



DEVELOPMENT APPLICATION DA2015/0597 (MOD)

SECTION 4.55(1) MODIFICATION APPLICATION

**TO APPROVED REDEVELOPMENT OF
MANLY VALE PUBLIC SCHOOL**



**Prepared for
NBRS ARCHITECTS**

**On behalf of
DEPARTMENT OF EDUCATION**

**By
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APPENDICES

APPENDIX A – EXTRACT OF DEVELOPMENT CONSENT

1. INTRODUCTION

This planning report is provided in support of an application to provide a minor modification under Section 4.55(1) of the Environmental Planning and Assessment Act, 1979 (“the Act”) to the approved alterations and additions at Manly Vale Public School.

Development Consent (DA 2015/0597) was granted on 19 January 2016 by the Sydney North Planning Panel for the demolition, alterations and additions, construction of new school buildings and increase in student numbers at Manly Vale Public School. An extract of the development consent is attached to this report. (see **Appendix A- Extract of Consent**)

Modification to Condition 55 is proposed to correct an error in the description of the land to which a public easement for access is to be provided by way of a right of carriageway. A description of the proposed modification is provided in Section 4.

This Section 4.55(1A) application contains the following sections:

Section 2 examines the characteristics of the subject property;
Sections 3 and 4 provides details of the proposed modifications;
Section 5 addresses the relevant requirements of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 which relate to modification of development consents;
Section 6 provides a conclusion.

2. THE SUBJECT SITE

The subject land is located at 77 Sunshine Street, Manly Vale (Lot 1768 DP752038) and is known as Manly Vale Public School. The subject site is located on the western side of Gibbs Street, and near its intersection with Sunshine Street. The school has access via Gibbs Street.

The site is generally rectangular in shape and has a total area of approximately 2.85ha. It is noted that adjoining land parcels being Lot 100, 101 and 102 in DP 1220468 have been compulsorily acquired by the Department of Education (DoE) Lot 102 was previously an unmade Crown Road.

The site is located on the eastern edge of an elevated knoll with the existing school and approved school buildings being located in the eastern part of the site, with the remainder being undeveloped bushland with a geology underlain by Hawkesbury Sandstone.

3. THE APPROVED SCHOOL DEVELOPMENT

On 22 December 2016 development consent was granted to DA 2015/0597 by the Sydney North Planning Panel for demolition, alterations and additions to existing school buildings and the construction of new school buildings at Manly Vale Public School.

The approved development works include the construction of four new building blocks (Block L,M,N and O) and refurbishment of existing Administration block (see **Figure 3 – Current DA Site Plan**) containing classrooms, associated facilities, COLA, walkways, open recreation areas and landscaping.

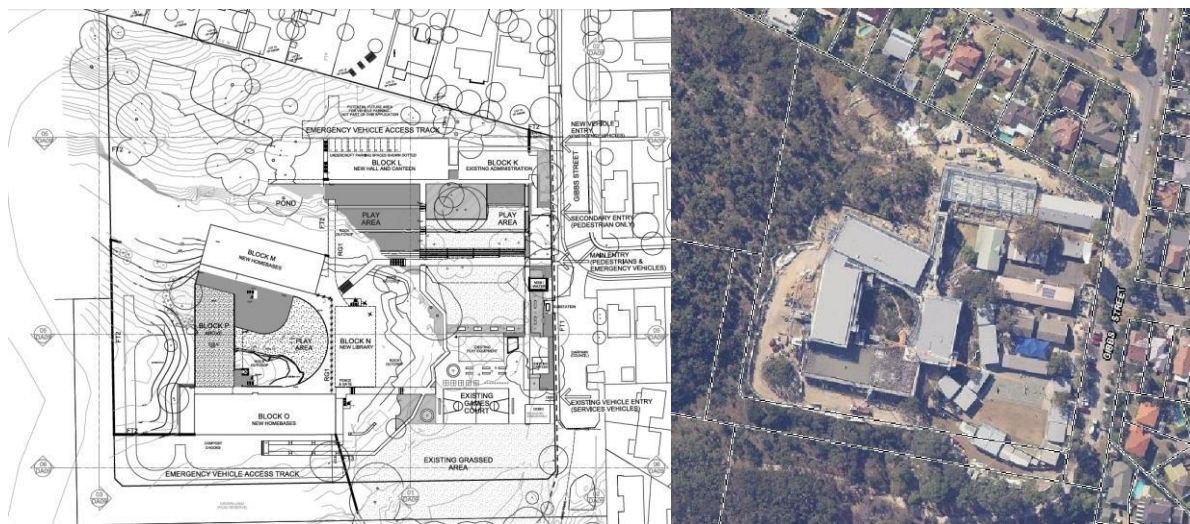


Figure 2 – Approved School Plan Layout
(Source: Extract of DA 04 Site Plan by NBRS Architecture)

4. THE PROPOSED MODIFICATION

This modification application is intended to correctly identify the land to which Condition 55 of the development consent relates to that requires a public access pathway to be provided by way of an access easement. The relevant existing Condition 55 is reproduced in **Appendix A** of this report.

It is noted that Lots 7404 and 1549 (referred to in the condition) are not owned by the Department of Environment (DoE) and the redevelopment of the DoE site does not impact on any existing access ways across those land lots.

The school land comprises the main school lot 1768 and adjacent lots 100, 101 and 102, part of which are to be used as sports grounds. The "right of carriageway" pathways to which Condition 55 refers are essentially located on or around Lot 102.

Consultation with Council has informed the preparation of this modification request. It is understood that public access way easement sites are only required for Lots 100 and 101 DP 1220468 located to the south and south east of the main school Lot 1768.

In order to correct this minor error and misdescription in the consent, it is proposed to modify Condition 55 to read as follows:

Condition 55 with track changes and explanatory notes.

55. Rights of Carriageway

Rights of carriageway easements over Lots 100 and 101 DP 1220468 (NB: Lot references repositioned from the end of the sentence) in favour of Northern Beaches Council under the Conveyancing Act, 1919 are to be created on the titles to ensure the ongoing retention of public pedestrian access of the variable width dual use pathway which extends from the southern side of the Gibbs Street car park then northwards towards the Manly Northern Beaches War Memorial.

The terms of the easements are to be prepared to Council's requirements (NB: remove " (available from Northern Beaches Council" as I am informed by the Council it does not have its own wording) at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

(NB: Delete reference to Lots 1549, 7074, 102 and 1768)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with state building laws.

Reason: Public interest and access (DACENHO4).

Condition 55. Rights of Carriageway – Clean copy (word format attached)

Rights of carriageway easements over Lots 100 and 101 DP 1220468 in favour of Northern Beaches Council under the Conveyancing Act, 1919 are to be created on the titles to ensure the ongoing retention of public pedestrian access of the variable width dual use pathway which extends from the southern side of the Gibbs Street car park then northwards towards the Manly Northern Beaches War Memorial.

The terms of the easements are to be prepared to Council's requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with state building laws.

Reason: Public interest and access (DACENHO4).

5. CONSIDERATIONS REQUIRED UNDER SECTION 4.55

Section 4.55(1) of the Environmental Planning and Assessment Act, 1979 states:

(1) Modifications involving minor error, misdescription or miscalculation

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 a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

Note.

Section 380AA of the [Mining Act 1992](#) provides that an application for modification of development consent to mine for coal can only be made by or with the consent of the holder of an authority under that Act in respect of coal and the land concerned.

It is considered that Section 4.55(1) is the most appropriate mechanism for the proposed modifications to the consent.

The proposed modification to the consent corrects a minor error or misdescription in the wording of Condition 55 relating to the provision of appropriate public access on a number of lots surrounding the subject school property.

Having the school property open to the public at large (and particularly by legal right) will work adversely with regard to the DoE's responsibility for the school students and potentially expose the DoE to liabilities. In addition, as stated previously in this report, Lots 1549 and 7074 are not owned by the DoE so the Department cannot grant rights over those land lots.

The proposed amended condition of consent as detailed in Section 4 will maintain appropriate public access while also providing for ongoing safety and security requirements for the school grounds.

The modification relates to legal "right of carriageway" provision on the titles of land. There are no physical changes to the approved development proposed.

There is no change to the overall built form of the approved school buildings and no change to the general layout of school facilities and services. There is no change to the location or amount of car parking. There is no change to the approved student or staff numbers for the school.

The bulk and scale of the approved school buildings remain unchanged and configuration and layout of the school buildings on site remains unchanged. All the main components of the approved school redevelopment are retained.

The proposed works will provide for the orderly and efficient use of land that will assist in the ongoing operations of this important and growing educational establishment.

6. CONCLUSION

Overall it is considered that the proposed modification to Condition 55 is entirely appropriate for the approved development. It has been the subject of consultation with both the landowner and Council and maintains appropriate public access while providing also for the ongoing safety and security of the school grounds.

The site has been approved for educational use and is readily capable of correcting this minor error in misdescription in the development consent.

The proposed modification does not alter the environmental impacts assessed and approved for the land and will not give rise to any additional adverse amenity impacts.

In view of the above, it is recommended that the existing consent be modified to reflect the changes outlined in this application. We respectfully request Council's speedy resolution of this matter.

APPENDIX A

Extract of Development Consent

22 December 2016

Coffey Projects Australia Pty Ltd
Level 19, Tower B, Citadel Towers
799 Pacific Highway
CHATSWOOD NSW 2067

Our Ref: 2016/417978

Attention: Glen Francis

Dear Sir/Madam,

Application Number:	DA2015/0597
Address:	Lot 1768 Sunshine Street, Manly Vale
Development:	Demolition works, Alterations and additions to existing buildings, Construction of new school buildings and an increase in student numbers at Manly Vale Public School

Please find attached the Notice of Determination for the above mentioned application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's eServices website at www.warringah.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on (02) 9942 2111 or via email quoting the application number, address and description of works to council@warringah.nsw.gov.au

Yours faithfully



Peter Robinson
Executive Manager – Development Assessment

NOTICE OF DETERMINATION

Application Number	DA2015/0597
Determination Type	Development Application

APPLICATION DETAILS

Applicant	Department of Education Coffey Projects Australia Pty Ltd
Land to be Developed (address)	Lot 1768 Sunshine Street, Manly Vale
Proposed Development	Demolition works, Alterations and additions to existing buildings, Construction of new school buildings and an increase in student numbers at Manly Vale Public School

DETERMINATION – APPROVED

Consent Authority:	Sydney North Planning Panel
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Made On (Date)	19 December 2016
Consent to Operate From (Date)	19 December 2016
Consent to Lapse On (Date)	19 December 2021

Detail of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

Note:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans and Supporting Documentation

- a) The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA04 (C) – Site Plan	28/09/2016	Government Architect's Office & NBRS Architecture
DA05 (C) – Overall Floor Plan L1	28/09/2016	Government Architect's Office & NBRS Architecture
DA06 (C) – Overall Floor Plan L2	28/09/2016	Government Architect's Office & NBRS Architecture
DA07 (C) – Overall Floor Plan L3	28/09/2016	Government Architect's Office & NBRS Architecture
DA07.1 (A) – Overall Floor Plan L4	28/09/2016	Government Architect's Office & NBRS Architecture
DA08 (C) – Overall Roof Plan	28/09/2016	Government Architect's Office & NBRS Architecture
DA09 (C) – Site Sections Elevations	28/09/2016	Government Architect's Office & NBRS Architecture
DA10 (C) – Level 1 Plan Hall/Canteen/Admin	28/09/2016	Government Architect's Office & NBRS Architecture
DA11 (C) – Level 2 Plan Homebases	28/09/2016	Government Architect's Office & NBRS Architecture
DA12 (C) – Level 3 Plan Homebases & Library	28/09/2016	Government Architect's Office & NBRS Architecture
DA13 (C) – Level 4 & Roof Plan Homebases & Library	28/09/2016	Government Architect's Office & NBRS Architecture
DA14 (C) – Block K & L Elevations & Sections	28/09/2016	Government Architect's Office & NBRS Architecture
DA15 (C) – Block M Elevations & Sections	28/09/2016	Government Architect's Office & NBRS Architecture
DA16 (C) – Block N Elevations & Sections	28/09/2016	Government Architect's Office & NBRS Architecture
DA17 (C) – Block O Elevations & Sections	28/09/2016	Government Architect's Office & NBRS Architecture
DA18 (A) – Block P Elevations & Sections	28/09/2016	Government Architect's Office & NBRS Architecture
Colours & Materials Board	Undated	Government Architect's Office

54. Traffic Control Plan

A Traffic Control Plan is to be prepared by a suitably qualified person to address:

- pick up and set down areas;
- bus zones and
- wombat crossing.

All traffic controls are to be implemented at no cost of Council.

The Traffic Control Plan is to be prepared prior to occupation.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with the state building laws.

Reason: To ensure the suitability and compliance of the location and design of the crossing with Australian Standards.

55. Rights of Carriageway

Rights of carriageway easements in favour of the Northern Beaches Council under the Conveyancing Act 1919 are to be created on the title to ensure the ongoing retention and public access of:

- a) The variable width dual use pathway which extends from the southern side of the Gibbs Street carpark then north towards the Manly Northern Beaches War Memorial Park (proposed Lots 100, 101 in DP 1220468); and
- b) The variable width pathway which encircles the eastern side of McComb Hill within proposed Lots 1549, 7074 and 102 in DP 1220468 and existing Lot 1768 in DP 752038.

The terms of the easements are to be prepared to Council's requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with the state building laws.

Reason: Public interest and access. (DACENH04)

56. Required Planting

Trees shall be planted in accordance with the following schedule:

LDA01, LDA02, LDA03 Issue C - Landscape Plan & Plant Schedule	27/09/16	NSW Public Works Government Architect's Office & NBRS Architecture. Landscape
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Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with the state building laws.

