

21 June 2022

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Mr Michael Cassel
Secretary
Department of Planning and Environment
12 Darcy Street
Parramatta, NSW 2150

SECTION 4.55(1A) MODIFICATION APPLICATION JOHN HUNTER HEALTH AND INNOVATION PRECINCT, LOOKOUT DRIVE, NEW LAMBTON HEIGHTS

This application has been prepared by Ethos Urban on behalf of Health Infrastructure NSW (HI) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 9351535 relating to the John Hunter Health and Innovation Precinct (herein referred to as JHHIP).

The purpose of this modification is to facilitate a number of design improvements resulting from design development relating to civil engineering details, as well as to capture a number of administrative changes relating to the consent. The proposed modifications do not result in an outcome that is substantially different from the approved development and will contribute to an enhanced outcome which retains the essence of the approved development.

This modification application identifies the consent proposed to be modified, describes the proposed modifications, and provides a planning assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This modification application is accompanied by:

- Architectural Plans prepared by BVN (**Attachment A**)
- Civil Modification Plans prepared by Northrop (**Attachment B**).
- Civil Letter prepared by Northrop (**Attachment C**).
- Landscape Plans prepared by Urbis Landscape (**Attachment D**).
- Mine Subsidence Letter prepared by Ditton Geotechnical Services (**Attachment E**).
- Subsidence Advisory NSW Correspondence (**Attachment F**).
- Subsidence Advisory NSW Stamped Plans (**Attachment G**).

1.0 Consent Proposed to be Modified

State Significant Development Consent (SSD 9351535) was granted by the Minister for Planning and Public Spaces on the 30 November 2021 for:

- *Construction and operation of an eleven storey Acute Services Building, including four levels of semi-basement parking and a rooftop helipad.*
- *Refurbishment of existing John Hunter Hospital buildings.*
- *Construction of new road infrastructure and improvements to existing drop-off facilities.*
- *Temporary construction access road.*
- *New pedestrian connections to the new Acute Services Building and a link bridge to the Hunter Medical Research Institute.*
- *Upgrade existing car parking facilities.*
- *Landscape and public domain works.*

- *Mines grouting remediation works.*
- *Building services works and utility adjustments.*
- *Stormwater drainage.*
- *Signage.*
- *Site preparation, including bulk earthworks and tree removal.*

This modification has been prepared for the purposes of seeking approval for minor changes to the design that are a result of design development and improvements to the design. This application represents the first modification to this approval.

2.0 Strategic Context

The John Hunter and John Hunter Children's Hospitals are major metropolitan hospitals and the principal tertiary referral and tertiary hospital for residents of the Hunter New England Local Health District (HNELHD) and Northern NSW and provides a range of clinical and non-clinical services including emergency, surgical, maternity, intensive care, renal and other health services for the Hunter Region. The vision for the JHHIP is that it will continue to develop as a designated centre of excellence and tertiary referral centre for a range of services and innovation. The JHHIP will enable more integrated service delivery through collaboration with key health, education and research partners within a Precinct environment.

In summary, the John Hunter Health and Innovation Precinct project:

- Is consistent with the State Infrastructure Strategy 2018 – 2038 Building the Momentum as it delivers health infrastructure to meet the growing needs of northern NSW.
- Is consistent with the Greater Newcastle Metropolitan Plan 2036, as it provides a new and improved service offering on an existing hospital campus that will increase capacity, improve waiting times and allow for greater integration of services for the Newcastle Region.
- Is consistent with the Hunter Regional Plan 2036's goal of expanding the regional economy in strengthening a strategic centre and Direction 23 of the Hunter Plan in that it promotes the growth of the JHH Strategic Centre and supports economic and future population growth in the region.
- Is consistent with the Newcastle 2030 Community Strategic Plan in providing new health infrastructure associated with the existing JHH and the creation of a health and innovation precinct, provides equitable access to health and promotes a healthy, smart and innovative community.
- Is consistent with Newcastle Employment Lands Strategy 2019 because, increasing the hospital's capacity and providing opportunity for additional ancillary uses, will ensure continued employment growth in the health sector and create opportunities for business within health-related supply chains.
- Is consistent with the Transport for NSW's Future Transport Strategy 2056, as it will provide additional health care facilities in a highly accessible location and provide access to additional new employment opportunities.

3.0 Description of Amendments

The proposed modifications to the development are described below in **Table 1** below and illustrated in the Architectural Plans prepared by BVN (**Attachment A**), and the Civil Drawings prepared by Northrop (**Attachment B**). These modifications are explained in more detail in the Civil Letter prepared by Northrop (**Attachment C**).

Design changes are illustrated on the Architectural Plans at **Attachment A** with each change shown in red bubble with referencing (1, 2, 3 etc.) per table.

Table 1 Summary of design changes

Drawing Reference	Design Change	Explanation
1	Modification of the Proposed OSD Basin 1 Arrangement	<p>This modification seeks to amend the approved OSD basin arrangement to improve the quality of the water runoff. The approved civil design nominates a single onsite detention basin downstream of the acute services building (ASB) which was approved under SSD 9351535, which receives stormwater runoff from both the new building and the existing Hunter Medical Research Institute (HMRI) and existing John Hunter Hospital (JHH) developments. Whilst this design provides the smallest and most efficient detention volume for the site, it also results in a cross mixing of sediment laden water with clean stormwater runoff that is challenging to manage during construction.</p> <p>Therefore, to improve the quality of the water, it is proposed to replace the existing HMRI and JHH detention basin to allow clean runoff from existing buildings to be managed separately to the dirtier water running off from the ASB construction, reducing the risk of sedimentation runoff to downstream waterways during construction.</p>
2	Deletion of the retaining wall at carpark 4 and alternate retaining wall design to the northern road.	The proposed modified design facilitates the installation of an earth batter in lieu of the previously nominated retaining wall, locating the carpark expansion and adjacent Western Bypass Road approximately 4m west of the previous location. This design development has resulted in a reduced footprint of the proposed sediment basin located to the west of the hospital site
3	Replacement of Southern Carpark Bridge with Filled Retaining Wall	The proposed modification entails the incorporation of an alternate design from the currently documented pre-stressed concrete girder bridge to a retaining wall system and engineered fill to the structure of the bridge on the southern portion of Western Road.

Administrative Modifications

This modification application also seeks to amend a number of administrative details relating to the stamped plans associated with the original SSD 9351535 approval. Specifically, condition A2 of the approval currently contains a number of discrepancies with the stamped plans set. Therefore, this modification seeks to rectify these discrepancies.

3.1 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold-strike-through~~** and works to be inserted are shown in ***bold italics***.

TERMS OF CONSENT

A2. The development may only be carried out:

- (a) In compliance with the conditions of this consent.
- (b) In accordance with all written directions of the Planning Secretary.
- (c) Generally in accordance with the EIS and Response to Submissions.
- (d) In accordance with the approved plans in the table below:

Architectural Drawings prepared by BVN Architects			
Dwg No.	Rev	Name of Plan	Date
AR_CO-A22 NL-XO	7 8	Proposed Site Plan – North Road East Phase	06/08/2021 11/05/2022
AR_CO-A22 NL-X1	6 7	Proposed Site Plan – Initial Phase	06/08/2021 11/05/2022
AR_CO-B10 L0-01 AR_CO-B10 L1-00	7	Level 01 Floor Plan	06/08/2021 14/05/2021
AR_CO-B10 L0-02 AR_CO-B10 L2-00	8	Level 02 Floor Plan	06/08/2021
AR_CO-B10 L0-03 AR_CO-B10 L3-00	6	Level 03 Floor Plan	14/05/2021
AR_CO-B10 L0-04 AR_CO-B10 L4-00	6	Level 04 Floor Plan	14/05/2021
AR_CO-B10 L0-05 AR_CO-B10 L5-00	6	Level 05 Floor Plan	14/05/2021
AR_CO-B10 L0-06 AR_CO-B10 L6-00	7	Level 06 Floor Plan	06/08/2021
AR_CO-B10 L0-07 AR_CO-B10 L7-00	8	Level 07 Floor Plan	06/08/2021
AR_CO-B10 L0-08 AR_CO-B10 L8-00	7	Roof Plan	06/08/2021
Landscape Plans prepared by Urbis			
LD_00-B01 NL-01 LD_CO-01 NL-01	F G	SHEET SPLIT SITE RELATED	09/08/2021 13/05/2022
LD_B0-B20 NL-00 LD_CO-B20 NL-00	D	JHH ARRIVAL FORECOURT	09/08/2021
LD_B0-B20 NL-X0 CO-B20 NL-X0	F G	OVERALL ZONAL PLAN	09/08/2021 13/05/2022
LD_B0-B20 NL-X1 LD_CO-B20 NL-X1	D E	TREE REMOVAL PLAN	09/08/2021 13/05/2022
LD_B0-B60 NL-X1 LD_CO-B60 NL-X1	D E	SITE WIDE LANDSCAPE PLAN	09/08/2021 13/05/2022

LD_B0-B61-NL-01 LD_C0-B61-NL-01	B	ARRIVAL FORECOURT SECTIONS	13/05/2021
LD_BA-B20-00-20 LD_CA-B20-00-20	D	ASB BUILDING LEVEL 00	09/08/2021
LD_BA-B20-01-20 LD_CA-B20-01-20	D	ASB BUILDING LEVEL 01	09/08/2021
LD_BA-B20-02-20 LD_CA-B20-02-20	B	ASB BUILDING LEVEL 02	13/05/2021
LD_BA-B20-03-20 LD_CA-B20-03-20	B	ASB BUILDING LEVEL 03	13/05/2021
LD_BA-B20-04-20 LD_CA-B20-04-20	B	ASB BUILDING LEVEL 04	13/05/2021
LD_BA-B20-05-20 LD_CA-B20-05-20	B	ASB BUILDING LEVEL 05	13/05/2021
LD_BA-B20-06-20 LD_CA-B20-06-20	B	ASB BUILDING LEVEL 06	13/05/2021
LD_BA-B20-B1-20 LD_CA-B20-B1-20	D	ASB BUILDING LEVEL B1	09/08/2021
LD_BA-B20-B2-20 LD_CA-B20-B2-20	D	ASB BUILDING LEVEL B2	09/08/2021
LD_BA-B20-B3-20 LD_CA-B20-B3-20	D	ASB BUILDING LEVEL B3	09/08/2021
LD_BA-B20-B4-20 LD_CA-B20-B4-20	D	ASB BUILDING LEVEL B4	09/08/2021
LD_BA-B61-00-01 LD_CA-B61-00-01	B	ASB BUILDING LEVEL 00 COURTYARD SECTIONS	13/05/2021
LD_BA-B61-00-02 LD_CA-B61-00-02	B	ASB BUILDING LEVEL 00 ED ARRIVAL SECTION	13/05/2021
LD_BA-B61-01-02 LD_CA-B61-01-02	B	ASB BUILDING LEVEL 01 ELEVATED GARDEN SECTIONS	13/05/2021
LD_BA-B61-04-01 LD_CA-B61-04-01	B	ASB BUILDING LEVEL 04 COURTYARD SECTIONS	13/05/2021
LD_BJ-B20-02-30 LD_CJ-B20-02-30	B	JHH BUILDING LEVEL 02	13/05/2021
LD_BJ-B20-03-30 LD_CJ-B20-03-30	B	JHH BUILDING LEVEL 03	13/05/2021
LD_BJ-B61-03-01 LD_CJ-B61-03-01	B	JHH BUILDING LEVEL 03 COURTYARD 1 SECTIONS	13/05/2021
LD_BJ-B61-03-02 LD_CJ-B61-03-02	B	JHH BUILDING LEVEL 03 COURTYARD 2 SECTIONS	13/05/2021
LD_CJ-B61-03-03	B	JHH BUILDING LEVEL 03 COURTYARD 3 SECTIONS	13/05/2021

Civil Drawings prepared by Northrop

C001-DA	7-8	7 COVER SHEET, LOCALITY PLAN AND DRAWING SCHEDULE	30/07/2021 11/05/2022
C100-DA	6-7	SOIL AND WATER MANAGEMENT PLAN	30/07/2021 11/05/2022
C101-DA	6-7	SOIL AND WATER MANAGEMENT DETAILS	30/07/2021 11/05/2022
C102-DA	6-7	SOIL AND WATER MANAGEMENT NOTES	30/07/2021 11/05/2022
C200-DA	7-8	BULK EARTHWORKS PLAN	30/07/2021 11/05/2022
C300-DA	8-9	CIVIL WORKS ARRANGEMENT PLAN	02/07/2021 11/05/2021
C400-DA	8-9	ROAD SETOUT PLAN	02/08/2021 11/05/2021
C401-DA	7-8	ROAD TYPICAL SECTIONS	30/07/2021 11/05/2022
C501-DA	7-8	ROAD LONG SECTIONS SHEET 1	30/07/2021 11/05/2022
C502-DA	7-8	ROAD LONG SECTIONS SHEET 2	30/07/2021 11/05/2022
C503-DA	8	ROAD LONG SECTIONS SHEET 3	30/07/2021 11/05/2022

Reason: To reflect the revised plans as a result of the proposed modifications, as well as to address administrative errors relating to plan references in the consent.

4.0 Statutory Context

4.1 Substantially the same development

Section 4.55(1A)(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 development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The amendments do not change the intent or use of the health precinct as approved.
- The amendments do not alter the approved development's level of compliance with the applicable environmental planning instruments and policies.
- The changes are intended to improve the design of approved elements of the design, and therefore, no new built form or design changes are proposed.
- The modification is consistent with the mitigation measures established in the development consent to protect the environment from potentially adverse effects of the development.
- The changes will not result in any new environmental impacts.

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 relevant to the development subject of this application and the reasons given by the consent authority for the grant of the original consent.

4.2 Compliance with Environmental Planning Instruments

The relevant environmental planning instruments are addressed in **Table 2** below.

Table 2 Relevant statutory legislation

Instrument	Assessment
Coal Mine Subsidence Compensation Act 2017	The site is identified as being located within a mine subsidence district. Mine subsidence is discussed further at Section 6.1 .
Biodiversity Conservation Act 2017	There are no changes proposed to the extent, area or amount of vegetation previously approved to be cleared under SSD 9351535, and therefore, no further assessment is required.
State Environmental Planning Policy (Planning Systems) 2021	This SEPP identifies development that is SSD. Pursuant to this SEPP, hospitals with a CIV of more than \$30 million are considered SSD. The approved JHHIP SSD 9351535 had a CIV of more than \$30 million and therefore was declared SSD. Accordingly, this application seeks to modify this SSD approval.
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Under the original JHHIP SSD assessment, the then <i>State Environmental Planning Policy (Koala Protection) 2021</i> (now Biodiversity and Conservation SEPP) was assessed, and the JHHIP campus footprint was not identified as core koala habitat, as no koalas were recorded within the footprint. Further, koalas have not been recorded nearby (within 2.5 kilometres in the Central Coast Koala Management Area) within the last 18 years. No further provisions of the Biodiversity and Conservation SEPP apply.
	Therefore, no further assessment is required.

Local Planning Instruments and Controls

Newcastle Local Environmental Plan 2012	The assessment previously undertaken against the <i>Newcastle Local Environmental Plan 2012</i> (Newcastle LEP) under SSD 9351535 remains relevant and the development is consistent with this assessment. As the proposal does not seek approval for any significant works other than minor alterations to the approved development, no new assessment against the Newcastle LEP is required.
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5.0 Engagement

Due to the nature of the modification and negligible impacts on the community, further authority and community engagement is not required.

6.0 Assessment of Impacts

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under Section 4.55(3), the Consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters of the modification under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

6.1 Mine Subsidence

An addendum to the Mine Subsidence Assessment for SSD 9351535 has been prepared by DGS and is included at **Attachment E**. This addendum confirms that, with reference to the subsidence assessment and the proposed grouting of the mine workings, all of the amendments will be located outside of the area of influence of the proposed mine grouting works. Therefore, there will be no impact on mine subsidence.

Correspondence from Subsidence Advisory NSW confirms that the works are substantially the same as that originally assessed, and the conditions approval previously provided remain unchanged. This correspondence and plans stamped by Subsidence Advisory NSW are included at **Attachment F** and **Attachment G**.

6.2 Environmental Disturbance

Northrop at **Attachment C** confirms the revised road and carpark works are generally in line with the approved work extents, with minor batter increases adopted on the Western Bypass Road to remain within the approved disturbance footprint. Accordingly, there is no additional environmental impacts to assess.

6.3 Australian Standards

Northrop at **Attachment C** confirms the civil design has been completed in accordance with Austroads and AS2890.1.

6.4 Reasons given for granting consent

The Minister for Planning and Public Spaces determination report sets out the following reasons for granting consent for the approval of SSD 9351535:

- The project would provide a range of benefits for the region and the State as a whole, including a significant investment which would support the delivery of 1,613 jobs during the construction phase and 210 new operational jobs.
- The project is permissible with development consent and is consistent with NSW Government policies, including the NSW Premier's Priorities, Infrastructure NSW's State Infrastructure Strategy 2018 – 2038 Building the Momentum, the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036 and Newcastle Council's Local Strategic Planning Statement.

- The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. The Department is satisfied the traffic generated by the proposal can be accommodated on the surrounding road network, subject to the completion of the adjoining Newcastle Inner City Bypass (NICB). In that regard, the Department has included conditions requiring the implementation of management measures to minimise traffic impacts if the hospital is delivered prior to the completion of the NICB. The Department is also satisfied the proposal adequately seeks to avoid and minimise biodiversity impacts and delivers a biodiversity offset strategy that appropriately compensates for the unavoidable loss of ecological values on the site. The Department has included conditions requiring the Applicant to investigate minimising biodiversity impacts associated with the future road access to the eastern part of the hospital campus.
- The issues raised in agency submissions have been considered and adequately addressed through the recommended conditions of consent.
- Weighing all relevant considerations, the project is in the public interest.

The proposed modifications seek to ensure the improvement of the buildability of the proposed Acute Services Building and associated civil infrastructure. Further, the project will not result in any new environmental impacts. Therefore, the proposed modification remains consistent with the approved intent of the development, as per SSD 9351535.

7.0 Conclusion

The purpose of this modification is to facilitate a number of design improvements resulting from design development relating to civil engineering details. The proposed modifications do not result in an outcome that is substantially different from the approved development and will contribute to an enhanced outcome which retains the essence of the approved development.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ella Coleman'.

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A handwritten signature in black ink, appearing to read 'Chris McGillick'.

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