



Alex Avenue Public School Modification 3

State Significant Development Modification Assessment (SSD
9368 MOD 3)

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Glossary

Abbreviation	Definition
BGCDCP	Blacktown City Council Growth Centre Precincts Development Control Plan July 2018
Council	Blacktown Council
COLA	Covered outdoor learning area
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SNN5	Schofields Nominee No.5 Pty Ltd
SSD	State Significant Development
TfNSW	Transport for NSW

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1 Introduction

This report provides an assessment of a modification of a state significant development (SSD) application for Alex Avenue Public School (SSD-9368) at Farmland Drive, Schofields. The application has been prepared by NSW Department of Education (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification seeks approval to revise the proposed staging of the development and make changes relating to the delivery of requirements, including infrastructure related to the development.

1.1 Background

The site is located at Farmland Drive, Schofields (the site) in Blacktown City Council (Council) local government area. The site is located approximately eight kilometres north-west of Blacktown central business district and 700 metres north-east of Schofields town centre and railway station.

The site is legally described as part of Lot 1 and the entirety of Lot 2 in DP1244925 and has an area of approximately two hectares. The site is an irregularly shaped parcel of land with frontage to Farmland Drive to the north.

The site is in a developing area and Farmland Drive has only been constructed along the eastern two-thirds of the northern boundary of the site. The remainder of Farmland Drive is currently under construction, along with a future road to be known as Pelican Road, located along the western boundary of the site.

To the north of the site are houses, to the east is a future open space area under construction by Council. To the west of the site is located a subdivision that is in the early stages of construction for residential purposes, and to the south is vacant land.

Construction of the school is well advanced on site. The site and its surrounding context is shown in **Figure 1**.



Figure 1 | Conditions of the site in December 2020 (Base source: Nearmap 2020)

As stated above, the SSD application relates to part of Lot 1 DP1244925. Lot 1 is a north-south strip of land to the east of the proposed alignment of Pelican Road. The application includes the northern part of the lot, with remainder of the lot being within the ownership of the Applicant but not forming part of the school site. **Figure 2** shows a plan of the area of Lot 1 included in the application (outlined in red) and the remainder of Lot 1 (outlined in green).

The acquisition of Lots 1 and 2 DP1244925 by the Applicant resulted in the potential for Lot 4 DP1244925, located to the south of Lot 2 and east of Lot 1, to be landlocked. As a result, a six metre wide easement for access and services was created along the eastern boundary of Lot 2 (Easement A) to provide access from Lot 4 to Farmland Drive (see **Figure 2**). The Applicant has advised that this easement is intended to be temporary and would be extinguished and replaced by a permanent easement located over Lot 1 to the south of the proposed school site (Easement B). This would allow for access to be provided to Lot 4 from Pelican Road once it has been constructed.

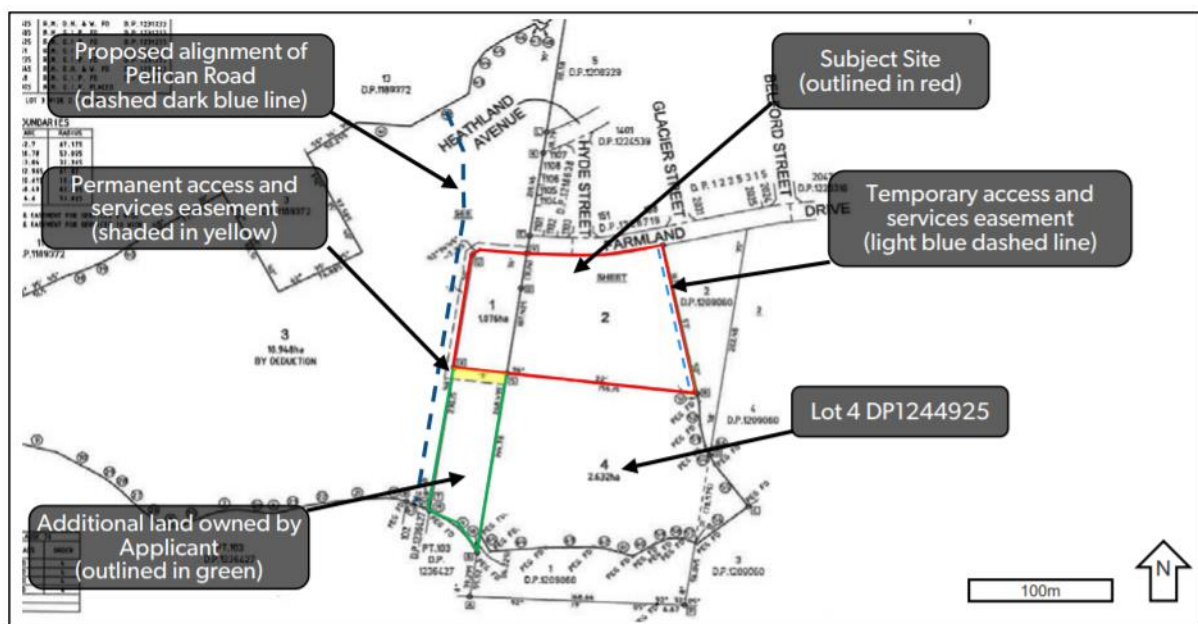


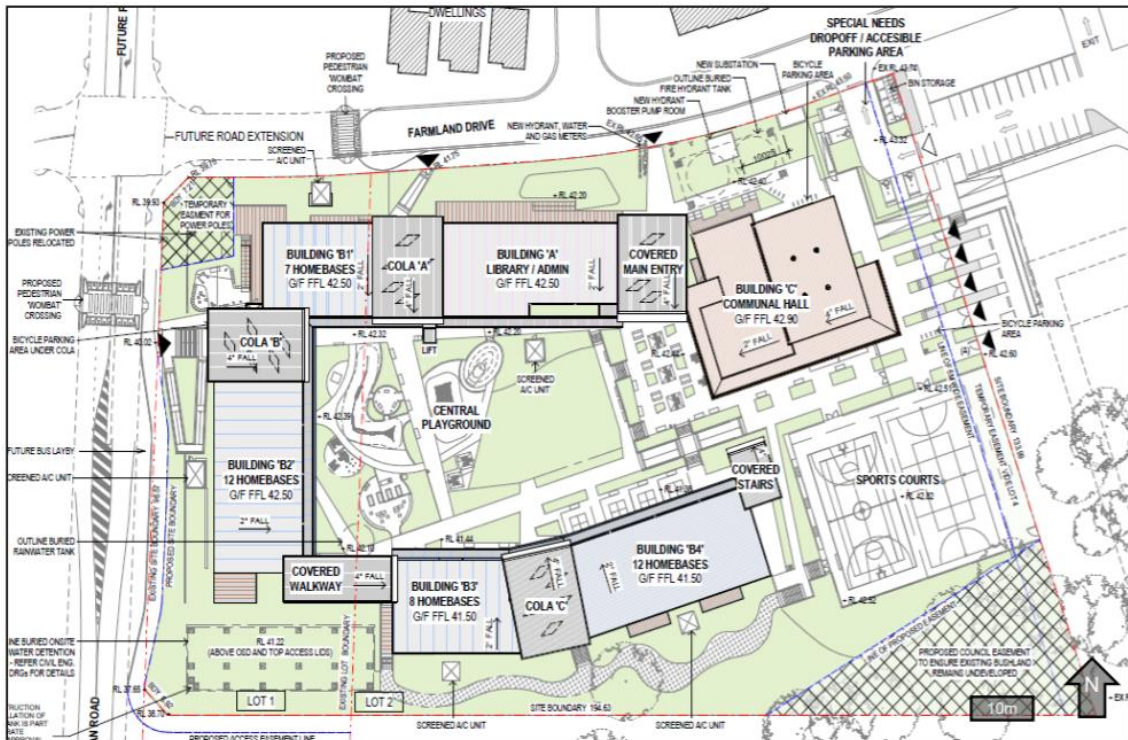
Figure 2 | Configuration of the site and surrounding lots (Source: Department's Original Assessment Report 2020)

1.2 Approval history

On 21 March 2020, the Executive Director, Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces (the Minister), granted consent for the staged construction and operation of a new primary school for up to 1000 students.

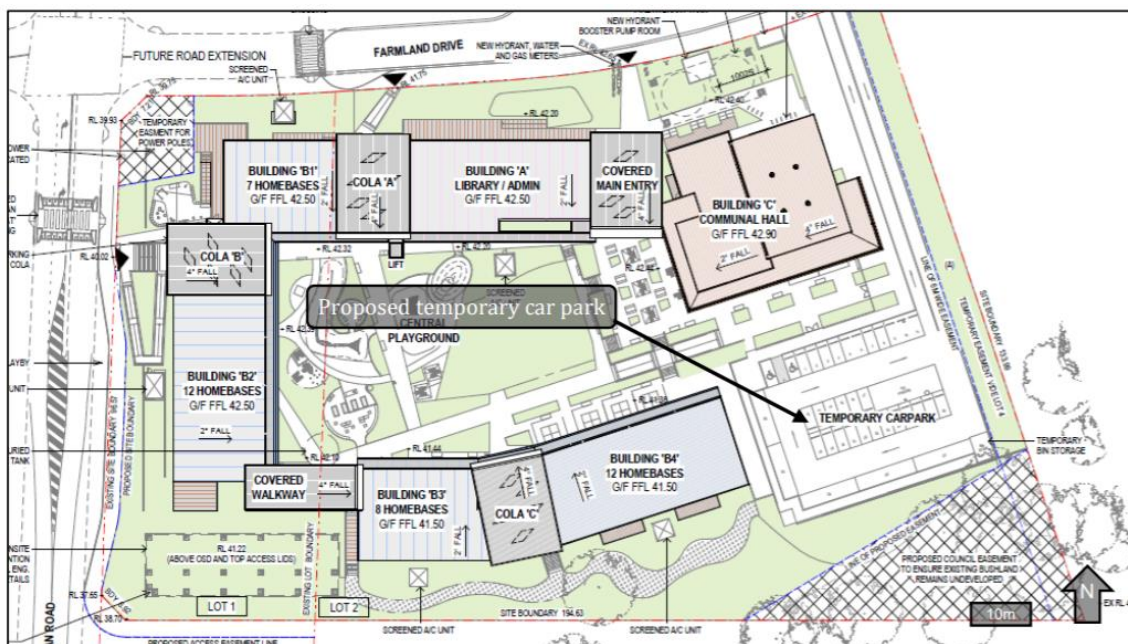
The approved development consists of four learning hubs containing home bases, a hall with canteen and out of school hours facilities, library and administrative building, and associated works including covered outdoor learning areas (COLAs), landscaping, drop-off / pick-up facilities, car parking, signage and infrastructure works. The proposal is to be carried out in stages.

The approved site layout plan is provided in **Figure 3** (Note this does not include minor amendments approved in Modification 2).



The project includes shared use of a car park on a proposed Council reserve to the east of the site under a joint use agreement with Council. Construction of the car park is well advanced as shown in **Figure 1**.

In the event that the shared use car park is not completed in time for opening of the school, the SSD proposal includes the construction of 32 temporary car parking spaces and five drop off / pick up spaces on-site. Construction of the temporary car park is also well advanced as shown in **Figure 1**. The location and layout of the proposed temporary car park is shown in **Figure 4**.



Conditions of the consent reflect the proposed staging of the development and provision of the temporary car park. Conditions also require the construction of Pelican Road and the extension of Farmland Drive to be completed prior to occupation of Stage 1, along with the extinguishment of Easement A.

Modification 1

On 2 October 2020, the Director, Social and Infrastructure Assessments granted approval to SSD 9368 Mod 1 to amend the staging plan as there had been an error in the approved staging plan. As amended, the consent provides for construction and operation over two stages:

- Stage 1 - Construction and operation of the core school facilities, including library, hall, COLAs and basketball courts, and administration and staff facilities, and 19 home bases to cater for up to 600 students.
- Stage 2 - Construction and operation of the remaining 20 home bases and COLAs and final landscaping works to increase the school capacity up to 1000 students.

Apart from the changes to the staging, the development remained as originally approved.

Modification 2

On 2 December 2020, the Director, Social and Infrastructure Assessments granted approval to SSD 9368 Mod 2, which amended:

- the definitions and conditions to allow for the operational readiness of the school.
- the approved architectural and landscape plans under Condition A2 to facilitate minor internal and external design changes along with changes to proposed school identification signs.

2 Proposed modification

The modification application seeks to amend the approved staging of the development and make changes to conditions relating to the delivery of requirements, including infrastructure related to the development.

2.1 Staging

The existing approval is for construction in two stages. The modification would allow construction and operation over three stages (**Figure 5**) as follows:

- stage 1a – construction and operation of the core school facility, including library, hall, partial construction of Covered Outdoor Learning Areas (COLAs) and site landscaping, sports courts, and administration and staff facilities, and 19 home bases to cater for up to 600 students.
- stage 1b – construction and operation of landscaped areas including the school heart.
- stage 2 – construction and operation of the remaining 20 home bases and COLAs and final landscaping works to increase the school capacity up to 1000 students.

The proposed staging essentially defers the completion of the school heart (an area of landscaping at the centre of the site) and a smaller area of landscaping in the north-eastern corner of the site to Stage 1b to allow additional time for completion of the works.

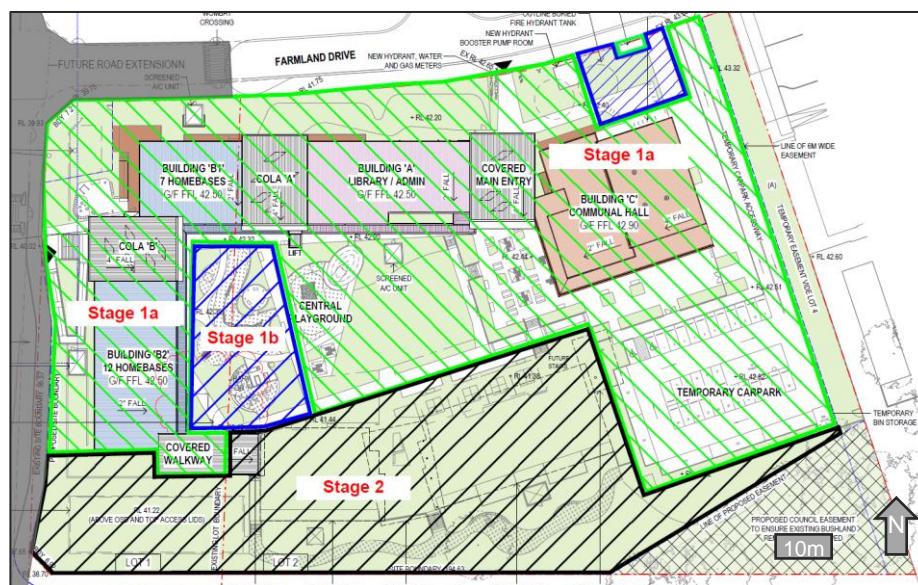


Figure 5 | Amended staging plan (Source: Applicant's Modification Application 2020)

At the completion of Stage 1a, the area for Stage 1b and Stage 2 would be secured with fencing to ensure that students and staff are prevented from entering the construction zones. As all core facilities including carparking and drop-off / pick-up facilities are in Stage 1a, the school would have the capacity to be fully operational until such time that Stage 1b and Stage 2 are delivered. The school capacity in Stage 1a would be up to 600 students.

Construction of Stage 1a is anticipated to be completed by Day 1 Term 1 2021 and Stage 1b is anticipated to be completed in April 2021.

Stage 2 includes the remaining 20 home bases and rectification landscaping works, including construction of the basketball/multi-purpose courts. It would increase the school capacity up to the

already approved 1000 students. The start date for construction of Stage 2 is currently unknown. However, the duration of construction is expected to be a minimum of six months.

The modification seeks to amend conditions throughout the consent to include reference to the revised staging.

2.2 Delivery of requirements

Pelican Road and Farmland Drive construction

The application seeks to revise conditions D9 and D10 of consent that require the construction of Pelican Road, the extension of Farmland Drive and associated footpaths along the frontage of the site to be completed prior to operation of Stage 1. This is requested because the construction of Pelican Road and the extension of Farmland Drive is being delivered by third parties. While construction is well advanced with kerb and channel constructed and asphalt laid, final completion is not guaranteed in time to allow opening of the school on Day 1 Term 1 2021.

The Applicant advises that suitable arrangements would be put in place to ensure safe functional operations, including the provision of a temporary bus stop at the front of the school and parking restrictions along nearby streets (**Figure 6**).



Figure 6 | Proposed parking restrictions and temporary bus bay (Source: Applicant's Modification Application 2020)

Extinguishment of Easement A

The application seeks to revise condition D11 of consent that requires the extinguishment of Easement A to be completed prior to operation of Stage 1. The Applicant advises that Easement A cannot be extinguished until Pelican Road is constructed. Therefore, Easement A would be in place during operation of stage 1a and remain until such time as Pelican Road is constructed and the easement is extinguished in accordance with the agreements with the owner of the benefiting land.

Given the imminent completion of Pelican Road, the Applicant has requested that the conditions of consent be modified to require easement to be extinguished within twelve months of the

commencement of operation of Stage 1a. The Applicant advises that this would allow sufficient time to enable this to be done.

The Applicant advises:

- that the site would be managed to keep the easement clear for the use of the beneficiary with fencing maintained along the boundary of the easement.
- pedestrian pathways along the northern side of Farmland Drive, across the western end of the constructed portion of Farmland Drive and along the site frontage would be available for students and staff to access to the school from the residential areas to the north and east.
- dedicated pedestrian pathways would be available for pedestrians to enter the school from either the:
 - temporary on-site car park and drop-off/pick-up area if the shared use car park is not completed by Council in time for Day 1 Term 1.
 - shared use car park and drop-off/pick-up area when completed.

As Easement A would be in place in proximity to the entrance to the school and between the school entrance and the shared use car park, the Applicant advises that traffic and pedestrian control measures would be put in place on Farmland Drive to ensure the safety of school students, staff and other road users. An excerpt of the Applicant's staging plan that shows the proposed arrangements is included in **Figure 7**.

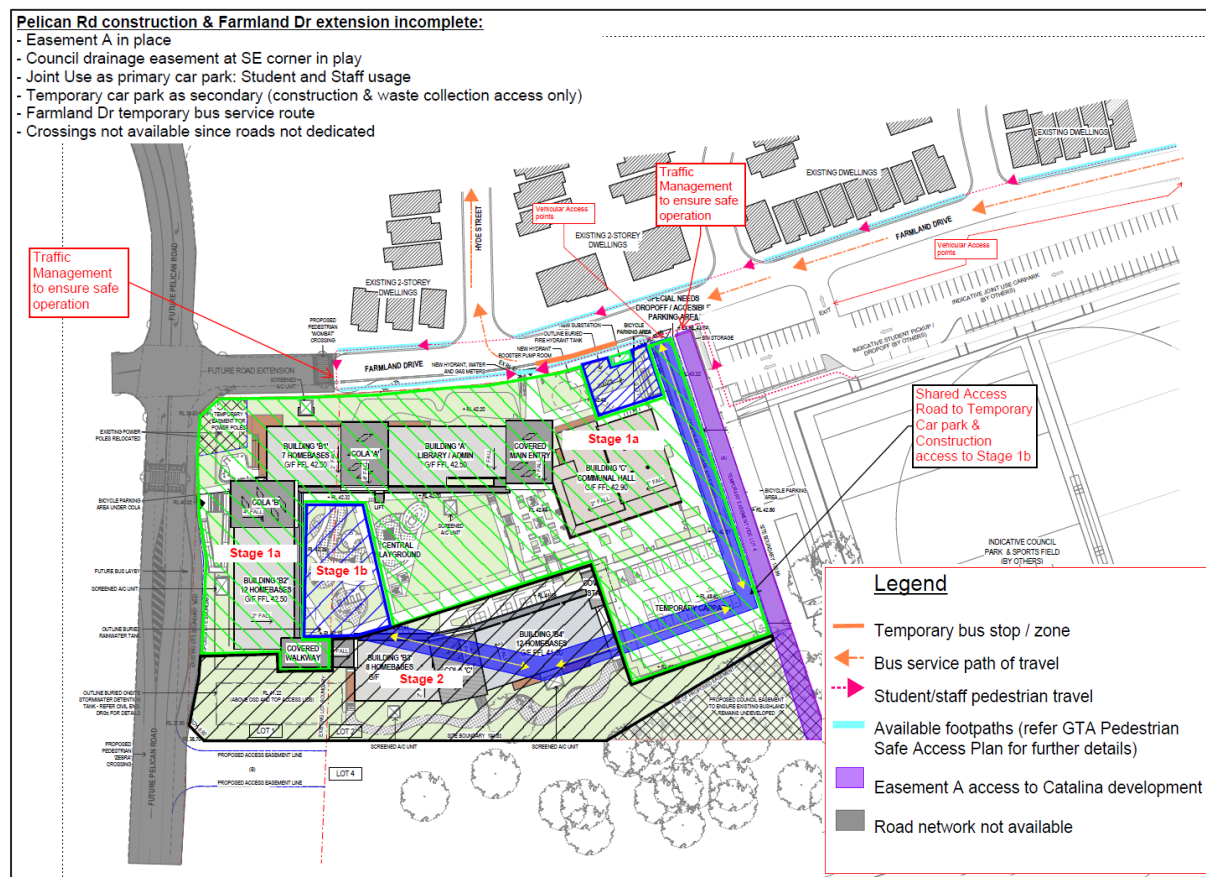


Figure 7 | Proposed management arrangements (Source: Applicant's Modification Application 2020)

Drainage Easement

Condition D45 of the consent requires the Applicant to register a drainage easement over the southern portion of Lot 1 prior to the operation of Stage 1. This was imposed at the request of Council to encompass a proposed drainage line connection from the school to the nominated discharge point to the south of Lot 1.

The modification seeks to alter this condition to require the Applicant to register the easement prior to:

- any subdivision of either Lot 1/1244925 or Lot 2/1244925 other than in relation to subdivision for the purpose of dedication of the area of land identified as Easement B.
- any sale or transfer of ownership of either Lot 1/1244925 or Lot 2/1244925.
- any disposal or acquisition of any part of Lot 1/1244925 upon which the drainage line from the approved OSD tank is located.

Car Parking Provision

The modification seeks to amend conditions D16 and D18 to reduce the number of parking spaces required to be provided within the shared use car park from 80 to 77. The Applicant advises that the reduction in car spaces is required in order to accommodate a boom gate that would restrict access to the on-site drop-off area to priority staff and manage the proper function of the special needs drop-off/pick-up. Students requiring the usage of the special needs drop-off would be given prescribed access to the drop off within this space to ensure safe passage and escort into school grounds.

3 Strategic context

The Department considers the development, to which the modification relates, remains consistent with its applicable strategic context given that it is consistent with the:

- Greater Sydney Region Plan - A Metropolis of Three Cities, as it proposes new school facilities to meet the growing needs of Sydney.
- Greater Sydney Commission's Central City District Plan, as it would provide much needed school infrastructure and opportunities to share facilities with the local community.
- anticipated use of the site identified in the Alex Avenue Precinct Indicative Layout Plan April 2010.
- State Infrastructure Strategy 2018 – 2038 Building the Momentum, as it proposes new school facilities to support the growth in demand for primary student enrolments and facilitates sharing with communities.
- NSW Future Transport Strategy 2056, as it would provide a new educational facility in an accessible location.
- Sydney's Cycling Future 2013, as it would promote and cater for bicycle use through the provision of bicycle parking and end-of-trip facilities.

The approved proposal would also provide direct investment in the region of \$43.9 million and generate more than 300 construction jobs and 70 operational jobs. This is not expected to change as a result of the changes proposed in this modification application.

4 Statutory context

4.1 Scope of modifications

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.
- 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 Section 4.55(2) application or new development application to be lodged.

4.2 Consent authority

The Minister is the consent authority under section 4.5 of the Act.

In accordance with the Minister's delegation to determine SSD modification applications, signed on 9 March 2020, the Director, Social and Infrastructure Assessments may determine this application as:

- the application had not already been referred by the Planning Secretary to the Independent Planning Commission at the time the delegation was issued.
- the application has not been made by a person who has disclosed a reportable donation in connection with the application.
- there are less than 10 public submissions in the nature of objection.

4.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD-9368. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

5 Engagement

5.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impacts. Despite this, the application was exhibited from 11 November 2020 to 24 November 2020 (14 days). The application was made publicly available on the Department's website, notices were sent to adjoining landowners and occupiers and the application was referred to Council and Transport for NSW (TfNSW).

5.2 Summary of submissions

During the exhibition period, the Department received a total of three submissions on the proposal, including one from TfNSW, one from Council, and one from an adjacent landowner. The submission from TfNSW made comments about the proposed modification, while the remaining two submissions were both objections. On 3 December 2020, Department representatives met with the adjacent landowner to discuss the concerns raised.

Copies of the submissions are available in **Appendix A**.

5.3 Key issues raised in submissions

Transport for NSW

TfNSW did not object to the proposed modification, advising that the previous advice provided in July 2020 was still applicable. The previous submission related to:

- TfNSW being the relevant authority to approve school speed zones, and school zone lights and signs.
- that these must be applied for and supplied at no cost to TfNSW.
- that the off-site shared car parking is to be operational prior to the school commencing operation.

Council

Council objected to the proposed modification and requested that the proposed modification is amended and referred back to Council for consideration. The concerns raised by Council related to:

- the basketball/multi-purpose courts not being included in the staging plan.
- the need to remove Easement A to resolve level differences affecting Council's ability to deliver cricket nets on the adjoining Council reserve.
- the need for clarification of the purpose of "Proposed Council Easement to ensure existing bushland remains undeveloped" shown on the submitted plans.
- the turning circle proposed at the current western end of Farmland Drive is to meet specified Council guidelines and cannot encroach into the properties on the northern side of Farmland Drive.
- the proposed on-site detention system and water quality measures must be completed in Stage 1.
- the lack of accessible parking in Figure 9 of the easement management plan.

- the need to ensure that access to Easement A does not affect any trees to be retained for the development, including within the Council easement.

The Department notes that a turning circle was not proposed in the modification application but was previously proposed in the original SSD application. Instead, the Applicant proposed alternative management arrangements as set out in **Section 2.2**.

Adjacent landowner

The owner of the adjoining land (Lot 4 DP1244925), Schofields Nominee No.5 Pty Ltd (SNN5) objected to the proposed modification through their lawyers, Bridges Lawyers. The submission:

- sought to clarify the status of Easement A and requirements to be satisfied to allow the extinguishment of the easement. This included the need for a road to be constructed in Easement B by SNN5 prior to extinguishment of Easement A, which could only be done once the nature and scale of future development of SNN5's land had been determined following progression of the rezoning of the land.
- advised that SNN5 intended on using Easement A in the near future for heavy vehicle access.
- raised concerns with the safety of the Applicant's proposal to commence operations prior to the extinguishment of Easement A. Particularly the safety implications for students, staff and road users on Farmland Drive, particularly given the proposed heavy vehicle access proposed along the easement.
- stated that the Applicant has no right to impose traffic management within Easement A.
- raised concerns about the impacts of proposed road works, including the Pelican Road bus bay, on the future design and function of Easement B.
- noted that the required drainage easement over Lot 1 would traverse Easement B and could impact the future design and use of the easement. Registration of an easement across Easement B would require SNN5's consent but application to register would not.
- raised a number of additional matters not directly relating to the modification, including drainage, land levels, traffic and bus bay management.
- contested the applicability of the changes to be addressed as a section 4.55(1A) modification.
- concluded that the modification should not be supported, having regard to the above issues and the Department's original assessment.

5.4 Response to submissions

The Department requested the Applicant to provide a response to the comments made in the submissions. On 9 November 2020 the Applicant provided a Response to Submissions (RtS) that included separate responses to the comments made by Council and SNN5 (**Appendix A**).

Response to Council submission

The Applicant's RtS advised:

- the basketball courts would be constructed following extinguishment of Easement A.
- the issue of the levels on the eastern boundary is noted and the Applicant is committed to achieve the requirements for extinguishment of Easement A upon dedication of Pelican Road to Council.
- the "Proposed Council Easement to ensure existing bushland remains undeveloped" in the south-eastern corner of the site is required to ensure that the area of the site is not developed,

- and stormwater run-off is not increased and remains as a “state of nature”. This would ensure there is no change in stormwater run-off to adjoining properties as a result of the development.
- that a turning circle is not proposed at the western end of Farmland Drive. Beyond Hyde Street, Farmland Drive is only to be accessible to residents and the traffic management proposals were designed in consultation with Council and have been approved by the Local Traffic Committee. As works on Pelican Road and the extension of Farmland Drive are well advanced, these arrangements would be short-term.
- that the drainage works were either prepared under a separate approval or will be completed in stage 1.
- Figure 9 of the Easement Management Plan depicts the disabled access carparking spaces.
- the Applicant agrees that there would be no impacts to existing trees within Easement A.

Response to SNN5

The Applicant’s RtS identified that many of the issues raised by SNN5 were of a commercial nature and the subject of an ongoing discussions between the Applicant and SNN5. Of the points raised by SNN5, the RtS advised the following:

- the retention of Easement A until such time as the roads and services are constructed in Easement B by SNN5 would unreasonably restrict the school from opening on Day 1 Term 1 2021, and that changes proposed to condition D11 should proceed.
- that SNN5 has raised a number of safety concerns that are theoretical in nature as Lot 4 does not have an approved development consent and that the Applicant has put in place a number of traffic safety measures in the form of proposed traffic management.
- traffic management is not proposed within Easement A as it would be implemented within the Farmland Drive road reserve.
- that Easement A can be extinguished once road access to Easement B is provided, as the conditions require that the easement is provided to the road, not that road access is required across Easement B prior to extinguishment of Easement A.
- that a drainage easement is not required between the lots owned by the Applicant.
- that the additional matters raised by SNN5 are matters addressed within the original SSD application.
- that the proposed development does not breach any relevant planning controls and is substantially the same development as originally proposed and in the public interest should proceed.

Following lodgement of the RtS, the Applicant requested an amendment to the original requested modification to condition D45. Originally, the modification requested that the condition be changed to require the applicant to apply for registration of the drainage easement prior to operation of Stage 1. As detailed in **Section 2.2**, the application, as amended, requests that the condition require the drainage easement be registered prior to.

- any subdivision of either Lot 1/1244925 or Lot 2/1244925 other than in relation to subdivision for the purpose of dedication of the area of land identified as Easement B.
- any sale or transfer of ownership of either Lot 1/1244925 or Lot 2/1244925.
- any disposal or acquisition of any part of Lot 1/1244925 upon which the drainage line from the approved OSD tank is located.

6 Assessment

The Department has considered the modification application in the context of the original approved development in its assessment. The key aspects of the modification are:

- revised staging.
- timing of infrastructure provision.
- timing of easement extinguishment.
- timing for provision of drainage easement.
- car parking provision.
- other issues.

Consideration of the key aspects of the modification is outlined below.

6.1 Revised staging

The key effect in the staging of the development is the separation of the school 'heart' and small area in the north-eastern corner of the site into Stage 1b to allow additional time for completion of the landscaping works in these areas. Otherwise the staging of the development remains as modified in SSD-9368 Mod 1.

The main impact of the deferment of the school 'heart' is that there would be less open space available to students from Day 1 Term 1 2021 to April 2021 when the school heart / Stage 1b is expected to be completed.

While the Department considers that the temporary reduction in the area of open space is not preferred, it is noted that:

- the bulk of the centre play area of the school would still be available to students from Day 1 Term 1.
- school enrolments traditionally increase over time and consequently, the enrolment would not necessarily be expected to be at the maximum enrolment on Day 1 Term 1. This would reduce immediate demand for open space at the school.
- there would only be a short delay between completion of stages 1a and stage 1b.

On this basis, the Department is satisfied that the revised staging is acceptable and recommends that the condition A9 be amended to require the development to be staged in accordance with the details submission in the modification. It is also recommended that the remaining conditions of consent be amended to reflect the revised stages of the development.

6.2 Infrastructure provision

Conditions D9 and D10 require the construction of Pelican Road, the extension of Farmland Drive and footpaths along the two roads to be completed prior to the commencement of operation of Stage 1. These conditions were imposed in consideration of:

- the Applicant's advice that the road construction works had commenced and were expected to be completed in August 2020.
- Council's recommendation that the infrastructure should be in place prior to the school operating.

- the Department's preference for the provision of infrastructure to provide for the orderly and safe operation of the school, including for the accommodation of bus services on Pelican Road.

The Applicant advises that while the construction of the two roads is very well advanced, completion to allow operation on Day 1 Term 1 is not guaranteed. Therefore, the Applicant has requested that the conditions be amended to require the works to be completed within 12 months of the commencement of Stage 1a operations.

Bus access

As discussed in **Section 2**, to provide for bus services, the Applicant proposes the installation of a temporary bus stop on Farmland Drive directly at the main entryway of the school. The Applicant advises that buses would access the temporary bus stop along Farmland Drive, before exiting the area via two right turns to Hyde Street and Heathland Avenue. To allow buses unrestricted movement, 'No Stopping' zones are proposed during drop-off/pick-up hours along the northern side of Farmland Drive, the western side of Hyde Street and the northern side of Heathland Avenue opposite Hyde Street (**Figure 4**).

TfNSW did not raise any objections to the proposed modification. In its submission to the original SSD application, TfNSW supported the provision of a temporary bus stop on Farmland Drive.

The Department considers that the proposal would allow include temporary arrangements for bus services to the school. Location of the temporary bus stop immediately outside the main entrance to the school would allow for a relatively rapid transfer of students to/from the school, reducing the dwell time of busses within the temporary bus stop. Use of the local road network to exit the site in a forward direction would provide for safe vehicle movements and avoid concentrating traffic on Farmland Drive.

The Department recognises that the temporary on-street carparking restrictions would have an impact on residents within the area. However, this is not expected to be significant as each of the roads impacted by temporary parking restrictions would only have one side of the road affected and the immediately affected houses generally have access to off-street parking. Consequently, any additional vehicles which residents own, and are usually parked in on-street parking, would be able to be parked on the opposite side of the respective road, or a in the worst case, a very short walk away from their destination. On this basis, it is considered that the impacts would be acceptable.

Farmland Drive traffic management

Council's submission advised that any turning circle provided at the end of the existing constructed portion of Farmland Drive should be constructed to Council's standards and not impinge on adjoining landowners. In its RtS, the Applicant confirmed that a turning circle would not be provided given that construction of the extension to Farmland Drive is well advanced with kerb and channel and asphalt in place. Instead, traffic management would be implemented at the end of Farmland Drive to exclude non-resident traffic beyond Hyde Street. The Applicant advised that this approach had been designed in consultation with Council and had been subsequently approved by Council's Traffic Committee.

The proposed arrangements would effectively channel westbound traffic on Farmland Drive to turn northward into Hyde Street and use Heathland Avenue and other local streets to return eastward. This would minimise the need for undesirable U-turns on Farmland Drive, reduce potential traffic conflicts and avoid concentrating all traffic on Farmland Drive. The Department considers that these

arrangements would be acceptable and should be implemented in accordance with relevant approvals from Council.

Footpath access

The Applicant advises that pedestrian access would be available from residential areas to the north and east to the school using pedestrian pathways along the northern side of Farmland Drive, across the western end of the constructed portion of Farmland Drive and along the site frontage to the school entrance.

The Department recognises that additional pedestrian infrastructure is now in place along the northern side of Farmland Drive (**Figure 1**) that was not in place at the time of the original assessment. This provides much improved pedestrian access to residential areas to the north and east of the school where much of the school catchment is currently focussed.

The Department is satisfied that the Applicant has set out appropriate arrangements to provide pedestrian access into the school and these should be implemented in accordance with relevant approvals from Council.

Conclusion

The Department recognises that the completion of Pelican Road and the extension of Farmland Drive is outside of the control of the Applicant. However, the Department is satisfied that works are very well advanced and the proposed temporary arrangements would only be implemented on a short-term basis.

Overall, the Department accepts that the modification of the consent to allow Stage 1a to operate prior to the completion of the road works is necessary to enable the school to operate and provide much needed school places to a rapidly growing area. The Department is satisfied that appropriate arrangements are proposed to provide safe access to the school and ensure impacts are minimised. To ensure the arrangements are appropriately designed, the Department recommends that a road safety audit be undertaken prior to their use.

The Department has recommended that conditions D10 and D11 be amended to require the infrastructure works to be completed within 12 months of operation of Stage 1a. As detailed above, the Department has also recommended that A9 be revised to require the development to be staged in accordance with the details submitted with the modification. This will ensure that the traffic and pedestrian management measures set out above are implemented. A further condition requires a road safety audit of these measures prior to their use as recommended above.

6.3 Extinguishment of Easement A

Condition D11 of the consent requires the extinguishment of Easement A to be completed prior to operation of Stage 1. This condition was imposed given that the Department had required Pelican Road and the extension of Farmland Drive to be constructed prior to operation of Stage 1. This meant that the extinguishment of Easement A was possible (subject to any other arrangements required under the provisions of the easement and other legal agreements between the relevant parties) as the construction of Pelican Road would have provided public road access to Easement B. In addition, the condition was imposed in consideration of Council's recommendation that Easement A be extinguished to provide for the orderly and safe operation of Stage 1 and to minimise potential land use conflicts between the site and the adjoining land.

Council and SNN5 objected to the retention of Easement A during operations given concerns about traffic and pedestrian conflicts and associated safety implications. SNN5 also objected to any traffic management being implemented within the easement and noted that this would be contrary to the provisions of the easement. In addition, SNN5 advised that the actions required to extinguish the easement mean that extinguishment within 12 months as proposed by the Applicant is not guaranteed.

As detailed in **Section 2.2**, the Applicant advises that:

- Stage 1 operations would be managed to maintain the easement as required under the provisions of the easement.
- pathways on the northern side of Farmland Drive would provide the main route for pedestrians to the school away from the entrance of the easement onto Farmland Drive.
- a traffic controller would be in place at the entrance to the easement to safely manage the separation of vehicles accessing the easement from children travelling to the school, including from the adjoining shared use car park once it is operational.

The Department has considered the information provided by the Applicant and comments made by the submitters. The Department agrees that extinguishment of Easement A is the preferred approach as it would remove any potential conflicts and simplify access arrangements around the school. However, the delay in completion of Pelican Road by third parties means that the easement cannot be extinguished prior to operation. Therefore, a delay in the extinguishment of the easement is necessary.

The Department has reviewed the Applicant's proposed easement and traffic management measures and is satisfied that appropriate alternative arrangements are proposed to maintain SNN5's rights within the easement and to manage potential traffic and pedestrian conflicts.

The Department notes SNN5's comments that the Applicant has no right to impose traffic management or other restrictions the adjoining landowner's use of Easement A. However, the Department accepts that traffic management may be imposed on the public land outside of the easement where the potential conflicts would arise (i.e. within the public road and the associated public footpaths).

To ensure the provisions of the easement are met during Stage 1a operations, the Department has recommended a condition that requires Stage 1a and Stage 1b operations to comply with the requirements of Easement A at any time.

The Department also notes SNN5's comments on the requirements for extinguishment of the easement and that these appear to differ from advice provided by the Applicant in the RtS. The Department does not hold a position in relation to this issue but accepts that the timing for extinguishment of the easement is not guaranteed. Regardless, the Department considers it appropriate to impose a time limit on resolution of the matter as removal of the easement is preferred as it would simplify access arrangements to the site and enable implementation of the final landscape design across the site. The Department considers that the 12 month timeframe proposed by the Applicant should provide sufficient time for the completion of Pelican Road and other arrangements to be put in place to allow the extinguishment of the easement. This period should not be exceeded.

On the basis of the above comments, the Department is satisfied that the modification of condition D11 as proposed is appropriate and would not result in any significant environmental impacts.

6.4 Drainage easement

Condition D45 of the consent requires the Applicant to register a drainage easement over the southern portion of Lot 1 to the benefit of Lot 2 prior to the operation of Stage 1. This was imposed at the request of Council to encompass a proposed drainage line connection from the school to the nominated discharge point to the south of Lot 1.

The modification, as amended by the Applicant following the RtS, seeks to alter this condition to require the Applicant to register the easement prior to:

- any subdivision of either Lot 1/1244925 or Lot 2/1244925 other than in relation to subdivision for the purpose of dedication of the area of land identified as Easement B.
- any sale or transfer of ownership of either Lot 1/1244925 or Lot 2/1244925.
- any disposal or acquisition of any part of Lot 1/1244925 upon which the drainage line from the approved OSD tank is located.

The justification for this amendment is that the Applicant currently owns Lot 1, the Applicant is unlikely to carry out development which would inhibit its own drainage of Lot 2.

SNN5 objected to the modification of condition D45 as originally proposed as it would allow the Applicant to avoid consulting with, and obtaining consent from SNN5 as would be required for the registration of the easement. SNN5 advises that consent would be required as the drainage easement would traverse Easement B to which SNN5 benefits.

The Department has considered the comments in SNN5's submission and the Applicant's proposed revised wording for condition D45. The Department notes that the purpose of the drainage easement is to provide protection to the proposed drainage line that connects the school site to the nominated discharge point to the south of Lot 1. As Lot 1 is owned by the Applicant and forms part of the school site, the Department is satisfied that additional time can be given to the creation and registration of the easement. To allow additional time for the easement to be registered but ensure that it is done in a timely fashion, the Department has recommended that condition D45 be revised to require the easement to be registered within 12 months of the commencement of Stage 1a operations.

6.5 Car Parking Provision

The modification seeks to amend condition D16 t and 18 to reduce the number of parking spaces required to be provided within the shared use car park from 80 to 77. The Applicant advises that the reduction in car spaces is required in order to accommodate a boom gate that would restrict access to the on-site drop-off area to priority staff and to manage the proper function of the special needs drop-off/pick-up.

The Applicant advises that requirement for 80 spaces under the Blacktown City Council Growth Centre Precincts Development Control Plan July 2018 (BGCDP) is based on a required ratio of one parking space per 100 students and one space per staff member. The Applicant advises that the reduction in spaces is acceptable as there are a number of public transportation options near the school site suitable for staff members, including the Schofields Train Station and bus services on Alex Avenue. Therefore, the Applicant expects that staff members would not be entirely reliant on driving to the school, meaning that not all parking spaces would be required.

The Department notes that:

- Council's proposed car park would have capacity for 100 vehicles, with 77 of those reserved for use of the school. Therefore, additional spaces would potentially be available when not required by the public.
- the proposal includes four accessible parking spaces on the site that would also be used for special needs drop-off / pick up. These spaces could be available to appropriate staff members or visitors outside of drop-off/pick-up times as uses of the spaces would be actively managed.

Given the above, the Department is satisfied that the reduction of parking spaces is acceptable, and that the proposal would still provide more spaces than required under the BGCDP. Consequently, the proposed modification would not have a significant impact on parking on surrounding streets.

6.6 Other Issues

The Department's consideration of other issues raised by Council and SSN5 is set out in **Table 1**.

Table 1 | Department's consideration of other issues

Issue	Comments made	Department's consideration
Basketball/multi-purpose courts	Council queried the absence of basketball courts in the staging plan. The Applicant's RtS confirmed that the basketball courts would be provided once Easement A is extinguished.	The Department notes the Applicant's response and that the basketball courts will be provided when possible as required by the conditions of consent.
Impacts on Council reserve	Council advised that the retention of Easement A would prevent the construction of cricket nets in the proposed Council reserve adjoining the site. This is because of the level changes between the proposed finished level of the reserve and existing levels of the easement. The Applicant confirmed its commitment to extinguish Easement A upon completion of Pelican Road.	The Department notes Council's comments and the Applicant's response.
Staging of drainage works	Council raised objections to the deferral of drainage works, including the on site detention basin as it interpreted from the Applicant's staging plan. The Applicant confirmed in the RtS that drainage works were not to be deferred. There are being delivered	The Department is satisfied that drainage infrastructure will be delivered prior to commencement of operation of the school.

under a separate assessment process as per its advice in the original SSD application.

Accessible parking	<p>Council noted that Figure 9 in the Applicant's Easement Management Plan did not detail proposed accessible parking.</p> <p>The Applicant confirmed in the RtS that accessible parking was detailed in the north-eastern corner of the temporary car park shown in Figure 9.</p>	<p>The Department is satisfied that accessible parking will be provided as part of the development.</p>
Impact on trees from Easement A	<p>Council advised that use of Easement A must not affect any existing trees that are required to be retained on and adjoining the easement. The Applicant accepted Council's advice in its RtS.</p>	<p>Council's advice is noted. Trees must be retained on site in accordance with the provisions of the consent.</p>
Lack of consultation and resolution with adjoining landowner	<p>SNN5 advises that the Applicant has generally failed to appropriately consult with SNN5 in accordance with the agreements entered into by both parties.</p> <p>The Applicant has advised that it has consulted with SNN5 in its management of the development.</p>	<p>The Department acknowledges the comments made by SNN5 in relation to lack of consultation and resolution of issues across the site. The Department encourages the Applicant to consult with SNN5 and all other affected parties to bring about satisfactory resolution of matters and ensure the orderly development of the area.</p>
Proposed instrument in south-eastern corner of the site	<p>Council requested clarification on the purpose of the instrument required over land in the south-east corner of the site under condition D46 of the consent. Condition D46 requires the creation of an appropriate restriction on the use of the land under section 88B of the <i>Conveyancing Act 1911</i> that provides that the area affected is not to be built upon to ensure no</p>	<p>The instrument was proposed by the Applicant in the original SSD application following consultation with Council. The instrument seeks to provide certainty that the south-eastern portion of the site would not be developed such that the overland flow does not increase above its natural state.</p> <p>The Department accepts that additional time is required to</p>

additional stormwater flows are directed offsite.

SNN5 also objected to the Applicant's request that the condition be amended to require the Applicant to apply for registration rather than have to register the instrument prior to operation of Stage 1. SNN5 advised that would allow the Applicant to avoid consulting with, and obtaining consent from, SNN5 as would be required for the registration of the instrument. SNN5 advised that its consent would be required as the drainage easement would encompass land affected by Easement A to which SNN5 benefits.

finalise the details of the easement and appropriately register it.

However, the Department is not satisfied with the revised wording proposed by the Applicant as application for registration would not guarantee that registration is subsequently finalised. Therefore, the Department recommends that the condition be amended to require the Applicant to register the instrument within 12 months of the commencement of operation of Stage 1a. This would align with the timeframe for extinguishment of Easement A and ensure the instrument is appropriately implemented within a timely manner as per the Department's original assessment.

Additional matters relating to drainage, land levels, traffic and bus bay management

SNN5 has raised several issues that were previously raised in relation to the original SSD application.

The Department notes comments made and considers that relevant matters have been considered above or in the Department's original assessment.

Modification application process

SNN5 raised concerns that the modification is not a minor amendment and should not be treated as such.

The Department's consideration of the appropriateness of the modification is set out in **Section 4**.

6.7 Public interest

The Department previously considered the need for a new school in this location and concluded that there was a need for a new school to provide educational facilities to meet demand in a rapidly growing area. The proposed modification would allow the school to commence operations and deliver a critical need to the surrounding community. Therefore, the Department has concluded that the proposed modification is in the public interest.

7 Evaluation

The Department has considered the proposed modification, objections raised and assessed the merits of the proposed modification. The Department has concluded that the modification is appropriate on the basis that:

- the overall bulk and scale of the proposed school would be unchanged from what was originally approved.
- areas of potential conflict between pedestrian and vehicle traffic can be appropriately managed.
- the proposed amendment would not have a major impact on the surrounding environment.
- the proposed modification would ensure the timely and effective operation of an essential service to the community.
- the proposal would not result in any additional significant environmental impacts.

Accordingly, the proposal is in the public interest and it is recommended that the modification be approved.

8 Recommendation

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

- **considers** the findings and recommendations of this report.
- **determines** that the application SSD-9368-Mod-3 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 approve the modification.
- **agrees** with the key reasons for approval listed in the draft notice of decision.
- **modify** the consent SSD-9368.
- **signs** the attached approval of the modification (**Appendix A**).

Prepared by:

Nick Hearfield

Senior Planning Officer

Social and Infrastructure Assessments

Recommended by:



Jason Maslen

Team Leader

School Infrastructure Assessments

9 Determination

The recommendation is **adopted** by:

A handwritten signature in black ink, appearing to read 'KH', with a long horizontal flourish extending to the right.

20 December 2020

Karen Harragon

Director

Social and Infrastructure Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of documents

1. Modification report, submissions and Applicant's further information

<https://www.planningportal.nsw.gov.au/major-projects/project/40521>

2. Instrument of modification

<https://www.planningportal.nsw.gov.au/major-projects/project/40521>

3. Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/40521>