

Our Ref: 2190140
Council Ref: SSD 8517

1 April 2019

2190140

Carolyn McNally
Secretary
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Emily Dickson

Dear Emily

SECTION 4.55(1A) MODIFICATION APPLICATION BAYS 1-4A -LOCOMOTIVE WORKSHOPS, SOUTH EVELEIGH

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mircvac), pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act) to modify Development Consent SSD 8517 which relates to Bays 1-4a, Locomotive Workshops, South Eveleigh.

The purpose of this modification request is to seek approval to modify Condition B29 within the Development Consent for SSD 8517. Condition B29 refers to the provision of a stormwater quality assessment.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by a letter from Harris Page & Associates Hydraulic Consultants (**Attachment A**).

1.0 Background

Two State Significant Development Applications (SSDs 8517 and 8449) relating to the Locomotive Workshops were submitted to the Department of Planning & Environment (the Department) on 13th November 2017.

SSD 8517 related to the eastern portion of the Locomotive Workshop being Bays 1-4a and sought approval for:

- The adaptive reuse of the Locomotive Workshops (Bays 1-4a) including:
 - a maximum of 11,662m² GFA for uses including retail premises, function centre, educational establishment, information and education facility, artisan food and drink industry, general industrial (retention of the Blacksmith) and recreation facility (indoor);
 - a loading dock and travelator;
 - associated heritage conservation works;
 - public domain works, external illumination and signage.

SSD 8449 related to the western portion of the Locomotive Workshops being bays 5-15 and sought approval for:

- The adaptive reuse of the Locomotive Workshops (Bays 5-15) including:
 - A maximum of 27,458m² GFA for commercial premises including 156m² for retail uses;
 - Associated heritage conservation works;
 - External illumination and signage.

Development consent for both SSD applications was granted by the Independent Planning Commission (IPC) on 22 February 2019.

1.1 Consent to be modified.

The consent that is to be modified in this application is SSD 8517 that relates to Bays 1-4a within the Locomotive Workshops, South Eveleigh.

This consent has not been previously modified.

2.0 Proposed modifications to the consent

2.1 Modifications to the development

This modification application does not propose any physical works to the approved development.

2.2 Modifications to conditions

This modification application seeks an amendment to condition B29 included within the Development Consent for SSD 8517. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**. A justification for the proposed amendments are also provided.

2.2.1 Condition B29

B29 – Stormwater and Drainage

Prior to a Construction Certificate issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken and must be approved by the PCA.

The stormwater quality assessment must:

- (a) Be prepared by a suitably qualified drainage engineer with experience in Water Sensitive Urban Design;
- (b) Use modelling from an industry-standard water quality model; and
- (c) Demonstrate what water sensitive urban design and other drainage measures will be used to ensure that the development will achieve the following post-development pollutant loads:
 - (i) reduce the ***post versus pre*** baseline annual pollutant load for little and vegetation larger than 5mm by ***90% ≥25%***;
 - (ii) reduce the ***post versus pre*** baseline annual pollutant load for total suspended solids by ***85% ≥30%***;
 - (iii) reduce the ***post versus pre*** baseline annual pollutant load for total phosphorus by ***65% ≥10%***
 - (iv) reduce the ***post versus pre*** baseline annual pollutant load for total nitrogen by ***45% ≥10%***.

Justification

It is noted that the Development Consent for SSD 7317 included a condition of consent that applied to the construction of Buildings 1, 2 and 3 at South Eveleigh that mirrors Condition B29 in SSD 8517.

The pollutant removal design criteria outlined in Condition B29, are also specified in the City of Sydney DCP 2012 and within Sydney Water's '*Stormwater quality targets*' policy (dated 15 January 2016). Within Sydney Water's policy, it is stated that the pollutant removal design criteria had been adopted from *Western Sydney Growth Centre – Stormwater Guidance for Precinct Planning* (Prepared by DC) Nov 2006).

In our opinion, and as advised by Harris Page Hydraulic Engineers (refer to **Attachment A**), the pollutant removal design criteria as set out in Condition B29 is only intended to be applied to new buildings and post-development site discharges and do not account for pre-development site conditions or existing buildings.

Our view is reinforced by Sydney Water '*Stormwater quality targets*' policy which specifies that a development "*may be exempt from these targets if...you are refurbishing an existing building and maintaining the existing drainage system*".

The Environmental Impact Statement that accompanied the SSD 8517 application, specified that the Locomotive Workshops' existing stormwater drainage and downpipe system would be retained. Furthermore, given the Locomotive Workshops are an existing State Heritage listed building and the stormwater drainage system has been in place for a significant period of time, we consider that the proposed Locomotive Workshops development should be exempted from meeting the pollutant removal targets as currently outlined in Condition B29.

Notwithstanding this, Mirvac and its Hydraulic Consultants – Harris Page & Associates and Ocean Protect, have designed a stormwater water treatment train design that utilises OceanGuard technology and StormFilter devices, as illustrated in **Figure 1**.

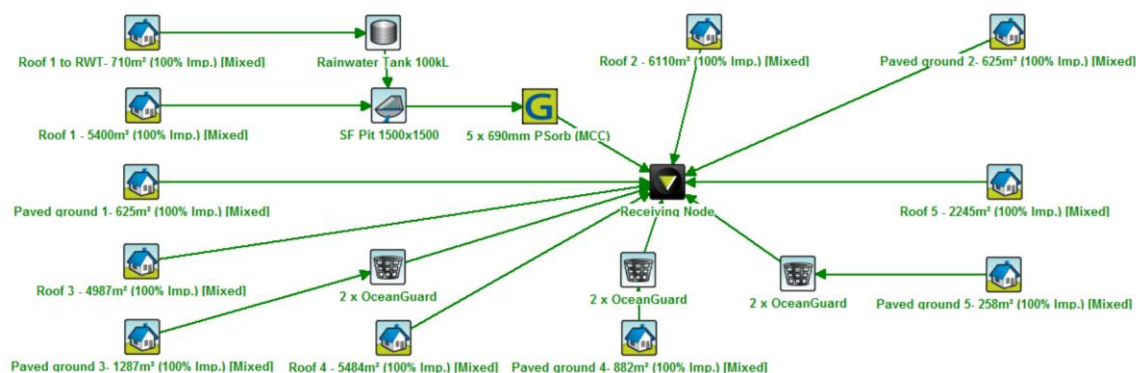


Figure 1 Proposed Locomotive Workshops Stormwater Treatment Train

The OceanGuard technology is a gully pit basket designed to fit within new and existing gully pits to remove pollution from stormwater runoff. The system has a choice of filtration liners, designed to remove gross pollutants, total suspended solids and attached pollutants that are used as part of the treatment train that integrates with the StormFilters.

The StormFilter is designed and sized to meet stringent regulatory requirements. It removes the most challenging target pollutants (including fine solids, soluble heavy metals, oil and soluble nutrients) using a variety of media.

Through the installation of the proposed stormwater treatment train, the Locomotive Workshops project will be able to achieve the pollutant removal design targets as set out in **Table 1**.

Table 1 Proposed pollutant removal design targets

Pollutant	Average annual pollutant load reduction target
Gross pollutants (>5mm)	≥25%
Total suspended solids	≥30%
Total phosphorus	≥10%
Total nitrogen	≥10%

Source: Ocean Protect – MUSIC modelling

It is understood that the proposed pollutant removal design targets will enable the Locomotive Workshop development to achieve a Neutral or Beneficial Effect (NorBE), i.e. the Locomotive Workshop development will ensure that the post development pollutant loads will not increase from those present pre-development.

NorBE is referenced within *State Environmental Planning Policy (Drinking Water Catchment) 2011*, and whilst the SEPP does not apply to the subject site, the NorBE approach is endorsed by the Sydney Catchment Authority. Further, within the Sydney Catchment Authority publication '*Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015*' it is stated that "although not specified in the SEPP, the neutral or beneficial effect on water quality guideline may provide a framework to consider state significant development under Part 4.1 of the EP&A Act".

For the reasons statement above, approval is sought to utilise the NorBE approach to water quality for the Locomotive Workshops project and amend Condition B29 as proposed.

3.0 Substantially the same development

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 development to which the consent as modified relates is substantially the same development as the development for which the 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 proposed amendments to Condition B29 do not seek to modify the approved uses, external or internal built structures or heritage fabric;
- does not increase the maximum GFA permitted within Bays 1-4a;
- the modified development retains the same design and development parameters as approved;
- the environmental impacts of the modified development remain substantially the same as the approved development; and
- the proposed modifications do not give rise to any new matters/ area of non-compliance and are of minimal environmental impact.

4.0 Environmental assessment

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 under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Stormwater management

The proposed amendments seek to reduce the pollutant removal design targets that apply to the proposed development. However, as explained in Section 2.2.1, it is considered that:

- the Locomotive Workshop development should be exempted from meeting the pollutant removal targets that are currently set out in Condition B29 on the basis that it is an existing State heritage listed building and stormwater drainage system has been in place for a significant period of time; and
- the proposed pollutant removal targets that are set out in Section 2.2.1 are achievable and will enable the Locomotive Workshop development to achieve a Neutral or Beneficial Effect to water quality.

Accordingly, the proposed amendments to Condition B29 will not give rise to any unacceptable environmental impacts upon water quality that is discharged from the site.

5.0 Conclusion

This modification application seeks an amendment to the wording of Condition B29 within development consent SSD 8517, as it is not considered appropriate to apply the existing pollutant removal design targets to the proposed development.

In accordance with section 4.55(1A) of the EP&A Act, the Department of Planning & Environment 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,



Claire Burdett
Associate Director
02 9956 6962
cburdett@ethosurban.com