



Central Sydney Industrial Estate and Downer Sustainable Road Resource Centre Modification 2

Lot Drainage and Subdivision
State Significant Development Modification Assessment
(SSD-10459-Mod-2)



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Glossary

Abbreviation	Definition
Applicant	VE Property Pty Ltd
Council	Parramatta City Council
Department	Department of Planning and Environment (DPE)
EHG	Environment and Heritage Group of the Department
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000/2021
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
LEP	Local Environmental Plan
Minister	Minister for Planning
Planning Secretary	Secretary of the Department
SEPP	State Environmental Planning Policy
SSD	State Significant Development

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the State significant development (**SSD**) consent for the Central Sydney Industrial Estate (CSIE) and Downer Sustainable Road Resource Centre (DSRRC) (SSD-10459) (the development) located at 9 Devon Street, Rosehill (the site), in the Parramatta local government area (LGA) as shown in **Figure 1** and **Figure 2**.

The modification application seeks consent to modify the approved drainage layout at the end of the internal road in the CSIE and to subdivide the Estate Stage 1B to create two lots. The modification relates only to the CSIE portion of the development and not the DSRRC which has a stormwater drainage system that is independent to the CSIE.

The modification was lodged on 13 March 2023 by VE Property Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

The Department's assessment has considered all documentation submitted by the Applicant, including the Modification Report and advice received from Parramatta City Council (Council). The Department's assessment has also considered the legislation and planning instruments relevant to the site and the previous assessment undertaken by the Department for the development.



Figure 1 | Regional Context Map

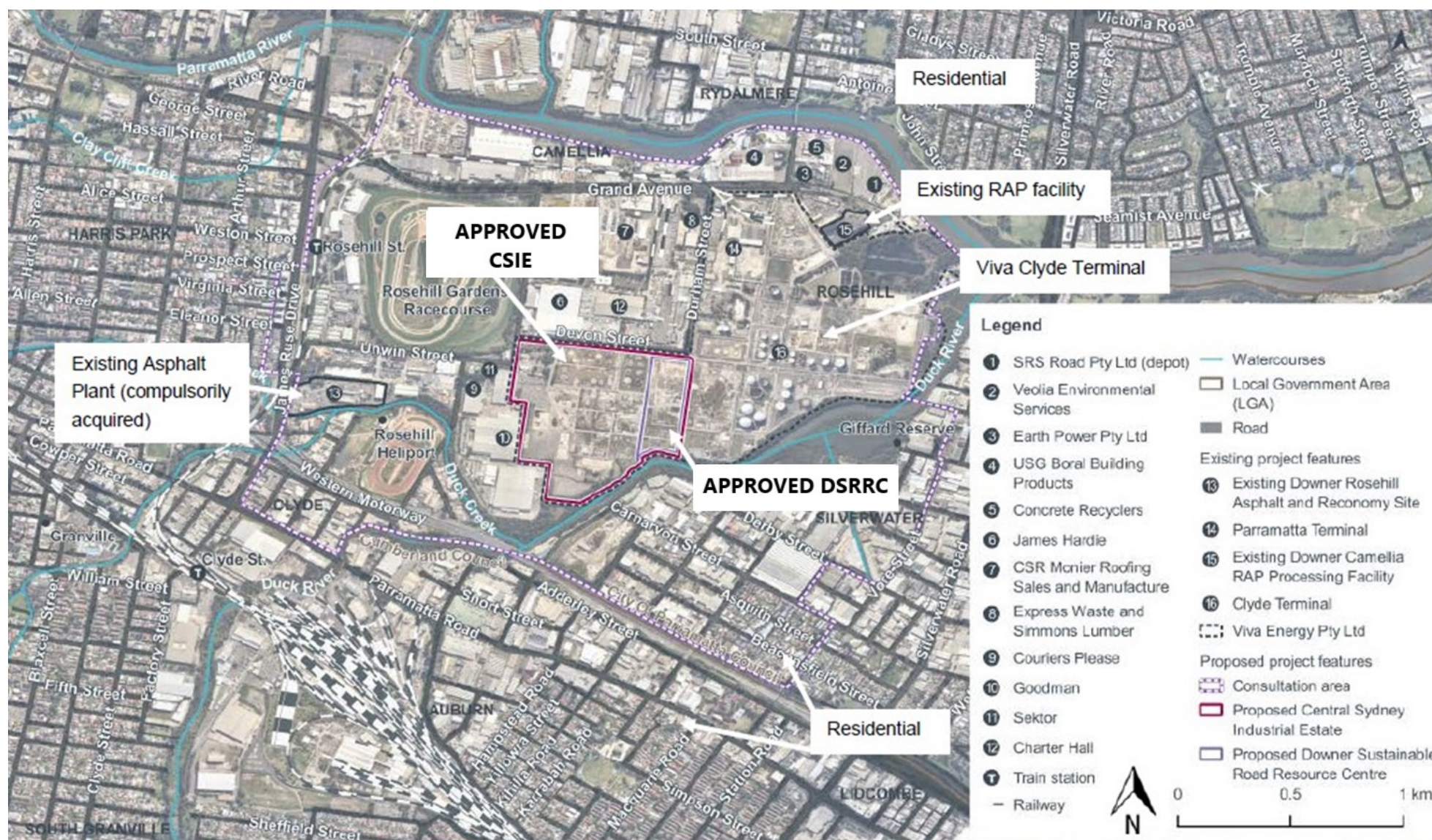


Figure 2 | Local Context

1.1 Background

VE Property Pty Ltd (the Applicant) is constructing a 15 lot industrial subdivision (the CSIE) which includes Downer Group's Sustainable Road Resource Centre (DSRRC) on Proposed Lot 6 at 9 Devon Street, Rosehill in the Parramatta LGA (see **Figure 2**).

The CSIE is located on the site of the former Clyde Oil Refinery, which operated for over 80 years and was decommissioned in 2012. Viva Energy has consolidated its operations onto the eastern part of the site where it continues to operate as a finished fuel storage and distribution facility. The western part of the site will support the future development of IN3 Heavy Industry zoned land that is strategically located close to major transport routes.

Downer has developed its DSRRC within the CSIE as part of a consolidation of its existing asphalt operations that were located nearby in Rosehill and Camellia. This relocation was prompted by the NSW Government's need to acquire Downer's Rosehill site for the development of the Sydney Metro West project.

1.2 Site Description

The development is located at 9 Devon Street, Rosehill on land legally described as Lot 100 DP 1168951. The site is located approximately 16 kilometres (km) west of the Sydney central business district (CBD) and approximately 3 km east of the Parramatta CBD (see **Figure 1**). The site comprises approximately 95 hectares (ha) (35 ha for the CSIE and DSRRC with 60 ha for the residual Clyde Terminal site) of IN3 Heavy Industrial zoned land under the Parramatta Local Environmental Plan 2011 (PLEP), see **Figure 2**.

The site is generally flat due to historic filling and construction activities. The south of the site is bordered by Duck River, a saltwater tidal tributary which runs in a south-west / north-east direction and feeds into the Parramatta River. The remainder of the site is surrounded by various industrial and heavy industrial land uses.

Prior to development consent, stormwater captured on the site was divided between two primary catchments, the Eastern Catchment (23.41 ha) and the Western Catchment (11.67 ha) see **Figure 3**. Both catchments discharged to Duck River via separate discharge outlets.

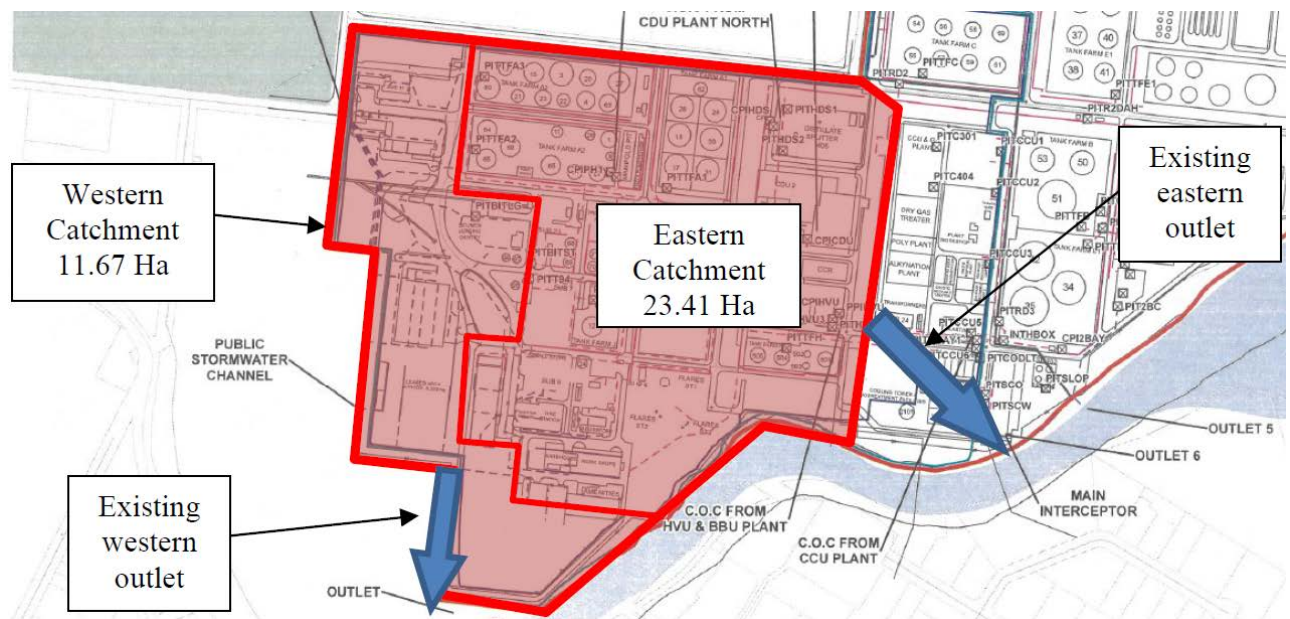


Figure 3 | Pre SSD-10459 - Stormwater Catchments

1.3 Approval history

On 31 January 2021, development consent was granted by the then, Executive Director – Energy, Industry and Compliance for the development of the CSIE and DSRRC (SSD-10459). The development consent permits the construction of a 15 lot industrial subdivision over three stages (Stage 1A/1B, Stage 2 and Stage 3) and the construction and operation of a combined asphalt plant, reclaimed asphalt pavement facility, bitumen products plant and a road waste sweepings recycling facility (Reconomy) on Proposed Lot 6, known as the DSRRC.

The stormwater management system (SMS) approved as part of the development consent is shown in **Figure 4**. It included:

- the DSRRC having its own independent internal stormwater drainage system with a new discharge point to Duck River. The DSRRC also included provision for an overland flow path along its eastern boundary to convey stormwater from the existing road catchment to Duck River
- all remaining lots within the CSIE provided with piped inter-allotment stormwater drainage to a trunk drainage line within the new road reserve prior to discharge into Duck River
- realignment of an existing stormwater pipe within Proposed Lot 53 from the centre of the lot to the western boundary. The realigned stormwater pipe will continue to discharge in the same location which is an open stormwater channel.

The development consent has been modified on one occasion (see **Table 1**). This modification was to amend the approved stormwater design in order to reduce the size of the Central Catchment and increase the size of the Western Catchment.

A detailed history of the site (pre-development) has been provided in the Department's Assessment Report for the development (SSD-10459) and can be found on the Department's website.

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Amendment to allotment drainage	Director	4.55(1A)	19 November 2023

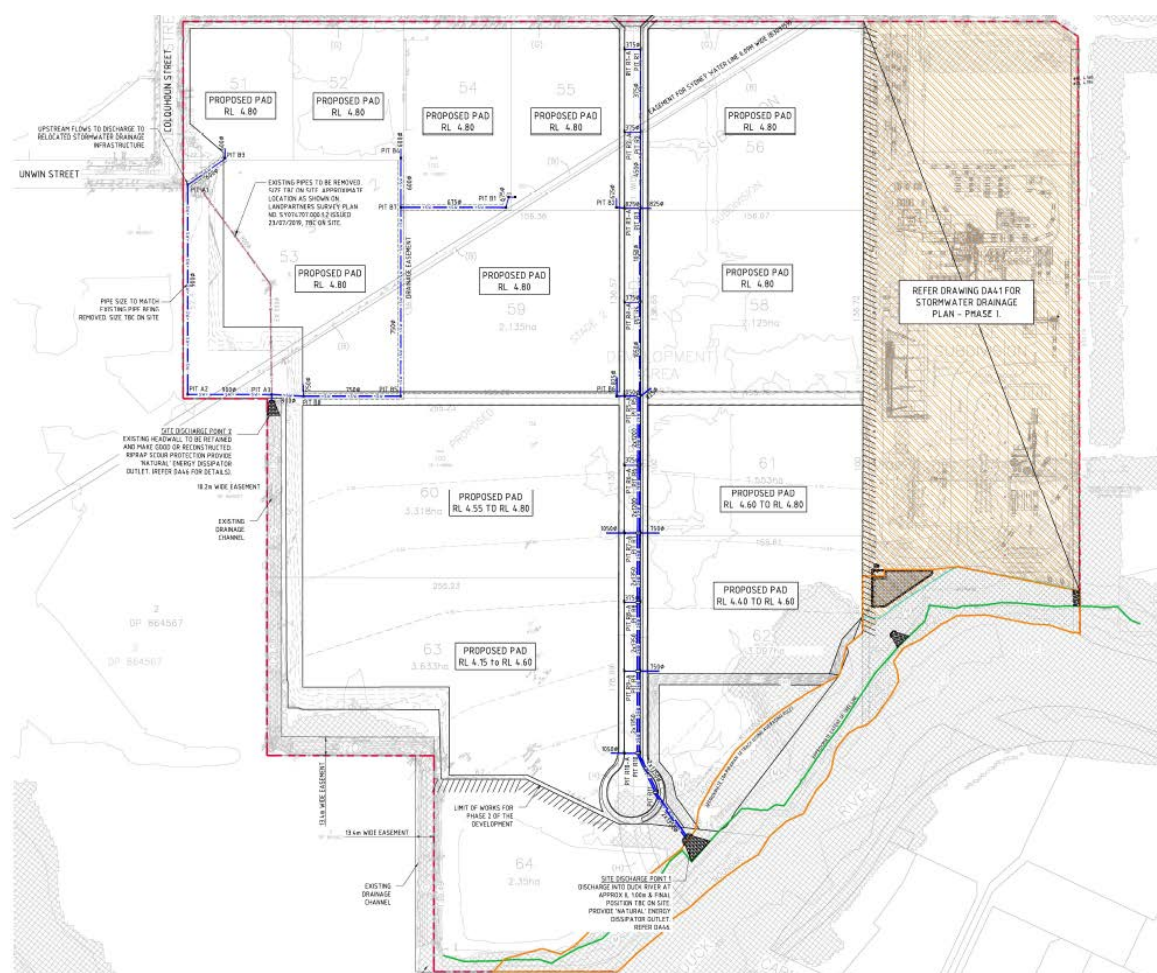


Figure 4 | SSD-10459-Mod 1 Approved Lot Layout and Stormwater Design Layout - CSIE

2 Proposed modification

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify the stormwater design of the development and to subdivide Lot 6 of the Estate to create two lots (Stage 1B and Stage 1C). The modification is described in full in the Modification Report included in **Appendix A** and is illustrated in **Figure 5** and **Figure 6**.

Drainage Outlet Relocation

Due to the flat topography of the Site, the modification application is seeking to extend the dual 1,350 mm and 750 mm pipes a further 5 m to the south to ensure the drainage pipe run achieves a continuous fall from Devon Street to Duck River. The approved and proposed drainage outlet locations are shown in **Figure 5**. The proposed stormwater outlet location delivers a discharge point at a lower height but will require the removal of two semi-mature *Casuarina glauca* trees.

The proposed modifications to the stormwater infrastructure retains the approved outlet design, including rip rap to reduce the velocity of stormwater, as well as a spreading design to distribute water across a wide surface area, to mimic the existing natural state of drainage at the site.

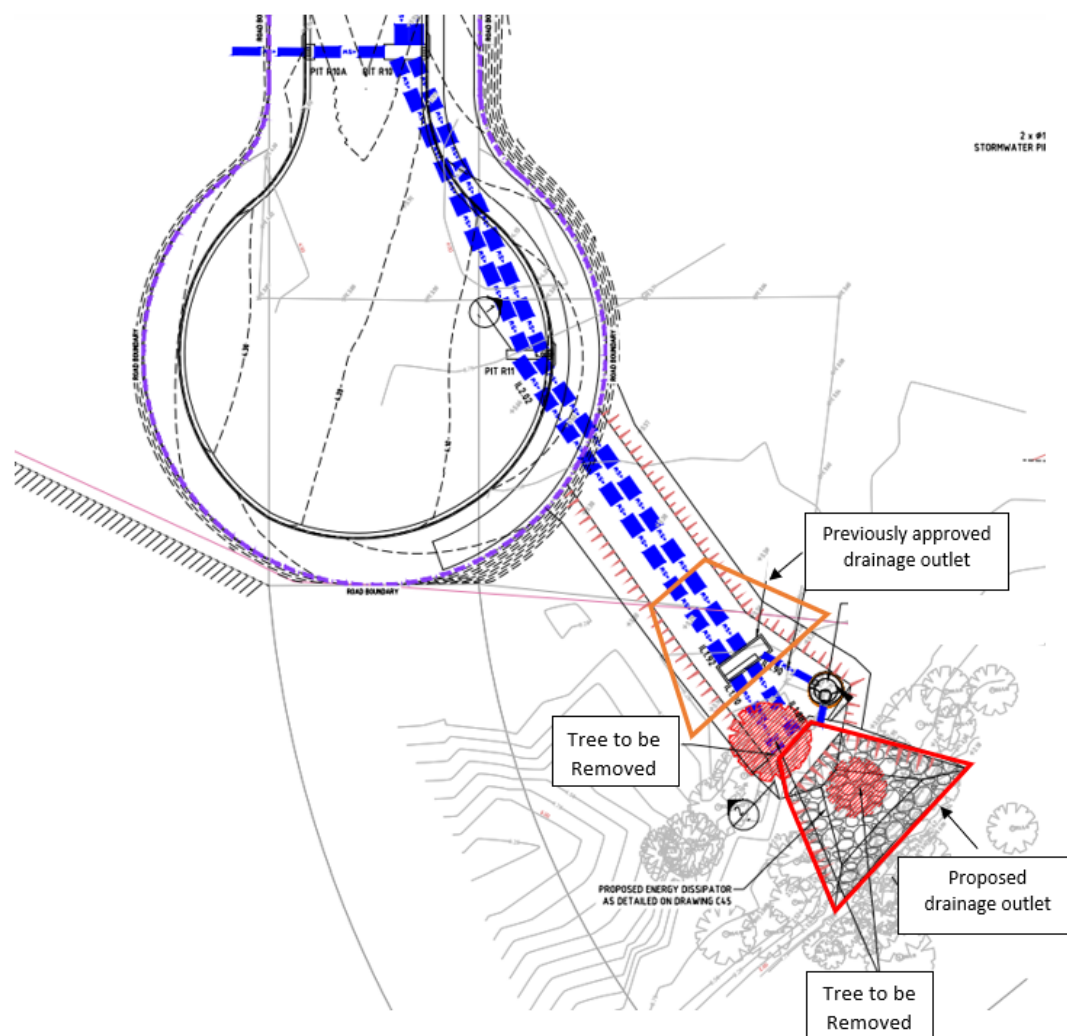


Figure 5 | SSD-10459-Mod-2 – Proposed Stormwater Outlet (shown outlined in red)

- The modification application is also seeking approval to further subdivide Lot 6 to create two smaller lots within the approved subdivision, described in **Figure 6** as Stage 1B and Stage 1C. The Applicant states this will enable the disposal of unused land. Land described as Lot 6 DP 1271928 will be the site subject to subdivision. This will result in Lot 6 being separated into two lots with 1C being 1.19 ha and 1B being 5.714 ha.

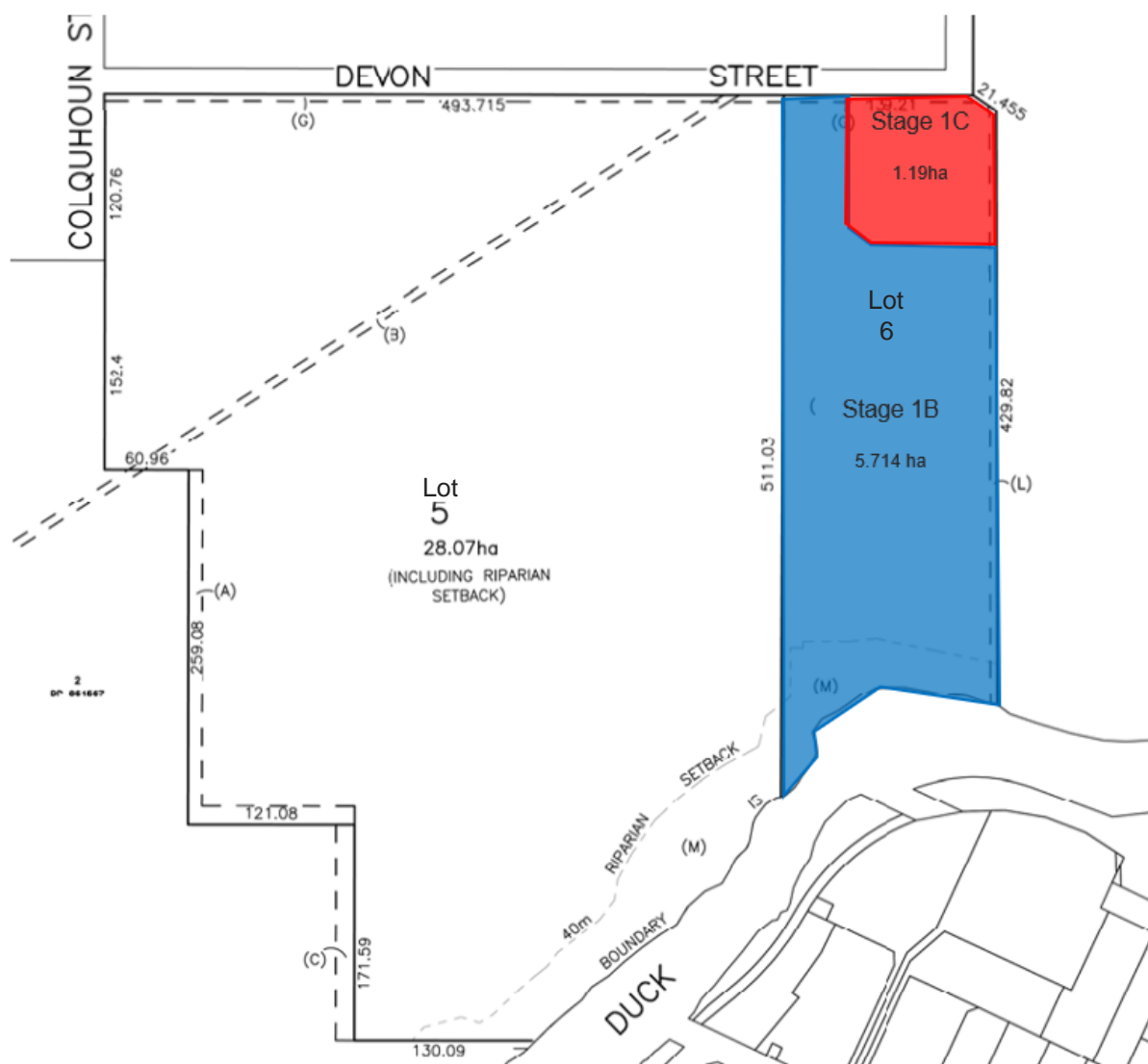


Figure 6 | SSD-10459-Mod-2 – Proposed Stage 1B and Stage 1C

3 Statutory context

3.1 Scope of Modification

The Department has reviewed the scope of the modification and considers the modification can be characterised as a modification involving minimal environmental impacts as the modification:

- would not significantly increase the environmental impacts of the development as approved
- the primary function and purpose of the approved development would not change as a result of the modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act
- is substantially the same development as approved.

Therefore, the Department is satisfied the modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the modification should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the application under section 4.5(A) of the EP&A Act. Under the Minister's delegation of 9 March 2022, Team Leader, Industry Assessments, may determine the application under delegation as:

- the application has not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&A Act
- there are no public submissions (other than a council) in the nature of objections, and
- Council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&A Act.

3.3 Mandatory Matters for Consideration

The Department undertook a comprehensive assessment of the development against the mandatory matters for consideration as part of the original assessment of SSD-10459. This modification does not result in significant changes that would alter the Department's consideration of the mandatory matters for consideration under section 4.15(1) of the EP&A Act and conclusions made as part of the original assessment for the development.

3.4 Biodiversity Conservation Act 2016

Section 7.17 of the *Biodiversity Conservation Act 2016* specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

The Applicant has not prepared a BDAR as the proposed clearing would not occur in an area mapped on the Biodiversity Values Map and the amount of native vegetation (two mature *Casuarina glauca* trees) proposed to be cleared do not exceed the area clearing threshold under Clause 7.2 of the *Biodiversity Conservation Regulation 2017*. Instead, the Applicant provided an ecological assessment which indicates the proposed modification would not lead to any noticeable loss of local or regional vegetation or habitat integrity.

For the reasons discussed above, the Department is satisfied a BDAR is not required for the modification.

4 Engagement

Clause 117(4) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires a section 4.55(1A) modification application to be notified or advertised if specified by a community participation plan. The Department's Community Participation Plan notes the exhibition requirements for such modifications are discretionary, and based on the urgency, scale and nature of the proposal.

Given the proposed changes would result in minimal environmental impacts (see **Section 5**), the modification was not notified or advertised. However, it was made publicly available on the Department's website on 20 April 2023 and was referred to Parramatta City Council (Council), EPA, DPI Fisheries and DPE Water for comment.

4.1 Government Advice

Advice was received from EPA, DPI Fisheries and DPE Water and from City of Parramatta Council (Council). A summary of this advice is provided below.

The **EPA, DPI Fisheries** and **DPE Water** provided no comment or objection to the modification.

Council did not object to the modification, however, did raise concerns around the removal of two mature *Casuarina glauca* trees as a result of the proposed works.

The Department liaised with the Department's Environment and Heritage Group (EHG) who confirmed there was insufficient information to determine the impacts to biodiversity values caused by the removal of the trees. As such, the Department sought further information from the Applicant in relation to this matter.

4.2 Response to Submissions

On 13 June 2023, the Applicant provided additional information to address issues raised by government agencies, including alternative drainage outlet options considered during the detailed design process, an arborist report and details regarding the biodiversity offset scheme threshold test. On 20 June 2023, the Applicant provided further details regarding the potential impact on biodiversity values and management measures during construction of the proposed drainage outlet. The Applicant's response was made publicly available on the Department's website.

5 Assessment

The Department has assessed the merits of the modification. During this assessment, the Department has considered the:

- Modification Report and additional information provided to support the modification (see Appendix A)
- documentation and Department's assessment report for the original development application (see Appendix A)
- advice from State government authorities and Council (Appendix A)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department's assessment of the modification application is provided in **Table 2** below.

Table 2 | Assessment of the modification application

Findings	Recommendations
Biodiversity	
<ul style="list-style-type: none"> • The relocation of the drainage outlet requires two semi-mature <i>Casuarina glauca</i> trees to be removed. These trees have the potential to be plant community type (PCT) 4028 and partially meets the definition of Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community (EEC). Therefore, the removal of the two trees has the potential to impact the biodiversity values of the EEC. • Council and EHG reviewed the modification application and both queried if the tree removal would result in a significant impact in line with section 7.3 of the <i>Biodiversity Conservation Act 2016</i> and therefore trigger the need for a Biodiversity Development Assessment Report (BDAR). • The Applicant provided an ecological assessment to assess the modification against relevant biodiversity values, provided details of any design alternatives considered during detailed design to avoid tree removal and provided a due diligence test to assess whether the proposed modification is likely to significantly affect threatened species. • The ecological assessment demonstrated the trees proposed for removal are outside the mapped extent of the EEC and biodiversity value map area. The assessment considered the trees do not meet the diagnostic criteria of EEC due to all other 	Amend Appendix 2 to include additional biodiversity management measures.

Findings

Recommendations

co-existing vegetation being exotic, as confirmed by field survey and are below the clearing threshold for which a BDAR is required.

- In addition, the Applicant identified alternative options that were considered with Council during its detailed design prior to the submission of modification application. These options included raising the level of the road to allow for a greater fall along its length, introducing a series of sag points along the road, or incorporating a silting pond at the outlet. However, the proposed modification is the preferred option as these alternative options were not accepted by Council.
- Notwithstanding, the Applicant's ecological assessment considered the loss of the two trees would not lead to any noticeable loss of local or regional vegetation, or habitat integrity. This is predominantly due to the abundance of *Casuarina glauca* trees within the riparian zone and the poor vegetation structure, which has been extensively modified by historic urban development near Duck River.
- Furthermore, the Applicant has proposed management measures including the establishment of an exclusion zone during construction and planting six new *Casuarina glauca* trees to appropriately manage any potential impacts.
- The Department has considered the findings of the ecological assessment and is satisfied the modification will not materially change the impact on biodiversity values. Additionally, the Applicant's proposed exclusion zone would minimise potential impacts during construction and the planting of new *Casuarina glauca* trees along with ongoing vegetation management would further enhance biodiversity values.
- Accordingly, the Department has recommended the Applicant's mitigation and management measures in Appendix 2 of the consent be updated to include additional measures.
- The Department's assessment concludes the potential biodiversity impacts associated with the proposed modification can be appropriately managed through the implementation of existing and modified conditions of consent.

Surface Water

- The proposed modification to the drainage system has the potential to impact surface water.
- The Applicant provided an assessment of Estate surface water impacts in the original EIS submission. The Applicant noted in the modification report that the proposed modification will not result in any changes to the approved outlet structure, including energy dissipator/GPT/pipe dimensions, nor upstream catchment area, or previously assessed water quantity/flow rates/scouring and erosion potential.
- The Department notes the stormwater infrastructure is not changing with the exception of a small extension to the length of the pipe to allow for a discharge point at a lower height and is satisfied there will be negligible impact.
- The conditions of consent require a surface water management plan to be prepared prior to operation which will manage any potential surface water impacts.
- Therefore, the Department's assessment concludes that the impacts to surface water will be negligible and readily managed through existing conditions.

No recommendations are suggested.

Hazards and Risk

- The proposed subdivision has the potential to increase the working population or introduce a sensitive land use near a potentially hazardous facility as the proposed subdivision is located near the Viva Energy's Clyde Terminal which is classified as a major hazard facility under the *Work Health and Safety Act 2011*.
- The Department's Hazardous Industry Planning Advisory Paper no 10 (HIPAP 10), requires a development proposal that involves a significant intensification of population in the vicinity of a potentially hazardous facility to evaluate the change in societal risk, even if individual risk criteria are met.
- The Applicant provided an estimated population density for both day and night populations associated with the proposed development (four people per hectare during daytime, and up to three people per hectare during nighttime hours) which is well below the base case population density (29 people per

No recommendations are suggested.

Findings

Recommendations

hectare daytime / 4 people per hectare nighttime), that allow societal risk to remain within the negligible area.

- Additionally, under the Camelia-Rosehill Place Strategy the site is zoned as IN3 Heavy Industry land meaning sensitive land use development is prohibited on the subdivided site.
- The Department has considered the potential impacts of the subdivision and is satisfied the modification will not increase the societal or individual risk.
- The Department's assessment concludes that the subdivision of the site will not result in the development of a sensitive use or increase the intensification of the site.

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act.

The Applicant is proposing to modify the development consent to amend the approved stormwater drainage outlet location and to subdivide the Estate Stage 1B to create two lots. Advice provided on the modification application by Council relates to biodiversity as the removal of two trees are required to accommodate the proposed drainage outlet location.

The Department's assessment considered potential biodiversity impact associated with the proposed modification to be the key matter for consideration.

The Department considers the proposed modification is appropriate on the basis that:

- the proposed modification is substantially the same development as originally approved
- the Duck River riparian zone would not be adversely impacted by the proposed modification subject to implementation of additional management measures during construction that aim to minimise impacts to existing vegetation as far as practical and to revegetate disturbed areas
- the proposed subdivision will not increase social or individual risk.

The Department is satisfied that the modification should be approved, subject to the recommended modifying conditions of consent.

7 Recommendation

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

- considers the findings and recommendations of this report
- determines that SSD-10459-Mod-2 falls within the scope of section 4.55(1A) of the EP&A Act
- forms the opinion under section 7.17(2)(c) of the Biodiversity Conservation Act 2016 that a BDAR is not required to be submitted with this modification as the modification will not increase the impact on biodiversity values on the site
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- modify the consent SSD-10459
- signs the attached approval of the modification (Appendix B).

Recommended by:



Laura Evert
Para Planner
Industry Assessment

Recommended by:



31/07/23

Shaun Williams
Senior Environmental Assessment Officer
Industry Assessment

8 Determination

The recommendation is Adopted by:



2 August 2023

Joanna Bakopanos

Team Leader

Industry Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

Modification Application

- Modification 2 – Lot Drainage And Subdivision prepared by Element Environment, Revision 1, dated 2 March 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>

Agency Advice

- <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>

Additional Information

- An additional information report dated 8 June 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>
- An ecological impact of revised drainage infrastructure assessment dated 14 April 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>
- An ecological impact of revised drainage infrastructure assessment dated 8 June 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>
- An ecological impact of revised drainage infrastructure assessment dated 20 June 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>

Department's Assessment Report for SSD-10459

- <https://www.planningportal.nsw.gov.au/major-projects/projects/central-sydney-industrial-estate-and-downer-sustainable-road-resource-centre>

Department's Assessment Report for SSD-10459-Mod 1

- <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-1-csie-lot-drainage>

Appendix B – Notice of Modification

The recommended modification instrument for SSD-10459-Mod 2 can be found on the Department's website at <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>

Appendix C – Consolidated Consent

Consolidated Consent can be found at: <https://www.planningportal.nsw.gov.au/major-projects/projects/csie-modification-2-lot-drainage-and-subdivision>