

9 March 2022
Our Ref: 20676A.24PS_s4.55(1A)



Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

planning consultants

Attention: Nima Salek

Dear Nima,

**RE: SECTION 4.55(1A) APPLICATION TO MODIFY
DEVELOPMENT CONSENT NO. SSD 9912
ROSEVILLE COLLEGE - 27-29 & 37 BANCROFT AVENUE, ROSEVILLE**

1.0 Introduction

DFP has been commissioned by The Anglican School Corporation to prepare an application under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify development consent No. SSD 9912 (as modified) for proposed minor amendments to the Sport and Wellbeing Centre at Roseville College.

The section 4.55(1A) application seeks to modify Condition A2 relating to the terms of consent and remove Condition D14. Specifically, the proposal seeks to modify Condition A2(d) for the purpose of minor amendments to the approved plans, and seeks to remove Condition D14 relating to compliance with the food code for the food preparation classroom space.

This letter has been prepared in support of the section 4.55(1A) application and includes the information necessary for Council to assess and determine the application including:

- A background outlining the approved development;
- A brief description of the site context;
- Details and reasons for the proposed modifications;
- An environmental assessment; and
- Our conclusion and recommendations.

We have concluded that the proposed modifications will result in a development that is substantially the same as the approved development and will have minimal environmental impact and accordingly, the proposal is considered to satisfy the requirements to enable these modifications to be approved by Council pursuant to s4.55(1A) of the EP&A Act.

2.0 Background

On 18 June 2021, the Independent Planning Commission (IPC) through the NSW Department of Planning, Industry and Environment (NSW DPIE) granted development consent to SSD 9912

for construction and operation of a Sport and Wellbeing Centre on the Roseville College school campus.

Condition No. A2 of the Development Consent relates to the terms of consent and states:

A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent;*
- (b) in accordance with all written directions of the Planning Secretary;*
- (c) generally in accordance with the EIS and Response to Submissions;*
- (d) in accordance with the approved plans in the table below*

Condition No. D14 of the Development Consent relates to compliance with the food code, and states:

D14 Compliance with Food Code:

Prior to the commencement of operation, the Applicant is to obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the AS 4674 Design, construction and fit-out of food premises and provide evidence of receipt of the certificate to the satisfaction of the Certifier.

Section 4.0 of this submission outlines the proposed modifications to the conditions of the consent.

3.0 Site Context

3.1 Site Description

Existing on the Site is the Roseville College School Campus, which is located approximately 500m East of the Roseville Train Station and 1.3km North of the Chatswood Train Station. The Site is located within the Local Government Area (LGA) of Ku-ring-gai Municipal Council (Council). The Site is irregularly shaped, located at the intersection of Bancroft Avenue and Glencroft Road (See **Figures 1** and **2**). The site is located at 27-29 Bancroft Avenue, Roseville and 37 Bancroft Avenue, Roseville and comprises two (2) allotments, as detailed in **Table 1** below.

Site Description		
Property Address	Lot /Sec/ DP	Area (m ²)
27-29 Bancroft Avenue, Roseville	2003/1084428	20,000m ² (approx.)
37 Bancroft Avenue, Roseville	18/C/5035	1,321m ² (from Survey)
TOTAL		21,321m² (2.1Ha approx.)

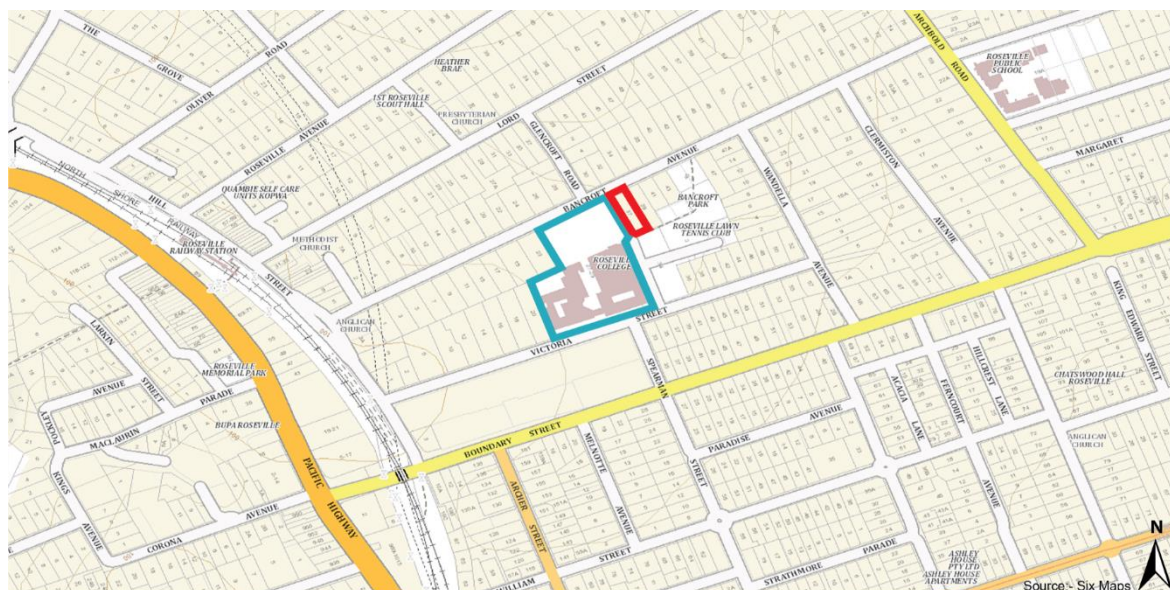


Figure 1 The Site and Surrounds. (27-29 Bancroft Ave outlined in blue, 37 Bancroft Ave outlined in red)

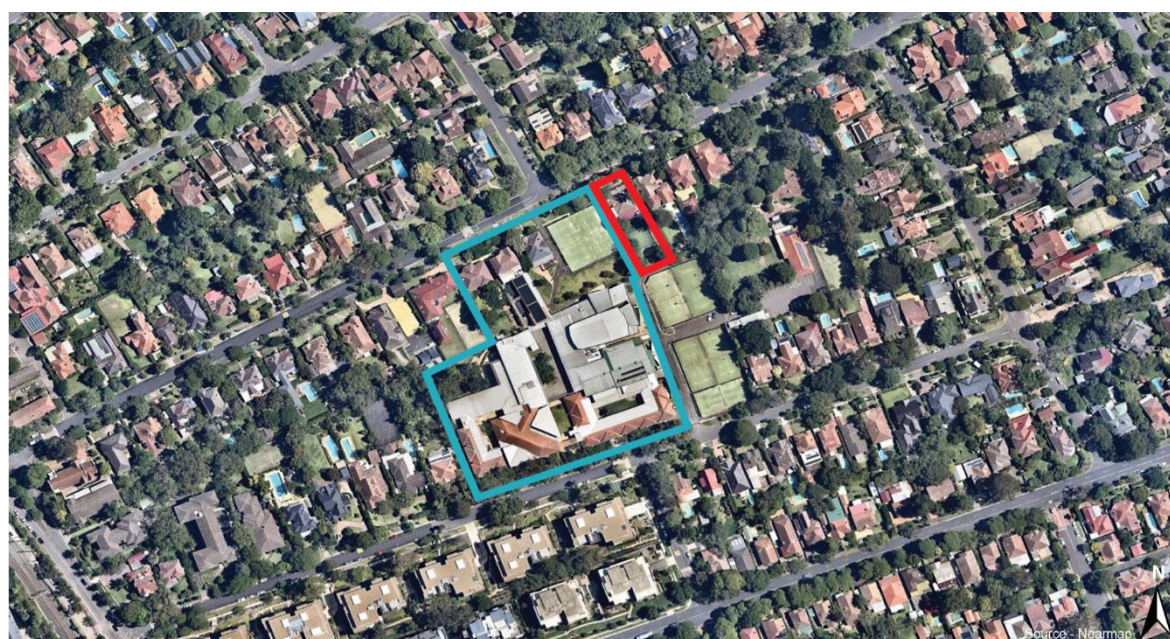


Figure 2 Aerial image of the Site (27-29 Bancroft Ave outlined in blue, 37 Bancroft Ave outlined in red)

3.2 Surrounding Development

The immediate surrounding locality is generally characterised by residential land uses in the form of single detached dwellings to the north, east and west. Opposite the southern end of the site across recreation avenue to the west is the Roseville Lawn Tennis Club, with development to the South of the site characterised by a mixed density of residential flat buildings and large dwelling houses. In a broader context, the Roseville commercial precinct which runs along the Pacific Highway is located approximately 500m to the west of the site.

4.0 Proposed Modification

The proposed modifications primarily relate to minor internal and external modifications, as well as minor landscaping modifications to the approved Sport and Wellbeing Centre (SWELL centre) on the Roseville College school campus, approved under SSD 9912. Modifications

have arisen as a result of the detailed design phase, as well as reflecting the outcomes of requirements of the conditions of consent.

The condition that is subject to these changes is Condition A2, specifically the table of approved plans. The following subsections provide a breakdown of the proposed modifications.

In addition, the proposal seeks to delete Condition D14 relating to compliance with the food code, which applies to the food technology classroom.

4.1 Breakdown of Proposed Modifications

Landscaping

It is proposed to modify the landscaping to part of the northern and eastern boundaries of the school, adjacent to 39 Bancroft Avenue, to reflect the outcomes of the consultation carried out pursuant to Condition B26. The agreed modifications involve a reduction in the number of trees along the eastern side boundary, adjacent to the tennis courts. Previously 13 medium growth trees were proposed to be planted along this boundary, with the modifications proposing to reduce this number to 7 medium growth trees. The reduction in planting will provide for easier access to prune trees and reduced potential for overhang onto the adjacent property, as well as preferred spacing of trees and species that will not inhibit solar access.

Along the northern boundary, the approved landscaping layout is proposed to be minorly reconfigured, in accordance with the amended Landscape Plans prepared by Sym Studio, dated 7 February 2022.

Modifications are also proposed to the forecourt, adjacent to the Isobel Davies Centre. The changes to the forecourt include modifications to stairs and landscaping, involving the planting of an additional deciduous pear tree.

The design of a pergola structure located towards the southwestern corner of the sports court and adjacent to the enclosed verandah / breakout space is also proposed to be modified.

Figure 3 compares the proposed modifications to landscaping with the stamped approved plans.

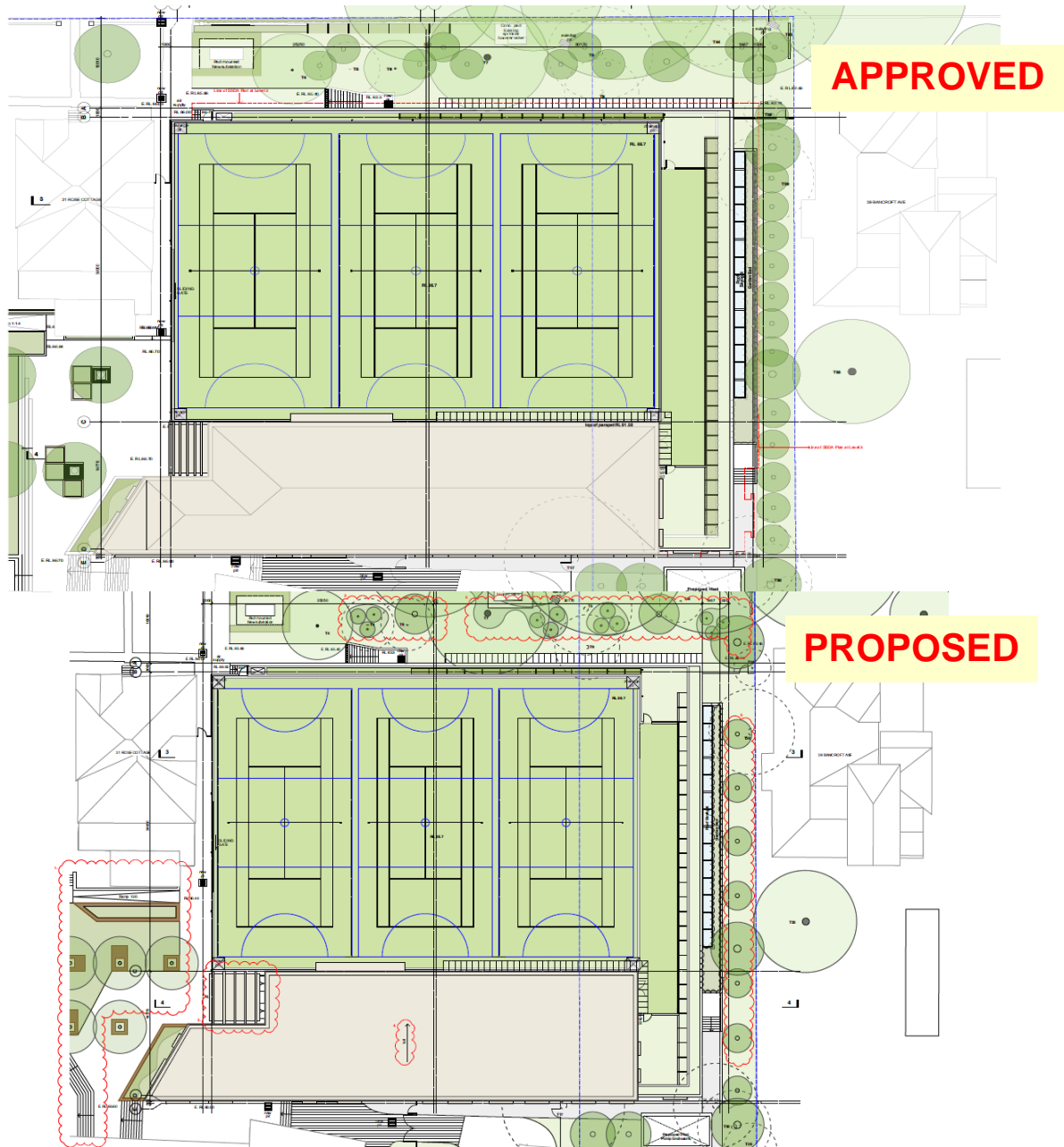


Figure 3 Details of the proposed landscaping amendments compared with what was approved

External Modifications

As provided on the amended southern and eastern elevation plans, it is proposed to modify the location and height of the approved windows. The modified design will provide for more consistency in the scale and separation of the windows along the southern elevation, as well as providing light into areas of internal access.

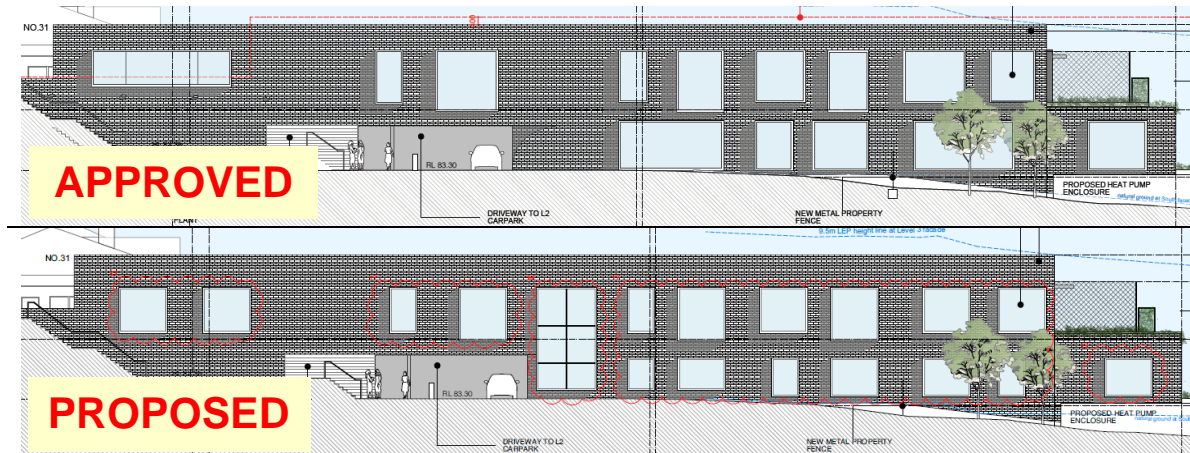


Figure 4 Approved and proposed south (internal) elevation plan, showing modifications to windows

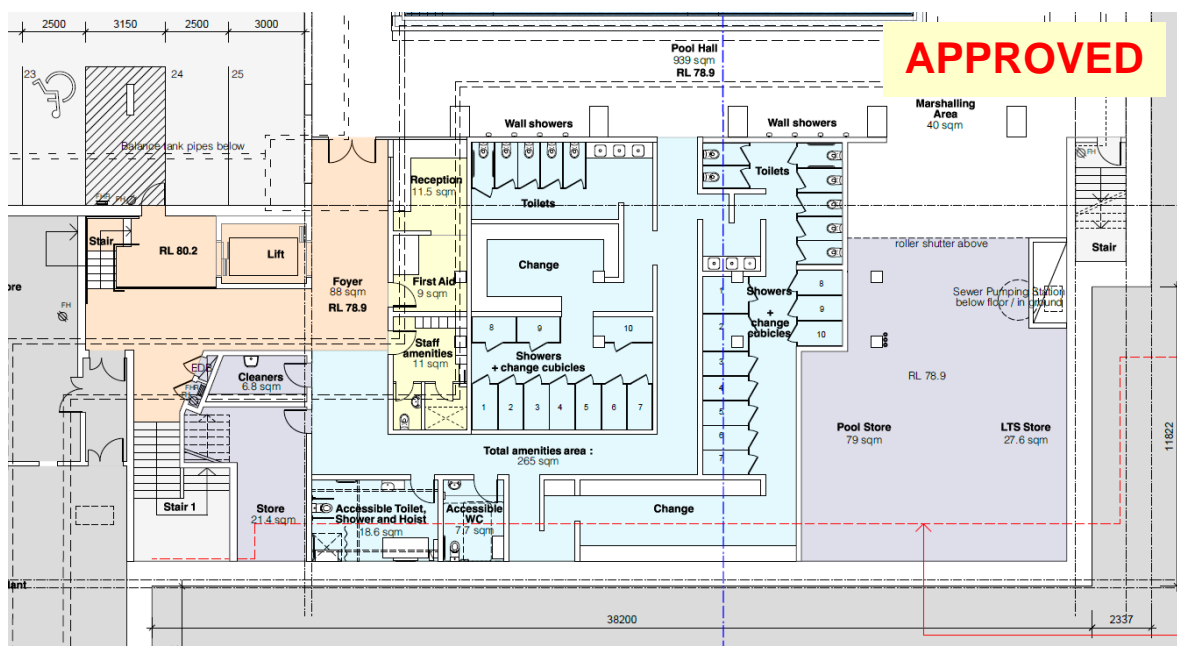
The design of part of the roof will also be modified to incorporate a minor south to north fall, instead of a pitched roof fall. This change in the roof design occurs entirely behind the approved parapet height, so no change to the building height will result from this modification.

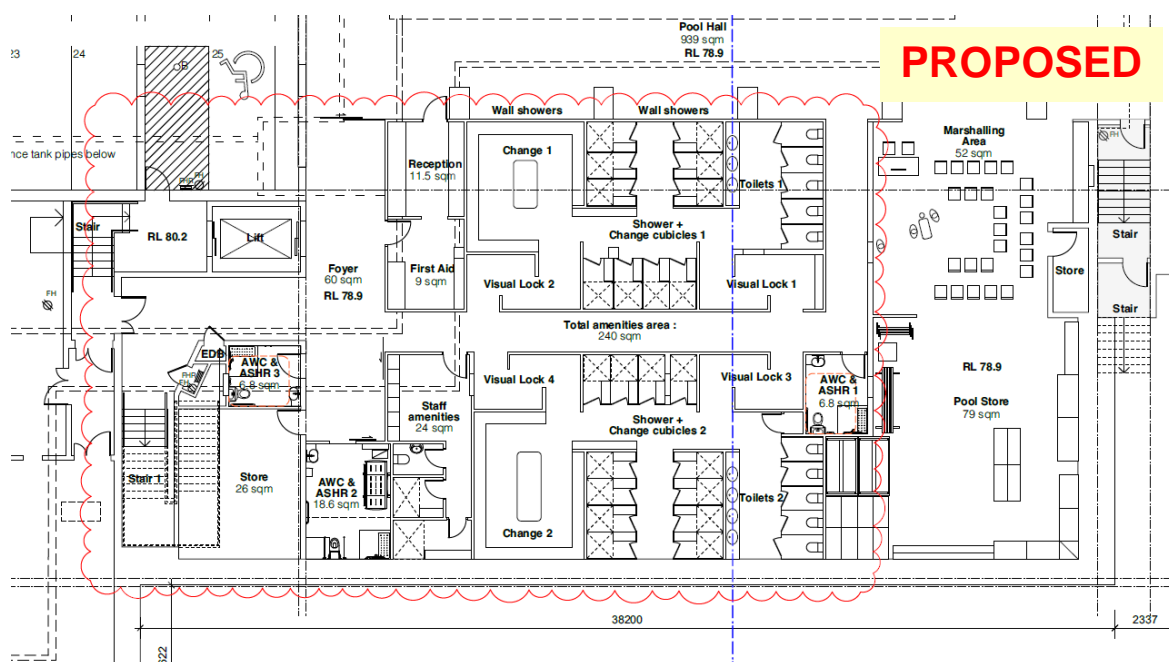
Internal Level 1 Modifications

It is proposed to modify the Level 1 internal floor configuration of the approved SWELL Centre. The modifications involve reconfiguring the bathroom and change room facilities, so as to still comply with the relevant BCA provisions. A small staircase located on the north-eastern corner of the car park is also proposed to be removed.

The shallow area of the swimming pool is proposed to be increased in depth from 1.1m to 1.2m.

Figure 3 below provides a comparison between the stamped approved Level 1 Plan and the proposed modifications as circled in red.





Internal Level 2 Modifications

The mechanical plant and OSD room are proposed to be reconfigured on Level 2 of the SWELL Centre, resulting in an increase in GFA of 15m². The balcony over the pool is proposed to be deleted with associated adjustments made to the circulation areas and rooms adjacent. The sports equipment store room adjacent to the car park is proposed to be modified to incorporate sliding doors.

Adjacent to the Strengthening and Conditioning Room, a Comms Room is proposed, as well as the relocation of a bathroom.

Food Preparation Area

Condition D14 requires that the applicant must certify that “the kitchen, food storage and food preparation areas have been fitted in accordance with the AS 4674 Design, construction and fit-out of food premises”. This requirement relates to the food technology classroom that is included within the approved building.

It is noted that the food technology classroom is not a food preparation space and is not being used for the preparation of food for public/community consumption. Therefore, the requirements of AS 4674 are not considered relevant to the approved works and create unnecessary costs and treatments for the project. It is requested that DPE consider deleting this condition to better align the construction requirements of the works with the intended uses of the classrooms.

4.2 Modified Conditions

To facilitate the modifications as detailed in **Section 4.1** above, the table in Condition A2 of SSD 9912 is proposed to be modified as follows:

For the proposed modifications to the conditions as modified under SSD 9912, the new text proposed is in **red** font, with the old text containing ~~strikethrough~~ text, as detailed below.

Architectural Plans prepared by Brewster Hjorth Architects			
Dwg No.	Rev	Name of Plan	Date
01	I H	Site Plan	03/02/22 19/10/20
02	J I	Level 1 – Plan	03/02/22 19/10/20
03	K J	Level 2 – Plan	03/02/22 28/10/20
04	K J	Level 3 – Plan	03/02/22 28/10/20
05	G F	Roof Plan	03/02/22 28/10/20
06	K J	Elevation North & South	03/02/22 02/02/21
07	K J	Elevation East & West	03/02/22 02/02/21
08	K J	Section 01 & 02	03/02/22 02/02/21
09	K J	Section 03 & 04	03/02/22 02/02/21
10	D	Demolished Plan	19/10/20
12	E D	Detail Section 1:20	03/02/22 19/10/20
13	E D	Signage	03/02/22 19/10/20
Landscape Plans prepared by Sym Studio			
Dwg No.	Rev	Name of Plan	Date
EMP05-DA-101	E D	Concept Landscape Masterplan	07/02/22 29/10/20
EMP05-DA-102	E D	Detail Plan – Bancroft Avenue	07/02/22 29/10/20
EMP05-DA-103	F E	Concept Landscape Planting Plan	07/02/22 29/10/20
EMP05-DA-104	E D	Living Landscape	07/02/22 29/10/20
EMP05-DA-105	D	Existing Tree Impact Study	29/10/20
EMP05-DA-106	D	Bancroft Avenue Street Frontage Visual Tree Study	29/10/20

In addition to the above, it is proposed that Condition D14 would be deleted from the consent:

D14 Compliance with Food Code:

Prior to the commencement of operation, the Applicant is to obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the AS 4674 Design, construction and fit-out of food premises and provide evidence of receipt of the certificate to the satisfaction of the Certifier.

5.0 Statutory Provisions

Section 4.55 of the EP&A Act contains the provisions that must be considered by Council in determining an application to modify a Notice of Determination. In this regard, the relevant section is s4.55(1A) of the EP&A Act.

This application is lodged under s4.55(1A) as the proposed modifications are considered to be minor in nature and will have only minimal environmental impact (see **Section 6.0**).

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 are detailed below.

5.1 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 number of matters be addressed, as discussed below:

“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:

- (a) It is satisfied that the proposed modification is of minimal environmental impact”***

The proposed development to modify Condition A2 and delete Condition D14 of SSD 9912 for the minor amendments as detailed in **Section 4.0** of this report, is of minimal impact in that the modifications will continue to relate to the approved development and deliver the same outcome as that which was approved.

The proposal includes modifications to the approved plans including amendments to the planting layout, internal layout alterations to Level 1 and Level 2 of the SWELL Centre and minor external modifications to windows and part of the approved roof. These modifications are minor in nature, respond to detailed design and consultation requirements, and will enhance the operations of the school moving forward. They are unlikely to generate any additional environmental impact, including no change to building setbacks, building height, materiality of the building or the nature or intensity of the use of the building. The removal of Condition D14 is minor as it aligns the requirements of consent with the intended uses of the classrooms. Accordingly, the Department can be satisfied that the proposed modification is of minimal environmental impact.

- “(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 modifications relate substantially to the development as approved under SSD 9912. The design modifications result from the detailed design process as well as consultation required by the conditions, and will enhance the operations and useability of the SWELL Centre through minor internal layout design changes. The external modifications and changes to landscaping are minor and relate to the development as was previously approved, just achieving a more collaborative outcome. The removal of Condition D14 reflects the intended use of the food technology classroom, and so therefore aligns with the intent of the original approval. It is therefore considered that this proposed modification application will retain substantially the same development as what has been approved under SSD 9912.

- “(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,”

Modification applications to State Significant Development that involves minimal environmental impact (Section 4.55(1A)) are placed on public notification for 14 days (if exhibited).

- “(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 any submissions be received that are associated with the proposed modification application, they will be appropriately responded to during the assessment phase of the application.

Subsections (1) and (2) of section 4.55 do not apply to the proposed modification. Subsection (3) is addressed in Section 6.0 of this submission.

5.2 Clause 115 of the EP&A Regulation 2000

Pursuant to cl115(1) of the Regulation, the information required to be submitted with an application to modify a development consent under s4.55 are contained in this letter and provided as part of the application via the NSW Planning Portal.

Subclauses (2), (3), (3A), (3B), (4), (5), (6), (7), (8), (10), (11) and (12) of cl115 do not apply to the proposed modification.

In accordance with subclause 115A, the relevant fee prescribed under Part 15 of the Regulation will be paid upon notification through the Planning Portal.

6.0 Environmental Planning Assessment

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

In addition, 4.55(3) requires the consent authority to take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Accordingly, the following subsections provide an assessment of any such relevant matters.

6.1 Section 4.15(1)(a) – Planning Controls

6.1.1 State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Part 4 of the Education SEPP sets out specific development controls for schools. Clause 35(1) provides that development for the purpose of a school may be carried out by any person with development consent on land in a ‘prescribed zone’ (as defined within Clause 33 Education SEPP). The SP2 Special Uses Zone and the R2 Low Density Residential Zone, within which the subject site is located within, are identified as prescribed zones for the purposes of Clause 35(1).

The proposed modifications relate to an existing development consent for the purposes of the use of the site as an Educational Establishment (school). Therefore, the considerations of Part 4 and Part 7 of the Education SEPP have already been addressed.

In relation to Clause 35(6) of the Education SEPP, the proposed modifications are considered minor and are substantially the same as what was previously approved.

No increase in student or staff capacity is proposed as part of this modification application and therefore no requirements of Clause 57 are of relevance to this application.

6.1.2 Ku-Ring-Gai Local Environmental Plan 2015

The subject site at 27-29 Bancroft Avenue and 37 Bancroft Avenue, Roseville is located within an area that is zoned SP2 Infrastructure and R2 Low Density Residential. Pursuant to the the *Ku-ring-gai Local Environmental Plan 2015* (the LEP), an Educational Establishment is permissible with consent in the SP2 zone. As established in **Section 6.1.1** of this report, the R2 zone is a prescribed zone and therefore in accordance with Clause 35(1) of the Education SEPP, an Educational Establishment (school) is permissible with consent. The proposed modifications to SSD 9912 do not seek to change the use of the site from what was approved.

Table 2 provides a summary assessment of the proposed development against the relevant provisions of the LEP.

Table 2: Assessment against relevant provisions of the LEP		
Provision	Assessment	Consistent
Clause 2.2: Land Zoning - SP2 – Infrastructure - R2 – Low Density Residential	<p>Pursuant to the LEP, the site is zoned SP2 Infrastructure and R2 Low Density Residential. Educational Establishments are a purpose shown on the land zoning map and therefore are permissible with consent within the SP2 zoned portion of the site.</p> <p>Educational Establishments are a prohibited use within the R2 zone pursuant to the LEP. However, as established in Section 6.1.1 of this letter, the R2 zone is a prescribed zone and in accordance with Clause 35(1) of the Education SEPP, development for the purpose of an educational establishment is permissible with consent.</p>	Yes
Clause 5.10: Heritage Conservation - Clanville Conservation Area	<p>Part of the subject site is located at 37 Bancroft Avenue is located within a heritage conservation area, known as Clanville Conservation Area.</p> <p>The proposed minor modifications to the approved SWELL Centre development that are within this land include a reduction from the approved planting along the eastern side boundary and modifications to part of the landscaping towards the northern boundary.</p> <p>These modifications are considered negligible and will not impact on the heritage significance of the site and surrounding area. Further assessment of the heritage impacts of the proposed modifications is not considered necessary.</p>	Yes
Clause 6.3: Biodiversity Protection	<p>A waiver was issued by the DPIE on 29 October 2019 for the requirement to prepare a BDAR for this project. Nevertheless, an ecological constraints assessment was prepared by Eco Logical Australia to assess the biodiversity values of the site. Those findings concluded that the proposed development had minimal impacts the biodiversity values of the site.</p> <p>As this proposed modification to SSD 9912 relates substantially to the same development as was previously approved, it is unlikely that the proposed works will generate any additional biodiversity impacts towards the site.</p>	Yes

Table 2: Assessment against relevant provisions of the LEP

Provision	Assessment	Consistent
Clause 6.4: Riparian Land and Adjoining Waterways	<p>A minor portion of the south eastern corner of 37 Bancroft Avenue Roseville is mapped as Category 3a riparian land.</p> <p>As described in the Environmental Impact Assessment that accompanied the original application, the proposal has been designed and sited to generally be clear of the riparian corridor and therefore has avoided potential adverse environmental impacts on this small section of land.</p> <p>The minor modifications within the vicinity of this area include the changes to the approved landscaping layout, with which will not likely generate any adverse impacts on the riparian corridor.</p>	Yes

6.1.3 Ku-Ring-Gai Development Control Plan 2021

Clause 35(9) of the Education SEPP provides that a development control plan that specifies a requirement, standard or control is of no effect to development for the purpose of a school, regardless of when the development control plan was made.

Notwithstanding, consideration of the Ku Ring Gai Development Control Plan (the DCP) has been made to assess the proposed modifications against the relevant provisions of the DCP.

Given the minor nature of the works, there are no new elements of the project that warrant assessment against the DCP, and the DCP does not specify any provisions that have not already been addressed as part of the original approval. In this regard, it is considered that no further assessment of the DCP is required as part of this modification application.

6.2 Section 4.15(1)(b) – Natural and Built Environmental Impacts

6.2.1 Biodiversity Impacts

Under the original consent, DPIE granted a waiver for the requirement to prepare a BDAR for SSD 9912. However, Eco Logical Australia (ELA) prepared an Ecological Constraints Assessment for the project. Those findings concluded that the development posed minimal impacts to flora and fauna, considering the biodiversity values of the site.

As the proposed works are considered minor in nature and only relate to minimal external and internal modifications, it is unlikely that the proposed works will generate any biodiversity impacts.

6.2.2 Built Form

The façade treatment to the southern and eastern elevations of the SWELL Centre will adjust the location of some of the approved windows and modify the fall of part of the approved roof. The development does not generate in an increase in building height and the external works result in a built form that is consistent with the approval under SSD 9912, including setbacks and façade materiality.

Having regard to the above, it is considered that the proposed modifications are all of a minor nature in terms of built form and the project will not result in any evident changes from the built form that was approved by the IPC and DPIE.

6.3 Section 4.15(1)(b) – Social and Economic Impacts

Due to the nature of the proposed modification, there will be no change to the social or economic impacts from what was approved within SSD 9912.

6.4 Section 4.15(1)(c) – Suitability of the Site for Development

The subject site has been approved for the purpose of an Educational Establishment (Roseville College). Matters relating to the suitability of the site (including 37 Bancroft Avenue) have been assessed as part of the SSD 9912. The proposed modification works relate to this approved use and as they are substantially the same as the original approval are therefore considered suitable.

6.5 Section 4.15(1)(e) – 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. The proposed modifications to SSD 9912 are determined to meet the provisions of the relevant environmental planning instruments, having regard to the objects of the Environmental Planning and Assessment Act 1979 (the Act). As a result, it is considered that the proposed modifications are within the public interest.

7.0 Conclusion and Recommendations

This submission accompanies an application under section 4.55(1A) of the EP&A Act to modify Condition A2 and delete Condition D14 of Development Consent No. SSD 9912, which approved the construction and operation of a Sport and Wellbeing Centre on the Roseville College school campus

The application seeks to modify Conditions A2 for the purposes of minor internal and external alterations to the approved SWELL Centre, including minor landscaping changes, as well as seeking to delete Condition D14 to reflect the intended use of the classrooms. The minor modifications will largely enhance the operations of the school whilst also not likely to generate any additional visual impacts, as a result of the minor external and landscaping alterations.

The modifications will result in a modified development that is substantially the same as the approved development and the proposed modifications will have minimal environmental impact. Accordingly, the proposal is considered to satisfy the requirements pursuant to s4.55(1A) of the EP&A Act.

Accordingly, we are of the view that the proposed modification is acceptable in this particular instance and can be approved under section 4.55(1A).

Yours faithfully,
DFP PLANNING PTY LTD



THOMAS WEST
PROJECT PLANNER

Reviewed: _____

