



Locomotive Workshop Modification 7

Expand retail uses within Innovation Plaza
State Significant Development Modification
Assessment (SSD 8517 MOD 7)

March 2022

Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: State Significant Development Modification Assessment (SSD 8517 MOD 7)

Subtitle: Expand retail uses within Innovation Plaza

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Glossary

Abbreviation	Definition
ATP	Australian Technology Park
BCA	Building Code of Australia
CIV	Capital Investment Value
Council	City of Sydney
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Heritage	Heritage NSW, Department of Premier and Cabinet
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
NIC	National Innovation Centre
SEARS	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

Executive Summary

This report is an assessment of a Section 4.55(2) modification application seeking to modify the existing State Significant Development for the adaptive re-use of Locomotive Workshop Bays 1-4a and Innovation Plaza (SSD 8517). The application has been lodged by Ethos Urban on behalf of Mirvac Projects Pty Ltd (the Applicant). The initial modification application sought approval for:

- the permanent retail use of 671.8 m² (18%) of Innovation Plaza including two built form envelopes, awning zones and outdoor seating areas
- extended late night operating hours of the retail space from 12 midnight to 1 am.

The outdoor retail area would be used as a secondary trade area for retail uses within the Locomotive Workshops. The detailed design, fit-out, layout and operation of the space will require separate approval.

The Department exhibited the modification application from Wednesday 16 December 2020 to Friday 29 January 2021 (45 days). The Department received 18 submissions during the notification period consisting of 16 submissions from the public (including four submissions from community interest groups), one submission from City of Sydney Council providing comments and one submission from Heritage NSW. Of the 16 public submissions, 15 objected to the proposed modification and one provided comments. The concerns raised in public submissions related to the consistency of the retail use with the public recreation zone, loss of public access, heritage impacts, traffic and pedestrian impacts, inadequate information in the application and amenity impacts from extended hours of operation.

The Applicant provided a response to the submissions, and additional information in response to Departmental and agency advice which made the following changes to the application:

- removal of the proposed awning zones, northern built structure zone and extended trading hours from the application
- reducing the proposed retail area and outdoor seating zone to 587.1 m² to occupy 16% of Innovation Plaza from widening the path outside the Locomotive Workshop
- reducing the southern built structure zone to a 14 m² reversible built structure zone
- revised the landscape treatment between the northern seating area and the loading dock.

The removal of the awning zones, one of the structure zones, reduction in the remaining built structure zone and widening the paths between the Locomotive workshop were made to address concerns raised by Heritage NSW.

The Department has considered the Applicant's amended proposal and the issues raised in the submissions. The Department considers the modification application is acceptable as:

- 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 proposal is unlikely to cause adverse heritage impacts as any structures would be limited to a footprint of 14 m², be non-permanent and fully reversible
- outdoor seating zones continue to be minor in the context of the total area of Innovation Plaza (16%) and would consist of non-fixed furniture
- a 14 m wide clear thoroughfare through Innovation Plaza would be maintained and would not impede the function of the space or the intent of the public access easement
- it is unlikely to cause noise impacts which affect the amenity of the surrounding area as the proposed outdoor retail use is capable of complying with the noise limits within the existing development consent
- 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 proposal is substantially the same development as originally approved and the impacts can be managed by the recommended and existing conditions of consent.

Consequently, the Department concludes the proposal is in the public interest and should be approved, subject to conditions.

Contents

1	Introduction	1
1.1	Background	1
1.2	The Site	1
1.3	Approval history	4
2	Proposed modification	6
3	Statutory context	9
3.1	Scope of modification	9
3.2	Consent authority	9
3.3	Permissibility	9
3.4	Mandatory matters for consideration	10
4	Engagement	12
4.1	Department's engagement	12
4.2	Key issues – Council and Heritage NSW	12
4.3	Key issues – Community	14
4.4	Response to submissions	14
5	Assessment	16
5.1	Retail use	16
5.2	Heritage	17
5.3	Public access easement	19
5.4	Noise	20
5.5	Other issues	22
6	Evaluation	26
7	Recommendation	27
8	Determination	28
Appendices		29
Appendix A – List of referenced documents		29
Appendix B – Statutory Considerations		29
Appendix C – Approval history		34
Appendix D – Notice of modification		35
Appendix E – Consolidated Consent		35
Appendix F – Community views		35

1 Introduction

1.1 Background

This report provides an assessment of a modification application to the State significant development (SSD) consent for the adaptive reuse of the Locomotive Workshop, Bays 1-4a at the Australian Technology Park (ATP), 2 Locomotive Street, Eveleigh (SSD 8517).

The proposal seeks approval to expand and establish permanent retail uses within Innovation Plaza and establish a reversible structure zone. If approved, the Applicant would need to submit a further application for the detailed design and construction of the reversible structure, seating areas and operational details of the retail use.

The application has been lodged by Ethos Urban on behalf of Mirvac Projects Pty Ltd (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The Site

The Locomotive Workshop and Innovation Plaza are within the northern portion of the South Eveleigh Precinct (formerly known as the ATP), approximately 2.5 kilometres (km) south-west of Sydney Central Business District (CBD) and 200m south west from Redfern railway station (**Figure 1**).

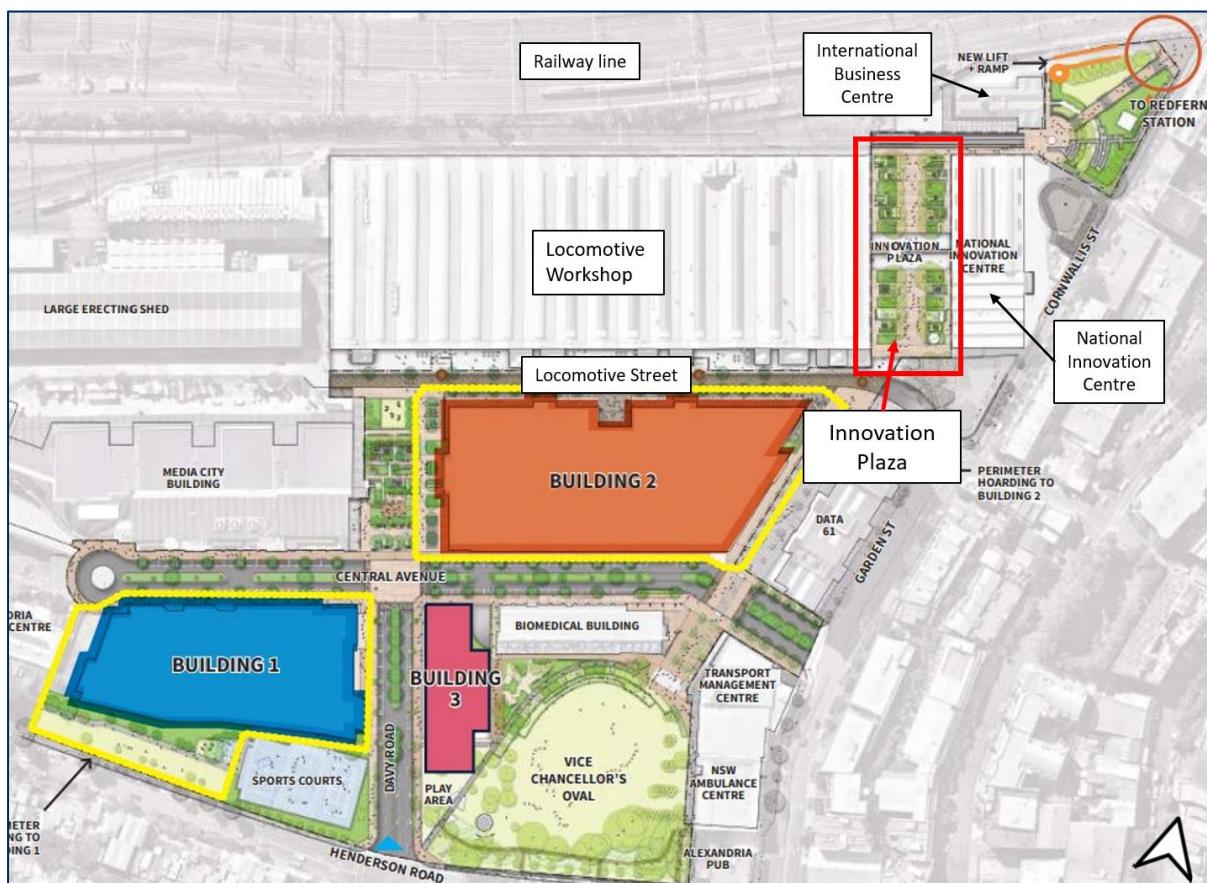


Figure 1 | South Eveleigh Precinct and location of Innovation Plaza (Source: Mirvac)

The Locomotive Workshop is legally described as Lot 4000 DP 1194309. Innovation Plaza and the surrounding public domain is legally described as Lot 4072 DP 1229090.

The Locomotive Workshop and Innovation Plaza, together with the National Innovation Centre (NIC) and International Business Centre (IBC) form the Eveleigh Railway Workshops are listed under the NSW State Heritage Register (SHR 01140). The machinery within the Locomotive Workshops is also separately listed. The Eveleigh Railway Workshops are also listed on the ATP s170 Heritage and Conservation Register under the *Heritage Act 1977* (SHI 4801102).

Innovation Plaza is a key public space in the South Eveleigh precinct providing a paved public thoroughfare with two rows of trees and existing street lighting. Innovation Plaza is surrounded by (**Figure 2**):

- existing railway lines to the north
- the State heritage listed NIC and IBC to the east and north-east
- Locomotive Street and an existing pedestrian crossing to the south (**Figure 6**)
- the Locomotive Workshops to the west.

The western side of Innovation Plaza (the subject of this application) contains hardstand space with a mix of concrete, paving and asphalt and a row of existing mature trees. Part of this space is used as a construction compound for the adaptive re-use of the Locomotive Workshops (**Figure 4** and **Figure 5**). The eastern side (adjacent to the NIC) contains planter beds, public seating and table tennis areas (**Figure 3** and **Figure 4**).

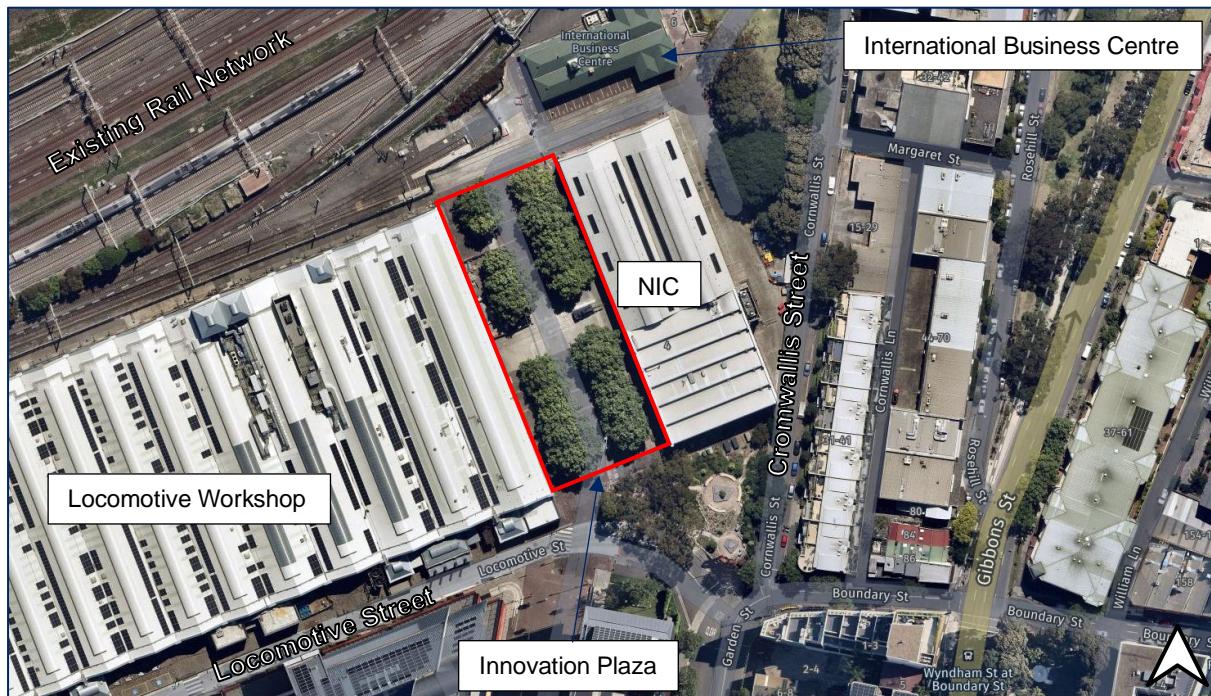


Figure 2 | Aerial of Innovation Plaza (Source: NearMap)

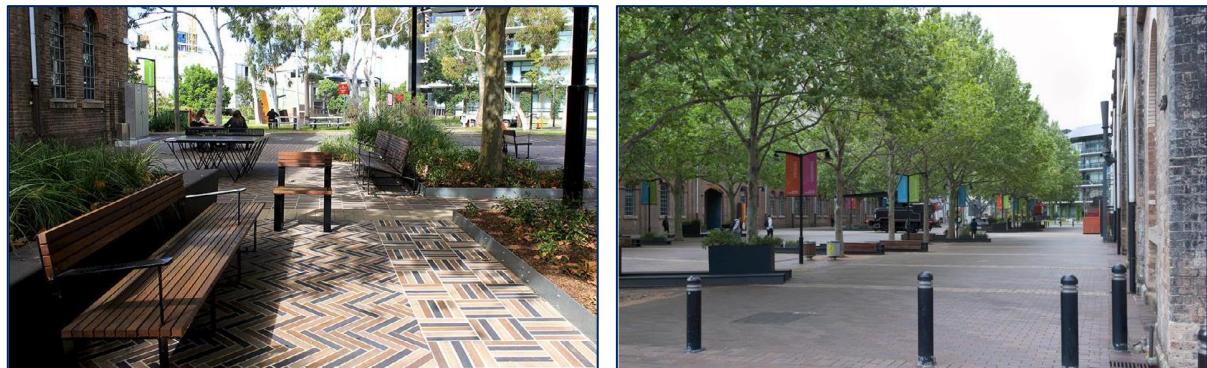


Figure 3 | Innovation Plaza, eastern side (left) and western side (right) (Source: Modification Report)

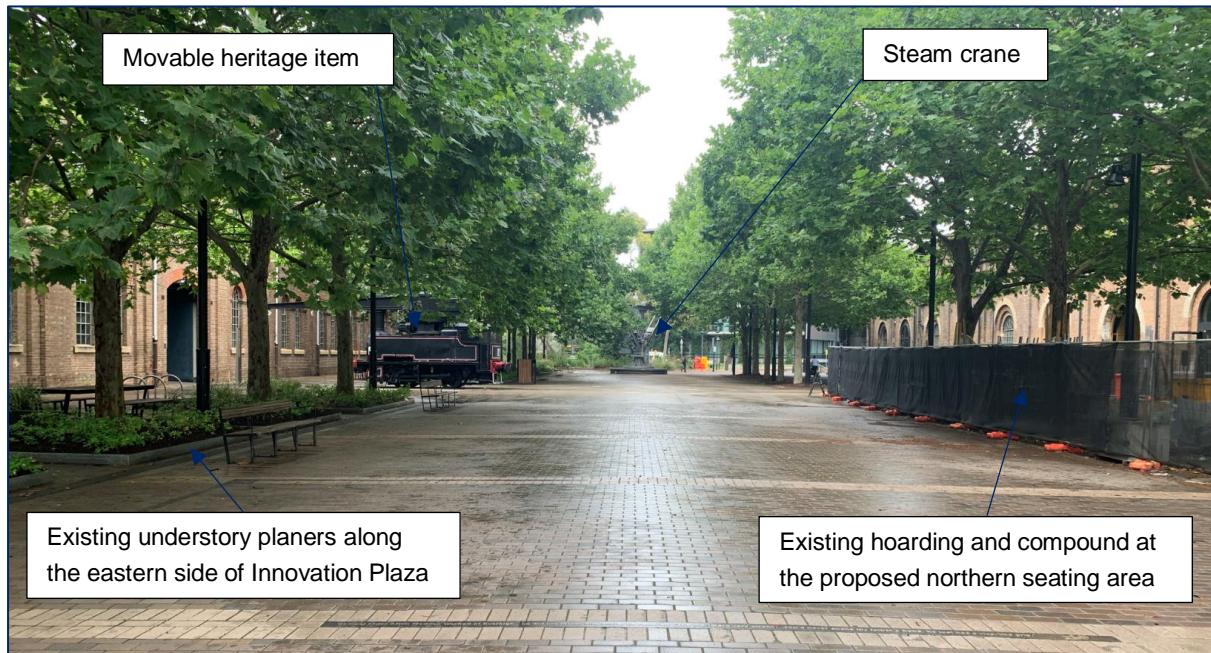


Figure 4 | Innovation Plaza looking south towards Locomotive Street (Source: DPE)



Figure 5 | Indicative footprint of proposed southern retail area (Source: DPE)



Figure 6 | Southern approach to Innovation Plaza from Locomotive Street (Source: DPE)

1.3 Approval history

On 22 February 2019, the Independent Planning Commission (IPC) granted development consent to two SSD applications for the adaptive reuse of the Locomotive Workshop. SSD 8517 relates to Bays 1-4a and SSD 8449 relates to Bays 5-15.

In addition to the adaptive re-use of Bays 1-4a, SSD 8517 also approved retail premises uses, retail spill out spaces with indicative outdoor public seating, a blacksmith workshop with 24/7 operation, alterations to Bays 1-4a, hours of operation from 6 am to 12 midnight for publicly accessible areas within Bays 1-4a, heritage conservation, heritage interpretation and public domain works.

Further details on the approvals and a summary of the modifications is provided at **Appendix C**.

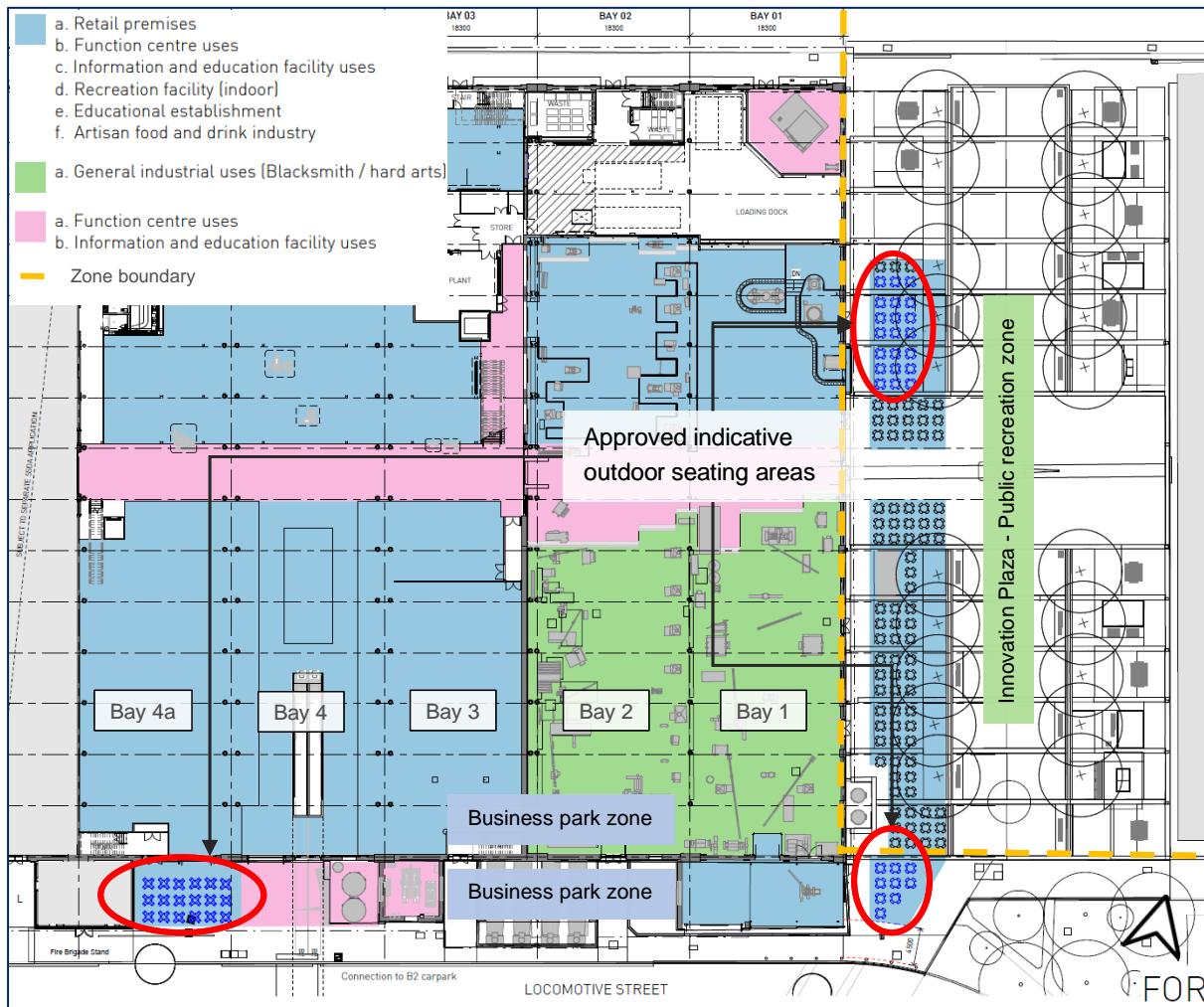


Figure 7 | Approved permanent land use plan (Source: RRTS)

2 Proposed modification

The proposal seeks approval for a permanent retail use, a building envelope for a reversible structure and expanded outdoor seating zones in Innovation Plaza as outlined in **Table 1**.

The application initially sought approval for awning structure zones, two larger built structure zones and expanded operational hours from 6 am to 1 am. These elements were withdrawn by the Applicant during the assessment process.

The application does not involve any physical works within Innovation Plaza or along Locomotive Street. The operation and fit-out of the outdoor retail zones including the building structures, the location, size and number of outdoor seats, hours of operation and management would be subject to a future separate assessment and approval process.

Table 1 | Summary of SSD 8517 MOD 7 as amended by the Applicant's response to submissions

Element	Description
Land use	<ul style="list-style-type: none">Permanent retail use of 587.1 m² of land within western portion of Innovation Plaza (16% of the total area of Innovation Plaza) (Figure 8).Intended as a secondary service area or bar to complement the approved retail tenancies within Bays 1-2.
Outdoor seating zones	<ul style="list-style-type: none">Two separate areas in the northern and southern portions of the Innovation PlazaClear zones to maintain pedestrian access into the Locomotive WorkshopMinimum 2 m up to 3.17 m clear pedestrian circulation provided between seating areas and the building (Figure 10).
Building envelope for structures	<ul style="list-style-type: none">14 m² reversible structure zone, 6 m long x 2.4 m wide and 2.6 m high in the southern seating zone (Figure 9 and Figure 10).

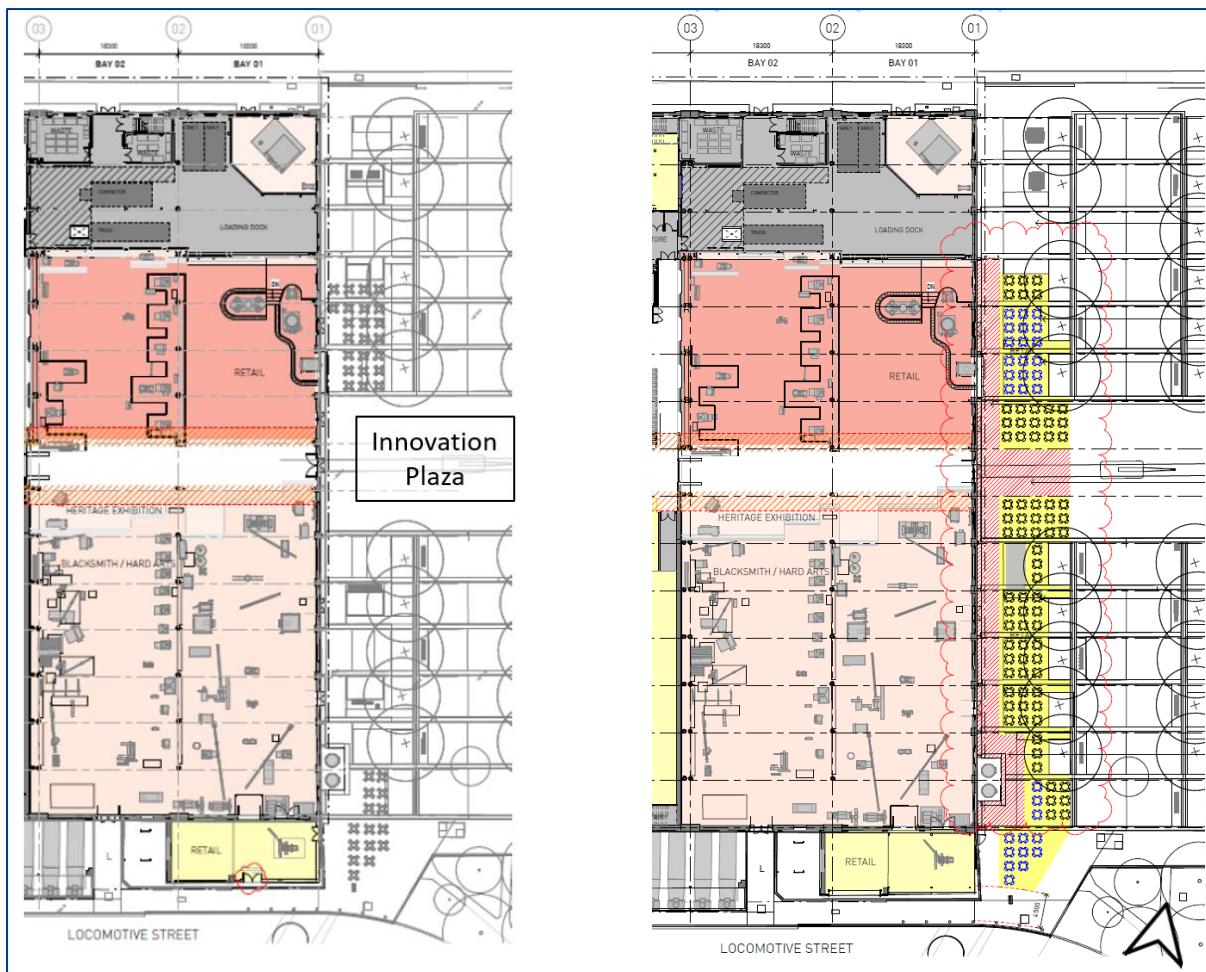


Figure 8 | Approved (left) and proposed (right) ground floor plan, showing proposed expansion of retail areas into Innovation Plaza (Source: Modification Report and RtS)
 Note: Any seating shown above is indicative in nature only and is subject to a separate application

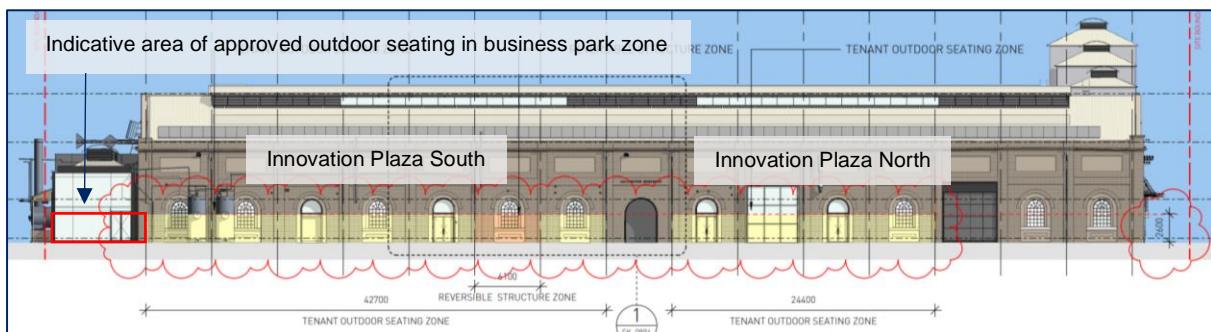


Figure 9 | Eastern elevation of Locomotive Workshop showing location of built structure (orange) and seating areas (yellow) (Source: Modification Report and RtS)



Figure 10 | Plan of proposed reversible built structure zone (Source: Architectural Plans)
 Note: Any seating shown in above is indicative in nature only and is subject to a separate application

3 Statutory context

3.1 Scope of modification

The Department has reviewed the scope of the application and considers it can be characterised as a modification as it is substantially the same development as originally approved development as:

- the expansion of retail uses in Innovation Plaza would not materially alter the approved development for the adaptive re-use of Bays 1-4a of the Locomotive Workshop and the approved outdoor retail uses under SSD 8517
- the public use or amenity of Innovation Plaza would not be compromised as the reversible structure zone is limited to 14 m² and the area that could be used for outdoor seating would only occupy 16% of Innovation Plaza
- the expanded outdoor seating areas are consistent with the objective to activate Innovation Plaza and provide enjoyment for the community without impacting the movement of pedestrians and cyclists through the space
- it will not have any adverse impacts to the heritage fabric of the locomotive bays or Innovation Plaza and the future operation and fit-out for the outdoor seating areas will be subject to a future assessment and approval process
- it would not significantly increase the environmental impacts of Bays 1-4a of the Locomotive Workshop, as approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(2) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Executive Director, Key Sites and Regional Assessments, may determine the application as:

- a political disclosure statement has not been made
- there are less than 50 public submissions in the nature of objection
- Council has not made a submission by way of objection to the modification application.

3.3 Permissibility

The site is part zoned Business Zone – Business Park (Business Park) and Recreation Zone – Public Recreation (Public Recreation) under *State Environmental Planning Policy (State Significant Precincts) 2005* (SSP SEPP) as follows:

- Business Park – Bays 1-4a of the Locomotive Workshop and Locomotive Street, including the spill out spaces along its frontage
- Public Recreation – Innovation Plaza.

Retail premises are permissible in the business park zone but are prohibited in the public recreation zone. The approved southern outdoor seating sits across the public recreation and business park zones. The approved northern seating zone is entirely within the public recreation zone (**Figure 10**).

The location of the approved indicative outdoor seating areas within the public recreation zone result in the development being partly prohibited. Despite this prohibition, development consent was granted to the original SSD pursuant to section 4.38(3) of the EP&A Act which allows development consent for SSD to be granted despite the development being partly prohibited by an Environmental Planning Instrument (EPI).

The Department has considered the SSP SEPP provisions in detail at **Appendix B** and supports the expanded retail use in Innovation Plaza, despite it being partly prohibited as:

- the application of expanded retail areas is not an additional or distinct use when considered against the range of uses approved as part of the adaptive re-use of original development
- it will be associated with the approved retail uses in the Locomotive Workshop bays and not a standalone retail use
- SSD 8517 approved indicative outdoor seating in Innovation Plaza despite it being a prohibited use as it was consistent with the objectives of the zone and would positively contribute to the amenity of the area through its use and activation
- the amenity and activation benefits of the outdoor seating were considered in the consent authority's reasons in determining the original project
- the proposed retail use would occupy a maximum of 16% of the area of Innovation Plaza which would not compromise the use of the Innovation Plaza for public recreation
- the expansion to outdoor seating and the addition of the small scale reversible built structure zone would support the public recreation zone objectives by activating the space, contribute to the enjoyment of the space for the community, maintain the area as public open space and promote landscaping along Innovation Plaza with strong visual connections to the area
- the proposed plans show indicative seating within the expanded retail use and the exact location, size, number, hours of operation and management of the areas would be subject to additional assessment.

3.4 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(2) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A regulation

- likely impacts of the modification application, including environmental impacts on both the natural and built environment, and social and economic impacts
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal in **Section 5** and **Appendix B** of this report.

4 Engagement

4.1 Department's engagement

The Department publicly exhibited the modification application on its website on 16 December 2020 until 29 January 2021 (45 days). Surrounding landowners, Council and relevant government agencies were notified in writing. The Department also made the Response to Submissions (RtS) and additional information received during the assessment process publicly available on the Department's website.

A total of 18 submissions were received in response to the exhibition of the Modification Report, comprising one from Council, one from Heritage NSW and 16 from the public (including four submissions from community interest groups).

A summary of the Department's engagement and submissions received is provided at **Table 2**. A link to the full copy of the submissions is provided in **Appendix A**.

Table 2 | Summary of public exhibition and notification of the application

Stage	Exhibition / Notification period	Submissions
Modification Report	Exhibition: 16 December to 29 January 2021 (45 days)	18 submissions comprising: <ul style="list-style-type: none">• 1 x Council• 1 x Heritage NSW• 12 x public submissions (1 Comment, 11 object)• 4 objections from community interest group (REDWatch, the Rail, Tram and Bus Union (RTBU) National Office, the RTBU Retired members Association and the Ariane Strata Committee.
RtS and additional information	Notification via the Department's website	3 submissions comprising: <ul style="list-style-type: none">• 2 x Council• 2 x Heritage NSW.

The Department has considered the advice of Council and Heritage NSW and issues raised in public submissions during the assessment of the application (**Section 5**) and in the recommended conditions of consent at **Appendix D**.

4.2 Key issues – Council and Heritage NSW

The Department's summary of Council and Heritage NSW advice is provided in **Error! Reference source not found..**

Table 3 | Council and Heritage NSW Comments on the Modification Report

Public Authority	Comments
Council	
Modification report	<p>Council considers the proposal may be acceptable if it is flexible and ensures other objectives of the public recreation zone are realised. Council provided advice in relation to the:</p> <ul style="list-style-type: none"> • visual and spatial relationship with the Locomotive Workshop and the need to provide adequate paths of travel around structures and seating areas • need to protect existing trees within Innovation Plaza • need for any future development application for the detailed design to be well considered to allow the eastern façade of the Locomotive Workshop to be revealed and consider functionality of the plaza, operating hours, outdoor lighting and accessibility.
RtS	<p>Council reviewed the RtS and provided the following comments:</p> <ul style="list-style-type: none"> • noted the future furniture in the space will be non-permanent and the awning structure zone and northern built structure envelope are no longer proposed • requested the seating at the southern end of Innovation Plaza and the annex to Bay 1 be removed to address a pinch point in travel paths • it did not support mass plantings below the existing trees and recommended conditions to protect and manage tree protection zones.
Further RtS	<p>Council reviewed the Applicant further RtS and requested:</p> <ul style="list-style-type: none"> • a separation of 4.5 m be provided between the southern seating area and any structure or bollards • all trees to be protected in accordance with AS4970-2009 Protection of Trees on Development Sites and a long-term tree management plan.
Heritage NSW	
Modification report	<p>Heritage NSW supports activation of Innovation Plaza but only where it does not compromise the space. Heritage NSW advised:</p> <ul style="list-style-type: none"> • it does not support permanent structures in Innovation Plaza • structures and elements must be reversible to respond to a changing environment, to adjacent uses and to future strategies to activate the area • the retention of Innovation Plaza as an open space will allow interpretation of its original form • reversibility and flexibility will help mitigate potential heritage impacts • the separation between building and seating should be increased to 2 m for appropriate separation and better pedestrian movements.
RtS	<p>Heritage NSW reviewed the RtS and:</p> <ul style="list-style-type: none"> • advised it is pleased with the changes made to the application including the wider path between the Locomotive Workshop and seating area, removal of the awning zones and confirmation the furniture will be non-permanent • reiterated its previous advice that any structure must be temporary, portable, reversible and responsive to a changing environment • noted any future development application would require separate approval under the <i>Heritage Act 1977</i>.

4.3 Key issues – Community

Key issues raised in submissions from the public and community groups are summarised in **Table 4**.

Table 4 | Summary of key issues in public submissions

Issue	Proportion of issue raised in submissions (%)
Public access impacts and inconsistent use	75
Adverse impact on heritage values and fabric of Locomotive workshop	69
Traffic and pedestrian impacts	63
Extended hours of operation	63
Not in the public interest	56
Inadequate information in application	56
Application doesn't refer to social/labour history	25

Other issues raised in 13% or less of submissions included the length of the exhibition period, location of taxi pick up areas, requests for windows of nearby dwellings to have double glazing installed, lack of public consultation by the Applicant, the view that activation is not needed, impacts to the fabric of the Locomotive Workshops and heritage Davy Press.

One submission supported the adaptive re-use as it creates jobs.

4.4 Response to submissions

The Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised.

On 21 September 2021 the Applicant provided a response to the issues raised in the submissions. This includes additional information, justification and amendments to the proposal in response to the issues raised in submissions, including:

- changing the southern built form envelope to a smaller 14 m² reversible structure zone to address Heritage NSW comments that the use of the space should be non-permanent
- reducing the outdoor seating areas from 18% to 16% of Innovation Plaza, reducing the height of the seating zones to 2.6m, widening the pathway between the Locomotive Workshop and the seating areas to range between 2m at the existing external tanks to 3.17m to address access and pedestrian movement concerns from Council and Heritage NSW.
- removal of the proposed built form envelope to the north of the Locomotive Workshop entrance, awning envelopes and changes to hours of operation from the application to address heritage and amenity concerns from Heritage NSW and public submissions.

The Applicant provided a further response to submissions and additional information on 2 November, 30 November 2021 and 2 March 2022 to:

- amend the proposed architectural plans to clarify the extent of retail use areas and indicative seating
- detail a revised barrier treatment between the northern seating zone and the loading dock to ensure loading dock movements and future seating is kept separate

- respond to additional comments from Council regarding area separation, landscaping and tree protection
- increase the pathway between the external tanks adjacent to the Locomotive Workshop and the seating area to 3m and removal all retail areas from the landscape planters.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Impact Assessment and conditions of consent for the original application
- all submissions received on the modification application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issues are:

- retail use
- heritage
- the public access easement
- noise impacts.

These issues are discussed in the following sections of this report. Other issues are assessed in **Section 5.5**.

5.1 Retail use

The existing consent allows for approximately 300m² (8.5%) of Innovation Plaza for retail uses and indicative outdoor seating associated with the Locomotive Workshop. The proposal seeks to increase this to 587m² (16%) of Innovation Plaza. It would also increase the total indoor and outdoor area used for retail purposes under SSD 8517 by 5%, from 11,607m² to 12,194.1m². This increase excludes the part of the existing approved southern seating area located in the business park zone (**Section 3.3**) (**Figure 10**).

Public submissions raised concern with the proposal to expand and make permanent the approved outdoor retail space within Innovation Plaza. Concerns included the inconsistency of the retail use with the public recreation zone and the commercialisation of Innovation Plaza.

The Applicant has advised the 14m² reversible structure zone and expanded retail use area would be used to create a secondary service space for the tenants in Bays 1, 2 and retail annex of the Locomotive Workshop. The Applicant contends the expanded retail use will provide an improved social destination for the Locomotive Workshop and the broader South Eveleigh Precinct, while also improving the comfort of Innovation Plaza to assist its transformation into a leisure space.

The Department has carefully considered the proposed expansion of retail use within the public recreation zone and the concerns raised in submissions. On balance, the Department considers the proposed expansion of retail uses in Innovation Plaza will provide a complementary use that forms part of the existing development consent to activate Innovation Plaza and is acceptable as:

- it would occupy a relatively small area of Innovation Plaza (16%), which will allow it to remain principally as open space
- the use would meet and support the objectives of the public recreation zone by:
 - ensuring ample space can still be used within Innovation Plaza and remains accessible to the public
 - providing a use with accompanying seating for the enjoyment of the community and people visiting the South Eveleigh Precinct
 - providing clear and safe lines of travel through Innovation Plaza with improved casual surveillance of the public domain
 - ensuring there are no additional impacts to the existing trees and root systems lining Innovation Plaza
- the retail use of the spaces will be operated in association with the tenant(s) of the retail areas in Bays 1 and 2 of the Locomotive Workshop as a secondary trading space and not as stand-alone businesses
- no permanent structures or furniture are proposed as part of this application and seating and weather protection elements would be movable and packed away when not in use, subject to detailed design as part of a future application
- the reversible structure zone would facilitate a future built form element that would enhance the outdoor and indoor retail uses, subject to detailed consideration in a future application.

The Department acknowledges the comments provided in public submissions that Innovation Plaza should continue to be viewed as a public space. The Department considers limiting the retail use to the reduced footprint and managing the future movable elements plays an important part of the use of the space and its ability to adapt over time. To ensure the objectives and dominance of the Public Recreation zone is maintained, the Department also considers it is reasonable to implement a trial period for the retail use. Therefore, the Department has recommended conditions to:

- require that outdoor seating and furniture is wholly removed and not stored within any area of Innovation Plaza outside of approved hours of operation
- clarify the expanded outdoor retail areas are only to be used as food and drink premises as defined under the *Sydney Local Environmental Plan 2012* (as this use is not defined under the SSP SEPP) to ensure the spaces are not used for the sale or display of other goods
- require the retail use within the Public Recreation zone to be operated subject to a five-year trial period starting from the issue of the first occupation certificate of a retail tenancy
- require the outdoor retail area to be used in connection with a tenancy within Bay 1 or Bay 1 and 2 of the Locomotive Workshop to ensure an independent retail use does not occur.

5.2 Heritage

As outlined in **Section 1**, the Locomotive Workshop and Innovation Plaza are State heritage listed elements within the Eveleigh Railway Workshops.

The application includes a Heritage Impact Statement (HIS) which assesses the heritage impacts of the proposed expanded retail use and built form envelope on the Locomotive Workshop and physical fabric of Innovation Plaza. The HIS concludes the proposal would activate Innovation Plaza without creating an intrusive barrier between the Locomotive Workshop and the public domain.

Heritage NSW supports the activation of Innovation Plaza but only if it does not compromise the significance of the Locomotive Workshop. Heritage NSW does not support permanent structures within Innovation Plaza and raised concerns with the proposed structure being sited within the reversible structure zone in perpetuity. Heritage NSW recommend that any future structures must be temporary, portable, reversible and be capable of adapting to changes over time.

Public submissions raised concerns that the proposal would impact on the heritage values of the Locomotive Workshop and the significance of Innovation Plaza including the physical fabric of these elements, the visual connection to the Locomotive Workshop, the Davy Press (located inside Bay 1) and existing movable heritage installations within Innovation Plaza.

In response to Heritage NSW's concerns about permeant structures, the Applicant removed all previously proposed awnings and reduced the building envelope zones to a single 14 m² zone which would indicatively contain a shipping container (or similar) structure with a façade treatment. This revised structure would be serviced with an underground connection for water and power.

The Applicant notes the installation and fit out of any structure in the reversible zone will be subject to a future application. The Applicant intends for the structure to sit permanently in Innovation Plaza but would be movable and reversible and not involve any physical changes to the fabric of the space. Further it would be removed in the event it was no longer in operation. The Applicant also advised outdoor furniture would be packed up and stored externally (refer **Section 5.1**).

In response to public submissions, the Applicant advised heritage machinery within Innovation Plaza, including the Steam Crane are remaining in their current location.

The Department has considered the Applicant's HIS, Heritage NSW's advice and the concerns raised in public submissions and is satisfied, on balance, the proposal would have acceptable heritage impacts on the Locomotive Workshop and Innovation Plaza as:

- the structure zone is small (14m²) and would be fully removable and reversible with no changes to the fabric of Innovation Plaza being proposed
- specific built form that may occupy the reversible structure zone and any required service connections will be assessed as part of a future application and require detailed consideration of its heritage impact
- the reversible structure zone and outdoor seating areas will have minimal visual impacts as:
 - the structure is orientated lengthwise along Innovation Plaza to present a narrow profile when looking through the space
 - the outdoor seating areas are setback from the edge of the Locomotive Workshop and existing trees and maintain visual connections from Locomotive Street to the rail lines and to the NIC to the east

- the proposal will maintain access to State heritage and heritage interpretation installations and will not result in any impacts to the Davy Press or the physical fabric of the Locomotive Workshop as no works are proposed to the exterior or interior of existing buildings.
- in the event movable heritage items need to be relocated, this would be managed through the existing Conservation Management Plan and Stage 2 Heritage Interpretation Plan for the ATP.

In response to the concerns raised by Heritage NSW and its recommendation that the future structure be non-permanent and allow changes over time, the Department recommends conditions to:

- ensure the retail use operates on a non-permanent basis in conjunction with the retail use of the bays 1 and 2 of the Locomotive workshop
- impose a 5-year trial period from the issue of the first occupation certificate of a retail tenancy
- require the removal of any structure in the reversible structure zone in the event that it any approval lapses or ceases to be acted on.

5.3 Public access easement

Innovation Plaza is affected by a public access easement, which extends throughout streets, pathways and public domain in the South Eveleigh Precinct as shown in **Figure 11**.

Public submissions raised concern that the proposed expansion of retail uses was inconsistent with the public access easement.

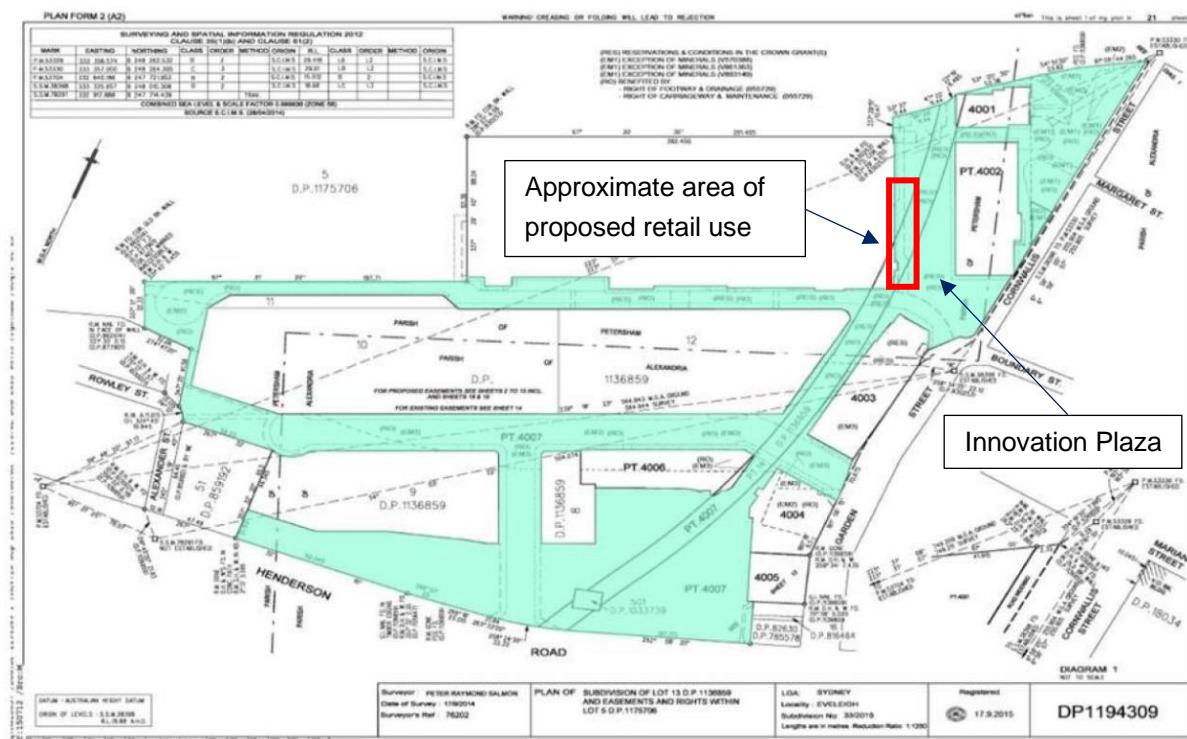


Figure 11 | Extent of the public access easement (Lot 4007 DP 4107813)

In response to concerns raised, the Applicant has engaged with Council who has indicated it is open to revising the terms of the public access easement to allow the placement of non-permanent furniture within Innovation Plaza and at other outdoor locations in the South Eveleigh Precinct.

The Department acknowledges the concerns raised in submissions regarding the ongoing public use and access to Innovation Plaza as well as broader public spaces in the South Eveleigh Precinct.

However, the Department notes the easement was carried over from when Urban Growth (now Infrastructure NSW) sold the site to the Applicant. The easement includes some terms that may prevent improved amenity and activation being achieved in the South Eveleigh Precinct. In addition, clause 24 of the SSP SEPP suspends any covenant, agreement or similar instrument to the extent needed to enable development and therefore, the existence of the easement over the site of the modification does not prevent the Department from determining the application.

After careful examination of the terms of the easement, the issues raised by public submissions and the terms of clause 24 of the SSP SEPP, the Department considers the proposed changes within Innovation Plaza do not compromise the intent of the public access easement as:

- 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 reversible structure zone and outdoor seating zones would not interfere with the movement of cyclists or pedestrians through the space using the 14 m wide central thoroughfare and two, 3 m wide pathways at the eastern and western edges within Innovation Plaza
- the expanded retail and seating areas will not impact the access of the area and the loading dock to associated traffic
- the widened pathway between the Locomotive Workshop and indicative seating areas will provide a clear thoroughfare and paths of travel, subject to recommended conditions, between Locomotive Street and pathways through to Redfern Station that are generally consistent with the approved public domain works
- the future seating will be movable and will not require physical alterations to the fabric of Innovation Plaza
- the proposed seating contributes to the activation of public places within South Eveleigh, consistent with the high level of activation along Locomotive Street.

The Department notes that Council can enforce or update the terms of the easement to uphold its intent under the *Conveyancing Act 1919* as the prescribed authority for the easement. Although not required to grant consent to the proposal, the Department supports the negotiations between the Applicant and Council to update the easement terms to align with the vision for activation within Innovation Plaza and other areas of the South Eveleigh Precinct.

5.4 Noise

The expanded retail areas have the potential to cause increased noise levels from patron activity at nearby residential receivers along Garden Street and Cornwallis Street. The closest residential receivers to the proposed retail areas are 66 m to the east at 31 Cornwallis Street.

The Applicant submitted a Noise Impact Assessment (NIA) which assesses the potential noise levels of the expanded outdoor retail areas against the existing noise limits for SSD 8517. These limits have been derived from the Environment Protection Authority's Industrial Noise Policy which was the relevant assessment policy at the time of SSD 8517.

The hours of operation, seating capacity and use of any amplified music or public announcement system will be subject to assessment in a future application. However, the NIA considered the impact of up to 220 patrons prior to 10 pm and 120 patrons between 10 pm and 12 midnight to predict the maximum impacts to sensitive receivers. The NIA concludes the proposal can operate in accordance with the existing noise limits under SSD 8517 as shown in **Table 5**.

Table 5 | Predicted Noise Levels (Source: NIA)

Period	Predicted noise level (LAeq(15min))	Noise criteria (LAeq(15min))	Compliance (Y/N)
Day/Evening	51	51	Yes
10pm to 12 midnight	48	48	Yes

The NIA also notes the proposed retail space has scope for a flexible seating arrangement to minimise noise from areas closest to the residential properties and recommended further detailed assessments be undertaken as part of a future application.

Council did not raise any concern about noise impacts from the proposed outdoor areas. Public submissions raised concern about the extension of trading hours to 1 am. As discussed in Section 2, this element was withdrawn by the Applicant.

The Department has considered the NIA and the concerns from public submissions and is satisfied the outdoor retail and seating areas can be operated and managed in a manner that will minimise noise impacts as:

- the spaces can comply with the maximum noise levels of 51 dBA in the day and evening and 48 dBA from 10 pm to 12 pm midnight for the modelled indicative patron numbers
- no changes to the existing hours of operation are proposed
- the detailed design and fit out and operation will be assessed as part of a future application.

The Department is satisfied the Applicant has demonstrated the proposed outdoor retail areas are capable of operating in accordance with the limits of Condition A19 of the existing consent and that noise impacts and any required mitigation/management measures will be considered in further detail as part of a future application.

5.5 Other issues

Other issues are discussed in **Table 6**.

Table 6 | Summary of other issues

Issue	Findings	Recommendations
Operation of retail use	<p>Public submissions raised concern with the lack of detail provided with the application on the number of seats, connection to the tenant in the locomotive bays and how the space would implement COVID-safe measures.</p> <p>In response, the Applicant notes that a future application will be made to address these details and considers providing an outdoor dining space is important for the future tenant and the local community in the context of the COVID-19 pandemic.</p> <p>The Department notes that existing Condition A19 sets limits on the operational management, number of seats and layout of spaces in Innovation Plaza from SSD 8517. These operational details would be addressed as part of a future application to the relevant consent authority.</p> <p>The Department also notes the future operator would be responsible for implementing COVID-safe measures in accordance with the NSW Health orders as may change from time to time.</p> <p>The Department recommends conditions to:</p> <ul style="list-style-type: none"> clarify that the operation of the outdoor seating, the design/installation of the reversible structure require separate approval clarify that amplified outdoor sound systems do not form part of the approval. ensure the space operates to support a food and drink premises for a 5-year trial period, starting from the issue of the issue of the first Occupation Certificate for a retail tenancy in Bay 1. 	<p>Amend Condition A19 to clarify that outdoor amplified sound systems do not form part of the approval.</p> <p>Insert new Condition A19A to clarify that this approval does not give consent for the construction, installation and use of any structures.</p> <p>Insert new condition A24 to manage the use of the retail space, including limiting its use to 5-year trial period.</p>
Existing operations	<p>Public submissions raised concern about noise impacts caused by patrons waiting for transport along Locomotive Street associated with existing late-night events and trading within the South Eveleigh Precinct. Submissions also recommended relocating boom gates and providing additional pick up spaces along Locomotive Street to reduce queuing and patron dwell time.</p> <p>The Applicant has advised there is existing precinct wayfinding signage to direct taxis and ride share services entering the South Eveleigh Precinct to the pick-up/drop off spaces along Locomotive Street. The Applicant has also advised that this consent does not extend to the land where the boom gates at the entrance of Locomotive Street from Garden Street is located.</p>	No additional conditions necessary

The Department acknowledges the concerns regarding on-site events and functions. However, traffic management areas along Garden Street and Locomotive street do not form part of this modification application.

The Department is satisfied that should further applications propose changes to traffic management, they can be addressed by the relevant consent authority as part of separate assessment.

Pedestrian circulation	<p>The proposal provides paths 2 m to 3.17 m wide between the Locomotive Workshop and the expanded outdoor seating areas and a minimum 4.5 m clearance between the eastern and southern edges of the southern seating area and adjacent structures/bollards.</p> <p>Council and Heritage NSW support the pedestrian circulation areas, however public submissions raised concern about impacts to pedestrians moving through Innovation Plaza as a result of the expanded retail area.</p> <p>The Department has considered the concerns raised in submissions and is generally satisfied that the proposal maintains appropriate pedestrian circulation within Innovation Plaza as:</p> <ul style="list-style-type: none">• the 2m - 3.17m paths between the Locomotive Workshop building and seating zones maintain acceptable paths of travel for safety and convenience• the 14m wide central portion of Innovation Plaza provides excellent access for pedestrians and cyclists (Figure 4)• the proposal does not impact on the movable heritage item located within Innovation Plaza. <p>The Department therefore concludes the proposal provides appropriate circulation space between the Locomotive Workshop and seating areas and will maintain excellent access for pedestrians and cyclists through the 14 m central corridor within Innovation Plaza.</p>	No additional conditions necessary
Loading dock management	<p>The proposal seeks to revise the approved raised landscape planter that separates the southern edge of the loading dock accessway from the northern outdoor seating area.</p> <p>Public submissions raised concern over the proximity of trucks using the loading dock.</p> <p>In response, the Applicant notes that a raised planter continues to separate the seating areas from the loading dock and measures are in place via the existing loading dock management plan (LDMP), including deliveries outside of peak pedestrian movements to minimise interface risk.</p> <p>The Department has considered the concerns raised in public submissions and is satisfied that appropriate measures are in place</p>	No additional conditions necessary

to minimise the risk between pedestrians, patrons within the retail seating area and trucks as:

- the Department approved the LDMP in accordance with Condition E19 on 20 July 2021 which provides a management and mitigation measures to address potential conflicts between vehicles and pedestrians (for example access routes, delivery times, length of stays and provision of physical barriers including landscaping and street furniture).
- the revised 6.4 m wide 1.8 m deep raised landscaped planter will provide a physical barrier between the seating area and truck movements similar to that previously approved in the LDMP.

The Department is satisfied the approved LDMP incorporates appropriate management and mitigation measures to minimise the conflicts between pedestrians, patrons and vehicles. The Department notes that the LDMP will need to be updated to reflect the proposed landscape barrier and removal of previously approved hard furniture in accordance with existing Condition A16.

Tree protection and landscaping	<p>The proposal seeks to remove approved, but yet to be constructed, benches and landscape planter beds in the southern seating area to accommodate the expanded retail use and indicative seating areas. The Applicant provided updated landscaping plans to reflect this change.</p> <p>Council noted the proposal should not impact the existing trees in Innovation Plaza and also advised it does not support mass understorey planting.</p> <p>The Applicant contends future furniture would not impact on these trees as they will be lightweight, moveable, and would not be placed adjacent to the trunks of existing trees.</p> <p>The Department has considered the Applicant's updated landscaping plans and the concerns raised by Council, however notes that detailed landscape plans with mass understorey plantings were approved, in consultation with Heritage NSW and Council, as part of Condition B37. No additional mass plantings are proposed in this application beyond the separately approved layout.</p> <p>In addition, noting that no physical works are proposed as part of this application, the Department is satisfied existing Conditions D22 to D24 which require the protection of trees during construction and limits tree impacts to those previously approved, provide sufficient protection.</p>	No additional conditions necessary
Lighting	Council advised that street lighting should not impact the existing trees in Innovation Plaza.	No additional conditions necessary.

The Department notes that street lighting, approved by previous applications, has already been installed and no additional lighting is proposed as part of this modification application.

6 Evaluation

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

- 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 proposal is unlikely to cause adverse heritage impacts as any structures would be limited to a footprint of 14 m², be non-permanent, be fully reversible and subject to separate assessment as part of a future application
- the Department recommends the approval be subject to a 5-year trial period to allow the use of the space and the potential impacts associated with the proposal to be reviewed
- outdoor seating zones continue to be minor in the context of the total area of Innovation Plaza (16%) and would consist of non-fixed furniture that is wholly removed and not stored in any area of Innovation Plaza outside of approved hours of operation
- a 14 m wide clear thoroughfare through Innovation Plaza would be maintained and would not impede the function of the space or the intent of the public access easement and conditions are recommended to require amendments to proposed plans to improve pedestrian movement and clarify the extent of retail space over landscaped areas
- it is unlikely to cause noise impacts which affect the amenity of the surrounding area as the proposed outdoor retail use is capable of complying with the noise limits within the existing development consent
- the detailed design, fit-out, layout and operation of the space will be subject to a future assessment process to ensure all impacts are thoroughly assessed and mitigated
- the proposal is substantially the same development as originally approved and the impacts can be managed by the recommended and existing conditions of consent.

Consequently, the Department concludes the proposal is in the public interest and should be approved, subject to conditions (**Appendix D**).

7 Recommendation

It is recommended that the Executive Director, Key Sites and Regional Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 8517 MOD 7 falls within the scope of section 4.55(2) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modifies** the development consent SSD 8517
- **signs** the attached approval of the modification (**Appendix D**).

Prepared by Thomas Piovesan
Senior Planning Officer

Recommended by:



Amy Watson

Team Leader

Key Sites Assessments

Recommended by:



Anthony Witherdin

Director

Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:

Anthea Sargeant

17/3/2022

Anthea Sargeant

Executive Director

Key Sites and Regional Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Major Project's website as follows:

- Modification Report
- Submissions
- Response to Submissions and additional information

<https://www.planningportal.nsw.gov.au/major-projects/project/34336>

Appendix B – Statutory Considerations

To satisfy the requirements of the EP&A Act, the Department has undertaken a detailed assessment of the statutory requirements of:

- section 4.55(2) of the EP&A Act
- the matters listed under Section 4.15(1) of the EP&A Act, including applicable EPIs and regulations.

The Department has considered these matters in its assessment of the proposal in **Table 7** and **Table 8**.

Table 7 | Consideration of section 4.55(2) of the EP&A Act

Section 4.55(2)	Assessment
a) 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)	<p>Section 5 of this report provides an assessment of the impacts associated with the modification application.</p> <p>The expansion of retail uses into Innovation Plaza and a single reversible structure zone remain consistent with the approved adaptive re-use of the Locomotive Workshop (Bays 1-4a), including the range of approved land uses.</p> <p>The retail uses in Innovation Plaza are ancillary to and would operate in association with the retail operations in Bays 1 and 2 of the Locomotive Workshop. No physical changes to the heritage fabric of the Locomotive Workshops or Innovation Plaza are proposed as part of this modification. Innovation Plaza remains predominantly public open space and provides for the movement of pedestrians and cyclists, in accordance with its zone objectives.</p> <p>The Department is satisfied the proposed modification is substantially the same development as the originally approved development as they key components of the development remain, being the adaptive reuse of the Locomotive Workshop (Bays 1-4a) (Section 3).</p>

Section 4.55(2)	Assessment
b) that it has consulted with the relevant Minister, public authority or approval body) in respect of a condition imposed by the Minister, public authority or approval body, and	Not applicable. The development is not integrated development. Despite this, the Department has consulted with Heritage NSW.
c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the EP&A Regulations. Details of the notification are provided in Section 4.1 of this report.
d) any submission made concerning the proposed modification has been considered.	The Department received a total of 18 submissions on the modification application consisting of one from Council, one from Heritage NSW and 16 from the public. The issues raised in submissions have been considered in Section 5 .

Table 8 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The proposed modification is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed below in this report and in Section 3.3 .
(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)(iiiA) any planning agreement	Not applicable.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to Section 4).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers the likely impacts of the proposed modification acceptable and can be appropriately addressed through recommended conditions (refer to Section 5).
(c) the suitability of the site for the development	As the Department is satisfied the modification would result in substantially the same development as originally approved, the site remains suitable for the development.
(d) any submissions	The Department has considered the submissions received (refer to Sections 4 and 5).

Section 4.15(1) Matters for consideration	The Department's assessment
(e) the public interest	The Department considers the proposed modification to be in the public interest.
Reasons given by the consent authority for the grant of the consent that is sought to be modified	The Department has considered the reasons given by the consent authority for the grant of the consent in its assessment in Section 5 .

Environmental Planning Instruments

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the following Environmental Planning Instruments (EPIs), were considered as part of the assessment of this proposal:

- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy – Remediation of Land
- Draft Design and Place SEPP

The Department undertook a comprehensive assessment of the proposal against relevant EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modifications do not result in any inconsistency with these EPIs.

As the application proposes to expand retail uses in Innovation Plaza, the Department has undertaken an assessment against State Environmental Planning Policy (State Significant Precincts) 2005 below.

State Environmental Planning Policy (State Significant Precincts) 2005

The SSP SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic environmental or social significance to the State (State Significant Precincts for the benefit of the State. The SSP SEPP is the relevant EPI for the site and contains applicable development standards, as discussed in **Table 9**.

Table 9 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
Appendix 4 – the Redfern Waterloo Authority Sites 7 – land use zones	Innovation Plaza is zoned Recreation Zone – Public Recreation. Retail premises are prohibited in the zone. Part of the existing southern seating area falls into the Business Park zone which permits retail uses with development consent. As per Section 4.38(3) of the EP&A Act, development consent for SSD may be granted despite the development being partly prohibited by an EPI.
12 Recreation Zone—Public Recreation (1) The objectives of the Recreation Zone—Public Recreation are as follows—	As detailed in Section 3.3 , the Department considers the proposed changes remain consistent with the objectives of the public recreation zone.

Section 4.15(1) Matters for consideration	The Department's assessment	
<ul style="list-style-type: none"> (a) to enable land to be used for public open space or recreational purposes, (b) to enable development for the enjoyment of the community, (c) to ensure the vitality and safety of the community and public domain, (d) to enhance and protect the natural environment for recreational purposes, (e) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area. 		
17 Exempt Development	Clause 17, Appendix 4 of the SSP SEPP provides an avenue for the Applicant to undertake exempt development that complies with guidelines prepared by the former Redfern-Waterloo Authority. Prior to its merger with Urban Growth, only a guideline for temporary community events was prepared. The proposed modification would not impact exempt development of the kind contemplated by the SSP SEPP or guidelines from being carried out.	
20 Subdivision	Not applicable. No subdivision is proposed.	
20A Demolition	Not applicable. No physical works are proposed.	
21 Height, floor space ratio and gross floor area restrictions	<p>(1) The height of a building on any land that is the subject of the Height of Buildings Map is not to exceed the maximum height shown for the land on that map.</p> <p>(2) The floor space ratio of a building on any land that is the subject of the Floor Space Ratio Map is not to exceed the floor space ratio shown for the land on that map.</p> <p>(2A) The gross floor area of a building on any land that is the subject of the Gross Floor Area Map, being land known as the Australian Technology Park, is not to exceed the gross floor area shown for the land on that map.</p>	<p>(1) The maximum permissible height across Innovation Plaza is the existing height. Innovation Plaza contains no built structures. Locomotive Workshop – the maximum permissible height is the existing height of the building. The proposed reversible built structure zone would have a height of 2.6m.</p> <p>(2) Innovation Plaza does not have a floor space ratio (FSR).</p> <p>(2A) Innovation Plaza does not have a maximum gross floor area (GFA). The Locomotive Workshop has a maximum GFA of 42,055 m².</p> <p>The proposed modification seeks a consent for a 14m² reversible structure zone.</p> <p>The existing GFA of the Locomotive Workshop is 11,607 m². The Department is satisfied the use of Innovation Plaza for retail uses associated with the Locomotive Workshop would not exceed the maximum GFA of the Locomotive Workshop.</p>
22 Design excellence	<p>(1) Consent must not be granted to a new building or to external alterations to an existing building unless the consent authority has considered whether the proposed development exhibits design excellence.</p> <p>(2) In considering whether proposed development exhibits design excellence, the consent authority must have regard to the following matters—</p> <ul style="list-style-type: none"> (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, 	<p>The application does not involve any works for a new building or for alterations to an existing building.</p> <p>This modification application seeks approval for a reversible structure zone that may contain a future non-permanent structure to support a retail use within Innovation Plaza. The detailed design of this structure would be progressed as part of a separate DA with Council.</p> <p>No design competition has been held as the modification application does not relate to development identified in clause 22(3) of the SSP SEPP.</p>

Section 4.15(1) Matters for consideration	The Department's assessment
<ul style="list-style-type: none"> (b) whether the form and external appearance of the building will improve the quality and amenity of the public domain, (c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency, (d) if a competition is held as referred to in subclause (3) in relation to the development, the results of the competition. 	
<p>24 Suspension of covenants, agreements and instruments</p>	<p>This clause details that any agreement, covenant or similar instrument that would restrict development within any zone does not apply to the extent necessary to serve that purpose (refer to Section 5.3). Therefore, the presence of the easement discussed in Section 5, does not prevent the determination of this application.</p>
<p>27 Heritage conservation</p>	<p>The Department considers the modification application is consistent with the requirements of clause 27 as the proposed use and built form envelopes would not trigger any of the identified sub-clauses and is satisfied the use of Innovation Plaza would not adversely impact the heritage significance of the area.</p>
<p>28 Preservation of trees or vegetation This clause applies to species or kinds of trees or other vegetation that are identified for the purposes of this clause by a development control plan adopted by the consent authority.</p>	<p>A development control plan has not been adopted by the consent authority. The proposal does not seek to remove any trees.</p>

State Environmental Planning Policy (State and Regional Development) 20011

The site is an identified state significant site under clause 2, Schedule 2 of the SRD SEPP. As discussed in **Section 3** the Department considers the partly prohibited development is appropriate in accordance with section 4.38(3) of the EP&A Act.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across NSW by improving regulatory certainty and efficiency. Given the application does not seek approval for any physical works, it was not referred to Sydney Trains or TfNSW.

State Environmental Planning Policy (Urban Renewal) 2010

The Urban Renewal SEPP aims to establish a process for assessing and identifying urban renewal precincts. As the site was established as a renewal precinct in the current SSP SEPP, the proposed modification would continue to be consistent with the Urban Renewal SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

The original development application included a Remedial Action Plan to address contamination issues. Subsequent conditions relating to remediation and site validation have been satisfied.

Therefore, the Department is satisfied existing conditions of consent ensure the site and overall development remains fit for its proposed use.

Draft State Environmental Planning Policy – Remediation of Land

As existing conditions requiring remediation and site verification have been met, the Department is satisfied the proposed modification to the approved development remains consistent with the Draft Remediation SEPP.

Draft Design and Place SEPP

The Draft Design and Place SEPP aims to promote quality design as part of development. The Explanation of Intended Effect for the draft SEPP was exhibited in early April 2021. The draft SEPP has not yet been exhibited. While the commencement of the draft SEPP is not imminent, the Department considers the proposed modification is consistent with the exhibited principles in the draft Design and Place SEPP.

Appendix C – Approval history

On 22 February 2019 the Independent Planning Commission approved two SSD applications for the adaptive reuse of the Locomotive Workshop Bays 1-4a (SSD 8517) and Bays 5-15 (SSD 8449).

- Bays 1-4a (SSD 8517):
 - a maximum of 11,662 m² 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 travellator
 - associated heritage conservation works
 - public domain works, external illumination and signage.
- Bays 5-15 (SSD 8449):
 - a maximum of 27,458 m² GFA for commercial premises including 156 m² for retail uses
 - associated heritage conservation works
 - external illumination and signage.

SSD 8517 has been modified eight times. These modifications are summarised in **Table 10**.

Table 10 | Summary of SSD 8517 Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Modify Condition B29 (SSD 8517) relating to stormwater and drainage to reduce post development pollutant loads	IPC	4.55(1A)	10 September 2019
MOD 2	Modification to Condition D6 (Construction Hours)	Director	4.55(1A)	29 May 2019

MOD 3	Change the layout of the ground floor of Bays 3-4a	Director	4.55(1A)	6 September 2019
MOD 4	Retain and add additional skylights above Bays 1-4a	Director	4.55(1A)	20 November 2019
MOD 5	Amend conditions of Consent (Part E) to enable the issuing of staged Occupation Certificates, timing of moveable collections plan and glazing changes	Director	4.55(1A)	12 February 2020
MOD 6	Amend the layout of Bay 3-4, Condition B37 to tie the issue of Construction Certificates for the public domain to the approved Civil Works Staging Plan	Director	4.55(1A)	20 August 2020
MOD 8	Install photovoltaic panels to the roof of Bays 1-4a	Director	4.55(1A)	2 September 2020
MOD 9	Install blacksmith flues and hoods	Team Leader	4.55(1A)	15 July 2021

Appendix D – Notice of modification

- SSD 8517 MOD 7: <https://www.planningportal.nsw.gov.au/major-projects/project/34336>

Appendix E – Consolidated Consent

- SSD 8517 MOD 7: <https://www.planningportal.nsw.gov.au/major-projects/project/34336>

Appendix F – Community views

Table 11 contains a summary of the Department's consideration of the issues raised in submissions.

Table 11 | Department's reasons for determination and consideration of community views

Issue raised	Department's consideration
Public access impacts and inconsistent use	<p><i>Assessment</i></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 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 and would therefore 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 *Conveyancing Act 1919*.

Recommended conditions

- 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 reversible ○ 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>Assessment</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.

	<ul style="list-style-type: none"> 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 maximum allowable 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 providing additional retail uses in connection with Bays 1 and 2 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 advised 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.