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Section 4.55(1A) Planning Report – Mod 2

Modification of Approved State Significant Development SSD 7968
New Oran Park High School and
Expansion of Oran Park Public School
400F The Northern Road, Oran Park

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1. Staging Report and Matrix
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1 Introduction

1.1 Commission

DFP Planning has been commissioned by Hindmarsh Construction (as contractor for School Infrastructure NSW (SINSW)), to prepare a Planning Report to accompany a Section 4.55(1A) Modification Application (section 4.55 Application) to Development Consent SSD 7968 which approved construction of the new Oran Park High School and expansion of the existing Oran Park Public School, at 400F The Northern Road, Oran Park (the Site).

The application is made pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent No SSD 7968 issued by the NSW Minister for Planning on 14th December 2017.

The section 4.55 Application seeks consent to modification of existing conditions of consent to enable staging of the approved construction works to occur. The proposed development does not present any significant environmental impacts and the proposal will remain substantially the same as that approved under the original application. There will be no change to the use of the site, the gross floor area of the school or internal areas of the building.

The purpose of this report is to provide the Minister and relevant NSW State Government Agencies with the relevant information necessary to assess the proposed modifications pursuant to Part 4 of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000* (the Regulation) and for Council to determine the application in accordance with section 4.55(1A) of the EP&A Act.

2 Site Context

2.1 Location

The Site is located within the South West Priority Growth Area and more specifically, within the Oran Park Precinct, within the Camden Local Government Area (LGA). The Site is entirely within 200-700m of the Oran Park Town Centre (see **Figure 1**).



Figure 1 Site Location

2.2 Site Description

The Site is legally described as Lot 1000 in Deposited Plan (DP) 1164435 and is also known as 400F The Northern Road, Oran Park, Post Code 2570 (see **Figure 2**).



Figure 2 Site Context (Aerial Dated 23 July 2019)

The site has a northern frontage to Dick Johnson Drive of approximately 275 metres, a western frontage to South Circuit of 325.55 metres, a southern frontage to Holden Drive of 261.23 metres and a total area of 89,201.05m².

Construction works in accordance with the Development Consent are well underway on site. At this point in time, structures are being erected on the High School site for Blocks HA, HB, HC and HD (as well as the construction of the new car park) and internal fit out work has commenced at the Public School site.

2 Site Context

2.3 Surrounding Development

The surrounding area is under redevelopment for a mixture of public open space, residential, child care, retail and commercial land uses (see **Figure 3**).

To the north, on the opposite side of South Circuit is a public recreation area known as Jack Brabham Reserve which comprises playing fields, an open car parking area and a club house with associated amenities.

To the east is a drainage corridor known as Julia Creek which is planned to be revegetated to form a riparian corridor which will run between the Site's eastern boundary and the Oran Park town centre further east.

To the south, on the opposite side of Holden Drive, is land that is currently being developed for a medium density small lot attached housing subdivision containing 72 lots.

To the west, on the opposite side of South Circuit, development predominantly comprises low density residential lots together with a 149-place child care centre, swimming school, dance school and health service rooms.

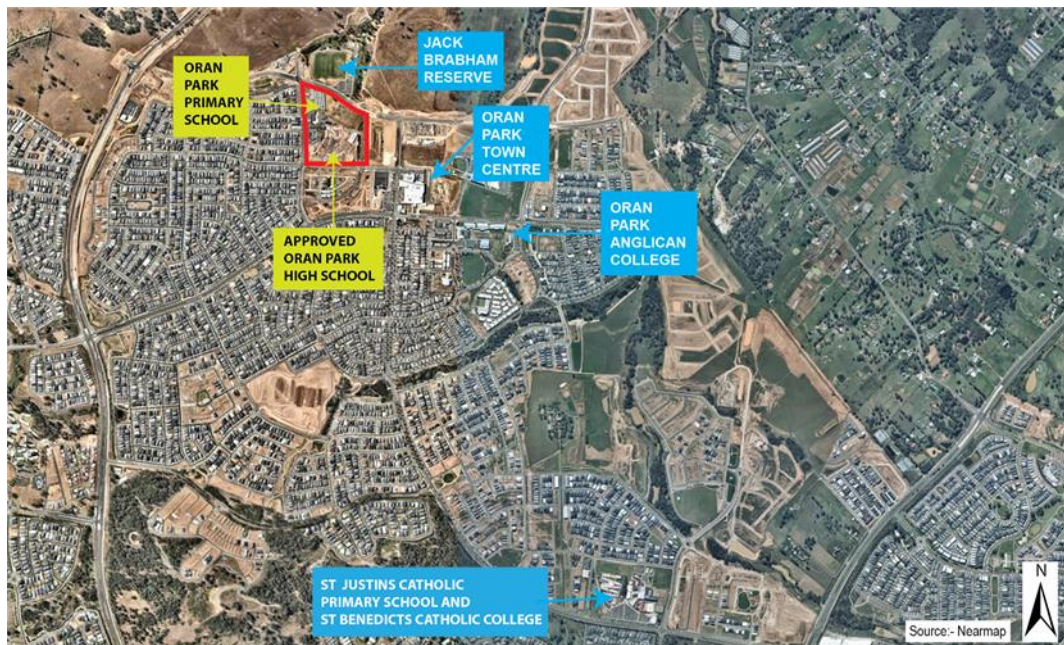


Figure 3 Surrounding Development

3 Proposed Modifications

3.1 Development History

On 14th December 2017, the Minister for Planning granted approval to SSD 7968 for the construction of Oran Park High School and alterations and additions to Oran Park Primary School, comprising:

- Site preparation works, including bulk earthworks;
- Construction of a new high school for up to 2,000 students including:
 - Five multipurpose school buildings up to three storeys in height, a multipurpose gymnasium, external sports field and courts;
 - A new 80 space car park;
 - Landscaping works including construction of formal and informal learning area, playgrounds, amphitheatre, sensory gardens and security fencing;
 - A new vehicular access point off Holden Drive;
 - A new vehicular entry from South Circuit for service zone
- Expansion of Oran Park Public School for up to 1,000 students, including:
 - Additions to blocks PE, PF and PG;
 - 20 space expansion to existing on site car park;
- Provision of school crossing, kerb side pickup/drop off zone for 14 vehicles and new bus bay for a minimum of four buses to Holden Drive;
- Construction of associated infrastructure services including stormwater management and electricity substation; and
- School identification signage.

On the 17th June 2019, the Minister for Planning granted approval to Modification No. 1 (Mod 1) of SSD 7968 for:

- Installation of ten air conditioning plants with associated platforms, balustrades and screening on the roofs of blocks PE, PF, PG, HB, HC and HD.

SSD 7968 (as modified) does not currently include provisions to enable the works to be carried out in separate stages.

3.2 Summary of Proposed Modifications

The works approved under SSD 7968 have been underway for some time with the intention of opening doors to students for Day 1 Term 1 2020. The majority of works have been carried out to this program, however there are some works that have been delayed and will not be able to be delivered at this time.

Therefore, Hindmarsh and SINSW require flexibility in the wording of the consent to enable staging of the works, so that the facilities completed in time for Day 1 Term 1 2020 can be occupied, while the remaining works can be completed.

The proposed modifications to SSD 7968 involve the addition of conditions A21, A22, A23, A24, A25, A26 and A27 to allow for the staging of the works. These conditions have been adopted by DPIE in the last 12 months as standard conditions which enable the staging of all SSD approvals, however SSD 7968 pre-dates these standard conditions and so it is now proposed to incorporate them into this consent.

The new conditions require the preparation of a Staging Report to detail how the works are being carried out. DFP has prepared a Staging Report (**Appendix 1**) which details the

3 Proposed Modifications

proposed stages of works, and is accompanied by a Staging Matrix which details how each of the conditions would be satisfied at each of the proposed stages of work.

3.3 Additional Supporting Documentation

Perumal Pedavoli Architects has prepared a Staging Plan (**Appendix 2**) which details the proposed staging of the works. This Plan accompanies the Staging Report but is provided as part of this modification application as supplementary information to provide context to the assessment.

A Staging Report (**Appendix 1**) also accompanies the application which sets out how the construction and operations of the project will be staged, how compliance with conditions will be achieved across and between each stage and sets out mechanisms for managing cumulative impacts of the staged works. The Staging Report is accompanied by a Staging Matrix, Staging Plan, updated Construction Management Plan and updated Construction Traffic Management Plan.

3.4 Proposed Modifications: Additional Conditions A21, A22, A23, A24 and A25

This modification application seeks consent from DPIE for the inclusion of additional conditions, which are consistent with DPIE's standard SSD conditions for staging. As stated above, the modification is proposed to allow for the construction and operation of the SSD to be undertaken in stages.

The additional conditions proposed for inclusion in SSD 7968 are set out below:

Staging

A21. *The project may be constructed and operated in stages. Where staged construction or operation is proposed, a Staging Report (for either or both construction and operation as the case may be) must be prepared and submitted for the approval of the Planning Secretary. The Staging Report must be submitted to the Planning Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation) unless otherwise agreed to by the Planning Secretary.*

A22. *The Staging Report must:*

- (a) if staged construction is proposed, set out how the construction of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;*
- (b) if staged operation is proposed, set out how the operation of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence and finish (if relevant);*
- (c) specify how compliance with conditions will be achieved across and between each of the stages of the project; and*
- (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.*

A23. *The project must be staged in accordance with the Staging Report, as submitted to the Planning Secretary.*

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A24. *Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.*

Staging, Combining and Updating Strategies, Plans or Programs

A25. *With the approval of the Planning Secretary, the Applicant may:*

- (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);*
- (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and*
- (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).*

A26. *If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.*

A27. *If approved by the Planning Secretary, updated strategies, plans or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan or program.*

4 Statutory Provisions

4.1 General

Section 4.55 of the EP&A Act contains the provisions that must be considered by a consent authority in determining an application to modify a Notice of Determination. In this regard, the relevant provision is section 4.55(1A) of the EP&A Act.

This application is lodged under section 4.55(1A) as the amendments proposed are considered to be minor in nature and have only minimal environmental impact.

In addition to the EP&A Act, clause 115 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) contains the information that must be submitted with an application to modify a consent. The requirements under the EP&A Act and EP&A Regulation in the following subsections.

4.2 Section 4.55(1A) of the Act

Section 4.55(1A) of the Act applies to modifications where a minimal environmental impact may occur. Specifically, section 4.55(1A) provides that:

“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:”

4.2.1 Minimal Environmental Impact (section 4.55(1A)(a))

“(a) It is satisfied that the proposed modification is of minimal environmental impact”.

The modified consent will allow the project to be constructed and operated in stages in accordance with Staging Report and Staging Plan. This will allow for each stage of construction to be completed and occupied in the required arrangement, and for environmental impacts to be minimised through appropriate management of the stages. The proposed modifications will not change the form or type of land use and is considered to be of minor environmental impact.

4.2.2 Substantially the Same Development (section 4.55(1A)(b))

“(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)”.

The proposed modification will not require any change to the approved use, function or built form of the project but rather will allow for construction, occupation and operation of the schools to occur in stages. For these reasons the proposed modification is considered to be substantially the same development.

4.2.3 Notification (section 4.55(1A)(c))

“(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 modifications of a development consent”.*

Under the EP&A Act and the EP&A Regulations (cl117), the Minister is only required to exhibit the application with greater than minimal environmental impact or that are seeking to modify a consent that was granted by the Land & Environment Court.

However, the Department has the discretion to exhibit the application subject to consideration of the following factors:

- *the relevant statutory requirements*
- *the scale and nature of the proposed modifications*
- *the likely impacts of the modifications*

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- *the likely level of community interest in the modifications.*

4.2.4 Consideration of Submissions (section 4.55(1A)(d))

“(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*”.

Should the Department notify the subject application in accordance with section 4.55(1A)(c), it must consider any submissions made during a notification period.

Subsections (1) and (2) of section 4.55 do not apply to the proposed modification. Subsection (3) is addressed in **Section 4.4** of this submission.

4.2.5 Matters for Consideration and Reasons for Granting Consent

Section 4.55(3) of the EP&A Act requires that such of the matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the proposed modification must be taken into consideration in determining the application for modification.

The EIS prepared by DFP Planning dated April 2017 and submitted with the original application addressed the proposed development's level of compliance against the relevant planning instruments as follows:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No.64 – Advertising and Signage
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- Sydney REP No. 20 – Hawkesbury-Nepean River (No 2 – 1997)

The planning assessment undertaken by the DPE provided a comprehensive assessment of the relevant environmental impacts. In terms of the proposed modification to the consent, the assessment of the original application will remain generally unchanged. Further discussion in terms of relevant matters for consideration area included below in **Section 4.4**.

4.3 Clause 115 of the EP&A Regulation 2000

Subclause 115(1) of the Regulation details the information required to be submitted with an application to modify a Development Consent under section 4.55. These details are contained in this letter and the accompanying application form.

The following subsections provide an environmental assessment of the proposed modifications in respect of the relevant matters for consideration under section 4.15(1).

- Compliance with relevant planning policies and controls

An assessment of these issues is provided in the following subsections.

4.4 Planning Controls

The following subsections assess the proposal against the relevant provisions of applicable Environmental Planning Instruments (EPIs), Draft EPIs, Development Control Plans (DCPs), Planning Agreements and matters prescribed by the Regulation in accordance with section 4.15(1)(a) of the EP&A Act.

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4.4.1 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The Site is subject to the provisions of the Growth Centres SEPP and particularly, the provisions of Appendix 1 - Oran Park and Turner Road Precinct Plan. The proposed modifications are considered to comply with the requirements of the Growth Centre SEPP where relevant.

4.4.2 Oran Park Precinct Development Control Plan 2007

It is noted that Clause 11 of the State and Regional Development SEPP excludes the application of Development Control Plans to SSD DAs. Notwithstanding this, the proposed modifications are considered to comply with the requirements of the Oran Park Precinct DCP 2007 where relevant.

4.5 Likely Impacts of the Development

The proposed staging of works will not result in any changes to the use, function or built form of the approved development. Therefore the modification will not result in any additional impacts upon the environment or surrounding residential amenity.

4.6 Suitability of the Site for Development

The suitability of the site for a school development has been assessed and supported by DPIE under the original determination of SSD 7968. No change to the use, function or built form of the approved works is proposed, therefore the site remains suitable for the development as modified.

4.7 Public Interest

In accordance with section 4.15(1)(e) of the EP&A Act, the proposed development is considered to be in the public interest as it:

- Will meet the current and future education demands for residents of Oran Park and the surrounds;
- Will provide high quality learning and teaching spaces with flexible layout arrangements and durable finishes ensuring the proposal operates as a long-life, high utility and low maintenance educational establishment;
- Has been designed in accordance with the visions, objectives and expectations of the community, the Department of Education and relevant experts;
- Will allow for the school to be operational and meet the needs of the community;
- Will minimise the potential for environmental amenity impacts through both the construction and operational phases; and
- As modified, will enable SINSW to occupy and operate the schools in the required timeframes so that students have continuity of education within the Oran Park Precinct.

5 Conclusion

This report accompanies an application under section 4.55(1A) of the EP&A Act to amend SSD 7968 (as modified) to allow for the staging of the development.

In accordance with Section 4.55(1A) the proposed modifications will have minimal environmental impact and result in development that is substantially the same as the originally approved development.

The modification seeks to facilitate the staging of the development to allow for the Public School and High School to be operating from Day 1 Term 1 of 2020. The proposed modifications will not alter the environmental impacts assessed and approved for the land and will not give rise to any additional adverse amenity impacts.

In view of the above, it is recommended that the existing consent be modified to reflect the additional conditions of consent as described in this report.