



Museum Discovery Centre Modification 2

Changes to the tree replacement strategy and deletion of an access easement
State Significant Development Modification Assessment

(SSD 10472 MOD 2)

May 2022



Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Museum Discovery Centre MOD 2

Subtitle: State Significant Development SSD 10472 MOD 2

Cover image: MDC MOD 1 Renders – South façade glazed openings reduced (Source: Applicant's EIS)

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
Council	Hills Shire Council
Department	Department of Planning and Environment
EESG	Environment, Energy and Science Group, DPIE (renamed EHG on 1 April 2022)
EHG	Environment and Heritage Group, DPE
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental Planning Instrument
LEP	The Hills Local Environmental Plan 2019
MAAS	Museum of Applied Arts and Sciences
Minister	Minister for Planning
MDC	Museums Discovery Centre
Planning Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SSD	State Significant Development
TAFE	TAFE NSW The Hills – Castle Hill
TRIP	Tree Replacement Implementation Plan
WSU	Western Sydney University

1 Introduction

This report provides an assessment of an application seeking to modify the consent for the expansion of the Museums Discovery Centre (SSD 10472) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application seeks consent for changes to the tree replanting strategy and deletion of the requirement for an access easement over the neighbouring TAFE site.

The application has been lodged on 11 February 2022 by the Department of Premier and Cabinet (the Applicant).

1.1 Background

The site comprises both the land currently occupied by the existing Museums Discovery Centre (MDC) facility and the adjoining TAFE and is located on the corner of Showground Road and Windsor Road at Castle Hill. The site is located within the Hills Shire local government area (LGA), approximately 37 kilometres (km) north west of the Sydney Central Business District (CBD), 3.8 km north west from Castle Hill and 13 km north of Parramatta (**Figure 1**).



Figure 1 | Aerial view of the site and surroundings (Source: Near Maps)

MDC

The MDC site is identified as Lot 1 DP 1066281 and is irregular in shape with an area of 29,320 m². It is bound by Showground Road to the South, Windsor Road to the west, the TAFE site to the east and residential dwellings to the north. The MDC is owned and operated by the Museum of Applied Arts

and Sciences (MAAS), which includes exhibition and displays in a collaboration with the Sydney Living Museums and Australian Museum, who also maintain conservation facilities and have collection storage.

TAFE site

The TAFE site is identified as Lot 102 in DP 1130271 and is generally regular in shape with an area of 37,950m². It is bound by Green Road to the east, Showground Road to the south, MDC to west and residential dwellings to the north.

The TAFE campus currently comprises five buildings, 158 car parking spaces and provides education for approximately 400 students. Vehicle access is provided from Green Road.

1.2 Approval history

State Significant Development (SSD 10472)

On 23 April 2021, the Executive Director granted development consent for the expansion of the MDC comprising:

- removal of vegetation, site preparation and earthworks
- demolition of an existing car park area and construction of new car park on the TAFE site
- the construction and operation of a new building (Building J) for the storage of the Powerhouse collection and archives, spaces for education and public programs, conservation and research
- construction of a new accessway connecting the MDC and TAFE sites
- building identification signage, new landscaping, services infrastructure and a roof mounted photovoltaic system
- site subdivision and consolidation
- implementation of a tree replacement strategy.

The development consent contains the following conditions relevant to this proposal:

- Condition B13 - requires a final Tree Replacement Implementation Plan (TRIP) for the planting of 674 trees within Council's open space/s. The TRIP must include details of planting locations, maintenance and species in consultation with Council and approved by the Planning Secretary
- Condition D3 - requires registration of an easement to provide a right of vehicle access from the MDC site through the TAFE site to Green Road.

State Significant Development (SSD 10472 MOD 1)

On 17 September 2021, the Department granted consent to a 4.55(1A) modification application for external and internal changes and a reduction of GFA of Building J.

2 Proposed modification

The modification application seeks consent for changes to the tree replacement strategy which requires the replanting of 674 trees to offset to the 337 trees removed from the site. The proposal will continue to replant 674 trees, however, it seeks to change the location of 600 of the trees from within Hills Shire Council open spaces to a site leased by the Taronga Conservation Society within the Western Sydney University (WSU) Richmond Campus.

The Applicant advises the change to replanting locations will support the NSW Government's Koala Strategy while also retaining additional planting on Council land identified as providing the greatest community benefit and in close proximity to the MDC site.

The modification application also seeks to delete the requirement for an access easement over the TAFE site. The Applicant considers the right-of-way easement is unnecessary because an Access License has been established which provides access across the TAFE site to the MDC.

A summary of the proposed changes is provided below in **Table 1**.

Table 1 | Overview of proposed modifications

Aspect	Proposed Modification
Tree Replacement (Condition B13)	• Change the replanting locations to: - o Reduce the number of trees which will be replanted within Council's open space within the Hills LGA from 674 to 74 - o Replant 600 trees on land leased by the Taronga Conservation Society within the WSU Richmond Campus (outside of the Hills LGA).
Easement (Condition D3)	• Delete the requirement for a right-of-way benefiting the MDC site over the TAFE site, noting this is no longer required as an Access License has been established between MAAS and TAFE.

A link to the modification application is provided at **Appendix A**.

3 Statutory context

3.1 Scope of modifications

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

- would not increase the environmental impacts of the project as approved; and
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

Accordingly, the Department considers that the application 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 is the consent authority for the application under section 4.5(a) of the EP&A Act. However, in accordance with the Minister's delegation, the Team Leader, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- no public submissions in the nature of objects were received
- Council does not object.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(1A) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A Act regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

3.4 Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposal modification is consistent with the objects of the EP&A Act.

4 Engagement

4.1 Department's engagement

The application was made publicly available on the Department's website and referred to Hills Shire Council (Council) and the Department's Environment and Heritage Group (EHG, formerly EESG).

4.2 Council advice

Council raised no objection to the proposal and noted it has reviewed the submitted Tree Replacement Implementation Plan and has no further comments. A link to the submission is provided in **Appendix A**.

4.3 EHG advice

EHG raised concerns about the reduction in tree planting within the Hills LGA. In addition, EHG provided comments and requested additional information and clarification on:

- why the replacement trees are no longer proposed to be planted within the Hills LGA
- the relationship between MDC and WSU
- the location and suitability of the tree planting locations and others investigated
- existing planting at WSU including any grant funding or other conservation initiatives or requirements
- whether the proposal continues to deliver a net increase or loss in tree planting
- tree species selection
- maintenance.

A link to the submission is provided in **Appendix A**.

4.4 Response to submissions

The Applicant provided a Response to Submissions (RtS) (Appendix A) on 30 March 2022 which included:

- a response to EHG submission
- a letter from the Taronga Conservation Society Australia confirming the proposed planting is in addition to any existing planting program
- additional justification to support Council's two proposed replanting sites.

The Applicant's response was made publicly available on the Department's website and referred to EHG for comment.

4.5 EHG further advice

EHG reviewed the Applicant's RtS submission and maintained its advice that:

- replanted trees should be planted as close as possible to the impacted area to benefit biodiversity, increase green grid connections and canopy cover in the local area
- the planning of koala browse trees at WSU Richmond Campus is an important initiative but is a separate project with little connection to the MDC
- it's unclear why Council does not want to receive more than 74 trees
- it's unclear how the WSU trees would be protected in perpetuity
- a maintenance period should be established of at least 6-12 months.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Impact Statement and conditions of approval for the original application (as modified)
- all submissions received on the application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department's assessment of the proposal is provided in **Table 2**.

Table 2 | Assessment of proposed changes

Issue	Findings	Recommendations
Change of tree planting locations	• Condition B13 requires the replacement planting of 674 trees within Council's open space. • The proposal seeks to amend this condition so that it provides 74 trees within Council's open space and 600 trees on land leased by Taronga Conservation Society at the Western Sydney University (WSU) Richmond campus site for Taronga Zoo's Koala Browse Project. • Council raised no objection to the proposed replanting locations. • EHG however, considered that the requirement for 674 trees within Council open space within The Hills LGA should be maintained, in addition to koala browse planting. EHG questioned the relationship between the MDC and the WSU and recommended that replanted trees should be planted as close as possible to the impacted area to benefit biodiversity, increase green grid connections and canopy cover in the local area. • In response, the Applicant noted the relocation of the majority of plantings to WSU addresses the need to provide koala browse to support the NSW Koala Strategy. The Applicant also outlined the strategic partnership between WSU and MAAS, who own and run MDC, which supports joint research projects and programming collaborations between the organisations. • The Department has carefully considered the proposed change to the replanting locations, including the impact of the reduction of trees which would be planted within The Hills LGA. On balance, however, the Department considers the proposal overall maintains equivalent benefits for tree planting as it offsets the loss of trees on the MDC site at a ratio of	The Department recommends Condition B13 be amended to require 74 trees within Council's open space and 600 trees within land leased by the Taronga Conservation Society for koala browse.

2:1 with 674 new trees provided across Sydney metropolitan area.

- The Department also notes that the reduction is minor in the context of the 63% urban tree canopy cover throughout The Hills Shire (source: Centre for Urban Research at RMIT University and Greener Spaces Better Places) which is the third highest in the Sydney metropolitan area and far exceeds many other Metropolitan Sydney LGAs.
- The Department therefore supports the 600 trees at WSU as part of the koala browse project as:
 - o it will increase the available koala browse which is critical for Taronga Zoo to support koala nutrition and consumption requirements
 - o it utilises an established plantation managed by Taronga's Horticultural department which is a suitable location for 600 trees
 - o it supports 'safety and health of koala populations', a key component of the NSW Koala Strategy.

Net loss of trees

- EHG raised concern that the koala browse trees may have been established through grant funding or other conservation initiatives and questioned if the proposal to offset the trees removed from the MDC site, on the WSU site, would potentially result in a net loss of trees.
- In response, the Applicant provided advice from the Taronga Conservation Society Australia which confirms the proposed 600 trees are in addition to any existing planting program and will result in a net increase of trees at the Richmond Campus site.
- EHG maintained its position that the proposal results in a net loss of trees in the Hills LGA.
- The Department acknowledges that the proposal does result in a reduction of trees within the Hills LGA, however it is satisfied that there is no change to the required 674 replacement trees to be planted and the proposal overall continues to deliver a net increase in tree planting across Sydney metropolitan area, in addition to the benefits in supporting the koala browse project.

The Department considers no additional conditions or amendments are necessary.

Council planting locations and tree species

- EHG raised concern with planting locations within Council's open space and tree species selection.
- The Applicant responded, through consultation with Council, that the preferred Council locations are reserves that most urgently require planting and will provide shade and canopy cover in the closest

The Department considers no additional conditions or amendments are necessary.

proximity to the MDC site. The tree species selected are endemic to the area and would provide fodder for Glossy Black Cockatoos.

- The Department notes the TRIP required by Condition B13 must include details of planting locations and species in consultation with Council and be approved by the Planning Secretary.
- The Department is therefore satisfied that appropriate planting locations and species can be resolved in consultation with Council through this process.

Protection in perpetuity

- EHG commented it was unclear how the proposed plantings at the WSU would be protected in perpetuity.
- The Applicant confirmed that intention is for the plantation at WSU to be maintained in perpetuity by the Taronga Conservation Society.
- The Department notes the proposed planting at the Richmond Campus site will fulfil a critical resource for Taronga Zoo's koala population, supporting a healthy koala population as part of the NSW Koala Strategy.
- On this basis, the Department is satisfied that the planting at WSU will be maintained in the long term for this purpose.

The Department considers no additional conditions or amendments are necessary.

Tree replacement period

- EHG raised concern with the proposed one-month maintenance period for replanted trees and recommended a period of at least 6-12 months to ensure that the Applicant replaces any planting losses during this period.
- In response, the Applicant noted that planting maintenance on Council reserves will be managed by Council after the first month and plantings at the WSU will be entirely managed by Taronga's Horticultural Department.
- The Department notes that Council and Taronga's Horticultural Department have established expertise and experience in managing their respective lands and considers the proposed maintenance arrangements are acceptable.
- The Department supports EHG's comments regarding tree replacement and recommends inclusion of a 12-month tree replacement period to be incorporated into the TRIP.

The Department recommends Condition B13 be amended so that the TRIP incorporates a tree replacement period.

Removal of easement

- Condition D3 requires an easement to provide vehicle access (right-of-way) across the MDC site to the TAFE site.
- The Applicant has provided evidence of a legal agreement (Access License) established between

The Department recommends deletion of Condition D3 and incorporation of the new

MAAS and TAFE to allow use of the roads in the subdivision plan in TAFE campus by MAAS, negating the requirement for Condition A1. a right-of-way easement.

- The proposal therefore seeks to delete Condition D3 and includes a new subdivision plan deleting the right-of-way.
 - Council raised no objection to the proposal.
 - The Department notes that both the TAFE site and MCD site have independent vehicular access from Windsor, Showground and Green Roads, and that the right-of-way easement was only required as it was previously proposed by the Applicant to allow an additional accessway over the TAFE site.
 - The Department has reviewed the Access Licence and amended subdivision plan and is satisfied the Access Licence provides the same utility as an easement.
 - The Department therefore supports the deletion of Condition D3.
-

6 Evaluation

The Department has reviewed the modification application and assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act.

The Department is satisfied the proposed modification is acceptable as:

- the proposal will continue to provide replacement planting of 674 trees within the Sydney metropolitan area (which is 337 more than removed from the MDC site) which represents a net increase in planting
- the proposed plantings at the Richmond Campus Site would provide an important addition to the koala browse available to Taronga Zoo to support koala consumption requirements and the health of koala populations
- the proposed plantings on Council land would provide shade and amenity at locations in closest proximity to the MDC site that most urgently required planting and would result in the maximum benefit to the community, with the final locations and species documented in a TRIP, in consultation with Council and approved by the Planning Secretary
- the proposed plantings will be supported with maintenance by Council and Taronga Conservation Society Horticultural specialists
- the Applicant will be responsible for replacing any planting losses in the first year
- the access license established between MAAS and TAFE replaces the requirement for an access easement
- the changes would not result in any additional impacts beyond those already assessed and approved and the proposal would remain substantially the same development as approved.

Consequently, the Department considers the modification is in the public interest and should be approved, subject to the recommended modified conditions of consent.

7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 10472 MOD 2 falls within the scope of section 4.55(1A) of the EP&A Act
- **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 10472
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Marcus Jennejohn
Senior Planning Officer
Key Sites Assessments

Recommended by:



Renah Givney
Senior Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:



10/5/22

Amy Watson

Team Leader

Key Sites Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of referenced documents

The following supporting documents and information to this assessment report can be found on the Major Project's website as follows:

- SSD 10472 MOD 2 Modification Report, dated August 2021 prepared by GTK Consulting
- Submissions
<https://www.planningportal.nsw.gov.au/major-projects/projects/mdc-mod-2-change-tree-replacement-plan-and-conditions>

Appendix B – Statutory Considerations

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is included in **Table 3**.

Table 3 | Consideration of section 4.55(1A) of the EP&A Act

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 5 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied the proposed modification will have minimal environmental impact as the changes to the tree replacement strategy and removal of the easement will not alter the onsite landscaping or change the already approved impacts of Building J.
b) 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), and	The application seeks consent for changes to the tree replacement strategy and removal of a right-of-way that is no longer required. The proposal is consistent with the original development consent and the application is considered to result in development that is substantially the same as the originally approved development.
c) the application has been notified in accordance with the regulations, and	The modification application did not require notification in accordance with the EP&A Regulations with the EP&A Regulations (clause 10 of schedule 1 to the EP&A Act).
d) any submission made concerning the proposed modification has been considered.	The Department received submissions from Council and EHG which are considered in Section 5 of this report.

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 4** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

Table 4 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The proposed modification is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed below.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under SEPP (Planning Systems) 2021, Development Control Plans (DCPs) do not apply to SSD.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The applications satisfactorily meet the relevant requirements of the EP&A Regulation, including the procedures relating to applications, the requirements for notification and fees.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The likely impacts of the proposed modification are acceptable and have been appropriately addressed (refer to Section 5).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 5 .
(d) any submissions	The Department has considered the Council submission (refer to Sections 4 and 5).
(e) the public interest	The Department considers the proposed modification to be in the public interest.

Environmental Planning Instruments

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the Department has considered the relevant SEPPs as part of its assessment of the proposals and is satisfied that the modifications do not result in any inconsistency with them. Note that many old SEPPs has been consolidated into the new SEPPs from 1 March 2022. Most existing provisions in each old SEPP has been transferred as chapters with no policy changes.

The following EPIs are relevant to the application:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021

- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Draft State Environmental Planning Policy (Environment) (draft SEPP (Environment))
- The Hills Local Environmental Plan 2019

Appendix C – Notice of modification

SSD 10472 MOD 2

<https://www.planningportal.nsw.gov.au/major-projects/projects/mdc-mod-2-change-tree-replacement-plan-and-conditions>

Appendix D – Consolidated consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/mdc-mod-2-change-tree-replacement-plan-and-conditions>