

6 July 2017

14448
Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Anthony Witherdin (Director of Modification Assessments)

Dear Mr Witherdin,

**SECTION 4.55 (1A) MODIFICATION APPLICATION – STATE SIGNIFICANT DEVELOPMENT APPLICATION
SSD 6952
WENONA SCHOOL**

This Section 4.55(1A) is submitted to the NSW Department of Planning and Environment on behalf of Wenona School Limited pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 6952 which relates to the approval of the educational facility at Wenona School, North Sydney.

This application relates to a range of minor external modifications primarily pertaining to landscape works associated with the relocation of the grease arrestor, the removal of the planter bed within the Level 3 terrace, the inclusion of an air supply louvre to the Miller Street Building, and make good works to the western façade of the Judith Dey Wing following the removal of the pedestrian overpass bridge above Elliott Street. The proposed modifications do not amend the approved building envelope, nor will they result in any additional environmental impacts.

The application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 4.55(1A) of the EP&A Act. The application should be read in conjunction with the following documentation:

- Architectural Plans prepared by Tonkin Zulaikha Geer Architects (**Attachment A**); and
- Landscape Plans prepared by 360 Degrees (**Attachment B**).

1.0 Background

Development consent (SSD 6952) was granted on 18 December 2015 by the NSW Department of Planning and Environment for the redevelopment of Wenona School involving the construction of a six storey education building, a new pedestrian overpass bridge above Elliott Street, alterations and additions to existing buildings and associated landscaping. The approval also granted consent for demolition works, including the removal of the existing pedestrian overpass bridge above Elliott Street, and make-good works to the façade of the Judith Dey Wing.

On the 23 February 2017 consent was granted by the NSW Department of Planning and Environment for a modification (SSD 6952 MOD 1) to the approved development for minor internal and external changes to the approved education building within the Miller Street campus. The modifications were proposed in order to facilitate the delivery of the pedestrian overpass crossing above Elliott Street, including the redesign of the shoring system and the underpinning of neighboring properties during the construction phase. The modification application also sought consent for Stratum subdivision to amend the existing lot boundaries to reflect the alignment of the approved pedestrian bridge over Elliott Street.

The Department subsequently advised that the Stratum subdivision did not constitute 'substantially the same development'. Consequently, a Development Application (DA) for the proposed Stratum subdivision was submitted

to North Sydney Council. The application was approved on 3 March 2017 and demolition of the pedestrian bridge has since commenced.

Subsequently, Wenona has identified a number of minor design modifications pertaining to make-good works to the western elevation of the Judith Dey Wing following the removal of the Elliott Street pedestrian bridge. Wenona has also identified a number of minor external design modifications including amendments to the Level 3 terrace and the need to amend the approved landscape design to accommodate the relocated grease arrestor. Accordingly, this application seeks consent for these modifications.

On 7 May 2018 a modification application was submitted to the Department of Planning for the location of the kiosk substation that was certified by Ausgrid in February 2017 and tree removal. The works are required in order to mitigate the potential conflicts between the kiosk substation and the existing tree located at the southern end of the Miller Street frontage. The application is currently under assessment.

2.0 Description of proposed modifications

The proposed modifications to SSD 6952 are illustrated in the Architectural Drawings included at **Attachment A** and include the following key amendments:

- inclusion of two access pits associated with the below ground grease arrestor adjacent to the Miller Street frontage;
- increase to the height of the northern boundary wall from RL 89,860 to RL 91,290 to address aesthetic and functional issues;
- inclusion of a new air supply louvre along the northern elevation of the Miller Street building (255 Miller Street, North Sydney);
- make-good works including the reinstatement of existing brick work and inclusion of new brick work at the façade of the Judith Dey Wing (176 Walker Street, North Sydney) following the demolition of the existing pedestrian bridge over Elliott Street;
- inclusion of a new exhaust vent on the Judith Dey Wing elevation to replace the existing;
- introduction of three electronic gates at the Elliot Street elevation; and
- removal of the planter bed from the Level 3 Terrace and replacement with terrace flooring.

The modifications identified above that require further explanation are described below.

1.1 Modifications to Development

Table 1 below provides a detailed floor by floor account of all proposed modifications to the building.

Table 1 Schedule of changes

| Level / Location | Description of proposed modification | Drawing No. | Revision |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------|
| Level 3 Landscape | <ul style="list-style-type: none"> • Removal of the planter bed within the outdoor terrace. • Extension of the terrace decking in the location of the removed planter bed. | LA-S96-02 | D |
| Level 4 Landscape | <ul style="list-style-type: none"> • Inclusion of two 600mm diameter access pits associated with the grease arrestor adjacent to the Miller Street frontage. | LA-S96-03 | F |
| Level 4 Plan | <ul style="list-style-type: none"> • Removal of the existing roller doors fronting Elliott Street (Judith Dey Wing). • Inclusion of two 600mm diameter access pits associated with the grease arrestor. | A – 1006 | C |

| Level / Location | Description of proposed modification | Drawing No. | Revision |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------|
| Level 5 Plan | <ul style="list-style-type: none"> Inclusion of a weather proof air supply louvre and window along the northern elevation of the existing Miller Street Campus Building. Increase to the height of the north boundary wall in the location of the outdoor learning area from RL 89,860 to RL 91,290. | A - 1007 | C |
| Elevation Elliot Street | <ul style="list-style-type: none"> Inclusion of electronic operable gates at the western elevation fronting Elliot Street. | A-2002 | A |
| North & Judith Day Elevation (Western Elevation) | <ul style="list-style-type: none"> Reinstatement of the existing brick work where possible along with the addition of new brick work following the removal of the Elliot Street pedestrian bridge. Removal of two existing roller doors fronting Elliott Street. Inclusion of a new exhaust vent to replace the existing. Refurbishment of the retained roller door fronting Elliott Street. | A-2003 | C |

Modifications to the Judith Dey Wing

Make-good works to the western elevation of the Judith Dey Wing fronting Elliot Street are required following the removal of the overpass bridge and are detailed in **Figure 1**. The works comprise the infill of the façade through the reinstatement of existing brick work. Where existing brick work cannot be utilised, new brick work consistent with the existing materiality of the façade will be included.

At street level the now redundant roller shutter doors will be removed and infilled with new brick work, render and paint. The roller door located at the southern end of the building will be retained and refurbished (refer to **Figure 1**).

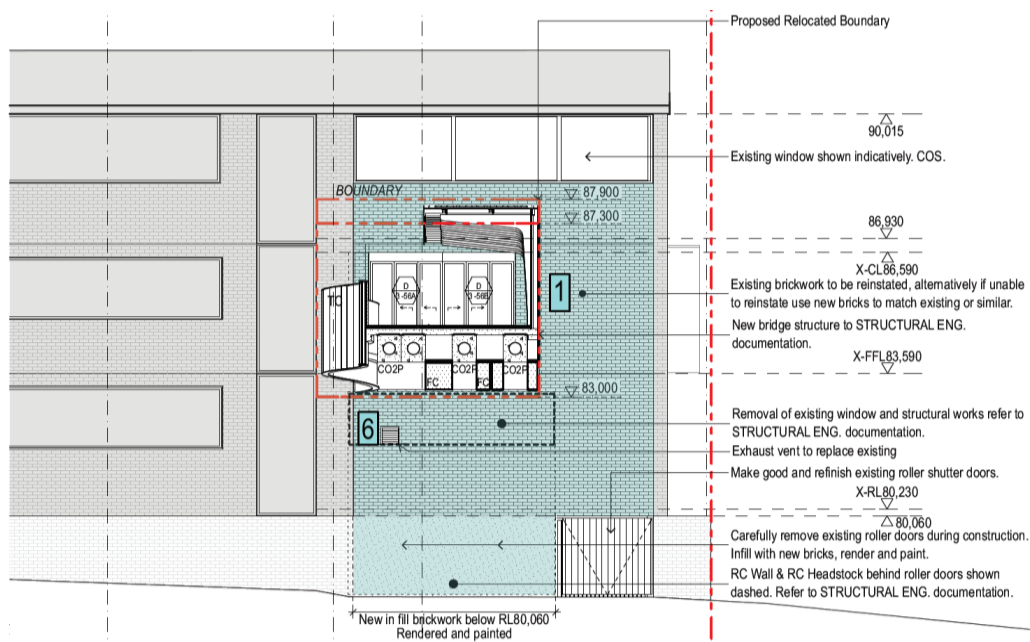


Figure 1 Proposed works to the Judith Dey Elevation

Source: Tonkin Zulaikha Greer

Modifications to the Elliot Street Elevation

The proposed amendments include the addition of three electronic entrance gates at the building's western elevation fronting Elliot Street. The gates reach a height of 2.1m. Their location and configuration relative to the approved design are shown below in **Figures 2 – 3**.

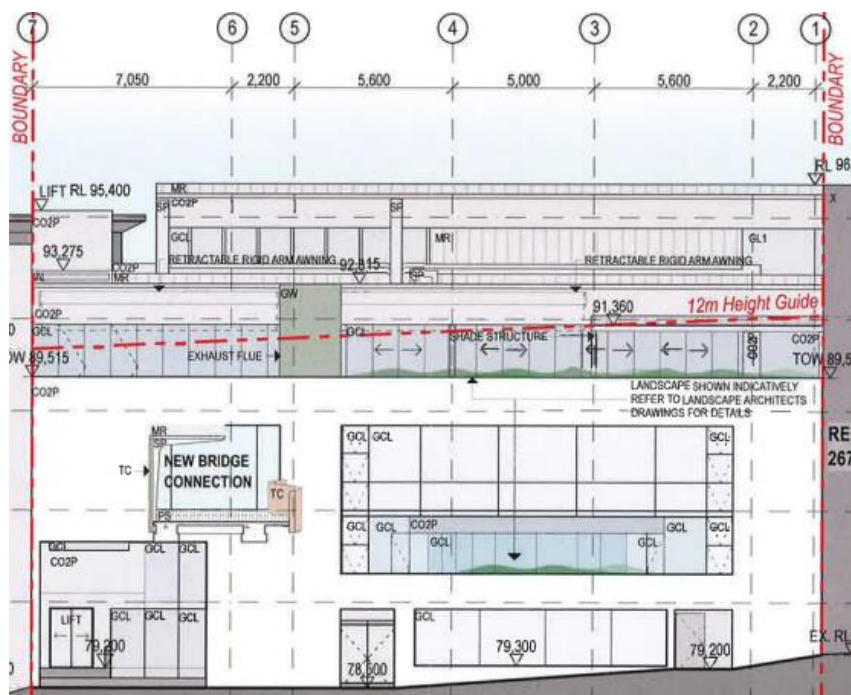


Figure 2 Approved Elliot Street elevation

Source: Tonkin Zulaikha Greer

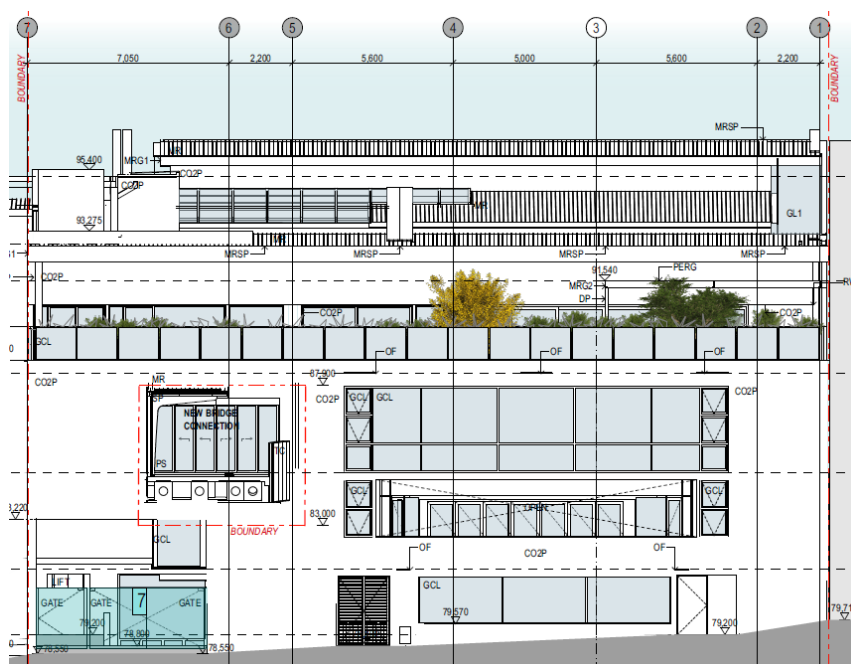


Figure 3 Proposed Elliot Street elevation inclusive of electronic gates

Source: Tonkin Zulaikha Greer

Landscape Amendments

The proposed modifications relate to minor amendments to the landscaping along the Miller Street frontage and the Level 3 terrace. As shown in **Figure 4**, the amendments to the landscape design pertain to the addition of two 600mm diameter access pits. The two pits will service the proposed grease arrestor located approximately 1200mm beneath the ground level.

The modifications are proposed in order to facilitate the relocation of the grease arrestor. The grease arrestor has been relocated to maintain an appropriate curtilage around the heritage listed building at 255 – 257 Miller Street, North Sydney (I10912).

The modifications also relate to the removal of the approved planter box located at Level 3. The removal of the planter box will facilitate the extension of the terrace and will increase the amount of useable space (refer to **Figure 5**).

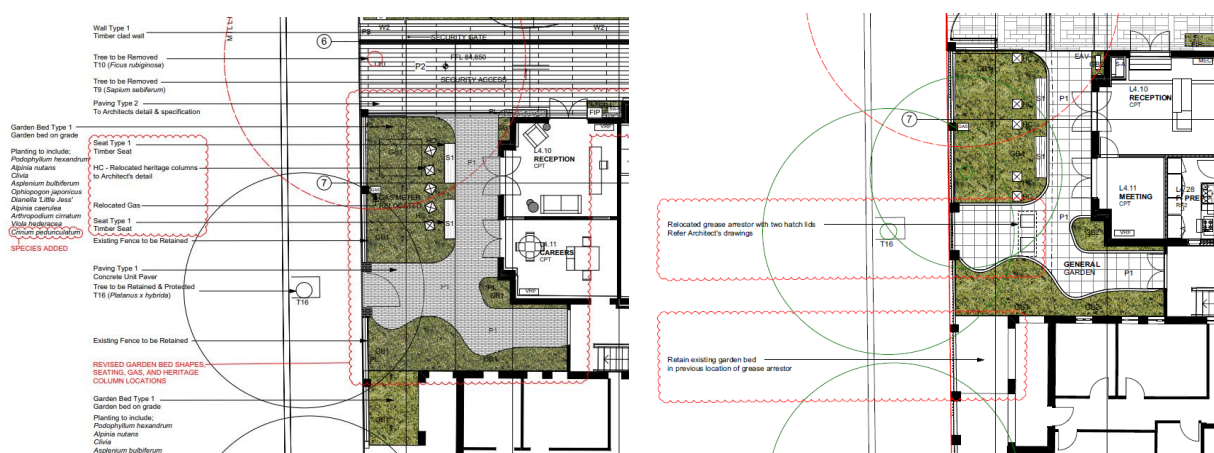


Figure 4 Approved landscape design (left) and proposed inclusive of grease arrestor pits (right)

Source: Tonkin Zulaikha Greer

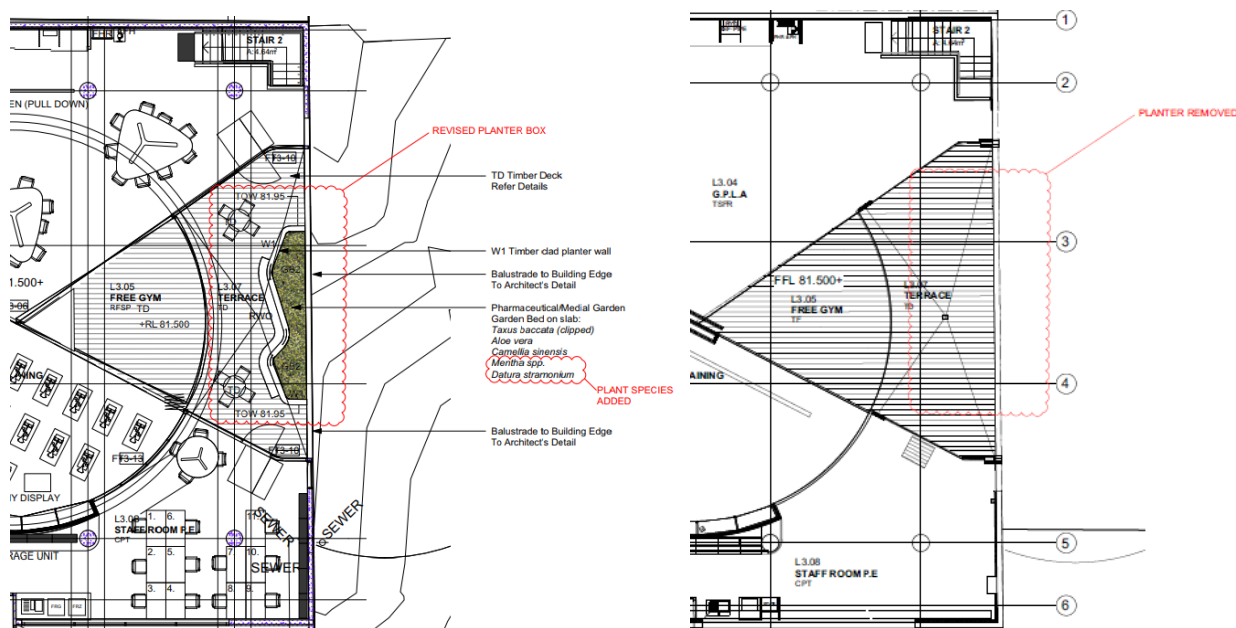


Figure 5 **Approved Level 3 terrace (left) and proposed (right)**

Source: Tonkin Zulaikha Greer

Boundary Wall Height

At Level 5, the eastern end of the northern boundary wall is proposed to increase in height from RL 89,860 to RL 89,950 and RL 91,290 (refer to **Figure 6**). The purpose of the revised wall height is to screen the blank wall of the adjoining property to the immediate north to prevent waterproofing issues and improve the appearance of the space.

The minor wall extension, which is proposed to increase from 89,860 RL to 89,950 RL, is located to the immediate south of the existing blank wall of the Regency Park apartment complex, and as such cannot be seen from this development at any angle.

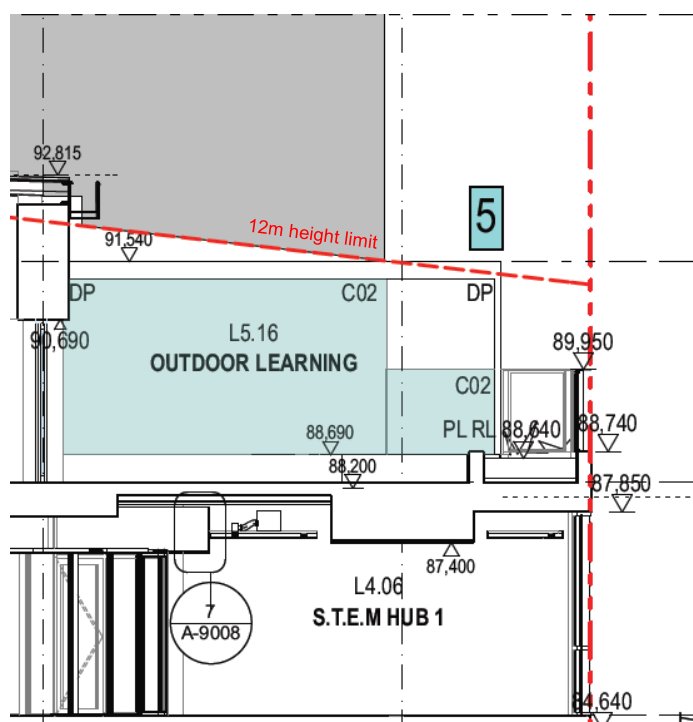


Figure 6 Proposed wall height shown in red outline

Source: Tonkin Zulaikha Greer

Air Intake

As shown below in **Figure 7**, the proposal includes the addition of an air supply louvre and window along the northern elevation of the Miller Street Campus Building. The louvre and window are necessary due to structural constraints that make the original intake orientation (west facing) impossible. To facilitate the installation of the air supply louvre, brickwork will be included and will match the existing façade.

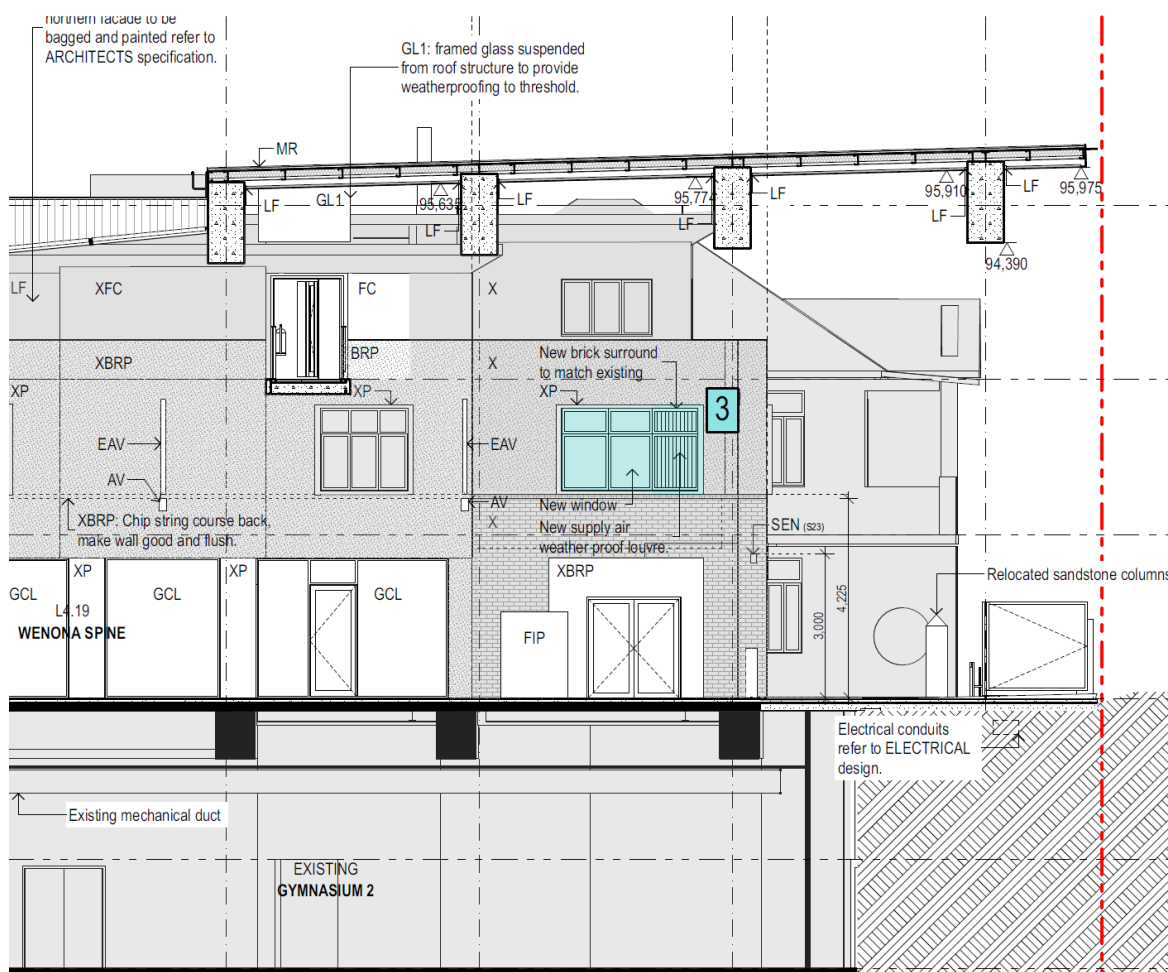


Figure 7 Proposed air supply louvre and window

Source: Tonkin Zulaikha Greer

3.0 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

Terms of Consent

A2. The Applicant shall carry out the development generally in accordance with the:

- a) *State Significant Development Application SSD 6952;*
- b) *Environmental Impact Statement, except where amended by the Response to Submissions;*
- c) *The following drawings, expect for:*
 - i) *any modifications which are Exempt or Complying Development*
 - ii) *otherwise provided by the conditions of this consent.*

| Architectural (or Design) Drawings prepared by Tonkin Zulaikha Greer Architects | | |
|---------------------------------------------------------------------------------|-------------------------------------------------------------------------------|------------------------------|
| Drawing No. | Name of Plan | Date |
| A-0010 | General Demolition | 29.07.16 |
| A-0011 | No. 255 Miller Street Level 1 Demolition Plan | 29.07.16 |
| A-0012 | No. 255 Miller Street Level 2 Demolition Plan | 29.07.16 |
| A-0013 | No. 255 Miller Street Level 3 Mez Demolition Plan | 29.07.16 |
| A-0014 | No. 255 Miller Street Level 4 Demolition Plan | 29.07.16 |
| A-0015 | No. 255 Miller Street Level 5 Demolition Plan | 29.07.16 |
| A-0016 | No. 255 Miller Street Level 6 Demolition Plan | 29.07.16 |
| A-1001 | Site Plan | 29.07.16 |
| A-1002 | Level 0 Plan | 29.07.16 |
| A-1003 | Level 1 Plan | 29.07.16 |
| A-1004 | Level 2 Plan | 29.07.16 |
| A-1005 | Level 3 Plan | 29.07.16 30.04.18 |
| A-1006 | Level 4 Plan | 29.07.16 26.06.18 |
| A-1007 | Level 5 Plan | 29.07.16 07.05.18 |
| A-1008 | Level 6 Plan | 29.07.16 |
| A-1009 | Roof Plan | 29.07.16 |
| A-2001 | Elevation Miller Street | 29.07.16 |
| A-2002 | Elevation Elliott Street | 29.07.16 04.07.18 |
| A-2003 | Elevation North North & Judith Dey Western Elevations, Section H-H | 29.07.16 26.06.18 |
| A-3000 | Section A-A | 29.07.16 30.04.18 |
| A-3001 | Section B-B, C-C | 29.07.16 |
| A-3002 | Section C-C | 29.07.16 |
| A-5002 | Materials Schedule | 29.07.16 |

| Landscape Plans prepared by 360° | | | |
|----------------------------------|----------------|-----------------------------------------------------|------------------------------|
| Sheet | Issue | Name of Plan | Date |
| 2 | B | Lower Ground Mez Plan Public Domain Make-Good Works | 26.05.15 |
| 3 | B D | Level 3 Landscape Plan | 14.06.15 02/05/18 |
| 4 | B G | Level 4 Landscape Plan | 14.06.15 26/06/18 |
| 5 | C | Level 5 Landscape Plan | 14.06.15 |
| 6 | B | Level 6 Landscape Plan | 14.06.15 |
| 7 | A | Planting Schedule & Palette | 14.06.15 |
| 1 | A | Tree Location Plan & Tree Schedule | 16.10.15 |
| 8 | C | Landscape Sections | 14.06.2016 |

4.0 Substantially the Same Development

Section 96(1A)(b) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

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

- It retains the same use as the approved development in that it provides an educational establishment.
- The development, as modified, will not result in any adverse visual or streetscape impacts, or any additional overshadowing of private property.
- The proposed modifications do not seek to modify the type of educational facilities provided by the development;
- The works to the Judith Dey Wing are required to make-good the façade following removal of the pedestrian overpass bridge (as approved under the original DA).
- The proposed modifications do not necessitate amendments to the approved building envelope and will therefore not amend the bulk, mass and scale of the development when viewed from the surrounding public domain.
- The environmental impacts are the same as the approved development, with the relocation of the grease arrestor and pits necessary in order to prevent any future environmental impacts to the heritage values of the site.

The proposed modification will result in a development which is substantially the same as the approved development. The modification of the SSD approval can therefore be lawfully made under Section 4.55(1A) of the EP&A Act.

5.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under Section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act.

The following assessment considers the relevant matters under section 4.55(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

1.2 Section 4.15(1)(a) Planning Instruments

The EIS submitted with the original application addressed the likely environmental impacts of the development, including:

- *Environmental Planning and Assessment Act 1979* (EP&A Act);
- *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP);
- *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure);
- *State Environmental Planning Policy 55 – Remediation* (SEPP 55);
- *North Sydney Local Environmental Plan 2013* (North Sydney LEP 2013);
- *North Sydney Development Control Plan 2013* (North Sydney DCP 2013);
- *North Sydney Section 94 Contributions Plan 2013*;

- NSW 2021;
- A Plan for Growing Sydney
- NSW Long Term Transport Masterplan 2012;
- Sydney's Cycling Future 2013;
- Sydney's Walking Future 2013; and
- Healthy Urban Development Checklist, NSW Health.

The proposed modifications do not substantially alter the development and are proposed for the purposes of delivering an improved design outcome. As the proposed changes are minor and do not necessitate amendments to the approved development's bulk, mass and scale, compliance with relevant planning instruments remains unchanged. Where variations are proposed, these are addressed below.

North Sydney LEP 2013

Zoning

The site is located within the 'B4 – Mixed Use' zone. Within this land use zone, the proposed amendments are permitted with consent. The proposed development as modified will continue to comply with the aims of the zone, as it will:

- retain its use as an educational establishment in an accessible location and will contribute to the vibrancy of the mixed-use centre; and
- will contribute to the achievement of a high quality safe urban environment.

Building Envelope

The proposal seeks to increase the height of the eastern end of the northern boundary wall from RL 89,860 to RL 89,950 and RL 91,290, as shown below in **Figure 8**. Notwithstanding the increase to the height of the wall, the building envelope remains within the 12 metre maximum limited nominated by the North Sydney LEP 2013 (refer to **Figure 6**). The increase to the height of the wall is minor and will not be perceptible from the surrounding public domain. The modification will facilitate the delivery of an improved design outcome in that it will screen the ill-finished Regency Park blank wall to the direct north to achieve a higher standard of visual amenity, and will permit appropriate and necessary waterproofing.

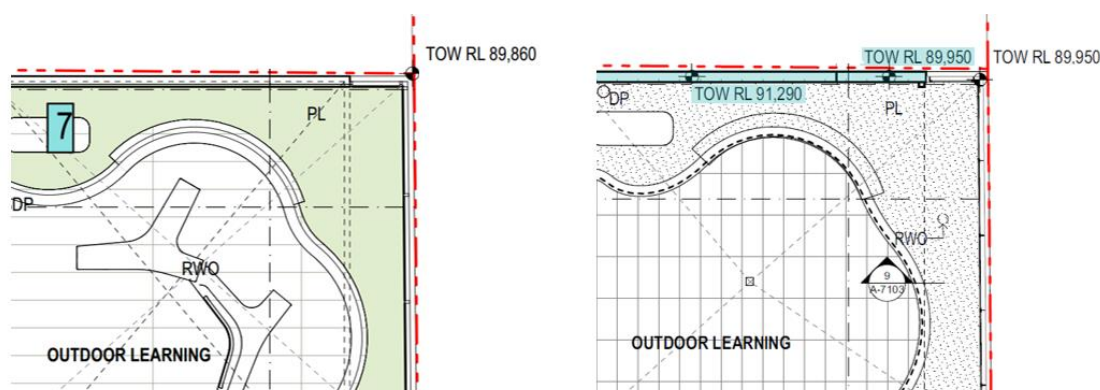


Figure 8 Approved northern wall height (left) and proposed (right)

Source: Tonkin Zulaikha Greer

North Sydney DCP 2013

The proposed amendments are minor and do not alter the approved development's compliance with the North Sydney DCP 2013.

1.3 Section 4.15(1)(b) Environmental Impacts

The EIS submitted with the original application addressed the likely environmental impacts of the development, including:

- Consistency with Relevant EPIs, Policies and Guidelines
- Urban Design and Built Form
- Heritage
- Parking and Traffic
- Amenity Impacts
- Tree Removal and Ecological Impacts
- Stormwater Management
- Construction Impacts
- BCA and Fire Safety
- Accessibility
- Structural Adequacy
- Soils, Geotechnical and Groundwater
- Environmentally Sustainable Development
- Crime Prevention Through Environmental Design
- Development Contributions
- Site Suitability
- Public Interest

Compliance with relevant strategic and statutory plans and policies has been considered above. The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. However, the following matters warrant further assessment.

1.4 Urban Design and Built Form

The proposed amendments will not alter the configuration or massing of the approved development, or the presentation of the development from the public domain. The proposed works to the western façade of the Judith Dey Wing retain the same materiality to that approved and consequently the amended exterior of the building will align with the existing character of the development.

1.5 Heritage

A portion of the existing two-storey Federation Arts and Crafts building at 255 - 257 Miller Street is identified as a local heritage item under the North Sydney LEP 2013. The proposed relocation of the grease arrestor will ensure the associated pits that protrude above ground level have no impact on the visual quality of the building. Accordingly, the modifications are proposed in order to prevent any adverse impact to the heritage significance of the site.

1.6 Environmental Amenity

The proposed development will not give rise to any adverse amenity impacts, or alter the assessment contained in the original EIS. The proposed increase to the northern boundary wall and the additional of new air supply louvres will contribute towards the achievement of a higher standard of amenity.

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

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original DA.

6.0 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 development. This Section 4.55(1A) application seeks to facilitate amendments in order to improve the functionality of the approved educational facility and provide for an improved design. 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 Minister or his delegate 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 amenity offered by the approved educational facility;
- the modifications are a result of ongoing design development and will assist in preserving the heritage values 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 that 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 in relation to the above, please do not hesitate to contact me on 9956 6962 or ktudehope@jbaurban.com.au.

Yours sincerely,



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