Public Domain Upgrades to allow timing flexibility where existing overhead/inground services or approvals cause potential delays to the works in Condition D14.**

Existing Condition D15.

Prior to the commencement of the operation of the new schools, the Applicant must submit evidence to the Certifier demonstrating that the works approved by Council (condition D14) have been carried out).

Amendments to condition proposed by the Applicant (changes shown underlined):

Condition D15.

Prior to the commencement of the operation of the new schools, unless otherwise agreed by the Planning Secretary, the Applicant must submit evidence to the Certifier demonstrating that the works approved by Council (condition D14) have been carried out. Where existing overhead/inground services or authority approvals cause delays to the works in Condition D14, evidence must be submitted to the Planning Secretary for an alternative timeframe to be agreed to.

City of Ryde Response:

Council is mindful of the timelines and potential delay that may occur in relation to this matter. Based on this, Council has no objection to the condition being amended to allow for such contingency and that a workable arrangement is discussed and agreed with Council. Therefore, Council will agree to this amendment subject to the

addition of word “and Council” as shown in bold text below.

D15. Prior to the commencement of the operation of the new schools, unless otherwise agreed by the Planning Secretary **and Council**, the Applicant must submit evidence to the Certifier demonstrating that the works approved by Council (condition D14) have been carried out. Where existing overhead/inground services or authority approvals cause delays to the works in Condition D14, evidence must be submitted **to Council** and the Planning Secretary for an alternative timeframe to be agreed to.

10. Amend Conditions E21 Public Domain Works as Executed Plans so the timing aligns with the completion of the public domain works.

Existing Condition E21.

Prior to the commencement of the operation of the new schools, work-as-executed (WAE) plans must be submitted to Council for review and approval (within 14 working days of submission). The WAE plans must be prepared on a copy of the approved plans and must be certified by a Registered Surveyor. All departures from the Council approved details must be marked in red with proper notations. Any rectifications required by Council must be completed by the Applicant. In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council must be submitted in a form advised by Council. The list must include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

Amendments to condition proposed by the Applicant (changes shown by strike through and underlined text:

E21. ~~Prior to the commencement of the operation of the new schools~~ Upon completion of the Public Domain Works, work-as-executed (WAE) plans must be submitted to Council for review and approval (within 14 working days of submission). The WAE plans must be prepared on a copy of the approved plans and must be certified by a Registered Surveyor. All departures from the Council approved details must be marked in red with proper notations. Any rectifications required by Council must be completed by the Applicant. In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council must be submitted in a form advised by Council. The list must include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

City of Ryde Response:

Council support the proposed amendment to this condition and that all completed civil works for this development are adequately completed to Council's satisfaction and as per the approved Roads Act plans, the public domain Works as Executed Plans must be submitted to Council subject to the proposed amendment to condition E22.

11. Amend Condition E22 Compliance Certificate – External Works so the timing aligns with the completion of the public domain works.

Existing Condition E22. Prior to the commencement of the operation of the new schools, a compliance certificate must be obtained from Council confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

Amendments proposed by the Applicant (changes shown by strike through and underlined text:

E22. ~~Prior to the commencement of the operation of the new schools~~ Upon completion of the Public Domain Works, a compliance certificate must be obtained from Council confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

Council Response:

No clear reasons have been provided with the application as to any alternate timelines for the works to be completed. The reason contained in the Planning Report (URBIS) is "amend Condition E22 Compliance Certificate – External Works so the timing aligns with the completion of the public domain works". The condition requires that pedestrian infrastructure, works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works are completed before the school commences operation. This would be the safest and appropriate approach.

The proposed manner in which the outcome sought by the applicant is achieved, is only partially supported. However, the following alternative is offered as suggested in the revised wordings indicated below:

Suggested wordings by Council for Condition E22: (changes shown as underlined and bold text:

E22. *Prior to the commencement of the operation of the new schools, **a conditional compliance certificate must be obtained from Council confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate. **The Conditional Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets have been practically completed and compliance demonstrated with the following:*****

A) The Conditional Compliance Certificate requirements:

- All civil works within the public domain and associated with road widening, must be completed in accordance with the Council requirements and provide a safe and functional public access.
- Completion of a final inspection by Council, and rectification to Council satisfaction of any identified defects which are deemed to impact public safety or functional use of the road reserve.
- Submission of compliance documentation to Council from road safety auditor confirming that all the new traffic facilities works have been completed and provide for functional and safe use for the public and that they have no objections to commencement of public use on commencement of operation of the new school.
- Submission to Council of any asset handover documentation required to demonstrate that the completed works are adequate for safe and functional use by the public.

B) Prior to issue of the Final Compliance Certificate for this development issued by Council confirming that all external works in the public road reserve and alteration to Council assets have been completed and compliance demonstrated with the following:

- Completion of an additional inspection to verify that all previously identified defects have been adequately addressed to Council's satisfaction. Any additional defects identified in the interim must also be addressed.
- Submission to Council of all documentation associated with asset handover. All documentation must meet Council standards and be resubmitted if required.
- Rectification or finalisation of any issue impacting Council assets arising prior to issue of Final Compliance Certification.