



Remediation of Hickson Road, Barangaroo

State Significant
Development
Modification Assessment
(SSD 6617 MOD 2)

September 2018

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
CIV	Capital Investment Value
CIP	Community Involvement Plan
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning and Environment
DPI	Department of Primary Industries
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
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
RMS	Roads and Maritime Services
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



Executive Summary

Lendlease (Millers Point) Pty Ltd (the Applicant) seeks approval to modify the consent (SSD 6617) for the remediation of Hickson Road, Barangaroo.

The section 4.55 (2) modification request seeks to make a minor extension to the remediation works site into an adjoining property at 36 Hickson Road, install an overhead gantry associated with an odour control enclosure, and remove one Moreton Bay Fig Tree.

Engagement

The Department publicly exhibited the modification request and received advice from six government agencies. One public submission made comments in respect of construction noise.

City of Sydney (Council) advised it would not be making a submission and none of the government agencies objected to the proposal.

Assessment

The key assessment issues associated with the modification are visual, contamination, noise and odour impacts.

The Department considers the visual impacts associated with the overhead gantry and odour control enclosure are minor and temporary and the works would ensure the site is appropriately remediated. Noise and odour impacts would not result in amenity impacts and would be effectively managed throughout the remediation process.

The Moreton Bay Fig Tree being removed from the site would also be replaced by a tree of the same species and equivalent maturity at the completion of the works.

Summary

The Department considers the modification application to be appropriate and acceptable as the purpose of the works are to treat and remove highly contaminated material from the site which would result in an improved environmental outcome for the site.

The Department considers the proposal would result in benefits to the State of NSW and the local community and is therefore in the public interest.



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1. Introduction

1.1 Background

This report is an assessment of an application to modify the State significant development (SSD) approval for the remediation and associated works at Hickson Road, Barangaroo.

The application has been lodged by Lendlease Millers Point Pty Ltd (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application seeks approval to extend the existing remediation area by incorporating part of 36 Hickson Road. The modification also seeks to install an overhead gantry across Hickson Road and odour control enclosure, and remove a Moreton Bay Fig Tree located in the forecourt of 36 Hickson Road.

1.2 The site

Barangaroo is located on the north-western edge of the Sydney CBD. The site is bounded by the Sydney Harbour foreshore to the north and west, Hickson Road and Millers Point to the east, and King Street Wharf/Cockle Bay/Darling Harbour to the south.

The Barangaroo precinct is divided into three redevelopment areas (from north to south): Headland Park (now known as Barangaroo Reserve); Barangaroo Central; and Barangaroo South. A location plan identifying the project location is provided below at **Figure 1**.



Figure 1 | Site location (Source: SSD 6617 EIS)

1.3 Site context

The subject site at 36 Hickson Road is located to the immediate east of the Hickson Road reserve and its forecourt would become amalgamated into the Hickson Road East temporary compound. Inclusive of the proposed extension, the compound forms part of the EPA Declaration Area 21122 (the remediation area). **Figure 2** below identifies the existing compound and the proposed extension to incorporate part of 36 Hickson Road.

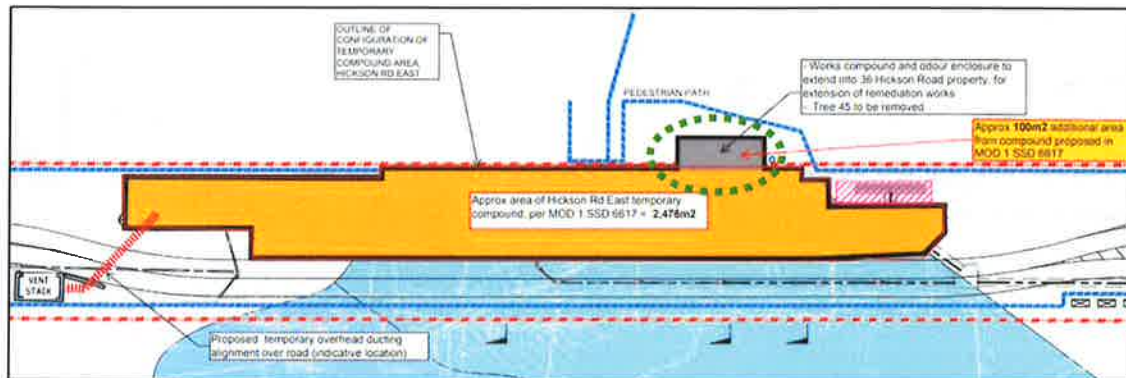


Figure 2 | Site Remediation Area with the proposed extension shown by the dotted green line (Source: SSD 6617 MOD 2)

The proposed extension area is currently the forecourt of 36 Hickson Road, pictured in **Figure 6**. The site is elevated above the street by a small staircase on the western side connecting the footpath to the forecourt.

Tree 45, a mature, 8 m tall Morton Bay Fig Tree currently occupies an elevated planter bed in the south-western corner of the forecourt.

1.4 Site contamination history

The Barangaroo area was used for wharf and port related activities since the 1800s. From 1839 to 1921, the former Australian Gas Light Company (now Jemena) gasworks operated at Miller's Point on parts of Block 4, Block 5 and the area now covered by Hickson Road. The gasworks was decommissioned and then demolished in 1922.

In May 2009, the EPA considered that the area was contaminated and presented a significant risk of harm to human health and the environment, and as such, declared part of Millers Point to be a remediation site (no. 21122) under the *Contaminated Land Management Act 1997* (CLM Act).

The site coincides with the known footprint of the former Millers Point gasworks and is located within Block 4, a portion of Block 5 and a portion of Hickson Road.

1.5 Approval History

On 25 August 2016, State significant development application (SSD 6617) was approved by the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning. The approval permitted the remediation and associated works in part of Hickson Road and adjacent areas in Barangaroo.

On 19 October 2017, the Director, Key Sites Assessments, approved SSD 6617 MOD 1 for the extension of the works compound and the removal of two Hills Weeping Fig trees.



2. Proposed Modification

2.1 Description of the proposed modification

SSD 6617 MOD 2 seeks approval under section 4.55(2) of the EP&A Act to extend the remediation area to include part of 36 Hickson Road, install an overhead gantry across Hickson Road and odour control enclosure, and remove Tree 45 (**Figure 3** and **6**). The proposed changes are outlined in more detail below.

Remediation works

The detailed design phase of the remediation works has identified that the objectives of the approved Remedial Action Plan (RAP) could alternatively be achieved by remediating the remaining portion of the underground tar tank at 36 Hickson Road. This approach would adopt ex-situ remediation methods including excavation and jet grout immobilisation to preclude the need to construct a cut-off wall. To facilitate this remedial approach, the following works are proposed:

- a temporary extension of approximately 100 m² to the current Hickson Road eastern remediation works to incorporate part of 36 Hickson Road
- pedestrian management measures around the temporary compound and the plaza area at 36 Hickson Road, including a temporary ramp or disabled lift to ensure accessibility
- removal of Tree 45 and demolition of the pavement area to enable excavation
- construction and operation of an odour control enclosure (OCE) over the proposed excavation area on 36 Hickson Road
- excavation (including shoring) of the remaining portion of the tar tank at 36 Hickson Road down to the underlying bedrock
- ex-situ remediation of the remaining portion of the tar tank
- backfilling the excavated area, reinstating the footpath and planting a replacement tree.

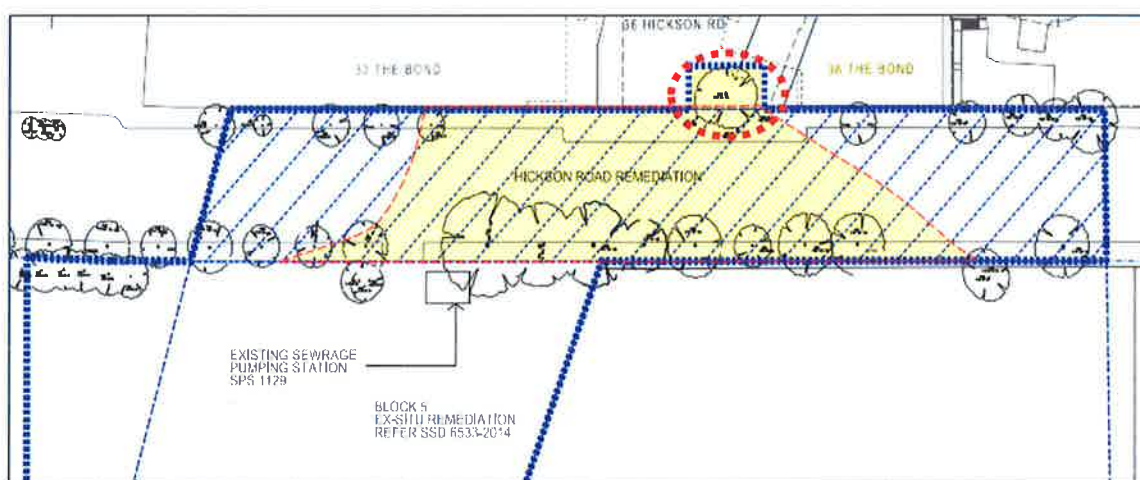


Figure 3 | Proposed remediation area shown in yellow, including the proposed temporary extension at 36 Hickson Road shown by the dotted red line (Source: SSD 6617 MOD 2)

Installation of overhead gantry

The modification also seeks to install an overhead gantry to transfer treated air across Hickson Road, from the proposed excavation site to a temporary vent stack. The proposed overhead gantry is shown at **Figures 4** and **5**. The proposed gantry would be a minimum of 5.4 m above Hickson Road, would operate for the duration of the remediation works at 36 Hickson Road (scheduled for six months) and would be designed subject to road authority approval prior to implementation.

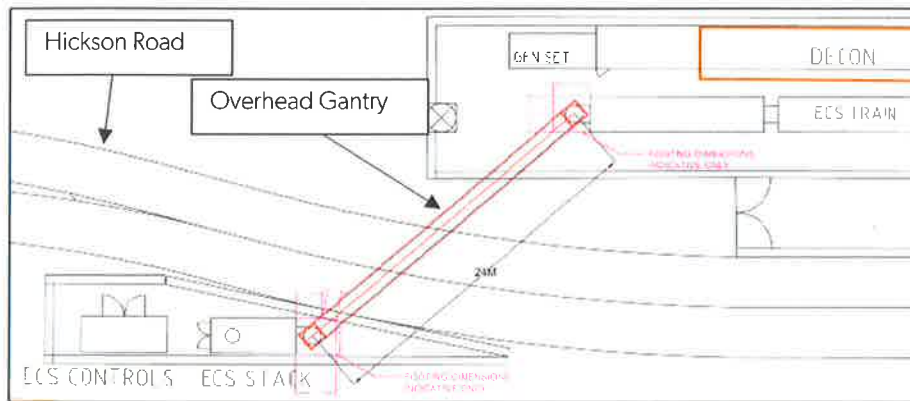


Figure 4 | Location of the overhead gantry (Source: SSD 6617 MOD 2)

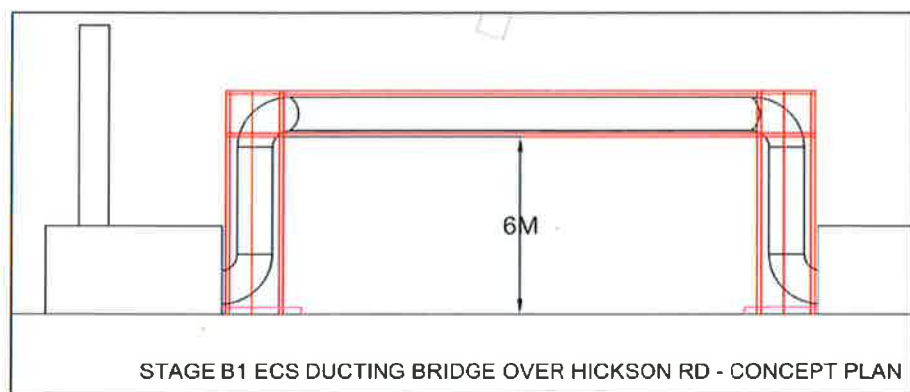


Figure 5 | Elevation of the overhead gantry (Source: SSD 6617 MOD 2)

Removal of Tree 45

The proposal seeks to remove one Moreton Bay Fig Tree (Tree 45) (**Figure 6**) prior to the excavation of the 36 Hickson Road forecourt. Upon completion of the works, a suitably mature equivalent tree would be replanted in the same location.



3. Strategic Context

Greater Sydney Regional Plan

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 Sydney City LGA is located within the East Harbour City. The proposed development supports the directions and objectives of the Plan, in particular by:

- ensuring Greater Sydney’s harbour central business district is stronger and more competitive
- ensuring Greater Sydney attracts investment and business activity in centres
- ensuring Greater Sydney is a great place that brings people together

Eastern City District Plan

The Greater Sydney’s 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 replaces the Draft Central District Plan released in November 2016. The Department has therefore considered the Eastern City District in its assessment which covers the Bayside, Burwood, City of Sydney, Canada Bay, Inner West, Randwick, Strathfield, Waverley and Woollahra local government areas.

The proposal 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 the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(2) 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(2) of the EP&A Act is in **Table 1**.

Table 1 | Consideration of matters under section 4.55(2)

Section 4.55(2) matters for consideration	Comment
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).	The proposal relates to a 100 m ² increase to the remediation area, removal of one tree and the installation of a temporary overhead gantry. No changes are proposed to the other remediation areas. The proposed modification will not change the approved use of the site and the Department is satisfied the modified development is substantially the same development for which consent was originally granted.
That consultation has occurred with the relevant Minister, public authority or approval body and an objection has not been received.	The application has been notified in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (refer to Section 5 of this report).
The application has been notified in accordance with the regulations	The application has been notified in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (refer to Section 5 of this report).
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 5 and 6 of this report).
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(1) of the EP&A Act. Refer to Section 6 of this report.

4.2 Environmental Planning Instruments

The following EPIs apply to the site:

- State Environmental Planning Policy (State Significant Precincts) 2005

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Local Environmental Plan 2012.

The Department's detailed consideration of the modified proposal against the applicable EPIs are provided in Appendix B of this report. The Department is satisfied the modification application has adequately addressed the relevant provisions and is consistent with the EPIs.

4.3 Consent Authority

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

Minister's delegate as consent authority

However, under the Minister's delegation dated 11 October 2017, the Acting 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 and
- 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 object of the EP&A Act.



5. Engagement

5.1 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 21 June 2018 to 4 July 2018:

- on the Department's website
- at the offices of the Department
- at City of Sydney Council's offices.

The modification application was advertised in the Central Courier on 20 June 2018. Previous submitters were notified of the modification application and invited to make a submission. The modification application was also referred to:

- Council
- Environment Protection Authority
- Roads and Maritime Services
- Transport for NSW
- Sydney Water
- Transgrid
- Ausgrid
- Safework NSW
- Port Authority NSW
- Department of Industry.

5.2 Summary of Submissions

Council advised it would not be making a submission on the proposal. The Department received six government agency submissions and one public submission.

5.3 Key Issues – Government Agencies

None of the government agencies objected to the project, and the key issues raised by agencies have been addressed through the provision of the submitted information, or through the recommended conditions of consent.

Table 2 | Summary of Government Agency Submissions

Government Agency	Comments
Environmental Protection Authority (EPA)	The EPA did not object to the modified proposal and commented that the application is consistent with the Human Health Risk Assessment and that the proposed work methods and environmental controls are adequate.
Sydney Water	Sydney Water did not object to the modified proposal and recommended that a condition be applied to require the Applicant to submit approved plans to

	Sydney Water's 'Tap In' online service to determine whether the development will affect Sydney Water assets or services.
Roads and Maritime Services (RMS)	RMS advised it had reviewed the proposal and raised no objection to the works.
Transport for New South Wales (TfNSW)	TfNSW did not object to the modified proposal but requested the existing Construction Pedestrian and Traffic Management Plan (CPTMP) be updated to reflect the proposed changes and submitted to TfNSW for approval.
Transgrid	Transgrid advised the proposal would not affect any of its infrastructure.
Safework NSW	Safework NSW advised as the proposal does not involve any chemicals listed in Schedule 15 of the WHS Regulation is has no further comments to make on the proposal.

5.4 Key Issues - Community

One public submission was received during exhibition from a resident of Hickson Road who commented that previous development works at Barangaroo had caused amenity impacts due to low frequency construction noise.

The resident requested that the noise mitigation measures included in the submitted noise report be implemented and adhered to.

5.5 Response to submissions

Following the exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the comments raised in the submissions.

On 30 July 2018, the Applicant provided a Response to Submissions (RtS) report on the comments raised during the exhibition of the proposal.

The RtS was made publicly available on the Department's website and no further public submissions were received. The Applicant noted they would continue to comply with the requirements of all government agencies.

The Applicant noted the CPTMP would be updated prior to commencement of the works proposed in the modification application. In response to the local resident's submission, the Applicant confirmed Lendlease would ensure the construction noise and vibration measures contained in the acoustic assessment would be implemented.



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 3** 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 **Section 6** (key and other issues), **Appendix C**, or other sections of this report, referenced in the table.

Table 3 | 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 and Appendix C of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iia) 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 the likely impacts of the development are acceptable and/or have been appropriately mitigated or addressed by recommended conditions (refer to Section 6 and Appendix C of this report).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 6 of this report.
(d) any submissions	The Department has considered the submissions received during the exhibition period (refer to Sections 5 and 6 of this report).
(e) the public interest	The Department considers the modified proposal to be in the public interest.

The Department has considered the Applicant's modification application, the issues raised in the submissions and the RtS in its assessment of the modified proposal. The Department considers the key issues to be associated with the proposal to be visual impact, contamination/extension of the remediation area, noise and vibration, tree removal and pedestrian access.

6.2 Visual Impact

Overhead Gantry

The Applicant notes that the proposed overhead gantry across Hickson Road is scheduled to be operational for only six months and is a preferable solution in lieu of underground ducting that would need to contend with existing services under the road.

The Department notes that the Barangaroo Development Authority (BDA) has provided owner's consent for the works and RMS would be consulted in regard to the final design and installation of the structure.

Noting the overhead gantry is temporary in nature, the Department does not consider it is likely to result in any adverse visual impacts. The Department recommends that RMS is consulted on the final design and installation of the structure before being approved by BDA as the relevant road authority.

Odour Control Enclosure

The proposal would also result in a temporary extension to the OCE to cover the proposed excavation site at 36 Hickson Road. The proposed enclosure extension would match the already approved enclosures at the Stage B1 remediation site.

The Department considers the extended enclosure would not have any adverse visual impacts beyond those already assessed under SSD 6617.

6.3 Contamination / Extension of the remediation area

The Applicant has provided a RAP addendum, entitled 'Remedial Action Plan Addendum – Off-site Tar Tank Structure (36 Hickson Road)', to outline how the contamination present within the tar tank would be addressed. The RAP addendum identified that the original RAP contained two potential remediation approaches: in-situ chemical oxidation or the ex-situ excavation of materials and off-site landfill disposal.

The RAP addendum confirms that ex-site excavation, with jet grout immobilisation, is the most feasible and practicable approach. This approach will negate the need for engineering controls to prevent future contamination from an off-site source.

The RAP addendum was reviewed by the site auditor who is satisfied with the revised remediation approach.

The proposed extension of the remediation area would increase its size by approximately 100 m² and by a depth of 2.8 m. The extension, and the 270 cubic metres of spoil resulting from its remediation, would represent 1.7% of the total volume of material required to be excavated under the original approval.

The Applicant notes the proposed extension of the remediation area will mitigate the risk of site recontamination from the underground tar tank at 36 Hickson Road and negate the need to construct a barrier wall at this location. The Applicant also notes the proposed works would be carried out with the same facilities, procedures and environmental protections that apply to the site and have been approved, and that no changes are proposed to the type of remediation works (ex-situ) proposed.

The Department notes the temporary increase of the remediation area is necessary to mitigate the risk of recontamination from an off-site source. The Department also notes the site auditor considers the revised approach appropriate and concluded the method would meet the objectives of the RAP.

The Department is satisfied the expanded remediation area would not result in any adverse environmental impacts (see **Section 6**) and that existing and proposed conditions of consent would manage contamination on site and ensure the site is remediated appropriately in accordance with the approved RAP and RAP Addendum.

6.4 Noise and vibration

The Applicant submitted an addendum Noise and Vibration Statement (NVS) to assess the acoustic impact arising from the extension of the remediation area to include part of 36 Hickson Road. The nearest sensitive receivers to the extended remediation area are located at 38 Hickson Road and are located at a distance further than the remediation works approved under SSD 6617.

A local resident provided a submission noting low frequency noise impacts associated with construction noise but expressed support for the noise mitigation measures contained in the NVS and requested they be adopted and adhered to.

The NVS assessed the potential impact to sensitive receivers on Jenkins and Kent Street and concluded that noise levels from remediation activities would be expected to increase by 1 DBA. The NVS considers this minor increase to be practically indistinguishable from the general noise generated at the existing remediation area and confirmed that no construction methods classified as 'low frequency' are proposed in this modification application.

Due to the location, the minor increase and the nature of the works, the Department is satisfied that there will be no adverse noise or vibration impacts arising from the proposal and existing conditions would manage and mitigate potential amenity impacts during construction. These conditions include:

- B15: Construction Noise and Vibration Management Sub-Plan
- D10: Construction Noise Criteria
- D11: Vibration Criteria
- D12 and D13: Vibration management.

6.5 Street Tree Removal

To excavate a portion of the 36 Hickson Road forecourt, Tree 45 (Moreton Bay Fig Tree) would need to be removed.



Figure 6 | Location of Tree 45 (Source: SSD 6617 MOD 2)

An Arboricultural Assessment Report was submitted with the application and noted the tree showed good vitality while being two-thirds through its expected life expectancy. The report concludes that the removal of the tree is supported on the basis that a suitably mature tree of the same species is planted at the completion of the remediation works.

The Department considers the proposal to remove Tree 45 would temporarily impact the streetscape and forecourt of 36 Hickson Road. However, removal of the tree is necessary to undertake the remediation works and its replacement would in the longer term restore the streetscape amenity and forecourt and it is unlikely the works would have any permanent adverse environmental impact.

The Department therefore considers the removal of Tree 45 to be acceptable, subject to a recommended condition requiring a tree of the same species (Moreton Bay Fig Tree) and maturity being planted no later than 1 month at the completion of the works.

6.6 Pedestrian Access

During the remediation works at 36 Hickson Road, pedestrian access would be maintained around the remediation compound and through the 36 Hickson Road forecourt. The Applicant would provide a ramp or disabled lift to ensure appropriate access is maintained.

Condition B16 of SSD 6617 requires the Applicant provide a CPTMP to the Secretary prior to the issue of the Construction Certificate. TfNSW provided a submission during exhibition noting that an updated CPTMP would be required to reflect the proposed changes proposed in the application.

The Departments notes an updated CPTMP would outline the proposed measures to minimise the impact of the development and outline how pedestrian access will be managed throughout the proposed remediation works.

The Department considers the impact upon pedestrian access could be suitably mitigated by the updated CPTMP and recommends it be submitted to TfNSW for approval prior to the commencement of works.



7. Evaluation

The modification application has been assessed in accordance with the matters for consideration under Part 4 of the EP&A Act and all relevant environmental planning instruments and is considered to comply with all relevant standards and requirements.

Council did not lodge a submission in response to the modification application and all government agency and public submissions have been addressed.

The Department's assessment concludes the extension of the remediation area, installation of an overhead gantry and odour enclosure and the removal of one Moreton Bay Fig Tree is acceptable, is in the public interest, and is substantially the same development.

The Department recommends the application be approved, subject to conditions.



8. Recommendation

It is recommended that the Acting Director, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the application 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 grant approval to the application;
- **agrees** with the key reasons for approval listed in the draft notice of decision;
- **modify** the consent SSD 6617;
- **signs** the attached approval of the modification (**Appendix E**)

Endorsed by:

Tim Green
Planning Officer
Key Sites Assessments

Recommended by:

Andy Nixey
Acting team leader
Key Sites Assessments



9. *Determination*

The recommendation is **adopted** by:

Cameron Sargent

Acting 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=9390
2. Submissions
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9390
3. Applicant's Response to Submissions
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9390

Appendix B – Community Views for Draft Notice of Decision

Issue	Consideration
Noise	• The public submission advised there has been low frequency noise impacts associated with the construction works. • The submission requested that the mitigation measures recommended in the Applicant's Noise and Vibration Statements (NVS) be adopted and adhered to ensure the amenity of residents on Kent Street. These measures include selection of low noise equipment, acoustic treatments for generators and localised use of acoustic treatments to reduce noise levels. • The NVS identified that the likely noise increase would be 1 DBA and that there are no works proposed that result in low frequency noise. • The Department is satisfied that the resident's concerns will be addressed by the following conditions already applying to SSD 6617: ○ Condition B15 – Construction Noise and Vibration Management Sub-Plan ○ Condition D10 – Construction Noise Criteria ○ Statement of Commitments • These Conditions require the Applicant to use electricity from the grid, install a noise barrier on the eastern boundary of the site, detail the localised acoustic treatments, install attenuators on exhaust fans, monitor noise levels and detailing the use of low frequency machinery. • The Department is satisfied these conditions will mitigate the potential for noise impacts to interrupt the amenity of residents on Kent Street.

Appendix C – Environmental Planning Instruments

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

EPIs considered as part of the assessment of the modification application are:

- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Local Environmental Plan 2012.

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State Significant Precinct) 2005

The aims of the SSP SEPP are to facilitate the redevelopment of important sites such as Barangaroo for the benefit of the State and provide for the development of major sites for a public purpose. The proposed development is considered to be consistent with the SSP SEPP as it will enable the future development of Stage 1 of the Barangaroo site in accordance with the approved Barangaroo Concept Plan (as modified).

State Environmental Planning Policy (State and Regional Development) 2011

The aims of this SEPP are to identify State significant development and State significant infrastructure and provide the necessary functions to joint regional planning panels to determine development applications. The original proposal is a State significant development pursuant to section 89C of Environmental Planning and Assessment Act 1979 (EP&A Act) because it is development at Barangaroo with a capital investment value (CIV) in excess of \$10 million, under clause 3 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore, the Minister for Planning is the consent authority for the development.

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

Consideration of the relevant clauses in SEPP (Miscellaneous Consent Provisions) 2007 are addressed in Table 1 below:

Table 1 | Consideration of SREP (Sydney Harbour Catchment) 2005

	Criteria	Department Comment / Assessment	Complies
Part 1, clause 3 Aims, objectives	This policy aims to ensure suitable provision is made to ensure the safety of patrons and the protection of the environment in relation to temporary structures.	Recommended conditions of consent require the Applicant to provide the Certifying Authority with documentation from a suitably qualified structural engineer certifying that all structures (including temporary structures) comply with the State's building laws (i.e. the Building Code of Australia), and ensure structures will not have a detrimental impact on the environment.	YES

Part 2, clause 12 Matters for consideration	Whether number of persons should be restricted.	Not Applicable	YES
	Adverse noise impacts.	Conditions of consent will ensure noise impacts are controlled as far as is reasonably practical whilst the remediation works are undertaken.	YES
	Limitation on hours of operation	There are no proposed changes to the hours of operation in this modification application.	YES
	Parking impacts	No parking is proposed on site for construction workers who would use public transport consistent with other major CBD construction projects.	YES
	Principles for minimising crime risk	The extension of the remediation compound will be subject to the same processes and practices of the existing compound.	YES
	Satisfactory location	The proposed extension of the compound is necessitated by the underground tar tank.	YES
	Whether it is located on land that comprises a State heritage item, an item of environmental heritage (Aboriginal objects etc) or is in a heritage conservation area or a place of significant Aboriginal significance.	There are no listed local or State heritage items located on the site.	YES
	Duration of consent	Development consent will be limited to 5 years	YES
	Conditions relating to dismantling or removal of structures.	Recommended conditions of consent require temporary structures to be dismantled and removed from the site within 3 months of the completion of the remediation works.	YES

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)

The SHC SREP provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The modified proposal is consistent with the relevant

Planning Principles of the SHC SREP and will not have any significant adverse impact on the Sydney Harbour Catchment as considered in **Table 2** below:

Table 2 | Consideration of SREP (Sydney Harbour Catchment) 2005

Criteria		Department's assessment	Compliance
Part 1 Preliminary			
Clause 2 Aims of the Plan	This clause sets out the aims with respect to the Sydney Harbour Catchment and establishes the principles for the purpose of enabling these aims to be achieved.	The modified proposal is considered to be consistent with the aims of the Plan for the following reasons: The catchment, foreshores and waterways will not be adversely affected by the modified proposal. The modified proposal has minimal additional impact that can be sufficiently managed subject to conditions of consent. The modified proposal will improve the existing commercial use and contribute to the culture and vibrancy of the area.	Y
Clause 3 Land to which plan applies	Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area as identified in the zoning map.	Y
Part 2 Planning principles			
Clause 13 Sydney Harbour Catchment	Provides a set of planning principles for land within the Sydney Harbour Catchment.	The modified proposal is consistent with the planning principles for the Sydney Harbour Catchment as follows: The modified proposal involves no excavation works and therefore would not have any perceivable impact on the natural environment and assets including, hydrological, ecological and geomorphological processes and water quality. The proposed modification will have minimal additional impact on the environment that can be suitably managed subject to recommended conditions of consent.	Y
Clause 14 Foreshores and Waterways Area	Provides a set of planning principles for land within the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area and is consistent with the planning principles for the following reasons: The modified proposal will not impact the natural assets and visual qualities of Sydney Harbour. The modified proposal will maintain pedestrian connectivity and public access on Hickson Road.	Y
Clause 15 Heritage conservation	Provides a set of planning principles for heritage conservation.	The modification application does not impact upon the heritage value of 36 Hickson Road and will mitigate the risk of site recontamination.	Y

Part 3 Foreshores and Waterways Area			
Division 1 Development control			
Clause 16 Zones indicated on Zoning Map	Land is zoned in accordance with the zoning map.	The site is zoned B8 Metropolitan Centre and is adjacent to B4 Mixed use and RE1 Public Recreation	Y
Clause 17 Zoning objectives	The objectives of the W1 – Maritime Waters Zone are as follows: to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally, to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations, to promote equitable use of the waterway, including use by passive recreation craft.	The site is not located in proximity to W1 Maritime Waters Zone.	Y
Division 2 Matters for consideration			
Clause 20 General	The matters referred to in Division 3 must be considered by the consent authority.	The Department has considered the relevant matters below.	Y
Clause 21 Biodiversity, ecology & environmental protection	The consent authority must consider the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	The modified proposal will not have any adverse impacts on the biodiversity or ecology of the area.	Y
Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must consider the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	The modified proposal is not located on the foreshore and will therefore not impact upon public access to the foreshore.	Y
Clause 23 Maintenance of a working harbour	The consent authority must consider the matters listed in relation to the maintenance of a working harbour.	The modified proposal will not reduce the capacity of Sydney Harbour to function as a working harbour.	Y
Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must consider the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.	The modified proposal will not have any adverse impacts on the use of the waterway.	Y
Clause 25 Foreshore and waterways scenic quality	The consent authority must consider the matters listed in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.	The modified proposal relates only to underground remediation and will not impact upon the scenic quality of the foreshore.	Y
Clause 26 Maintenance, protection and	The consent authority must take into consideration the matters listed in relation to the	The modified proposal will not impact upon the views to and from Sydney Harbour.	Y

enhancement of views	maintenance, protection and enhancement of views.		
Division 3 Foreshores and Waterways Planning and Development Advisory Committee			
Clause 29 Consultation required for certain development applications	A consent authority must not grant consent to a DA unless it has referred and considered the views of the Advisory Committee.	Due to its location, the modified proposal was not referred to the Advisory Committee.	Y
Part 5 Heritage provisions			
Division 1 General			
Clause 53 Objectives	The relevant objectives in relation to heritage are: To conserve the environmental heritage of the land. To conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items. To ensure that archaeological sites and place of Aboriginal heritage significance are conserved.	36 Hickson Road contains a State Heritage listed item known as 'MSB Stores Complex' and a locally significant laneway. The modification application is consistent with the planning principles and will not diminish the site's heritage value.	Y
Division 2 Protection of heritage items			
Clause 54 Land to which Part applies	This Part applies to an in respect of the land shown on the Heritage Map and to the heritage items identified on that map.	The part of 36 Hickson Road relating to this modification application is not heritage listed.	Yes
Clause 55 Protection of heritage items	Development consent is required for the altering of a heritage item by making structural or non-structural changes to its exterior, including changes to its detail, fabric, finish or appearance.	The modified proposal does not seek to alter a heritage item.	N/A
Division 4 Miscellaneous			
Clause 59 Development in vicinity of heritage items	The consent authority must assess the impact of the proposed development on the heritage significance of heritage items within the vicinity of the development.	The modified proposal will have no adverse impact on the views to and from the site and reduce the overall impact on heritage items within the vicinity of the development.	Y

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

SEPP 33 aims to define potentially hazardous and or offensive developments with the potential for significant risk and or adverse impacts on the surrounding locality (i.e. risk of explosion or emissions of noise and/or odour). Risk screening methods to determine the classification of the project are provided in the current guidelines 'Applying SEPP 33 Hazardous and Offensive Development Application Guidelines 2011'. SEPP 33 requires that a Preliminary Hazards Analysis (PHA) be carried out for a potentially hazardous development to ensure hazards are systematically evaluated as part of the overall environmental assessment. The original EIS includes a Preliminary

Hazards Assessment (PHA) prepared by AECOM because the initial remediation approach (in-situ remediation) works are 'potentially hazardous' as defined by SEPP 33.

The modification application was referred to the Department's Hazards Team. A submission was provided during exhibition that noted the revised ex-situ remediation approach did not involve the storage of handling of dangerous goods and did not trigger an assessment against SEPP 33.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 aims to promote the remediation of contaminated land to prevent the risk of harm to human health and the environment. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose for the proposed development.

The Department has considered the application will reduce the potential for recontamination of the site from an off-site source and will negate the need for engineering solutions at the site perimeter. The RAP addendum, supported by the site auditor, has clearly identified the revised remediation approach and outlines the works required to adequately remediate the site. The Department is therefore satisfied the proposed works would appropriately remediate the site.

Draft Remediation of Land State Environmental Planning Policy

The Department notes the Explanation of Intended Effect for a new Remediation of Land SEPP was exhibited until 13 April 2018. The Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposed works expected to reduce the likelihood for future contamination, the Department considers the modification application would be consistent with the intended effect of the Remediation of Land SEPP.

Sydney Local Environmental Plan 2012

The proposed modification is not inconsistent with the provisions of Sydney LEP 2012. The extended compound area is zoned B8 Metropolitan Centre and remediation is not prohibited in this zone.

Appendix D – 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=9390

Appendix E – Notice of Modification

The Notice of Modification 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=9390