



**Remove part
of perimeter
retainment
wall,
Barangaroo
South**

*State Significant
Development Modification
Assessment
(SSD 5897 MOD 2)*

December 2018

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	Lend Lease (Miller's Point) Pty Ltd
BDA	Barangaroo Delivery Authority
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
OEH	Office of Environment and Heritage
PRW	Perimeter Retention Wall
RAP	Remedial Action Plan
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
SSI	State Significant Infrastructure
The Auditor	Contaminated Site Auditor
VSAQP	Validation Sampling Analysis and Quality Plan



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1. Introduction

This report is an assessment of an application to modify the State significant development (SSD) approval (SSD 5897) for the remediation, land forming and excavation works at Barangaroo South.

The modification application has been lodged by Lend Lease (Millers Point) Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification application seeks approval to remove part of the basement Perimeter Retainment Wall (PRW), known as Stage 1B Cut Off Wall 1, that is no longer required (the Redundant Section).

1.1 Background

The modification application relates to the approved PRW located in the basement of Stage 1B/Block 4 at Barangaroo South, in the City of Sydney local government area. Barangaroo is located on the north-western edge of the Sydney central business district (CBD) (**Figure 1**) and forms part an EPA declaration area (no. 21122) due to the previous use of the area as a gasworks. The site is located on the eastern edge of Barangaroo South, adjoining Hickson Road (**Figures 2 and 3**).



Figure 1 | The location of Barangaroo South site within the Barangaroo (Source: The Department)

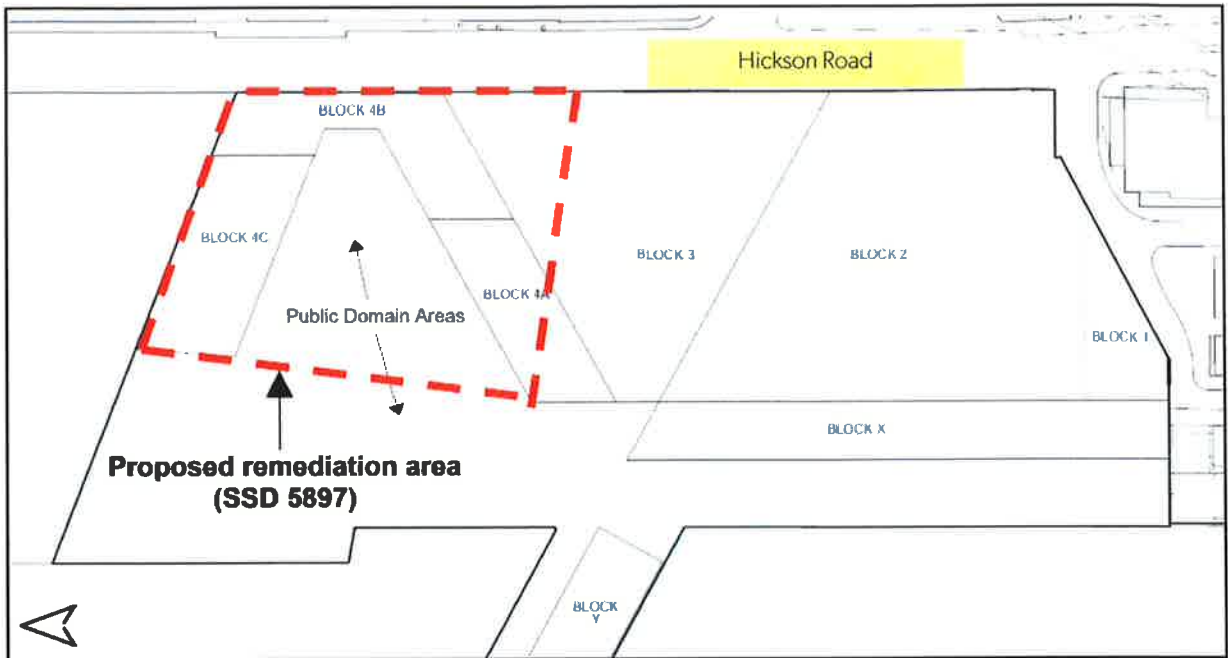


Figure 2 | Stage 1B Remediation area shown by the red outline (Base Source: Applicant)

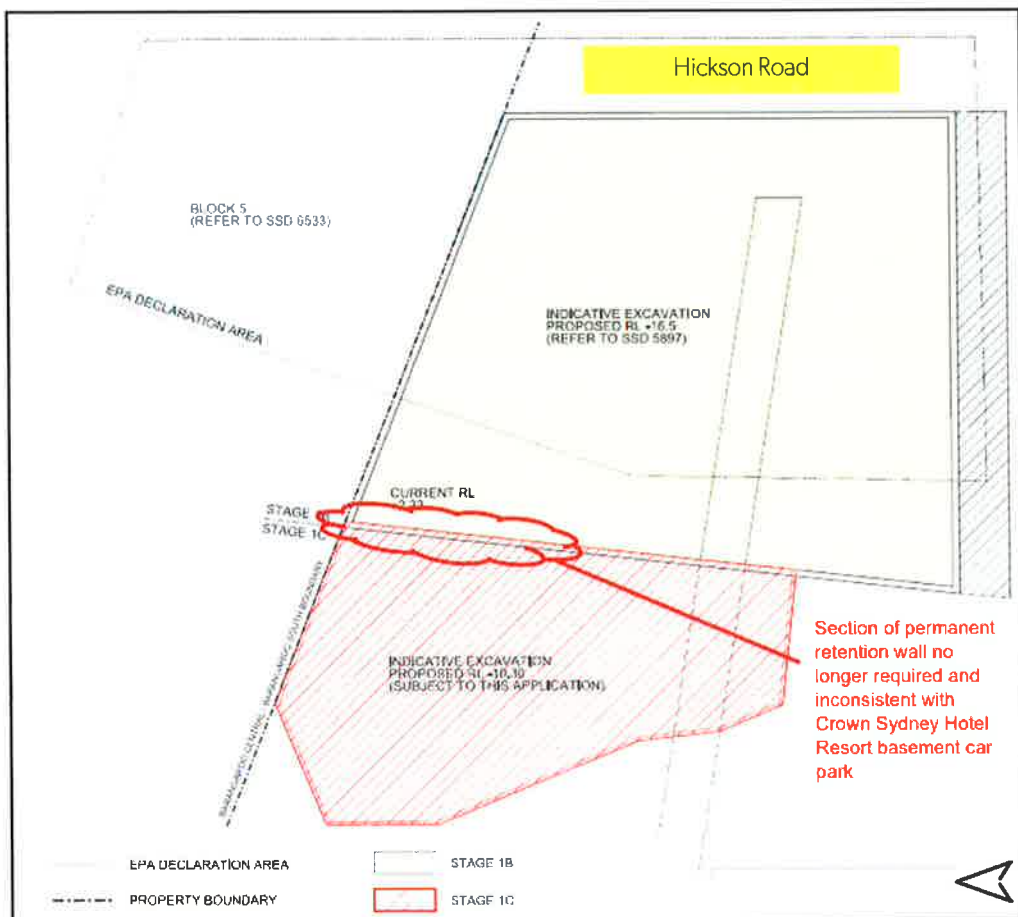


Figure 3 | The Redundant Section of the PRW shown by the red clouding (Source: Applicant)

1.2 Approval History

SSD 5897 – Remediation of Barangaroo South

On 10 November 2014, the Minister for Planning approved SSD 5897 for remediation, land forming and excavation works at Block 4 (Stage 1B), Barangaroo South. The approval included the installation of a PRW system surrounding Block 4. The PRW serves the purpose of retaining the basement excavations and allowing for dewatering of the excavations. The PRW also minimises the potential for migration of contaminated groundwater towards Darling Harbour.

A section 4.55(2) modification application was lodged on 14 November 2016 but was subsequently withdrawn.

SSD 6957 – Crown Sydney Hotel Resort

On 28 June 2016, the Crown Sydney Hotel Resort (SSD 6957) was approved on land immediately to the west of Block 4, known as Stage 1C of Barangaroo South. The Crown Hotel Resort approval included an adjacent PRW designed to be fully integrated with the Block 4/Stage 1B PRW to create a single ground water retention system for Barangaroo South.



2. Proposed Modification

On 1 November 2018, the Applicant lodged a modification application (SSD 5897 MOD 2) seeking approval, under section 4.55(1A) of the EP&A Act, to remove a portion of the western Stage 1B PRW. The Redundant Section comprises a section of the border between the Stage 1B and Stage 1C basement areas.

The Crown Sydney Hotel Resort will use part of the Stage 1B/Block 4 basement and access to the basement levels is dependent on the removal the Redundant Section. Removing the Redundant Section (**Figure 4**) will integrate the adjoining basements and enable the combined basement be serviced by a single PRW structure.

The Department notes the construction of the Redundant Section has not commenced, therefore, the application only seeks to remove the Redundant Section from the consent.

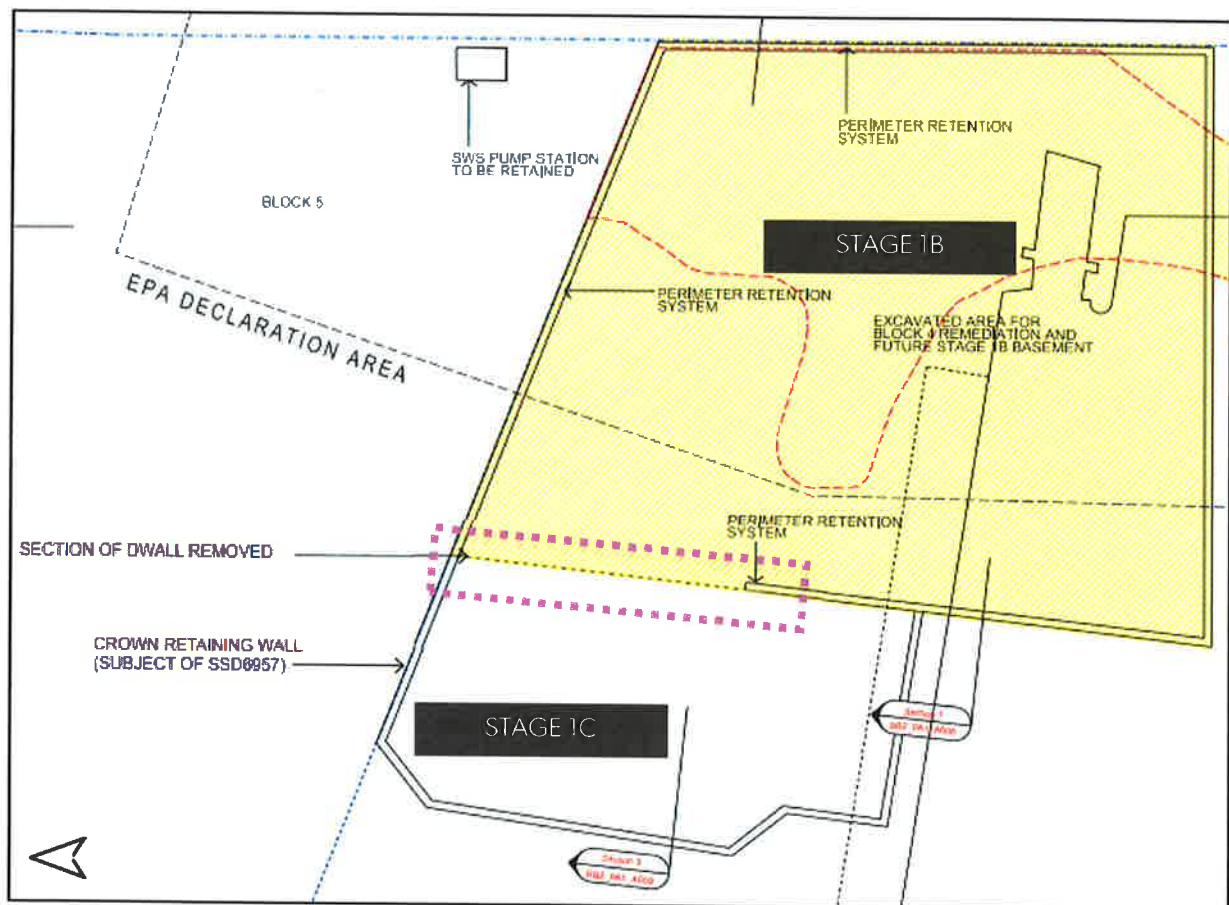


Figure 4 | The redundant section of the PRW to be removed is shown by the dotted purple line.
(Base Source: Applicant)



3. Strategic Context

3.1 Greater Sydney Region Plan

The 'Greater Sydney Regional Plan – A Metropolis of Three Cities' sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney and includes 10 directions. The Plan's key directions are to provide:

- a city supported by infrastructure – infrastructure supporting new developments
- a collaborative city – working together to grow a Greater Sydney
- a city for people – celebrating diversity and putting people at the heart of planning
- housing the city – giving people housing choices
- a city of great places – designing places for people
- a well-connected city – developing a more accessible and walkable city
- jobs and skills for the city – creating conditions for a stronger economy
- a city in its landscape – valuing green spaces and landscape
- an efficient city – using resources wisely
- a resilient city – adapting to a changing world.

The city of Sydney LGA is located within the Eastern City. The proposed development supports the directions and objectives of the Plan, in particular by facilitating the safe, efficient and orderly development of the Barangaroo South area.

3.2 Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The Eastern City District Plan covers the City of Sydney LGA. The modification application is consistent with the Eastern City District Plan by helping to grow a stronger and more competitive harbour central business district (Planning Priority E7).



4. Statutory Context

4.1 Scope of Modifications

A consent authority may modify a consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Table 1**.

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

Section 4.55(1A)	Assessment
That the proposed modification is of minimal environmental impact	The modification application would not result in any change to the extent of the remediation works, the remediation methodology, the remediation outcomes or any perceptible change to the site from the ground level or any public domain. The Department is therefore satisfied the application would not result in any additional environmental impacts beyond those assessed in SSD 5897.
That the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).	The modification application seeks to modify the PRW approved under SSD 5897 by removing the Redundant Section. Notwithstanding this reduction in the scope approved under SSD 5897, no changes are proposed to the use, remediation methods, remediation outcomes or land to which the development applies. On this basis, the modification application would result in a development that is substantially the same as the originally approved.
The application has been notified in accordance with the regulations.	Section 5 of this report demonstrates that the modification application followed the consultation requirements as outlined in the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation)
Any submission made concerning the proposed modification has been considered.	The Department received one submission from EPA relating to the modification application. No objections were received. Refer to Section 5 of this report.

4.2 Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft Environment State Environmental Planning Policy – Environment
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The Department undertook a comprehensive assessment of the proposal against relevant EPIs in its original assessment. Due to the modification application's proposal to reduce the scope of the approved PRW, the Department is satisfied the modification application remains consistent with the EPIs.

4.3 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act.

Minister's delegate as consent authority

Under the Minister's delegation dated 11 October 2017, the Director, Key Sites Assessments, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no submissions in the nature of an objection.

4.4 Objects under the 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 proposed modification is consistent with the objects of the EP&A Act.



5. Engagement

5.1 Department's Engagement

Section 4.55(1A) modifications are not required to be notified under the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). However, the modification application was made publicly available on the Department's website and was referred to Council and Environment Protection Agency (EPA).

5.2 Summary of Submissions

The Department received one submission from the EPA who confirmed the proposed works would not require an amendment to the Environment Protection Licence (No. 13336) under the Protection of the Environment Operation Act 1997 (POEO Act). EPA provided no additional comments.

Council did not make a submission and no submissions were received from members of the public.



6. Assessment

6.1 Section 4.15(1) Matters for consideration

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 2** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification. The table represents a summary for which additional information and consideration is provided for in other sections of this report, as referenced in the table.

Table 2 | Consideration of section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	Department's assessment
(a)(i) any environmental planning instrument	The modified proposal complies with the relevant legislation as addressed in Section 4.2 of this report.
(a)(ii) any proposed instrument	The modified proposal complies with the relevant legislation as addressed in Section 4.2 of this report.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to Section 5 of this report).
(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 Department considers that due to the reduction in the scope of works approved under SSD 5897, no adverse environmental impacts would arise from the proposal. (refer to Section 6 of this report).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 4 and 6 of this report.
(d) any submissions	The Department received one submission from EPA (refer to Section 5 of this report).
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would facilitate the orderly and efficient development of Stage 1B/Block 4 and Stage 1C of Barangaroo South.

In its assessment, the Department has considered the Applicant's modification application and consider compliance with the requirements of the Stage 1B / Block 4 Remedial Action Plan (RAP) to be the key assessment issue.

6.2 Structural Change and Contamination

The Department notes the Applicant has previously provided correspondence from AECOM titled 'Barangaroo, Stage 1B Perimeter Retention Wall, Hickson Road, Millers Point – potential deletion of Stage 1B / 1C Crown Section' (Crown Interface Letter) dated 28 July 2015. The letter considered development 'Scenario 2' where the Stage 1B (SSD 5897) and Stage 1C (SSD 6957) PRW's are constructed as per the relevant RAP with the exception of the Redundant Section where no wall would be constructed.

The letter was reviewed by a Contaminated Sites Auditor (the Auditor) in the letter titled 'Re: Barangaroo, Stage 1B Perimeter Retention Wall, Hickson Road, Millers Point – potential amendments re Crown Interface Wall' dated 15 October 2015. The Auditor agreed the development staging option was consistent with the Block 4 RAP and that an addendum to the RAP would not be required on the basis that:

- Validation Sampling Analysis and Quality Plan (VSAQP) requirements are documented
- an ongoing Site Audit will review the validation performed and conclude the suitability of the site for its intended use.

The modification application included additional documentation from AECOM, superseding the Crown Interface Letter with the 'Barangaroo, Stage 1B Perimeter Retention Wall, Hickson Road, Miller's Point – modification of Stage 1B / 1C Crown Section' (the Redundant Section Letter), dated 14 September 2018. The letter indicated the Stage 1B PRW and Stage 1C PRW had been completed, with exception of the Redundant Section. The Auditor noted:

- VSAQP had not been provided by the Applicant and had instead been prepared and reviewed by the Auditor
- an ongoing Site Audit will review the validation performed and conclude the suitability of the site for its intended use

On this basis, the Auditor concluded the application to not construct the Redundant Section would:

- minimise groundwater migration from Stage 1B to Darling Harbour therefore complying with the RAP requirements
- not require any addendum to the RAP
- would not impact on the validation of Block 4 remediation works.

Therefore, the Auditor concluded the Redundant Section of the PRW does not need to be constructed to meet the requirements of the Stage 1B/Block 4 RAP. The Auditor also advised the advice provided the letter does not constitute a Site Audit Report or Site Audit Statement and that, upon completion of the remediation and validation of the site, a Site Audit Statement would be undertaken.

The Department notes the conclusions of the Auditor and does not consider the modification application would result in any adverse environmental impacts relating to contamination. The Department also notes the part of the retainment wall to be removed has not yet been built and would therefore not result in any demolition impacts at the site. The Department is therefore satisfied the application to not construct the Redundant Section of the PRW is acceptable.



7. Evaluation

The Department has reviewed the proposed modification and assessed the merits of the application.

The Department is satisfied the modification request would facilitate the safe, orderly and efficient remediation of Barangaroo South and would not result in any adverse environmental impacts.

Consequently, the Department considers the modification application is in the public interest and should be approved.



8. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the application SSD 5897 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 grant approval to the application;
- **modify** the consent SSD 5897; and
- **signs** the attached approval of the modification (Appendix B).

Recommended by:

Tim Green
Planning Officer
Key Sites Assessments

Recommended by:

Cameron Sargent
Team Leader
Key Sites Assessments



9. Determination

The recommendation is **adopted** by:


David McNamara 12.12.18

Director

Key Sites Assessments



Appendices

Appendix A – Documentation

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Environmental Impact Statement
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9703
2. Modification Instrument
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9703

Appendix B – Modification Instrument

Appendix C – Consolidated Consent

The Consolidated Consent can be found on the Department of Planning and Environment's website as follows.

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9703