

4 December 2020

2190140

Mr Jim Betts  
Secretary  
Department of Planning, Industry and Environment  
12 Darcy Street  
PARRAMATTA NSW 2150

Attention: Amy Watson (Team Leader, Key Sites Assessments)

Dear Amy,

**SECTION 4.55(2) MODIFICATION APPLICATION  
BAYS 1-4a, LOCOMOTIVE WORKSHOPS, SOUTH EVELEIGH (SSD 8517)**

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mirvac), pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 8571 which relates to Bays 1-4a within the Locomotive Workshops and Innovation Plaza, South Eveleigh (the site).

Mirvac has been through a process of reviewing and consulting with various stakeholders (i.e. City of Sydney Council, NSW Heritage Division, Powerhouse Museum etc) on the activation and place making strategy for Innovation Plaza. The purpose of the place making strategy was to support the Locomotive Workshop development and ensure that the Locomotive Workshop as well as the South Eveleigh precinct as a whole is successful and can become the community, work and retail destination that Mirvac has always contemplated for this site.

Accordingly, the purpose of this modification application is to seek approval for amendments to SSD 8517 to expand the retail premises use approved within Bays 1 and 2 North within the Locomotive Workshops into Innovation Plaza. In conjunction with the proposed expansion, the proposed modification also seeks to expand the outdoor seating areas and establish built structure envelopes and awning structure envelopes to provide the maximum parameters for the future fit-out works.

Mirvac are also seeking approval for minor amendments to Condition A2 and F12.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(2) of the EP&A Act. It is accompanied by:

- Amended Architectural Plans, prepared by Sisson Architects (**Attachment A**)
- Amended Public Domain Plans prepared by Aspect Studios (**Attachment B**)
- Heritage Impact Statement, prepared by Curio Projects (**Attachment C**)
- Acoustic Assessment Report, prepared by ARUP (**Attachment D**)

## 1.0 Consent Proposed to be Modified

Development Consent to SSD 8517 and SSD 8499 was granted by the Independent Planning Commission (IPC) on 22 February 2019 for the adaptive reuse of the existing Locomotive Workshop at South Eveleigh (formerly known as the Australian Technology Park (ATP)).

SSD 8517, this subject of this modification application, relates to the adaptive reuse of Locomotive Workshop (Bays 1-4a), including:

- a maximum of 11,607m<sup>2</sup> GFA for uses including retail premises, function centre, educational establishment, information and education facility, artisan food and drink industry, general industrial (retention of the Blacksmith) and recreation facility (indoor);
- a loading dock and travelator;
- associated heritage conservation works; and
- public domain works, external illumination and signage.

SSD 8449 relates to the adaptive reuse of Locomotive Workshop (Bays 5-15), including:

- a maximum of 27,458m<sup>2</sup> GFA for commercial premises including 156m<sup>2</sup> for retail uses;
- associated heritage conservation works; and
- external illumination and signage.

To date, six (6) modifications to SSD 8517 have been approved since February 2019, which are summarised below in **Table 1**.

**Table 1 Modifications to SSD 8517**

Modification #	Date Approved	Description
Modification 1	10 September 2019	Modification to Condition B29 (Stormwater and Drainage).
Modification 2	29 May 2019	Deletion of Condition D6 (Construction Hours).
Modification 3	6 September 2019	Modification to the ground floor layout of Bays 3-4a North.
Modification 4	20 November 2019	Retention of existing skylights (the removal of which was approved under SSD 8517) and provision of additional skylights above Bays 1-4a.
Modification 5	12 February 2020	Amendments to the Conditions of Consent (Part B & E) to enable the issuing of staged Occupation Certificates and changes to glazing in heritage arched windows.
Modification 6	20 August 2020	Amendments to the internal design of Bays 3-4a and the required timing for the submission of detailed landscape and public domain plans.
Modification 8	2 September 2020	Installation of photovoltaic panels on the roof of Bays 1-4a and a new glazed door to the Bay 1 South Annex.

## 2.0 Background and rationale for the proposed modification application

Mirvac has been working on an activation and place making strategy for Innovation Plaza for the past 12 months. The original placemaking strategy included concepts that included a range of different spaces including an alfresco food and dining experience, public art, children's play spaces and a pocket park as illustrated in **Figure 1**.



**Figure 1** Preliminary Design Vision for Innovation Plaza

Source: Mirvac Design

Following the preparation of the initial place making strategy, Mirvac's project team held several meetings with a range of different agencies and stakeholders including:

- 14th November 2019 - City of Sydney Council and NSW Heritage Division – Presentation and Discussion
- 18<sup>th</sup> November 2019 – Lisa Havilah of The Powerhouse Museum – Discussion
- 25<sup>th</sup> November 2019 – South Eveleigh Community Liaison Group – Presentation and Discussion
- 5<sup>th</sup> December 2019 – City of Sydney Council and NSW Heritage Division – Presentation and Discussion
- 10th March 2020 – Department of Planning, Industry and Environment – Discussion
- 26<sup>th</sup> October 2020 – City of Sydney Council and NSW Heritage Division – Presentation and Discussion

Feedback from the City of Sydney Council (Council) received in January 2020 mainly sought clarification regarding the operational functionality of the future retail use/ food and dining operation. Issues raised included, waste management movements, public toilet availability, confirmation of capacity and hours of operation, the design of the awnings and their distance from the trees located in Innovation Plaza.

Feedback from the NSW Heritage Division confirmed that it agreed with the proposed activation of Innovation Plaza, however the introduction of all the proposed spaces collectively would diminish the strong industrial character and would have adverse visual and physical impacts. The NSW Heritage Division's preference was for the public artwork to not be included within Innovation Plaza and that subject to a further detailed design review to ensure that new works were reversible and flexible, with any impacts minimised, *"the proposed tenant along the eastern edge of the Locomotive Workshop would provide better activation of the area, and its location away from the public thoroughfare, would allow engagement with the existing heritage buildings and better pedestrian movement through the remaining intact component of the site."*

Following the receipt of the feedback from the NSW Heritage Division, Mirvac decided only to pursue the option of extending the retail use that is approved within Bays 1 and 2 North into the western portion of Innovation Plaza. It was also considered that this was the best option as it would activate Innovation Plaza through the provision of a secondary service area or bar which would provide significant public benefits in the form of a specialised retail space, an improved social destination, opportunity for patrons to be able to comfortably sit and enjoy the visual amenity and aesthetic value of the Locomotive Workshop and other surrounding buildings, opportunity for patrons to keep visiting and the opportunity to transform Innovation Plaza from a transitional path into a leisure space.

### **3.0 Proposed Modifications to the Consent**

This application seeks approval under Section 4.55(2) of the EP&A Act to modify SSD 8517 and gain approval for a retail premises use over the western portion of Innovation Plaza, along with the establishment of built structure and awning structure envelopes and an extension to the approved outdoor seating areas within Innovation Plaza and Locomotive Street.

Accordingly, the proposed modifications to the development consent comprise:

- the permanent use of the western portion of Innovation Plaza as a 'retail premises' use;
- an extension of the approved outdoor seating areas within Innovation Plaza and Locomotive Street;
- the introduction of built structure envelopes and awning structure envelopes within Innovation Plaza; and
- an amendment to Conditions A2 and F12.

This modification application does not seek approval for any physical works within Innovation Plaza or Locomotive Street.

A separate development application will be submitted to the City of Sydney Council to seek consent for the operation and fit-out of the future retail premises and outdoor seating areas within Innovation Plaza, including the location, size, number of seats, hours of operation and management in accordance with Condition A19 within the conditions of Consent.

#### **3.1 Modifications to the Development**

The proposed modifications to the approved development comprise:

- the permanent use of the western portion of Innovation Plaza as a 'retail premises' use;
- an extension of the approved outdoor seating areas within Innovation Plaza and Locomotive Street; and
- the introduction of built structure envelopes and awning structure envelopes within Innovation Plaza.

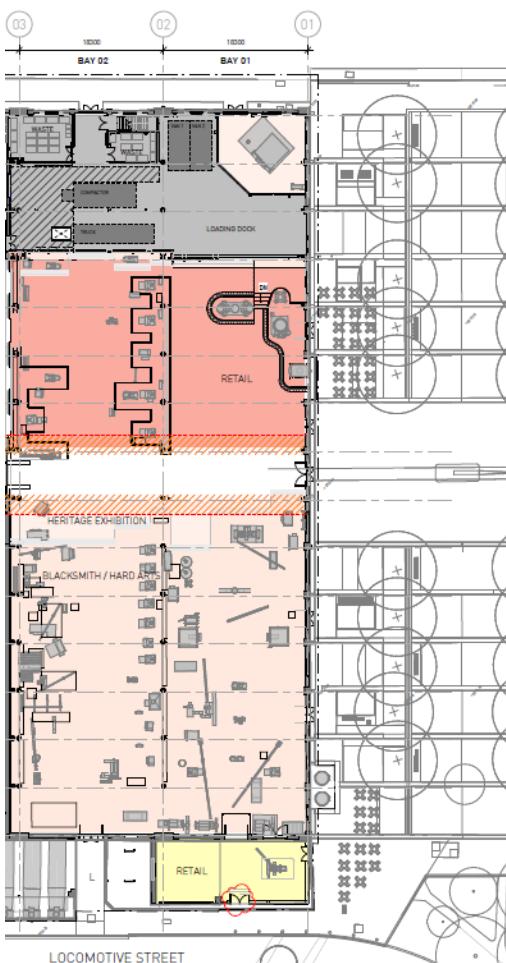
The proposed amendments are described below.

### 3.1.1 The retail use of the western portion of Innovation Plaza

As discussed in detail in Section 2, activation of Innovation Plaza is required to support the hybrid of retail and functional food and beverage areas within the Locomotive Workshops. Following extensive consultation with various agencies and stakeholders, the most preferable method of doing this is to extend the approved retail premises use within Bays 1 and 2 North of the Locomotive Workshops into Innovation Plaza with the objective of facilitating a secondary service area or bar to complement the approved retail tenancies. Examples that Mirvac have reviewed include the Opera Bar and Customs House where the main tenancy is inside, but it is supported by exterior seating areas and bar structures.

Accordingly, as illustrated in the Architectural Plans included at **Attachment A** and the comparisons in **Figure 2**, approval is sought for the use of 671.8m<sup>2</sup> of land within the western portion of Innovation Plaza for retail premises purposes.

Two separate retail areas are proposed to ensure that the primary pedestrian access into the Locomotive Workshop is preserved and the retail area is set away from the eastern face of the Locomotive Workshop to ensure that a 1.5m pedestrian thoroughfare is provided.



Approved Ground Floor Plan (Rev BB)



Proposed Ground Floor Plan (Rev CC)

**Figure 2 Comparison of approved and proposed ground floor plan**

Source: Sissons

### 3.1.2 Outdoor seating areas

Approval is sought to extend the approved outdoor seating areas located within Innovation Plaza and Locomotive Street as illustrated in the amended Public Domain Plans included at **Attachment B** and in the comparisons included at **Figure 3**.

The extension of the outdoor seating area is considered integral to the activation of Innovation Plaza and will provide a social destination where a greater number of people will have the opportunity to enjoy the visual and aesthetic values of Innovation Plaza, and the heritage significance of the surrounding buildings.

Noting that the future operation of the outdoor seating areas is subject to further detailed design, assessment and approval with respect to the exact location, size, number of seats, hours of operation and management. The extent of the outdoor seating area proposed represents the maximum area, where all seating will be contained wholly within this zone.



**Approved outdoor seating areas in Innovation Plaza/ Locomotive Street**      **Proposed outdoor seating areas in Innovation Plaza/ Locomotive Street**

**Figure 3 Comparison of approved and proposed outdoor seating areas**

Source: Aspect

### 3.1.3 Built structure envelopes and awning structure envelopes

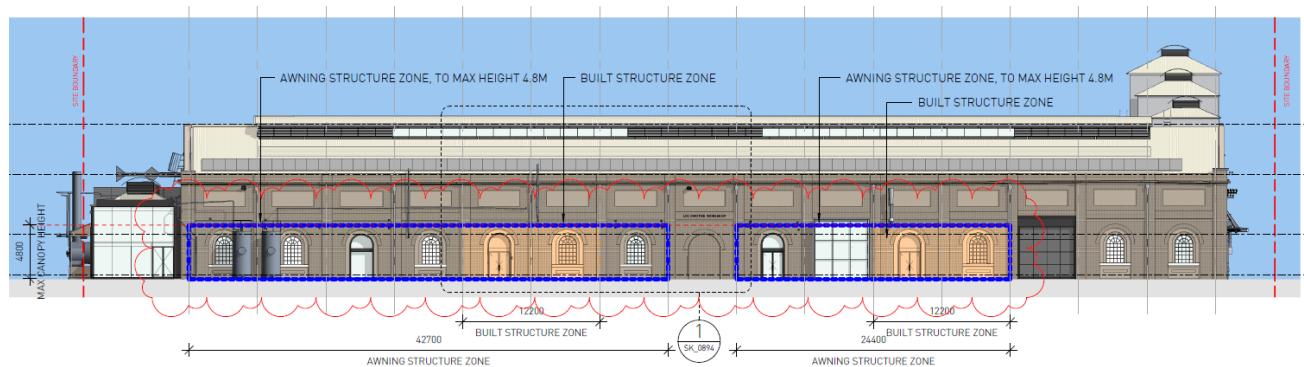
As part of this modification application, Mirvac is requesting approval for built structure envelopes and awning structure envelopes. It is intended that these envelopes will provide both the Department, NSW Heritage Division, City of Sydney Council and the future tenant certainty in respect to the maximum extent of the built structures and awning structures that can be constructed within Innovation Plaza.

Accordingly, as illustrated on the Architectural Plans at **Attachment A** and in **Figures 4** and **5**, the following envelopes are proposed:

- Innovation Plaza North:
  - 73.2m<sup>2</sup> built structure envelope (12.2m x 6m), limited to a height of 4.8m;
  - 146.4m<sup>2</sup> awning structure envelope (24.4m x 6m), limited to a height of 4.8m;
- Innovation Plaza South:
  - 73.2m<sup>2</sup> built structure envelope (12.2m x 6m), limited to a height of 4.8m; and
  - 256.2m<sup>2</sup> awning structure envelope (42.7m x 6m), limited to a height of 4.8m.

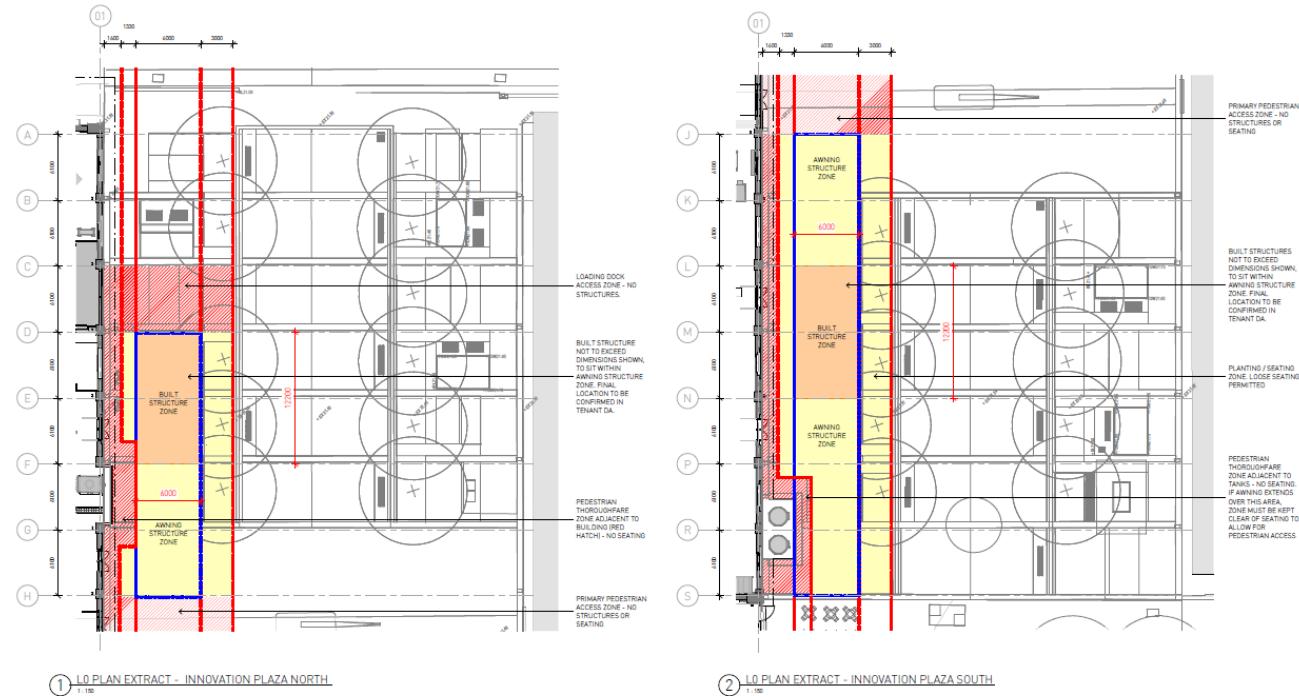
Whilst the built structure envelopes will not exceed the dimensions shown on the plans, and they will sit within the awning structure envelope, the final location, purpose and design of the built form structures will be confirmed within the future fit-out and operation development applications that will be assessed by the City of Sydney Council.

The dimensions of the built form structures and awning structures have been determined in consideration of the necessity to preserve views of the eastern façade of the Locomotive Workshop and ensure that all structures will be clear of and not impact the existing tree canopies.



**Figure 4** Elevation showing the dimensions of the built form and awning structure envelopes

Source: Sissons



**Figure 5 Plan showing the dimensions of the built form and awning structure envelopes**

Source: Sissons

### 3.2 Modifications to Conditions

#### A2 Terms of Consent

The proposed modifications described above necessitate amendments to the plans listed in Condition A2. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

Drawing No.	Rev	Name of Plan	Date
SA-AR-DWG-BB-B4-0304	<del>R</del> <i>T</i>	Site Retail Plan	<del>07/07/20</del> 30/10/20
SA-AR-DWG-BB-B4-0330	<del>BB</del> <i>CC</i>	Proposed Plan – Ground Floor	<del>07/07/20</del> 30/10/20
SA-AR-DWG-BB-B4-0340	<del>R</del> <i>T</i>	Proposed Elevations	<del>07/07/20</del> 27/10/20
SA-AR-DWG-BB-B4-0390	<del>K</del> <i>L</i>	Proposed Permanent Land Uses Plan – Ground Floor	<del>07/07/20</del> 30/10/20
<b><i>SA-AR-DWG-BB-B4-0395</i></b>	<i>B</i>	<b><i>Proposed Area Plan – Innovation Plaza – Ground Floor</i></b>	<b><i>27/10/20</i></b>
<b><i>SK_0936</i></b>	<i>B</i>	<b><i>Innovation Plaza Built Structure and Awning Structure</i></b>	<b><i>30/10/20</i></b>
-	<i>Rev 1</i> <i>Rev 2</i>	<b><i>Locomotive Sheds – Public Domain Response to Submission (prepared by Aspect Studies)</i></b> <b><i>Locomotive Sheds – Public Domain MOD 7</i></b>	<b><i>02/10/18-03/11/2020</i></b>

## F12. Hours of Operation

Mirvac is also seeking to amend Condition F12 in the following manner.

The publicly accessible areas within Bays 1-4a (located outside of the proposed tenancy lines) may operate between the hours of 6am to ~~midnight~~ 1am Monday to Sunday.

A number of tenancies within the Locomotive Workshop have approval to trade until midnight and would like to have the flexibility to trade to 1am if they so wish and subject to approval by Council. They rely on the public amenities located within Bay 4a. Mirvac would like to extend the operation of the publicly assessable areas and in particular the public amenities located in Bay 4a by 1 hour to enable patrons of the bar and restaurants within the Locomotive Workshop to be able to use the public amenities up to and after the food and beverage tenancies have closed.

## 4.0 Substantially the Same Development

Section 4.55(2)(a) of the EP&A Act states that a consent authority may modify a development consent if *"it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)".*

The approved development is for the adaptive reuse of Locomotive Workshop (Bays 1-4a) including:

- a maximum of 11,607m<sup>2</sup> GFA for uses including retail premises, function centre, educational establishment, information and education facility, artisan food and drink industry, general industrial (retention of the Blacksmith) and recreation facility (indoor);
- a loading dock and travelator;
- associated heritage conservation works; and
- public domain works, external illumination and signage.

The approved development includes retail premises within Bays 1 and 2 North and within the Bay 1 annex. It also includes two clusters of outdoor seating within Innovation Plaza and Locomotive Street, which are subject to Condition A19 of the consent that requires further development consent(s) from the City of Sydney for:

- the fitout and operation of retail tenancies within Bays 1 and 2 (except for the Blacksmith);
- the fitout and operation of the corner retail annex adjacent to Bay 1; and
- the operation of the outdoor seating areas within Innovation Plaza and Locomotive Street, including the exact location, size, number of seats, hours of operation and management.

The approved development also included public domain works to Innovation Plaza comprising tree removal, external retail spill out zones and a central flexible event space, which is subject to a temporary land use plan that extends over the entirety of Innovation Plaza. The temporary uses contemplated by the plan were for temporary community events within Bays 1-4a and Innovation Plaza to enable larger conventions, meetings and social events as well as markets.

Whilst there is no hard and fast rule when it comes to determining what constitutes 'substantially the same development' the 'substantially the same test' has been considered and approved through various cases within the Land & Environment Court.

In *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280 (*Moto Projects*) the Court considered a modification application to delete an ingress ramp to a mixed-use development in North Sydney. Accordingly, Bignold J held at [56] that:

*"The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

The decision in *Moto Projects* makes clear that the comparative task in assessing whether a development is 'substantially the same' cannot be viewed as merely a quantitative assessment of development statistics, but must also include a contextual assessment of the qualitative nature of the approved and modified developments. Mirvac sought legal advice on whether the Department can be satisfied that the proposed amendments relating to Innovation Plaza could be considered to be *'Substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified'*. A summary of the key findings as they relate to the proposed application is provided below.

#### 4.1 Quantitative Assessment

In relation to the quantitative elements of the proposed modification **Table 2** provides a comparison between the original application and the proposed modification:

**Table 2 Quantitative potential GFA and Footprint comparisons**

	Original Application	Current approved situation	Proposed modification	Resulting change
GFA	11,662m <sup>2</sup>	11,607m <sup>2</sup>	11,607m <sup>2</sup> within the Locomotive Workshops and an additional 146.4m <sup>2</sup> within Innovation Plaza as a worst-case scenario (subject to detailed design)	Increase of 1.26% in GFA from 11,607m <sup>2</sup> (current approved development) as a worst-case scenario
Footprint of area that the DA applies to for permanent land uses	9870m <sup>2</sup> (within the Locomotive Workshops)	9870m <sup>2</sup> (within the Locomotive Workshops)	9,870m <sup>2</sup> inside the Locomotive Workshops and 671.8m <sup>2</sup> in Innovation Plaza	6.8% increase in footprint

In relation to the increased GFA within Innovation Plaza, final built form for any built structures and the actual GFA will be subject to a separate approval pursuant to Condition A19 of the consent. This will provide an opportunity to site and integrate the additional built form structures so that any environmental impacts are minimised and integrated with the approved retail development within the Locomotive Workshop, including operational and management controls relating to the broader licensed area. However, at worst case the proposed amendments would enable a 1.26% increase to the GFA, which is considered marginal and does not alter the development's ability to comply with the maximum GFA control within the SSP SEPP.

In relation to the increase in development footprint for permanent land uses in Innovation Plaza, the physical change represented by the additional 671.8m<sup>2</sup> relates largely to the outdoor seating areas which will not drastically change the prevailing focus on Innovation Plaza by expanding that use into the Recreation Zone – Public Recreation by any significant degree.

Furthermore, the outdoor seating would be subject to further detailed design, assessment and approval with respect to the exact location, size, number of seats, hours of operation and management. The numerical value is therefore a general higher-level guide as to any resulting physical impact of the increased area for permanent land uses. The proposed awning would also be subject to further detailed design and approval by Council as part of the fit-out of

the retail tenancy at Innovation Plaza and therefore, the practical impact of the additional footprint for permanent uses will be able to be carefully mitigated.

The maximum development footprint within Innovation Plaza relating to permanent land uses would remain modest, being only 671.8m<sup>2</sup>, which is 18% of the total 3,675.8m<sup>2</sup> area that comprises Innovation Plaza and the Recreation Zone – Public Recreation. Significant space within Innovation Plaza would remain public recreation activities and people transitioning through Innovation Plaza.

## 4.2 Qualitative Assessment

Regarding the qualitative assessment and consideration of whether the key impacts of the proposed modification are substantially the same as those of the approved development:

- The proposed retail premises use is ancillary to the retail offer within Bays 1 and 2 North of the Locomotive Workshop and is likely to be operated by the same tenant. Similar examples include the Opera Bar and Customs House Bar, where the main tenancy is inside but it is supported by exterior seating areas and bar structures.
- The proposed modification does not include any changes to heritage fabric and the single largest source of built form is represented by the awning, which as a low impact structure, would be insufficient to cause a radical transformation of the approved development and would be subject to detailed design and final assessment by Council, further limiting any potential impact.
- Any future fit-out works and operational hours for retail premises in Innovation Plaza would be subject to further detailed design, assessment and approval, which would include the assessment of any such fit-out proposal against the tenancy fit-out guidelines prepared pursuant to consent Condition B45 in consultation with the NSW Heritage Division.
- The limited expansion of the retail premises use into Innovation Plaza in the form of the built structure envelopes is a natural expansion of the approved retail uses within the Locomotive Workshops that abut the public domain of Innovation Plaza and builds on the established social purpose that is implicit in the public domain as envisaged by the approved development.
- The approved development contemplated that Innovation Plaza would remain predominantly for public open space. The proposed modification ensures that this element of the approved development is maintained whilst at the same time enhancing the amenity represented by the outdoor seating areas through their proliferation along part of the western side of Innovation Plaza.
- The small amount of built form contemplated by the provision of the built structure and awning structure zones, is not considered substantial enough to change the essence of the approved development because the additional use is directed at activating the public domain through providing a further modest retail use on the western side of Innovation Plaza.
- The Department's assessment report for the approved development raised no issues with the two indicative outdoor seating areas totalling 300m<sup>2</sup> within Innovation Plaza or the three outdoor seating areas in Locomotive Street totalling 250m<sup>2</sup>. Similarly, the Department acknowledged that larger events and social meetings were contemplated by Mirvac in relation to Innovation Plaza and Locomotive Street and those elements of the public domain are clearly represented in relevant plans and the conditions of Consent.
- The changes that would flow from the modified development would enhance the retail element contemplated by the approved development by complementing the approved retail tenancies through a secondary service area or bar, more outdoor seating and awning structures. This will provide material public benefits in the form of a specialised retail space and an improved social destination.
- The proposed modification to Condition F12 would not result in any additional or unacceptable impacts, rather it would provide increased amenity for patrons.
- The proposed modifications are not anticipated to result in any additional or unacceptable impacts.

The consent authority can therefore be satisfied that the development consent as proposed to be modified will remain substantially the same as the original development consent. The proposed modification of Development Consent SSD 8517 may therefore be lawfully approved under Section 4.55(2) of the EP&A Act.

## 5.0 Environmental Assessment

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent.

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.

### 5.1 Reasons Given for Granting Consent

The Statement of Reasons for Decision issued by the IPC noted that *“the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent”*. The Commission also recognised that the approved development included outdoor seating areas within Innovation Plaza associated with the retail uses in the Locomotive Workshop and that under the State Significant Precinct SEPP 2005, that retail uses are prohibited within the Recreation Zone – Public Recreation.

Notwithstanding this, the Commission accepted the findings within the Department’s assessment report that consent may be granted as:

- Innovation Plaza would continue to be used primarily for public open space;
- Seating will positively contribute to the amenity of the area through use and activation;
- It will enhance safety by providing casual surveillance of the public domain;
- The indicative area is minor in the context of the plaza;
- The operation of the seating within the indicative areas will be associated with the retail tenancies, subject to relevant approvals and subject to further consultation with the Heritage Council and Council.

The Department’s findings do not change in the context of the proposed modifications, and therefore the proposed modifications are consistent with the reasons given for granting consent to the approved development.

Furthermore, the Commission also recognised that the approved development was in the public interest, as it would result in a range of public benefits, including:

- Employment opportunities near the CBD and public transport;
- Improved public access to a State listed heritage building;
- Heritage interpretations experiences; and
- An improved public domain which will benefit workers, visitors and the local community.

The proposed modification will not alter the public benefits identified by the IPC in granting development consent to SSD 8517.

## 5.2 Compliance with Environmental Planning Instruments

### 5.2.1 State Environmental Planning Policy (State Significant Precincts) 2005

The South Eveleigh Precinct is located within the Redfern-Waterloo Authority 'specified site' and therefore *State Environmental Planning Policy (State Significant Precincts) 2005* (SEPP SSP 2005) is the principal planning instrument that applies to the site.

The proposed modifications do not alter the approved developments consistency with the provisions set out within Part 3 of Appendix 4 of the SEPP however matters that require additional assessment against the relevant controls are set out in **Table 3**.

**Table 3 Summary of consistency with Part 3, Appendix 4 of SEPP SSP 2005**

Relevant Provision	Consistency
Clause 7 – Land Use Zones Clause 12 – Recreation Zone – Public Recreation	<p>Innovation Plaza is zoned Recreation Zone – Public Recreation.</p> <p>The proposed 'retail premises' use, extended outdoor seating areas and built form envelopes within the western portion of Innovation Plaza will be associated with and will support the approved retail uses within the Locomotive Workshops, particularly Bays 1 and 2 North.</p> <p>Whilst 'retail premises' uses are prohibited within the Recreation Zone – Public Recreation, by virtue of Section 4.38(3) of the EP&amp;A Act, development consent for State Significant development, <i>"may be granted despite the development being partly prohibited by an environmental planning instrument"</i>.</p> <p>Furthermore, the provision of a 'retail premises' use, associated built structures and extended outdoor seating areas within the western portion of Innovation Plaza as an extension of the retail uses within the Locomotive Workshops is consistent with the objectives of the Recreation Zone – Public Recreation in that:</p> <ul style="list-style-type: none"> <li>• The adaptive re-use of the Locomotive Workshops, the uses proposed within bays 1-4a and the new 'retail premises' use within Innovation Plaza will provide enjoyment for the community and enable visitors to enjoy the visual and aesthetic value of the Locomotive Workshop and other surrounding buildings as well as the balance of Innovation Plaza itself.</li> <li>• Innovation Plaza will continue to be used primarily for public open space as only 18% of the total area of the Recreation Zone – Public Recreation will be taken up by the proposed retail premises use as illustrated in the Architectural Plans at <b>Attachment A</b>.</li> <li>• the provision of seating within Innovation Plaza will positively contribute to the amenity of the area through use and activation as recognised by The Department has already that within the SSD 8517 and 8449 Assessment report dated November 2018.</li> <li>• The actual operation including exact location, size and number of seats, design and functionality of any built form structures, hours of operation and management within the proposed retail premises use within Innovation Plaza will be subject to separate approvals and further consultation with the NSW Heritage Division and Council.</li> </ul>
Clause 21 (2A) – Gross Floor Area	The proposed built form envelopes extend to a maximum of 146.4m <sup>2</sup> . The actual GFA of the built form structures will be confirmed in the fit-out and operation development application that will be submitted to the City of Sydney Council, however the Department can be satisfied that if a 146.4m <sup>2</sup> of GFA were proposed, it would not result in an exceedance of the maximum permissible GFA allowed within the Locomotive Workshops.

## 5.3 Heritage Impacts

The Locomotive Workshops Building falls within the Eveleigh Railway Workshops boundary and contains many of the items within the Eveleigh Railway Workshops Machinery collection. Both the Eveleigh Railway Workshops and the Eveleigh Railway Workshops Machinery are listed on the NSW State Heritage Register as well as the ATP S170 Heritage Conservation Register (ATP S170 Register).

Curio Projects has prepared a Heritage Impact Statement (**Attachment C**) to assess and identify any potential heritage impacts that could arise as a result of the proposed modifications, both in relation to the overall heritage values and significance of the Locomotive Workshop and the wider significance of the former Eveleigh Railway Workshops State Heritage Item.

Curio Projects has confirmed that:

*"the proposed zones have been designed in modules to allow flexibility to the fit-out of the future tenancy while still clearly demarcating adequate zones for each use. The envelope of the built structures has been offset from the building in order to not physically impact any heritage element. The remaining areas will function as circulation and seating zones using temporary/ loose elements only."*

*"The envelope height has been limited to allow for the future awning structure to both sit above the original arched windows and below the tree's branches, minimising the visual impacts of the proposal structure on the heritage items."*

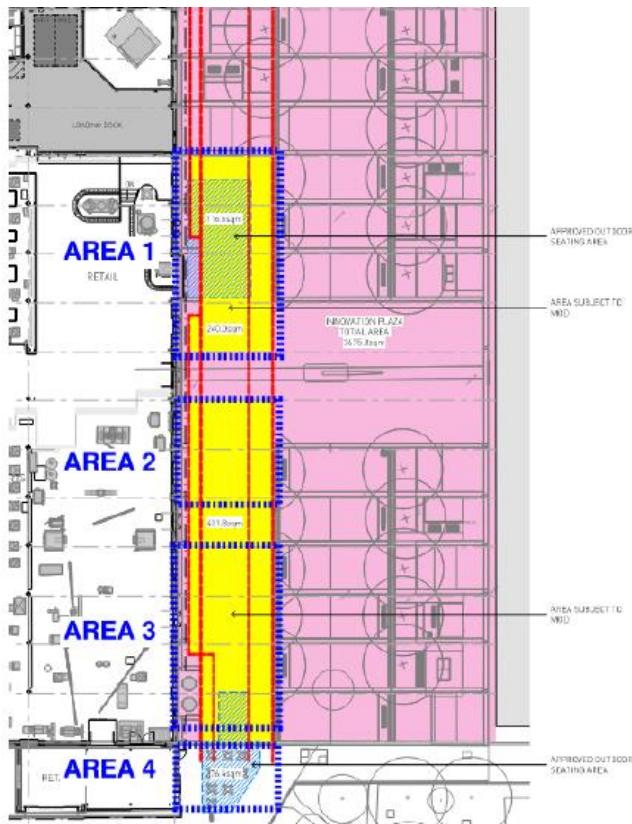
Furthermore, Curio Projects confirm that the proposed modifications will help activate Innovation Plaza, attracting users and visitors to occupy the space, interact with the heritage elements surrounding them and celebrate the historic background and industrial aesthetic of the former Australian Technology Park/ Locomotive Workshops. Curio Projects therefore recommend that the proposal be approved in order to allow the new external retail and seating zones within Innovation Plaza to be installed.

## 5.4 Noise

An Acoustic Assessment Report (**Attachment D**) has been prepared by ARUP to assess whether the occupation of the extended outdoor seating areas in Innovation Plaza would still satisfy the recommendations of the *Acoustic Assessment AC06 (v2) ATP Loco SSD Retail Acoustics, prepared by ARUP* as required by Condition E18 of the SSD 8517 Instrument of Approval.

Whilst this modification application is not seeking to confirm the exact number of seats and patron numbers or any other operational details associated with the outdoor seating areas, ARUP has tested the noise emissions that would be likely generated by people sitting within the proposed expanded outdoor seating areas under four different scenarios to understand whether they would exceed the project specific noise levels at the nearest sensitive receivers nominated within the *Acoustic Assessment AC06 (v2) ATP Loco SSD Retail Acoustics, prepared by ARUP*.

Scenarios 1 and 2 tested noise levels from a maximum of 220 patrons between 7am and 10pm and scenarios 3 and 4 tested noise levels from a maximum of 120 patrons up to 12am midnight. Each scenario also varied the seating number configuration within seating areas 1-4 as illustrated in **Figure 6**.



**Figure 6 Seating Area nominated within the Acoustic Assessment**

Source: ARUP and Sisson Architects

The result of the noise assessment produced the following results:

**Table 4 Predicted noise level assessment results**

Scenario	Predicted noise level $L_{Aeq(15\ min)}$	Criteria		Complies with noise criteria
		Period	Leve, $L_{Aeq(15\ min)}$	
1	51	Day/ Evening	51	Yes
2	51	Day/ Evening	51	Yes
3	48	10pm - 12am	48	Yes
4	48	10pm - 12pm	48	Yes

Source: ARUP

In conclusion, ARUP's acoustic assessment of the likely noise generated from the use of the extended outdoor seating areas confirms that flexible seating configurations within the extended outdoor seating areas will continue to comply with the external noise emission criteria that has been set for this development.

The assessment does not consider the use of background music in the outdoor areas, as this is an operational feature that will be assessed in the separate fit-out and operation development application that will be prepared by the tenant and submitted to the City of Sydney Council for approval.

#### **5.4.1 Suitability of the Site**

Under SSD 8517, Innovation Plaza has been approved for larger events and social meetings within Innovation Plaza and the changes that would flow on from the modified development would enhance the retail element contemplated by the approved development by complementing the approved retail tenancies through a secondary service area or bar, more outdoor seating and an awning structure.

Furthermore:

- Innovation Plaza will still continue to be used primarily for public open space;
- Seating will positively contribute to the amenity of the area through use and activation;
- The future service area, bar and seating will enhance safety by providing more opportunities for casual surveillance of the public domain;
- The indicative area is minor in the context of the Plaza as it will only take up 18% of the entire area;
- The proposed modifications do not give rise to any unacceptable heritage or noise impacts; and
- The operation of the seating within the indicative areas will be associated with the retail tenancies, subject to relevant approvals and subject to further consultation with the Heritage Council and Council.

Accordingly, the proposed modifications will not alter the assessment of the suitability of the site for the proposed development.

#### **5.4.2 Public Interest**

The proposed modifications to the approved development are in the public interest, given that the amendments will provide significant public benefits through the provision of:

- a specialised outdoor retail space;
- an improved social destination,
- an opportunity for patrons to be able to comfortably sit and enjoy the visual amenity and aesthetic value of the Locomotive Workshop and other surrounding buildings;
- an opportunity for patrons to keep visiting the site on a regular basis;
- an opportunity to transform Innovation Plaza from a transitional path into a leisure space;
- an opportunity to draw people to the South Eveleigh precinct in order that they can experience the wide range of other public benefits that the precinct provides;
- a space that will support the creation of jobs within the Precinct; and
- further opportunities for the tenant to demonstrate excellence in design and environmentally sustainability within a State heritage precinct.

## 6.0 Conclusion

The proposed modifications seek approval for:

- the permanent use of the western portion of Innovation Plaza as a 'retail premises' use;
- an extension of the approved outdoor seating areas within Innovation Plaza and Locomotive Street;
- the introduction of built structure envelopes and awning structure envelopes within Innovation Plaza; and
- amendment to Conditions A2 and F12.

The proposed amendments will support the Locomotive Workshop development and ensure that the Locomotive Workshop as well as the South Eveleigh precinct is successful and can become the community, work and retail destination that Mirvac has always contemplated for this site

In accordance with Section 4.55(2) of the EP&A Act, Council may modify the consent as:

- it is substantially the same development as development for which the consent was granted;
- the proposed amendments will not result in any unreasonable or additional environmental impacts; and
- the proposal is suitable for the site and is in the public interest.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Sincerely,



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