



Ballina High School

*State Significant
Development
Modification Assessment
(SSD 7742 MOD 1)*

December 2018

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Glossary

Provide a clear and succinct list of the terms not commonly used in everyday language.

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
CIV	Capital Investment Value
CIP	Community Involvement Plan
Consent	Development Consent
Council	Ballina Shire Council
Department	Department of Planning and Environment
DPI	Department of Primary industries
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



Executive Summary

This report provides an assessment of an application to modify the State Significant Development (SSD) approval for the new Ballina High School (BHS) Redevelopment. GHD lodged the application on behalf of the Department of Education NSW (the Applicant) and the proposal is located in the Ballina Shire Local Government Area (LGA).

On 11 August 2017, development consent was granted by the Executive Director, Priority Projects Assessments, as delegate of the Minister for Planning, for the redevelopment of BHS into Ballina Coastal High School (BCHS).

The modification application seeks approval to retain an existing building (Building W), revised landscaping and amendments to the layout of the sporting fields, relocation of the LPG tank, electrical substation and kiosk and amendments to Condition D15 of the consent to allow a temporary car park for up to 12 months after occupation, before the final car park is complete.

The Department of Planning and Environment (the Department) made the modification application publicly available on the Department's website. The Department received one submission from Ballina Shire Council outside of the notification period which raised key issues regarding the relocation of the substation and proposed temporary car park.

The Department considered the above issues in its assessment, along with built form and environmental amenity. The Department considered the merits of the proposal in accordance with the relevant matters under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

The Department considers that the Applicant has adequately demonstrated the relocation for the electrical substation kiosk and the proposed temporary car park is necessary to provide essential services to the school. The Department further considers that the proposed modification involves minimal environmental impacts and is substantially the same development as originally approved. The proposal is in the public interest and is recommended for approval subject to conditions.



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1. Introduction

This report is an assessment of an application seeking to modify the State Significant Development (SSD) approval for the new BCHS Redevelopment in the Ballina Shire LGA. The application has been lodged by GHD on behalf of the Department of Education (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks to amend the approved plans and development consent to:

- retain Building W previously approved for demolition
- provide revised landscaped details
- relocate the existing LPG tank, electrical substation and kiosk
- amend Condition D15 to allow a temporary car park for up to 3 months after occupation before the final car park is complete
- amend the timing of the submission of dilapidation reports and compliance reports (Condition D4 and D11)

The application has been lodged on 04 October 2018 by the Applicant pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant has obtained approval to partially demolish BHS and construct a new, larger BCHS which will comprise the existing students of BHS and secondary students being years 7 to 12, from Southern Cross School (SCS). The site, which is currently being redeveloped, contains an existing building with classrooms, a science laboratory, assembly hall and two outbuildings, which were occupied in mid-1931.

The site has an area of approximately 5.957 ha and is roughly rectangular in shape, with frontages to Swift Street along the south-west boundary, Cherry Street to the north-west boundary, Bentinck Street to the north-east boundary and Martin Street to the south-east boundary. The topography of the site is generally flat, varying from 1.5m AHD to 2.4m AHD (**Figure 1** and **2**).

The subject site is located on the fringe of the Ballina CBD on relatively flat topography, within the area known as Ballina Island. The site is surrounded by residential development to the north and east and St Francis Xavier Primary School and Ballina Public School to the South. To the west, the site is bound by Ballina Bowling and Recreation Club, Ballina Tennis Club and further residential development. The adjoining residential dwellings are predominantly one and two storey detached dwelling houses constructed of brick and weatherboard.



Figure 1 | Site Location (Source: Nearmap 2018)



Figure 2 | Site Features (Source: Nearmap 2018)

1.2 Approval History

On 11 August 2017, the Executive Director, Priority Projects Assessments, as delegate of the Minister for Planning, granted SSD approval for the redevelopment of BHS into BCHS, comprising:

- demolition of Blocks T and W and removal of existing on-site parking
- retention of the existing Marine Discovery Centre, Aquaculture building, existing sports courts and Block C
- construction of a new high school up to three storeys in height, for 1,000 students
- construction of a new vehicular entry from Swift Street for a loading zone and support drop-off zone
- construction of associated infrastructure services including a stormwater management system and electricity kiosk and
- landscaping works including the removal of 61 trees, on-site relocation of one tree, construction of formal and informal learning areas and the planting of new vegetation.

The development consent has not been previously modified.

On 11 April, DA2018/36 (JRPP 2018NTH001) was approved by the Joint Regional Planning Panel for the construction of the Ballina Indoor Sports Centre comprising two indoor multipurpose sports courts and associated amenities, vehicular access from Cherry Street, provision of on-site parking, vegetation removal and associated infrastructure works.



2. Proposed Modification

On 4 October 2018, the Applicant lodged an application (SSD 7742 MOD 1) seeking approval to modify the development including a number of approved conditions of consent. The application seeks to modify condition A2 to reflect the design modifications outlined below and condition D15 to allow for a temporary carpark for up to 12 months after the occupation, before completing the final carpark. The details of these modifications are set out below (**Figures 3-6**).

2.1 Design modifications

Retention of building W

Building W is an existing locally listed heritage building located in the south east portion of the BHS site, between the approved new three level high school building and Martin Street. The building comprises brick and powder coated aluminium windows and a colorbond roof with wide eaves. Refer to **Figure 3** showing the existing location of Building W. The SSD approval for the redevelopment of BHS granted consent to demolish Building W however, the proposed modification application seeks approval to retain Building W to provide an additional training kitchen and wood / metal workshop for school students and external Vocational Education and Training (VET) students. The availability of the additional learning areas would give students further choice in subjects to study as well as the opportunity to introduce Metal Construction as a subject for external VET students.

Revised Landscaping

The approved landscape design has been reviewed as a result of the proposed retention of Building W. Revised landscape plans have been included in the proposed modification application.

Relocation of the LPG Tank and Electrical Substation Kiosk

The existing LPG tanks is proposed to be relocated adjacent to the Aboriginal Learning Centre along the Martin Street frontage. This is to avoid any impacts from the proposed LPG tank enclosure into the landscaping and outer green areas (see **Figure 4**).

The approved substation kiosk is proposed to be relocated along the Swift Street frontage. The new proposed location between the Support Pedestrian Entry and Support Dropoff Zone driveway will allow for better location and proximity to other service infrastructure including the waste enclosure and fire hydrant pumping facility (see **Figure 4**).

2.2 Condition modifications

Amendment to Condition D15 of the Development Consent

Condition D15 of the consent requires that a minimum of 47 on-site car parking spaces for use by the staff must be provided prior to occupation, in accordance with Australian and New Zealand Standards. The proposed modification seeks approval to construct a temporary gravel car park to be used up to 12 months after occupation, following which a formal car park in accordance with the specifications listed in Condition D15.

Amendment to Condition D4 and D11

Due to the retention of Building W, an additional dilapidation and pre-operational compliance report is required to be submitted to the Planning Secretary prior to the operation of Building W. These conditions have been amended to reflect the required reports.

During the course of the assessment, the Applicant has withdrawn the amendments to the layout of the sporting fields due to the removal of 15 trees and need for a Biodiversity Development Assessment Report (BDAR). This will be considered via a separate modification application.

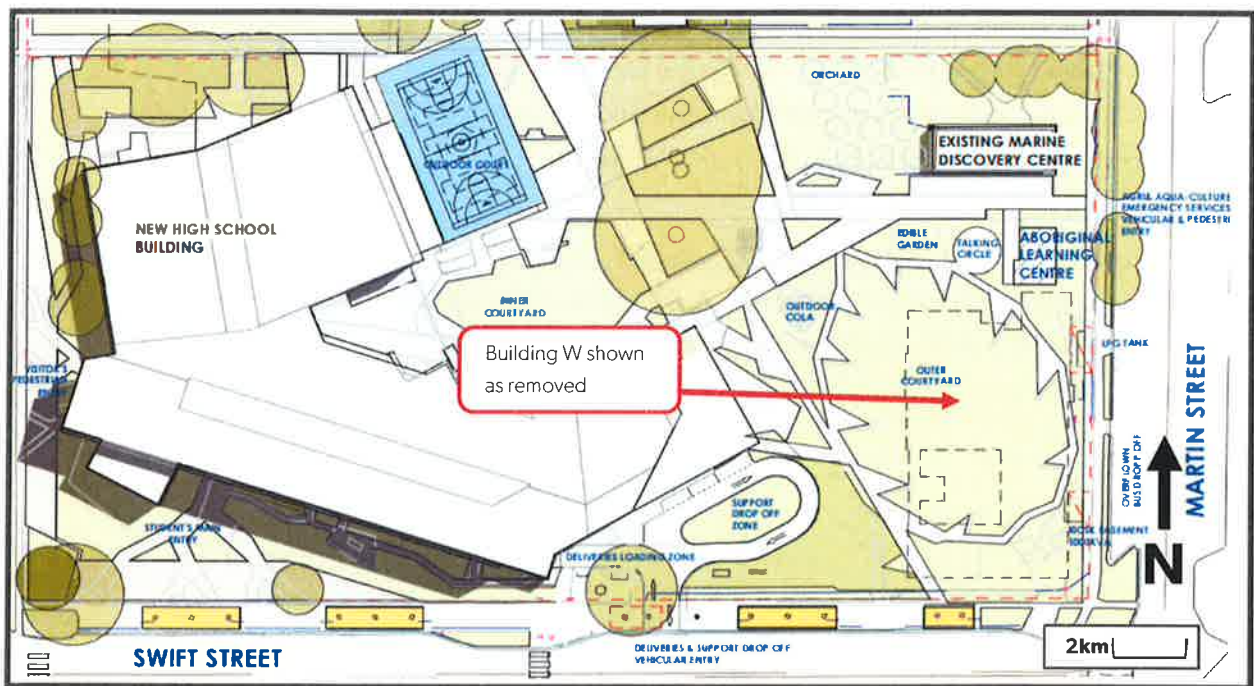


Figure 3 | Black hatched line indicating Building W as removed

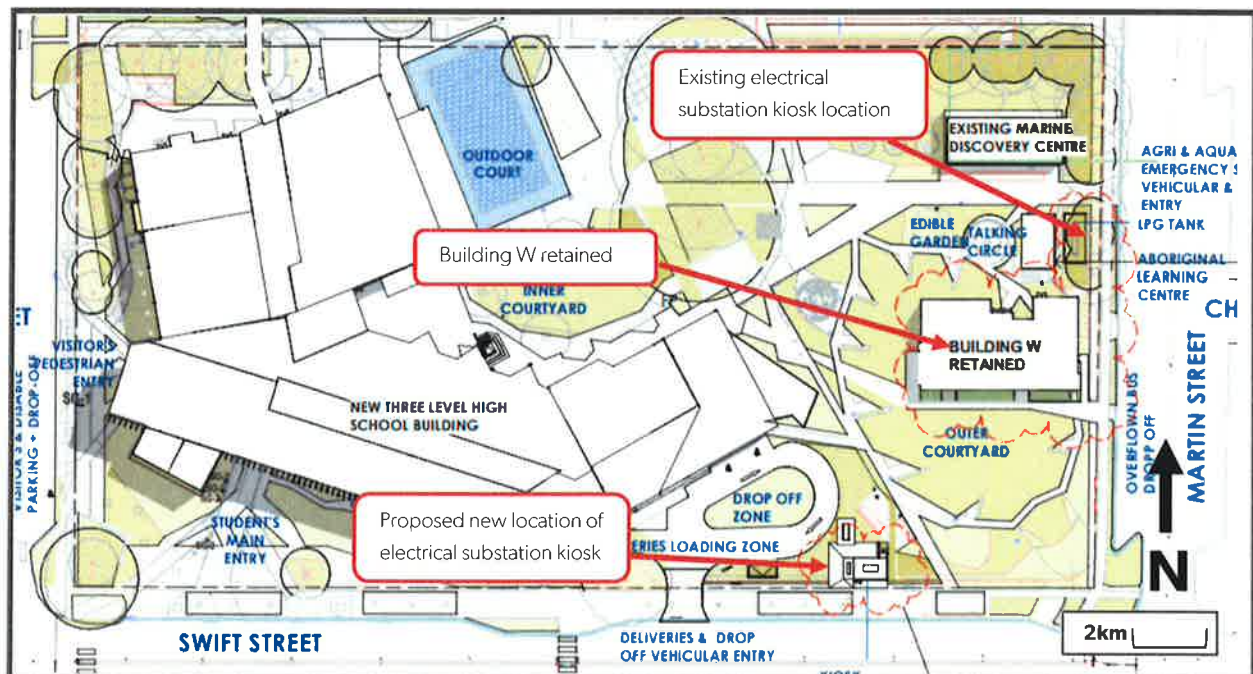


Figure 4 | Red cloud indicating existing electrical substation kiosk location, proposed relocation of electrical substation kiosk and Building W as retained



3. Strategic Context

3.1 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017
- State Environmental Planning Policy No.55 - Remediation of Land
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Environment)
- Ballina Local Environmental Plan 2012.

The Department undertook a comprehensive assessment of the proposed development against the abovementioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.



4. Statutory Context

4.1 Scope of Modifications

Section 4.55(1A) of the EP&A Act provides that a consent authority may, on an application being made by the applicant, modify a development consent granted by it, involving minimal environmental impact. Any application must be made in accordance with Clause 115 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved;
- is substantially the same development as originally approved; and
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

The Minister for Planning is the approval authority for the application. However, the Director Social and Other Infrastructure Assessments may determine the application under delegation as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.



5. Engagement

5.1 Department's Engagement

The EP&A Regulation does not require that the application be formally notified. Notwithstanding this, the modification application was made publicly available on the Department's website. The subject modification application was initially lodged requesting to obtain consent to remove 15 trees located along the northern boundary, adjacent to Bentick Street, and in between the sports ovals (refer to **Figure 5**). Due to the proposed tree removal request, the application was referred to the Office of Environment and Heritage (OEH) for consideration and comments. The modification application was not exhibited by any other means.

5.2 Council submission

Ballina Shire Council provided the following comments in relation to the proposed modification:

- The relocation of the electrical substation places the substation in close proximity to the bus shelter along Swift Street. Council raises no objection to the relocation provided that the substation does not impact on the shelters or the operation of the bus pick up and set down area on Swift Street.
- The proposed modification to Condition D15 to allow temporary car parking is considered to be reasonable provided that the provision for a temporary car park does not create conflict with the development of the separately approved Ballina Indoor Sports Centre.

5.3 OEH submission

OEH provided a response regarding the proposed removal of 15 trees to allow for the construction of playing fields. The OEH is of the view that the removal of the 15 trees would increase the impacts on the biodiversity values listed at Section 1.5 of the *Biodiversity Conservation Act 2016* (BC Act) and Clause 1.4 of the Biodiversity Conservation Regulations. Accordingly, a BDAR is required to be prepared by an accredited person in accordance with the Biodiversity Assessment Method (BAM) and submitted for consideration with the proposed modification application.

5.4 Response to submissions

While the Department did not require the Applicant to provide a formal response to submissions, the Applicant was required to provide further information on the requirements for the positioning of the substation and the proposed location of the temporary car park and address the concerns raised by the OEH.

On 16 November 2018, the applicant provided further information comprising:

- an explanation of the location of the substation and the dedicated access points, should access be required
- plans illustrating the location of the substation in proximity to the pickup/drop off procedures along Swift Street.

On 23 November 2018, the applicant provided further information comprising:

- an updated car parking arrangement showing the location of the nominated temporary carpark in the location of the existing, unused sports courts adjacent to Martin Street
- details of the proposed crossover and individual, line marked car parking spaces

- an explanation of the key considerations and impacts on the amenity and streetscape as a result of the temporary carpark.

On 11 December 2018, an email was received from the Applicant in response to the concerns raised by OEH, requesting proposed removal of 15 trees to facilitate the ovals redevelopment from the modification application be withdrawn. It is proposed that a separate modification application be submitted, accompanied by the additional requirements for the tree removal at a later stage.

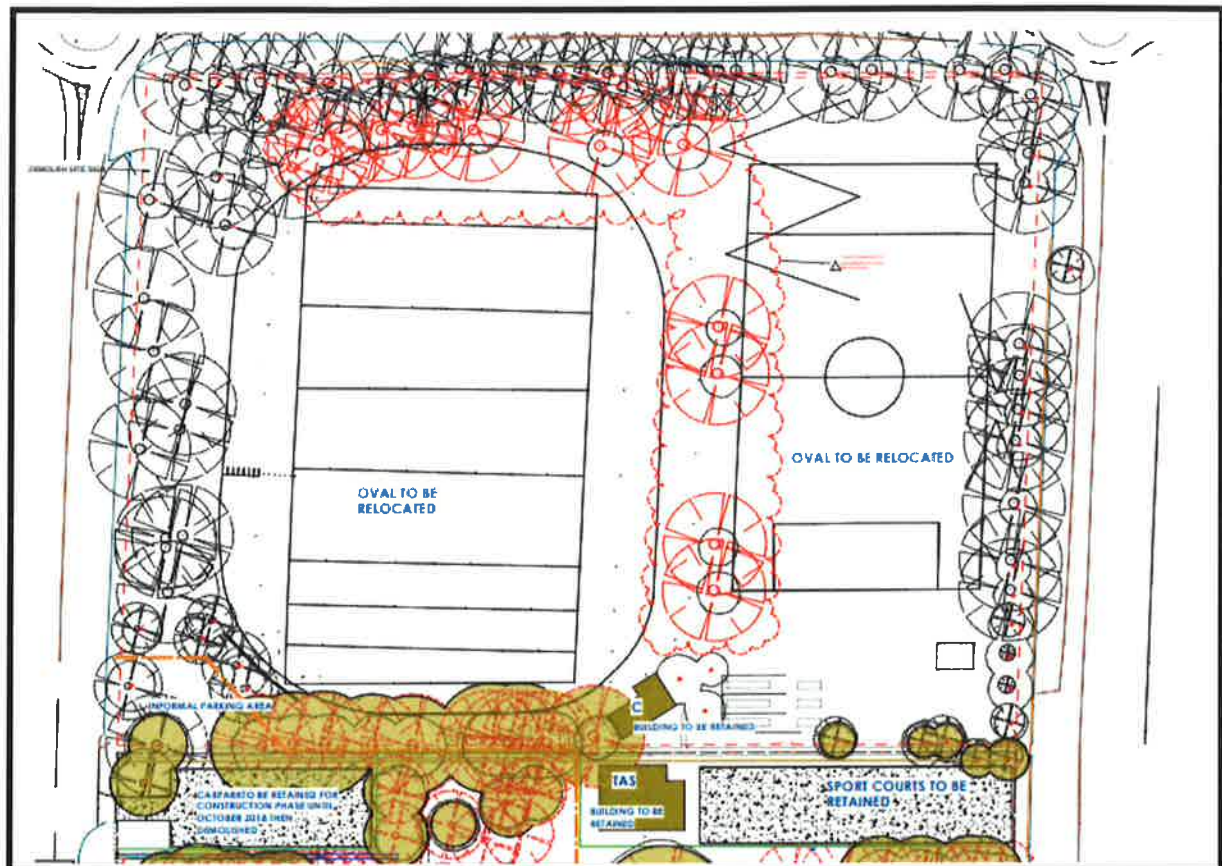


Figure 5 | Red cloud indicating the 15 trees proposed to be removed. This request was subsequently withdrawn and will form part of a future modification application



6. Assessment

The proposed modification application has been considered in the context of the original approved development in its assessment. The Department considers the key issues raised in the application to be the proposed temporary car park and the removal of the 15 trees to accommodate the new outdoor sporting fields.

6.1 Temporary car park

The modification application seeks approval to amend condition D15 of the development consent to allow for the establishment and use of a temporary car park for a period of up to 3 months after occupation, prior to the completion of the final car park. It is anticipated that the final permanent car park will be completed by end of January 2019 however, the Applicant is requesting approval for the temporary car park for up to 3 months as a precaution, in the event that completion of the final permanent carpark extends beyond January 2019. The condition included in the development consent (SSD 7742) required that a minimum of 47 car parking spaces be provided on-site to aid in accommodating the parking demand generated by the proposal and "reduce pedestrian activity on adjoining streets". The condition included in the consent reads as follows:

D 15. Provision of a minimum 47 car parking spaces on-site for use of staff must be provided prior to occupation. The car parking area/s must be:

- a) Connected to an existing internal school footpath by a new pedestrian footpath, where required; and*
- b) In accordance with AS/NZS 2890.1:2004 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.6:2009 Parking facilities – Off-street parking for people with disabilities.*

The Applicant is seeking approval to commence operation of the school with a temporary car park to ensure that construction of the separately approved Council indoor sports facility will be coordinated with the construction of the formal permanent car park. The temporary car park is proposed to accommodate a minimum of 47 vehicles and would be used until the construction of the formal permanent car park located to the west of the sports oval along Cherry Street has been completed, which is likely to be January/February 2019. **Figure 6** below demonstrates the location of the approved permanent car and the proposed location of the temporary car park on the existing outdoor sports courts.

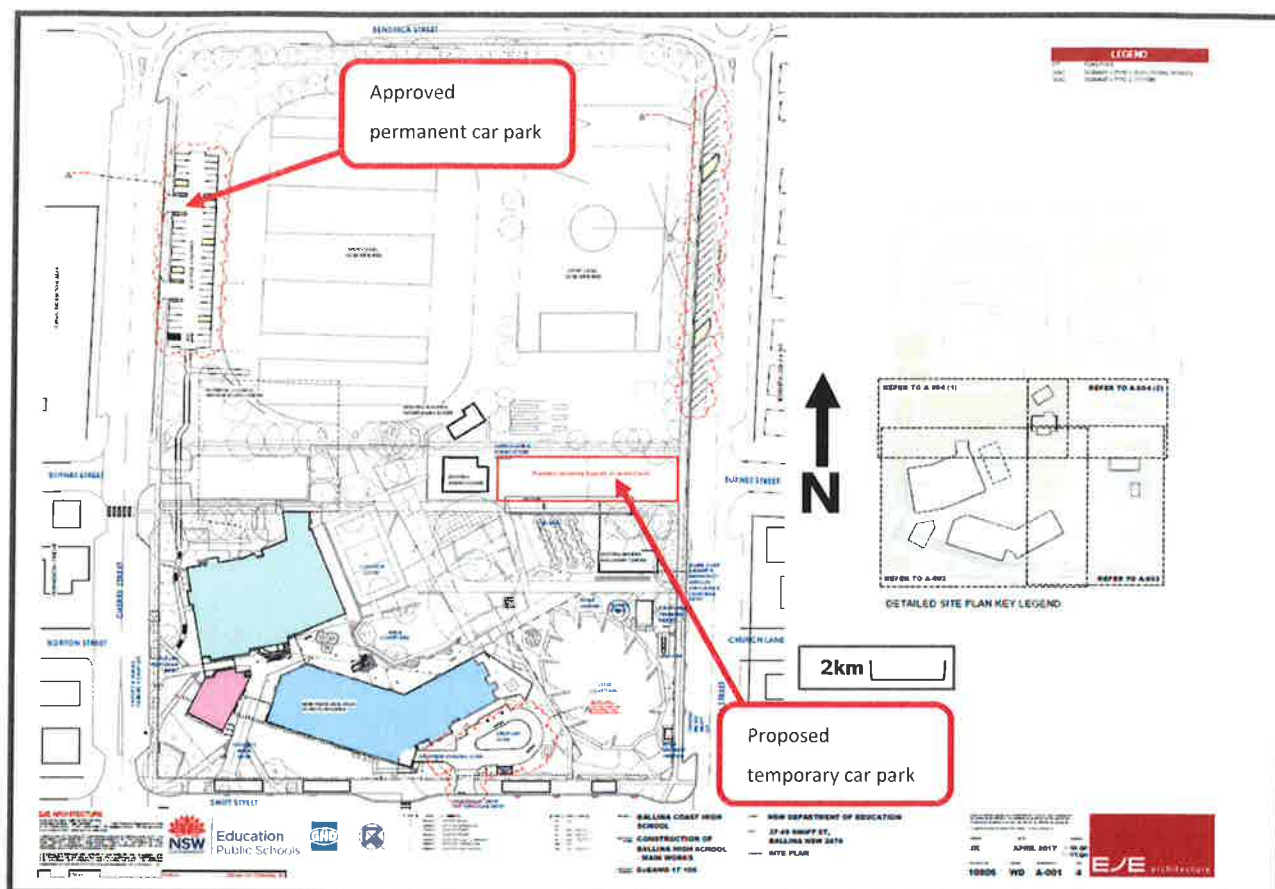


Figure 6: Site plan indicating location of approved permanent car park and proposed location of temporary car park

The temporary car park is proposed on the existing sealed outdoor sports courts located to the east of the existing Aquaculture building, fronting Martin Street. The Department notes these sports courts are currently underutilised and not currently used by the school or the community for recreational purposes. The area is currently used as storage.

Given the short-term nature of the proposed temporary carpark, the Applicant has proposed to install '90 degree parking only' signs in order to control the orientation of vehicular parking, rather than line marking on the existing court surface. The Department is in agreement that line marking would disturb the existing court surface unnecessarily. The outdoor sports courts include an existing crossover to Martin Street which is approximately 3m in width. The Applicant seeks to extend the width of the crossover to approximately 4.5m and temporarily remove the existing fencing and basketball hoop posts in order to be able to utilise the crossover. The Applicant will install safety signs including 'Give Way' and 'Watch For Entering Traffic' in order to notify pedestrians of the temporary parking facilities for the duration of use of the temporary car park.

Martin Street is a two-lane two-way urban collector street on the eastern side of the BHS site. The street comprises a bitumen sealed carriageway with a minimum width of 9m and approximately 22m width between upright kerb and gutter. The road has a 50kph speed limit (40kph during school zone operation) and is in relatively good condition. Martin Street is used by a various traffic uses including local car and bus traffic from arterial road as well as providing access to surrounding residential streets. The proposed car park would be utilised during normal school operating hours only, which is not expected to generate significant noise impacts to the surrounding community.

The Department notes the Applicant's original request to utilise the proposed temporary car park for a period of up to 12 months, and that updated advice states to the end of January/early February 2019.

In this regard, it is recommended that Condition D15 be reworded to ensure 47 car parking spaces are provided on a temporary and permanent basis; and to stipulate a reasonable timeframe for use of the temporary carpark

"Provision of a minimum of 47 car parking spaces on site for use by staff must be provided as follows:

- a) *by way of temporary carpark on the existing sports courts as identified in Drawing A-001, Rev 4, dated April 2017 and prepared by EJE Architecture, for a period of up to three (3) months unless otherwise agreed by the Planning Secretary from the commencement of operation; and*
- b) *by way of a permanent carpark that must be:*
 - i. *connected to an existing internal school footpath by a new pedestrian footpath, where required; and*
 - ii. *in accordance with the latest version of AS/NZS 2890.1."*

6.2 Electrical Substation

The electrical substation kiosk is proposed to be relocated toward the southern, front boundary of the site, adjacent to Swift Street. The electrical substation kiosk is to be located behind a 1.85m high palisade fence consistent with existing fencing, which would prevent public access. The proposed substation includes two separate access points to ensure access to the kiosk is maintained for maintenance purposes. The Department considers the proposed relocation of the electrical substation kiosk would maintain access for maintenance, not result in any safety issues, and not impact on drop off/pick-up procedures.

6.3 Retention of Building W

Building W is an existing locally listed heritage building located in the south east portion of the BHS site. The building comprises brick and powder coated aluminium windows and a colourbond roof with wide eaves. The building is in good condition and contains a workshop and food technology teaching space. Consent to demolish Building W was granted as part of SSD 7742 to accommodate new learning facilities however, the Applicant is seeking approval to retain the building, which would enable necessary training and kitchen facilities to provide greater learning facilities for the students.

No additional works to the building are proposed in the modification application therefore, there would be no adverse impacts on the amenities of the surrounding residential dwellings. The Department is satisfied in that the retention of Building W will reduce the demolition and construction impacts on the site and the amenity of the adjoining residential properties and result in the retention of a locally listed heritage item.

6.4 Revised landscaping

The modified landscape design includes modifications to the courtyard that surrounds the now retained Building W. The amended landscape design incorporates an oxide coloured concrete pavement path from the centre of the site leading to Building W, through the "outer green" area. The amended landscape plan indicates the retention of an existing tree located to the north-west of Building W. The Department considers the amended landscape design to be a positive outcome as there would not be any adverse impacts on the overall high school redevelopment.

6.5 Timing of compliance report conditions

The retention of Building W requires an additional dilapidation and pre-operational report to be submitted to the Planning Secretary no later than one month prior to the operation of Building W. The dilapidation report is to include whether the construction works associated with the retention of Building W has created any structural damage to properties and infrastructure in the vicinity of Building W outside the subject site. The Department has recommended amendments to conditions D4 and D11 to accommodate this requirement.



7. Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department considers that the proposed modifications remain consistent with the BHCS conditions of consent, and that the intent behind each condition remains the same. The Department's assessment concludes that the proposed modification is appropriate. Consequently, it is recommended that the modification be approved subject to the recommended modified conditions.



8. Recommendation

It is recommended that the Director Social and Other Infrastructure Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **Determines** that the application for Ballina High School Redevelopment Modification 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant/refuse consent/approval to the application
- **agrees** with the key reasons for approval listed in the draft notice of decision;
- **modify** the consent SSD 7742
- **signs** the attached approval of the modification Appendix B.

Prepared by:

Fadi Shakir

A/Senior Planner
Transport Assessments

Recommended by:

Andrew Beattie

Team Leader
Social and Other Infrastructure Assessments



9. Determination

The recommendation is: **Adopted/Not adopted by:**


Karen Harragon
Director

21/12/2018

Social and Other Infrastructure Assessments



Appendices

Appendix A – List of Documents

Appendix B – Statement of Environmental Effects/ Environmental Assessment

Appendix C – Council Submission

Appendix F – Consolidated Consent

Appendix G – Notice of Modification