

SYDNEY WESTERN CITY PLANNING PANEL
COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-118
DA Number	DA-906/2019/A
LGA	Liverpool
Proposed Development	<p>Modification to Development Consent DA-906/2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. The application seeks to modify the approved consent as follows:</p> <ul style="list-style-type: none"> • Increase the depth of bulk earthworks from RL 10.36m to RL 6.75m (increased depth of 3.61m), including an extension of the associated retention system comprising secant piling. • Demolition of the existing planters and pedestrian access ramp within Lot 201 in DP 1224084, also owned by Liverpool City Council. • Relocation of the temporary concrete driveway on Scott Street further to the east.
Street Address	<p>40-46, 48, 52 and 64 Scott Street, Liverpool NSW 2170</p> <p>Known as 52 Scott Street, Liverpool ('Liverpool Civic Place')</p>
Applicant/Owner	Applicant: Built Development Group; Landowner: Liverpool City Council
Date of DA lodgement	21 September 2020
Number of Submissions	One (1)
Recommendation	Approved with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>The Sydney South West Planning Panel is the determining body as the original application was approved by the Sydney Western City Planning Panel for a Council related development' with a capital investment value of over \$5 million, pursuant to Schedule 7(6) of the Environmental Planning and Assessment Act 1979 This proposed modification application is lodged under Section 4.55(1A) of the Environmental Planning & Assessment Act.</p>
List of all relevant s4.15(1)(a) matters	<p><u>Environmental Planning Instruments (EPI's)</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy No.55 – Remediation of Land (SEPP55); • State Environmental Planning Policy (State and Regional Development) 2011; • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; • Liverpool Local Environmental Plan 2008 (LLEP2008);

	<p><u>Draft Environmental Planning Instruments</u></p> <ul style="list-style-type: none"> • Draft State Environmental Planning Policy (Remediation of Land) • Draft State Environmental Planning Policy (Environment) <p><u>Development Control Plans</u></p> <ul style="list-style-type: none"> • Liverpool Development Control Plan 2008 (<i>LDCP2008</i>) <ul style="list-style-type: none"> ○ Part 1 – Controls to all development ○ Part 4 – Development in Liverpool City Centre
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Recommended modifications to conditions of consent prepared by Architectus Australia Pty Ltd; 2. General Terms of Approval issued by the Natural Resources Access Regulator; 3. Revised Construction Management Plan prepared by Wood and Grieve Engineers; 4. Revised Structural Report prepared by Robert Bird Group; 5. Revised Demolition Plans prepared by FJMT; 6. Revised Geotechnical and Environmental Investigation prepared by Golder; 7. Geotechnical and Environmental Investigation Cover Letter prepared by Golder; 8. Heritage Impact Statement Cover Letter prepared by NBRS Architecture; 9. Historical Archaeological Assessment Cover Letter prepared by Extent Heritage; 10. Revised Aboriginal Heritage Assessment prepared by Extent Heritage; and 11. Revised Construction Noise and Vibration Management Plan prepared by Wood and Grieve Engineers.
Clause 4.6 requests	N/A
Summary of key submissions	One community submission was received from adjoining neighbouring property regarding retention of equitable access throughout adjacent sites during construction.
Report prepared by	Architectus Australia Pty Ltd
Report date	10 February 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
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e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
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Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?	Yes
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Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining body as the original application was approved by the Sydney West Joint Regional Planning Panel for a 'Council related development' with a capital investment value of over \$5 million, pursuant to Schedule 7(6) of the Environmental Planning and Assessment Act 1979. This proposed modification application is lodged under Section 4.55(1A) of the Environmental Planning & Assessment Act (EP&A Act).

1.2 The proposal

The application proposes modifications to DA-906/2019 which granted approval for:

- Demolition of all existing structures on land at 52 Scott Street, 40-46 Scott Street and 64 Scott Street;
- Bulk earthworks to a maximum depth of RL 10.35, including shoring using piles, on land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street; and
- Removal of seven (7) trees as offsite works, including six (6) trees on an adjacent site at 306-310 Macquarie Street.

The application seeks the following changes to the consent under a Section 4.55(1A) Modification:

- Increase the depth of bulk earthworks from RL 10.36m to RL 6.75m (increased depth of 3.61m), including an extension of the associated retention system comprising secant piling.
- Demolition of the existing planters and pedestrian access ramp within Lot 201 in DP 1224084, also owned by Liverpool City Council.
- Relocation of the temporary concrete driveway on Scott Street further to the east.

The rationale for the proposed modification works is that it was recognised after DA-906/2019 that there was additional demand for car parking. This necessitated an additional basement level, and therefore, further excavation.

The proposed modifications are illustrated in extracts of architectural plans provided in Section 4 below.

1.3 The site

The site is known as 52 Scott St Liverpool and comprises twelve (12) lots and is of area 9,189.5m². It is located within the southern end of Liverpool city centre. Council are the site landowners.

1.4 Panel Briefing

A briefing of SWCPP was held on 15 December 2020. In response to a community submission raised from an adjoining landowner, the Panel requested further information on

accessibility arrangements on site that enable access to the adjoining property and surrounding properties. This is addressed under 'Consultation' further below.

1.5 The issues

There are no major issues raised with respect to the proposed modification.

1.6 Exhibition of the proposal

The development application was advertised for a period of 28 days between 29 October 2020 to 27 November 2020 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). One (1) submission was received to the proposed development. This is discussed in detail further in this report.

1.7 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application, it is recommended that the modification application be approved subject to conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The site's main address is **52 Scott Street, Liverpool** which is comprised of twelve (12) allotments. These allotments are as follows:

- Lot 100, DP 877435
- Lot 22, DP 441010
- Lot 1, DP 229979
- Lot 3, DP 229979
- Lot 1, DP514817
- Lot 1, DP 507070
- Lot 23, DP 441010
- Lot 2, DP 229979
- Lot 201, DP 1224084
- Lot 11, DP 522284
- Lot 12, DP 657056
- Lot 17, DP 81842

The site is an irregularly shaped lot with a total area of 9,189.5m². The site is located at the southern end of Liverpool City Centre, within the Liverpool LGA.

The site is located at the southern end of Liverpool City Centre, within the Liverpool LGA. The site also slopes to the north with a fall of approx. 3.5m from its Terminus Street frontage to its Scott Street frontage. The site has three road frontages including the main frontage to Scott Street to the north, Macquarie Street to the north-west, George Lane to the east, and Terminus Street to the south.

The site currently contains:

- A two storey commercial building fronting onto Scott Street;
- Above ground car parking structure fronting onto Terminus Street servicing the commercial building;
- A two storey commercial building located at the eastern side of the site with an adjoining carpark at the rear;
- A vacant lot separating the two commercial buildings;
- A heritage item (I99) 'Memorial School of Arts' building fronting Macquarie Street; and
- Augusta Cullen Plaza, a small public park located adjacent to the Memorial School of Arts.

An aerial image of the subject site and surrounds is provided on the following page.



Figure 1: Aerial of subject site (in red) and surrounds

Source: Near Maps and Ethos Urban

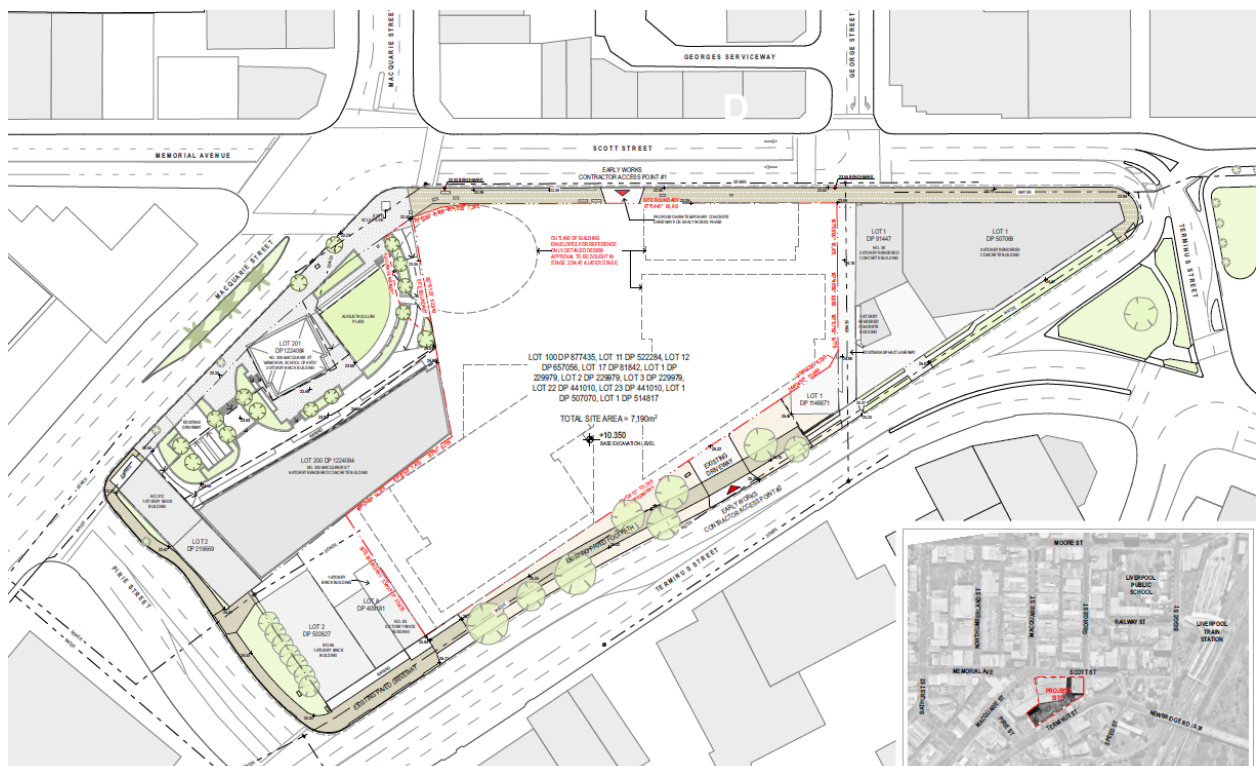


Figure 2: Site Plan

Source: FJMT Architects

2.2 The locality

The development site is located approximately 250m south west of Liverpool railway station, and approximately 550m south of Westfield Liverpool and the Western Sydney University Liverpool Campus. Being located at the southern end of Liverpool City Centre, the surrounding locality is predominantly characterised by a range of retail / commercial premises of varying heights within the immediate vicinity.

The surrounding locality is indicated in **Figure 3** below.



Figure 3: Locality Plan
Source: Nearmap

2.3 Site affectations

The subject site has a number of constraints which are listed below:

2.3.1 Heritage

The wider development site includes the heritage item I99, the Memorial School of Arts, a building of local heritage significance on Schedule 5 of the Liverpool Local Environmental Plan (LEP) 2008.

The heritage item is located at 306-310 Macquarie Street, Liverpool (Lot 201 DP 1224084), to the west of the extent of proposed modification works.

Other surrounding heritage items in the vicinity of the site are summarised in the table below and identified in **Figure 5**.

Item name	Item number	Address	Significance
Plan of town of Liverpool (early town centre street layout – Hoddle 1827)	I89	Streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways)	Local
Commercial building (formerly Rural bank and State bank)	I91	Macquarie Street and Memorial Avenue	Local
Boer War Memorial, including memorial to Private A.E. Smith	I92	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)	Local
Macquarie Monument	I93	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)	Local
Row of three palm trees	I94	Macquarie Street median strip	Local
Golden Fleece Hotel	I103	Corner of Scott and Terminus streets	Local
Liverpool Fire Station	I109	70-78 Terminus Street	Local
Bigge Park Conservation Area	Conservation Area	Area bounded by and including College, Goulburn, Railway, Scott and Bigge Streets as shown hatched red in Figure 5	Local



 The Site

Figure 4: Heritage items in the vicinity of the site

Source: Liverpool LEP 2008



Figure 5: Photo looking south-west towards the 'Memorial School of Arts Building', Macquarie Monument and 'row of three palm trees', all of which are heritage items identified under LLEP 2008.

Source: Architectus

2.3.2 Traffic

The southern boundary of the site fronts Terminus Street, an RMS Classified Road that is currently four to six lanes wide. The site currently has a main vehicular entrance from Terminus Street to the car parking structure servicing the main two-storey commercial building on Scott Street.

Terminus Street is the main east-west thoroughfare for district traffic, connecting the Hume Highway at its western terminus and Bankstown Airport and beyond in the east. It is a major road that enables vehicles to bypass Liverpool City Centre and experiences high volumes of traffic. Part of the site along Terminus Street is subject to land acquisition by RMS to facilitate future widening of the road.

Two construction vehicle access points are proposed: one from Terminus Street and one from Scott Street. Approximately 100 construction vehicle movements a day are expected to facilitate the construction activities, with peak vehicle movements anticipated between 7am – 3pm Monday to Friday.

2.3.3 Flooding

The proposed development is within the Georges River catchment area however, the site is not within the 100-year ARI flood extent, and as such is not impacted by flooding.

2.3.4 Acid Sulfate Soils

The site is mapped as Class 5 under the Acid Sulfate Soils Map in the Liverpool LEP 2008. The Geotechnical and Environmental Investigation Report prepared by Golder Associates, outlines the results of soil testing at the site. Acid sulfate soils were not identified in the soil testing and an Acid Sulfate Soils Management Plan is not required for the site.

2.3.5 Contamination

A Preliminary Site Investigation identified that the site contains potential contaminants including uncontrolled filling, existing and former buildings on site, the former fire station and the adjacent mechanical workshop. The removal of Asbestos Containing Materials (ACM) in accordance with the EPA's standard requirements will be required prior to the commencement of works.

3. PROPOSAL BACKGROUND

The site is subject to multiple DA's of relevance to the proposed modification. These applications are summarised below:

3.1 Concept Approval – DA-585/2019

The site has an approved Concept DA (DA585/2019) pursuant to Section 4.22 of the EP&A Act. This DA was assessed by Liverpool City Council and approved by the SWCPP on 31 August 2020.

Specifically, the following was approved:

- A building envelope with a maximum height of RL 43.45 for the purpose of an information and education facility (public library) use and;
- A building envelope with a maximum height of RL 84.25 for the purpose of a public administration building use, and either (or a combination of) commercial premises or child-care centre uses and;
- A building envelope with a maximum height of RL 118.85 which will accommodate either (or a combination of) commercial premises, educational establishments, tourist and visitor accommodation or boarding house (student accommodation) uses and;
- A landscaping and public domain concept including the provision of a public through-site link running north to south through the site, connecting Scott Street to the north through to Terminus Street to the south; and
- A building envelope for a three-level shared basement car park across the entire site to accommodate parking for all future uses (approximately 413 spaces, to be determined as part of future detailed DAs) and accommodating a public car park to be owned by Council.

3.2 Stage One (Phase A) Detailed DA (DA906/2019)

Development Application DA-836/2020 seeks detailed consent for Stage 1 (Phase A) of the Liverpool Civic Place at 52 Scott Street Liverpool. The proposal includes construction of a new public library, a fourteen (14) storey mixed use building comprising an eight (8) storey public administration building, four (4) storeys of commercial premises in addition to retail and childcare space which is supported by a five (5) level basement with landscaping and public domain works.

DA-836/2020 is presently under assessment by Liverpool City Council.

3.3 Stage Two (Phase B) Detailed DA (DA1080/2020)

Development Application DA-1080/2020 seeks detailed consent for Stage 2 (Phase B) of the Liverpool Civic Place at 52 Scott Street Liverpool. The proposal includes construction of and use of a 22 storey commercial office building, a 9 storey co-living building as well as related works such as a 4 level basement, landscaping and public domain works.

3.4 Early Works DA (DA-906/2019)

DA-906/2019 is a detailed early works Development Application (DA) for 52 Scott Street, Liverpool. The DA sought the demolition of existing structures on site and early works site preparation. The intent of this application was to allow for early works to commence on the Liverpool Civic Plaza project. The Civic Plaza Project is seeking to comprehensively develop 52 Scott Street, Liverpool as a mixed use precinct. DA-906/2019 was approved on 29 June 2020 by the Sydney Western City Planning Panel (SWCPP). Works have commenced on the site under this DA.

4. DETAILS OF THE PROPOSAL

The development of the site under DA-906/2019 was approved on 25 May 2020 for the following works:

- Demolition of all existing structures on land at 52 Scott Street, 40-46 Scott Street and 64 Scott Street;
- Bulk earthworks to a maximum depth of RL 10.35, including shoring using piles, on land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street; and
- Removal of seven (7) trees as offsite works, including six (6) trees on an adjacent site at 306-310 Macquarie Street

The following changes are proposed to the consent under a Section 4.55(1A) Modification:

- Increase the depth of bulk earthworks from RL 10.36m to RL 6.75m (increased depth of 3.61m), including an extension of the associated retention system comprising secant piling.
- Demolition of the existing planters and pedestrian access ramp within Lot 201 in DP 1224084, also owned by Liverpool City Council.
- Relocation of the temporary concrete driveway on Scott Street further to the east.

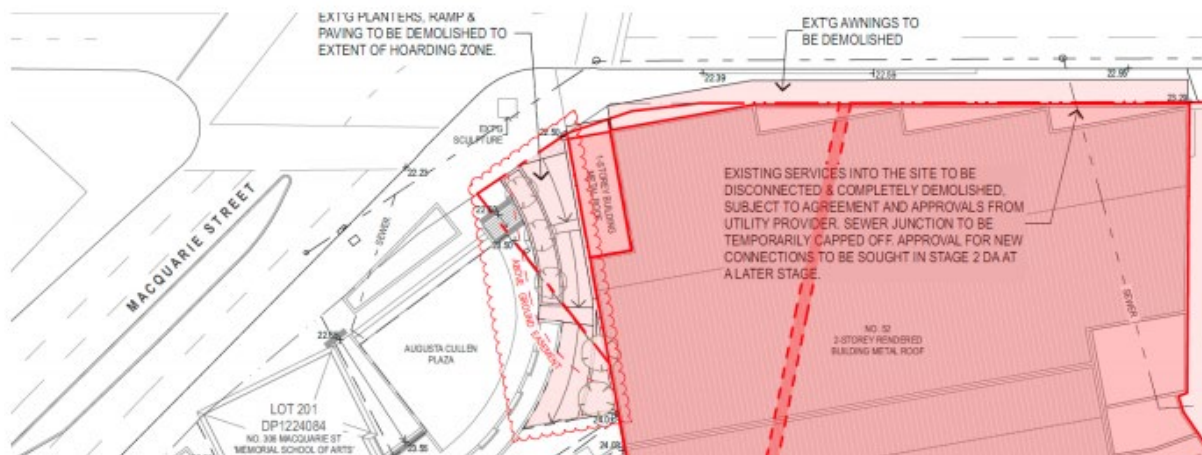


Figure 6: Additional demolition works (in red)

Source: FJMT Architects

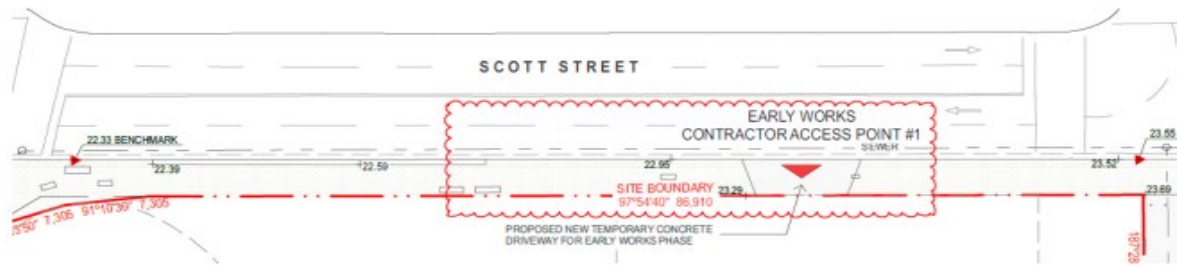


Figure 7: Proposed construction of temporary driveway

Source: FJMT Architects

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following legislation, Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Legislation

- Environmental Planning and Assessment Act 1979 (EP&A Act);
- Water Management Act 2000

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.55 – Remediation of Land (SEPP55);
- State Environmental Planning Policy (State and Regional Development) 2011;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- Liverpool Local Environmental Plan 2008 (LLEP2008);

Draft Environmental Planning Instruments

- Draft State Environmental Planning Policy (Remediation of Land);
- Draft State Environmental Planning Policy (Environment);

Other Plans and Policies

- The Greater Sydney Region Plan 'A Metropolis of Three Cities';
- Western City District Plan
- Liverpool City Activation Strategy
- Liverpool City Centre Retail Study

Note the above plans/policies are not discussed below as the proposed modification is only for early works and is deemed generally consistent.

Development Control Plans

- Liverpool Development Control Plan 2008 (LDGP2008)

- Part 1 – Controls to all development
- Part 4 – Development in Liverpool City Centre

6. ASSESSMENT

Environmental Planning and Assessment Act 1979 (EP&A Act)

Section 4.55(1A)

Section 4.55(1A) of the EP&A Act provides that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The Applicant’s planner (Ethos Urban) has provided the following response:

“It is noted that demolition and excavation works now extend to Lot 201 in DP 1224084 (west), which is also land owned by Liverpool City Council. Whilst this lot is nominated within the broader Liverpool Civic Place site, it is not land to which the original early works DA (DA-906/2019) relates. Notwithstanding this, as set out in Scrap Realty Pty Ltd v Botany Bay City Council [2008] NSWLEC 333 (Scrap Realty), the Chief Justice Preston of the NSW Land and Environment Court confirmed that a development consent issued under Part 4 can be modified to include additional land beyond that originally included in the consent, provided that the development overall continued to satisfy the ‘substantially the same’ test that applied to a modification application under Part 4. In the same case, Preston CJ noted that ‘an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under (Section 4.55)’. As such, Section 4.55 provides the power to modify the consent to add additional land, as per Scrap Realty. The question is therefore whether the development is “substantially the same development”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- *the scope of the early works is the same, with minor amendments. The amendments relate only to works involving, or associated with, demolition, excavation and a retention as originally approved under DA-906/2019.*
- *it will continue to serve the same purpose, being to complete the site preparation and early works necessary to facilitate the broader Liverpool Civic Place redevelopment.*
- *Works will remain staged, in the following phases:*
 - *CC 1: Demolition of entire site;*
 - *– CC 2: Excavation and piling of Stage 1 site (possible public domain embellishments to Stage 2 site); and*
 - *– CC 3: Excavation and piling of Stage 2 site.*
- *the environmental impacts of the modified development are substantially the same as the approved development.”*

Comment:

The reasons provided above by the Applicant for the proposed modification satisfying the “substantially the same development” requirement under Section 4.55(1A) of the EP&A Act are agreed with.

The proposal has been found to be of minimal environmental impact as provided at **Section 6.7** below.

Section 4.55(3)

The proposed modification is found to satisfy the reasons for approval of the original application. Refer to **Section 6.8** below.

Integrated Development

The DA is Integrated Development in accordance with Section 4.46(1) of the EP&A Act.

Clause 4.46 (1) of the EP&A Act states:

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals—

- *Water Management Act 2000 – ss 89, 90, 91 – water use approval, water management work approval or activity approval under Part 3 of Chapter 3.*

Water Management Act 2000

The additional excavation under the proposed modification triggers the need for an Aquifer Interference Approval under Section 91 of the Water Management Act 2000.

The proposal involves additional excavation to a maximum depth of RL 6.75m. The Geotechnical and Environmental Investigation prepared by Golder Associates, outlines that the groundwater level varies across the site, ranging from RL 15.1 to RL 19.6.

As such, base excavation is between 8.35m and 12.85m deeper than the groundwater level and will require activity approval under section 91 of the Water Management Act 2000.

General Terms of Approval have been issued by the Natural Resources Access Regulator (Reference No. S961129482) for the purposes of the s.4.55(1A) Modification and are attached.

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) (and Draft SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state-wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to Clause 7 of the above SEPP, the consent authority must consider for the carrying out of development on land:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.
- if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Comment:

The Preliminary Site Investigation (PSI) prepared by Douglas Partners for DA-906/2019 has been reviewed by Golder to account for proposed modification works. Golder find the site can be made suitable for the proposed development and future use of the site in accordance with the requirements of SEPP 55 subject to the recommendations outlined in the original PSI.

(b) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP) (and Draft Environment SEPP)

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, the planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning	The plan aims generally to maintain and improve

principles of this plan	the water quality and river flows of the Georges River and its tributaries. The proposal is consistent with the aims of the Plan.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas	The proposed development is not considered to create a detrimental impact on an adjacent downstream local government area.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	The proposed excavation works are not considered to have a detrimental impact on the Georges River or its tributaries. An existing condition of consent requiring an Excavation Environmental Management Plan will be retained and is considered appropriate.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning)	The imposition of suitable conditions and mitigation measures as presently exists under the approved consent will ensure the proposed development will not affect the diversity of the catchment.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice	The NRAR has been notified about the proposed development.
(g) whether there are any feasible alternatives to the development or other proposal concerned	The site is located in an area nominated for mixed-use development. The proposed works will prepare the site for future mixed-use development, which is considered the most appropriate and feasible form of development on the site.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is mapped as Class 5 Acid Sulfate Soils under the LLEP 2008. However, soil testing did not identify acid sulfate soils and an Acid Sulfate Soils Management Plan is not required.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.

(3) Flooding	The proposed development is not impacted by flooding.
(4) Industrial discharges	Not applicable.
(5) Land degradation	Earthworks will be undertaken to minimise disruption and environmental impacts.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	The proposal is for site preparation and early works only. The proposal will not contribute to an increase in urban/stormwater runoff. Suitable conditions will be imposed to manage the site during the works.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy. The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Not applicable
(13) Wetlands	Not applicable.

It is considered that the proposed modification to DA-906/2019 satisfies the provisions of the GMREP No.2.

(d) Liverpool Local Environmental Plan 2008

- **Permissibility**

The site is zoned B4 mixed use pursuant to the Liverpool Local Environmental Plan 2008. The proposed works would prepare the site for a future mixed-use development, which is permissible in the B4 Mixed Use zone. Demolition is permissible with consent under Clause 2.7 of the Liverpool LEP 2018.



Figure 8: Land Use Zoning Map

Source: NSW Planning Portal

• **Zone Objectives**

The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.*

The proposed works would prepare the site for a future mixed-use development, which is permissible in the B4 Mixed Use zone. Therefore, it is considered that proposed works are consistent with the objectives of the zone.

Clause 2.7 of the Liverpool LEP 2008 allows demolition to be carried out with development consent.

• **Principal Development Standards**

The LLEP 2008 contains a number of principal development standards, which are discussed with respect to the proposal as follows:

Clause 4.3 Height of Buildings

Not applicable

Clause 4.4 Floor Space Ratio

Not applicable

- **Other Relevant LLEP 2008 Clauses**

In addition to the above development standards, the application has also been considered in regard to other relevant standards of the LLEP 2008. The key clauses applicable to the application are discussed in further detail below.

Clause 2.7 - Demolition

Demolition may be carried out only with development consent.

The proposed application seeks development consent for demolition works in accordance with Clause 2.7 of LLEP 2008.

Clause 5.10 Heritage Conservation

The site is not listed as a heritage item in the Liverpool LEP 2008 but is located within the immediate vicinity of a heritage item.

The site is adjacent to heritage item 199, the 'Memorial School of Arts', a building of local heritage significance identified under Schedule 5 of the LLEP 2008.

The proposed works will not result in any adverse impacts to the Memorial Schools of Arts as works will be contained within the site.

Clause 7.7 Acid Sulfate Soils

The site is mapped as Class 5 under the Acid Sulfate Soils Map in the LEP; however, preliminary site investigations undertaken by the applicant have determined that an Acid Sulfate Soils Management Plan is not required for the site.

Clause 7.8 Flood Planning

The proposed development is within the Georges River catchment area; however, the site is not within the 100-year ARI flood extent. The early works will not be impacted by flooding.

Clause 7.31 – Earthworks

This modification application seeks to modify the approved consent to increase the depth of bulk earthworks.

Following approval of DA906/2019 it was recognised that there was an additional demand for public car parking. The modification application constitutes an increase from the originally approved excavation, including an additional cut volume from 81,870m³ to 100,000m³.

6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

Refer to Draft SEPP 55 and Draft Environment SEPP further above.

6.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Part 1 - General Controls for all Development and Part 4 - Development in The Liverpool City Centre of the Liverpool Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with the relevant controls in the Development Control Plan.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	<p>The site contains potential contaminants but can be made suitable for the proposed development and future uses consistent with the requirements of SEPP 55.</p> <p>The amended Geotechnical and Environmental Investigation Report concluded that there are not expected to be significant additional contamination risks with the deepened basement level.</p>
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	<p>The site is mapped as Class 5 under the Acid Sulfate Soils Map of the LLEP 2008. The site is within an area of no known occurrence of Acid Sulfate Soils and soil testing did not identify acid sulfate soils on the site. An Acid Sulfate Soils Management Plan is not required to facilitate the proposed amendment.</p>
Section 14. Demolition of Existing Development	Provisions relating to demolition works	<p>The modification application seeks to modify the consent to allow a minor extension of the approved demolition works, to incorporate demolition of existing planters and ramps within Lot 201 in DP 1224084, which is also land owned by Liverpool City Council.</p>

		The proposed modification to demolition works are of minimal environmental impact.
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	<p>There is a low risk of Aboriginal objects being located at the site; however, there is potential for isolated finds even in disturbed contexts.</p> <p>A condition of consent regarding the management of any unexpected finds presently applies to the consent and will not be altered.</p>
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	<p>There are no heritage items located on the site; however, the site was investigated for archaeological potential. Further archaeological assessment is required to be undertaken prior to the commencement of works.</p> <p>The completion of testing and the issuing of any permits is to be undertaken prior to commencement of works and will be imposed as a condition of consent.</p>
Section 18. Notification of Applications	Provisions relating to the notification of applications.	The development application was advertised for a period of 28 days between 29 October 2020 to 27 November 2020, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). One community submission (1) was received during the exhibition period.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Suitable conditions regarding the removal waste from the site are already applied to the existing consent.

LDCP 2008 Part 4: Liverpool City Centre

The proposal was also considered against the provisions of the LDCP 2008, Part 4 – Development in Liverpool City Centre. The proposal is for early works only and does not include any proposed buildings on the site.

Therefore, it is considered that the proposal is consistent with the controls outlined in the Liverpool Development Control Plan 2008.

6.4 Section 4.15(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

6.5 Section 4.15(1)(a)(iv) – The Regulations

Section 92 of the EP&A Regulation sets out additional matters to be considered by the consent authority. Section 92(1)(b) provides that in the case of a development application for the demolition of a building, the provisions of AS 2601 must be considered.

Suitable conditions will be imposed to ensure demolition is undertaken in accordance with the relevant Australian Standard. The proposed development is consistent with the provisions of the EP&A Regulation.

6.6 Section 4.15(1)(a) (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There are no coastal zone management plans that apply to the site.

6.7 Section 4.15(1)(b) – The Likely Impacts of the Development

Environmental impacts

The likely environmental impacts of the proposed modification have been assessed below:

- As the works are only for early works, they do not create any long-term built form impacts on surrounding properties.
- It is considered the accessibility issues for adjoining properties during construction and long-term, will be adequately addressed through the proposed future Stage 2 Detailed DA. This is discussed further below under 'Consultation'.
- There will be no physical or visual impact on the heritage items in the vicinity of the site from the proposed modification works.
- While there will be construction related impacts from the proposed modification works, these are addressed through the Preliminary Construction Management Plan (CMP) and its implementation in a Detailed Excavation Environmental Management Plan (EEMP), Construction Traffic Management Plan and Construction Pedestrian Traffic Management Plan as existing conditions of consent.
- The demolition of buildings and structures will be managed by application of AS 2601 which is required as an existing condition of consent.
- The shoring retention system has been redesigned to accommodate structural loads

associated with increased excavation depth.

- Waste impact during construction can be adequately managed. While the Waste Management Plan included in the DA was not updated for the proposed modification, this can be adequately dealt with by requirement for Detailed WMP under the EEMP as existing condition of consent.
- There are no adjoining or nearby natural areas.
- There are existing conditions of approval to ensure stormwater runoff and erosion and sediment control are mitigated to protect the catchment.
- Contamination, geotechnical, groundwater and archaeology (Aboriginal and European) issues do not prevent the proposed modification works, and the proposed modifications do not significantly exacerbate these issues. While the proposal will intersect with groundwater, General Terms of Approval have been granted by the Natural Resources Access Regulator.

Social and Economic Impacts in the locality

The likely social and economic impacts of the proposed modification on the locality have been assessed below:

- The proposed development is unlikely to generate any significantly adverse social impacts.
- Noise and vibration impacts have been assessed in a Revised Construction Noise and Vibration Management Plan. This finds that there may be temporary noise exceedances from use of equipment/machinery during construction works but that this can be mitigated through various physical (eg. screening) and procedural (eg. Neighbour notification and complaints resolution) measures. The Construction Noise and Vibration Management Plan will be required to be implemented as an existing condition of consent and implemented.
- The proposed modifications to the early works will support the broader Liverpool Civic Place redevelopment. They will result in a positive economic impact through the capital investment value of the development and employment opportunities generated by the development subject to future applications.

Summary

In summary the proposed modifications are of minimal environmental impact.

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

As provided above, the site conditions do not prevent the proposed modifications and nor do the proposed modifications generate impacts that are significantly adverse which cannot be

ameliorated.

Accordingly, the site is considered suitable for the proposed development.

6.9 Section 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

No internal Liverpool City Council agencies have been requested to provide comment on the application.

(b) External Referrals

The application has been referred to the Natural Resources Access Regulator (NRAR) for comment.

NRAR has provided General Terms of Approval (GTA) on 17 December 2020. These are appended to the conditions of approval.

(c) Community Consultation

The development application was placed on public exhibition from 29 October 2020 to 27 November 2020, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008).

A single submission was received for the application by an adjacent property owner at 300 Macquarie Street, Liverpool. The submission did not object to the proposal but rather sought to ensure long term disabled access would be retained for the site.

The Applicant provided a response on 21 January 2020 as follows:

As part of the modified scope of works, the planters and accessible ramp clouded at Figure 1 (Figure 9 below) are proposed to be demolished. Notwithstanding this, we have considered the interim and final access arrangements to the existing building at 300 Macquarie Street.

Specifically in the interim, disabled access is available via the western accessible ramp shown at Figure 2 (Figure 10 below). We note this is a temporary solution only. The approved Concept DA always envisaged that the interface with Augusta Cullen Plaza would be redeveloped with new accessible ramp, as well as maintaining the western ramp shown at Figure 2 (Figure 10 below). The new detailed design is proposed within the Phase A Stage 2 DA under assessment (DA-836/2020) as illustrated at Figure 3 (Figure 11 below) and Figure 4 (Figure 12 below). The new accessible ramp is immediately adjacent to the public library building.

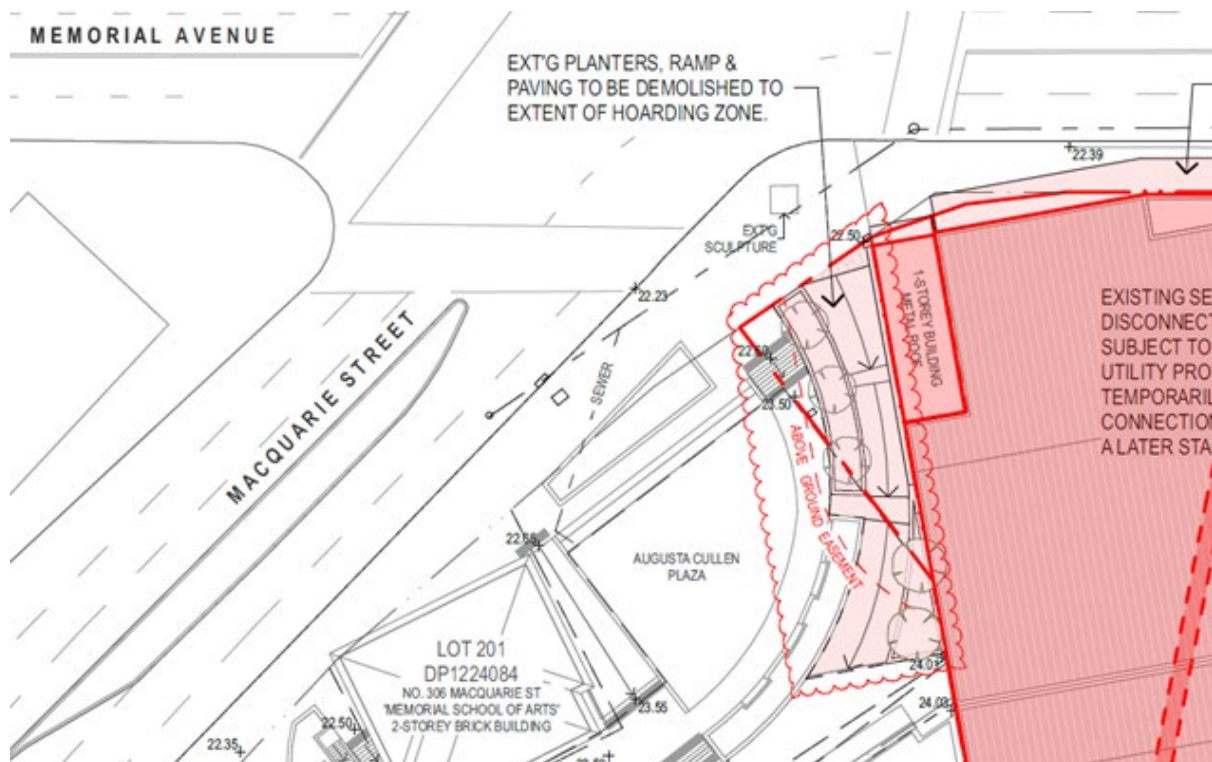




Figure 11: Proposed ramp to be reinstated as part of DA-836/2020

Source: FJMT Architects



Stage 2 DA Public Domain scope - limited to those areas of Augusta Cullen plaza affected by the proposed library

Figure 12: Extent of works in Augusta Cullen Plaza

Source: FJMT Architects

Comment:

It is considered the Applicant's response adequately addresses accessibility issues and the SWCPP queries raised during the Panel briefing.

6.7 Section 4.15(1)(e) – The Public Interest

The proposed modification generally complies with the relevant planning controls and is considered to be in the public interest as it will support the broader Liverpool Civic Place redevelopment which will provide significant public benefit.

6.8 Reasons for granting consent

Section 4.55(3) requires that the consent authority takes into consideration the original reasons given for granting the consent that is sought to be modified. The Sydney Western City Planning Panel gave the following reasons for the decision:

- *Approval of the preparatory and early works for the Liverpool Civic Place redevelopment allows for an important first step to be taken towards this key project / the rejuvenation of the core of Liverpool's CBD.*
- *The early works approval allows for the site to be cleared, any necessary remediation to take place, excavation for the anticipated basement carpark can begin and the development can progress in accordance with the objectives of the B4 mixed use zone and the provisions of the Liverpool LEP 2008.*
- *The assessment of compliance with relevant planning instruments has been undertaken to the extent considered necessary and appropriate for this first stage in the project.*
- *The proposed development subject to the conditions imposed adequately satisfies the relevant State Environmental Planning Policies including SEPP 55 Remediation of Land, SEPP (Infrastructure) 2007 and Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment.*
- *The terms of the approval allow for consideration of any items of archaeological significance to past Aboriginal occupation of the land or its use following European settlement. The potential impacts on nearby heritage items has also been sufficiently considered.*
- *The removal of seven trees from the site is acknowledged but the developing concept plan includes significant new planting. Measures are required by the conditions to protect the remaining trees.*
- *The preliminary Waste Management Plan has been considered by Council assessment staff and found to be acceptable. The finalisation of that Plan and the Construction Management Plan subject to the conditions should ensure the orderly progress of the construction works, with all construction vehicles to be accommodated within the site.*

- *The impact on surrounding roads including classified roads has been examined with conditions developed adopting the response to referral of the DA to Transport for NSW including restrictions on access from Terminus Street as a classified road.*
- *The relevant requirements of Liverpool DCP 2008 and Part 4 – Development in Liverpool City Centre in particular as assessed in the staff report are met. Conditions are imposed in that regard and to ensure compliance with AS 2601 concerning the ‘Demolition of Structures’. Conditions are imposed to limit the impacts of the work on adjoining residences and businesses particularly relating to potential acoustic impacts.*
- *The Construction Noise and Vibration Management Plan prepared for the DA concludes that the predicted noise levels generated from the demolition activities on the site will generally not exceed the relevant noise criteria set out in the relevant standards and guidelines. Conditions are included to ensure that the strategies anticipated in that report are implemented.*
- *Taking into account those matters and the discussion in the staff assessment report, the proposed development is in the public interest and warrants approval.*

The proposed modification remains consistent with the above reasons for approval.

7. CONCLUSION AND RECOMMENDATION

The following conclusions are made in relation to proposed modification DA-906/2019/A:

- The modification application has been assessed having regard to the matters of consideration pursuant to Section 4.15 and 4.55 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposed modification remains consistent with the objectives of the B4 Mixed Use zone.
- The proposed modification generally complies with the provisions of the Liverpool LEP 2008 and other environmental planning instruments.
- The proposed modification is in the public interest.
- The proposed modification is of minimal environmental impact and is substantially the same development to that approved under DA-906/2019.

Accordingly, it is recommended that the Section 4.55(1A) Modification to DA-906/2019/A be approved subject to the modified conditions of consent.