

## Section 96 (2) Report to Sydney West Joint Regional Planning Panel

<b>JRPP No.</b>	<b>Item (2014SYW004)</b>
<b>DA No:</b>	S96-13-2411 to modify Notice of Determination No. 13-369
<b>Proposed Development:</b>	S96 (2) for the inclusion of a new High School building known as "Block 4" within an Educational Establishment – The Ponds High School and Primary School
<b>Development Type:</b>	"Crown Development" – Capital Investment Value > \$5 million
<b>Lodgement Date:</b>	12 December 2013
<b>Land/Address:</b>	Part Lot 47 DP 28833, Part Lot 43 DP 28833, Lot 41 and 42 DP 28833, Part Lot 101 DP 1161271 90 & 98 - 102 Hambledon Road, Schofields
<b>Land Zoning:</b>	R2 Low Density Residential, SP2 Infrastructure – Drainage, SP2 Infrastructure – Classified Road, SP2 Infrastructure – Educational Establishment, SP2 Infrastructure – Local Road and RE1 Public Recreation pursuant to State Environmental Planning Policy (Sydney Region Growth Centres) 2006
<b>Capital Investment Value of Approved Development:</b>	\$29,296,164
<b>Capital Investment Value of this Amendment:</b>	\$7,500,000
<b>Applicant:</b>	Department of Education and Communities C/- Public Works
<b>Report Author:</b>	Melissa Parnis, Town Planner
<b>Instructing Officers:</b>	Judith Portelli, Manager Development Services & Administration and Glennys James, Director City Strategy & Development
<b>Date Submitted to JRPP:</b>	21 February 2014
<b>Date Considered by JRPP:</b>	By Electronic Determination

## ASSESSMENT REPORT

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Attachment 1 – Modification to conditions

Attachment 2 – Modified Development Plans

Attachment 3 – Crown's letter of endorsement of modified conditions of consent

## 1 Introduction and Summary

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- 1.1 On 26 November 2013 the Sydney West Joint Regional Planning Panel (JRPP) approved the construction of a new Educational Establishment being The Ponds High School and Primary School at the subject site.
- 1.2 On 12 December 2013 the Applicant lodged a Section 96(2) Application for the inclusion of a new High School building called “Block 4”. The building will comprise of classrooms, change rooms, shared learning spaces, workshop area, fitness laboratory and ancillary spaces.
- 1.3 In accordance with Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the Joint Regional Planning Panel (JRPP) is the determining authority for a Section 96(2) amendment to a previous JRPP Application. As such, while Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney West Joint Regional Planning Panel.
- 1.4 The subject site is zoned R2 Low Density Residential, SP2 Infrastructure – Drainage, SP2 Infrastructure – Classified Road, SP2 Infrastructure – Educational Establishment, SP2 Infrastructure – Local Road and RE1 Public Recreation pursuant to State Environmental Planning Policy (SEPP) (Sydney Region Growth Centres) 2006. The development is proposed within the portion of the site that is zoned R2 Low Density Residential, but a school is not a permissible use in this zone. However, pursuant to Clause 28 of State Environmental Planning Policy (Infrastructure) 2007 the proposed Educational Establishment is permitted with consent on land in a prescribed zone in any event.
- 1.5 The proposed modification has been assessed against the provisions of Section 96 (2) of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- 1.6 The subject Application was notified in accordance with Blacktown Development Control Plan 2006 Part K – *Notification of Development Applications* to adjoining and nearby property owners and occupants for a period of 16 days from 15 January 2014 to 31 January 2014. In response to the public exhibition no submissions were received.
- 1.7 In light of the above, it is recommended that the Sydney West Joint Regional Planning Panel approve the DA subject to the imposition of suitable conditions of Consent. Recommended modifications to conditions are provided at **Attachment 1** to this Report.

## 2 Background

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- 2.1 The approved Educational Establishment will have a 21 classroom Primary School and a 7 stream (7 class groups per year) High School. It is anticipated that the High School will cater for 1,400 students and the Primary School for 630 students.

## 3 The Proposal

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- 3.1 The proposal seeks approval for the inclusion of High School Block 4. High School Block 4 is a two storey classroom block. The material and finishes will be consistent with the already approved buildings. The building creates the enclosure for the central High School open space and is connected to other High School blocks with covered walkways. The Capital Investment Value of Block 4 is \$7.5 million.



3.2 Proposed High School Block 4 will consist of:

- 39 learning spaces (Type 1 and Type 2)
- 5 shared learning spaces
- fitness laboratory and fitness store
- 6 seminar spaces (Type 1 and Type 2)
- 1 practical seminar room
- 3 store rooms
- performance workshop and performance store
- change rooms
- amenities.

3.3 Block 4 is proposed to have a total length of 111m and a width of 21m, plus a 3m covered way and 5.5m wide stairs to the south. Block 4 has a simple mono pitched roof falling to the verandah side. The roof at the highest point is 8.17m above ground floor finished floor level (FFL) and 6.25m at the low verandah end.

3.4 Pedestrian access is provided to Block 4 by way of stairs, as well as a lift located outside Block 2 and walkway connection to Block 4.

3.5 The proposed addition of High School Block 4 does not seek to increase student or teacher numbers from the approved student numbers under Notice of Determination No. 13-369.

3.6 Refer to **Attachment 2** for the Development Plans.

## 4 Planning Controls

4.1 The planning controls that relate to the proposed development are as follows:

**(a) State Environmental Planning Policy (State and Regional Development) 2011**

The proposed development constitutes "Regional Development" requiring referral to a Joint Regional Planning Panel (JRPP) for determination as the original development was determined by the JRPP and a major modification requires approval by the Panel.

**(b) State Environmental Planning Policy (Infrastructure) 2007**

In accordance with Clause 32 of State Environmental Planning Policy (Infrastructure) 2007, the consent authority is to take into consideration all relevant standards of the following State Government publications:

- (a) *School Facilities Standards—Landscape Standard—Version 22* (March 2002)
- (b) *Schools Facilities Standards—Design Standard* (Version 1/09/2006)
- (c) *Schools Facilities Standards—Specification Standard* (Version 01/11/2008).

As the proposed school is a State Government School, a compliance letter from the NSW Government's Architects Office has been submitted by the Applicant.

**(c) State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

The development is proposed within the portion of the site that is zoned R2 Low Density Residential, but a school is not a permissible use in this zone. However, pursuant to Clause 28 of State Environmental Planning Policy (Infrastructure) 2007, Educational Establishments are permissible with consent on land in a prescribed zone (such as this one) in any event.

## 5 Internal Referrals

5.1 The Application was referred to the internal sections of Council as summarised in the table below:

Section	Comments
Engineering	No objections to the modification and no modifications required to existing conditions.
Building	No objections to the modification and no modifications required to existing conditions.

## 6 Assessment

6.1 An assessment of the key issues relating to the proposed development is presented below:

### (a) Blacktown City Council Growth Centre Precincts Development Control Plan 2010

The provisions of the Blacktown City Council Growth Centre Precincts Development Control Plan 2010, in particular Section 4.7 “Other Development in Residential Zones”, applies to this proposal. The proposed development complies with the requirements of the Growth Centres DCP. In this regard this proposal, together with the already approved school, will still occupy less than 60% of the site. In addition, the development does not seek to amend student numbers, staff numbers or alter the approved hours of operation. As such the proposal will also comply with the requirements of the original approved school DA.

### (b) Building Height

The proposed Educational Establishment is a maximum of 2 storeys in height with a maximum height of 8.17m above finished ground level (FGL) of any building, which is less than the maximum permissible building height of 9m in accordance with Clause 4.3 of Appendix 4 - Alex Avenue and Riverstone Precincts within State Environmental Planning Policy (Sydney Region Growth Centres) 2006. As such the proposed building height is considered satisfactory.

### (c) External Building Material and Colours

The proposed external building material and colours will be consistent with the approved colours and finishes of the school complex.

## 7 Section 96 Consideration

7.1 Consideration of the matters prescribed by Section 96 of the Environmental Planning and Assessment Act is summarised below:

Head of Consideration	Comment	Complies
(a) <i>it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)</i>	<ul style="list-style-type: none"> <li>The development as modified is substantially the same development as that approved.</li> <li>The essence and character of the development as modified is the same as the development for which consent was originally granted for the following reasons: <ul style="list-style-type: none"> <li>i. the classification of the development as an Educational Establishment has not changed</li> <li>ii. the number of students or staff has not</li> </ul> </li> </ul>	Yes



	<p>changed</p> <p>iii. the overall context of the development is substantially the same.</p>	
<p>(b) <i>it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent</i></p>	<p>The concurrence of a Minister, Public Authority or approval body is not required for the development. Furthermore, “general terms of approval” do not apply to the development.</p>	N/A
<p>(c) <i>it has notified the application in accordance with:</i></p> <p>(i) <i>the regulations, if the regulations so require, or</i></p> <p>(ii) <i>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 modification of a development consent</i></p>	<p>The proposed Section 96 Application was notified in accordance with the provisions of the Regulations. No submissions were received in response.</p>	Yes
<p>(d) <i>it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be</i></p>	<p>No submissions were received.</p>	N/A
<p>(3) <i>In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.</i></p>	<p>The modifications have been assessed against Section 79C(1) and is considered satisfactory as summarised below:</p> <ul style="list-style-type: none"> <li>▪ The development complies with the requirements of relevant Environmental Planning Instruments identified in Section 4 – Planning Controls above and the Growth Centres DCP 2010.</li> <li>▪ The development is considered satisfactory with respect to the natural and built environment as well as social and economic impacts.</li> <li>▪ The subject site is suitable for the proposed use given that the use has already been approved and is providing a community use within an urban area.</li> <li>▪ No submissions were received as part of the public notification of the Section 96 modification.</li> <li>▪ The development is in the public interest, providing a public school within The Ponds community.</li> </ul>	Yes

## 8 Concluding Comments

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- 8.1 The proposed development has been assessed against the matters for consideration listed in Section 96 and Section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory. The subject site is considered suitable for the proposed development and will be in the public interest.

## 9 Recommendation

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- 9.1 The Section 96 (2) Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at **Attachment 2**.
- 9.2 The Applicant be advised of the Sydney West Joint Regional Planning Panel's decision.



MELISSA PARNIS  
ASSISTANT TEAM LEADER, PLANNING APPROVALS (NORTH)



JUDITH PORTELLI  
MANAGER DEVELOPMENT SERVICES AND ADMINISTRATION



GLENNYS JAMES  
DIRECTOR CITY STRATEGY AND DEVELOPMENT