



CFe/TW  
10051  
28 September 2016

Ms Carolyn McNally  
Secretary  
Department of Planning and Environment  
33 Bridge Street  
SYDNEY 2000

Attention: Cameron Sargent

Dear Ms McNally,

**SECTION 96(2) MODIFICATION APPLICATION TO SSD 5897  
BARANGAROO SOUTH STAGE 1B TEMPORARY STORMWATER DIVERSION WORKS**

On behalf of Lend Lease (Millers Point) Pty Ltd (Lendlease) we hereby submit an application pursuant to Section 96(2) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent, SSD 5897.

This Section 96(2) application relates specifically to the component of SSD 5897 relating to the diversion and augmentation of stormwater infrastructure. The approved Block 4 remediation and earthworks (under SSD 5897) included diversion and augmentation of stormwater drainage infrastructure to the south of the Stage 1B groundwater retention wall and north of the existing Stage 1A basement. Approval is sought as part of this modification application for a second option, primarily to locate the temporary stormwater diversion pipe in the footpath on the western side of Hickson Road.

Fundamentally, the modification, will allow the flexibility of a second option for temporary stormwater diversion works during construction. The changes proposed do not affect the nature, scope or delivery of the overall works associated with SSD 5897.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 96(2) and 79C(1) of the EP&A Act.

It should be read in conjunction with the Environmental Impact Statement (EIS) prepared by JBA dated November 2013 and is accompanied by:

- Modified Drawing BB2\_PA1\_A008 (SSD 5897) (Appendix A);
- Civil Engineering Drawings and Civil Engineering Report prepared by Cardno (Appendix B);
- Contamination Assessment prepared by AECOM (Appendix C);
- Transport Assessment prepared by Arup (Appendix D); and
- Arboricultural Impact Assessment prepared by TreeTalk Arboricultural Consulting (Appendix E).

## 1.0 BACKGROUND

Parts of Barangaroo are contaminated and are the subject of a Declaration by the Environment Protection Authority (EPA) as a Remediation Site, including part of Block 4. The Remediation Site is the subject of a Voluntary Management Proposal (VMP), and a Remedial Action Plan (RAP) has been prepared for the Remediation Site. The RAP also provides for the remediation of Block 4 to ensure it is suitable for the future intended land uses consistent with the approved Barangaroo Concept Plan. As such, the RAP is known as the 'VMP/Block 4 RAP'.

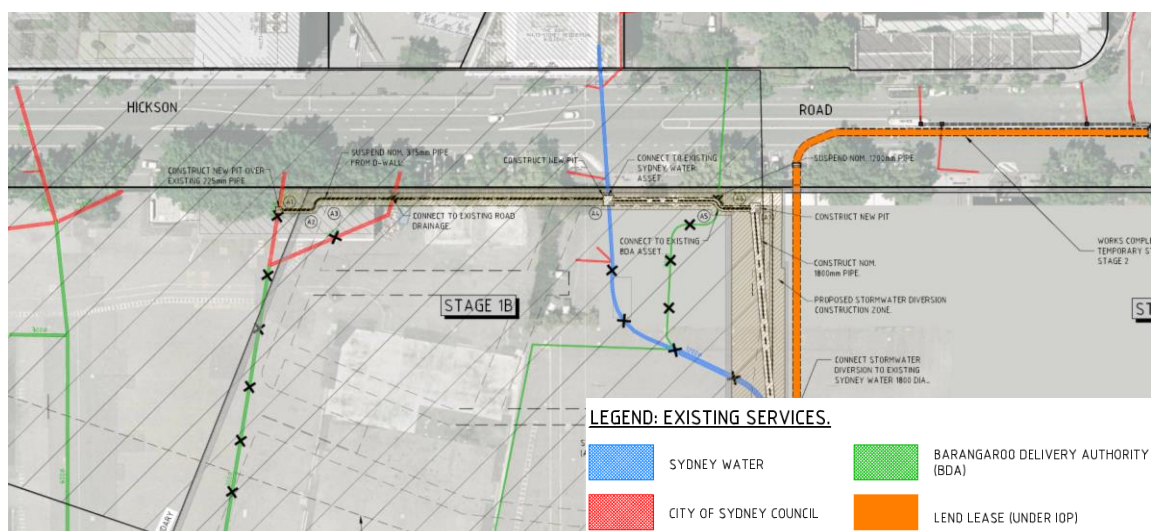
SSD 5897 was approved for the remediation of contaminated land at Block 4 in accordance with the VMP/Block 4 RAP as well as for bulk excavation of part of Block 4 for future development (known as the Stage 1B development).

The existing stormwater network is characterised by a series of transverse piped stormwater systems (typically between 300mm to 1200mm in diameter) draining from Hickson Road and other external catchments through the Barangaroo site, directly to the Harbour. As such, the approved Block 4 Remediation and Earthworks (under SSD 5897) included the diversion and augmentation of stormwater drainage infrastructure to the south of the Stage 1B groundwater retention wall and north of the existing Stage 1A basement.

The approved stormwater diversion works include decommissioning existing pipes and construction of a new pipe network consisting of capture pits, box culverts and concrete pipework, as well as the associated water treatment structures, to connect to the existing Sydney Water Pipeline in the western part of Block 4. The new infrastructure will be installed as temporary infrastructure where it runs parallel to Hickson Road (i.e. north-south), and as permanent infrastructure where it extends between the Stage 1A basement and the Stage 1B groundwater retention wall.

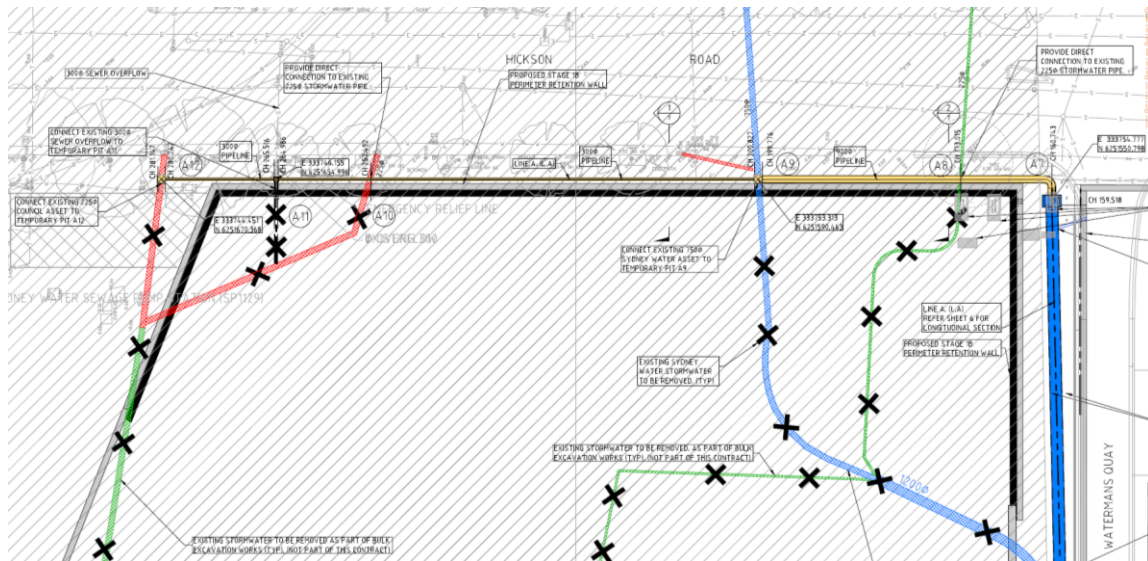
The subject of the modification is the position of the temporary stormwater pipe and pit arrangement. Under the layout currently approved as part of SSD 5897, the temporary stormwater pipe is designed to be fixed to the inside of basement perimeter wall associated with the construction of the Stage 1B Basement (SSD 6960). The proposed modification seeks approval for a second temporary option, which is to locate the temporary stormwater diversion pipe in the footpath on the western side of Hickson Road (i.e. just outside the Block 4 boundary).

**Figure 1** illustrates the temporary stormwater diversion solution as approved by SSD 5897. **Figure 2** illustrates the proposed second option.



**Figure 1** – Approved temporary stormwater diversion (SSD 5897)

Source: Cardno



### 1.1 Consent proposed to be modified

Development Consent SSD 5897 was granted on 10 November 2014 for the following components of development:

- Remediation works including land within EPA Declaration Area (No. 21122);
- Construction of a groundwater retention wall;
- Bulk excavation within the groundwater retention wall;
- Diversion and augmentation of stormwater infrastructure;
- Erection of temporary enclosures for excavation and remediation works; and
- Tree removal and management, demolition of existing structures on site and associated works.

This section 96 application (the Modification Application) constitutes the first modification to the consent.

## 1.2 Consultation

As one of its key underlying processes, Lendlease has undertaken a range of engagement and consultation processes as part of the progression of the design development and to inform this modification application. Consultation has included: City of Sydney Council, Sydney Harbour Foreshore Authority, Sydney Water, the Department of Planning and Environment and the Barangaroo Delivery Authority.

## 2.0 OVERVIEW OF PROPOSED MODIFICATION

The existing stormwater network is characterised by a series of transverse piped stormwater systems draining from Hickson Road and other external catchments through the Barangaroo site directly to the Harbour. As such, the approved Block 4 Remediation and Earthworks (under SSD 5897) included diversion and augmentation of stormwater drainage infrastructure to the south of the Stage 1B groundwater retention wall and north of the existing Stage 1A basement.

At the time of the Block 4 Remediation consent (SSD 5897) it was intended that the temporary north-south pipe would be located on the eastern boundary of Block 4, within the Stage 1B basement area. Once the Stage 1B groundwater retention wall was to be constructed, the temporary stormwater pipe was intended to be attached to the (western) side of the wall (i.e. inside the Block 4 boundary). The temporary north-south stormwater diversion pipe would remain in place until a suitable alternative permanent stormwater management system was in place. Permanent north-south stormwater infrastructure would ultimately be located within Hickson Road and is subject to a separate approval process (Part 5 Activity), which is currently underway.

To facilitate this diversion, SSD 5897 approved a temporary north-south pipe which would be located on the eastern boundary of Block 4, within the Stage 1B basement area. However, to ensure the efficient and timely delivery of the construction of the basement (proposed under SSD 6960) and to ensure the most safe and cost effective solution to temporary stormwater diversion works is available during construction, approval is now sought for a second option, to locate the temporary stormwater diversion pipe in the footpath on the western side of Hickson Road (i.e. just outside the Block 4 boundary). This application seeks the ability to retain both temporary stormwater diversion solutions as an option during construction.

The reason for the second option being sought is that the timing/staging of construction will dictate which option is selected. The timing of works will take into consideration proposed timing of bulk excavation works on Block 4 and adjacent remediation works in Hickson Road. Inclusion of the second option, the subject of this modification application, is proposed to allow flexibility for the selection of a temporary location, depending on final timing/staging of construction works.

The modification application, which essentially seeks approval for a second option for temporary stormwater diversion works, would involve the following works for the second option:

- Excavation for proposed stormwater pits, pipes and culverts, including demolition of part of the existing western footpath of Hickson Road.
- Construction of stormwater pits, pipes and culverts, including:
  - Approximately 66 metres of 1350mm reinforced concrete pipe (RCP) along (to be owned by Sydney Water). This section is unchanged to the design documented in the drawings that form part of the current approval.
  - Approximately 40 metres of 900mm Temporary Polyvinyl Chloride (PVC) within the footpath on the western side of Hickson Road.
  - Approximately 81 metres of 300mm PVC within the footpath on the western side of Hickson Road.
  - Connection of a number of existing stormwater pits and pipes to the proposed stormwater diversion works, including a Sydney Water sewer overflow.
  - Construction of three stormwater pit structures.
- Installation of bedding, laying of the stormwater lines and backfilling the trenches;
- The excavation will be backfilled with suitable validated material (as per the VMP/Block 4 RAP); and
- Reinstatement of disturbed surfaces as required for the Hickson Road pedestrian area.

The detail of the proposed option is included in the Civil Engineering Drawings and Report prepared by Cardno, included in **Appendix B**.

### 3.0 MODIFICATIONS TO CONDITIONS

The proposed modification described above necessitates an amendment to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold italic strike through~~** and words to be inserted are shown in ***bold italics***.

#### SCHEDULE 2

##### A ADMINISTRATIVE CONDITIONS

...

*The development will be undertaken in accordance with the following documents and plans:*

<b><i>Section 96(2) Report prepared by JBA Urban Planning Consultants Pty Ltd dated September 2016 and accompanying appendices.</i></b>
<i>Environmental Impact Statement entitled 'Block 4' Development Remediation Works, Bulk Excavation and Retention Wall System Construction, EPA Remediation Site 21122 'Block 4' (Stage 1B), Barangaroo South' and accompanying appendices, prepared by JBA Urban Planning Consultants Pty Ltd and dated November 2013.</i>
<i>The Human Health and Ecological Risk Assessment entitled 'Human Health and Ecological Risk Assessment, Declaration Site (Development Works) Remediation Works Area - Barangaroo', prepared by AECOM Australia Pty Limited and dated 9 June 2011.</i>
<i>The Human Health and Ecological Risk Assessment entitled 'Human Health and Ecological Risk Assessment, VMP Remediation Works (Addressing the NSW EPA Declaration 21122, Millers Point)', prepared by AECOM Australia Pty Limited, dated 25 October 2012.</i>
<i>The Remedial Action Plan entitled 'Remedial Action Plan, NSW EPA Declared Remediation Site 21122 and Block 4 (Stage 1b) Development Works, Barangaroo, Millers Point, NSW, prepared by AECOM Australia Pty Limited and dated 24 July 2013.</i>
<i>The Site Audit Report entitled 'Site Audit Report - Remedial Action Plan, Declaration Area and Block 4, Barangaroo', prepared by ENVIRON Australia Pty Ltd, dated July 2013.</i>
<i>Site Audit Statements (No. GN 447A and No. GN 439B-3), approved by Mr. Graeme Nyland (EPA accredited Site Auditor) and dated 31 July 2013.</i>
<i>Response to Submissions report entitled 'EPA Remediation Site 21122, Block 4 (Stage 1B), Barangaroo South 'Block 4' Development. Remediation Works, Bulk Excavation and Retention Wall System Construction' and accompanying appendices, prepared by JBA Urban Planning Consultants Pty Ltd and dated June 2013.</i>
<i>Response to Submissions Addendum report entitled 'Block 4 Remediation and Land Forming Works (SSD 5897) - Addendum to Response to Submissions Report' and accompanying attachments, prepared by Lend Lease and dated 19 August 2014.</i>
<i>Preliminary Hazards Analysis report entitled 'Remediation and Land forming Works Development Application SSD 5897-2013 Barangaroo Block 4, Hickson Road, Millers Point, NSW', prepared by AECOM and dated 25 February 2014.</i>
<i>Site plans and sections prepared by Lend Lease Design, (Graham Jones, Principal Architect) and overview and staging plans prepared by ARUP.</i>



<i>Drawing No.</i>	<i>Issue</i>	<i>Name of Plan</i>	<i>Date</i>
<i>Site Plans and Sections</i>			
<i>BB2 PA1 A000</i>	<i>A</i>	<i>Title Sheet</i>	<i>26/07/2013</i>
<i>BB2 PA1 A001</i>	<i>A</i>	<i>Aerial Location Plan</i>	<i>26/07/2013</i>
<i>BB2 PA1 A002</i>	<i>A</i>	<i>Site Survey</i>	<i>26/07/2013</i>
<i>BB2 PA1 A003</i>	<i>A</i>	<i>Locality/Context Plan</i>	<i>26/07/2013</i>
<i>BB2 PA1 A004</i>	<i>A</i>	<i>Demolition Plan</i>	<i>26/07/2013</i>
<i>BB2 PA1 A005</i>	<i>B</i>	<i>Permanent Retaining Wall Plan</i>	<i>14/05/2014</i>
<i>BB2 PA1 A006</i>	<i>A</i>	<i>Cross Section 1-1</i>	<i>26/07/2013</i>
<i>BB2 PA1 A007</i>	<i>A</i>	<i>Cross Section 2-2</i>	<i>26/07/2013</i>
<i>BB2 PA1 A008</i>	<del><i>A</i></del> <b><i>B</i></b>	<i>Earthworks Drawing</i>	<del><i>26/07/2013</i></del> <b><i>19/09/2016</i></b>
<i>Overview and Staging Plans</i>			
<i>226463-CCT-SKT-0001</i>	<i>I</i>	<i>Overview Drawing Remediation Works and Staging</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1001</i>	<i>G</i>	<i>Staging Plan - Stage 1</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1002</i>	<i>G</i>	<i>Staging Plan - Stage 2</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1003</i>	<i>G</i>	<i>Staging Plan – Stage 3</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1004</i>	<i>G</i>	<i>Staging Plan – Stage 4</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1005</i>	<i>G</i>	<i>Staging Plan – Stage 5</i>	<i>22/08/2013</i>
<i>226463-CCT-SKT-1006</i>	<i>G</i>	<i>Staging Plan – Stage 6</i>	<i>22/08/2013</i>

**Reason for modification:** This condition is updated to permit the second temporary stormwater diversion option whilst retaining the current temporary solution approved with SSD 5897. Drawing BB2 PA1 A008 has been amended to extend the indicative zone of stormwater works which will accommodate the works required under both options. The detail of both temporary stormwater diversion options is retained through reference to the original EIS, Response to Submissions Report and associated appendices and the information in the supporting appendices of this Section 96(2) modification application.

**Figure 3** below provides an extract of the modified plan BB2\_PA1\_A008 (Revision B, 19/9/2016)) which seeks to extend the indicative zone of stormwater diversion works to within the area required for the stormwater diversion works associated with the proposed Option 2 (refer to **Appendix A**).

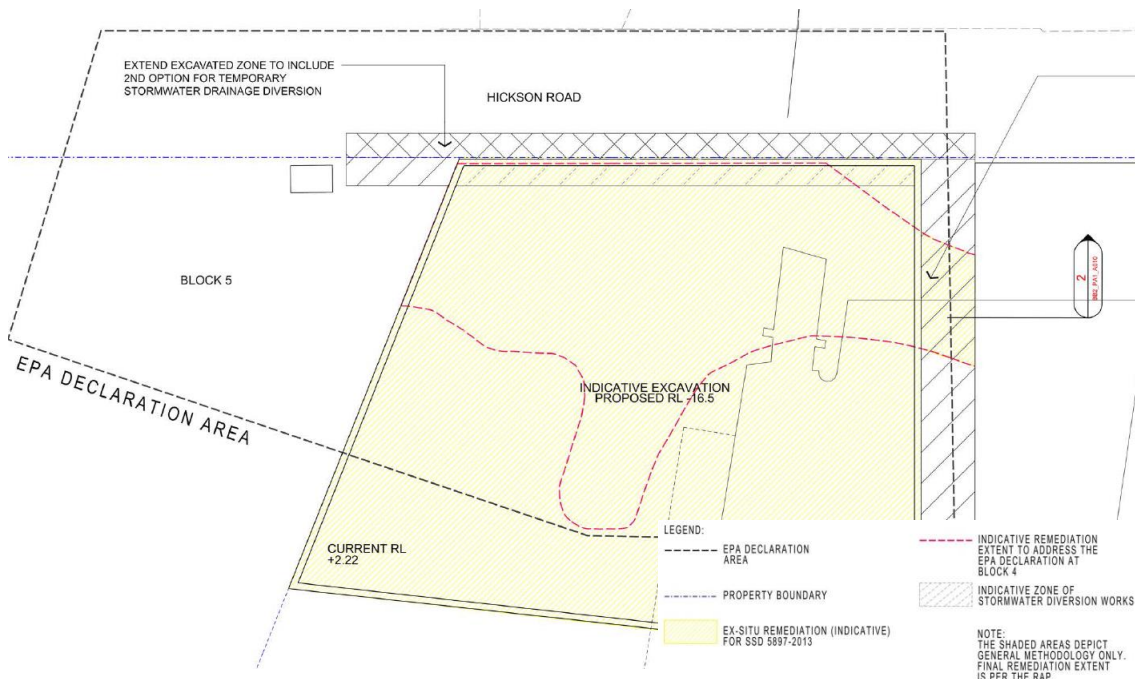


Figure 3 – Proposed modified plan BB2\_PA1\_AA08 (Revision B, 19/9/2016)

Source: Lend Lease

#### 4.0 SECTION 96 OF THE EP&A ACT, 1979

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent. The statutory requirements to be satisfied for the grant of consent to modify a development consent are set out in Section 96. These depend on whether or not the modification is made under subsection (1), (1A) or (2).

This modification application to development consent SSD-5897 is accordingly made under Section 96(2) of the EP&A Act.

Pursuant to Section 96(2) of the EP&A Act, the Minister or his delegate may modify development consent if:

- (a) *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), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**(emphasis added)**

The development as proposed to be modified is substantially the same development as that originally approved, in that the proposed modification will not modify any component of the works other than permitting an additional temporary stormwater diversion option, with the selected option to be determined at construction stage (and dependent on the timing of construction of the Stage 1B Basement). The proposed modification of the proposed stormwater diversion and augmentation component of the approved consent will ensure this component is substantially the same as approved, as:

- The modification will still involve diversion and augmentation of stormwater drainage infrastructure around Block 4 to the south of the proposed groundwater retention wall and north of the existing Stage 1A basement.
- The proposed second option for temporary diversion will still involve the decommissioning of existing pipes, and the construction of a new temporary stormwater pipe network and associated water treatment (e.g. gross pollution traps) to connect to an existing Sydney Water pipeline on the southern boundary of Block 4.

Accordingly, the consent authority may be satisfied that the modified proposal represents substantially the same development for which consent was originally granted. The modification of development consent SSD 5897 can therefore lawfully be approved under Section 96(2) of the EP&A Act.

## 5.0 ENVIRONMENTAL ASSESSMENT

Section 96(3) of the Act requires the consent authority to take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Section 79C(1) of the EP&A Act states:

*“In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- (iii) any development control plan, and*
- (iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,*

*(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,*

*(c) the suitability of the site for the development,*

*(d) any submissions made in accordance with this Act or the regulations,*

*(e) the public interest.”*



## 5.1 Section 79C(1)(a) Planning Instruments

The Environmental Impact Statement (EIS) submitted with the original State Significant Development Application (SSD 5897) addressed the proposed development's level of compliance against the relevant environmental planning instruments. As outlined in this Section 96(2) report, the proposed modification seeks approval for a second option for temporary stormwater diversion works and does not seek to modify any other element of the existing development consent for SSD 5897. The proposed modification will therefore not alter the level of compliance of the development with the relevant planning instruments. For completeness, **Table 3** provides a summary overview of the proposed modified development's continued level of compliance with relevant planning instruments.

**Table 1** – Compliance with relevant environmental planning instruments

Instrument	Comments
<b>SEPP (State &amp; Regional Development)</b>	The modified development continues to meet the threshold for State Significant Development.
<b>SEPP (Major Development) 2005</b>	The aims of the MD SEPP are to facilitate the redevelopment of important sites such as Barangaroo for the benefit of the State and provide for the development of major sites for a public purpose. The modification application will not impact on the approved development's consistency with the approved Barangaroo Concept Plan
<b>SEPP 55 – Remediation of Land</b>	The site remains suitable for the proposed development subject to the implementation of Remedial Works as originally approved. The proposed modification does not alter the site's suitability. Whilst outside of Block 4, the Hickson Road road reserve is within the VMP area, and the VMP/Block 4 RAP applies. Further, the VMP/Block 4 RAP has been endorsed to provide for the remediation of the Hickson Road part of the VMP remediation area under SSD 6617, which was approved on 26 August 2016. Remediation within the Hickson Road road reserve will be managed in accordance with the VMP/Block 4 RAP and interim remediation works will be undertaken to prevent access to the underlying soils and mitigate the potential migration of gas into the excavated trenches where future intrusive maintenance works could be conducted on the temporary pipe, ensuring that Hickson Road remains suitable for its continuing use as a public road.
<b>SEPP (Infrastructure)</b>	The provisions of the Infrastructure SEPP apply more during the consideration and assessment of the original SSDA in terms of requirements and referrals for development applications (i.e. not modification applications). Further referral of this modification application to relevant agencies and approval bodies is not considered necessary, given the nature of the changes.
<b>SEPP (Miscellaneous Consent Provisions) 2007</b>	The proposed modification is consistent with the objectives of the SEPP and does not trigger any new matters for consideration.
<b>SREP Sydney Harbour Catchment</b>	The proposed modified development does not affect the level of compliance with the key relevant matters for consideration.
<b>Sydney Harbour Waterways Development Control Plan 2005</b>	The proposed modification does not alter the approved development's compliance with the controls of the DCP.

## 5.2 Section 79C(1)(b) Impact on the Environment

The EIS submitted with the original SSDA addressed the likely impacts of the development. The proposed modified development does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. Where relevant, the technical reports and plans addressing the above matters have been updated to provide an assessment of the modified design (refer attached technical reports). The consensus of these reports has been that in light of the nature of the modification to the approved development the conclusions of the original assessment remain valid and no further assessment or mitigation measures are required. The following matters, however, warrant further assessment and consideration.

### Contamination and Remediation

A contamination assessment has been prepared by AECOM (**Appendix C**) which assesses the proposed temporary stormwater diversion works option. The land within Hickson Road is contaminated, and is part of the same Remediation Site as Block 4. The contaminated parts of Hickson Road are also subject to the same VMP and RAP as Block 4 (i.e. the VMP/Block 4 RAP). The temporary stormwater diversion works may be carried out prior to the remediation of Hickson Road.

An assessment of soil and groundwater contamination conditions within Hickson Road is presented in the VMP/Block 4 RAP. In relation to the proposed alignment of the temporary stormwater pipe:

- the central portion of the temporary pipe will cross over the 1870 gas holder annulus;
- separate Phase Gasworks Waste and Tar (SPGWT) is not likely to be encountered during the excavations based on the proposed construction depths for the temporary stormwater pipe;
- soil sampling from boreholes located directly on the proposed pipe alignment did not identify odours or visual evidence of contamination;
- the southern section of the pipe is likely to be installed in relatively shallow bedrock of approximately 0.5 to 1.0 m bgl;
- the connecting pit between the 300 and 900mm pipes will be constructed to a depth of approximately 2.0 m bgl and will be located within the footprint of the 1870 gas holder annulus. The pit will likely be constructed into bedrock. No odours or visual evidence of contamination was noted in the soil or bedrock at this sampling location, however tar odours are present below a depth of 5 m bgl within the annulus;
- SPGWT and contaminated groundwater has been identified to be present within the former Tar Tank located to the east of the stormwater pipe alignment; and
- there is a potential for vapour migration from soil and shallow, contaminated groundwater likely to be present within the former the 1870 gas holder annulus, Tar Tank and the Small Gas Holder which could pose an unacceptable risk to intrusive maintenance workers (mitigation measures outlined below).

Given the above, it is highlighted that the works are not expected to intercept contamination. Despite this, the following interim remediation works will be carried out within the alignment of the proposed temporary stormwater pipe to prevent access to the underlying soils and mitigate the potential migration of gas into the excavated trenches where future intrusive maintenance works could be conducted on the temporary pipe:

- the base of excavations within the vicinity of the historic gasworks infrastructure be lined with a High Density Polyethylene (HDPE) liner;
- suitable, validated fill material be used to backfill around the stormwater pipe to the required finished level;
- the unexpected finds protocol described the VMP/Block 4 RAP be implemented; and
- a Validation Report should be prepared for the interim remediation works in accordance with the VMP/Block 4 RAP, and submitted to the NSW EPA Accredited Site Auditor for approval.

Based on the information above, the contamination assessment (**Appendix C**) concludes:

- based on the available information and the presence of former gasworks structures adjacent to the proposed temporary stormwater pipe, interim management works (as described in Section 4.0 of **Appendix C**) will be required to mitigate the risk of soil vapour from underlying soil and groundwater contamination from impacting on future intrusive maintenance workers;
- in the unlikely event that contamination is identified as part of the proposed temporary construction works, implementation of the Unexpected Finds Protocol described by Section 6.0 of **Appendix C** will mitigate against unacceptable risks to human health and the environment; and

- the information contained in **Appendix C** will enable the relevant consent authority to comply with Clause 7(1) of SEPP 55 – Remediation of Land (1998) in relation to the proposed temporary stormwater construction works.

#### **Traffic and Transport**

The existing traffic lanes on Hickson Road will be maintained throughout the temporary works. No changes to their current operation or flow are proposed, given the temporary works are to take place entirely within the existing Hickson Road western footpath area.

The current arrangement of Hickson Road, where one traffic lane is provided in each direction, is not proposed to be altered; therefore the proposal would not result in the loss of any traffic capacity. On-site traffic controllers will be present to manage the movement of heavy vehicles in this area and ensure through traffic is not significantly impacted.

A Transport Assessment has been prepared by Arup (**Appendix D**) which considers the transport impacts arising from the temporary works option. The assessment concludes that subject to appropriate implementation of traffic management measures, the impact of the proposed works can be managed appropriately.

#### **Arboricultural Impacts**

An Arboricultural assessment has been prepared (**Appendix E**) which provides information about the impact of planned works in the vicinity of trees and how these can be managed to limit impact upon trees being retained. The report provides an impact assessment of the proposed works on the remaining trees marked as 102, 103 and 104 and recommends protection measures. The assessment concludes that if pipes are proposed greater than 1m below the surface of the trees, the impact upon major tree roots will be minimal. All surface tree protection measures must remain in place for Trees 102, 103 and 104 (and Trees 100 and 101) should be retained as recommended in **Appendix E**.

### **5.3 Section 79C(1)(c) Suitability of the site for the proposed development**

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original SSDA. The newly affected land within the Hickson Road road reserve is currently used for the reticulation of utilities, including stormwater. Hickson Road will remain as a public road, and its use for the location of temporary stormwater infrastructure is consistent with its current and continuing use as a public road.

### **5.4 Section 79C(1)(d) Submissions made**

Any submissions made on this subject modification application will be duly considered and addressed by Lendlease and its experienced project team.

### **5.5 Section 79C(1)(e) The public interest**

The proposed modifications to the approved development are considered to be in the public interest, especially given the changes will enable the effective and smooth delivery of temporary and permanent diversion and augmentation of stormwater drainage infrastructure. Fundamentally, the modification allows the flexibility of a second option for temporary stormwater diversion works during construction which will be beneficial in ensuring the timely delivery of the overall stormwater works for Barangaroo South.

## 6.0 CONCLUSION

This Section 96(2) application seeks to modify the existing development consent SSD 5897 in order to allow the flexibility of a second option for the location of the approved temporary stormwater diversion pipe in the footpath on the western side of Hickson Road. This alternative option is proposed to ensure the most timely and effective solution to temporary stormwater diversion works is available during construction, and is ultimately required to respond to the timing of construction.

In accordance with section 96(2) of the EP&A Act, the Minister or her delegate may modify the consent as the consent, as proposed to be modified, is substantially the same development as that originally approved.

We trust that this information is sufficient to enable assessment and approval of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact the undersigned on 9956 6962.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Chris', followed by a period.

Chris Ferreira  
*Senior Planner*