

21 May 2018

Andrew Beattie
Team Leader, School Infrastructure Assessments
Priority projects
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Andrew

**RE: Inner Sydney High School - SSD 7610
Development Consent Conditions B33 and B34
Section 4.55 (1) Modification Submission**

Please find enclosed a request to modify Development Consent conditions B33 and B34 for the Inner Sydney High School (SSD 7610) to enable satisfaction of the Secretary to exclude demolition.

We note that unless a modification to conditions B33 and B34 is sought and approved, the requirements of these conditions will need to be satisfied prior to the commencement of construction.

This modification submission has been prepared in relation to Development Consent conditions B33 and B34 for SSD 7610, the requirements of which are currently as follows:

Tree Protection

B33. Engage an appropriately qualified arborist to undertake detailed root and crown investigations of trees numbered 1, 17 and 18 within the Arboricultural Assessment undertaken by Ents Tree Consultants, dated 3 May 2017, and provide recommendations to ensure the proposed pruning and tree protection measures are sufficient to enable the long-term health and stability of these trees will be maintained. A report documenting findings and recommendations, including design modifications required to ensure retention of these trees, in accordance with recommendations of the arborist, must be submitted to the satisfaction of the Secretary.

B34. Engage an appropriately qualified arborist to undertake an evaluation of the potential to retain the London Plane trees numbered 11 and 13 within the Arboricultural Assessment undertaken by Ents Tree Consultants dated 3 May 2017. A report documenting findings must be submitted to the satisfaction of the Secretary. Where the trees cannot be retained without significant design changes or any other justified reason to remove the trees, justification must be included.

We understand that the conditions in the above form only enable Secretary satisfaction prior to commencement of works, failing to consider the ability to protect trees during the Early Works Demolition (Stage 1) or proximate archaeological testing / salvage required to enable investigation / evaluation to be undertaken.

A response to Part 6, Division 12, clause 115 of the Environmental Planning and Assessment Regulation 2000 is located at Attachment 1 as directed.

Please feel free to contact me should you have any queries or require additional information.

Regards



Rod Stanton

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Attachment 1: Environmental Planning and Assessment Regulation 2000
Part 6, Division 12, clause 115

Adequacy 115 Application for modification of development consent (cf clause 71A of EP&A Regulation 1994)		
No.	Requirement	Response
(1)	An application for modification of a development consent under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act must contain the following information:	-
(a)	the name and address of the applicant,	NSW Department of Education C/- Root Partnerships Level 2, 14 Martin Place Sydney NSW 2000
(b)	a description of the development to be carried out under the consent (as previously modified),	Development of the new Inner Sydney High School involving: - redevelopment of the site previously known as the Cleveland Street Intensive English High School - demolition of Building 4 and associated covered walkways - adaptive reuse of existing heritage listed buildings - a proposed new 13 storey, plus roof level and basement
(c)	the address, and formal particulars of title, of the land on which the development is to be carried out,	242A and 244 Cleveland Street, Surry Hills Lot 8 DP 821649, Lot 1 DP 797483 and Lot 1 DP 797484
(d)	a description of the proposed modification to the development consent,	Modification of the Development Consent conditions to change satisfaction of the Secretary being required prior to commencement of construction to exclude demolition.
(e)	a statement that indicates either:	-
(i)	that the modification is merely intended to correct a minor error, misdescription or miscalculation, or	Modification is merely intended to correct a 'minor error' or 'misdescription'. We understand that the existing Development Consent conditions currently only enable Secretary satisfaction prior to commencement of works, failing to consider protection of trees during demolition and enable completion of proximate archaeological testing / salvage.
(ii)	that the modification is intended to have some other	Not applicable

	effect, as specified in the statement,	
(f)	a description of the expected impacts of the modification,	Modification will have no expected impacts.
(g)	an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,	Modification will result in the redevelopment remaining substantially the same as the development that was originally approved.
(g1)	in the case of an application that is accompanied by a biodiversity development assessment report, the reasonable steps taken to obtain the like-for-like biodiversity credits required to be retired under the report to offset the residual impacts on biodiversity values if different biodiversity credits are proposed to be used as offsets in accordance with the variation rules under the Biodiversity Conservation Act 2016,	Not applicable
(h)	if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),	Not applicable
(i)	a statement as to whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56),	Not applicable
(2)	The notification requirements of clause 49 apply in respect of an application if the consent of the owner of the land would not be required were the application an application for development consent rather	Not applicable

	than an application for the modification of such consent.	
(3)	In addition, if an application for the modification of a development consent under section 4.55 (2) or section 4.56 (1) of the Act relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50 (1A), the application must be accompanied by a statement by a qualified designer.	Not applicable
(3A)	The statement by the qualified designer must:	-
(a)	verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and	Not applicable
(b)	provide an explanation of how:	Not applicable
(i)	the design quality principles are addressed in the development, and	Not applicable
(ii)	in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and	Not applicable
(c)	verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted	Not applicable

(3B)	If the qualified designer who gives the design verification under subclause (3) for an application for the modification of development consent (other than in relation to State significant development) does not verify that he or she also designed, or directed the design of, the development for which the consent was granted, the consent authority must refer the application to the relevant design review panel (if any) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.	Not applicable
(4)	If an application referred to in subclause (3) is also accompanied by a BASIX certificate with respect to any building, the design quality principles referred to in that subclause need not be verified to the extent to which they aim:	-
(a)	to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of the building or in the use of the land on which the building is situated, or	Not applicable
(b)	to improve the thermal performance of the building.	Not applicable
(5)	The consent authority may refer the proposed modification to the relevant	Not applicable

	design review panel but not if the application is for modification of a development consent for State significant development.	
(6)	An application for the modification of a development consent under section 4.55 (1A) or (2) of the Act, if it relates to development for which the development application was required to be accompanied by a BASIX certificate or BASIX certificates, or if it relates to BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied), must also be accompanied by the appropriate BASIX certificate or BASIX certificates.	Not applicable
(7)	The appropriate BASIX certificate for the purposes of subclause (6) is:	-
(a)	if the current BASIX certificate remains consistent with the proposed development, the current BASIX certificate, and	Not applicable
(b)	if the current BASIX certificate is no longer consistent with the proposed development, a new BASIX certificate to replace the current BASIX certificate.	Not applicable
(8)	An application for modification of a development consent	Not applicable

	under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act relating to land owned by a Local Aboriginal Land Council may be made only with the consent of the New South Wales Aboriginal Land Council.	
(9)	The application must be accompanied by the relevant fee prescribed under Part 15.	\$850.00 + GST
(10)	A development consent may not be modified by the Land and Environment Court under section 4.55 of the Act if an application for modification of the consent has been made to the consent authority under section 4.56 of the Act and has not been withdrawn.	Not applicable

