



12 August 2021

Mr Jim Betts  
Planning Secretary  
Department of Planning, Industry and Environment  
12 Darcy Street, Parramatta NSW 2150

Attention: Jason Maslen (Team Leader), Dimitri Gotsis - School Infrastructure Assessments

Dear Mr Betts

**SECTION 4.55(1) MODIFICATION APPLICATION (SSD-9671) - YOUNG HIGH SCHOOL LIBRARY AND JOINT-USE COMMUNITY FACILITY - ARCHAEOLOGICAL HERITAGE CONDITION**

This application has been prepared by School Infrastructure NSW (SINSW) on behalf of NSW Department of Education, pursuant to section 4.55(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) to modify State Significant Development Consent SSD-9671 relating to Young High School Library and Joint-Use Community Facility at 9 Campbell Street, Young (the site).

This administrative modification relates to an amendment to the wording of Condition C25 Unexpected Finds Protocol as directed by the Department of Planning, Industry and Environment (DPIE).

**1.0 Consent proposed to be modified**

Development consent SSD-9671 was granted by the NSW Department of Planning, Infrastructure and Environment (DPIE) on 21 May 2020 for "Partial redevelopment of Young High School and Carrington Park to accommodate a joint-use community and school library" including:

- site preparation works;
- alteration and additions to existing school library to create a staff hub and student amenities;
- construction of a part two-storey and part three-storey new library building;
- extension to the existing Carrington Park carpark
- construction of the Currawong Walk and pathway connections to Carrington Park;

- landscaping works, including planting various shrubs, ground covers and concrete pattern finishes;
- construction of new pedestrian crossings in the surrounding road network; and
- installation of services, stormwater system and signage.

On the basis of the archaeological investigation conducted to date by the project archaeological consultant (Lantern Heritage), together with the analysis and documented reports as submitted to Heritage NSW and (DPIE), the areas of proposed impacts for the Main Works component of the Young High School Redevelopment and Community Facility are now assessed as being of moderate to high potential to contain State Significant relics. The design review process has resulted in a decision to salvage the relics within the project footprint.

As a result of working through the design review process in response to an unexpected find that triggered both Condition B23 and Condition C25, it has become apparent that C25 is dependent upon the NSW Heritage Council providing written approval to recommence investigations and salvage works.

DPIE has considered the wording of Condition C25 and has concluded that the condition incorrectly places the burden of the post-approval role on the NSW Heritage Council (Heritage NSW). As such SINSW is directed to lodge an administrative modification (4.55(1)) of the consent to ensure the post-approval party is the Planning Secretary.

## 2.0 Proposed modifications to the consent

### 2.1 Modifications to conditions

The current and proposed modification to the consent condition C25 Unexpected Finds Protocol – Historic Heritage is identified below:

- **Current Condition:** If any unexpected archaeological relics (including but not limited to prisoner transfer tunnels or similar / associated features) are uncovered during the work, then all works must cease immediately in that area and the Heritage Council contacted. Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. Works may only recommence with the written approval of the Heritage Council.
- **Proposed Condition:** Condition C25 Unexpected Finds Protocol – Historic Heritage. If any unexpected archaeological relics (including but not limited to prisoner transfer tunnels or similar / associated features) are uncovered during the work, then all works must cease immediately in that area and the Heritage Council contacted. Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. **Works may only recommence following consultation with the Heritage Council (or delegate) and with the written approval of the Planning Secretary.**

**Reason:** DPIE has considered the wording of condition C25 and has concluded that the condition incorrectly places the burden of the post-approval role on the Heritage Council. Therefore, the Department has identified the need for an administrative modification (4.55(1)) of the consent to revise the condition to state that that works may only recommence following consultation with the Heritage Council (or delegate) and with the written approval of the Planning Secretary. This modification responds to the request from DPIE that SINSW lodges a modification request through the major project website to amend condition C25 as stated.

It is acknowledged that a determined modification would result in any future documentation required to meet any conditions imposed with the written approval to recommence salvage works being submitted to DPIE for their review. DPIE will consult with Heritage NSW as part of that process.

### **3.0 Notification**

Under the EP&A Act, and relevant Regulations, exhibit of Modification Applications is only requiring should there be greater than minimal environmental impact or where a proponent is seeking to modify a consent that was granted by the Land & Environment Court.

The proposed modification does not meet these criteria and as such does not require public exhibition.

### **4.0 Substantially the same development**

Section 4.55(1) of the EP&A Act states that a consent authority may modify a development consent if “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 a development consent granted by it to correct a minor error, misdescription or miscalculation”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- Does not seek to change any of the approved built form or land uses;
- Will result in the same environmental impacts as the approved development;
- Seeks only to amend the condition to clarify the authorising party to the condition.
- Will ultimately allow the development to be progressed in a timely manner.

### **5.0 Environmental assessment**

Section 4.55(1) of the EP&A Act states that a consent authority may modify a development consent if “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 a development consent granted by it to correct a minor error, misdescription or miscalculation”.

Section 4.55(3) states that the consent authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The EIS submitted for the original SSD Application assessed the proposal's compliance against the following plans and policies:

- NSW State Priorities
- South East and Tablelands Regional Plan 2036
- Future Transport Strategy 2056
- State Infrastructure Strategy 2018-2038 Building the Momentum
- Better Placed
- People Places – A Guide for Public Library Buildings in NSW
- Draft guide for Urban Design for Regional NSW
- EP&A Act 1979
- EP&A Regulations 2000
- Biodiversity Conservation Act 2016
- SEPP 55
- SEPP (Infrastructure)
- SEPP (State and Regional Development)
- SEPP (Education and Child Care)
- SEPP 64 Advertising and Signage
- Young Local Environmental Plan 2010
- Young Development Control Plan 2010

The EIS also assessed the following impacts of the proposed development:

- Built form and urban design
- Operation

- Amenity impacts
- Visual privacy/view impacts
- Overshadowing
- Acoustic Impacts
- Wind
- Built Heritage
- Historical archaeological heritage
- Aboriginal heritage
- Transport and accessibility
- Ecologically Sustainable Development
- Social Impacts
- Waste
- Crime Prevention through Environmental Design
- Construction Impacts
- Contamination
- Hazardous materials
- Infrastructure and utilities
- Drainage/stormwater and flooding
- Tree removal
- Biodiversity
- Sediment, erosion and dust
- Accessibility
- Geotechnical/structural
- Groundwater/salinity
- Site suitability

Since the proposed modification is a "minor error, misdescription or miscalculation" and relates only to the clarification of the authorising party of the condition, the assessment of the proposed development remains essentially unchanged with regard to the above matters. There are no additional impacts or matters to consider triggered by the proposed modification.

## **5.2 Reasons Given for Granting Consent**

The key reasons for granting consent to the original development application were given as follows:

- The project would provide a range of benefits for the region and the State as a whole, including \$21 million in capital investment and 110 jobs, by providing contemporary and improved learning and cultural facilities for the school and the community.
- The project is permissible with development consent and is consistent with NSW Government policies including the State Infrastructure Strategy 2018 – 2038 and the South East and Tablelands Regional Plan 2036.
- The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. The consent authority has imposed conditions relating to traffic, transport and accessibility, heritage, built form, landscaping, construction noise, Aboriginal cultural heritage, stormwater and crime prevention through environmental design.
- The issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- Weighing all relevant considerations, the project is in the public interest.

The proposed modification does not result in any changes to the reasons for granting the original development consent. Conditions can be attached to the approval to recommence the salvage works that will ensure that archaeological heritage is appropriately protected and managed.

## **6.0 Conclusion**

The proposed modification relates to an amendment to the wording of Condition C25 Unexpected Finds Protocol. The amended wording is proposed to confirm the appropriate authorising party to the condition which is the Planning Secretary.

In accordance with section 4.55(1) of the EP&A Act, the consent authority may modify the consent as:

- The modification is a "minor error, misdescription or miscalculation"

- The development, as proposed to be modified, is substantially the same development as the development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,

A handwritten signature in cursive script that reads "Alejandra Rojas".

Alejandra Rojas

Principal Statutory Planner

NSW School Infrastructure

A handwritten signature in cursive script that reads "Marty Smith".

Marty Smith

Project Director

NSW School Infrastructure