

DOC20/910897

24<sup>th</sup> September 2020

Karen Harragon  
Director, Social and Other Infrastructure  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Attn: Jason Maslen

Dear Karen

**Wentworthville Public School (SSD 9273): Section 4.55(1A) Modification Application**

The Department of Education (DoE) is seeking to modify conditions B12, B13, D25 and D28 of the development consent for the Wentworthville Public School (SSD 9273) under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. The proposed modification is required to amend the conditions as they relate to the implementation of the Remediation Action Plan (RAP) and the Site Audit Report (SAR).

The above conditions of SSD 9273 require modification as these do not currently speak to the approved staging of the project.

**Amended Conditions**

The proposed modifications to each condition are outlined below:

*B12. Remediation approved as part of this development consent must be carried out in accordance with the Remediation Action Plan dated September 2018 and prepared by WSP. **The RAP shall be revised to reflect the findings of any supplementary investigations undertaken, to capture any unexpected finds or the staged delivery of the development. The revised RAP must be reviewed and endorsed by a NSW EPA accredited Site Auditor.***

***Note: The amendments to the/endorsement of the RAP must be clearly documented, with revisions captured through appropriate document control, revision numbers and updated dates.***

It is proposed to delete condition B13:

~~*B13. Upon completion of the remedial works, the Applicant must submit a Site Audit Report and Section a Site Audit Statement for the relevant part of the site prepared by*~~

~~NSW EPA accredited Site Auditor. The Site Audit and Section A Audit Statement must verify the relevant part of the site is suitable for ongoing use as a school and be provided to the satisfaction of the Certifying Authority.~~

Condition B13 cannot be met prior to the commencement of construction as the remediation is being staged with the progressive construction of buildings. Part of the site will also comprise a containment cell for asbestos, which will be covered by the Long Term EMP (LTEMP) as required under Condition D28 (discussed below).

Further, the requirement for Site Auditor sign off is already included in Part D (conditions D25 to D27) of the consent.

To complement the above, the following amendments to conditions D25 and D28 are also proposed:

*D25. Within one month of the completion of **each stage of remediation works** and prior to the commencement of operation, the Applicant must submit a Validation Report for the development to the EPA, the Planning Secretary and the Certifying Authority for Information. The Validation Report must:*

- a) Be prepared by an appropriately qualified environmental consultant and reviewed by an EPA accredited site auditor.*
- b) Be prepared in accordance with the RAP and the Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites.*
- c) Include, but not be limited to:*
  - i. Comment on the extent and nature of the remediation undertaken*
  - ii. Describe the location, nature and extent of any contamination on-site*
  - iii. Discussion of the suitability of the remediated areas for the intended land use; and*
  - iv. Any other requirement relevant to the project*

The above amendment is required to reflect the high likelihood that the environmental consultant will issue a validation report for each stage of remediation.

*D28. Within one month of the completion of the remediation works or other timeframe agreed by the Planning Secretary, the Applicant must prepare a Long Term Environmental Management Plan (LTEMP) to the satisfaction of the Planning Secretary. The Plan must:*

- a) Be prepared by a suitably qualified person whose appointment has been endorsed by the Planning Secretary in consultation with EPA.*
- b) Be submitted to **the Site Auditor for review and endorsement and** EPA for review prior to submission to the Planning Secretary.*
- c) Include, but not be limited to:*
  - i. A description of the nature and location of any contamination remaining on site.*

- ii. Provisions to manage and monitor any remaining contamination, including details of any restrictions placed on the land to prevent development over the containment cell.
  - iii. Triggers that would indicate if further remediation is required
  - iv. Details of any contingency measures that the Applicant is to carry out to address any ongoing contamination.
- d) Include any ongoing measures set out in the Asbestos Management Plan approved under condition B5.

### **Section 4.55(1A) Assessment**

This application is made under Section 4.55(1A) of the EP&A Act 1979 as it involves substantially the same development and would have minimal environmental impact. It is noted that no significant changes to the proposed scope of works as approved under the original SSD application are proposed under the modification. The proposed modification seeks to match the approved environmental management strategies and post-approval requirements with the staged nature of the project.

### **Section 4.15 Assessment**

The matters referred to in Section 4.15 of the *Environmental Planning and Assessment Act 1979* also need to be considered in the assessment of the proposed modification. Each of the matters relevant to the proposal is assessed below:

| <b>Section 4.15 Compliance</b>                      | <b>Summary of Compliance</b>   |
|---|--|
| <u>(a)(i) any environmental planning instrument</u> | <p>The proposed modification has been assessed in accordance with the relevant planning controls.</p> <p>The application has been submitted in accordance with the requirements of Section 4.55 (1A) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The proposed amendment does not impact on compliance of the development with any other provisions of the state, regional and local planning controls, including:</p> <ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i></li> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i></li> </ul> |

|   |  |
|---|--|
|   | <ul style="list-style-type: none"> <li>• <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i></li> <li>• <i>Holroyd Local Environmental Plan 2013</i></li> </ul>  |
| <i>(a)(ii) any proposed instrument that is or has been the subject of public consultation</i> | The Draft <i>Cumberland Local Environment Plan 2020</i> has recently been exhibited. This seeks to consolidate and harmonise the Holroyd LEP 2013 with the Auburn, Parramatta local environmental plans as they currently apply to the Cumberland local government area. The draft LEP will not affect the scope of the approved development.  |
| <i>(a)(iii) any development control plan</i>  | There are none relevant to the proposal.   |
| <i>(a)(iiia) any planning agreement or any draft planning agreement</i>                       | There are none relevant to the proposal.   |
| <i>(a)(iv) the regulations</i>  | There are none relevant to the proposal.   |
| <i>(b) the likely environmental, social and economic impacts</i>                              | <p>The proposed minor amendments will not result in any significant environmental, social or economic impacts as the staging was approved under the original consent.</p> <p>The amendments to conditions B12, D25 and D28 are considered necessary to note the approved staging of the project in relation to the site's remediation requirements.</p> <p>The removal of Condition B13 is required as this cannot be met prior to the commencement of construction.</p> |
| <i>(c) the suitability of the site</i>  | The proposed modifications will not result in any changes that would affect the suitability of the site to accommodate the approved development.   |
| <i>(d) any submissions</i>  | Any submissions arising from the public notification of the Section 4.55(1A) application will need to be assessed.   |
| <i>(e) the public interest</i>  | The proposal is in the public interest as it ensures the appropriate application of remediation procedures to each stage of the development.   |

This modification application has been prepared in accordance with the requirements of part 6, Division 12, clause 115 of the *Environmental Planning and Assessment Regulation 2000*. The modified proposal has been assessed against the relevant planning provisions under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. There are no changes to the use or scale compared to the approved development.

The modification will result in a development that is substantially the same as the approved development, with no additional environmental impacts compared to the approved, therefore the proposal is recommended for approval.

DOE looks forward to working with the Department to resolve the matters outlined above. Should you require any additional information or a meeting, please feel free to contact me on 0439 673 315, or via email at [Lincoln.Lawler@det.nsw.edu.au](mailto:Lincoln.Lawler@det.nsw.edu.au)

Yours sincerely



Lincoln Lawler  
**Principal Development Planner**  
**Schools Infrastructure NSW**

