

30 July 2020

DOC20/731511

Karen Harragon  
Director, Social and Other Infrastructure  
Department of Planning, Industry and Environment  
12 Darcy Street  
Parramatta NSW 2124

Attn: Jason Maslen

Dear Karen,

**Smalls Road Public School (SSD 8372)  
Section 4.55(1A) Modification Application**

The Department of Education (DoE) is seeking to modify Condition E5 and Condition E8 of the development consent for the Smalls Road Public School (SSD 8372) under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposed modifications to Condition E5 and Condition E8 are administrative in nature and seek to amend the timing for commencing post-operational noise and drop-off/pick-up monitoring. The amendments are sought as monitoring activities have been impacted by the COVID-19 restrictions and early monitoring results would not accurately reflect noise generation levels or drop-off/pick-up volumes given school attendance and operations have been significantly affected.

Accordingly, permission is sought for the monitoring to commence within 12 months of the commencement of operation, or at an alternate time agreed by the Planning Secretary.

The proposed modifications to Condition E5 to facilitate the request are outlined below:

*E5. The Applicant must undertake short term noise monitoring in accordance with the Noise Policy for Industry where valid data is collected following the commencement of use of each stage of the development. The monitoring program must be carried out by an appropriately qualified person and a monitoring report must be submitted to the Planning Secretary within ~~two~~ **twelve** months of commencement **of** use of each stage of the development, **unless otherwise agreed by the Planning Secretary**, to verify that operational noise levels do not exceed the recommended noise levels for mechanical plant identified in ~~in~~ the Noise Impact Report, prepared by TTM, dated 7 August 2017. Should the noise monitoring program identify any exceedance of the recommended noise levels referred to above, the Applicant is required to implement appropriate noise attenuation measures so that operational noise*

*levels do not exceed the recommended noise levels or provided attenuation measures at the affected noise sensitive receivers.*

The proposed modifications to Condition E8 to facilitate the request are outlined below:

*E8. Post operational monitoring is to occur to determine if the drop-off/pick-up facility required by Condition D4 is sufficient. The drop-off/pick-up facility must be monitored during the AM and PM peak drop-off/pick-up periods twice weekly for the first school term within 12 months of operation unless otherwise agreed by the Secretary.*

**Following the commencement of monitoring, a** *A monthly report over a six-month period must be prepared by a suitably qualified person including a discussion of the results of the monitoring including:*

- (a) Time period monitored (date, time);*
- (b) Number of students exiting/alighting vehicles;*
- (c) Number of vehicles using the drop-off/pick-up zone;*
- (d) Length of time each vehicle loads/unloads students;*
- (e) An assessment of how the drop-off/pick up zone is operating, and whether there is any observed impact on Smalls Road (eg queuing, illegal stopping, safety etc.);*
- (f) Verification based of the results of traffic surveys at similar Sites; and*
- (g) Any other relevant information as required.*

~~*If after six months of operation,*~~ **At the completion of monitoring,** *if the results of the monitoring indicate insufficient capacity of the drop-off/pick-up zone, alternative arrangements must be made in consultation with Council, to address this issue. Alternative arrangements are to be incorporated into an updated OPTMP and submitted to the Secretary for approval.*

DoE consider the modification can be assessed under section 4.55(1A) of the EP&A Act as it involves substantially the same development and would have minimal environmental impact. DoE note that no change to the proposed scope of works as approved under the original SSD application are proposed under the modification. Additionally, the proposed changes to the timing of monitoring will not will create any additional environmental impacts beyond those considered under the original SSD application and the development will continue to operate in accordance with the approved environmental management plans and post-approval requirements.

A response to Part 6, Division 12, clause 115 of the *Environmental Planning and Assessment Regulation 2000* has been included at **Attachment A**.

DoE looks forward to working with the Department to resolve the matters outlined above. Should you require any additional information or a meeting, please feel free to contact me on 0448534873, or via email at [Tim.Shand1@det.nsw.edu.au](mailto:Tim.Shand1@det.nsw.edu.au)

Yours sincerely



Tim Shand  
**Project Director**  
**School Infrastructure NSW**

Enc: **Attachment A** - Response to requirements under Part 6, Division 12, Clause 115 of the Environmental Planning & Assessment Regulation 2000



## Attachment A - Response to requirements under Part 6, Division 12, Clause 115 of the Environmental Planning & Assessment Regulation 2000

### Response to requirements under Part 6, Division 12, Clause 115 of the Environmental Planning & Assessment Regulation 2000

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 GPO Box 33, Sydney NSW 2001
(b)	a description of the development to be carried out under the consent (as previously modified),	Development of Smalls Road Public School including: <ul style="list-style-type: none"> <li>• a new three storey circular multi-purpose building;</li> <li>• outdoor play areas and covered outdoor learning areas;</li> <li>• refurbishment of existing car parking and construction of new car parking facilities;</li> <li>• refurbishment of multi-purpose sports courts;</li> <li>• fencing, associated landscaping works and infrastructure works; and</li> <li>• out of school hours uses including care facilities.</li> </ul>
(c)	the address, and formal particulars of title, of the land on which the development is to be carried out,	3B Smalls Road, Ryde Lot 1 DP 830420
(d)	a description of the proposed modification to the development consent,	Modification of Development Consent to modify conditions E5 and E8 in Schedule 2, Part E Post Occupation Conditions to allow post-operational noise and drop-off/pick-up monitoring to occur at a later date (within 12 months of occupation unless otherwise agreed by the PS).
(e)	a statement that indicates either:	
(i)	that the modification is merely intended to correct a minor error, misdescription or miscalculation, or	
(ii)	that the modification is intended to have some other effect, as specified in the statement,	The modification is intended to allow for: <ul style="list-style-type: none"> <li>- Short term noise monitoring to occur within twelve months of the commencement of operation unless otherwise agreed by the Planning Secretary.</li> <li>- Monitoring of the pick-up/drop off facility to occur within 12 months of the commencement of operation unless otherwise agreed by the Planning Secretary.</li> </ul>
(f)	a description of the expected impacts of the modification,	Given the impacts of the covid-19 restrictions on the schools operations the modification will allow for post-occupation monitoring to more accurately reflect noise generation levels and drop-off/pick-up volumes.  No additional impacts are expected as result of the modification given no change the scope of works is proposed and the full impact of the completed project has already been assessed and considered as acceptable under the original SSD application. The proposal will be constructed in accordance with the approved environmental management plans and post approval requirements.
(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,	The modification will result in the development remaining substantially the same as the development that was originally approved. No additional works are proposed by the modification.

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(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), and, if the consent authority so requires, must be in the form approved by that authority.	Not applicable
(1A)	An application for modification of development consent must	
(a)	be in the form that is approved by the Planning Secretary and made available on the NSW planning portal, and	Suitable form of application.
(b)	be accompanied by the information and documents specified in the approved form and information or documents required by the Act or this Regulation, and	All relevant information has been provided.
(c)	be lodged on the NSW planning portal.	Lodged via NSW Planning Portal (PMA-8621470)
(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 than an application for the modification of such consent.	Not applicable.
(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:	-
(i)	the design quality principles are addressed in the development, and	Not applicable

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(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 design review panel but not if the application is for modification of a development consent for State significant development.	Not applicable
(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:	-

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(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 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.	Not applicable
(9)	The application must be accompanied by the relevant fee prescribed under Part 15.	DoE fees paid.
(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

