



Sydney Modern, Modification 4

Landscape design amendments
State Significant Development Modification Assessment
(SSD 6471 MOD 4)

May 2021



Published by the NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Sydney Modern Modification 4

Subtitle: Landscape design amendments to State Significant Development Modification Assessment (SSD 6471 MOD 4)

Cover image: Sydney Modern provided by the Art Gallery NSW

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Glossary

Abbreviation	Definition
AGNSW	Art Gallery of NSW
Applicant	Art Gallery of NSW Trust
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
DIP	Sydney Modern Design Integrity Panel
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument
Heritage Division	Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RBG	Royal Botanic Gardens
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
Sydney Modern	Sydney Modern Expansion Project
The site	Art Gallery of NSW, Sydney
Transport for NSW (RMS)	Roads and Maritime Services with Transport for NSW

Executive Summary

This report provides an assessment of a section 4.55(2) application seeking to modify the State significant development (SSD) approval (SSD 6471) for the Sydney Modern Expansion Project at the Art Gallery of NSW (AGNSW).

The modification application seeks approval to amend the landscape design of the approved development, including the forecourt plaza, the entry plaza and the landscaped lawn/art garden. No changes are proposed to the approved built form of the Sydney Modern building.

Following a review of the proposed revised landscape design by the Sydney Modern Design Integrity Panel (chaired by the NSW Government Architect) and subsequent design refinements, the Applicant submitted a Response to Submissions (RTS).

City of Sydney Council (Council) originally raised concerns regarding the design of the reflection pools, the proposed density of trees within the plaza, the location of bollards and the remodelled path from the Domain. Following submission of the RTS, Council advised it is generally supportive of the proposal, subject to the resolution of the location of bollards and final tree planting.

NSW Heritage (Heritage Council) raised no objection to the proposed revised modification but have raised concerns regarding the potential visual impact of the reflection pools and new trees within the forecourt plaza, and the visual impact of the landscaping on the land bridge upon the existing gallery building.

One public submission was received on the proposal. The submission notes the proposed landscape modifications represent a significant improvement over the approved landscape design and included a number of suggested revisions to various elements to allow the design to achieve its full potential.

The Department has carefully considered the proposed modification and the issues raised in submissions. The Department considers the proposed modification is acceptable as:

- the core components of the approved landscape design will be maintained whilst significantly enhancing it
- the revised landscape design will result in an improved visual amenity for visitors to the AGNSW and the broader public. In particular, the revised landscape design will better integrate the existing and approved gallery buildings into the surrounding RBG and the Domain
- the works respect the architectural integrity of the approved building and the heritage of the existing AGNSW building
- there would be no reduction in the areas of public open space and the modification will increase the number of trees to be planted
- although NSW Heritage (Heritage Council) raised concerns regarding the reflection pools in the forecourt plaza, these elements have been subject to detailed review by the Sydney Modern Design Integrity Panel (DIP) which considers the pools to be a positive addition to the plaza
- although Heritage NSW (Heritage Council) requested fewer trees within the forecourt plaza, the Department notes the proposed 12 palm trees would be located at either side of the plaza, are a narrow trunk species and are supported by the DIP. The Department considers the proposed trees would enhance the landscaped appearance of the site and would provide areas of shade within the forecourt without compromising views of the existing gallery building

- an amendment to Condition B20 is recommended to specifically include design details of hostile vehicle management measures as requiring review and endorsement by NSW Heritage
- there would be no adverse visual impact or detrimental amenity impacts on neighbouring residents.

The Department is satisfied the development is substantially the same development for which the consent was originally granted and is in the public interest. The Department's assessment therefore concludes the modification should be approved, subject to the recommended modified conditions of consent.

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1 Introduction

This report provides an assessment of an application seeking to modify the State significant development (SSD) approval (SSD 6471) for the Sydney Modern Expansion Project at the Art Gallery of NSW (AGNSW).

The application has been lodged by the Art Gallery of NSW Trust (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The approved development included construction of a new art gallery building, construction of new entry plaza and associated canopy, public domain and landscaping work, including new footpaths, lifts and tree planting.

The modification application seeks approval to amend the landscape design of the approved development, including the forecourt plaza, the entry plaza and the landscaped lawn/art garden over the land bridge. No changes are proposed to the approved built form of the Sydney Modern building.

1.1 Background

The AGNSW is located at The Domain, within the Sydney local government area (LGA). The Sydney Modern Expansion Project (Sydney Modern) is located adjacent to the existing gallery building at 2B Art Gallery Road (**Figure 1**). The site is situated within the eastern portion of the Domain and adjacent to the south-east corner of the Middle Gardens Precinct of the Royal Botanic Gardens (RBG). The Domain and RBG are managed by the Royal Botanic Gardens and Domain Trust (RBGDT).

The Sydney Modern site (**Figure 2**) excludes the existing AGNSW building but includes the following:

- the area of the land bridge over the Eastern Distributor to the north-east of the existing gallery building
- parts of the Domain to the north-east of the land bridge, including the area above the fuel bunker and the fuel bunker itself
- the forecourt of the existing gallery building fronting Art Gallery Road.

Construction works have commenced with estimated completion anticipated in 2022.



Figure 1 | Site location (highlighted in red) (Source: Department's SSD 6471 Assessment Report)

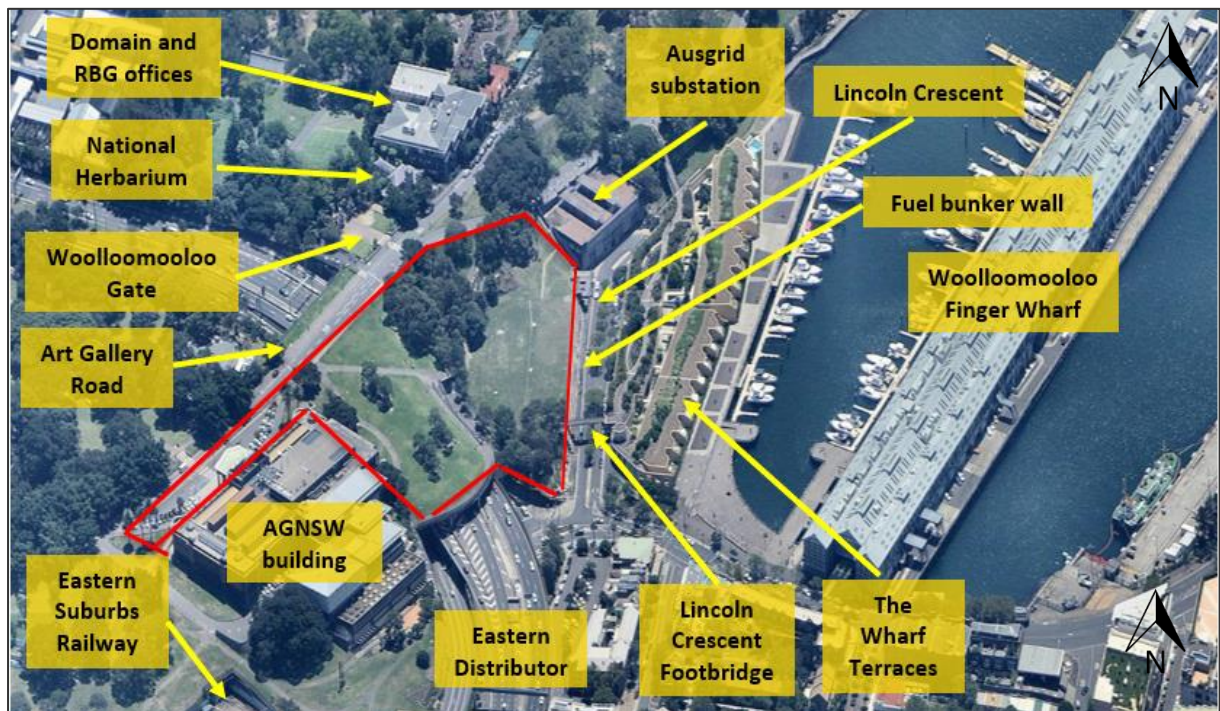


Figure 2 | Aerial view of the site looking north (Source: Department's SSD 6471 Assessment Report) Approval history

1.2 Approval history

On 20 November 2018, the former Minister for Planning approved SSD 6471 for the Sydney Modern Expansion Project. The consent included:

- demolition, earthworks and excavation works
- construction of a new art gallery building
- remediation and change of use of former fuel bunker converted to gallery space
- construction of new entry plaza and associated canopy
- new loading dock with access from Lincoln Crescent
- installation of a seawater heat exchange system
- public domain and landscaping work, including new footpaths, public lifts and tree planting
- subdivision.

The development consent has been previously modified on three occasions (**Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	- deletion of the seawater heat exchange system - provision of three cooling towers within unused void in the approved excavation footprint and provision of new outlet vent - landscaping amendments, including minor reduction in publicly accessible area - reconfiguration of fire stair and egress pathway from Gallery 2 - changes to condition A2 to reflect the revised architectural and landscape plans.	Director	4.55(1A)	17 September 2019
MOD 2	Administrative changes to revise incorrect condition number references	Director	4.55(1)	13 December 2019
MOD 3	- addition of new circular gallery space below ground - changes to the grille configuration within the landscaped embankment - replacement of the existing cooling towers atop the existing AGNSW building - changes to the public lift to Lincoln Crescent - realignment of a fire stair to Art Gallery Road - amendment to hours of operation for the multi-purpose room (condition E2).	Director	4.55(1A)	18 November 2020

2 Proposed modification

The proposed modification seeks approval for landscape design amendments that are intended to build on the landscape design concept established by the original application. The key components and features of the proposal, as amended, are summarised at **Table 2** and shown in **Figure 3**.

Table 2 | Key components of the modification

Component	Modification Description
Forecourt plaza	• addition of reflection pools either side of the front entry to the existing gallery building • reuse and interpretation of heritage walls in front of the existing gallery (consistent with requirements of Condition B19) • new tree planting (12 palm trees) • new paving and bollards • new ramps, stairs and paving to match the forecourt on the western side of the Art Gallery Road pedestrian crossing.
Entry plaza	• new paving and retaining wall along Art Gallery Road and new paving at the entry plaza to match the forecourt plaza • addition of 'rain catcher' at ground level and associated sandstone channel • changes to tree and shrub layout, including provision of free-standing planters rather than in-ground planting.
Landscaped lawn/art garden over land bridge	• incorporation of a large circular central area (gathering space) bounded by a circular path system and sandstone channel • provision of an artwork commission zone. The future artwork will include the planting of 26 new native trees. The exact position of the trees has not been finalised as they will form an inherent part of the future artwork • erection of a new trellis structure over existing paved area adjacent to the north-eastern elevation of the existing gallery building • new paving.
Other changes	• minor design changes to planting areas, plant palette, path systems, retaining walls/seating, lighting, landscape materials and finishes • addition of hostile vehicle security measures to Art Gallery Road frontage • removal of one accessible parking space on Art Gallery Road, reducing the number of accessible spaces from four to three • additional and revised tree planting to the south-east of the existing gallery building.

The proposed modification also includes changes to Condition A2 to reflect the revised architectural and landscape plans, Condition D11 to reflect the updated CPTED Statement and Condition E19 to reflect the increased number of trees to be planted from a minimum of 273 to a minimum of 298.

No changes are proposed to the design of the approved building and does not involve the removal of any trees.

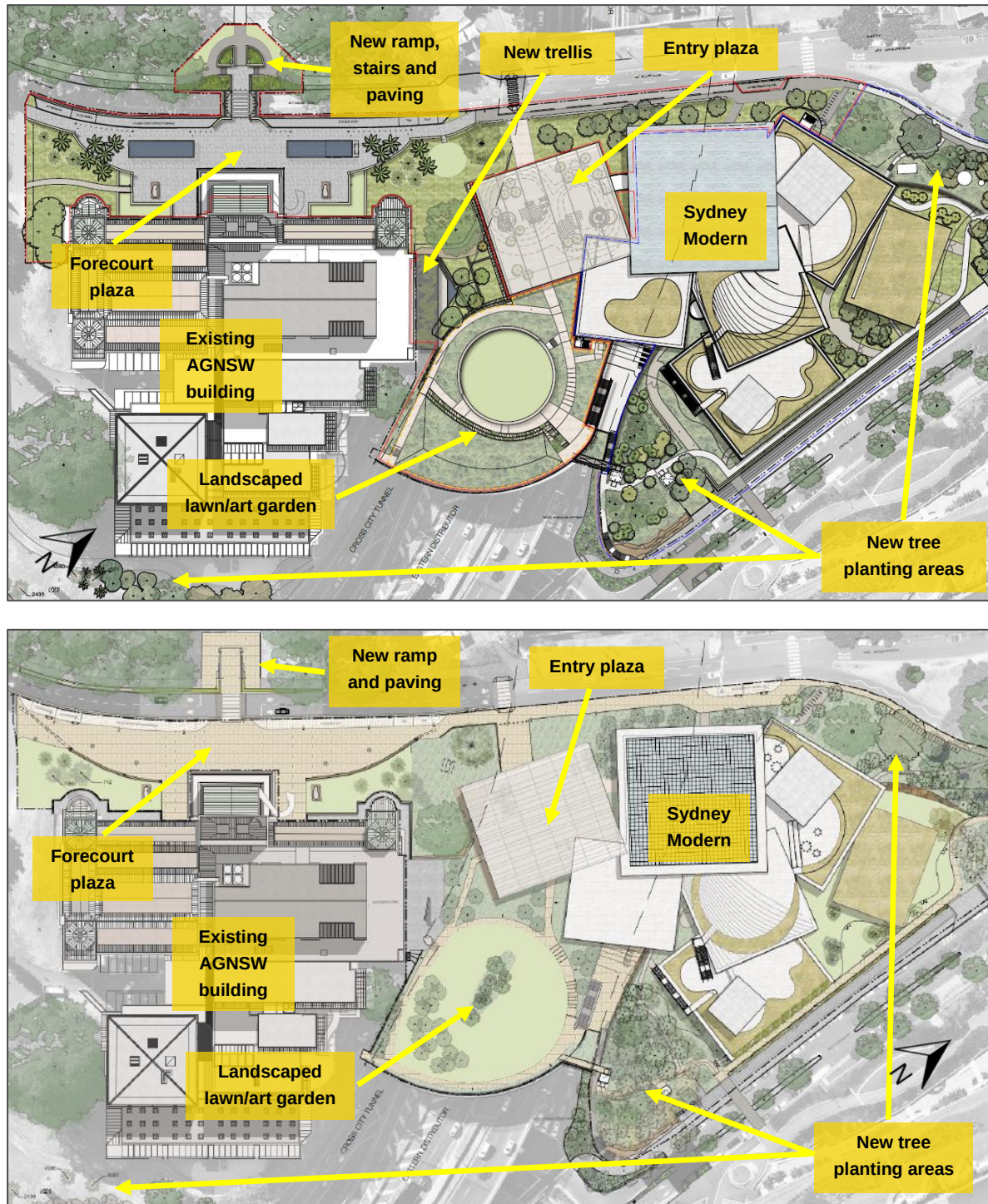


Figure 3 | Plan illustrating proposed landscape design (top) and approved landscape design (bottom) (Base source: Proposed landscape plan and approved landscape plan)

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification that is substantially the same development for which consent was originally granted as it:

- would not increase the environmental impacts of the project as approved;
- is substantially the same development as originally approved; and
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(2) 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(2) 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 (2) 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 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 Director, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- there are less than 15 public submissions in the nature of objection
- council has not made a submission by way of objection.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(2) of the EP&A Act, including environmental planning instruments or proposed instruments;
- EP&A 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 these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

4 Engagement

4.1 Department's engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), the Department exhibited the application from Wednesday 18 November until Tuesday 1 December 2020 (14 days).

The application was made publicly available on the Department's website and previous submitters and residents of The Wharf Terraces (10 Lincoln Crescent) were notified of the modification application and invited to make a submission.

The application was also referred for comment to City of Sydney Council (Council), the Royal Botanic Gardens (RBG), NSW Heritage, Environment, Energy and Science Group (EESG), Transport for NSW (TfNSW RMS), Sydney Trains and the NSW Government Architect (NSWGA).

The Department received six submissions, including from Council, NSW Heritage (Heritage Council) and one submission (comments) from the public.

The Department has considered the concerns and comments raised by Council, NSW Heritage (Heritage Council) and the public submission in its assessment of the application (**Section 5** and **Appendix B**) and through recommended modified conditions of consent at **Appendix C**.

4.2 Key Issues – Government Agencies

NSW Heritage (Heritage Council) provided comments noting there would be some adverse heritage impacts from the proposed modification and recommended amendments be made to:

- elements within the forecourt plaza, including reflection pools, tree planting and security measures
- elements within the entry plaza and on the land bridge, including the trellis structure adjacent to the existing gallery building, rain catcher and sandstone channel, and tree planting.

EESG advised that the modification is unlikely to lead to any additional impacts to biodiversity.

TfNSW, Sydney Trains and Heritage (Aboriginal Cultural Heritage) submissions did not raise any concerns.

Although the RBG did not provide a submission, a letter of support for the proposed modification was included with the application.

4.3 Key Issues – Council

The Department received a submission from Council advising that although they are generally supportive of the approved conversion of the car park to a forecourt plaza, it considers the design of the forecourt plaza appears cluttered which will constrict mobility and detract from views to, and within, the site. In particular, Council raised concerns regarding the design of the reflection pools, the proposed density of trees within the plaza, the location of bollards and the remodelled path from the Domain.

4.4 Key Issues – Public

One submission from the public was received on the proposal which noted the proposed landscape modifications represent a significant improvement over the approved landscape design. However, a number of suggested revisions to various elements, including the location and design of the stone walls, reflection pools and bollards within the forecourt plaza would allow the design to achieve its full potential.

4.5 Response to submissions

Following exhibition of the applications, the Department placed copies of all submissions received on its website and requested the Applicant to provide responses to the issues raised in the submissions.

The Department also recommended that a meeting of the Sydney Modern Design Integrity Panel (DIP) be held prior to a Response to Submissions (RTS) being submitted.

A meeting of the DIP was held on 9 February 2021 which included consideration of elements contained within the proposed modified landscape proposal, including the forecourt plaza, tree planting and the art garden. The DIP generally supported the proposed changes but requested additional information regarding design development for the bollards/overall hostile vehicle security approach and tree planting species. The DIP further considered these matters at a meeting on 9 April 2021 and raised no concerns.

On 10 March 2021, the Applicant provided an RTS which was made publicly available on the Department's website. NSW Heritage (Heritage Council), Council and Andrew Andersons were also notified of the RTS.

In response to the RTS, Council provided further comments and recommended conditions in relation to the location of bollards, tree planting and paving.

NSW Heritage (Heritage Council) noted a number of issues had been resolved by the RTS but reiterated concerns regarding the potential visual impact of the proposed reflection pools and new trees within the forecourt plaza. NSW Heritage also recommended detailed design review of the proposed landscaping on the land bridge, trellis and hostile vehicle management measures be required at the post approval stage.

No further public submissions were received.

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 proposal and the Applicant's RTS
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issues associated with each element of the proposed modification below. Other issues are assessed in **Table 3** in **Section 5.4**.

5.1 Forecourt plaza

The Applicant proposes various landscape design amendments to the forecourt plaza, including the addition of two reflection pools, reuse and interpretation of heritage walls, new tree planting, paving and bollards (**Figure 4**). The amendments also include new ramps, stairs and paving on the western side of the Art Gallery Road pedestrian crossing.

The RTS included some design changes which simplified the design of the forecourt plaza, increased circulation space and amended the proposed planting of 14 Red Bloodwood trees to 12 Cabbage Palms to provide more unrestricted sightlines to the existing and new gallery buildings.

In response to the RTS, Council recommended the proposed bollards be realigned and that a new condition be imposed requiring the final form, materiality and spacing of the bollards be approved by Council. In addition, Council recommended that six of the proposed 12 Cabbage Palms revert to the originally proposed Red Bloodwoods to increase canopy cover.

NSW Heritage (Heritage Council) advised that the height and size of the proposed reflection pools should be reduced as much as possible to minimise any visual impact on the existing gallery building. In addition, although the proposed palm trees are less dense than originally proposed, NSW Heritage advised that concerns remain that the new trees may impact views to the existing gallery building.

The public submission suggested a number of further improvements could be made to the design of the forecourt plaza, including the location and design of the stone walls, reflection pools and bollards.

These matters are considered in detail below.

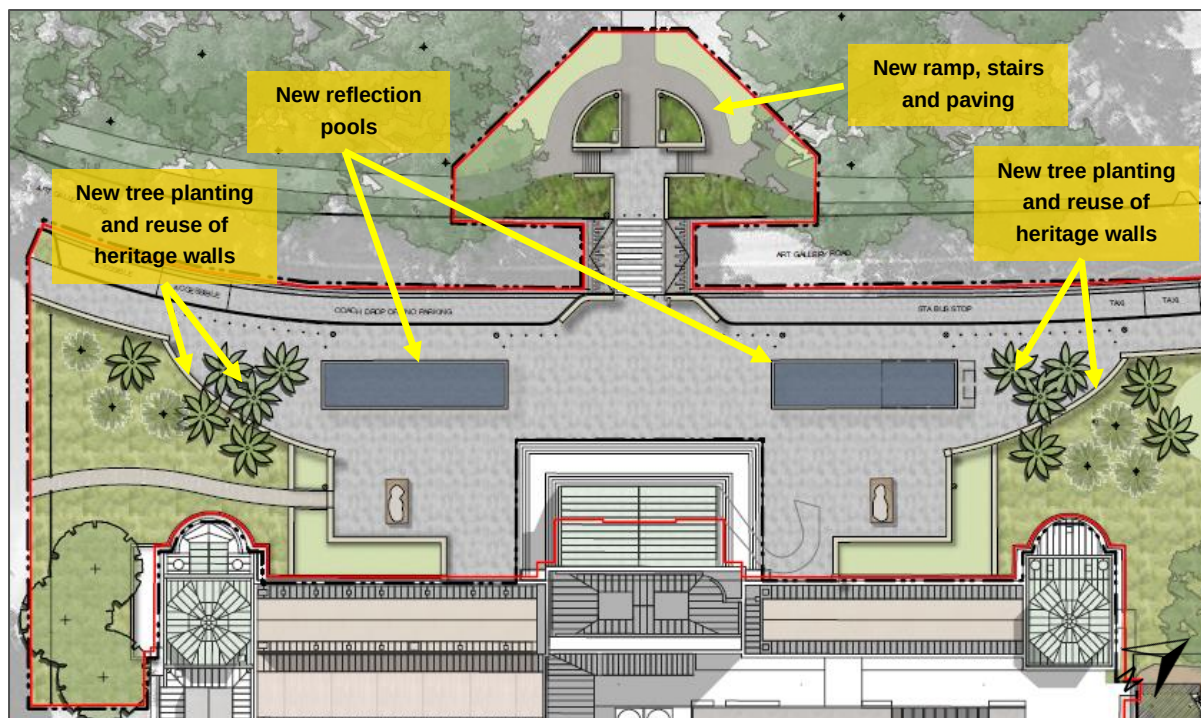


Figure 4 | Modified landscape design of forecourt plaza (Base source: RTS proposed landscape plan)

5.1.1 Reflection pools and bollards

The Applicant contends the proposed design modifications to the forecourt plaza incorporate the specific design of landscape architect Kathryn Gustafson while maintaining the broader landscape design of the approved development. This includes elements such as the reconstruction of the serpentine dwarf walls and improvements associated with the removal of the existing car parking area.

The Applicant further contends the height of the reflection pools cannot be reduced as they form part of the integrated hostile vehicle security measures and their height and size help achieve this. The Applicant's RTS Heritage Impact Statement (HIS) noted details regarding hostile vehicle management measures however these should be confirmed in detailed design development with heritage advice.

The Department notes the modified landscape works incorporate necessary security measures to prevent hostile vehicle access to the plaza through use of the reflection pools, trees and bollards. In addition, the proposed reuse and interpretation of the existing retaining walls is consistent with previous recommendations from Heritage Division and the requirements of Condition B19 (1920s Carriageway Walls Interpretation).

The Department considers the above changes are acceptable as:

- they have been subject to detailed review by the DIP and are consistent with the recommendations and views of the DIP, which advised the proposed reflection pools are a positive addition to the forecourt plaza
- they would significantly enhance the original approved landscape design whilst retaining the predominantly open nature of the approved plaza
- the area around the proposed reflection pools has been increased to allow additional space and clearances and that the height (maximum of 675 mm) and size of the pools are necessary for the pools to form a hostile vehicle security function

- they would provide an attractive feature within the forecourt that would not detract from the views of the existing gallery building.

In addition, the Department recommends an amendment to Condition B20 (New Steps, Ramp and Pedestrian Control Structures) to specifically include a review and endorsement role for NSW Heritage regarding the design details of hostile vehicle management measures and also a consultation role for Council regarding the final form, materiality and spacing of bollards.

5.1.2 Tree planting

The Applicant contends the proposed planting of 12 Cabbage Palms within the forecourt plaza, compared to the originally proposed 14 Red Bloodwoods, is consistent with comments received from the DIP and NSW Heritage (Heritage Council) to minimise view impacts to the existing gallery building while still increasing landscaping and shading within the plaza.

With regard to tree planting, Council's request for six of the proposed 12 palm trees to revert to larger Red Bloodwoods to increase canopy cover is acknowledged as are the comments from NSW Heritage (Heritage Council) that the proposed trees may still impact views to the existing gallery building.

The Department notes the DIP commented that the façade of the existing gallery building is strong and can tolerate further framing with trees and supports the proposed tree planting within the forecourt plaza.

The Department considers the proposed 12 palm trees are acceptable as they have been located to either side of forecourt plaza and are a narrow trunk species that will minimise any view impacts to the existing gallery building. In addition, the trees will enhance the landscaped appearance of the site within the Domain and will still provide areas of shade within the forecourt for visitors.

5.1.3 Conclusion

The Department's assessment concludes the proposed landscape amendments to the forecourt plaza, including tree planting, would integrate sympathetically with the existing gallery building and surrounding landscaping within the RBG and the Domain and are acceptable, subject to the recommended amendment to Condition B20.

5.2 Entry plaza

The Applicant proposes various amendments to the entry plaza, including new paving and retaining walls along Art Gallery Road, new paving to match the forecourt plaza, addition of a 'rain catcher' at ground level and associated sandstone channel, and changes to tree and shrub layout (**Figure 5**). Potted trees within the entry plaza have also been specified as 400L with a mature height of 5 to 10 m.

Council commented that the new potted trees located beneath the entry plaza canopy are unlikely to reach maturity. NSW Heritage (Heritage Council) have raised no concerns in response to the RTS.

The Applicant contends the proposed changes to paving and retaining walls are consistent with the original design intent and will improve the relationship between the existing and approved buildings. The new rain catcher and associated sandstone channel have been designed to sit comfortably within the landscape and would have a neutral impact on the overall stormwater design.

The Applicant also contends it is necessary for the trees in the entry plaza to change to trees planted in pots as this will allow flexibility in the use of the space, to accommodate artworks as well as changes in visitor behaviour and events, as the trees will be able to be moved around. In addition, given the

trees will be under a glass canopy, the proposed modification will allow them to be moved to suit the microclimates under the canopy and their preferred conditions. The trees will be 3 to 4 m in height at installation.

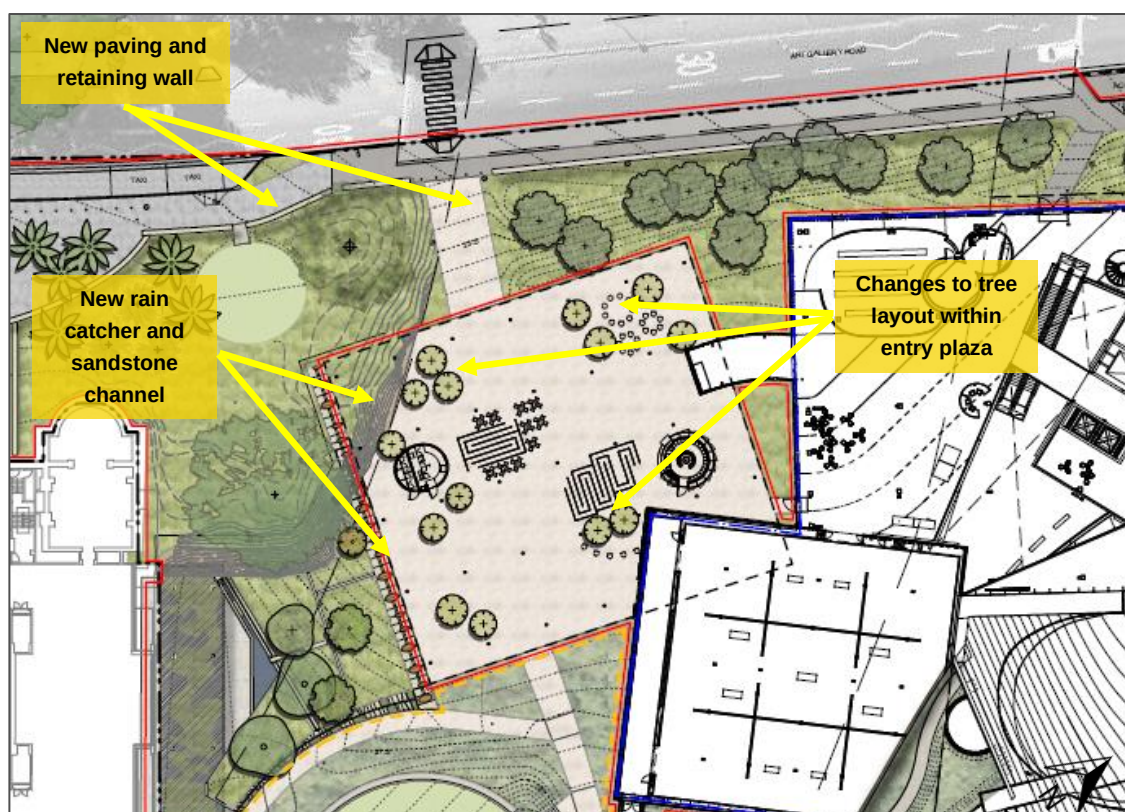


Figure 5 | Modified landscape design of Entry Plaza (Base source: RTS proposed landscape plans)

The Department considers the above changes are acceptable as:

- the amendment from trees planted in the ground to trees planted in pots would allow the trees to be relocated if required to suit the microclimates and preferred conditions for different species. The visual outcome would also remain consistent with the approved landscaped scheme beneath the canopy
- the entry plaza has been subject to detailed review by the DIP and is consistent with the recommendations of the DIP who support the proposed rain catcher and channel, trees and design/ambiance of the space
- the landscape design of the entry plaza provides greater detail and will significantly enhance the original approved landscape design whilst maintaining a predominantly open and landscaped entry plaza to the new gallery building
- Condition E19 is recommended to be amended to require the 14 trees located in pots to be retained beneath the canopy. This will ensure the visual outcome would remain consistent with the approved landscaped scheme.

5.3 Lawn area/art garden over land bridge

The Applicant proposes various landscape design amendments to the lawn area/art garden located on the land bridge. These include incorporation of a large circular central area (gathering space) bounded by a circular path system and sandstone channel, provision of an artwork commission area and new paving. Erection of a new lightweight steel trellis structure is also proposed adjacent, but separate to, the north-eastern façade of the existing gallery building, to provide cover to an existing paved area (**Figure 6**).

The Applicant also seeks a new condition be imposed requiring approval of the final design of the artwork commission area as the final design of the commission has not been finalised at the current time. In addition, a further condition is proposed to allow the installation of permanent and temporary future artworks in this area without requiring further modifications to the approved landscape plans.

The application included a Structural Statement that confirms the additional loading from the proposed revised landscaping i.e. proposed changes to soil depths, trees and paving, is within the current load tolerance of the land bridge.

In response to the RTS, Council requested a new condition be imposed to ensure the new artwork commission contains sufficient tree canopy cover.

NSW Heritage (Heritage Council) requested the design of the proposed landscaping on the land bridge should be subject to further detailed heritage review to ensure the landscape reflects the aesthetics of the RBG. In addition, it was requested that the detailed design of the trellis be subject to further heritage consultation. These matters are considered separately below.

5.3.1 Art commission area

The approved development included use of the south-eastern portion of the land bridge as an art garden. The AGNSW is currently in discussions regarding a major art commission in this location with the aim for it to be delivered in time for the opening of Sydney Modern in 2022. The Applicant therefore proposes a new condition (Condition D30) regarding approval of a final landscape plan by the Planning Secretary. The Applicant also seeks a new condition (Condition E26) to allow the installation of art works permanently or from time to time, within the art commission area.

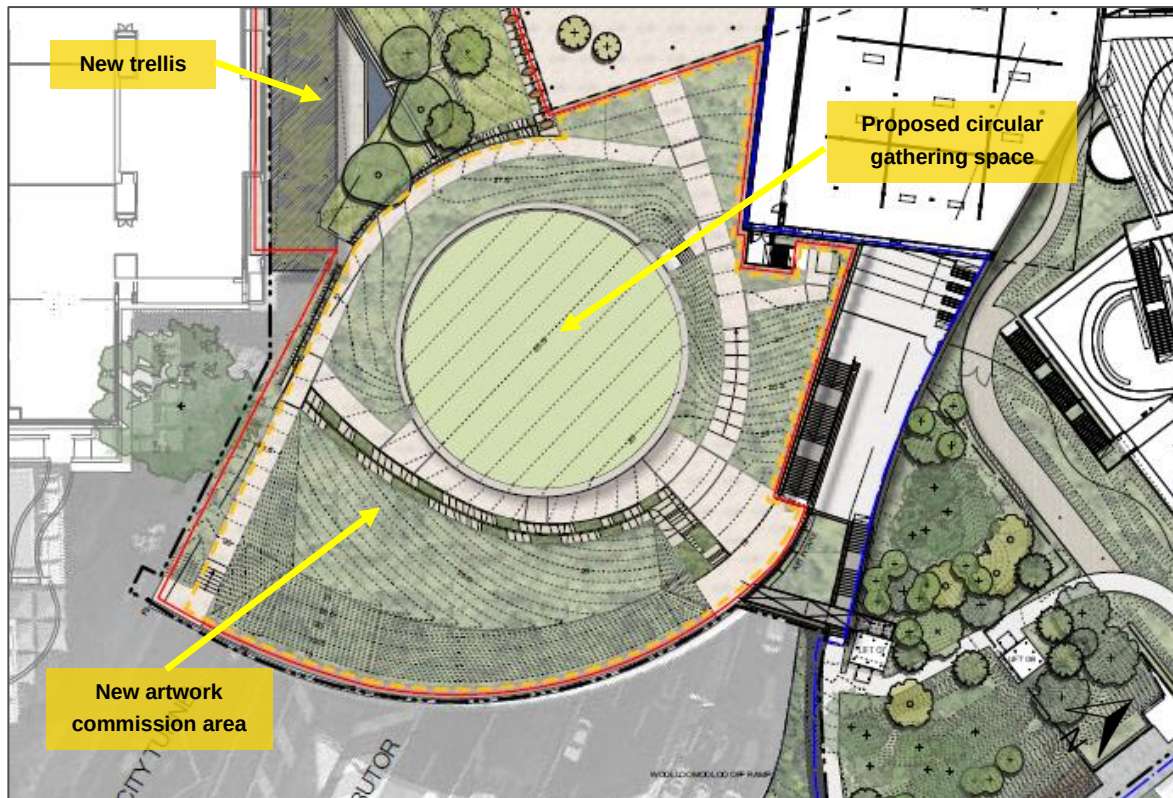


Figure 6 | Modified landscape design of landscaped lawn/art garden. New artwork commission area shown bounded in green (Base source: RTS proposed landscape plans)

In response to Council's comments, the Applicant proposes a new condition in relation to the planting size of proposed new tree planting within the art commission area (incorporated as part of proposed Condition D30). However, the Applicant contends the species selection and mature heights are limited by the loading constraints of the land bridge and Council's recommended minimum pot size of 200 litres and height of two metres at planting will depend on availability of stock.

The Department considers the above changes acceptable as:

- the landscape design of the lawn area/art garden would significantly enhance the original approved landscape design and would result in an attractive landscaped area comprising a significant artwork conceived as a landscape comprising a minimum of 26 native trees (final location of the trees to be informed by expert structural advice noting the loads on the land bridge)
- the land bridge will comprise a living artwork that will grow and mature over time and will itself likely become an attraction for future visitors
- the area will retain its approved purpose as a central public lawn/art garden that will provide amenity for all visitors and persons utilising the adjacent through-site links
- the proposed amendments to the art garden have been subject to detailed review by the DIP and are consistent with the recommendations of the DIP
- the landscape design of the entry plaza provides greater detail and will significantly enhance the original approved landscape design whilst maintaining a predominantly open and landscaped entry plaza to the new gallery building

- Condition D30 is recommended requiring the final landscape design for the art commission area, including the planting of a minimum of 26 native trees, to be prepared in consultation with NSW Heritage, TfNSW and Transurban, and to be submitted to the Planning Secretary for approval
- given the location of the art commission area between the existing and approved gallery buildings and distance of over 60 m to the closest residential apartments within The Wharf Terraces (**Figure 2**), there would be no adverse impacts from the future installation of art works (temporary or permanent) in this location. Condition E26 is therefore recommended which will enable permanent or temporary artworks to be located within the artwork commission area without requiring any further modifications, subject to compliance with the final landscape plan approved under new Condition D30. Notably, lighting of any new artwork would be subject to the provisions of existing Condition B38 which requires compliance with the recommendations of the approved Exterior Lighting Report and relevant Australian Standards.

5.3.2 Trellis

The Applicant contends the proposed lightweight steel trellis has been designed to complement key architectural elements of the original façade and will be aligned to the height of Lower Level 1 of the existing gallery building. The material palette of the trellis will align with the stone and concrete used in the existing façade. In addition, the trellis will include native climbers to provide a softer landscape appearance.

The Department understands a separate development application to Council for works to the existing gallery building will include removal of the existing hoardings and reinstatement of glazing over adjacent original window and door openings in the north-eastern façade.

The Department considers the proposed trellis would be a relatively minor and attractive feature within the surrounding landscape and would not adversely impact the heritage value of the adjacent gallery building. In addition, the Department notes the detailed design of the trellis is required to be submitted to NSW Heritage for review and endorsement, consistent with Condition B22 (External Materials). The Department therefore supports the erection of the proposed trellis.

5.3.3 Conclusion

Overall, the Department considers the revised landscaping and trellis would integrate sympathetically with the existing gallery building and surrounding landscaping within the RBG and the Domain. The proposed landscape amendments to the lawn area/art garden are therefore supported.

5.4 Other issues

Table 3 | Assessment of other issues

Issue	Findings	Recommendations
Trees	• Condition E19 (Tree planting, landscape and public domain works) requires the planting of a minimum of 273 trees as part of the approved development, consistent with the approved landscape plans. • The proposed landscape amendments include additional and revised tree planting, predominantly	The Department recommends updating the plan schedule. The Department recommends amending Condition

	within the forecourt plaza, entry plaza and to the south-east of the existing gallery building (Figure 3). • The modification proposes 25 additional trees resulting in the planting of a total of 298 trees. • The Applicant contends the proposed planting will be predominantly native endemic species. Landscaping will be designed with input from Indigenous communities and the Royal Botanic Garden and Domain Trust. • EESG consider the proposed modification would be unlikely to increase the impact of the development on biodiversity values. • The Department considers the proposed increase in the number of trees to be planted from 273 to 298 satisfies the intent of Condition E19 and will result in an improved and acceptable landscaped and biodiversity outcome. • The proposed revised tree planting scheme and amendment to Condition E19 is therefore supported.	E19 to reflect the increased minimum number of trees to be planted from 273 to 298.
Accessible parking	• The approved development provides four accessible car parking spaces on Art Gallery Road, two in front of the existing gallery building and two in front of Sydney Modern. • The proposed modification seeks to reduce the number of accessible parking spaces in front of Sydney Modern from two to one and the overall number from four to three. • The Applicant contends this is due to there being insufficient space to provide two compliant spaces whilst also providing the required 7.5 m clearance from the existing pedestrian crossing to the north and not overlapping with the land bridge to the south (which precludes any additional loads from the new parking spaces and associated revised footpath arrangement). • The Department notes the modified development will still provide three accessible car parking spaces, an increase of two spaces compared with the single existing space. • The Department considers the revised arrangement will still allow inclusive, equitable access to the gallery, noting that in addition to the accessible space located in front of Sydney Modern, two accessible spaces are	The Department recommends updating the plan schedule.

located close to the existing gallery building which will still be the main entry point to the gallery.

- The Department therefore supports the proposed revision to accessible parking on Art Gallery Road.

Paving	• Council recommended the asphalt path along Art Gallery Road be finished in concrete to match the paths through to Sydney Modern. • The Applicant contends the asphalt footpath of the Art Gallery Road bridge is structurally connected to the bridge and cannot be removed and is not capable of carrying any additional paving loads. • The Department notes this issue has also previously been considered by the DIP and accepts it is not viable to replace the existing asphalt footpath for structural reasons.	No changes to conditions recommended.
Accessibility	• The proposed modification includes changes to the configuration of the approved ramp and stairs on the western side of the Art Gallery Road pedestrian crossing opposite the existing art gallery building. In addition, changes are also proposed to footpaths and paving around the site. • The Department considers the landscape design would be capable of providing improved and acceptable access for people with disability from the Art Gallery Road public footpath and the wider area to the new and existing building, and majority of key areas/features within the public domain. • The Department therefore supports the proposed accessibility modifications.	The Department recommends updating the plan schedule.
Other minor design changes	• The proposed modification also includes minor design changes to planting areas, plant palette, path systems, retaining walls/seating, lighting, landscape materials and finishes. • NSW Heritage (Heritage Council) raised no concerns with the revised plans subject to further detailed design review. • The Department considers these aspects of the amended landscape design to be minor and would not result in any adverse impacts. • The Department notes Condition B22 requires all external materials to be endorsed by NSW Heritage. The Department also recommends Condition B20 be amended to include a requirement for the detailed design of hostile vehicle management measures to also	The Department recommends updating the plan schedule.

be submitted to NSW Heritage for review and endorsement.

Lighting	The modification includes a Lighting Design Statement confirming all exterior lighting, including street lighting, pedestrian lighting and feature lighting, will be designed to meet relevant Australian Standards and Council guidelines (consistent with Condition B38) of the approval.	No changes to conditions recommended.
Crime Prevention Through Environmental Design (CPTED)	- The modification includes an updated CPTED Statement to reflect the revised landscape design. The Applicant therefore seeks to amend Condition D11 to refer to the updated CPTED Statement. - The Department considers CPTED Statement is acceptable as it incorporates appropriate measures regarding natural surveillance, natural access control and territory/space management. Condition D11 should therefore be amended to refer to the updated CPTED Statement.	The Department recommends amending Condition D11 to reflect the updated CPTED Statement.
Biodiversity Conservation Act 2016	- Under section 7.17 of the <i>Biodiversity Conservation Act 2016</i>, applications for the modification of major projects must be accompanied by a biodiversity development assessment report unless the consent authority is satisfied the modification will not increase the impact of biodiversity values. - The Department notes EESG consider the proposed modification is unlikely to result in any additional biodiversity impacts. - The Department considers the proposed modification will result in improved biodiversity outcomes given additional tree planting is proposed.	No changes to conditions recommended.

6 Evaluation

The Department has assessed the merits of the application in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is acceptable because:

- the core components of the approved landscape design will be maintained whilst significantly enhancing it
- they will result in an improved visual amenity for visitors to the AGNSW and the broader public. In particular, the revised landscape design will better integrate the existing and approved gallery buildings into the surrounding RBG and Domain
- the works respect the architectural integrity of the approved building and the heritage of the existing AGNSW building
- there would be no reduction in the areas of public open space and the modification will increase the number of trees to be planted
- the revised landscape works would integrate sympathetically with the existing gallery building and surrounding landscaping within the RBG and the Domain
- there would be no adverse visual impact or detrimental amenity impacts on neighbouring residents.

In addition, the Department is satisfied the proposed amendments, as revised in the RTS, have been developed in consultation with the Sydney Modern DIP.

The Department recommends the following new and amended conditions:

- Condition B20 be amended to require design details of hostile vehicle management measures to be reviewed and endorsed by NSW Heritage and for the form, materiality and spacing of bollards to be finalised in consultation with Council
- Condition D11 be amended to reflect the updated CPTED Statement
- Condition E19 be amended to reflect a minimum of 298 trees to be planted and that the 14 potted trees to be located beneath the entry canopy are retained in this location
- new Condition D30 is imposed requiring the final landscape design for the art commission area, including nominating the location and maximum size/height of future artworks and the planting of a minimum of 26 native trees, to be prepared in consultation with NSW Heritage, TfNSW and Transurban, and to be submitted to the Planning Secretary for approval
- new Condition E26 is imposed which will enable permanent or temporary artworks to be located within the artwork commission area without requiring any further modifications to the approved landscape plans, provided they comply with the final landscape plan approved under Condition D30.

Consequently, the Department concludes the modification application, insofar as it relates to the supported modifications above and associated updated conditions, is in the public interest and should be approved, subject to the proposed modified and recommended conditions.

7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 6471 MOD 4 falls within the scope of section 4.55(2) 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 6471
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Andy Nixey
Principal Planner
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **adopted** ~~/not adopted~~ by:



24 May 2021

Anthony Witherdin

Director

Key Sites Assessments

(as delegate of the Minister for Planning and Public Spaces)

Appendices

Appendix A – List of referenced documents

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

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/40391>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/40391>

Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/40391>

Appendix B – Statutory Considerations

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 1** 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 in other sections of this report, as referenced in the table.

Table 1 | Assessment of Section 4.15(1)

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(a)(ii) any proposed instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(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 4).
(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 the proposed changes to be minor and would not result in any adverse environmental impacts (refer to Section 5).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 3 and 5 .
(d) any submissions	The Department has considered the submissions received. Refer to Sections 4 and 5 .
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would result in a desirable landscaped and public domain outcome for Sydney Modern, the AGNSW and the broader Domain/RBG.

Table 2 | Assessment of Section 4.55(2)

Section 4.55(2)	Assessment
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.	The development, as proposed to be modified, is substantially the same development as the originally approved as it: • would facilitate the landscaped outcome for the forecourt plaza, entry plaza and land bridge envisaged under the original application • would not result in any removal of trees or reduction in soft landscaping • would not result in any change to the size or appearance of the approved building • would not result in any adverse heritage impacts • would not result in any adverse environmental impacts that cannot be appropriately managed or mitigated.
That consultation has occurred with the relevant Minister, public authority or approval body and an objection has not been received.	The Department has consulted the relevant government agencies, previous submitters and Council in relation to the modification application (refer to Section 4).
The application has been notified in accordance with the regulations.	Section 4 of this report demonstrates the modification application followed the consultation requirements as outlined in the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations.	The Department has considered the submissions received during the exhibition period (refer to Sections 4 and 5).
Consideration of section 4.15(1) of the EP&A Act as are of relevance to the development application and the reasons given by the consent authority for the grant of the consent that is sought to be modified.	The Department has assessed the relevant matters for consideration under section 4.15 of the EP&A Act (refer to Table 2).

Environmental Planning Instruments

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land

- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft Remediation of Land State Environmental Planning Policy
- Draft Environment State Environmental Planning Policy.

The Department has assessed the proposed modification against the relevant provisions of these instruments and considers the modification can be carried out in a manner that is consistent with their aims, objectives and provisions.

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.

Appendix C – Modification Instrument

The recommended conditions of consent can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/40391>

Appendix D – Notice of Decision

The Notice of Decision can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/40391>