



Sydney Modern Modification 6

Design amendments
State Significant Development Modification Assessment
(SSD 671 MOD 6)

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Glossary

Abbreviation	Definition
AGNSW	Art Gallery of NSW
Applicant	Art Gallery of NSW Trust
BCA	Building Code of Australia
Council	City of Sydney
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group, DPIE
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ESD	Ecologically Sustainable Development
GFA	Gross Floor Area
Heritage	Heritage NSW, Department of Premier and Cabinet
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
RGB	Royal Botanic Gardens
RBGDT	Royal Botanic Gardens and Domain Trust
REW	Rammed earth wall
RMS	Roads and Maritime Services, TfNSW
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011

SSD	State Significant Development
TfNSW	Transport for NSW

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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(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The approved development consists of the construction and operation of a new art gallery building, new entry plaza and canopy, public domain and landscaping works, including new footpaths, lifts and tree planting.

The modification application (MOD 6) seeks approval for minor design amendments, including a new active building pressurisation system and acoustic enclosure, and alterations to the roofing material above Gallery 1.

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 located at 2B Art Gallery Road (Error! Reference source not found.).

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 owned and managed by the Royal Botanic Gardens and Domain Trust (RBGDT).

The Sydney Modern site (Error! Reference source not found.) 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 of the project in late 2022.



Figure 1 | Site location (highlighted in blue) (Base source: Nearmap)



Figure 2 | Aerial view of the site looking north (Base source: Nearmap)

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 the former fuel bunker to a 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 works, including new footpaths, public lifts and tree planting
- subdivision.

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

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	<ul style="list-style-type: none">• Deletion of the seawater heat exchange system• Provision of three cooling towers and 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	<ul style="list-style-type: none">• Administrative changes to revise condition number references	Director	4.55(1A)	13 December 2020
MOD 3	<ul style="list-style-type: none">• Addition of a 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	Director	4.55(1A)	18 November 2020

Lincoln Crescent

- Realignment of a fire stair to Art Gallery Road
- Amendment to hours of operation for the multi-purpose room (Condition E2).

MOD 4	<ul style="list-style-type: none">• Landscape design amendments, including the forecourt plaza, entry plaza and land bridge.	Director	4.55(2)	24 May 2021
MOD 5	<ul style="list-style-type: none">• Architectural and landscape design amendments	Team Leader	4.55(1)	22 October 2021

2 Proposed modification

The Applicant lodged a modification application (SSD 6471 MOD 6) seeking approval, under section 4.55(1A) of the EP&A Act for various architectural design amendments which are shown in Error! Reference source not found. and Figure 4 and include:

- changing the building pressurisation system from passive to active and installing new extraction fans, ductwork and dampers on the roof of Gallery 1
- new acoustic screen around the proposed mechanical equipment up to 1.05 m high
- amendments to the material of the roof of Gallery 1 from pigmented concrete to stone ballast.

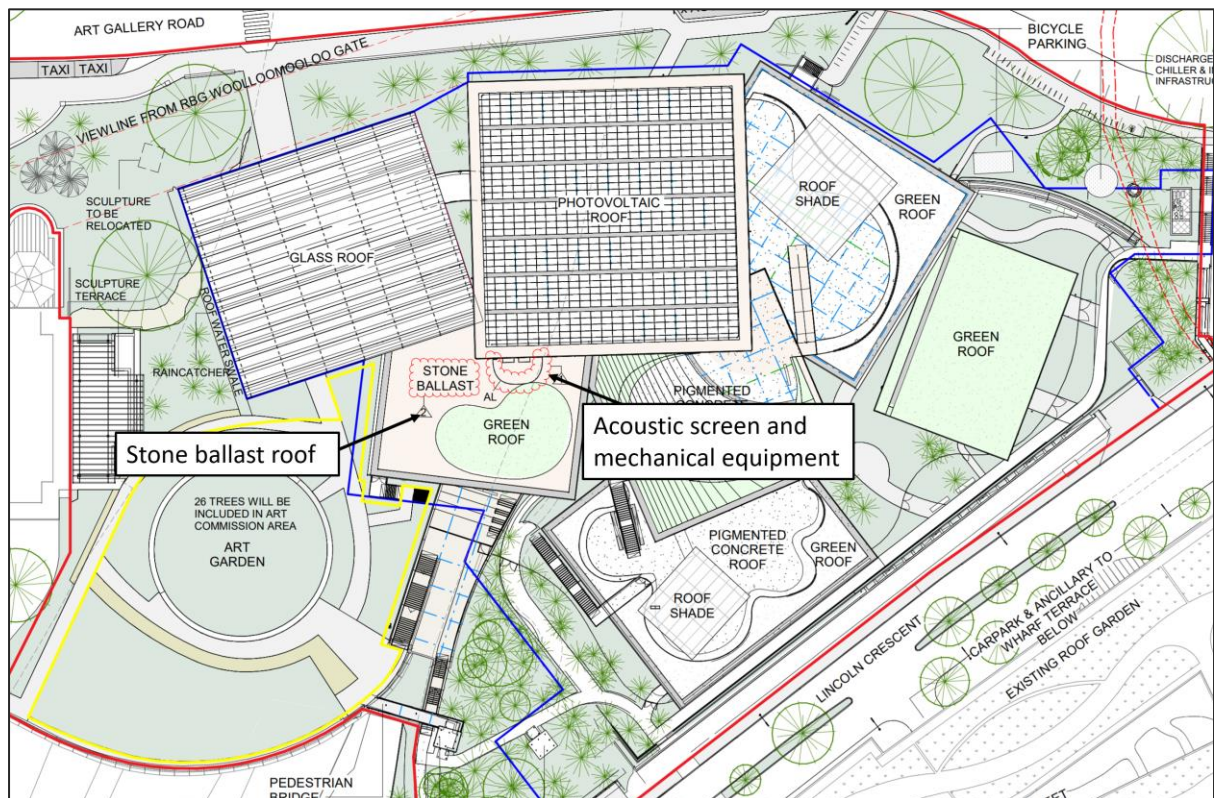


Figure 3 | Roof Plan – proposed changes outlined in red (Base source: Applicant)

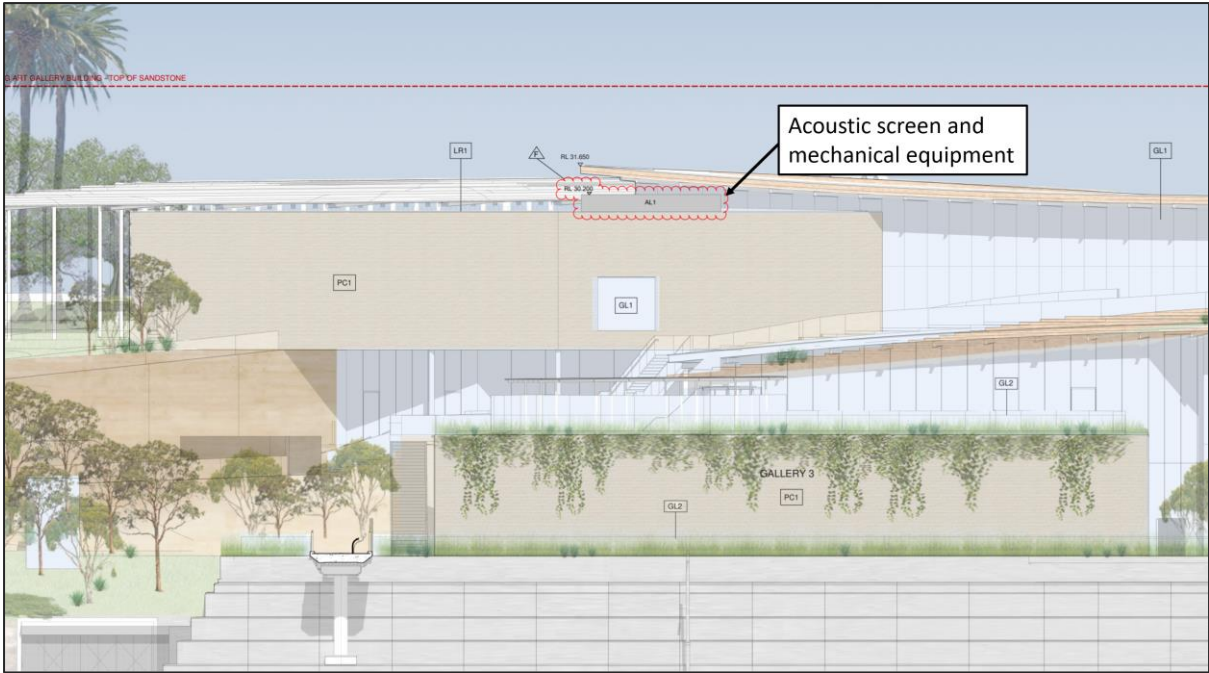


Figure 4 | East Elevation – proposed changes outlined in red (Base source: Applicant)

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
- 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(1A) of the EP&A Act and does not constitute a new development application. 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 and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Team Leader, Key Sites Assessments, may determine this application under delegation as:

- a political disclosure statement has not been made
- there are no public submissions (other than Council) in the nature of objections
- Council has not made an objection.

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 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

The Department made the modification application available on its website and referred it to City of Sydney Council (Council) and RBGDT.

4.2 Summary of submissions

Council reviewed the proposed amendments and raised no objection to the modification application.

The RBGDT raised no concern with the proposed design modifications.

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

No 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
- relevant environmental planning instruments, policies and guidelines; and
- the requirements of the EP&A Act and Regulation.

The Department has assessed the potential impacts associated with the proposal in **Table 2** below.

Table 2 | Assessment of proposed changes

Issue	Findings	Recommendations
Design amendments	<ul style="list-style-type: none"> • The proposal involves changing the building pressurisation system from passive to active and installing new extraction fans, ductwork and dampers on the roof of Gallery 1. • The proposal also involves a new acoustic screen around the proposed mechanical equipment up to 1.05 m high and changing the material of the roof of Gallery 1 from pigmented concrete to stone ballast. • The Department considers the proposed design amendments are acceptable as: <ul style="list-style-type: none"> • the height of proposed acoustic screen (RL 30.200 m) is lower than adjacent elements of the roof (RL 31.650 m) • the proposed acoustic screen would consist of aluminum material which is consistent with existing facades • the new roof material is similar to the approved material and would not be visible from the public domain 	<ul style="list-style-type: none"> • The Department recommends Condition A1 is updated to include the revised architectural design drawings.

- the active building pressurisation system would improve the amenity and comfort of the building.

Noise impacts

- The Applicant provided Acoustic Advice which detailed the acoustic treatments included for the mechanical plant. This included ductwork, acoustic lagging and a solid acoustic screen.
 - Council and the RBGDT raised no concerns about noise impacts.
 - The Department considers the proposed acoustic treatments acceptable and notes that noise impacts would be managed in accordance with existing noise conditions including Condition D9 – Operational Noise and Vibration Management Plan, Condition E4 – Noise Control – Plant and Machinery and Condition E5 – Noise Monitoring.
 - The Department considers the proposed changes would not result in any adverse noise impacts and are therefore supported
 - No additional conditions required
-

6 Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is acceptable as:

- the proposed architectural design amendments would not significantly change the bulk and scale of the approved development or result in any visual impacts
- the proposal would improve the amenity and comfort of the building
- the proposal would not result in any additional adverse noise impacts as the mechanical plant would contain acoustic treatments and noise impacts would be managed in accordance with existing conditions of consent
- it complies with the relevant statutory provisions, EPIs and strategic planning context
- it is substantially the same development as the approved development.

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 and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 6471 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 6471
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Minoshi Weerasinghe
Senior Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

16.12.2021

Cameron Sargent

Team Leader

Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendices should follow this general layout but may be modified for specific reporting needs where necessary:

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:

Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/43411>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/43411>

Response to Submission

<https://www.planningportal.nsw.gov.au/major-projects/project/43411>

Appendix B – Modification report

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 1**.

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

Section 4.55(1A)	Department's consideration
(a) The proposed modification is of minimal environmental impact	Section 5 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.
(b) 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 that originally approved in that: <ul style="list-style-type: none"> the proposed use of the site remains the same the proposed modification to the approval comprises of minor changes and will not alter the built form or scale of the building it would not result in any additional environmental impacts.
(c) The application has been notified in accordance with the regulations.	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 4 of this report.
(d) Any submission made concerning the proposed modification has been considered.	The Department has considered submissions made, as addressed in Section 4 and 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 2** identifies the matters for consideration under section 4.15(1) of the EP&A Act that apply to the proposed modification.

Table 2 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	Department's consideration
(a)(i) any environmental planning instrument	The modified proposal remains consistent with relevant environmental planning instruments.
(a)(ii) any proposed instrument	The modified proposal remains consistent with relevant draft environmental planning instruments.
(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 Environmental Planning and Assessment Regulation 2000, 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 as addressed in **Section 5**.

(c) the suitability of the site for the development

The site remains suitable for the development.

(d) any submissions

The Department has considered submissions made, as addressed in **Section 4** and **Section 5** of this report.

(e) the public interest

The Department considers the modified proposal to be in the public interest.

Appendix C – Notice of modification

The Modification Instrument can be found on the Department's website at:
<https://www.planningportal.nsw.gov.au/major-projects/project/43411>