

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	SSD 8517 Mod 7 ATP Locomotive Workshop (Bays 1 - 4a)
Applicant	Mirvac Projects Pty Ltd
Consent Authority	Minister for Planning

Decision

The Executive Director under delegation from the Minister for Planning and Public Spaces] has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the Act) modified the consent subject to the recommended conditions and additional conditions.

A copy of the instrument of modification and conditions is available [here](#).

A copy of the Department of Planning & Environment's assessment report is available [here](#).

Date of decision

17 March 2022

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision. The Department's Assessment Report also identifies additional reasons for making the decision.

The decision maker was 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 was modified.

The key reasons for granting the modification are as follows:

- the expansion of retail uses will complement the approved uses within the Locomotive Workshop and activate Innovation Plaza while preserving the dominant use of Innovation Plaza as a public space and ensuring pedestrians and cyclists can continue to occupy and move through the space;
- the detailed design, fit-out, layout and operation of the space will be subject to a future assessment and approval process to ensure all impacts are thoroughly assessed and mitigated;
- the modification is substantially the same development as originally approved;
- the impacts on the community and the environment can be appropriately minimised and managed to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the modification application and the recommended conditions of consent; and
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from 16 December 2020 until 29 January 2021 (45 days) and received 18 submissions, including 15 objections, primarily from residents and special interest groups.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include retail use, heritage, the public access easement and noise. Other issues are addressed in detail in the Department's Assessment Report.

Issue raise	Department's Consideration
Public access impacts and inconsistent use	<p>Assessment</p> <ul style="list-style-type: none"> • The proposal seeks to establish expanded retail on a permanent basis. Clause 24 of the SSP SEPP suspends any covenant, agreement or similar instrument to the extent needed to enable development. • The expanded retail use would sit over an existing public access easement. Council has advised it is open to revising the terms of the easement with the Applicant to improve street activation in the South Eveleigh Precinct. • The Department is satisfied the expanded use and seating would not impede the intent or function of the public access easement as: <ul style="list-style-type: none"> ○ the proposed retail use would not hinder the ability of the Applicant to maintain, repair and replace the public access areas in good order ○ the proposal would not interfere with the movement of cyclists or pedestrians through the space using the 14m wide central thoroughfare and sufficient pathways are maintained at the edges of Innovation Plaza ○ the expanded retail and seating areas will not impact the access of the area and the loading dock to associated traffic ○ the proposal will be non-permanent and reversible so it does not cause adverse heritage impacts to the fabric of Innovation Plaza ○ the proposal is consistent with the objectives of the zone and contributes to the activation of public places within South Eveleigh, consistent with the high level of activation along Locomotive Street. • Although not required to grant consent, Council, as the prescribed authority, can enforce or update the terms of the easement to uphold its intent under the <i>Conveyancing Act 1919</i>. <p>Recommended conditions</p> <ul style="list-style-type: none"> • Incorporate updated plans into the development consent • The retail use must operate on a non-permanent basis and in accordance with a five-year trial period • The reversible structure must be removed in the event it is not occupied/used as part of a future approval • Seating and furniture must not be stored in the public domain outside of approved operational hours.
Adverse impact on heritage values and fabric of Locomotive workshop	<p>Assessment</p> <ul style="list-style-type: none"> • The proposal does not involve any physical works to the fabric of Innovation Plaza, the Locomotive Workshops or existing heritage installations like the Davy Press. • The application was amended during the assessment process to remove the proposed awning zones and reduce the future built structure zone. • The Department is satisfied the heritage impacts are acceptable as: <ul style="list-style-type: none"> ○ no changes to the fabric of Innovation Plaza, the Locomotive Workshop or heritage installations are proposed ○ the built structure zone is small (14m²) and would be fully removable and

	<p>reversible</p> <ul style="list-style-type: none"> ○ the proposal will have minimal visual impact due to the orientation of the retail areas and maintain a strong visual connection to the surrounding area ○ it will maintain access to an area of state heritage and interoperative elements through adequate separation between existing structures is provided ○ separate approval for physical works and operation will be required ○ the existing Heritage Interpretation Plan and Conservation Management Plans continue to manage movable heritage items. <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"> • The fit out and reversible built structure are subject to assessment in a further application • The retail use must operate on a non-permanent basis and in accordance with a five-year trial period.
Traffic and pedestrian impacts	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The application would provide a 2m to 3.17m wide path between the Locomotive Workshop and the proposed seating areas, and the east/west path from Bay 1 would also remain open. • A 4.5m wide path would be provided at the southern entrance to Innovation Plaza. • The proposal includes a landscaped barrier, which in conjunction with the approved Loading Dock Management Plan will adequately manage the interface between the northern seating area and the loading dock. • The proposal does not alter existing traffic movements within the precinct. • The detailed operation of the outdoor retail area, including all traffic and pedestrian impacts and any additional mitigation or management measures will be subject to further assessment.
Extended hours of operation	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The application was amended to remove the extended trading hours to 1AM. • The noise assessment confirms the outdoor retail space can comply with the existing noise limits under SSD 8517 to provide an acceptable level of amenity at nearby properties. • The Department is satisfied the outdoor retail and seating areas can be operated and managed in a manner that will minimize noise impacts as: <ul style="list-style-type: none"> ○ the seating spaces can comply with the predicted noise levels under the existing approval ○ no changes to the existing hours of operation are proposed ○ the detailed design and fit out and hours of operation will be assessed as part of a future application. <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"> • All aspects of the operation of the outdoor retail and seating areas is subject to separate approval.
Not in the public interest	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The approved development involves the adaptive re-use of Bays 1-4a of the Locomotive workshop. This includes responses to the heritage significance of the site and promoting uses that will help attract visitors to the area. • The Department considers the application and overall development remains in the public interest as: <ul style="list-style-type: none"> ○ it is substantially the same development as originally approved ○ will continue to support the adaptive re-use of the Locomotive Workshop by

	<p>providing additional retail uses</p> <ul style="list-style-type: none"> ○ it maintains access to, from and within the site and to its heritage elements.
Inadequate information and consultation	<p><i>Assessment</i></p> <ul style="list-style-type: none"> ● The Applicant has confirmed it undertook a range of community and stakeholder engagement prior to, and following, the lodgement of the application. Further consultation was undertaken as part of the RtS. ● The Department exhibited the EIS for 45 days which exceeds the minimum 28 days statutory requirements of the EP&A Act. It also made the Applicant's RtS publicly available and has considered all additional submissions received in its assessment. ● The Department is satisfied that sufficient consultation has been undertaken. ● The future application required to inform the detailed design of the use would be notified in accordance with the EP&A Regulation.