



Young Highschool Library and Community Facility Modification 2

Amendment to Condition C25

State Significant Development Modification Assessment (SSD
9671 MOD 2)

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Glossary

Abbreviation	Definition
Council	Hilltops Council
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
Heritage Council	Heritage Council of NSW
Heritage NSW	Heritage NSW, Department of Premier and Cabinet
HIP	Heritage Interpretation Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SINSW	Schools Infrastructure NSW
SSD	State Significant Development
YLEP	Young Local Environmental Plan

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1 Introduction

This report provides the Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) development consent for Young High School Library and Joint-Use Community Facility (SSD 9671).

The application seeks approval to modify the wording of condition C25 Unexpected Finds Protocol to enable an appropriate pathway for condition C25 to be satisfied. Currently the condition incorrectly places the responsibility of the post-approval role on the Heritage Council. The Heritage Council does not function as an approval body for recommencement of works post discovery of unexpected archaeological relics. That responsibility falls to the Planning Secretary with consultation from Heritage Council.

The application was lodged on 23 August 2021 by the Department of Education (the Applicant) pursuant to section 4.55(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1.1 Background

The site is made up of Young High School and Carrington Park and has an area of approximately 4.7 hectares. It is located on Campbell Street, Young within the Hilltops Local Government Area (LGA). Immediately adjacent to the site and to the west is a TAFE NSW campus. To the north of the site on the other side of Carrington Park and Ripon Street are a number of heritage buildings of local significance, including Hennessey Catholic College and St Marys Catholic Church. The Lambing Flat Museum is located across Campbell Street to the north-east of the site. Immediately to the east and south of the site are predominantly single storey dwellings. The site and its context are shown in Figure 1.



Figure 1 | Local Context Map (Source: Nearmaps)

The site includes three locally listed heritage items registered in the Young Local Environmental Plan 2010 (YLEP) (Figure 2):

- Carrington Park and Band Rotunda (I79).
- Assembly Hall (former Court House) (I136), known as Block AA.
- Technical College (former Gaol) (I118), elements of which are largely within the neighbouring NSW TAFE campus, but the listed site encompasses the west part of the school.



Figure 2 | YLEP Heritage Map (Source: Department's SSD 9671 Assessment Report 2020)



Figure 3 | Existing Site Building Context Map (Source: Department's SSD 9671 Assessment Report 2020)

At the time of the original determination, the site was the subject of a nomination for listing on the State Heritage Register. At that time, Heritage NSW advised it had “resolved that the Carrington Park Precinct is potentially of state heritage significance due to its association with the Lambing Flat Anti-Chinese Riots.” The nomination remains under consideration.

1.2 Approval history

On 21 May 2020, development consent was granted by the Executive Director, Infrastructure Assessments, as delegate for the Minister for Planning and Public Spaces for the partial redevelopment of Young High School and Carrington Park (SSD 9671) 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.
- installation of services, stormwater system and signage.

Most relevant to this modification application is the construction of a new library (Block NN) where Block BB previously stood and was demolished under a separate pathway. An annotated excerpt of the approved site plan is provided in Figure 4. The development consent includes the following conditions relevant to the application:

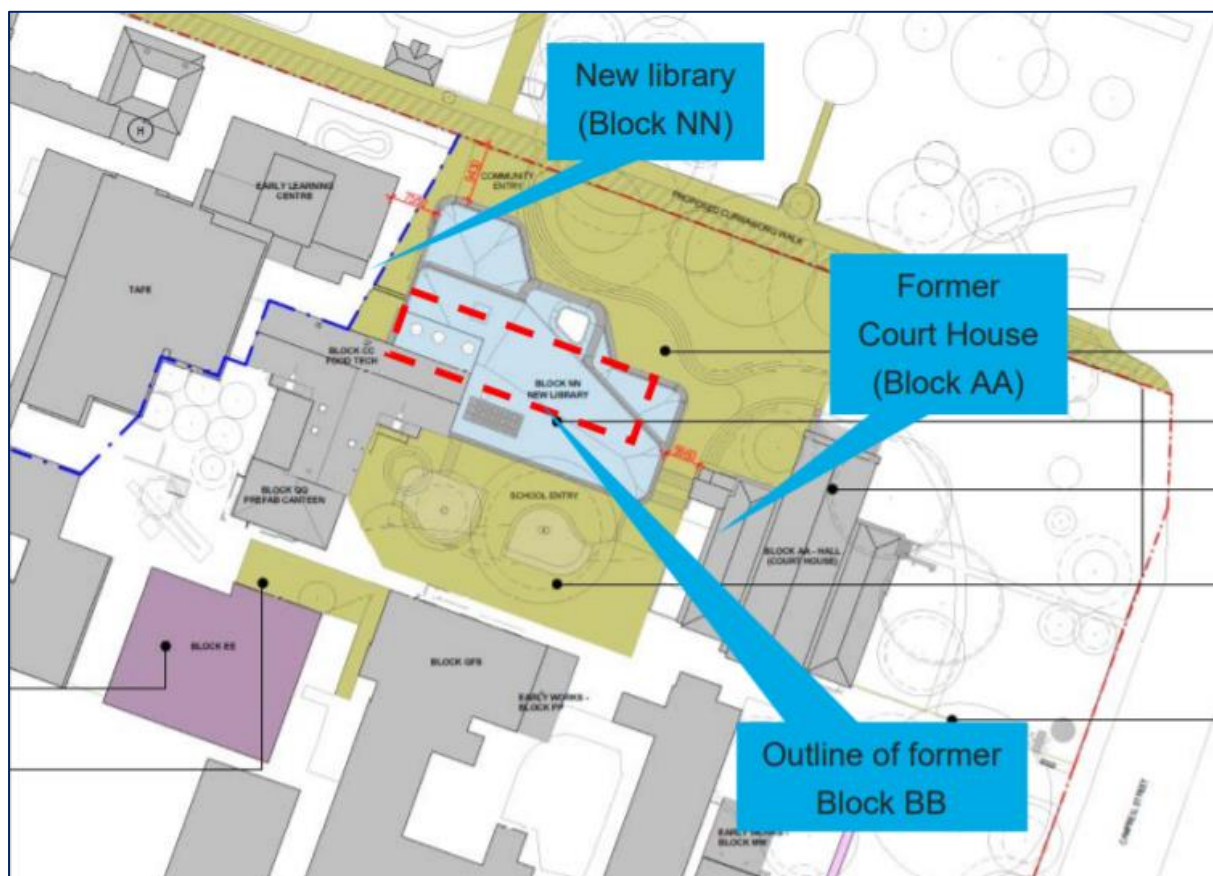


Figure 4 | Approved site plan (Source: SSD 9671 Approved Plans 2020)

The development consent has been modified on one previous occasion and one modification is currently under assessment (see **Table 1**)

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Modification 1 was approved to modify the wording of conditions B33 Heritage Interpretation Plan and B34 Design Refinement.	Department	4.55(1A)	23 December 2020
MOD 2	Minor modification to correct condition C25	Department	4.55(1)	Under assessment

2 Proposed modification

The applicant submits that further historical archaeological investigations were completed prior to construction in accordance with the conditions of SSD 9671. The results of these further investigations triggered notification requirements under section 146 of the *Heritage Act 1977*, a design review process required by condition B23 and an unexpected finds protocol described in condition C25.

The Applicant advises that the archaeological investigations conducted to date by the project archaeological consultant (Lantern Heritage), identifies that the areas of proposed impacts for the Main Works component of the Young High School Redevelopment and Community Facility are of moderate to high potential to contain State Significant relics. This was confirmed when a State Significant relic was located during excavation which triggered a design review process and resulted in a decision to salvage the relics within the project footprint.

Condition 25 of the development consent (as currently approved) requires the written approval of the Heritage Council prior to works recommencing. Consultation between the applicant and the Department has concluded that Condition C25 places the responsibility of a post-approval role on the Heritage Council, which is not the appropriate approval body. The Heritage Council does not function as an approval body for recommencement of works post discovery of unexpected archaeological relics.

Consequently the proposed modification application seeks amendment to condition C25 to alter the approval body by allocating approval responsibilities to the Planning Secretary thereby enabling the condition to be met.

Table 3 demonstrates the proposed modification to condition C25 (changes in **bold**).

Table 3 | Comparison of approved and proposed condition references.

Condition Number	Approved	Proposed
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 with the written approval of the Heritage Council.	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. <u>Works may only recommence following consultation with the Heritage Council (or delegate) and with the written approval of the Planning Secretary.</u>

3 Strategic context

The Department considers the development, to which the modification relates, remains consistent with its applicable strategic context. Specifically, it remains consistent with:

- the South East and Tablelands Regional Plan 2036, as it would contribute to Young as a strategic centre with a high-quality community and school education facility.
- the NSW Future Transport Strategy 2056, as it would provide a redeveloped educational facility, with a new education and community facility near the civic core of Young.
- the State Infrastructure Strategy 2018 – 2038, as it provides direct investment to address increased enrolment demands, would provide access to modern digitally-enabled learning environments for all students and would enable facilities to be co-shared with the local community.

In addition, it would provide direct investment in the region of approximately \$21 million, which would support up to 90 construction jobs and 20 new operational jobs.

4 Statutory context

4.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a 4.55(1) as the proposed modification involves the correction of minor administrative error.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent authority

Minister's delegate as consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 26 April 2021, the Team Leader, State Significant Acceleration, may determine the application as:

- The application has not been made by a person who has disclosed a political donation under Section 10.45 of the EP&A Act in connection with the modification application.
- there are no public submissions by way of objection.
- The Council has not made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the EP&A Act.

4.3 Mandatory matters for consideration

Section 4.55(1) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 2 | Matters for consideration

Section 4.55(1) matters for consideration	Comment
A consent authority may, on application being made by the applicant or any other person entitles 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 application seeks approval to correct an error in condition C25.
Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.	Noted

5 Engagement

5.1 Department's engagement

The Department made the modification application available on its website from 27 August 2021. Given the minor nature of the modification application, the Department did not formally seek submissions on the application.

6 Assessment

The proposal seeks to correct administrative errors relating to conditions C25. The wording of condition C25 incorrectly places the responsibility of a post-approval role on the Heritage Council. The Department is satisfied that the condition reference was an administrative error and the modification proposal to update the department reference is acceptable.

The condition will be modified within the consent as follows:

Unexpected Finds Protocol – Historic Heritage

- C25.** 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.**~~
- Works may only recommence following consultation with the Heritage Council (or delegate) and with the written approval of the Planning Secretary.**

The amended condition reflects the appropriate condition within the consent and does not alter the intent of the condition or the approved development.

7 Evaluation

The Department is satisfied that the correction to condition C25 is appropriate and in accordance with Section 4.55(1) as the development as modified would be substantially the same as originally approved.

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- The current condition is worded incorrectly.
- The appropriate approval body will be identified for the recommencement of work.
- The correction of the approval body does not alter the intent of the condition or the approved development.

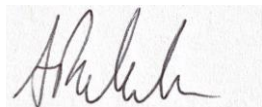
8 Recommendation

This section provides a formal recommendation to the decision maker to approve or refuse the modification. The recommendation section is only applicable to projects where the Minister (or his delegate) is the decision maker.

It is recommended that the Team Leader, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report.
- **determines** that the application modification 2 falls within the scope of section 4.55(1) of the EP&A Act.
- **accepts and adopts** all the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD 9671.
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:



Anthony Richardson
Planning Officer
State Significant Acceleration

Recommended by:



Gabriel Wardenburg
Team Leader
State Significant Acceleration

9 Determination

The recommendation is **Adopted** by:



Alan Bright

Director

State Significant Acceleration

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report

<https://www.planningportal.nsw.gov.au/major-projects/project/42656>

Appendix B – Modification of Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/42656>

Appendix G – Consolidated Consent

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