



3 February 2017

Peter McManus
Senior Planner
Social Infrastructure
Department of Planning & Environment
23-33 Bridge Street
Sydney NSW 2000

Dear Peter,

Re: Section 96(1A) Modification to SSD 15_7237 for Arthur Phillip High School and Parramatta Public School at 80-100 Macquarie Street and 175 Macquarie Street, Parramatta – Condition B9 and B10 relating to site contamination

This Statement of Environmental Effects (SEE) letter has been prepared on behalf of Department of Education to support the modification to State Significant Development (SSD 15_7237) for Arthur Phillip High School (APHS) and Parramatta Public School (PPS). This Section 96 (1A) modification seeks the following amendments:

- A Method Statement (or similar) is to be approved by the Site Auditor, prior to the commencement of each stage of remediation which relates to Condition B9; and
- The stage in which the Site Audit Report (SAR) and Section A Site Audit Statement (SAS) is to be provided to the satisfaction of the Certifying Authority is to be amended which relates to Condition B10.

This SEE is accompanied by a letter from Zoic Environmental Pty Ltd (Zoic) which supports the modifications and notes to enable Condition B5 (Archaeological requirements) to be met, amendments are required to Conditions B9 and B10 which facilitate the proposed stage of remediation for the site, refer to **Appendix 1**.

1.0 Development Consent

On 15 December 2016, consent was granted by the Department of Planning and Environment (DP&E) for the redevelopment of the existing APHS and PPS involving:

- The remediation, demolition of existing buildings and structures;
- Retention and revitalisation of existing heritage items;
- Construction of a new 17 storey 'vertical' school and two storey sports complex for APHS; and
- Construction of a new four storey U-shaped building for PPS.

2.0 Proposed Modifications

As noted in the letter from Zoic (refer to **Appendix 1**), the Archaeological Condition B5 prevents the RAP (by Douglas Partners, November 2016) and Interim Advice No. 3 (by Zoic, November 2016) from being implemented in the manner intended. To enable Condition B5 to be satisfied, the Auditor considers that an amendment is required to Conditions B9 and B10 to facilitate the proposed staged approach to the remediation of the site. Condition B5 stipulates the following:

B5. *Prior to the commencement of any works (not including demolition of existing buildings and structures and remedial action works performed to the extent of avoiding state significant archaeological deposits and substantially intact archaeological evidence), archaeological testing shall be undertaken across areas of proposed harm to inform the detailed design for this site. Avoidance of state significant archaeological deposits and substantially intact archaeological evidence should be employed by the works.*

Archaeological investigation should be undertaken in accordance with the ARD (Historical Archaeological Research Design) (updated in accordance with condition B4), an excavation methodology and be directed by a suitably qualified and experienced excavation director who fulfils the Heritage Council's Excavation Directors Criteria for the excavation of State significant archaeological sites. Areas of state significant archaeology and substantially intact archaeological evidence shall be appropriately managed and avoided wherever possible in the design.

The amendments to Conditions B9 and B10 are detailed in table 1 below. Where there is a ~~strike through~~ the text it is to be deleted and there are **bold italics** the text is to be inserted in the conditions.

Table 1. Proposed amendment to the conditions of consent

Amended conditions (Delete strike through and insert bold italics)	Reason for amendment
Site Contamination B9. a) Remediation approved as part of this development consent, and any further investigations required following the demolition of existing buildings and structures, shall be carried out in accordance with the Remediation Action Plan, Arthur Phillip High School and Parramatta Public School, Macquarie Street, Parramatta prepared by Douglas Partners and dated November 2016, except where required to be amended by the Auditor's Comments contained in the Interim Advice No. 3 (page No. 4), prepared by Zoic Environmental Pty Ltd, dated 23 November 2016. <i>To facilitate the implementation of the RAP and to protect Archaeology, a Method Statement (or similar) should be prepared in accordance with Condition B5, and approved by the Site Auditor by issuing of Interim Advice, prior to commencement of each stage of remediation.</i>	<p>At present, Condition B9 is not flexible as it stipulates that the remediation is to be strictly in accordance with the approved RAP and Interim Advice No. 3 including the sequencing of the remediation works. It was originally contemplated (in the RAP) that remedial works could be undertaken as a single operation, however with the overlapping need for archeological investigations it is now necessary for the remedial works be undertaken in stages.</p> <p>It is noted that the remediation will need to be undertaken in stages but related to timing (construction practicalities) as well as areas of the site becoming available.</p> <p>It is not intended to deviate from the overall remediation solution of the RAP, instead what is being sought is that flexibility through Method Statements (or similar) is able to occur to enable the staging of the remediation process to achieve the remediation solution without impacting on the integrity of the archeological investigations.</p> <p>The amendments proposed to the condition stipulate that to facilitate the implementation of the RAP and to protect Archaeology, a Method Statement (or similar) should be prepared in accordance with Condition B5, and approved by</p>

Table 1. Proposed amendment to the conditions of consent

Amended conditions (Delete strike through and insert bold italics)	Reason for amendment
<p>b) Where the preferred remedial method for friable asbestos involves a covering layer, a subsurface marking layer must be installed to highlight the existence of asbestos contaminated material and a long-term Environmental Management Plan prepared for the development site to mitigate against risks in relation to any future intrusive maintenance work in the impacted area. The Applicant must ensure that Council is formally notified of the Environmental Management Plan for inclusion in its records and on certificates it may issue under section 149(5) of the EP&A Act.</p>	<p>the Site Auditor by issuing of Interim Advice, prior to the commencement of each stage of remediation.</p>
<p>B10. Upon completion of remedial works, the Applicant must submit a Site Audit Report and Section A Site Audit Statement for the relevant part of the site, or staged where relevant, prepared by a NSW EPA accredited Site Auditor. The Site Audit Report and Section A Site Audit Statement shall verify the relevant part of the site is suitable for the education land use and be provided to the satisfaction of the Certifying Authority prior to the commencement of works (not including the demolition of existing buildings and structures) occupation of the development.</p>	<p>At present the condition requires the SAR and Section A SAS to be provided to the satisfaction of the Certifying Authority prior to the commencement of works (not including the demolition of existing buildings and structures). However, Condition B5 stipulates:</p> <p><i>'Prior to the commencement of any works (not including demolition of existing buildings and structures and remedial action works performed to the extent of avoiding state significant archaeological deposits and substantially intact archaeological evidence), archaeological testing shall be undertaken across areas of proposed harm to inform the detailed design for this site....'</i></p> <p>In essence with the proposed staging of the remedial works, which may necessitate the finishes to the capping layer being placed as part of the construction works, it is not workable to issue a Section A Site Audit Statement prior to the construction works commencing.</p> <p>The letter from Zoic (Appendix 1) confirms that Condition B10 will require a change in the sequencing of the provision of the SAS as the commencement of construction works is required to allow placement and validation of the capping layer. The Site Auditor requires provision of documentary evidence that the capping has been installed, validated and surveyed prior to the issue of a SAS and SAR.</p> <p>Therefore, this condition has been amended for the SAS and SAR to be provided prior to the occupation of the development. The amendments to the condition will ensure the correct methodology and sequencing of events are able to occur. Furthermore, the OH&S issues during construction with regard to site contamination will be addressed accordingly.</p>

3.0 Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the key environmental planning legislation in New South Wales. In brief, the EP&A Act establishes the regime in which proponents and consent authorities address environmental issues for proposed developments. This includes the ability to modify development approvals through Section 96 of the EP&A Act.

Section 96(1A) of the EP&A Act relates to modifications involving minimal environmental impact and states the following:

(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), 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 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.*

3.1 Substantially the same development

The Section 96 modification is considered to be substantially the same development as the approved SSD given it will not modify the approved building envelope and only relates to the site contamination works.

3.2 Environmental Planning Instruments

There are no relevant provisions in the Environmental Planning Instruments applicable to the site.

3.3 Environmental matters

The amendments to the site contamination works will not raise any environmental concerns.

4.0 Section 79C Compliance Table

Table 2 below provides an assessment of the matters referred to in Section 79C (1) of the EP&A Act 1979.

Table 2. Section 79C Assessment Summary		
Clause No.	Clause	Assessment
(1)	Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:	
(a)(i)	The provision of: Any environmental planning instrument, and	The Section 96 has been assessed against Parramatta Local Environmental Plan 2011 and there are no relevant provisions in the LEP that relate to the modification.
(ii)	Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There are no relevant proposed planning instruments that have been subject of public consultation under the Act or have been notified to the consent authority.
(iii)	Any development control plan, and	The Section 96 has been assessed against Parramatta Development Control Plan 2011 and there are no relevant provisions in the DCP that relate to the modification.
(iiia)	Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F, and	There are no planning agreements that relate to the subject Section 96 modification.
(iv)	The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and	There are no prescribed matters in the Environmental Planning and Assessment Regulation 2000 that apply to this Section 96 modification.
(v)	Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,	Not applicable. The proposal is not located within a coastal zone.
(b)	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The proposed modifications will not generate any adverse environment impacts.

Table 2. Section 79C Assessment Summary

Clause No.	Clause	Assessment
(c)	The suitability of the site for the development,	Not applicable. The proposal only relates to the site contamination works.
(d)	Any submissions made in accordance with this Act or the regulations,	No submissions made at this stage, however the DP&E will be required to have regard to any public submissions received during the exhibition period.
(e)	The public interest.	The modifications only relate to the site contamination works and will not create any further amenity impacts than previously approved in the SSD.

5.0 Conclusion

This SEE has been prepared on behalf of the Department of Education to support a Section 96(1A) modification to amend Conditions B9 and B10 relating to site contamination.

The proposed development has also been considered against the relevant heads of consideration under Section 79C of the EP&A Act, and found to be consistent with such provisions.

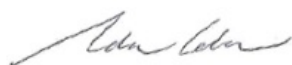
The proposed modification is consistent with Section 96(1A) as it relates to substantially the same development with no additional environmental impact. There are no relevant provisions under the PLEP 2011 and PDCP 2011 which relate to the proposal. Furthermore, it is noted that the proposed modification relates only to the site contamination works and as such there is no environmental impact as a result of the modification.

The amendments to Condition B9 provide greater flexibility when undertaking the site remediation works, particularly in regard to the ongoing archaeological investigations, by allowing the Site Auditor to approve the Method Statement (or similar) prior to the commencement of each remediation stage. Furthermore, the amendments to Condition B10 will revise the stage in which the SAR and Section A SAS is to be provided, which again allows a more flexible approach to undertaking remedial works in a staged manner and the ability to apply a capping layer, which is considered part of the construction works.

Therefore, we request that Council recommend that Conditions B9 and B10 be amended.

We trust that the information provided is sufficient for Council to approve the Section 96 modification in a timely manner. If you would like to discuss this matter, please do not hesitate to contact me on 8667 8668 or acoburn@meconce.com.au.

Yours sincerely,



Adam Coburn

