



# Redevelopment of Fort Street Public School Modification 2

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State Significant Development Modification Assessment  
(SSD-10340-MOD-2)

June 2023



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# Glossary

Abbreviation	Definition
<b>Applicant</b>	NSW Department of Education
<b>AHD</b>	Australian Height Datum
<b>CBD</b>	Central Business District
<b>CMP</b>	Conservation Management Plan
<b>Council</b>	City of Sydney
<b>Department</b>	Department of Planning and Environment
<b>EEC Building</b>	Environmental Education Centre Building
<b>ESD</b>	Ecologically Sustainable Development
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>FSPS Building</b>	Fort Street Public School Building
<b>Heritage</b>	Heritage NSW, DPE
<b>HIS</b>	Heritage Impact Statement
<b>Minister</b>	Minister for Planning and Public Spaces
<b>NCC</b>	National Construction Code
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>RtS</b>	Response to Submissions
<b>SLEP</b>	Sydney Local Environmental Plan 2012
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for New South Wales
<b>VIA</b>	Visual Impact Assessment

# Executive Summary

This report provides an assessment of a proposed modification to the State significant development (SSD) consent for the redevelopment of Fort Street Public School (SSD-10340). The site is located at Upper Fort Street, Millers Point within the City of Sydney Local Government Area, and the Applicant is the NSW Department of Education (the Applicant).

The modification application (SSD-10340-Mod-2) seeks approval to modify the finished levels of Buildings F, G, H and J, including the surrounding ground levels. The application also proposes to raise the stair lobby roof and lift overrun on Building J.

The site is located at Upper Fort Street within the Millers Point and Dawes Point Village Precinct which is listed on the State Heritage Register. The site includes three local heritage items: the Meteorology Building (the Met Building), the Fort Street Public School Building, and the Messenger's Cottage. The site also contains the archaeological footings of the former Surgeon's Cottage which is of State significance. Sydney Observatory Hill and the National Trust Centre, listed on the State Heritage Register, are located to the north and south of the site, respectively.

The Department exhibited the application for an extended period of 44 days from 3 December 2022 to 15 January 2023 on the Department's website. During the exhibition period, the Department received a total of 50 submissions (36 objections and 10 in support), including comments from Council, six submissions from community organisations, and 43 public submissions. Comments were also received from Heritage NSW.

The objections to the development primarily related to the proposed height increase of Building J. Specifically, concerns were raised that the modification would be inconsistent with the Conservation Management Plan (CMP) particularly, as Building J would be higher than the Met Building, views from the public domain would be impacted, and private views from surrounding residences would be lost.

The Department of Planning and Environment (the Department) has considered the merits of the proposal in accordance with relevant matters under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), principles of ecologically sustainable development, issues raised in public submissions, Council and agency comments, and the Applicant's response to submissions.

The Department is satisfied that the proposal is necessary to meet the operational needs of the school while also protecting significant heritage fabric. The bulk and scale of the changes are sympathetic to the heritage context of the site and consistent with the objectives of the CMP.

In relation to public domain views, the Department's assessment considers the impacts to be minimal. A thorough assessment of views from private properties, having regard to view sharing planning principles, also found the impacts to be minor.

The Department has concluded that the impacts of the proposed modification are acceptable, and that the development is in the public interest. Approval is recommended subject to conditions.

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# 1 Introduction

This report provides the Department of Planning and Environment's (the Department) assessment of an application to modify the State significant development (SSD) development consent for redevelopment of Fort Street Public School (SSD-10340).

The modification application (SSD-10340-MOD-2) seeks approval to modify the finished levels of Buildings F, G, H and J, including the surrounding ground levels. The application also proposes to raise the stair lobby roof and lift overrun on Building J.

The application was lodged by the NSW Department of Education (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1 Background

### 1.1.1 The site and surrounding development

The site is located at Upper Fort Street, Millers Point and is legally described as:

- Lots 106, 107 and 108 in Deposited Plan (DP) 748340
- Lots 2, 3, 4 and 9 in DP 732592
- Lot 2 in DP 244444
- Lot 5 in DP 258013.

The site is located north of the Sydney Central Business District (CBD), approximately 620 metres (m) from Wynyard Station. The site is a circular shaped parcel of land, bounded by the Cahill Expressway (located in a deep cutting known as the Cahill Cut) and the Western Distributor. The site has an area of approximately 6,192 square metres (sqm). The location of the site is shown in **Figure 1**.



Figure 1 | Context Map (Base source: Department Assessment Report, 2020)



The site is currently occupied by Fort Street Public School and contains the following buildings:

- Fort Street Public School Building (FSPS Building), a part one and part two storey building, listed as an item of local heritage significance in the Sydney Local Environmental Plan 2012 (SLEP)
- Messenger's Cottage, a single storey building located in the centre of the site, listed as an item of local heritage significance in the SLEP. Several modifications have been undertaken to the building since its construction in 1862
- Bureau of Meteorology Building (Met Building), a three storey building located immediately west of Messenger's Cottage, also listed as an item of local heritage significance in the SLEP
- Environmental Education Centre (EEC Building), a part one and part two storey building occupied by staff facilities, home base units and the school's Environmental Education Centre.

Pedestrian access is available to the school along Upper Fort Street to the north, and to the south over a shared pedestrian and bicycle bridge over the Cahill Cut to the south-east of the entrance to the site. An additional pedestrian bridge over the Cahill Cut is located to the south of the EEC Building.

A significant Morten Bay Fig Tree is located at the entrance of the school, east of the FSPS Building.

Below the EEC Building, historical archaeological test excavations have confirmed the archaeological remains of the former Surgeon's Cottage. The Heritage Impact Statement (HIS) submitted with the Environmental Impact Statement (EIS), identified these archaeological resources as being of State significance, as they have the potential to provide information about government establishment from the early colony.

An aerial view of the site is shown in **Figure 2**.



**Figure 2 | Aerial of the site (Source: Department Assessment Report, 2020)**

The Cahill Cut immediately adjoins the northern, western, and southern boundaries of the site. The Cahill Expressway emerges into the Cahill Cut from the Bradfield Tunnel to the north-east of the site, then encircles the site to join the Western Distributor to the south-west of the site.

Sydney Observatory, a public observatory and museum of astronomy and meteorology, and Observatory Hill Park, are located immediately north and north-west of the Cahill Cut. Sydney Observatory is listed as a site of heritage significance on the State Heritage Register.

The Rocks is located to the east of the site, separated by the Western Distributor. Several high-rise commercial and retail developments directly overlook the site.

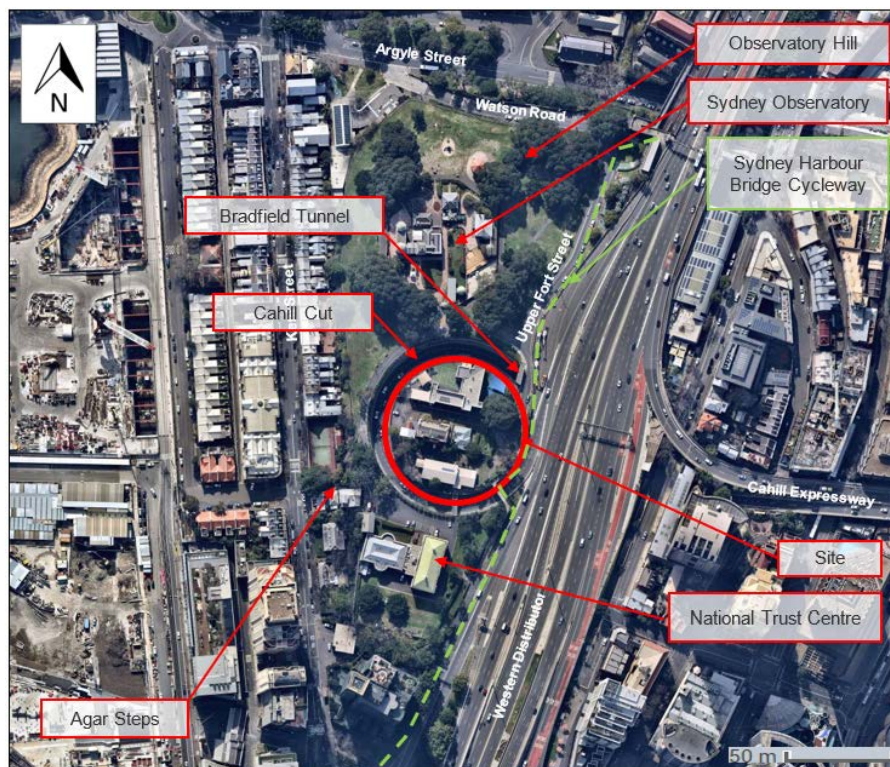
The National Trust Centre is located to the south of the Cahill Cut. This is listed as a site of heritage significance on the State Heritage Register, and includes the S.H. Ervin Gallery, gallery administration, cafe and former caretaker's cottage. The National Trust Centre was formerly a school building from 1849 to 1975.

The Agar Steps, which lead down to low density residential dwellings on Kent Street, are located to the west of the site.

The Sydney Harbour Bridge cycleway runs along Upper Fort Street to the east of the site, connecting to the CBD over the shared pedestrian / cycleway bridge to the south-east of the school entrance.

The site, Observatory Park, and the National Trust Centre form part of the State Heritage Register curtilage of the Millers Point and Dawes Point Village Precinct.

The surrounding development is shown in **Figure 3**.

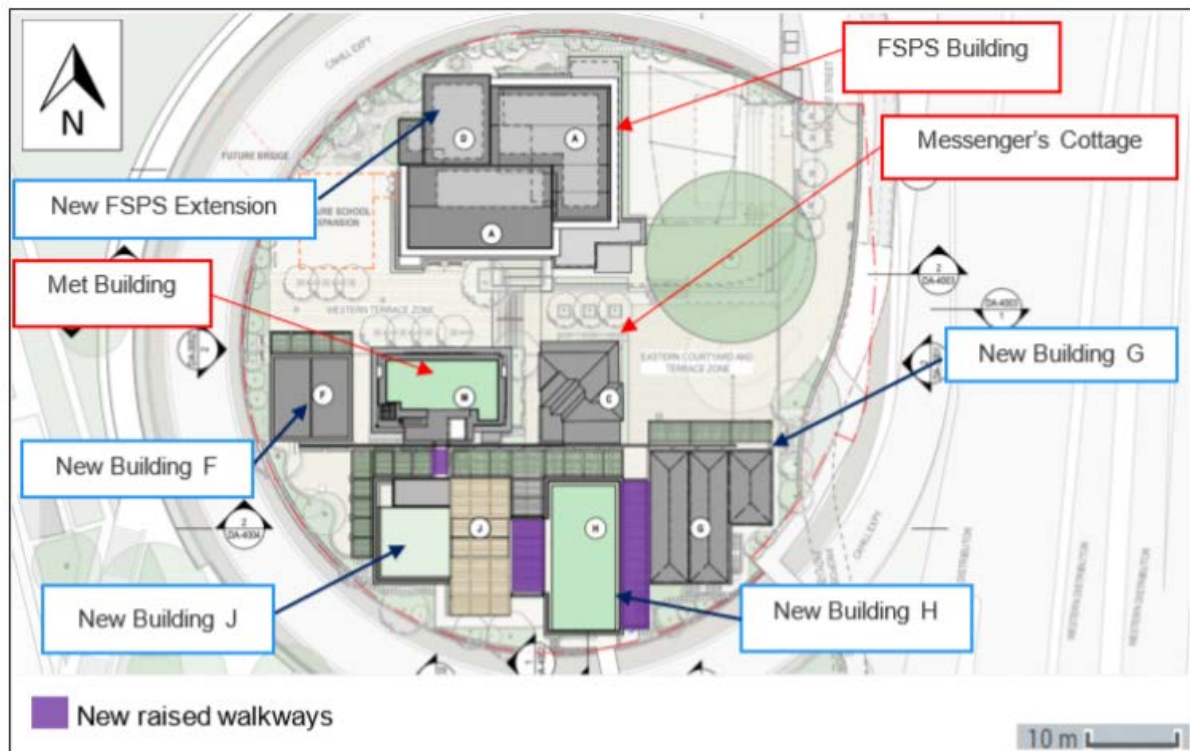


**Figure 3 | Surrounding Site Context Map (Source: Department Assessment Report 2020)**



## 1.2 Approval history

On 7 October 2020, the Deputy Secretary, Assessment and System Performance, as delegate for the Minister for Planning and Public Spaces (the Minister), granted consent for the redevelopment of Fort Street Public School, comprising demolition of selected buildings and structures, construction of four new buildings, refurbishment of existing retained buildings, alterations to drop-off and pick-up arrangements and associated works, including tree removal, landscaping and consolidation of lots. The approved site plan is shown in **Figure 4**.



**Figure 4 | Approved site plan (Source: Department assessment report, 2020)**

The approved building works include:

- demolition of the EEC Building
- alterations and additions to the:
  - FSPS Building, including:
    - internal refurbishments and alterations
    - an extension to the north-western corner of the building
    - new lift to provide access from the ground floor to the second floor
    - new COLA
    - installation of photovoltaic cells on the roof
  - Met Building, including:
    - internal refurbishments and alterations
    - alterations to the roof to create new outdoor learning and play area
    - new lift to provide access from the ground floor to the roof
    - raised walkways on Level 1 and Level 2 to provide direct access to the Level 1 and roof level of Building J

- Messenger's Cottage, including a new addition to the south-western corner
- construction of four new buildings, including:
  - Building F, a new single storey building
  - Building G, a single storey community hall with direct access to Building H and a basement level for storage, plant and servicing
  - Building H, a two storey building, including a trafficable roof area, linked to Building J on every level via raised walkways
  - Building J, a two storey building, including a trafficable roof area with a plant room, linked to Building H on every level via raised walkways.

The approved landscape and public domain works include:

- alterations to the drop-off and pick-up area
- amendment to the Bradfield Tunnel Services Building
- widening a portion of Upper Fort Street to six metres
- removal of 19 trees and replacement planting of 59 trees.

Conditions of consent included completion of landscaping and the drop-off and pick-up area in two phases, to correspond to the Kent Street-Sydney Harbour Bridge Cycleway upgrade carried out by Transport for NSW (TfNSW). Phase 1 is before the cycleway upgrade and Phase 2 is after the cycleway upgrade.

The development consent has been modified on one occasion. MOD 1 was approved by the Deputy Secretary, Assessment and System Performance under 4.55(2) of the EP&A Act on 22 December 2021. The following modifications were approved:

- internal and external design changes to all buildings, including relocation of the lift from the Meteorology Building to Building J and new trafficable rooftop above Building J
- amendments to landscape design, external lighting, and stormwater management system
- access arrangements including changes to the Bradfield Services Tunnel Building, Upper Fort Street width and drop-off and pick-up arrangement.

## 2 Proposed modification

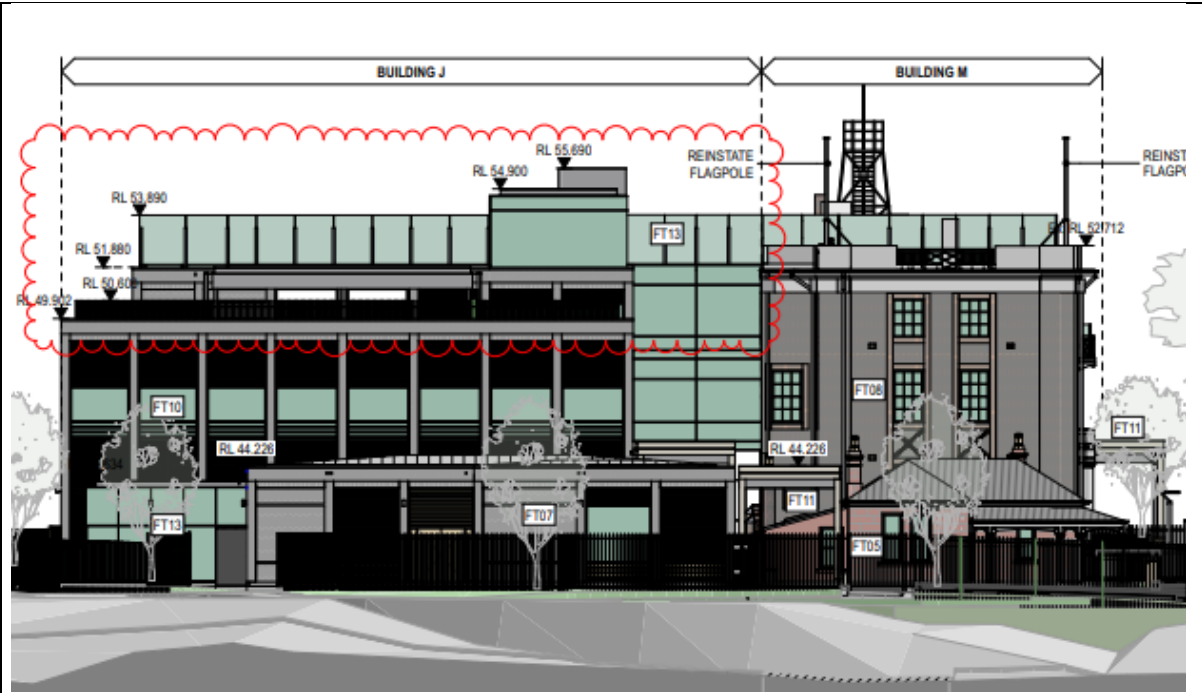
The proposed modification seeks consent to amend Buildings F, G, H and J. Details are provided in **Section 2.1** below.

### 2.1 Design changes

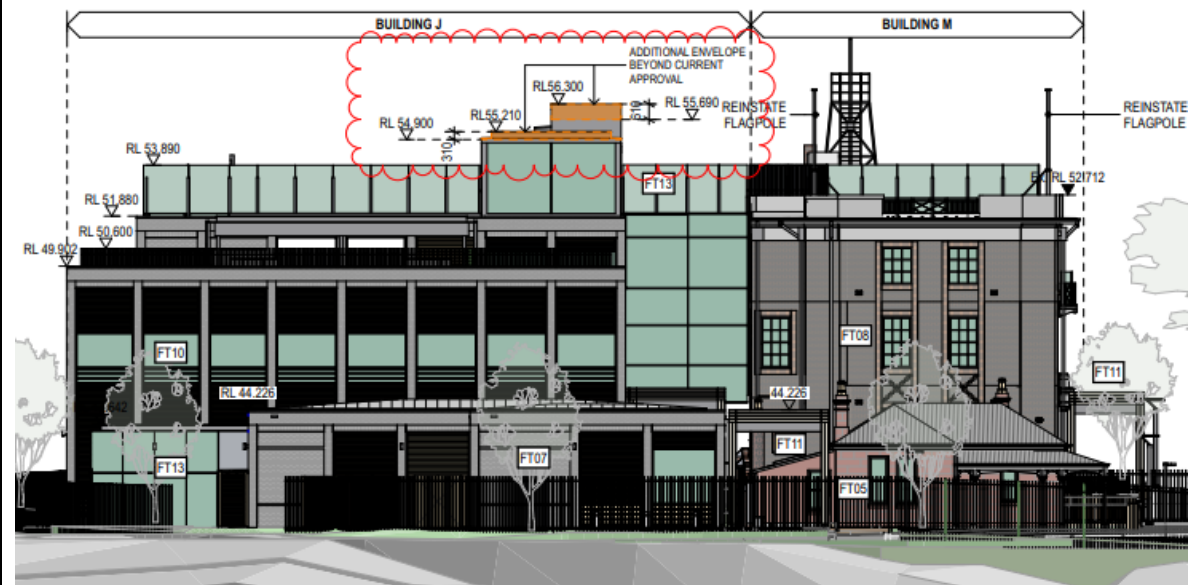
The proposed modifications to each building are described in **Table 1**. A comparison of the approved plans and key proposed modifications are shown in **Figure 5** to **Figure 8**.

**Table 1 | Proposed modifications to school buildings**

Building	Modifications
Building F	<ul style="list-style-type: none"> <li>Lowering of the entire building envelope by 260mm</li> <li>Finished floor level lowered from FFL 41.155 to FFL 40.895</li> <li>Parapet lowered from RL 45.197 to RL 44.937</li> <li>Lowering of external ground levels to align with the lowered building envelope.</li> </ul>
Building G	<ul style="list-style-type: none"> <li>Ground floor level lowered from FFL 39.754 to FFL 39.582 (172mm)</li> <li>Lowering of external ground levels to align with the lowered finished floor level.</li> </ul>
Building H	<ul style="list-style-type: none"> <li>Part of ground floor (adjoining Building G corridor) lowered from FFL 39.754 to FFL 39.582 (172mm)</li> <li>First floor level lowered from FFL 45.172 to FFL 45.086 (86mm)</li> <li>Minor external amendments to the sills and headers of the glass facades to accommodate the floor level change.</li> </ul>
Building J	<ul style="list-style-type: none"> <li>Lift shaft roof raised from RL 55.690 to RL 56.300 (610mm)</li> <li>Stair lobby roof raised from RL 54.900 to RL 55.210 (310mm)</li> <li>Lift lobby floor level lowered from FFL 40.170 to FFL 39.946 (224mm)</li> <li>First floor level lowered from FFL 45.172 to FFL 45.086 (86mm)</li> <li>Minor external amendments to the sills and headers of the glass facades to accommodate the floor level change.</li> </ul>
Materiality	<ul style="list-style-type: none"> <li>Additional solid/opaque fire rated spandrels to the bridges between the Met Building and Buildings H and J; and to the glazed facade of Buildings G, H and J.</li> </ul>



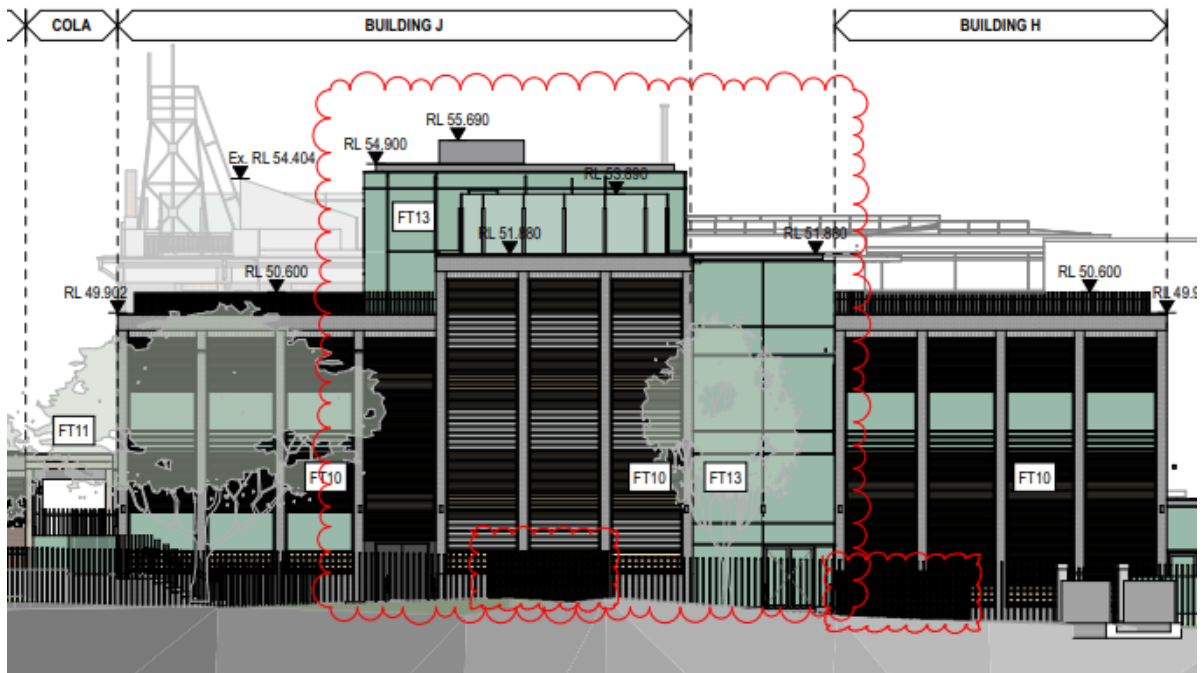
Approved East Elevation - Building J and Building M



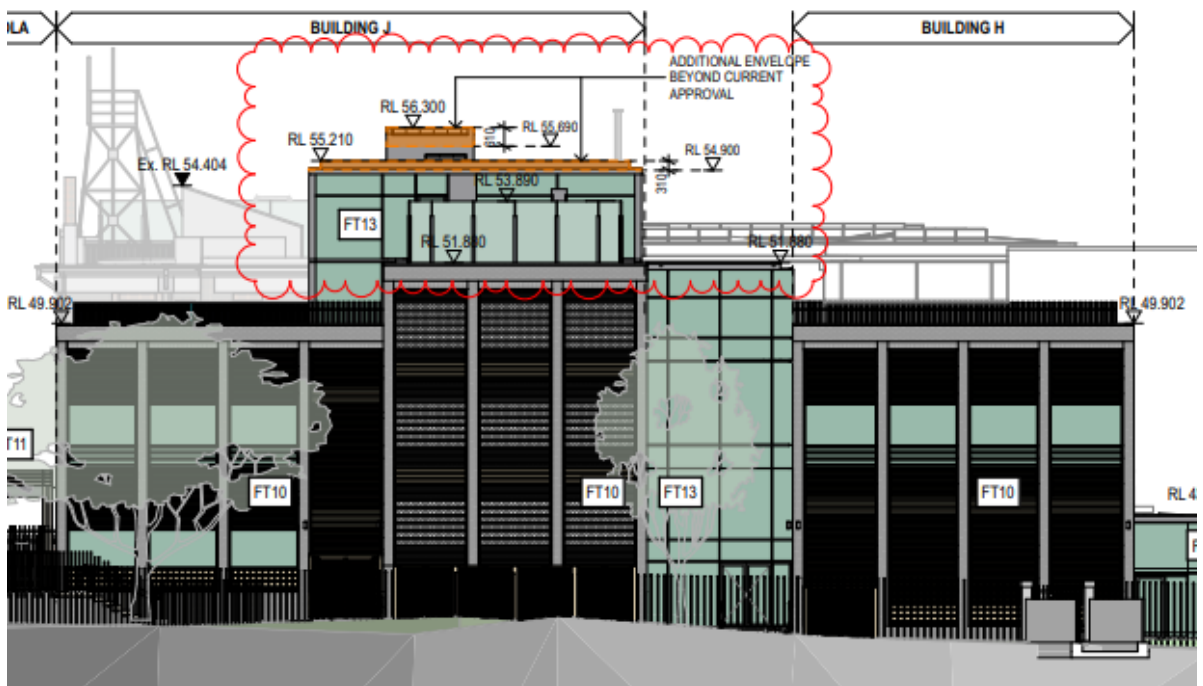
Proposed East Elevation – Building J and M

Figure 5 | East Elevation as approved and as proposed to be modified (Source: MOD 1 (above) and Applicant’s submission for MOD 2 (below))





Approved South Elevation Building J and H



Proposed South Elevation Building J and H

Figure 6 | South Elevation as approved and as proposed to be modified (Source: MOD 1 (above) and Applicant's submission for MOD 2 (below))

**Approved Scheme**



**Proposed Modification**



**Figure 7 | View from the north east (Source: Applicant's Architectural Design Statement)**

**Approved Scheme**



**Proposed Modification**



**Figure 8 | View from the west (Source: Applicant's Architectural Design Statement)**

## **2.2 Project justification**

### **2.2.1 Floor level amendments to Buildings G, H and J**

The Applicant has advised that the ground floor level amendments and external ground level changes are to reduce backfilling from removal of contaminated topsoil from the site. Lowering the floor level of Building G would also provide a taller floor to ceiling clearance. The Applicant notes the overall zone of impact on the site would not change, and there would be no adjustments required to the Remediation Action Plan or Archaeological Research Design.

In the case of the changes to the finished floor level of Level 1, these are required to ensure the connections to the Met Building are appropriately aligned following detailed surveys of the heritage fabric. The changes are primarily internal, and external modifications to these buildings would be limited to minor changes to the articulation of glazing.

### **2.2.2 Building envelope amendment to Building F**

The Applicant has advised that the amendment to the Building F envelope is again a result of the topsoil removal which has ultimately lowered finished ground levels in this location. The lowering of Building F would align with the new ground levels and minimise backfilling on the site. The Applicant confirms that the level change would not affect archaeology on the site. As a consequence, visibility and amenity to the Met Building would also be improved.

### **2.2.3 Building J lift overrun and stair lobby roof amendment**

The proposed increase to the height of the lift shaft roof and stair lobby roof was influenced by multiple factors, including:

- the detailed design process found that structural components require additional vertical dimension to accommodate the roof frame
- the footprint of the lift shaft is constrained by proximity to existing heritage fabric, and recent discovery of archaeological finds including a remnant brick drain and footings
- a series of design studies were conducted analysing the impacts of a range of lifts on the development. Alternate lifts would require an onerous degree of customisation, taller overruns, or a larger lift shaft than proposed
- a lesser increase in height of the lift shaft and lobby stair or retention of the existing envelope would require a broader footprint requiring layout changes and exacerbating impacts on surrounding heritage fabric.



### 3 Strategic context

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

- provide improved school facilities to meet the growing needs of Sydney, as consistent with the Greater Sydney Commission's (GSC) Greater Sydney Region Plan, *A Metropolis of Three Cities*
- provide opportunities to co-share facilities with the local community, consistent with the GSC Eastern City District Plan
- provide an improved educational facility in an accessible location and provide access to additional new employment opportunities close to public transport, consistent with Transport for NSW's *Future Transport Strategy 2056*
- propose a school design to accommodate infrastructure and facilities sharing with communities, consistent with the *State Infrastructure Strategy 2018 – 2038 Building the Momentum*
- promote and cater for bicycle use through the provision of end-of-trip facilities, consistent with the *Sydney's Cycling Future 2013*
- provide direct investment in the region of approximately \$53,893,955, which would support 229 construction jobs and 20 operational jobs.

## 4 Statutory context

### 4.1 Scope of modification

The Department has reviewed the scope of the modification application and considers that it can be characterised as a section 4.55(2) EP&A Act modification application as the proposal:

- would not significantly 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.

Accordingly, the Department considers that the proposal should be assessed and determined under section 4.55(2) of the EP&A Act, rather than requiring a new development application to be lodged.

### 4.2 Consent authority

#### 4.2.1 Minister's delegate as consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2022, the Executive Director, Infrastructure Assessments may determine the application.

### 4.3 Mandatory matters for consideration

Since the assessment of the original development application, all NSW State Environmental Planning Policies have been consolidated into 11 policies. The consolidated SEPPs commenced on 1 March 2022, with the exception of State Environmental Planning Policy (Housing) 2021, which commenced on 26 November 2021.

The SEPP consolidation does not change the legal effect of the repealed SEPPs, as the provisions of these SEPPs have simply been transferred into the new SEPPs. Further, any reference to an old SEPP is taken to mean the same as the new SEPP. The Department has considered the proposed modification against the relevant provisions of the consolidated SEPPs.

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD-10340. 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.

The Department has considered the findings and recommendations in the Department's Assessment Report for SSD-10340, including the key reasons for granting consent. The Department is satisfied that the key reasons for granting of the consent continue to be applicable to the development, as modified.

# 5 Engagement

## 5.1 Department's engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and section 106 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), the Department exhibited the application for 44 days from 3 December 2022 to 15 January 2023 on the Department's website. The Department notified adjoining landowners, previous submitters, and relevant state and local government agencies in writing.

The Department has considered the comments raised in the government agency advice and public submissions during the assessment (**Section 6**) and/or by way of recommended amendments to conditions in the instrument of consent at **Appendix B**.

## 5.2 Summary of advice received from government agencies

During the exhibition period, the Department received advice from Heritage NSW. In summary, Heritage NSW advised:

- there is no objection to the proposed modification
- that the conditions of SSD-10340 be reviewed to take into consideration the recommendations in Appendix D of the Heritage Impact Statement.

A link to the full copy of the advice is provided in **Appendix A**.

## 5.3 Summary of submissions

During the exhibition period, the Department received a total of 50 submissions, including comments from Council, six submissions from community organisations and 43 public submissions. Of the 50 submissions, 36 objected to the development, 10 were in support, and three provided comments. Community organisations that lodged submissions included the Millers Point Community Resident Action Group, Fort Street Public School Parents and Citizens' Association, the National Trust, and three owners corporations from residences on Kent Street.

A summary of the Council submission is provided in **Table 2** and copies of the submission are in **Appendix A**. Key concerns raised in the public and community organisation submissions are summarised in **Table 3**.

### Table 2 | Summary of Council submission

#### City of Sydney (Council)

Council:

- recommended that the height of Building J be minimised as much as possible to reduce bulk and scale impacts.
- advised that if the proposal is supported by the Department, the mitigations and recommendations in the Heritage Impact Statement be followed.

**Table 3 | Summary of community organisation and public submissions**

<b>Community organisation and public submissions concern</b>	
<b>Objection</b>	
<b>Bulk and scale</b>	<p>Concerns were raised in relation to the proposed increase in height of Building J, including that the:</p> <ul style="list-style-type: none"> <li>• modification would set a precedent for increased building height in the local area</li> <li>• proposed design is an overdevelopment and would not conform with the surrounding low density, landscaped character of Observatory Hill</li> <li>• modification is evidence of continual height creep</li> <li>• roof height does not meet Australian standards.</li> </ul>
<b>Heritage</b>	<p>Most submissions received raised concerns relating to heritage including:</p> <ul style="list-style-type: none"> <li>• increase in height is inconsistent with the Conservation Management Plan (CMP) and the original SSD assessment report</li> <li>• MOD 2 is inconsistent with the feedback received from Heritage NSW and the National Trust on MOD 1, where the Met Building was to be the dominant building on site.</li> <li>• proposal does not maintain and respect the heritage of the site</li> <li>• increased height would cast a shadow and be higher than the Met Building</li> <li>• view of the historic site from public and private land will be negatively affected.</li> </ul>
<b>Visual amenity</b>	<p>Objections on the basis of visual impacts are summarised as follows:</p> <ul style="list-style-type: none"> <li>• the school would be higher than the Met Building permanently altering the view</li> <li>• the school buildings would be visually obtrusive and out of character with the heritage location</li> <li>• the increased height of Building J would impact: <ul style="list-style-type: none"> <li>○ views from private residences to Sydney Harbour and surrounds</li> <li>○ views to and from the National Trust Buildings</li> <li>○ views to the Sydney Harbour Bridge.</li> </ul> </li> <li>• the submitted view analysis / visual impact assessment is inadequate.</li> </ul>
<b>Community consultation</b>	<ul style="list-style-type: none"> <li>• Concerns in relation to the inadequate level of community consultation carried out by the Applicant and a disregard for community feedback.</li> <li>• Concerns with the Department’s exhibition process including the timing and length of the exhibition of the modification application and requests</li> </ul>



the exhibition period be extended to 31 January 2023 to accommodate the Christmas period.

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**Cost**

- Concerns were raised in relation to ambiguity around the increasing cost of the development and use of public funds.

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**Vegetation**

- Opposition to tree loss on the site.

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**Support**

**Disability Access**

- It would provide for equal access to outdoor areas for children with a disability.

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**Public Benefit**

- The project will benefit the growing number of children in the area and future generations.

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#### **5.4 Response to submissions and government agency advice**

Following the exhibition of the modification report, the Department placed copies of all submissions received during exhibition on its website and requested the Applicant respond to the issues raised.

On 9 May 2023, the Applicant provided a Response to Submissions (RtS) (**Appendix A**) on the issues raised during exhibition. The RtS included:

- a detailed response to all issues raised by the public in their submissions
- revised Visual Impact Assessment (VIA)
- an impact assessment of private views undertaken from within residences
- heritage justification
- additional information on the inclusion of opaque spandrels
- lift options analysis.

The RtS was made publicly available on the Department's website.

Further public comments were received regarding visual impact following the RtS being placed on the portal. These comments are addressed in Section 6.2.1.

## 6 Assessment

The Department has considered the modification application in the context of its assessment of the approved development. The Department considers the key issues for the modification are:

- built form and urban design, including heritage
- visual impact

Each of these is discussed below. Other issues considered during the assessment of the application are discussed in **Section 6.3**.

### 6.1 Built form and urban design

#### 6.1.1 Heritage, bulk and scale

The site is not subject to a maximum building height or floor space ratio development standard under the SLEP 2012. As detailed in **Section 1.1.1**, the site contains three local heritage items: the Met Building, the FSPS Building, and the Messenger's Cottage. The site also contains the archaeological footings of the former Surgeon's Cottage which are of State significance. Sydney Observatory Hill and the National Trust Centre, listed on the State Heritage Register, are located north and south of the site, respectively.

Of the public submissions objecting to the application, including from the National Trust, the key concerns raised related to the increased height of Building J exceeding the height of the Met Building, inconsistency with the CMP, and associated heritage impacts of the proposal. The modifications to the remainder of the buildings and the surrounding ground levels were not raised as a key issue.

The Applicant advised that the modification to the height of Building J arose following detailed design refinements, and to protect both the heritage fabric of the Met Building and the archaeological remnants of the Surgeon's Cottage. The Heritage Impact Statement (HIS) submitted with the application supports the proposed changes from a heritage perspective on the basis that the impacts are minimal, particularly when considering the wider benefits of refurbishment and reuse of the Met Building.

Heritage NSW considered the proposal and raised no objection to the proposed modification. Council recommended the height of the development be minimised as much as possible, but did not object to the proposed modification. Both Heritage NSW and Council recommended conditions to ensure the mitigations in the HIS are implemented.

#### *Department's consideration*

The Department considered the Applicant's documentation, and submissions received from agencies and the public.

The CMP prepared by Curio Projects which formed part of the original application included policies for the preservation of the site's heritage values whilst also allowing for the expansion of the school.

'Policy 25 – Design and Construction of New Buildings' includes the following guideline:

*'25.5 The Bureau of Meteorology should remain as a dominant building on site (both in height, and architectural form).'*

The Department notes amendments to the development approved under MOD 1 allowed the roof balustrading, lift overrun, and stair lobby of Building J to exceed the height of the Met Building. The design changes proposed as part of this modification further increase the height of the lift and stair elements.

The modifications to Building J would allow for the preservation and refurbishment of important heritage fabric within the Met Building, while protecting significant archaeological remains. The changes are also required to provide equitable access to the rooftop outdoor play area, noting that the CMP encouraged the roof space of the Met Building be trafficable, consistent with its original design.

The lift overrun and stair lobby form only a small part of Building J, and the overall bulk will remain lower than the Met Building. Further, the Met Building is comprised of historic masonry construction, giving it a distinguished character. In contrast, the contemporary design of Building J, including the expansive use of glazing on the stair lobby, lift core and upper storeys, would result in it appearing visually recessive in this context. The inclusion of opaque spandrels to the bridge between the Met Building and Building J, whilst changing the appearance of the structure, would not degrade the contrast in styles and character. The Department is satisfied the Met Building will remain visually dominant in this setting consistent with the CMP. On balance, the amendments to Building J are of a bulk and scale that respects the built form and heritage significance of the site.

The level changes proposed across the buildings, both internally and externally, including the lowering of Building F in its entirety, would result in minimal impacts. The Applicant advised the various level modifications are required to protect heritage fabric, provide equitable access, and minimise the need for imported fill to the site. The HIS confirms the lowering of levels across the site would not affect known archaeology, and recommends protocols for monitoring and unexpected finds during construction. The Department does not consider these changes would negatively impact the heritage significance of the site or the overall built form of the development.

## **6.2 Visual impacts**

### **6.2.1 Public domain**

The Applicant provided a VIA that considers the impacts of the proposed modification from five key viewpoints (**Figure 9 - Figure 14**) identified as follows:

1. Sydney Observatory
2. Upper Fort Street
3. National Trust
4. Agar Steps
5. Harbour Bridge – Western Distributor.

View	Location
1.	Sydney Observatory
2.	Upper Fort Street
3.	National Trust
4.	Agar Steps
5.	Harbour Bridge - Western Distributor



Figure 9 | Location and Direction of Viewpoints (Source: RtS)

4.6.1 Viewpoint 1: Sydney Observatory



Figure 10 Viewpoint 1: existing



Figure 11 Viewpoint 1: proposed

Figure 10 | Viewpoint 1: Sydney Observatory (Source: RtS)



4.6.2 Viewpoint 2: Upper Fort Street



Figure 12 Viewpoint 2: existing



Figure 13 Viewpoint 2: proposed

Figure 11 | Viewpoint 2: Upper Fort Street (Source: RtS)

4.6.3 Viewpoint 3: National Trust



Figure 14 Viewpoint 3: existing



Figure 15 Viewpoint 3: proposed

Figure 12 | Viewpoint 3: National Trust (Source: RtS)



4.6.4 Viewpoint 4: Agar Steps



Figure 16 Viewpoint 4: existing



Figure 17 Viewpoint 4: proposed

Figure 13 | Viewpoint 4: Agar Steps (Source: RtS)

#### 4.6.5 Viewpoint 5: Harbour Bridge - Western Distributor



Figure 18 Viewpoint 5: existing



Figure 19 Viewpoint 5: proposed

#### Figure 14 | Viewpoint 5: Harbour Bridge – Western Distributor (Source: RtS)

The Applicant's VIA concludes that the visual impact of the proposal is low to negligible, as the additional built form would be generally imperceptible.

Despite the submitted documentation, the visual impact of the modification was a key concern raised by objectors to the development particularly on the basis that the site is a sensitive heritage location.



### *Department's consideration*

Following receipt of the RtS, the Department received correspondence from residents requesting the Department consider the outcomes and recommendations of the Select Committee on Barangaroo sight lines when assessing the visual impacts of this modification. The Department notes that a recommendation of the Select Committee was for the NSW Government to establish a view management strategy, to identify and preserve sight lines in the Millers Point and Dawes Point precincts that are of cultural or heritage value to NSW. Due to the recommendations being so recent, no strategy has yet been completed or formalised in NSW legislation. Additionally, the recommendation is not directly relevant to this application as it is for consideration in the context of major redevelopment projects (such as Barangaroo).

Consequently, the Department has considered the visual impacts of the proposed modification in accordance with the planning principle relating to view sharing impacts on the public domain, established by the NSW Land and Environment Court in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [2013] NSWLEC 1046.

In considering the information provided, the Department is satisfied that the proposal would have a negligible impact on public domain views enjoyed from the Sydney Observatory, National Trust Centre and Agar Steps, as the additional building fabric would not be visible from these locations.

A part of the additional height on Building J would be visible from Upper Fort Street. Views from this location currently comprise the existing school buildings and grounds, with part of the city skyline and Barangaroo beyond. The proposed additional fabric to Building J would partially obscure the sky and potentially part of the city skyline and Barangaroo. However, as the increase in height at the highest point is only 610mm, the change in view compared to the approved development would be minimal.

The view of the site from the southern Western Distributor on ramp to the Harbour Bridge is partially obscured by the National Trust Centre and existing vegetation. The already approved built form would nestle in between these features. The additional height to Building J would be primarily concealed by the vegetation and where it can be seen, would only obscure a very small part of the sky view. The visual impact from this location is minimal.

Overall, noting that the site is visually prominent and has historic significance, the Department is satisfied that the proposed modification would result in a minor overall view impact on the public domain, which is considered acceptable in this context.

### **6.2.2 Private residences**

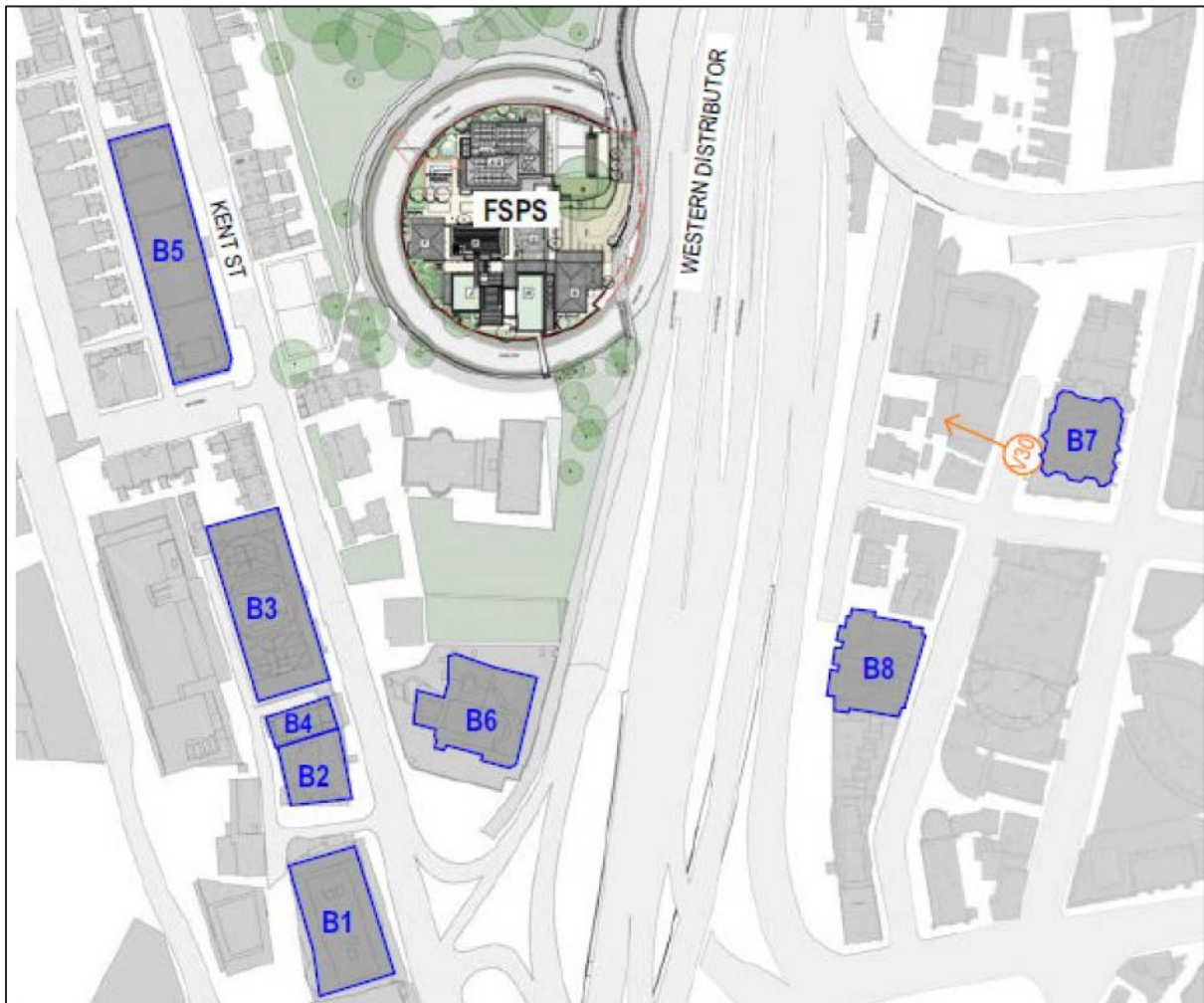
The Applicant included a VIA from private residences as part of the modification application. The VIA used 3D modelling to consider impacts on six buildings.

Following exhibition of the application, it was evident that a key concern was view loss from private residences as a result of the increased height to Building J. Further, the submissions expressed distrust in the modelling undertaken and requested the impacts be considered from within the apartments themselves. Consequently, the Department requested the Applicant contact eight buildings to seek access to undertake a visual impact assessment from within apartments.

The Applicant's RtS included a revised VIA with 3D modelling from the following eight buildings (**Figure 15**):



1. Stamford on Kent, 183 Kent Street
2. Stamford Marque, 161 Kent Street
3. Highgate Apartments, 127 Kent Street
4. Georgia Apartments, 155 Kent Street
5. Langham Hotel, 89 – 133 Kent Street
6. Observatory Tower, 168 Kent Street
7. Quay West Apartments – 96-118 Gloucester Street
8. The Stamford Residences – 171 Gloucester Street.



**Figure 15 | Location of Private View Analysis (Source: Applicant’s RtS)**

Access was granted into nine apartments across five of the buildings being the Stamford on Kent, Stamford Marque, Highgate Apartments, Langham Hotel and Observatory Tower for a view impact assessment to be undertaken.

The Applicant’s VIA concludes that at the worst case, view impacts would be limited to the low levels of the buildings and would range in severity from negligible to minor. The Applicant considers the impacts to be reasonable on this basis.

*Department’s consideration*

The Department considered the information provided by the Applicant, and the concerns raised in public submissions. It is noted that throughout the revised VIA process, the Department received

correspondence from multiple residents raising concerns with the Applicant's methodology used in undertaking the view analysis, including how contact was made and the time given to make apartments available. Having regard to the extent of the proposed modification and the logistics associated with gaining access to such a large number of residences, the modelling of view impacts, supplemented with sporadic views from within apartments, is considered acceptable for the purposes of this assessment.

The Department has undertaken its own assessment of the impact of the modification on iconic views (**Table 4**), based on the planning principle established by the Land and Environment Court in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 (principles of view sharing: general principles). The planning principle adopts a four-step approach to analysing the impact of view loss being:

- **Step one:** Assessment of views to be affected: water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views.
- **Step two:** Consider from what part of the property the views are obtained. For example, protecting views across side boundaries is more difficult than protecting views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views.
- **Step three:** Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them).
- **Step four:** Assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Table 4 | Private view analysis

Stamford on Kent – 183 Kent Street



Figure 16 | Modelled seated view from low level apartment (Source: RtS)

1. Stamford on Kent – 183 Kent Street, Unit 1006 (Camera 3)



Figure 17 | View and photomontage of school from within apartment 1006 (Source: RtS)



**Figure 18 | View and photomontage of school from within apartment 2307 (Source: RtS)**

View	View Type	Extent of Impact
<p>Iconic View</p> <ul style="list-style-type: none"> <li>• Cityscape</li> <li>• Sydney Harbour Bridge</li> <li>• Sydney Harbour</li> </ul>	<ul style="list-style-type: none"> <li>• Views are obtained from living spaces along the eastern elevation of the building</li> </ul>	<p>At the low and mid levels, the increase in height would obscure a small part of the North Sydney CBD.</p> <p>The upper levels look over the school to Sydney Harbour and the views would not be impacted.</p> <p>The extent of the impact is considered <b>negligible</b>.</p>

## Stamford Marque – 161 Kent Street



**Figure 19 | Modelled mid-level view – standing position (Source: RtS)**



**Figure 20 | Modelled mid-level view – seating position (Source: RtS)**



PHOTOMONTAGE OF PROPOSED S4.55 MODIFICATION 2 AND ADDITION TO BUILDING J

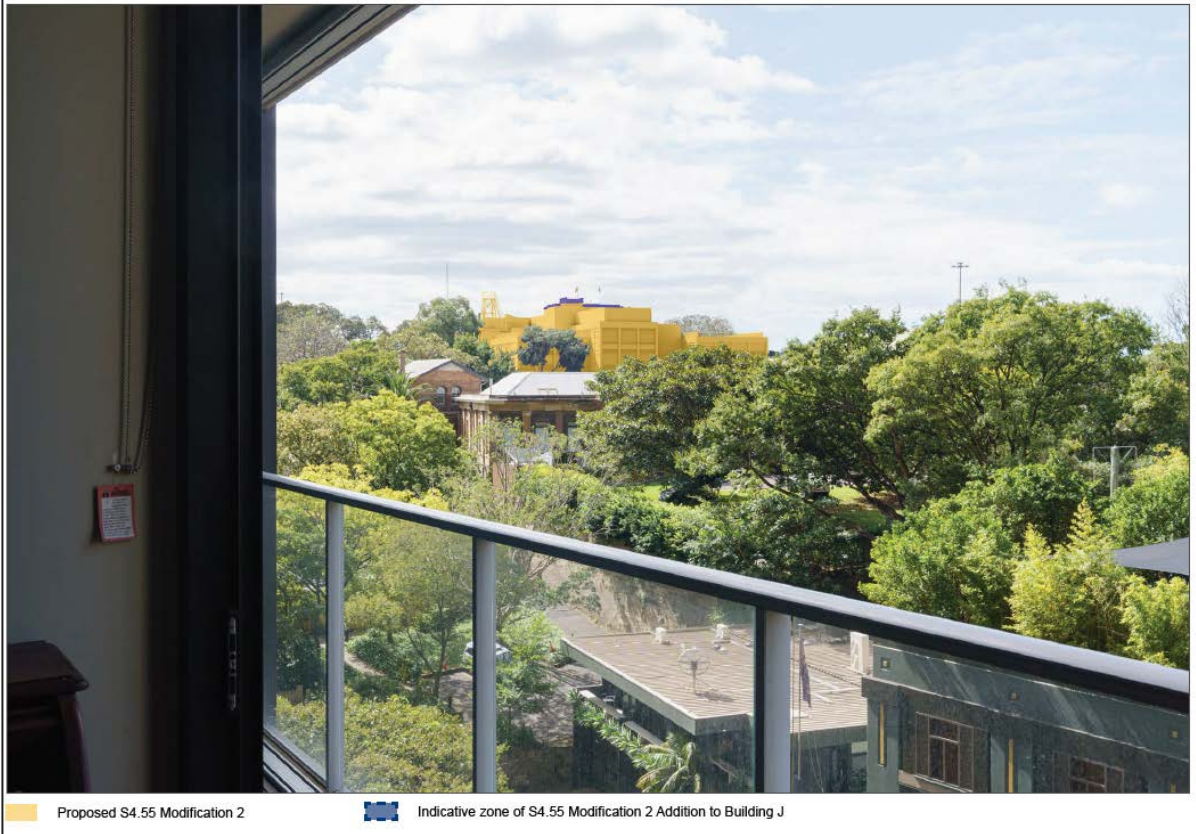


Figure 21 | View and photomontage of school from within apartment 7A (Source: RtS)

4. Stamford Marque – 161 Kent Street, Unit 7B (Camera 7)



Figure 22 | View and photomontage of school from within apartment 7B (Source: RtS)



5. Stamford Marque – 161 Kent Street, Unit 9A (Camera 10)



Figure 23 | View and photomontage of school from within apartment 9A (Source: RtS)

6. Stamford Marque – 161 Kent Street, Unit 10A (Camera 14)



Figure 24 | View and photomontage of school from within apartment 10A (Source: RtS)

View	View Type	Extent of Impact
Iconic View <ul style="list-style-type: none"> <li>• Sydney Harbour Bridge</li> <li>• Cityscape</li> <li>• Sky</li> </ul>	Views are obtained from the living spaces and balconies over the eastern street frontage	<p>From the lower levels, the view of the bridge is mostly obstructed by the approved development with only limited visibility of the bridge arch still available. As the apartments rise in levels, more of the bridge is visible.</p> <p>The height increase will result in a partial obstruction of the southern arch and in some cases a small section of the pylon, however the overall view is primarily unchanged.</p> <p>The extent of the impact is considered <b>minor</b>.</p>

### Highgate Apartments – 127 Kent Street

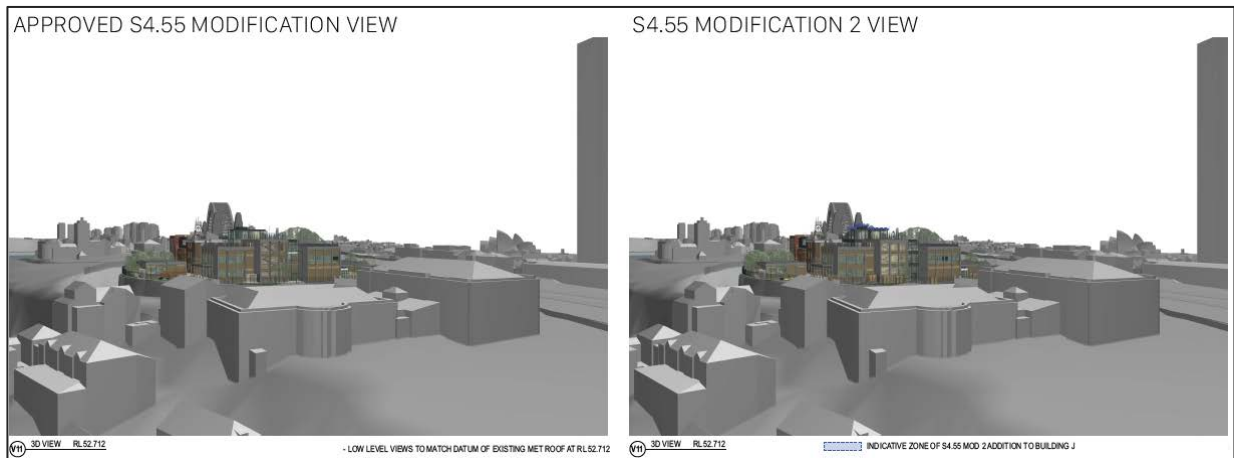


Figure 25 | Modelled low level view (Source: RtS)

7. Highgate Apartments – 127 Kent Street, Unit 1105 (Camera 12)



Figure 26 | View and photomontage of school from within apartment 1105 (Source: RtS)

View	View Type	Extent of Impact
<p>Iconic View</p> <ul style="list-style-type: none"> <li>• Sydney Harbour Bridge</li> <li>• Cityscape</li> <li>• Sydney Opera House</li> <li>• Sydney Harbour</li> </ul>	<p>Views are obtained from the living spaces and private open spaces on the eastern façade (street frontage) and northern façade (side boundary)</p>	<p>It is acknowledged that the Highgate building is a long building with views varying from each location. Based on the evidence provided, from lower apartments views of the eastern pylon will be marginally impacted by the proposal, however the southern arch and western pylon will remain unaffected. Depending on the location of lower level apartments in the floorplate, impacts may be limited to only obstruction of the sky as from apartment 1105 in <b>Figure 26</b>.</p> <p>From the mid-levels and above, there would be no impacts on views.</p> <p>The extent of the impact is considered <b>minor</b>.</p>



## Georgia Apartments – 155 Kent Street

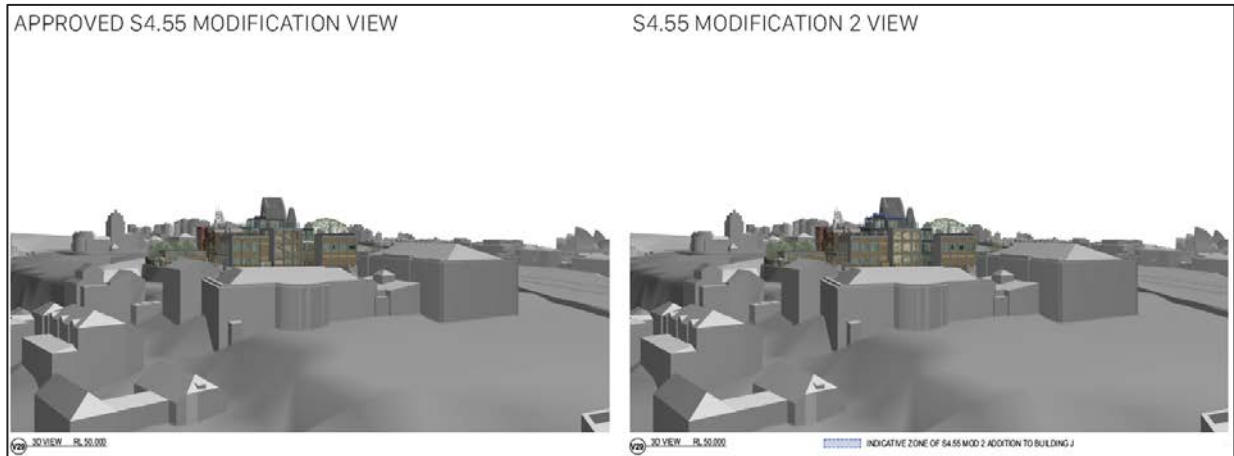


Figure 27 | Modelled low level view (Source: RtS)

View	View Type	Extent of Impact
Iconic View <ul style="list-style-type: none"> <li>• Cityscape</li> <li>• Sydney Harbour Bridge</li> </ul>	Views are obtained from the living spaces and private open spaces on the eastern façade (street frontage).	The proposal would cause a partial loss of views of the western bridge pylon and the southern arch although the change in view would be minimal. The eastern pylon would be unaffected.  The extent of the impact is considered <b>minor</b> .

## Langham Hotel – 89–133 Kent Street



Figure 28 | Modelled low level view (Source: RtS)



8. Langham Hotel – 89-133 Kent Street, Room 327- (Camera 13)



Figure 29 | View and photomontage of school from within room 327 (Source: RtS)

View	View Type	Extent of Impact
<ul style="list-style-type: none"> <li>• Cityscape</li> </ul>	Views from hotel rooms/suites over the eastern boundary (street frontage)	<p>It is noted that due to the topography of the land, the school site is elevated from the Langham Hotel.</p> <p>Consequently, from the lower levels of the hotel only views of the sky would be affected by the proposal. From the upper levels, the school would obstruct a very small section of the cityscape views.</p> <p>The extent of the impact is considered <b>negligible</b>.</p>

## Observatory Tower - 168 Kent Street

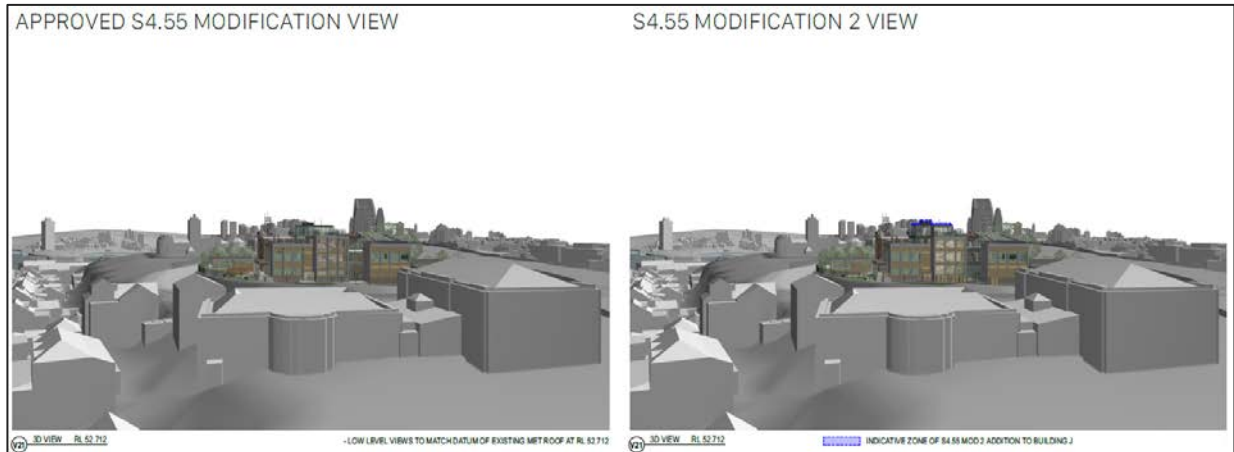


Figure 30 | Modelled low level view (Source: RtS)



Figure 31 | View and photomontage of school from within apartment 806 (Source: RtS)

View	View Type	Extent of Impact
Iconic View • Cityscape • Sydney Harbour Bridge	Living spaces and private open spaces over the north-eastern side boundary	The proposed increase in height would obscure a small part of the sky from lower levels or vegetation located on Observatory Hill. Views

of the Sydney Harbour Bridge and North Sydney CBD would not be impacted.

The extent of the impact is considered **negligible**.

**Quay West Apartments – 96-118 Gloucester Street**



**Figure 32 | Modelled low level view (Source: RtS)**

View	View Type	Extent of Impact
<ul style="list-style-type: none"> <li>• Side view of Western Distributor approach to Sydney Harbour Bridge</li> <li>• FSPS site</li> </ul>	Views are obtained from west facing living room and bedroom windows	<p>Only views of the sky would be impacted by the development.</p> <p>The extent of the impact is considered <b>negligible</b>.</p>

**The Stamford Residences – 171 Gloucester Street**



**Figure 33 | Modelled low level view (Source: RtS)**

View	View Type	Extent of Impact
Iconic view <ul style="list-style-type: none"> <li>• Cityscape</li> <li>• Sydney Harbour Bridge</li> </ul>	Views are obtained from windows in the northern and western elevations servicing living spaces and bedrooms.	Part of the sky view would be obstructed by the proposed modification. The iconic views would remain unaffected.  The extent of the impact is considered <b>negligible</b> .

The fourth test of the planning principle is to assess the reasonableness of the proposal that is causing the view impacts. This includes giving consideration to planning controls applicable to the site, and whether an alternative design could achieve a better outcome.

As previously noted, the site is not subject to a maximum building height or floor space ratio development standard under SLEP 2012. The guidelines contained in the CMP provide some direction on height and the relationship with the Met Building. However, as discussed in **Section 6.1**, the Department considers the height, bulk and scale responds appropriately to the heritage context and is acceptable.

The proposed height increase to Building J is a result of design refinements that are essential to provide equitable access to the rooftop for students and teachers with a disability. It has also been designed to protect the heritage fabric of the Met Building and the archaeological relics below. The Applicant has provided evidence that an alternative lift design could not be reasonably accommodated that meets the operational needs of the school, while also protecting the heritage significance of the site. The Department is satisfied that the design of the lift core and associated increase in height of the stairwell has been carefully designed to minimise view impacts and remain sympathetic to the surrounding development. On this basis, the Department considers the design meets the reasonable test.

The Department acknowledges there would be changes to views of the Sydney Harbour Bridge and cityscape. However, following careful consideration of the view impacts in accordance with the Tenacity view sharing planning principle, the degree of impact would be negligible to minor for the majority of properties. On balance, the Department concludes that the view impacts arising from the proposed modification are acceptable.

### 6.3 Other issues

Issue	Findings	Department's conclusion and recommended condition(s)
<b>Overshadowing</b>	Concerns were raised in the public submissions that the additional height to Building J would result in overshadowing of the Met Building and the National Trust Centre.  The Applicant's RtS included shadow diagrams which indicate the additional	The overshadowing arising from the proposed increase in height is minimal, and would not significantly impact on the amenity or heritage setting of the National Trust Centre. On this basis, the additional overshadowing is acceptable.



height would result in no overshadowing of the Met Building.

No additional conditions are required.

The diagrams show a small increase in the extent of shadow cast over the northern carpark of the National Trust Centre between 9am and 10am on the winter solstice. From 10am onwards, the increase in shadow only affects the roof of Building J itself.

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**Vegetation**

One objection was received based on tree loss across the site.

Tree removal does not form part of this modification.

This modification does not include any additional tree removal or make any changes to the approved planting schedule or landscape plan.

No additional conditions are required.

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**Cost of works**

Public submissions raised concerns in relation to the increased costs of the development from proposed changes.

The cost of the development, and consistency with approved budgets, is not a matter for the Department's assessment. The Department is satisfied that the development is SSD, and the Minister for Planning is the consent authority, as the capital investment value of the development exceeds \$50 million.

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## 7 Evaluation

The Department has reviewed the Applicant's Modification Report and supporting information. The Department has assessed the merits of the modification, taking into consideration issues raised in the public submissions, including comments received from the National Trust and Council, and government agency advice received from Heritage NSW.

The Department is satisfied that the proposed modification is required to meet the operational needs of the school, while protecting the significant heritage fabric of the Met Building and archaeological relics of the Surgeon's Cottage. The bulk and scale of the development is sympathetic to the heritage character of the site and the sensitive location of Observatory Hill.

Further, a thorough analysis of visual impacts was undertaken, and the Department is satisfied the proposal would not unreasonably impact view sharing from private properties or the public domain.

The Department considers that the application is consistent with the objects of the EP&A Act, and continues to be consistent with the strategic directions for the State. The development, as modified, would be substantially the same as that originally approved and delivers a significant public benefit through the provision of improved education facilities.

On balance, the impacts of the proposed modification are acceptable and in the public interest. Consequently, the modification is recommended for approval.

## 8 Recommendation

It is recommended that the Executive Director, Infrastructure Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application to modify the approved redevelopment of Fort Street Public School (SSD-10340-MOD-2) falls within the scope of section 4.55(2) 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;
- **modifies** the consent SSD-10340.
- **signs** the attached approval of the modification (**Appendix H**).

Prepared by:



**Teresa Gizzi**  
Principal Planning Officer  
Social and Infrastructure Assessments

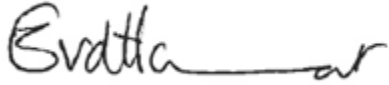
Recommended by:



**Karen Harragon**  
Director  
Social and Infrastructure  
Assessments

## 9 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read "Erica van den Honert". The signature is written in a cursive, flowing style.

**Erica van den Honert**

Executive Director

Infrastructure Assessments

as delegate of the Minister for Planning and Public Spaces



# Appendices

## Appendix A – List of referenced documents

1. Modification report

<https://www.planningportal.nsw.gov.au/major-projects/projects/fort-street-public-school-modification-2-design-changes>

2. Submissions and Government agency advice

<https://www.planningportal.nsw.gov.au/major-projects/projects/fort-street-public-school-modification-2-design-changes>

3. Response to submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/fort-street-public-school-modification-2-design-changes>

## **Appendix B – Instrument of Modification**

<https://www.planningportal.nsw.gov.au/major-projects/projects/fort-street-public-school-modification-2-design-changes>

## **Appendix C – Consolidated Consent**

<https://www.planningportal.nsw.gov.au/major-projects/projects/fort-street-public-school-modification-2-design-changes>