

12 May 2022
Contact: Richard Seaward

Ref: WTJ22-024-MOD2

Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Aditi Coomar

SECTION 4.55(1A) MODIFICATION APPLICATION TO MODIFY SSD 10371
TRINITY GRAMMAR SCHOOL
119 PROSPECT ROAD AND 50-52 SEAVIEW STREET, SUMMER HILL
LANDSCAPING AMENDMENT

1. INTRODUCTION

Dear Aditi,

Please note this Modification report has been updated as requested by DPE in a formal Request for Further Information (RFI) prepared by Gavin Ho on 8 April 2022.

This Section 4.55(1A) Modification Application is submitted to the Department of Planning and Environment (DPE) on behalf of Trinity Grammar School (the School) in support of the amendments to **State Significant Development (SSD-10371)** for the redevelopment of Trinity Grammar School. In accordance with Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the proposed changes shall result in minor environmental impact for the reasons outlined throughout this report.

Approval for **SSD-10371** was granted 24 September 2021 for:

Alterations and additions to Trinity Grammar School in construction stages and changes to staff and student numbers comprising:

- *demolition of existing buildings including New School building, dwelling houses at 119 Prospect Road and 50 and 52 Seaview Street and part demolition of Music Building and Assembly Hall;*
- *construction of a:*
 - *new building with a basement known as the T&L Building;*
 - *new Multi-Purpose Pavilion; and*
 - *new Maintenance Building on Seaview Street;*
- *alterations and additions to existing buildings to create a Performing Arts Building;*
- *refurbishment of the Music Building, New Founders Building, the Assembly Hall and North Quad Building;*
- *extension and reconfiguration of the Jubilee carpark and the staff carpark to increase the car parking spaces from 312 to 324 and a new underground connection;*
- *associated landscaping, removal of 29 trees, road and public domain works, ancillary signage;*
- *staged increase in student numbers from 1,500 to 2,100 and increase in FTE staff from 277 to 321.*

The development consent for **SSD-10371** is contained within **Appendix 1**.



This application represents the second modification to **SS-10371**. Modification 1 (**MOD1**) relates specifically to rationalising student numbers at the Site and is currently under assessment by DPE.

This modification – **MOD2** is proposed in order to rationalise the approved landscaping. The purpose of this modification is to amend the approved landscaping plans which have evolved as a consequence of design changes following design development and project coordination. The modification to the landscaping comprises:

- Increased trees to border planting areas along the boundary of the Site to Oval 1;
- Planters to Oval Terraces and Music Hall comprising revised planter design and repositioning to accommodate planer soil volumes and capacities;
- Increased trees to Victoria Street, Oval 3 and Oval 2 boundaries to provide perimeter canopy to the Site; and
- Tree replacement (two trees) to the Chapel Drive frontage to accommodate an improved entrance to the School's main entrance.

Further details of the proposed modification can be found in **Part B** of this Letter.

This Section 4.55(1A) Modification Application is structured as follows:

- **Part A** Preliminary
- **Part B** Proposed Development
- **Part C** Legislative and Policy Framework
- **Part D** Key Matters for Consideration
- **Part E** Conclusion

Attached to this submission are the following specialist reports and plans:

- **Appendix 1** – Development Consent SSD 10371
- **Appendix 2** – Landscaping Plans
- **Appendix 3** – Corresponding Architectural Plans
- **Appendix 4** – Schedule of Stamped Plans
- **Appendix 5** – Arboricultural Report
- **Appendix 6** – Heritage Impact Statement





PART A PRELIMINARY

1.1 INTRODUCTION

This application seeks consent for modifications to the approved **SSD-10371** pursuant to Section 4.55(1A) of the EP&A Act. Specifically, the proposed modification seeks consent to amend the following:

- Increased trees to border planting areas along the boundary of the Site to Oval 1
- Planters to Oval Terraces and Music Hall comprising revised planter design and repositioning to accommodate planer soil volumes and capacities;
- Increased trees to Victoria Street, Oval 3 and Oval 2 boundaries to provide perimeter canopy to the Site; and
- Tree replacement (two trees) to the Prospect Road frontage to accommodate an improved entrance to the School's main entrance.

The proposed development does not present any significant environmental impacts and the proposal will remain substantially the same as that approved under the original application. There will be no change to the use of the Site or material amendments to the approved built form. The proposal will prominently reflect the original consent and will relate specifically to landscaping.

Development Consent under Section 4.55(1A) of the EP&A Act states:

(1A) Modifications involving minimal environmental impact

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

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a*

This application represents the second modification to **SSD-10371** and is proposed in order to rationalise the landscaping arrangements at the Site as the development plans have evolved and adapted.

The purpose of this modification is to substitute the stamped landscaping plans and ensure the conditions of consent are not prohibitive to the landscaping arrangements at the School or materially impact on the historical context of the adjacent Headmasters House which is identified as a heritage item.

It is noted that no substantial impact is proposed to the environment or amenity of surrounding development is to result. The proposed development is considered to be substantially the same as required by Section 4.55(1A). Accordingly, it is considered that Section 4.55(1A) is the most appropriate mechanism for the proposed modifications to the consent.





1.2 SITE DESCRIPTION

The subject of this modification is the Trinity Grammar School, Summer Hill Campus on land identified as 119 Prospect Road Summer Hill (Lot 11 DP 1171965, Lot 16 DP15765, Lot 17 DP 15765, Lot 5 DP 15765 and Lot 6 DP 15765).

The Summer Hill campus incorporates a junior, middle and senior schools, accommodating students from Kindergarten to Year 12. Existing facilities contained within the campus include, but are not limited to, the following:

- General learning facilities and specialised subject-specific facilities;
- Junior School;
- Assembly hall;
- Library;
- Administration facilities;
- Indoor sports centre;
- Centenary Aquatic Centre and swimming pools;
- Three (3) ovals and external basketball courts; and
- Underground carparking (located below Ovals 2 and 3).

The primary vehicular access to the campus is facilitated via Victoria Street, with vehicular access to the underground staff, student and visitor carparks (which also incorporate drop-off/pick-up facilities) provided via two separate access points on Victoria Street. Limited vehicular access is also available via Prospect Road in proximity to the proposed amendments to the landscaping. The main pedestrian access to the School is from Prospect Road, where bus zones are located. Restricted pedestrian access is also available from Victoria Street and Seaview Street at certain times.

The School offers of a broad range of sporting activities supported by its three playing fields. Oval 1 faces onto Prospect Road and Yeo Park, Ovals 2 and 3 contain car parking below which is accessed off Victoria Street.

The location of the Site and existing development are depicted in **Figures 1 and 2**.





Figure 1. Cadastral Map (Source: SIX Maps, 2020)

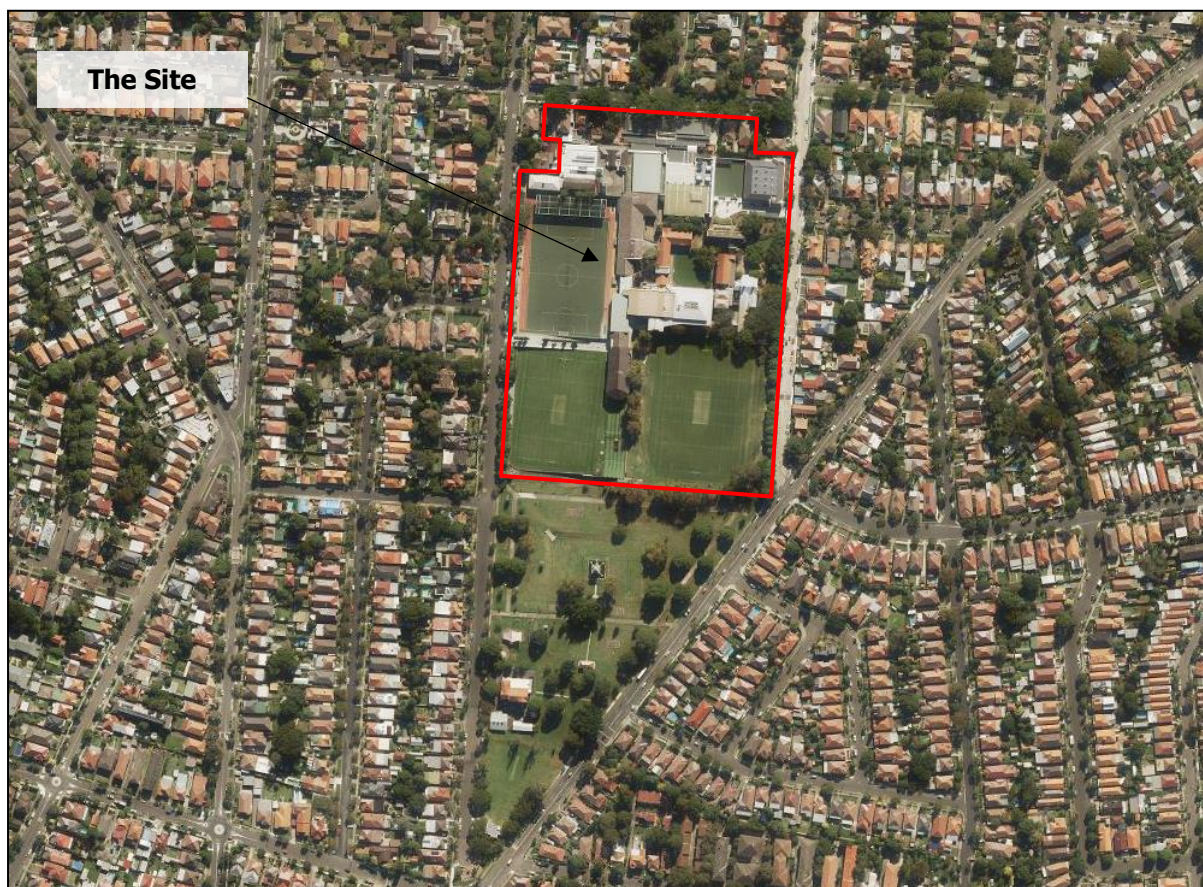


Figure 2. Aerial of the Site (Source: Six Maps, 2020)





1.3 DEVELOPMENT HISTORY

Approval for **SSD-10371** was granted 24 September 2021 for:

Alterations and additions to Trinity Grammar School in construction stages and changes to staff and student numbers comprising:

- *demolition of existing buildings including New School building, dwelling houses at 119 Prospect Road and 50 and 52 Seaview Street and part demolition of Music Building and Assembly Hall;*
- *construction of a:*
 - *new building with a basement known as the T&L Building;*
 - *new Multi-Purpose Pavilion; and*
 - *new Maintenance Building on Seaview Street;*
- *alterations and additions to existing buildings to create a Performing Arts Building;*
- *refurbishment of the Music Building, New Founders Building, the Assembly Hall and North Quad Building;*
- *extension and reconfiguration of the Jubilee carpark and the staff carpark to increase the car parking spaces from 312 to 324 and a new underground connection;*
- **associated landscaping, removal of 29 trees, road and public domain works, ancillary signage.**
- *staged increase in student numbers from 1,500 to 2,100 and increase in FTE staff from 277 to 321.*

(Bold and underlined – our emphasis)

Review of **SSD-10371** indicates that there is nothing which prevents the proposed modification from proceeding. It is noted that landscaping is cited in the development description and landscaping amendments are included within this modification submission.





PART B PROPOSED DEVELOPMENT

2.1 PROPOSED MODIFICATIONS & JUSTIFICATION

Trinity Grammar School seeks to amend Development Consent **SSD-10371** to revise the landscaping plans to rationalise the planting which is a result of rationalisation of design development and coordination.

2.1.1 Landscaping

The proposed modification to the landscaping is set out in detail in **TABLE 1** below:

TABLE 1 PROPOSED LANDSCAPING AMENDMENTS	
Proposed Amendment	Detailed Description
Oval 1	
Increased trees to border planting areas	Further design development and coordination has resulted in the revision of Site tree planting proposal and precinct landscape design. As a result, additional trees are proposed along the boundaries to Oval 1 to provide site perimeter canopy, whilst maintaining a minimum of 67 new trees on site in accordance with planning condition A1(2)(iii).
Planters to Oval Terraces and Music Hall	Planter form revised in design development phase to respond to the aesthetic language of the Trinity Theatre, bleacher terraces to Jubilee Drive facade and the overall design of the landscape masterplan. Trees have been repositioned to suit planter soil volume capacities.
Oval 2	
Increased trees to Victoria Street planter bed	Further design development and coordination has resulted in the revision of Site tree planting proposal and precinct landscape design. As a result, additional trees are proposed along the boundaries of Oval 2 to Victoria Street to provide site perimeter canopy, whilst maintaining a minimum of 67 new trees on site.
Oval 3	
Increased trees to Victoria Street planter bed	Further design development and coordination has resulted in the revision of site tree planting proposal and precinct landscape design. As a result, additional trees are proposed along the boundaries of Oval 3 to Victoria Street to provide site perimeter canopy, whilst maintaining a minimum of 67 new trees on site in accordance with planning condition A1(2)(iii).
Oval grading updated	Oval 3 grading updated due to returfing the oval, increasing the soil capacity for upgrading irrigation requirements and curtilage grades around the Oval thoroughfares. For the avoidance of doubt no alterations are proposed to the levels.
Chapel Drive	
Replacement of Syzygium australe and Calodendrum capense with two Tristaniopsis laurina 'Luscious' to Prospect Rd frontage	<p>One of these trees, the Calodendrum capense, has been recommended for replacement by the consulting Arborist due to its poor health and safety concerns over its declining health.</p> <p>The remaining tree is to be replaced to achieve the DDA design outcomes sought in the landscape design. As the fence is being recessed into the property boundary the public domain amenity is being improved by providing an accessible path which is wider than the current footpath for high demand in foot traffic in accordance with the planning consent.</p>

The proposed landscaping plans are contained within **Appendix 2**. In addition, the accompanying architectural plans which seek to facilitate the landscaping plans and do not propose any material amendments to the built form are contained within **Appendix 3**.





2.1.2 Relationship with Deferred Commencement Conditions

Appendix 4 includes a schedule of the current stamped plans. It is noted that the schedule of the plans approved pursuant to the deferred commencement conditions are not included within the consent notice (issued 24 September 2021) and thus the full schedule of approved and stamped plans relies on planning condition **B2 (d)** which is set out below for ease of reference:

B2. The development may only be carried out:

- (a) in compliance with the conditions of this consent;*
- (b) in accordance with all written directions of the Planning Secretary;*
- (c) generally in accordance with the EIS, Response to Submissions and Supplementary Response to Submissions;*
- (d) in accordance with the approved plans in the table below, unless otherwise amended by condition A1:**

As the plans as approved by the deferred commencement conditions are not expressly cited in the Independent Planning Commission (IPC) acceptance letter dated 18 January 2022, for clarity these are set out in the schedule of stamped plans included within **Appendix 4**. As such, this modification seeks to amend the stamped plans of this consent in accordance with consent **SSD-10371** and the approved stamped plans approved under the deferred commencement details.

2.2 MODIFICATIONS TO CONDITIONS OF CONSENT

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. The purpose of this modification is to amend the conditions appropriately to ensure that the conditions are not prohibitive to the orderly and logical development of the Site.

To reflect the proposed modifications to the relevant conditions, text proposed to be deleted is indicated by '~~strikethrough~~' text and text proposed to be added is indicated by **red bold** text as follows:

The desired development outcome as outlined above requires the following modifications to development consent **SSD-10371**:

Terms of Consent

B2.

The development may only be carried out:

- (a) in compliance with the conditions of this consent;*
- (b) in accordance with all written directions of the Planning Secretary;*
- (c) generally in accordance with the EIS, Response to Submissions and Supplementary Response to Submissions;*
- (d) in accordance with the approved plans in the table below, unless otherwise amended by condition A1:**

Architectural Plans prepared by PDML Architecture			
Dwg No.	Rev	Name of Plan	Date
DA003	B	Site Masterplan	15/1/21
DA100	A	Site Demolition Plan B2	3/2/20





DA101	A	Site Demolition Plan B1	3/2/20
DA102	A B	Site Demolition Plan L0 + above	3/2/20 11/2/22
DA110	A C	Proposed Site Plan B2	3/2/20 10/12/21
DA111	E F	Proposed Site Plan B1	21/12/21 11/2/22
DA112	F G	Proposed Site Plan L0	21/12/21 11/2/22
DA113	D E	Proposed Site Roof Plan	21/12/21 11/2/22
DA120	A B	Proposed T&L Precinct Plan B1	3/2/20 16/12/21
DA121	A C	Proposed T&L Precinct Plan L0	3/2/20 10/12/21
DA122	A C	Proposed T&L Precinct Plan L1	3/2/20 10/12/21
DA123	B D	Proposed T&L Precinct Plan L2	24/8/21 10/12/21
DA124	B D	Proposed T&L Precinct Plan L3	24/8/21 10/12/21
DA125	B D	Proposed T&L Precinct Plan L4	24/8/21 10/12/21
DA126	E D	Proposed T&L Precinct Plan Roof Plan	24/8/21 10/12/21
DA130	A C	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan B2	3/2/20 10/12/21
DA131	D E	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan B1	21/12/21 11/2/22
DA132	D E	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan L0	21/12/21 11/2/22
DA133	B	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan L1	24/8/21
DA134	B	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan L2	24/8/21
DA135	B	Proposed Performing Arts Precinct Plan & Multipurpose Pavilion Plan L3	24/8/21
DA140	E E	Proposed Maintenance Plan B1	24/2/21 10/12/21
DA141	E D	Proposed Maintenance Plan L0	24/2/21 16/11/21
DA142	C	Proposed Maintenance Plan L1	19/2/21
DA143	B C	Proposed Maintenance Roof Plan	15/1/21 16/11/21
DA150	A B	Proposed Oval 3 Car Park B2	24/8/21 16/11/21
DA151	E E	Proposed Oval 3 Car Park B1	21/12/21 27/4/22
DA152	A B	Proposed Oval 2 Car Park B1	24/8/21 16/11/22
DA153	E D	Proposed Oval 2 L0	21/12/21 11/2/22
DA160	A	Schematic Bicycle Parking Plan	August 21
DA200	D	Street Elevations 01,02	18/2/21
DA201	B	Street Elevations 03,04	15/1/21
DA300	B	Site Sections AA, BB, CC	15/1/21
DA301	B	Site Sections CC, DD	15/1/21
DA302	B D	Site Sections EE, FF	15/1/21 21/12/21
DA306	A	Building Elevations	28/8/20
DA307	A	Building Elevations	28/8/20
DA308	E D	Building Elevations - Seaview Maintenance	24/2/21 16/11/21
DA309	B C	Building Sections - Seaview Maintenance	24/2/21 16/11/21





DA320	A B	Building Elevations	August 2021 16/11/21
DA321	A	Building Elevations	24/8/21
DA322	A B	Building Elevations	24/8/21 16/11/21
DA330	A B	Site Sections AA	24/8/21 16/11/21
DA331	A B	Site Sections BB	24/8/21 16/11/21
DA332	A	Site Sections CC	24/8/21
DA333	A B	Site Sections DD	24/8/21 16/11/21
DA334	A B	Site Sections EE	24/8/21 16/11/21
DA340	A B	Jubilee Sections	24/8/21 16/11/21
DA501	A	Signage Location Plan	28/8/20
DA502	A	Signage Blade Wall	28/8/20
DA503	A	Lift Tower Signage	28/8/20
DA504	A B	Scoreboard Signage	28/8/20 15/11/21
DA505	A C	Prospect Road Signage	28/8/20 NOT DATED
DA506	A	Centenary Centre Signage	28/8/20
DA507	A	Seaview Maintenance Signage	28/8/20
DA600	A	Material's Board Western Facade	28/8/20
DA601	A	Material's Board Southern Facade	28/8/20
DA602	A	Material's Board Eastern Facade	28/8/20
DA604	C	Material's Board Seaview Maintenance	24/2/21
Landscape Plans prepared by Arcadia Landscape Architecture			
Dwg No.	Rev	Name of Plan	Date
000	E G	Coversheet	Dec 2021 April 2022
100	E G	Landscape Masterplan	Dec 2021 April 2022
101	G	Plan Index	April 2022
200	E G	Landscape Plan	Dec 2021 April 2022
201	E G	Landscape Plan	Dec 2021 April 2022
202	E G	Landscape Plan	Dec 2021 April 2022
203	E G	Landscape Plan	Dec 2021 April 2022
204	E G	Landscape Plan	Dec 2021 April 2022
205	E G	Landscape Plan	Dec 2021 April 2022
206	E G	Landscape Plan	Dec 2021 April 2022





207	E G	Landscape Plan	Dec 2021 April 2022
601	C	Landscape Details and Specification	Oct 2020
L-650	A	Landscape Details – planting	24/8/21
634	-	Landscape Details – Jubilee Planter	No date

GREEN – Plans which were approved by the IPC and required to be updated on the Consent. Note, these plans were already approved by the IPC and are not sought to be modified. The Consent notice is required to be updated accordingly.

RED – Plans which MOD2 seeks to amend

Landscaping
F29.

*Prior to the issue of the occupation certificate of any construction stage, the Applicant must provide suitable evidence to the Certifier that the landscaping of the site has been completed in accordance with landscape plan(s) approved under condition A1(2) **and as modified by SSD-10371 MOD2.***





PART C LEGISLATIVE AND POLICY FRAMEWORK

3.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

Section 4.55(1A) of the EP&A Act makes provision to modify a Development Application (DA) that has been made pursuant to Part 4 of the EP&A Act.

The proposal as submitted to DPIE is considered to satisfy the provisions of Section 4.55(1A) of the Act in that the changes proposed will result in minimal environmental impact and will result in the development being substantially the same as that for which consent was originally granted. The key provisions of Section 4.55(1A) of the EP&A Act have been considered below:

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

- (a) ***it is satisfied that the proposed modification is of minimal environmental impact, and***
- (b) ***it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).***
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The purpose of this modification is to amend the landscaping plans for the Site. The amendments to the landscaping have been developed to accord with the general character and appearance of the prevailing landscaping at the school Site. The landscaping amendments relate to the soft landscaping and there are no material amendments proposed to the hard landscaping at the Site which would remain as per the extant and approved landscaping plans.

Overall, it is noted the landscaping amendments will not materially affect the ultimate use, function and general appearance of the Site and are consistent with the landscaping as approved under **SSD-10371**.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- It retains the same use of the approved development in that it provides an educational establishment;
- The proposed modifications do not seek to modify the type of educational facilities provided by the development;





- The proposed modifications does not alter the approved bulk, mass and scale of the approved built form;
- The fundamental benefits delivered by the development, including the proposal's relationship to the existing built form, will continue to be provided;
- The modifications respect the extant landscaping strategy for the Site; and
- The environmental impacts are generally consistent with, or less than, the approved development.

The proposal is considered to be substantially the same development and satisfies the provisions of Section 4.55(1A) of the EP&A Act. The modification of the SSD can therefore be lawfully made under section 4.55 (1A) of the EP&A Act.

Section 4.55 Modification Case Law

In *Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSWCA 177, the Court of Appeal had to consider whether there was power to approve a modification application which sought to amend a condition of consent requiring payment of a contribution, in circumstances where the contribution had already been paid.

The Court of Appeal decision found that a condition of consent cannot be modified once it has been satisfied and a proposal to modify a consent must involve a change to the approved development for it to be a modification application under sections 4.55(1A), 4.55(2) or 4.56(1) of the EP&A Act.

The above case law is directly related to monetary contributions and modification of conditions relating to such. The proposed modifications are in relation to landscaping amendments and have no association with monetary contributions. The case law has been reviewed in detail as well as relevant legal opinions on the case and it is considered that the above case law is not applicable.

3.2 ASHFIELD LOCAL ENVIRONMENTAL PLAN 2013

The Site is subject to the provisions of *Ashfield Local Environmental Plan 2013* (ALEP 2013).

The proposed development relates to the existing and approved educational establishment on the Site, which is permitted with consent in the *SP2 Infrastructure (Educational Establishments)* zone.

The proposal does not contravene any other objectives or provisions of ALEP2013. No further consideration is required.

3.3 INNER WEST COMPREHENSIVE DEVELOPMENT CONTROL PLAN 2016

It is noted that Clause 11 of *State Environmental Planning Policy (State and Regional Development) 2011* states:

11 Exclusion of application of development control plans

Development control plans (whether made before or after the commencement of this Policy) do not apply to:

- (a) State significant development*

Additionally, Clause 35(9) of the Education SEPP, which relates to schools that are permitted with consent, provides that:

A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.





Therefore, the provisions of a DCP are not applicable.

Despite this and as per the requirements of the original SEARS for **SSD-10371**, the proposed modifications to the approval are considered to comply with the requirements of Inner West Comprehensive Development Control Plan 2016 (IWDGP 2016) where relevant relating to landscaping.





PART D KEY MATTERS FOR CONSIDERATION

The key matters for consideration are addressed in the ensuring subsections.

4.1 LAND USE

The proposed will preserve the continued use of the Site as an educational establishment, consistent with **SSD 10371**. The proposed minor amendments to the landscaping will ensure the Site operates at its full potential as a school. Accordingly, the proposed modifications will not impact on the approved educational establishment use of the school premises.; as such, the proposed landscape modifications remain consistent with the existing land use across the Site.

4.2 LANDSCAPING

As aforementioned, the amendments to the landscaping will not materially affect the character or appearance of the approved built development are similar in scale to the approved landscaping strategy. As set out in **Appendix 2**, the revised landscaping is as a result of design changes following design development and project coordination. The amendments are minor when read in the context of the approved landscaping plan and will not materially impact on the approved landscape strategy.

The landscaping amendments remain minor in the context of the Site and are a result of changes brought about by design development as consent **SSD-10371** I developed for construction. Of note:

- The modifications are minor when read within the context of the approved landscaping;
- The landscaping modifications do not materially impact on the architectural built form of the School building;
- The landscaping plans include a palate of soft landscape plantings which correspond to the approved soft landscaping palate;
- No material additional hand landscaping is proposed;
- The two trees to be removed due to poor health will be replaced by a compatible species which accord with the prevailing landscaping strategy;
- The proposed amendments will not impact on the heritage significance of the School or setting of the heritage item;
- The amendments to the landscaping encompassing the tree work are compatible with the prevailing landscaping at the Site and deemed appropriate when read within the context of the Site;
- The replacement and planting of additional trees will not impact on planning condition **A1(2)(ii)** requiring the provision of a minimum of 67 additional trees at the Site;
- The amendments to the landscaping, encompassing the replacement and planting of trees at the Site is supported by an arboricultural report.

4.3 ARBORICULTURE

Appendix 5 contains the accompanying arboricultural report prepared to assess the removal of the two trees for landscape design and accessibility purposes. Overall it is considered the removal of these trees will not materially impact on the overall landscaping design of the site or the prevailing character of the Site in terms of landscaping.

4.3.1 BRUSH CHERRY (*SYZYGIUM AUSTRALE*)

The removal of this tree to regrade with the public interface for landscape design purposes has been assessed in the arboricultural report. It is proposed to replace this tree with a Water Gum *Tristanopsis laurina* which is compatible with the approved landscape plans and prevailing setting at the Chapel Drive.





It is noted that this tree is required to be removed to achieve the DDA design outcomes sought in the landscape design. As the fence is being recessed into the property boundary the public domain amenity is being improved by providing an accessible path which is wider than the current footpath for high demand in foot traffic in accordance with the planning consent. As such, the widening of the footpath will impact on the existing tree root zone and adversely impact its viability, thus it is proposed to be removed and replaced with new tree planting which would be similar in size and scale to the replaced tree on this frontage.

4.3.2 CAPE CHESTNUT (*CALODENDRUM CAPENSE*)

This exotic tree is located at the Chapel Drive and is also protected by Council. The tree is considered young with a dominant trunk and is in poor health. The crown is showing declining health and the structural condition is considered fair with numerous pruning wounds which have left small cavities and locations for potential decay. The crown is also showing declining health with low vigour. There are areas in the canopy of twig dieback with minimal epicormic growth present. This tree has an estimated life expectancy of 5-15yrs.

The removal of this tree to regrade with the public interface for landscape design purposes has been assessed in the arboricultural report. It is proposed to replace this tree with a Water Gum *Tristania laurina* which is compatible with the approved landscape plans and prevailing setting at the Chapel Drive.

4.4 HERITAGE

Appendix 6 contains the accompanying Heritage Impact Statement which reviews the impact of the landscaping amendments on the setting of the heritage item at the Site – defined under Schedule 5 of the AELP2013 as Item 608: School – Headmaster’s House and Chapel, 119 Prospect Road, Summer Hill.

The site is also located in the vicinity of a number of heritage conservation areas, as listed under Schedule 5 of the AELP 2013:

- ‘C1’ Ambleside and Holwood Conservation Area – to the west of the Site
- ‘C7’ Harland Estate Conservation Area – to the west of the Site
- ‘C23’ Victoria Square Conservation Area – to the north of the Site
- ‘C49’ Prospect Hall Conservation Area – to the east of the Site

The Site is also located in close proximity to ‘C1’ The Abergeldie Estate Heritage Conservation Area as listed under Schedule 5 of the *Marrickville Local Environment Plan 2011*.

The accompanying Heritage Impact Statement notes the following:

- The proposed changes to the layout of planters adjacent to the Music Building are minor in nature and involve no direct impact to the heritage fabric within the Site. The planter layout has been revised as part of the design development phase to better respond to the aesthetic language of the Trinity Theatre, bleacher terraces to the Jubilee Drive façade and overall design of the landscape masterplan;
- The changes to the planters relate to the length, shape, positioning and number of proposed planters. The changes maintain a consistent overall distance between the landscape elements and the southern elevation of the music room;
- The removal of two trees (Brush Cherry and Cape Chestnut) at the corner of Chapel Drive and Prospect Road are supported by an arboricultural report (**Appendix 5**). These trees are not assessed to be of any heritage significance and their removal and replacement will have no impact on the significance of the overall Site; and





- The proposed landscaping modifications will not materially impact on the setting of the surrounding conservation areas.

As such, the amended landscape design will be minor in nature and have no adverse impact on the established heritage significance of the subject site.

4.5 ENGAGEMENT

It should be noted that the School is in constant consultation with the Council. Whilst Council has not been independently notified about this landscaping amendment, it is noted that this is a minor deviation from the approved landscaping plans and will not materially alter or negatively impact on the landscaping scheme for the Site.

Notwithstanding, the species selection and spatial arrangement of the trees in Yeo Park was developed and endorsed in conjunction with Council.

4.6 OTHER MATTERS FOR CONSIDERATION

All other matters for consideration have been previously assessed as part of **SSD-10371** and remain unaffected by the proposed modifications. No further assessment is required in this respect.

4.7 LIKELY IMPACTS OF DEVELOPMENT

The likely impacts of development in accordance with Section 4.15 have been considered above. As such, no further assessment is required.

4.8 SUITABILITY OF SITE FOR DEVELOPMENT

The Site is considered suitable for development as established by the previous approval **SSD-10371**. Accordingly, no further assessment is required with regards to the suitability of the Site for development.

4.9 CONSISTENCY WITH REASONS FOR THE GRANT OF THE ORIGINAL CONSENT

In accordance with Section 4.55(3) of the EP&A Act, in determining an application for modification of a consent, the consent authority must take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The proposed modifications are consistent with the reasons given by the Department of Planning in that:

- The built form remains reasonable for the Site;
- The development continues to be in the public interest; and
- The development continues to meet the objects of the EP&A Act.





PART E CONCLUSION

In accordance with Section 4.55(1A) of the EP&A Act, the modified development will be substantially the same as the originally approved **SSD 10371**. This Section 4.55(1A) seeks to facilitate amendments in order to respond to conditions of the consent and improve overall landscape design outcomes on the Site. The proposed modifications will not alter the environmental impacts assessed and approved as part of the original development consent, nor will they give rise to any additional adverse amenity impacts.

In accordance with Section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

- The consent, as proposed to be modified, is substantially the same development as that originally approved;
- The modifications will improve landscape amenity offered by the approved educational facilities;
- The modifications are as a result of ongoing landscape design development and will improve the aesthetic appearance of the development and the functionality of the Site;
- The modifications do not impact on the heritage setting of the Site; and
- The proposal will not result in any unacceptable adverse environmental, social or economic impacts.

In light of the above, we therefore recommend the proposed modification is supported by the Minister.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries, please do not hesitate to contact me rseaward@willowtp.com.au or Richard Seward 0497 621 310.

Yours Sincerely,

Richard Seward
Senior Planner
Willowtree Planning Pty Ltd
ACN 146 035 707





APPENDIX 1

DEVELOPMENT CONSENT SSD-10371





APPENDIX 2

LANDSCAPING PLANS





APPENDIX 3

CORRELATING ARCHITECTURAL PLANS





APPENDIX 4

SCHEDULE OF STAMPED PLANS





APPENDIX 5

ARBORICULTURAL REPORT





APPENDIX 6

HERITAGE IMPACT STATEMENT

