

17 January 2019

15456

Carolyn McNally
Secretary
NSW Department of Planning and Environment
Level 22, 320 Pitt Street
Sydney NSW 2000

Attention: Navdeep Singh Shergill – Planner

Dear Navdeep,

SECTION 4.55(1A) MODIFICATION O'CONNELL STREET PUBLIC SCHOOL – 24A O'CONNELL STREET, PARRAMATTA

This application has been prepared by Ethos Urban on behalf of NSW Department of Education (DoE) pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD7372 (MOD 4) relating to the refurbishment of the existing Old Kings School facility to accommodate a new public primary school at 24A O'Connell Street, Parramatta.

The modification relates to minor external works comprising a proposed playground shading structure adjacent to Building D within the north-west corner of the wider site. It is noted that the works would ordinarily be considered Exempt Development under *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, however the site's State heritage listing has prevented this pathway.

This 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. It should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban and dated January 2019 and is accompanied by:

- A copy of the Notice of Determination for SSD 7372 (MOD 4) (**Attachment A**);
- Structural Drawings prepared by Northrop dated November/December 2018 (**Attachment B**);
- Revised Heritage Impact Statement prepared by Tonkin Zulaikha Greer Architects dated 20 December 2018 (**Attachment C**); and
- Historical Archaeological Impact Statement prepared by Extent dated 20 December 2018 (**Attachment D**).

1.0 Consent Proposed to be Modified

State Significant Development approval SSD 7372 was granted by the Department of Planning and Environment under Part 4 (Division 4.1) of the EP&A Act on 21 February 2017. Approval was granted for the following development:

Redevelopment of the Old Kings School to accommodate a new public primary school. Works include:

- Refurbishment of Building A for administration and office spaces;
- Refurbishment of Building B for a new library / resource centre and home base classrooms;
- Refurbishment of Building C for staff areas, a canteen, home base classrooms and common learning areas;
- Refurbishment of Building D for home base classrooms and practical activities;
- Construction of a new hall and a covered outdoor learning area.

The development also includes services upgrades, a bus pick-up and drop-off area off Marist Place, decontamination works, tree removal and new landscaping.

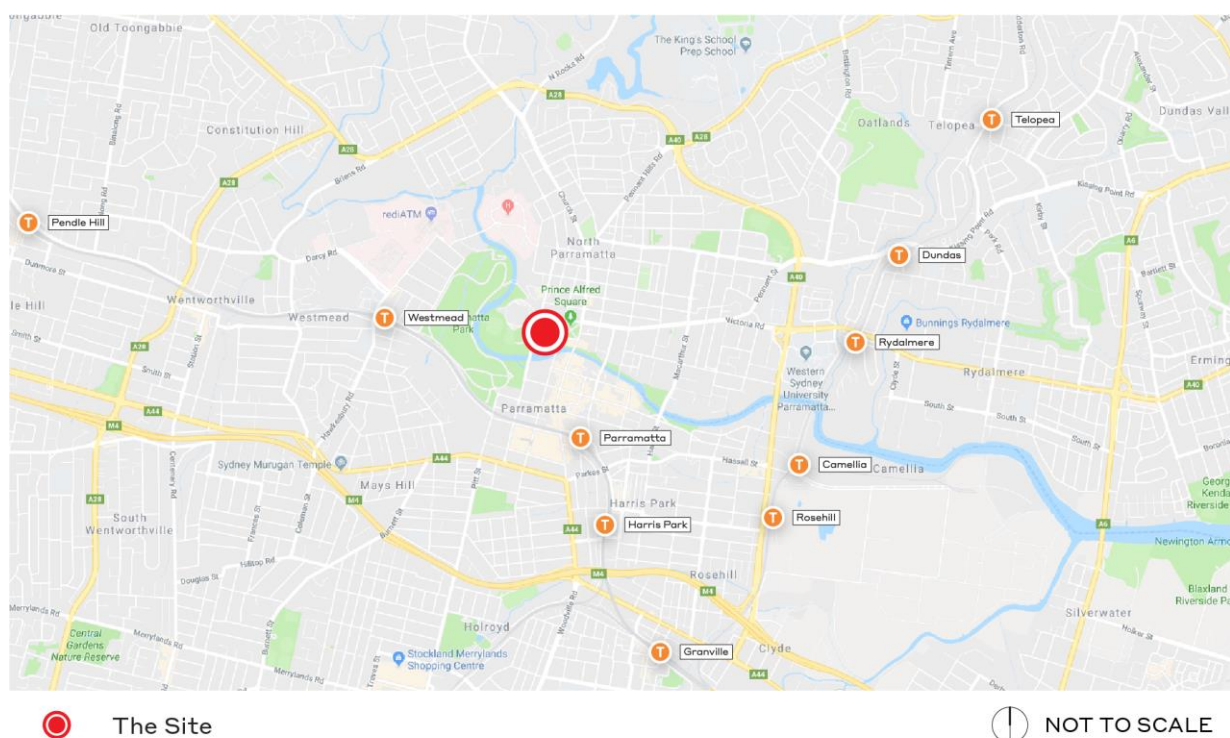
Construction works were completed in December 2017, which coincided with the beginning of the 2018 school year. The school is now fully operational.

A number of modifications have been submitted previously, including:

- Modification 1 was submitted to DPE in May 2017 and sought to amend Condition C1 (Hours of Work) to permit extended construction hours. This application was approved by DPE in July 2017.
- Modification 2 was submitted to DPE in July 2017 and sought to amend Condition A2 (Development in Accordance with Plans and Documents) to permit an extension to the plant room and balustrade on top of Building B and installation of 10 new solar panels to the roof of the school hall. This application was approved by DPE in January 2018.
- Modification 3 was submitted to DPE in August 2017 and sought to amend Condition A2 to permit the erection of 18 new light posts and 15 new light bollards to the south of Buildings A and B along the pedestrian path towards O’Connell Street car park and the existing car park off Marist Place. This application was approved by DPE in November 2017.
- Modification 4 was submitted to DPE in November 2017 and sought to modify the timing of post determination approval requirements to facilitate the early occupation of the school and remove potential delays to the commencement of operations by amending conditions of consent regarding site contamination, boundary fencing and the Marist Place/Market Street student set-down and pick-up pedestrian access arrangement. This application was approved by DPE in December 2017.

2.0 Site Analysis

The Old Kings School site is located to the north of the Parramatta River, on the northern outskirts of the Parramatta CBD. The site is bounded by O’Connell Street to the west and Marist Place to the east. Further to the west is the construction site for the new 30,000 seat Western Sydney Stadium. To the north of the site lies the St Patrick’s Cathedral site (subject to a DA for mixed use development). To the south, the site adjoins the Parramatta River. The site is located approximately 920m north-west of Parramatta Station. The site’s location is shown at **Figure 1**.



The development site comprises of two (2) lots with a combined area of 2.47 hectares. The land is owned by the NSW Department of Education. The land is legally described as Lot 1 DP 1112822 (3 Marist Place) and Lot 6 DP 1182647 (24A O’Connell Street). An aerial photograph of the site is provided at **Figure 2**, which highlights the area of the proposed development in the context of the wider site.



2.1 Description of the Subject Playground Area within the Wider Site Context

The area of the proposed development is contained within the north-western corner of the site, in the recently constructed school playground area. The playground provides a courtyard space that serves children from Kindergarten to Year 2. The playground is rectangular in shape and is bounded by the external eastern and southern walls of the existing Building D. The northern and western boundaries of the subject playground area adjoin the site boundary and are defined by new metal palisade fences.

The playground includes small landscaped spaces, approved as part of the original SSD, and also contains play equipment and outdoor resources such as a metal slide, sand pit area and an eco-learning garden. The existing groundplane is a combination of colourful soft fall and asphalt materials, as well as artificially turfed terraces which step down the site from the adjacent sports area to the east.

There is an original Frangipani tree which has been retained on the southern boundary of the playground, and currently provides the only shading element within the existing playground.

3.0 Proposed Modifications to the Consent

3.1 Modifications to the Development

The proposal involves the installation of a shade structure over the playground area, directly north of the existing Building D to provide sun protection for the students of O’Connell Street Public School in accordance with NSW DoE sunsmart guidelines. The DoE website states:

Schools have a responsibility to provide a safe environment for students, including providing adequate protection from the sun.

The proposed shade structure occupies an area of approximately 16.3m x 27.5m, which adequately covers the existing metal slide and sandpit, and is proposed to be constructed in two parts. The proposed works include:

- Ground preparation, excavation and construction of four 600mm diameter pile footings to a maximum depth of 2.5m;
- Installation of four steel posts to new concrete pile footings and one steel post to existing concrete retaining wall – colour Dulux Oriental Blue T22; and
- Installation of two commercial grade shade cloths – one rectangular, one triangular – colour Comshade Xtra ‘Navy Blue’.

The sails are anchored on five pillars, each with a 600mm cylindrical footing. Footing A anchors to the pre-existing slab and there will be no ground impact. Of the remaining four footings, Footing B is 1.8m deep, Footing E is 1.9m deep and Footings C and D are 2.5m deep. Refer to **Figure 3** on the following page.

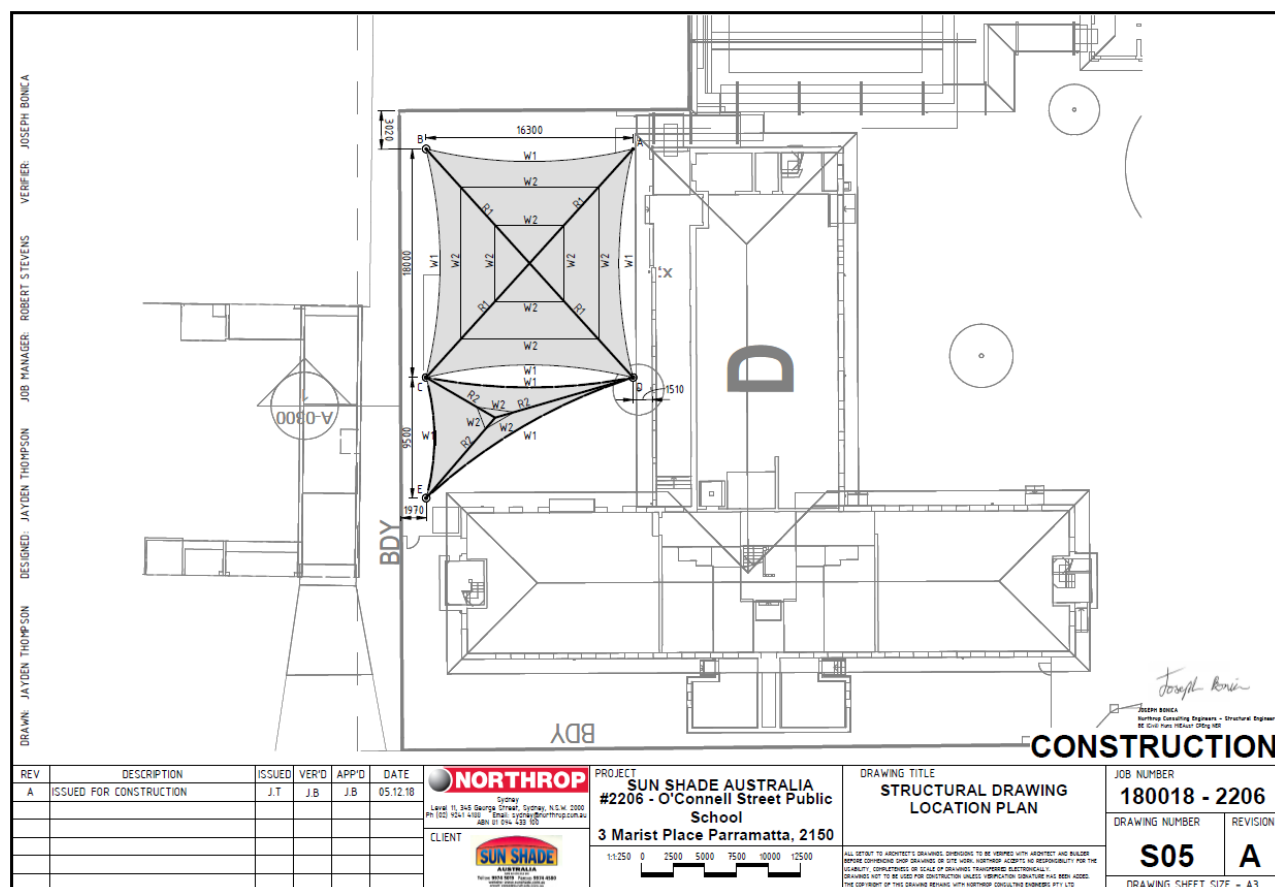


Figure 3 – Extract of Structural Shading Drawing Depicting the Proposed Development

The shade structure is considered to be ancillary to the existing school development. The posts of the shade structures vary in height between 2.6m to 4m to align with the existing topography of the land. The maximum overall height of the structure at the ridgeline is 6.2m, which is significantly lower than the existing 17.7m height of Building D. The proposed shade structure has been designed to be distinctly contemporary and fully reversible, respecting the significance of the place. No tree removal is proposed.

The proposed shading structure is unlikely to be viewed from the O'Connell Street public domain to the west, as a combination of mature trees on the western boundary, as well as the bulk of the northern wing of Building D, obstruct the view towards the subject area.

3.2 Modification to Conditions

The proposed modifications described above necessitate amendments to a condition of consent identified below.

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

- A2. The Applicant shall carry out the development in accordance with the conditions of consent and generally in accordance with the:
- Environmental Impact Statement, O'Connell Street Primary School, Old Kings School Site – 24A O'Connell Street, Parramatta* prepared by JBA Urban Planning Consultants Pty Ltd, dated June 2016;
 - Response to Submissions and Amended Proposal*, prepared by JBA Urban Planning Consultants Pty Ltd, dated 12 October 2016 and accompanying attachments;
 - Revised Response to Submissions*, prepared by JBA Urban Planning Consultants Pty Ltd, submitted on 12 January 2017 and accompanying attachments and addendums; and
 - following drawings, except for:
 - any modifications which are Exempt or Complying Development;
 - as otherwise provided by the conditions of this consent.
 - Section 96 (1A) modification application (SSD 7372 MOD 1) prepared by JBA Urban Planning Consultants Pty LTD, dated 19 May 2017;
 - Section 96 (1A) modification application (SSD 7372 MOD 3) prepared by Ethos Urban, dated 17 August 2017; ~~and~~
 - Section 96(1A) modification application (SSD 7372 MOD 4) prepared by Ethos Urban, dated 9 November 2017; ~~and~~
 - Section 4.55(1A) modification application (SSD 7372 MOD 5) prepared by Ethos Urban, dated 15 January 2019.***

Architectural Drawings prepared by Tonkin Zulaikha Greer Architects			
Dwg No.	Rev	Name of Plan	Date
PA-003	A	AREA CIRCULATION PLANS	06/05/16
PA-004	A	HERITAGE SIGNIFICANCE	06/05/16
PA-005	A	REPAIR AND CONSERVATION SCOPE	06/05/16
PA-100	D	SITE PLAN	12/10/16
PA-101	B	DEMOLITION DETAILED SITE PLAN: CENTER SCHOOL	31/05/16
PA-102	A	DEMOLITION DETAILED SITE PLAN: WESTERN CAR PARK	06/05/16
PA-103	B	DEMOLITION DETAILED SITE PLAN: EASTERN CAR PARK	31/05/16
PA-104	C	DETAILED SITE PLAN: CENTER SCHOOL ZONE	16/09/16
PA-105	C	DETAILED SITE PLAN: WESTERN CAR PARK	16/09/16
PA-106	C	DETAILED SITE PLAN: EASTERN CAR PARK	16/09/16
PA-107	C	SITE ELEVATIONS: NORTH+ SOUTH	16/09/16
PA-108	C	SITE ELEVATIONS: EAST+ WEST	16/09/16
PA-109	C	SITE SECTIONS	16/09/16
PA-201	B	BUILDING A+B GROUNDLOOR DEMOLITION/CONSERVATION PLAN	31/05/16
PA-202	B	BUILDING A+B FIRST FLOOR DEMOLITION/CONSERVATION PLAN	31/05/16
PA-203	C	BUILDING A+B SECOND FLOOR DEMOLITION/CONSERVATION PLAN	08/08/16
PA-204	C	BUILDING A+B THIRD FLOOR DEMOLITION/CONSERVATION PLAN	08/08/16

PA-205	C	BUILDING A+B ROOF DEMOLITION/CONSERVATION PLAN	08/08/16
PA-206	C	BUILDING A+B GROUND FLOOR PLAN	16/09/16
PA-207	B	BUILDING A+B FIRST FLOOR PLAN	31/05/16
PA-208	C	BUILDING A+B SECOND FLOOR PLAN	08/08/16
PA-209	C	BUILDING A+B THIRD FLOOR PLAN	08/08/16
PA-210	C	BUILDING A+B ROOF PLAN	08/08/16
PA-301	B	BUILDING C GROUND FLOOR DEMOLITION/CONSERVATION PLAN	31/05/16
PA-302	B	BUILDING C FIRST FLOOR DEMOLITION/CONSERVATION PLAN	31/05/16
PA-303	C	BUILDING C SECOND FLOOR DEMOLITION/CONSERVATION PLAN	08/08/16
PA-304	C	BUILDING C ROOF DEMOLITION/CONSERVATION PLAN	08/08/16
PA-305	C	BUILDING C GROUND FLOOR PLAN	16/09/16
PA-306	B	BUILDING C FIRST FLOOR PLAN	31/05/16
PA-307	C	BUILDING C SECOND FLOOR PLAN	08/08/16
PA-308	C	BUILDING C ROOF PLAN	08/08/16
PA-401	B	BUILDING D GROUND FLOOR DEMOLITION/CONSERVATION PLAN	31/05/16
PA-402	C	BUILDING D FIRST FLOOR DEMOLITION/CONSERVATION PLAN	08/08/16
PA-403	C	BUILDING D SECOND FLOOR DEMOLITION/CONSERVATION PLAN	08/08/16
PA-404	C	BUILDING D ROOF DEMOLITION/CONSERVATION PLAN	08/08/16
PA-405	C	BUILDING D GROUND FLOOR PLAN	16/09/16
PA-406	B	BUILDING D FIRST FLOOR PLAN	31/05/16
PA-407	B	BUILDING D SECOND FLOOR	31/05/16
PA-408	C	BUILDING D ROOF PLAN	08/08/16
PA-501	B	NEW HALL GROUND FLOOR PLAN	31/05/16
PA-502	C	NEW HALL ROOF PLAN	08/08/16
PA-701	B	MATERIALS SCHEDULE	31/05/16
Landscape Drawings prepared by Spackman Mossop and Michaels			
Dwg No.	Rev	Name of Plan	Date
L.002	D	KEY PLAN	15/04/16
L.101	D	FINISHES PLAN 1 OF 4	15/04/16
L.102	D	FINISHES PLAN 2 OF 4	15/04/16
L.103	D	FINISHES PLAN 3 OF 4	15/04/16
L.104	D	FINISHES PLAN 4 OF 4	15/04/16
L.CD.310	B	LANDSCAPE PLANTING DETAILS	15/04/16
L.CD.320	B	LANDSCAPE HARDWORKS DETAILS- SHEET 1	15/04/16
L.CD.321	B	LANDSCAPE HARDWORKS DETAILS- SHEET 2	15/04/16
L.CD.330	B	LANDSCAPE FURNITURE DETAILS- SHEET 1	15/04/16
L.411	B	EXISTING TREE SCHEDULE 1 OF 3	15/04/16
L.412	B	EXISTING TREE SCHEDULE 2 OF 3	15/04/16
L.413	B	EXISTING TREE SCHEDULE 3 OF 3	15/04/16
L.420	B	INDICATIVE PLANT LIST	15/04/16
Drawings prepared by Wood & Grieve Engineers Ltd			
Dwg No.	Rev	Name of Plan	Date

C-002	B	GENERAL NOTES	27/04/16
C-011	A	EXISTING CONDITIONS	27/04/16
C-101	B	GENERAL ARRANGEMENT PLAN	27/04/16
C-131	B	STORMWATER DRAINAGE PLAN- SHEET 1	27/04/16
C-132	B	STORMWATER DRAINAGE PLAN- SHEET 2	27/04/16
C-133	B	STORMWATER DRAINAGE PLAN- SHEET 3	27/04/16
C-135	B	STORMWATER DRAINAGE -INFORMATION TABLES	27/04/16
C-137	B	STORMWATER CATCHMENT PLAN	27/04/16
C-138	B	ON-SITE DETENTION TANK DETAILS	27/04/16
E-002	0	Electrical Services Site Plan Lighting and Power	19.01.17
E-505	0	Electrical Services Details	19.01.17
Pedestrian Crossing Plan prepared by ptc consultants			
Dwg No.	Rev	Name of Plan	Date
PTC-400	2	COVER SHEET AND GENERAL NOTES	08/11/17
PTC-401	2	WORKS PLAN 1	08/11/17
PTC-402	2	WORKS PLAN 2	08/11/17
PTC-403	2	WORKS PLAN 3	08/11/17
PTC-411	2	LINE MARKING AND SIGNAGE PLAN 1	08/11/17
PTC-412a	2	LINE MARKING AND SIGNAGE PLAN 2a	08/11/17
PTC-412b	2	LINE MARKING AND SIGNAGE PLAN 2b	08/11/17
PTC-413a	2	LINE MARKING AND SIGNAGE PLAN 3a	08/11/17
PTC-413b	2	LINE MARKING AND SIGNAGE PLAN 3b	08/11/17
PTC-422	2	SET OUT PLAN A	08/11/17
PTC-423	2	LONG & TYPICAL SECTION SITE PLAN	08/11/17
PTC-432	2	LONG SECTIONS	08/11/17
PTC-433	2	TYPICAL SECTIONS	08/11/17
PTC-441	2	SWEPT PATH ANALYSIS HEAVY RIGID VEHICLE	08/11/17
PTC-501	2	TYPICAL DETAILS	08/11/17
Drawings prepared by NORTHROP			
Dwg No.	Rev	Name of Plan.	Date
S00	B	STRUCTURAL DRAWING COVERSHEET DRAWING LIST	23/11/18
S01	A	STRUCTURAL DRAWING SPECIFICATION NOTES	22/11/18
S02	B	STRUCTURAL DRAWING FRAMING PLAN	23/11/2018
S03	B	STRUCTURAL DRAWING FRAMING ELEVATIONS	23/11/2018
S04	A	STRUCTURAL DRAWING TYPICAL DETAILS	22/11/2018
S05	B	STRUCTURAL DRAWING LOCATION PLAN	11/12/2018

4.0 Substantially the Same Development

Section 4.55(1A)(a) 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 consent was originally granted and before that consent as originally granted was modified (if at all)”.

The proposed shading structure will not alter the nature of the approved development. The proposed shading structure will facilitate the ongoing operations of the existing school and will contribute to a safer and more comfortable playground environment, in alignment with the NSW DoE sunsmart guidelines.

The proposed amendments have been designed to ensure that the development will not result in any adverse impacts on the site's heritage significance or surrounding neighbours, whilst ensuring that the new primary school operates with improved sun safety and playground comfort for the pupils of the school.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it will have no impact on the fundamental nature of the approved school development, or the scope of works approved under SSD 7372. Further assessment of the potential environmental impacts is provided below within Section 5 of this report.

5.0 Planning Assessment

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application. The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters.

5.1 Compliance with Statutory Plans

The proposed modifications relate to a small shading structure in the north-western corner of the site, providing an improvement to existing sun safety standards currently on site. The proposed modifications do not alter the approved development's compliance with the statutory requirements of the following policy documents that were assessed as part of the original EIS:

- *Threatened Species Conservation Act 1995*;
- *Water Management Act 2000*;
- *Roads Act 1993*;
- *Environmental Planning and Assessment Act 1979 (EP&A Act)*;
- *Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)*;
- *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 of Land (SEPP 55)*;
- *State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)*;
- *Parramatta Local Environmental Plan 2011 (Parramatta LEP 2011)*;
- *NSW State Priorities*;
- *A Plan for Growing Sydney*;
- *NSW Long Term Transport Masterplan 2012*;
- *Sydney's Cycling Future 2013*;
- *Sydney's Walking Future 2013*;
- *Healthy Urban Development Checklist, NSW Health*; and
- *Parramatta Development Control Plan 20113 (4.3.3.7 City Centre Special Areas C) Park Edge*;

5.2 Section 4.15(1) Impact on the Environment

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

- Consistency with Relevant EPIs, Policies and Guidelines;
- Built Form and Urban Design;
- Environmental Amenities;
- Visual Impacts;
- Transport and Accessibility;
- Heritage;
- Tree Removal;
- Biodiversity;
- Soils, Geotechnical and Groundwater;
- Drainage and Flooding;
- Construction Impacts;
- Accessibility;
- Structural Adequacy;
- Crime Prevention Through Environmental Design;
- Ecologically Sustainable Development;
- Development Contributions;
- Site Suitability; and
- Public Interest.

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.

5.3 Built Form and Urban Design

The proposed changes will not alter the approved built form outcome on the site, due to the low scale nature (6.2m in height) and location of the shading structure within the curtilage of Building D covering the existing playground area.

The proposed modifications are considered to provide a better health outcome for the students occupying this space than the approved development by improving sun safety and playground comfort in this location. The development, as proposed to be modified, meets the operational requirements of the school and the sunsmart guidelines proposed by NSW DoE.

5.4 Visual Impacts and Heritage Views

There are a number of significant views to and from the site, including distant views to the Oval, and views from Marsden Street and O’Connell Street. It is unlikely that the proposed shading structure will impede existing views across the site as the structure is relatively low scale in height (6.2m maximum) and open in design.

The proposed shade structure is set back from O’Connell Street, behind mature trees, and is substantially lower in height and bulk than the ridge height of the north-south wing of Building D, minimising any potential visual impacts. The shade structures do not extend past the northern external wall of Building D and hence will not be visible from the Oval, the grounds or first level of Old Government House. As such, impacts will be negligible.

5.5 Heritage

A revised Statement of Heritage Impact has been prepared by TZG (**Attachment C**) which considers the heritage significance of the site, assesses the proposed development and provides a conclusion regarding the potential impact of the proposal on the heritage significance of the site.

Whilst an option was initially considered to reduce the size of the shade structure to align with the northern wall of Building D, in accordance with the GML Conservation Management Plan Addendum, this was discounted as it would have significantly reduced the amount of shade provided, making a large area of the playground (including the metal slide and sandpit) unusable in summer.

As outlined above, the structure is setback from O’Connell Street, behind mature trees and is significantly lower in height than Building D to minimise any visual impact. Further, the shade structure does not extend past the northern end of Building D and hence will not be visible from the Oval.

The report notes that the proposed shading structure will have minimal impact on the heritage significance of the site particularly as it is distinctly contemporary and reversible. It also outlines the fact that the proposed shading structure is required for sun safety reasons to serve the new primary school and playground in this location as part of the NSW DoE sunsmart guidelines.

The report concludes that the proposed shade structure will have a minimal impact on the heritage significance of the subject site, and will contribute to creating an overall park-like setting due to its small scale and secluded location. The report states that the proposed shade structure has been designed as a simple, secondary element that will have minimal impact on its historic counterparts due to the proportions, form, materials, textures, colour and scale of the new structure. It is therefore considered appropriate from a heritage perspective.

5.6 Archaeological Significance

The proposed development area has been previously assessed as having a low-nil archaeological potential and no known significance in the immediate playground vicinity, according to a 2017 assessment carried out by Extent Heritage Advisors. Any potential development impacts associated with the construction of the shade sails are considered to be negligible, and therefore no archaeological mitigation measures are considered necessary to accompany the works. A copy of the archaeological significance map is provided at **Figure 4** on the following page.

It is important to note that the ‘unexpected finds procedure’ will be adhered to with respect to archaeology, as outlined in the Archaeological Management Plan prepared by Extent Heritage Advisors to accompany the SSDA (November 2016, Approved 2017).

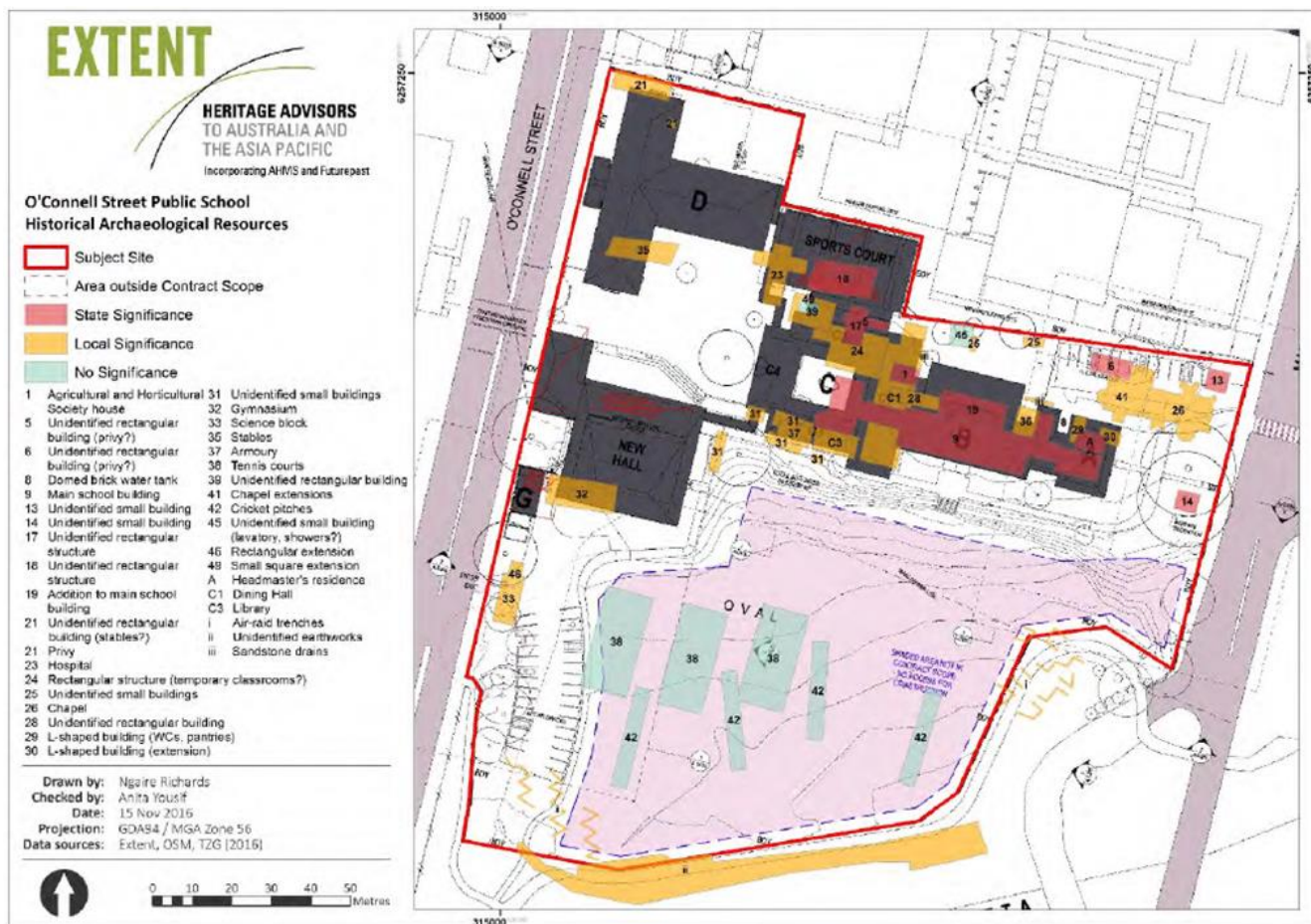


Figure 4 - Archaeological Significance Map

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. The proposed modifications are demonstrated to result in a minimal environmental impact. Further, the proposed works will have minimal impact on the heritage significance of the site as a whole or the significant elements within it.

In light of the above, we therefore recommend that the proposed modification is supported by the Department. We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries about this matter, please do not hesitate to contact 9409 4932 or ktudehope@ethosurban.com

Yours sincerely,

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