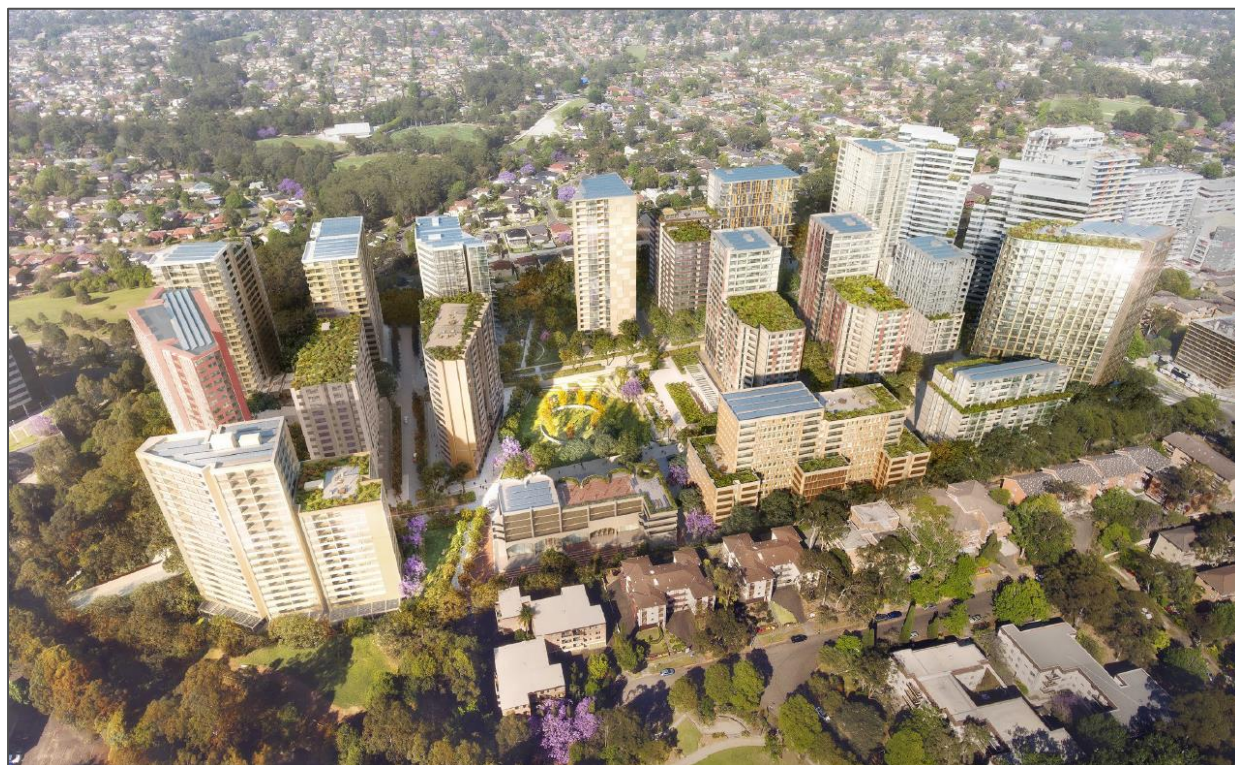




Ivanhoe Estate Redevelopment Stage1 Modification 1

Amendments to conditions
State Significant Development Modification Assessment
(SSD 8903 MOD 1)

November 2020



Published by the NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Ivanhoe Estate Redevelopment Stage 1 Modification 1

Subtitle: Amendments to conditions to State Significant Development Modification Assessment (SSD 8903 MOD 1)

Cover image: Visualisation of the approved Ivanhoe Estate redevelopment concept plan

© State of New South Wales through Department of Planning, Industry and Environment 2020. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2020) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
Applicant	NSW Land and Housing Corporation
Council	City of Ryde
Department	Department of Planning, Industry and Environment
DPIE Water	Department of Planning, Industry and Environment (Water Division)
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW (RMS)	Transport for NSW (RMS)
The site	Ivanhoe Estate, Macquarie Park

Contents

1	Introduction	1
1.1	Background	1
1.2	Approval history	2
2	Proposed modification	4
2.1	Proposed modified conditions	4
2.2	RTS additional proposed modified conditions	9
3	Statutory context	11
3.1	Scope of modifications	11
3.2	Consent authority	11
3.3	Mandatory matters for consideration	11
4	Engagement	12
4.1	Department's engagement	12
4.2	Summary of submissions	12
4.3	Key Issues – Government agencies	12
4.4	Response to submissions	12
4.5	Additional information	13
5	Assessment	14
5.1	Modification of conditions to be satisfied prior to commencement of works/issue of a Crown Building Works Certificate/issue of a Subdivision Works Certificate	14
5.2	Modification of conditions to be satisfied during construction	18
5.3	Modification of conditions to be satisfied prior to occupation or commencement of use	19
6	Evaluation	20
7	Recommendation	21
8	Determination	22
	Appendices	23
	Appendix A – List of referenced documents	23
	Appendix B – Statutory Considerations	24
	Appendix C – Modification Instrument	27

1 Introduction

This report provides an assessment of an application seeking to modify the State significant development (SSD) approval (SSD 8903) for Stage 1 of the Ivanhoe Estate redevelopment.

The application has been lodged by the NSW Land and Housing Corporation (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks approval for amendments to conditions of consent. No changes are proposed to the approved use of the land or the design of the buildings and public domain areas.

1.1 Background

The Ivanhoe Estate (the site) is located within Macquarie Park, within the City of Ryde local government area. The site has a total area of 8.2 hectares and is located on the south-eastern corner of the intersection of Epping Road and Herring Road (**Figures 1 and 2**). The site also incorporates adjoining land, being a portion of Shrimptons Creek and 2-4 Lyonpark Road.

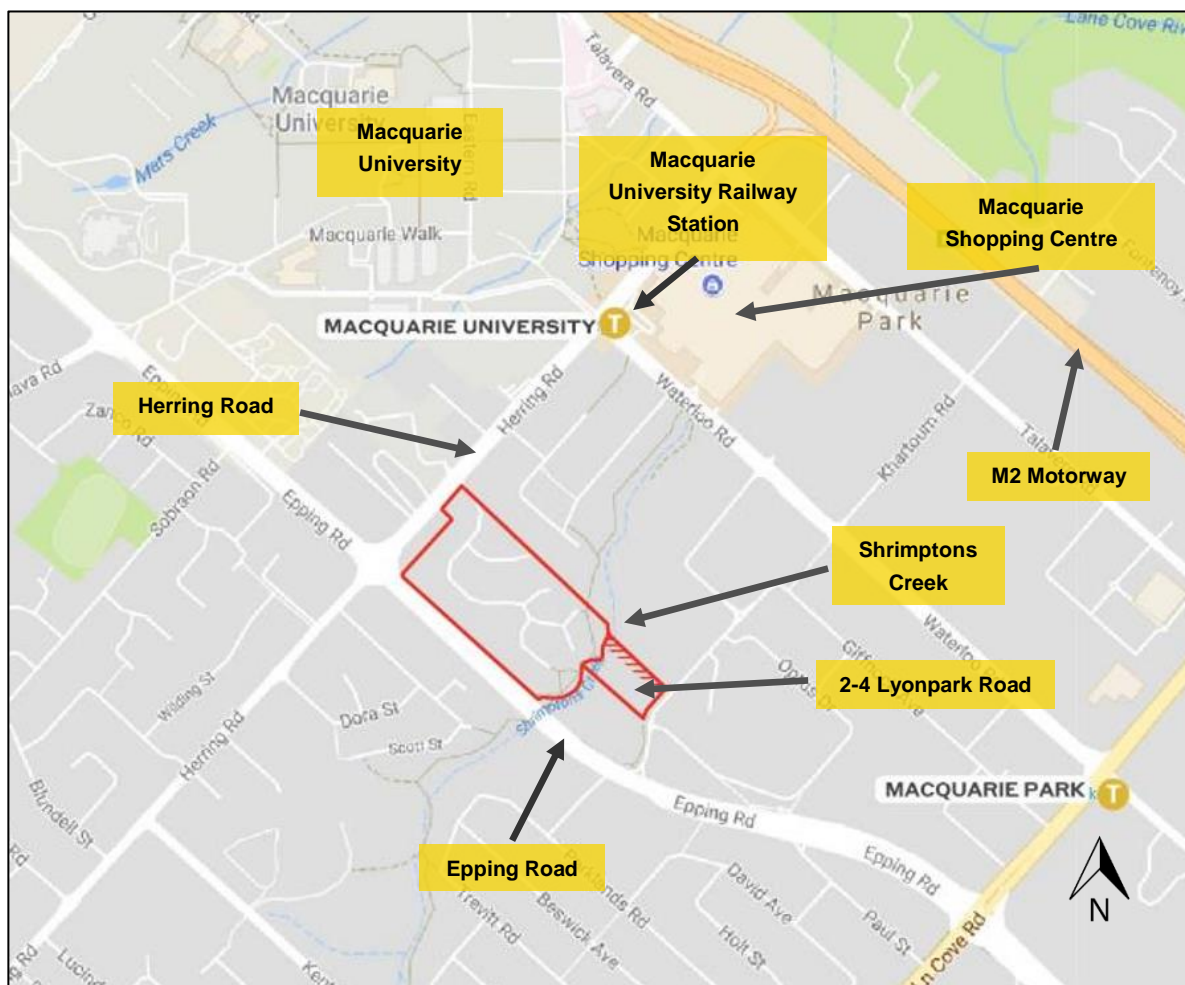


Figure 1 | Site location (highlighted in red) (Source: Department's SSD 8707/8903 Assessment Report)



Figure 2 | Aerial view of the site (Base source: Department's SSD 8707/8903 Assessment Report)

1.2 Approval history

On 30 April 2020, the Minister for Planning and Public Spaces approved SSD 8707 and SSD 8903 for the Ivanhoe Estate redevelopment concept plan and Stage 1 respectively.

The concept approval for redevelopment of the site included:

- approximately 3,300 residential dwellings, including approximately 950 social and 128 affordable housing dwellings, and 273 seniors housing units (private and social independent living)
- a 120-bed residential aged care facility (RACF)
- a primary school (approximately 430 places)
- community centres
- 960 m² of retail tenancies intended for convenience retail and cafés
- office premises to accommodate Mission Australia
- two childcare centres (approximately 75 places each)
- roads, public and communal open space.

The Stage 1 approval included:

- construction of buildings A1 (25-storeys and 269 apartments) and C1 (14 to 20 storeys and 471 apartments, including 259 social housing apartments)
- a 75-place childcare centre within Building A1
- removal of 343 trees, demolition of the existing road network, bulk earthworks, remediation works and provision of utilities and service infrastructure across the site
- construction of the new estate road network, including new road bridge across Shrimptons Creek
- amalgamation, subdivision and stratum subdivision.

Figure 3 illustrates the approved concept plan, including the location of Buildings A1 and C1 and the approved road network and bridge.

The concept and Stage 1 development consents have not been previously modified. A modification to amend Condition A30 (Section 7.11 Contributions) of the concept approval is however currently under assessment by the Department.

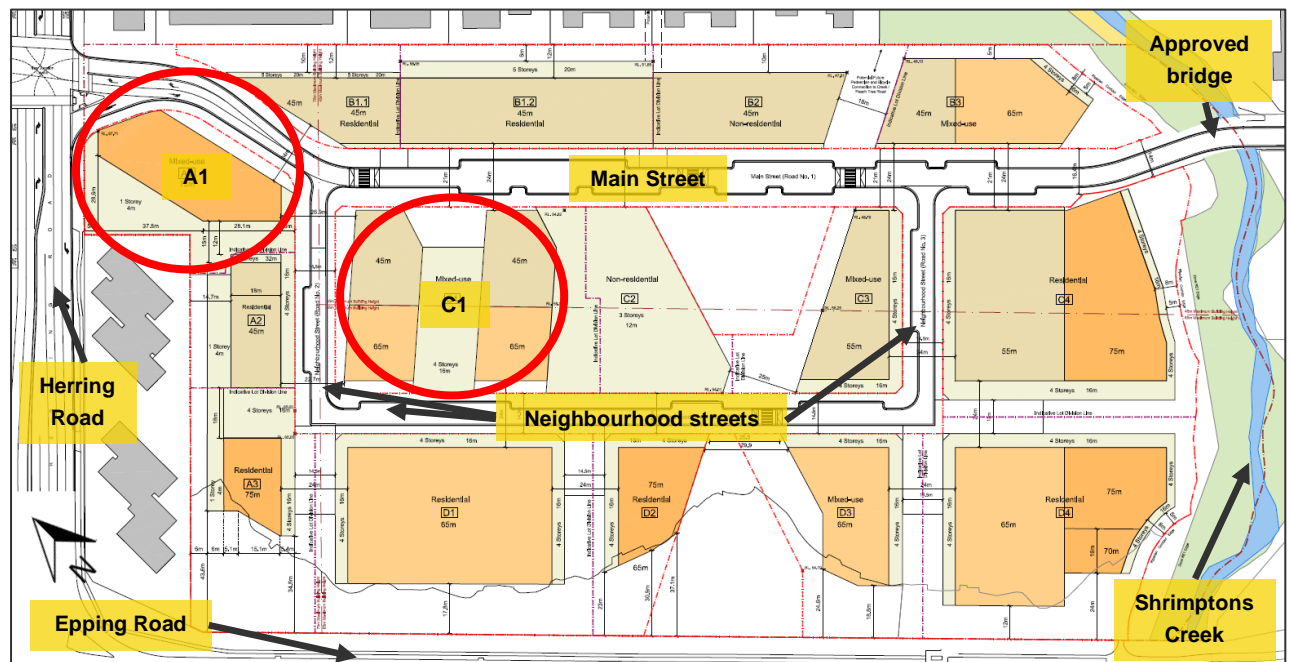


Figure 3 | Approved Ivanhoe Estate Masterplan. Location of approved Stage 1 buildings shown circled red (Base source: Department's SSD 8707/8903 Assessment Report)

2 Proposed modification

2.1 Proposed modified conditions

On 2 July 2020, the Applicant lodged a modification application (SSD 8903 MOD 1) seeking approval, under section 4.55(1A) of the EP&A Act, to amend 34 conditions of consent.

The application has since been modified to delete the proposed changes to nine of these conditions (B90, B92, C24, D31, D33, D36, D41, D42 and D45).

The proposed amendments to the conditions are identified below. Words proposed to be deleted are shown in ~~strike through~~ and words to be inserted are shown in **bold and underline**.

MAXIMUM HEIGHT

- B27 The maximum height of Building A1 must not exceed RL 138.3 m AHD. The measurement of maximum height excludes plant and lift overruns, communication devices, antennae, satellite dishes, **parapets**, masts, flagpoles, chimneys, flues and the like. Details confirming compliance must be submitted to the Certifier prior to the issue of any Crown Building Works Certificate.
- B28 The maximum height of Building C1 must not exceed RL 124.95 m AHD to the top of the north-western tower, RL 121.95 m AHD to the top of the south-eastern tower, and RL 69.9 m AHD to the top of the three storey townhouses. The measurement of maximum height excludes plant and lift overruns, communication devices, antennae, satellite dishes, **parapets**, masts, flagpoles, chimneys, flues and the like. Details confirming compliance must be submitted to the Certifier prior to the issue of any Crown Building Works Certificate.

CONSTRUCTION SOIL AND WATER MANAGEMENT PLAN

- B45 A **Construction Soil and Water Management Plan (CSWMP)** must be prepared to manage soil and water impacts during construction of the development. The **CSWMP** must be prepared ~~in consultation with Council~~, **and a copy provided to the Council**, prior to the issue of a Crown Building Works Certificate for each building.

The **CSWMP** must be prepared in accordance with the provisions of the “Blue Book” Part 1 [Landcom (2004) Managing Urban Stormwater: Soils and Construction, 4th edition]. The **CSWMP** must consider likely stages of the works and provide for appropriate control of sediment and erosion for each stage and include, but not be limited to:

- (a) location and extent of all necessary sediment and erosion control measures for the site;
- (b) catchment plan;
- (c) sediment basin(s) locations including details showing how runoff from the entire site will be directed to the sediment basin(s). Requirements for sediment basins are specified below;
- (d) all relevant details and calculations of the sediment basins including sizes, depths, flocculation, outlet design, all relevant sections, pump out systems, and depths;
- (e) all details of basement and other excavation pump out and dewatering treatment systems including flocculation and any proposed discharge from the site from dewatering and pump out systems. Requirements for dewatering are specified below;
- (f) identification and management of any stormwater run-on to the site from adjacent sites;
- (g) location of any temporary stockpiles (soil, spoil, topsoil or otherwise) and accompanying sediment and erosion control measures;
- (h) location and details of all vehicle wash down bays and associated erosion and sediment control measures such as earthen bunds; and

- (i) a daily and weekly site inspection checklist consistent with IECA Best Practice Erosion and Sediment Control documents.

A Sediment Basin is required for every catchment discharging from the site as part of any **CSWMP**. Sediment basin(s) are to be designed as follows:

- (a) according to the NSW Blue Book (section 6.3.4 and Appendix E). The calculations of the sediment basin size must be submitted with the **CSWMP**;
- (b) using type D soils (unless otherwise demonstrated by an analysis of site soils by a qualified geotechnical);
- (c) for all events up to the peak flow rate from the 1 in 10-year ARI event for the site for the 5-day rainfall event; and
- (d) to include a gypsum flocculent to be added to the sediment basin in accordance with Appendix E of the Blue Book.

BIODIVERSITY MANAGEMENT PLAN

B47 Prior to the commencement of the relevant works, the Applicant must prepare a **Biodiversity Management Plan** (BMP) for the site. The BMP must be consistent with the recommendations contained in the Biodiversity Assessment Report prepared by Eco Logical, dated October 2019, and be prepared by an appropriately qualified person, in consultation with Council, the EESG and the Natural Resources Access Regulator (NRAR). The BMP must include:

- a) pre-clearance surveys and clearance supervision of hollow bearing trees
- b) the replacement of all removed hollows with artificial nest boxes or the removed hollows at a ratio of 1:4 (removed/replaced), with installation occurring within the retained vegetation adjacent to Shrimptons Creek
- c) a **Vegetation Management Plan** for the long-term management of all vegetation on the site, including Shrimptons Creek and the Epping Road ecological corridor
- d) the use of local provenance species appropriate for the threatened ecological communities and plant community types present on the site
- e) appropriate monitoring and maintenance periods of the vegetation to ensure its long-term viability following the completion of the rehabilitation works **for five (5) years**.
- f) a **Weed Management Plan**.

A copy of the final **BMP** demonstrating compliance with the above must be submitted to ~~and approved by the~~ Planning Secretary and an approved copy provided to the Certifier.

CLEARANCE FROM LAND – HERRING ROAD

B49 With the exception of temporary works and anchors, all buildings and structures, together with any improvements integral to the future use of the site, are to be erected clear of the land required for road (unlimited in height or depth) along the Herring Road boundary. Details confirming compliance must be submitted to the Certifier and TfNSW (RMS) prior to the commencement of any works for Building A1. All temporary works and anchors **(excluding de-stressed temporary anchors)** are to be removed upon completion of works.

CONTAMINATION

~~B59 Prior to the commencement of any works and following additional testing (Condition B55), an updated Unexpected Contamination Finds Protocol (UFP), prepared by a suitably qualified and experienced expert, shall be provided to the Certifier. The UFP must be implemented for the duration of construction works.~~

- B60 ~~The Applicant is required to engage a site auditor accredited under the *Contaminated Land Management Act 1997* to review the adequacy of the site investigations and required updated UFP, remedial works and management plans. Details confirming compliance must be submitted to the Certifier prior to the commencement of any works.~~

HAZARDOUS MATERIALS MANAGEMENT PLAN

- B63 ~~Prior to the commencement of works, a Hazardous Materials Management Plan (HMMP) prepared by a suitably qualified person, shall be submitted to the Certifier. The HMMP must be prepared in consultation with the EPA and SafeWork NSW. The HMMP must:~~

- ~~a) ensure the development complies with the *NSW Occupational Health and Safety Regulation 2001* and Part 7 of the *Protection of the Environment Operations (Waste) Regulation 2014*~~
- ~~b) be consistent with Safe Work Australia's codes of practice *How to Safely Remove Asbestos 2011* and *How to Manage and Control Asbestos in the Workplace 2011*;~~
- ~~c) identify any known or potential areas of concern on site for hazardous and asbestos containing materials;~~
- ~~d) outline the procedures for identification, handling and disposal of hazardous materials;~~
- ~~e) include an Asbestos Management Plan;~~
- ~~f) ensure that all hazardous materials would be handled and disposed of by suitably qualified and licensed experts in accordance with the relevant guidelines and legislation;~~
- ~~g) ensure an induction process is in place for site workers and visitors regarding the identification of hazardous and asbestos containing materials and the formal procedures to be followed if such materials are identified on site;~~
- ~~h) include a suitable airborne asbestos fibre monitoring program for all asbestos removal works areas; and~~
- ~~i) outline the procedures for validation and inspection following the completion of asbestos removal works and issuing of asbestos clearance certificates.~~

~~Prior to the commencement of works, a copy of the HMMP demonstrating compliance with the above must be submitted to the EPA, SafeWork NSW and the Planning Secretary.~~

INSTALLATION OF WATER EFFICIENT FIXTURES AND FITTINGS

- B71 ~~Systems Urinals must include 'smart controls' to reduce unnecessary flushing in publicly accessible bathrooms. Continuous flushing urinal systems are not approved. Details are to be submitted to the Certifier prior to the commencement of the relevant works.~~

GROUNDWATER DESIGN

- B85 ~~The design and construction of each building must prevent any take or inflow of groundwater after the completion of construction by making any below-ground levels fully watertight for the anticipated life of each building (i.e. full tanking of each basement is required). Details demonstrating compliance must be submitted to the Certifier prior to the issue of the relevant Crown Building Works Certificate for each building.~~

STORMWATER

- B95 All engineering works required by this consent must be designed and undertaken in accordance with the relevant aspects of Council's DCP 2014 Part 8.2, Australian Rainfall and Runoff (ARR) 1987, NSW Floodplain Development Manual 2005 and any other relevant Australian Standards.

Detailed design plans, calculations and other supporting documentations prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) must be submitted to, and approved by, the Certifier prior to the commencement of the relevant works. A copy of the approved plans and documentation must be provided to Council prior to the commencement of the relevant works.

The detailed design documentations shall be generally in accordance with the Concept Stormwater Plan Drawing 300001(1)-EX-001, Version C, prepared by ADW Johnson, dated 4 October 2018, ~~subject to any amendments warranted by Council's City Works Directorate as a result of the review and approval of the design plans.~~

Detailed design documentation for the Water Sensitive Urban Design (WSUD) components shall be prepared by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, experienced in WSUD. The documentation, demonstrating compliance with the above, shall be submitted to the Certifier for approval prior to the commencement of the relevant works. A copy of the approved plans and documentation must be provided to Council prior to the commencement of the relevant works.

- B96 All temporary stormwater works must be designed and undertaken in accordance with the relevant aspects of the Council's DCP 2014 Part 8.2, Australian Rainfall and Runoff (ARR) 2019, NSW Floodplain Development Manual 2005 and any other relevant Australian Standards.

Detailed design plans of the temporary works stormwater design, calculations and other supporting documentations prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) must be submitted to, and approved by, the Certifier prior to the commencement of the relevant works. A copy of the approved plans and documentation must be provided to Council prior to the commencement of the relevant works.

~~The detailed design of temporary works drainage shall be subject to any amendments warranted by Council's City Works Directorate as a result of the review and approval of the temporary works design plans.~~

To ensure satisfactory performance of the excavation, laying of pipes, back filling, disposal of excess soil and restoration including new kerb and gutter works, the Applicant must maintain all trunk drainage works until dedication to Council.

A bond in the form of a cash deposit or Bank Guarantee of \$200,000 shall be lodged with Council prior to the issue of any Crown Building Works Certificate to guarantee this requirement will be met. The bond will be released on dedication to Council.

- B97 Electronic copies of the input and output files of the design software used shall be submitted to Council in a form compatible with Council's computer software along with the plan and a hard copy of the input and output data prior to the issue of the relevant Crown Building Works Certificate **or Subdivision Works Certificate**.

GROUNDWATER MONITORING

- C43 ~~All groundwater monitoring bores installed across the site shall be subject to in-situ permeability testing (rising head tests or falling head tests) at each stage of the development to inform the calculations of groundwater take by each excavation and the results shall be reported to NRAR.~~
- C45 Daily measurements of water levels from monitoring bores outside basement support walls, weekly measurements of groundwater and discharge water quality, and weekly measurements of pumped volumes shall be recorded by the proponent throughout the construction phase of the development **where bulk excavation is within 0.5 m of measured groundwater levels.**

STORMWATER

- C46 Inspections are to be undertaken by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, for all Council trunk drainage works.

The Applicant shall submit to the Certifier, Certification from the Engineer **or equivalent**, at each stage of the inspection listed below, stating all civil and structural construction works have been executed as detailed in the stamped approved plans, and in accordance with the relevant

Australian Standards, Council's standards and specifications within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- (a) Upon excavation of trenches as per the approved drainage drawings.
- (b) Upon installation of pit reinforcement but prior to concrete pour for cast in-situ pits.
- (c) Upon installation of pipes and other drainage structures prior to backfilling.
- (d) Upon backfilling of excavated areas and prior to the construction of the final pavement surface.
- (e) Final inspection - upon the practical completion of all drainage and associated works (including road pavements, kerb & gutters, footpaths and driveways) with all disturbed areas satisfactorily restored.
- (f) Any stormwater pit with a depth greater than 2.5 metres shall be certified by a suitably qualified Structural Engineer.

C48 ~~Water quality targets in accordance with Council's DCP 2014 Part 8.2 and all relevant guidelines must be maintained throughout all construction phases. Testing shall be carried out at a frequency of no less than every three (3) months and inspections and certification shall be undertaken by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent. Certifications demonstrating compliance shall be submitted to the Certifier.~~

C49 During construction, the following measures should be incorporated with direction from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), **or equivalent**:

- (a) construction equipment, materials, stockpile, access roads and work platforms should not be sited within floodways where the distribution of flood flows will be significantly altered and increase flood impacts on adjoining properties
- (b) hazardous material should be sited so that the risk of such material entering a watercourse during a flood event is minimised
- (c) appropriate activities and methodologies should be put in place that addresses awareness, preparedness, response and recovery from a flood event in regard to such things as work health and safety, waterway impacts, site impacts and site reestablishment should a flood event occur during construction
- (d) temporary measures shall be provided and regularly maintained during demolition, excavation and construction to prevent sediment and polluted waters discharging from the site.

UTILITY PROVIDERS

D28 Prior to the occupation or use of each building, written advice **or certification** shall be obtained from the relevant water supply authority, wastewater disposal authority, electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provision of adequate services.

STORMWATER

D32 To ensure Council's existing and new stormwater infrastructures are adequately protected, there are no damages and the construction has been completed and is fit for purpose, a post-construction CCTV report on Council's existing stormwater drainage pipeline and all new trunk drainage works through the proposed development site and to the downstream discharge point is to be submitted to Council accompanied by a certificate from a suitably qualified stormwater engineer (registered on the NER of Engineers Australia) **or equivalent**.

FLOODING

- D38 A Detailed Flood Emergency Response Plan (FERP) is to be developed for all **relevant** buildings within the Ivanhoe Estate. The FERP shall consider floods up to and including the Probable Maximum Flood (PMF). Implementation and maintenance of the FERP shall be the responsibility of the relevant owner's corporation and relevant building management. All owners and tenants of the building must be made aware of the FERP. Details of the FERP prepared by a qualified Engineer are to be submitted to Council prior to the occupation or use of each building.
- D40 A certificate from a suitably qualified Chartered Structural Engineer (registered on the NER of Engineers Australia), or equivalent, shall be provided to the Certifier, prior to the occupation or use of each **relevant** building, confirming the building structures are able to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, the impact of debris and buoyancy forces up to the Probable Maximum Flood (PMF) event.

POSITIVE COVENANT FOR WASTE COLLECTION

- D48 Where it is necessary for waste collection vehicles to enter either building to service the waste containers, a Positive Covenant must be created on each property title(s) pursuant to the relevant section of the Conveyancing Act (1919), ensuring that future owners provide and maintain the access driveway and loading bay accommodating waste collection services undertaken by Council. The terms of the instrument are to be generally in accordance with the standard terms (available from Council) and undertaken in accordance with the City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7.

The terms of the covenant are to be **to in accordance with the City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and** ~~to the satisfaction of Council prior to endorsement~~ and are to be registered on the title prior to the occupation or use of each building. The ~~application to Council for endorsement of the Positive Covenant must be accompanied by a Works As-Executed plan of the service area~~ **must ensure** ensuring there is adequate swept path and height clearances so as to accommodate Council waste vehicles.

2.2 RTS additional proposed modified conditions

In August 2020, the Applicant lodged a Response to Submissions (RTS) incorporating a request (as subsequently revised in October 2020), to amend a further five conditions of consent (B55, B56, B57, B58 and B61) as follows:

CONTAMINATION

- B55 The Applicant must ensure that following demolition of any existing buildings, roads, electricity substations and in-ground utilities as part of the Stage 1 works, further investigation of soil contamination is undertaken within the footprint of those buildings, roads, electricity substations and inground utilities prior to undertaking any construction works. Details confirming compliance must be submitted to the Certifier prior to the commencement of any **remediation** works.
- B56 The Applicant must conduct additional site investigations and prepare an updated Remedial Action Plan to address any identified contamination with proper regard to the:
- (a) NSW EPA Sampling Design Guidelines
 - (b) Guidelines for the NSW Site Auditor Scheme (3rd edition) 2017
 - (c) Guidelines for Consultants Reporting on Contaminated Sites 2011
 - (d) National Environment Protection (Assessment of Site Contamination) Measure 2013 as amended

- (e) other guidelines approved under section 105 of the *Contaminated Land Management Act 1997*.

Details confirming compliance must be submitted to the Certifier prior to the commencement of any ~~construction~~ **remediation** works.

- B57 ~~A Section A Site Audit Statement and accompanying Site Audit report, certifying the site is suitable for the approved use, must be submitted to the Certifier prior to the commencement of any construction works.~~ **A Section A1 Site Audit Statement – or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan (prepared by a NSW EPA-accredited Site Auditor) – certifying that the relevant site is suitable for the proposed use, must be submitted to the Planning Secretary and the Certifier prior to use of the relevant buildings and infrastructure included in this consent.**
- B58 The Applicant must provide details of the proposed remediation and validation strategy to the accredited site auditor in a Works Plan and a Validation Sampling and Analysis Quality Plan for review by the site auditor prior to remediation works commencing. Details confirming compliance must be submitted to the Certifier prior to the commencement of any **remediation** works.
- B61 The Applicant is to ensure that all reports prepared for the assessment of contamination must be prepared, or reviewed and approved, by a consultant certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) Scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. Details confirming compliance must be submitted to the Certifier prior to the commencement of any **remediation** works.

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved; and
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55 (1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, in accordance with the Minister's delegation, the Director, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- there are 10 or less public submissions in the nature of objections.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(1A) 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 environments, and social and economic impacts;
- suitability of the site;
- any submissions;
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 6** and **Appendix B**.

4 Engagement

4.1 Department's engagement

Section 4.55(1A) modifications are not required to be notified under the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). However, the modification application was made publicly available on the Department's website and referred to City of Ryde Council (Council), the Environment Protection Authority (EPA), the Department of Planning, Industry and Environment Water Division (DPIE Water), Environment, Energy and Science Group of the Department of Planning, Industry and Environment (EESG) and Transport for NSW (TfNSW RMS).

4.2 Summary of submissions

Four submissions were received from government agencies.

Council advised it would not be making a submission.

No public submissions were received.

4.3 Key Issues – Government agencies

EPA raised no objection to the proposed modification with the exception of the proposed deletion of Condition B60 which requires the Applicant to engage a site auditor. Instead the EPA recommended revised wording for this condition. The EPA also recommended conditions B56 and B57, regarding contamination, be updated to refer to current guidelines.

EESG advised the appropriate monitoring and maintenance periods of the vegetation to ensure its long-term viability following the completion of the rehabilitation works should be for ten years, not five years as requested by the Applicant (Condition B47). This is due to the extremely poor condition of the creek, as noted in the Applicant's original Biodiversity Assessment Report.

TfNSW (RMS) raised no objection to the proposed modification with the exception of the deletion of Condition C24 (public access to temporary turning heads). Deletion of this condition was subsequently removed from the application.

DPIE Water raised no objection to the proposed modification.

4.4 Response to submissions

The Department placed a copy of the submissions on its website and requested the Applicant provide a response to agency and Council's comments.

On 28 August 2020, the Applicant provided a Response to Submissions (RTS), including a request to amend a further five conditions of consent (**Section 2.2**).

The RTS was made publicly available on the Department's website and no public submissions were received.

4.5 Additional information

On 15 and 26 October 2020, the Applicant provided additional information and revised proposed wording, including in relation to contamination conditions B55, B56, B58, B60 and B61 (**Section 2.2**).

The Applicant also confirmed the amendments to conditions B90, B92, D31, D33, D36, D41, D42 and D45 were no longer proposed.

On 6 November 2020, the Applicant confirmed the proposed deletion of Condition C24 was no longer proposed.

5 Assessment

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

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act and Regulation
- government agency submissions.

The Department assessment of each of the proposed modified conditions is provided below.

5.1 Modification of conditions to be satisfied prior to commencement of works/issue of a Crown Building Works Certificate/issue of a Subdivision Works Certificate

Maximum height: Conditions B27 and B28

The Applicant seeks to amend conditions B27 and B28 to include parapets in the list of building elements that are excluded from the calculation of maximum building height.

The Applicant contends the exclusion of parapets is commensurate with the other rooftop building elements identified in the conditions and might otherwise meet the definition of an architectural roof feature, permitted to exceed building heights.

The Department notes the current wording of conditions B27 and B28 is generally consistent with the definition of building height contained in the Standard Instrument – Principle Local Environmental Plan (Standard Instrument) and the Ryde Local Environmental Plan 2014 (RLEP 2014).

The Department has reviewed the approved plans and notes that the maximum height for Building A1 specified in Condition B27 is approximately 500 mm below the indicated height of the surrounding parapet. The Department therefore considers modifying Condition B27 to allow parapets to a maximum height of 500 mm above RL 138.3 is reasonable and would result in an outcome consistent with the approved plans.

With regard to Building C1, the three maximum building height RLs are taken from the top of the lift overruns for the two towers and from the top of the highest parapet for the three storey townhouses. As such, the Department considers adding parapets to the list of building elements that can exceed the maximum building height RL for Building C1 is unnecessary as the specified RLs already include or exceed the parapet heights for the respective towers and the townhouses. The Department therefore does not consider there to be sufficient justification to allow parapets to exceed the heights for Building C1 specified in Condition B28.

The Department therefore supports the proposed modification to Condition B27 and does not support the proposed modification to Condition B28.

Construction Soil and Water Management Plan (CSWMP): Condition B45

The Applicant seeks to amend Condition B45 to delete the requirement for the CSWMP to be prepared in consultation with Council.

The Applicant contends Condition B45 currently requires the CSWMP to be prepared in accordance with best-practice industry standards and principles, and therefore further consultation with Council is unreasonable and unnecessary. A copy of the final CSWMP will instead be provided to Council.

The Department agrees further consultation with Council regarding the CSWMP is unnecessary as the condition specifies that the CSWMP must be prepared in accordance with the provisions of the “Blue Book” Part 1 [Landcom (2004) Managing Urban Stormwater: Soils and Construction, 4th edition] which sets out best-practice industry standards and principles, for erosion and sediment control during construction. The Department therefore supports the proposed modification to Condition B45.

Biodiversity Management Plan (BMP): Condition B47

Condition B47 currently requires a BMP to be prepared for the site which includes an appropriate monitoring and maintenance period to be determined to ensure the long-term viability of the vegetation following the completion of the rehabilitation works. The Applicant proposes to amend Condition B47 to specify a five-year vegetation monitoring and maintenance period for the site, comprising a 3-year establishment phase followed by a two-year maintenance phase.

The preparation of a BMP was recommended by EESG. EESG advised the proposed addition of a five-year monitoring and maintenance period following completion of the rehabilitation works is insufficient given the poor condition of the vegetation along Shrimptons Creek. EESG recommended that a ten-year monitoring and maintenance period therefore be implemented.

The Department agrees with EESG that a ten-year monitoring and maintenance period should be adopted given the poor condition of the vegetation along Shrimptons Creek. A 10-year period would also allow the establishment and maintenance of vegetation around the site to ensure a positive long-term biodiversity and ecological outcome is achieved.

The Applicant also sought to delete the Secretary’s approval role from the condition. However, given the importance of the BMP to the positive long-term biodiversity and ecological outcome on the site, the Department considers it is appropriate that the Planning Secretary maintains an approval role for the BMP. This part of the modification to Condition B47 is therefore not supported.

Clearance from land – Herring Road: Condition B49

The Applicant seeks to amend Condition B49 to exclude the de-stressed anchors from the temporary works that are to be removed upon completion of the works. The Applicant contends it is industry practice that any temporary anchors below any road reserves can remain in place so long as they are de-stressed once no longer required.

This condition was recommended by TfNSW (RMS) who have raised no objection to the revised wording.

The Department therefore supports the proposed modification to Condition B49.

Contamination and Hazardous Materials Management Plan (HMMP): Conditions B55, B56, B57, B58, B59, B60, B61 and B63

The Applicant originally sought to delete conditions B59, B60 and B63. As part of the RTS, the Applicant also sought to amend conditions B56 and B57 in accordance with comments received from the EPA, and to amend conditions B55, B56, B58, B60 and B61 to specify compliance prior to commencement of any remediation works.

The Applicant notes conditions B59 and B60 are not required as an Unexpected Finds Protocol (UFP) was submitted with the Stage 1 EIS. The Applicant also seeks to delete Condition B63 as the UFP is an appropriate mechanism through which to manage any materials uncovered as part of future works on the site.

These three conditions were recommended by the EPA. The EPA reviewed the proposed deletion of the conditions and have advised the deletion of conditions B59 and B63 is reasonable based on the information provided by the Applicant.

However, the EPA does not agree with the deletion of Condition B60 as a site auditor is required to review the adequacy of additional site investigations. The EPA instead recommended the following condition:

B60 The Applicant must engage a NSW EPA-accredited Site Auditor throughout the duration of works to ensure that any work required in relation to soil or groundwater contamination is appropriately managed.

The Applicant must adhere to the management measures in the Remediation Action Plan that has been approved by the Site Auditor. Any variations to the approved Remediation Action Plan must be approved in writing by the Site Auditor.

The EPA also recommended the wording of conditions B56 and B57 be revised to refer to updated guidelines and requirements as follows:

B56 The Applicant must conduct additional site investigations and prepare an updated Remedial Action Plan to address any identified contamination with proper regard to the:

- (f) NSW EPA Sampling Design Guidelines, **1995**
- (g) Guidelines for the NSW Site Auditor Scheme (3rd edition) 2017
- (h) Guidelines for Consultants Reporting on Contaminated Sites 2011 Consultants Reporting on Contaminated Land (Contaminated Land guidelines (, (EPA, 2020)**
- (i) National Environment Protection (Assessment of Site Contamination) Measure, ~~2013 as amended~~ (as amended 2013)**
- (j) ~~other~~ **Relevant** guidelines approved under section 105 of the *Contaminated Land Management Act 1997*.

~~Details confirming compliance must be submitted to the Certifier prior to the commencement of any construction works.~~

B57 ~~A Section A Site Audit Statement and accompanying Site Audit report, certifying the site is suitable for the approved use, must be submitted to the Certifier prior to the commencement of any construction works~~ A Section A1 Site Audit Statement – or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan (prepared by a NSW EPA-accredited Site Auditor) – certifying that the relevant site is suitable for the proposed use, must be submitted to the Planning Secretary and the Certifier prior to use of relevant buildings and infrastructure included in this consent.

The Applicant raised no concerns regarding the modified wording of conditions B56, B57 and B60 as recommended by the EPA.

However, the Applicant has subsequently requested conditions B55, B56, B58, B60 and B61 be amended to change the requirement for details confirming compliance from 'prior to commencement of works' to 'prior to commencement of remediation works'. The Applicant notes this was due to the details

required by the conditions could not be produced to the Certifier without demolition works first being undertaken on site. The revised wording would allow the demolition works and certain construction works to occur if not impacted by any identified remediation works.

The Applicant has also confirmed all required remediation works would be conducted within eight weeks of the site investigation works following demolition.

The Department acknowledges the information required by conditions B55, B56, B58, B60 and B61 cannot be reasonably be provided until demolition works have been completed and accepts that compliance can be achieved prior to commencement of any remediation work. The Department also notes the EPA's response included deleting the requirement for details demonstrating compliance prior to commencement of works from conditions B56, B57 and B60.

The Department therefore supports the proposed deletion of conditions B59 and B63 and revisions to conditions B55, B56, B57, B58, B60 and B61. However, the change to the timing for compliance of Condition B57, as recommended by the EPA, means Condition B57 will be deleted and the revised wording inserted as a new Condition D52.

Installation of Water Efficient Fixtures: Condition B71

The Applicant seeks to amend Condition B71 by specifying urinals in publicly accessible bathrooms must include 'smart controls'.

The Department supports the proposed modification to Condition B71 as the condition is intended to apply to publicly accessible bathrooms only. Private bathrooms which are covered by approved BASIX Certificates.

Groundwater Design: Condition B85

The Applicant seeks to delete Condition B85 as it does not clearly relate to the approved development or the site. In particular, the lowest basement floor levels of both Buildings A1 and C1 are above the level of past groundwater measures.

This condition was recommended by DPIE Water. Based on additional information included with the modification proposal, DPIE Water have subsequently raised no objection to the deletion of the condition.

The Department therefore supports the proposed modification to Condition B85.

Stormwater: Conditions B95, B96 and B97

The Applicant seeks to amend conditions B95 and B96 to remove the requirement for Council to review and approve the final stormwater plans. It is also proposed to amend Condition B97 to provide copies of the electronic files to Council prior to issue of a Crown Building Works Certificate or a Subdivision Works Certificate.

The Applicant considers further consultation with Council regarding the design of temporary stormwater works is not necessary and acknowledges the conditions could currently result in unnecessary delays in commencing construction. The approved plans and documentation will be required to be provided to Council prior to the issue of a Subdivision Works Certificate or a Crown Building Works Certificate.

The Department considers the proposed modifications to be reasonable as the conditions already requires the stormwater works to be designed and undertaken in accordance with the relevant aspects

of Council's DCP 2014, by a Chartered Civil Engineer. In addition, Condition B96 only relates to temporary stormwater works. The Department therefore considers the proposed modifications to conditions B95, B96 and B97 is reasonable.

5.2 Modification of conditions to be satisfied during construction

Groundwater Monitoring: Conditions C43 and C45

The Applicant has requested Condition C43 be deleted, consistent with the deletion of Condition B85, as no significant groundwater flow is anticipated. The Applicant also requests that Condition C45 be amended as the level of monitoring required is excessive and should be reduced to where bulk excavation is within 0.5 m of measured groundwater levels.

These conditions were recommended by DPIE Water who have raised no objection to the proposed amendments. The Department therefore supports the proposed deletion of Condition C43 and modification of Condition C45.

Stormwater: Conditions C46, C48 and C49

The Applicant requests the proposed wording of conditions C46 and C49 be amended to include Certification from the Engineer or 'equivalent' to carry out the inspections as part of the engineering certification of the Subdivision Works Certificate.

The Applicant also seeks to delete Condition C48 as satisfying water quality targets is required as Part 8.1 of the Ryde DCP 'Construction Activities' outlines construction requirements for all works within the LGA, including the treatment of runoff from construction sites.

These three conditions were recommended by Council who have provided no comments.

The Department notes the wording of the first sentence of Condition C46 and in Condition C48 already states that inspections are to be undertaken/certification to be provided by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent. As such, the Department considers the proposed changes to include 'or equivalent' subsequently in Condition C46 and in Condition C49 is consistent with wording of the earlier part of the condition. Further, the Department is satisfied that the condition would still require an appropriately qualified professional to certify and oversee the works.

Condition C48 however refers to Part 8.2 of Council's DCP 2014 which relates specifically relates to stormwater and floodplain management, separate from Part 8.1 which relates to construction activities generally. As such, the Department considers Part 8.2 of the DCP should continue to apply to the development, as originally recommended by Council.

The Department therefore supports the proposed modification of conditions C46 and C49 but does not support the proposed deletion of Condition C48.

5.3 Modification of conditions to be satisfied prior to occupation or commencement of use

Utility Providers: Condition D28

The Applicant seeks to amend Condition D28 to refer to written advice or 'certification' from the relevant utility authority stating that satisfactory arrangements have been made to ensure provision of adequate services prior to the occupation or use of each building.

The Department considers the proposed modification to refer to certification from the relevant authority is reasonable and acceptable.

Stormwater: Condition D32

The Applicant initially sought to amend the requirement for a post-construction CCTV report, certified by a suitably qualified stormwater engineer, to be submitted to the Certifier instead of Council. Following concerns raised by the Department, the Applicant instead requested to amend Condition D32 to include certification from a suitably qualified stormwater engineer or 'equivalent'

The Department considers the proposed modification to be reasonable as it would still require an appropriately qualified professional to undertake the certification works and other stormwater conditions already include the proposed additional wording, including conditions D31 and D34.

The Department therefore supports the proposed modification to Condition D32.

Flooding: Conditions D38 and D40

The Applicant seeks to amend conditions D38 and D40 to refer to the 'relevant building' as the EIS and associated technical assessments confirmed that not all buildings are affected by flooding. As such, the respective requirements for emergency response plans and structural certification should only be required for the relevant flood affected buildings.

The Department considers the proposed modifications to conditions D38 and D40 are reasonable as they clarify the requirements of the conditions should only apply to flood affected buildings.

The Department therefore supports the proposed modifications to conditions D38 and D40.

Positive Covenant for Waste Collection: Condition D48

The Applicant seeks to delete the requirement for the Positive Covenant to be endorsed by Council. The Applicant notes the Positive Covenant will be provided in accordance with the standard terms identified in Council's DCP and specified in this condition of consent, and as such further endorsement is not considered necessary.

The Department however considers it is important for Council to have the opportunity to review and endorse the required Covenant given it relates to access for Council's waste collection vehicles.

The Department therefore does not support the proposed modification to Condition D48.

6 Evaluation

The Department has reviewed the proposed modification and assessed the merits of the application.

The Department is satisfied the majority of the proposed modifications to conditions, as refined during the assessment, would not change the intent or purpose of the original conditions (or deletion is justified based on the additional information provided) and would result in the completion of a development substantially the same as that approved under SSD 8903.

However, the revised wording to Condition B47 should be consistent with EESG recommendations which require the BMP to be implemented for a period of ten years rather than the five years as requested by the Applicant.

Additional changes, as recommended by the EPA and agreed by the Applicant, are also supported to conditions B56, B57 (now D52) and B60.

The Department however does not support the proposed modifications to conditions B28, C48 and D48 as these are not reasonably justified.

Consequently, the Department concludes the modification application is in the public interest and should be approved.

7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 8903 MOD 1 falls within the scope of section 4.55(1A) 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
- **modify** the consent SSD 8903
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Andy Nixey
Principal Planner
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **adopted / not adopted** by:



10 November 2020

Anthony Witherdin

Director

Key Sites Assessments

(as delegate of the Minister for Planning and Public Spaces)

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows:

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/37946>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/37946>

Submissions Report

<https://www.planningportal.nsw.gov.au/major-projects/project/37946>

Appendix B – Statutory Considerations

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 1** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification. The table represents a summary for which additional information and consideration is provided in other sections of this report, as referenced in the table.

Table 1 | Assessment of Section 4.15(1)

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(a)(ii) any proposed instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(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 proposed changes to be minor and would not result in any adverse environmental impacts (refer to Section 5).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 3 and 5 .
(d) any submissions	The Department received four submissions from Government agencies. Refer to Sections 4 and 5 .
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would facilitate the orderly and efficient redevelopment of the Ivanhoe Estate.

Table 2 | Assessment of Section 4.55(1A)

Section 4.55(1A)	Assessment
That the proposed modification is of minimal environmental impact	The proposed modification would not alter any of the key components or characteristics of what was originally approved under SSD 8903.
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 changes relate to amendments to conditions of consent relating to various matters, including stormwater and contamination. The Department is satisfied the modification application would therefore result in a development that is substantially the same as the originally approved.
The application has been notified in accordance with the regulations.	Section 4 of this report demonstrates the modification application followed the consultation requirements as outlined in the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
Any submission made concerning the proposed modification has been considered.	The Department received four submissions from Government agencies. Refer to Sections 4 and 5 .

Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005
- Draft Remediation of Land State Environmental Planning Policy
- Draft Environment State Environmental Planning Policy.

The Department has assessed the proposed modification against the relevant provisions of these instruments and considers the modification can be carried out in a manner that is consistent with their aims, objectives and provisions.

Objects under the act

The Minister or delegate must consider the objects of the EP&A act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

Appendix C – Modification Instrument

The recommended conditions of consent can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/37946>