

NEW SYDNEY FISH MARKET

SSD DA 8925 STAGE 2 DA MAIN WORKS SECTION 4.55(1A) MODIFICATION 3 PLANNING REPORT

Prepared for

Infrastructure NSW

By

BBC Consulting Planners

March 2021

Table of Contents

STATEMENT OF VALIDITY

1.	INTRODUCTION.....	2
1.1	General	2
1.2	Consent sought to be modified	2
1.3	Land to which the Section 4.55(1A) application relates	3
2.	REQUESTED MODIFICATIONS	4
2.1	Introduction	4
2.2	Building design changes	4
2.2.1	Basement level.....	4
2.2.2	Ground floor level	5
2.3	Changes to subdivision plans	5
2.4	Modification to drawings	5
2.5	Changes to conditions.....	6
2.6	Prescribed requirements	6
3.	CONSIDERATION OF RELEVANT PROVISIONS OF SECTION 4.55(1A).....	7
3.1	Minimal environmental impact.....	7
3.2	Substantially the same development	8
3.3	Environmental Assessment.....	8
3.3.1	Section 4.15(1)(a) – Statutory Planning Considerations	8
3.3.2	Section 4.15(1)(b) – Environmental, Social and Economic Impacts	9
3.3.3	Section 4.15(1)(c) – The Suitability of the Site.....	9
3.3.4	Section 4.15(1)(d) – Submissions	9
3.3.5	Section 4.15(1)(d) – The Public Interest	9
4.	ENVIRONMENTAL ASSESSMENT	10
4.1	Statutory and strategic context	10
4.1.1	Statutory planning context	10
4.1.2	Strategic planning framework.....	11
4.2	Design excellence	11
4.3	Built form and urban design	11
4.4	Scenic quality and visual impacts	11
4.5	Amenity.....	12
4.6	Transport, traffic parking and access	12
4.7	Maritime navigation.....	12
4.8	Biodiversity.....	12
4.9	Heritage and archaeology.....	13
4.9.1	Cultural heritage assessment.....	13
4.9.2	Marine archaeology assessment.....	13
4.10	Flooding.....	13
4.11	Contamination management.....	13
4.12	Impacts on water quality.....	13
4.13	Noise and vibration impacts	13

4.14	Air Quality and odour impacts.....	14
4.15	Utilities and infrastructure	14
4.16	Safety and security.....	14
4.17	BCA and access compliance	14
4.18	Ecologically sustainable development.....	14
4.19	General environmental risk assessment.....	14
5.	CONCLUSION	15

APPENDICES (provided separately)

- 1 Modification Drawings
- 2 Description building design changes
- 3 Structural Engineering Advice
- 4 Subdivision Plans
- 5 Traffic Implications
- 6 Civil and Flooding Assessment

Abbreviations

AHD	Australian Height Datum
AS	Australian Standard
BDAR	Biodiversity Development Assessment Report
CEMP	Construction Environmental Management Plan.
CIV	Capital Investment Value
Cumulative impacts	Impacts that, when considered together, have different and/or more substantial impacts than a single impact assessment considered alone.
DPIE	NSW Department of Planning, Industry and Environment
Drainage	Natural or artificial means for the interception and removal of surface or subsurface water.
EIS	Environmental Impact Statement
EP&A Act	NSW Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPA	NSW Environment Protection Authority
EPBC Act	Commonwealth Environment Protection and Biodiversity Conservation Act 1999
ESA	Environmental Site Assessment
ESD	Ecologically Sustainable Development
GA NSW	Government Architect NSW
GFA	Gross Floor Area (as defined in the Standard Instrument—Principal Local Environmental Plan)
INSW	Infrastructure NSW
LEPs	Local environmental plans
LGA	Local government area
NSFM	New Sydney Fish Market
PCA	Principal Certifying Authority
RAP	Remediation Action Plan
RL	Reduced Level
SEARs	Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy. A state level environmental planning instrument
SSD	State Significant Development
TfNSW	Transport for NSW

STATEMENT OF VALIDITY

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I declare that I have prepared the contents of this Planning Report and to best of my knowledge:

- it has been prepared in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000;
- it contains all available information that is relevant to the environmental assessment of the development to which this Planning Report relates; and
- the information contained in this report is neither false nor misleading.



Dan Brindle
Director
BBC Consulting Planners
29 March 2021

1. INTRODUCTION

1.1 General

This planning report has been prepared on behalf of Infrastructure NSW, (“the Applicant”), in relation to an application to modify the consent to SSD 8925 approved by the Minister for Planning and Public Places on 12 June 2020 for the construction, use and operation of a new Sydney Fish Market at Blackwattle Bay.

The Applicant seeks to modify these consents in accordance with the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (“the EP&A Act”).

This modification application (Mod 3) seeks approval for changes to the basement design and layout and internal changes to the layout of the ground floor resulting from on-going design refinement.

The Applicant has requested BBC Consulting Planners to prepare a planning report to accompany the Section 4.55 application.

1.2 Consent sought to be modified

The consent sought to be modified is the consent to SSD 8925 approved by the Minister for Planning and Public Places on 12 June 2020 (“the main works consent”). The approved development is described as:

Stage 2 Development application for the construction, use and operation of a new Sydney Fish Market, including:

- *A three-storey (4 levels) building with a GFA of 26,751m² comprising:*
 - *Wholesale services, product storage and processing*
 - *Retail, business and office premises*
 - *Multi-function spaces for events and functions*
 - *Staff amenities and end-of-trip facilities*
 - *Outdoor seating areas*
 - *Basement car park.*
- *New public domain, including a foreshore promenade and landscaping*
- *Marina*
- *Pedestrian, cycle and road access*
- *Upgrade works to Bridge Road and intersections with Wattle Street and Wentworth Park Road*
- *Provision of services, site level adjustments and stormwater management*
- *Subdivision of land.*

1.3 Land to which the Section 4.55(1A) application relates

The land to which this Section 4.55(1A) application relates is located at 1A, 1B and 1C Bridge Road, Glebe and comprises:

Lots	Description
Lots 3 - 5 in DP 1064339	Land containing the existing wharves at the head of Blackwattle Bay
Part of Lot 107 in DP 1076596	Comprising the waters of Blackwattle Bay
Part of Lot 1 in DP835794	Land containing an existing SFM wharf, a former wharf (since demolished) and foreshore seating forming part of the existing SFM
Part of Lot 3 in DP1018801	Land to the west of the site being land adjacent to the existing waterfront promenade along the edge of the school site.
Part of Bridge Road	Works are also proposed to Bridge Road where it adjoins Lots 3 - 5 in DP 1064339 and at its intersections with Wattle Street and Wentworth Park Road.

This is the same land as the land to which the main works consent relates.

2. REQUESTED MODIFICATIONS

2.1 Introduction

The modifications have evolved during the detailed design process with input from the appointed builder, Multiplex, Multiplex's architect (BVN), services engineers, the PCA and access consultants in relation to building compliance and on-going discussions on the operations of the fish market. The modifications relate to matters of detail with the overall design of the development, the arrangement of spaces, access and operations remaining the same.

2.2 Building design changes

This modification has evolved during the detailed design process with input from the architect, services engineers, the PCA and access consultants in relation to building compliance and on-going discussions on the operations of the fish market. The modification relates to matters of detail with the overall design of the development, the arrangement of spaces, access and operations remaining materially the same.

There are changes to the basement and ground floor levels of the building as shown on the amended drawings are contained in **Appendix 1** and as explained detail in the report contained in **Appendix 2** which compares the drawings as modified with the drawings as approved, including details of the changes. The changes are summarised as follows:

2.2.1 Basement level

Changes to the basement level include:

- ground floor slab fold location has been relocated to provide a greater area for wholesale truck loading and reduce congestion in the basement during the auction;
- the south west basement wall has been moved north to better accommodate stormwater outflow during and after construction;
- the traffic flow has been reconfigured to improve wholesale truck movement and provide opportunities for more retail/truck segregation at peak times;
- plant rooms have been reconfigured to optimise services performance.

There have been minor changes to the structural design of the basement to improve buildability these are outlined in the letter from Enstruct Group Pty Ltd (**Appendix 3**).

Changes have been made to the layout of the basement aisles and parking areas including:

- boom gate entry reconfigured to facilitate turn back aisle;
- kerbs added to protect areas of reduced head room due to services;
- turn back aisles provided at the end of each row;
- improved efficiency in basement circulation.

There are minor changes to the basement footprint including the removal of a greater section of the existing seawall. There is an overall reduction in the size of the footprint of approximately 270 square metres.

The change in the location of the slab fold between basement and ground floor level has enabled the location of SRV parking to be spread more evenly through the basement to reduce congestion and provide greater amenity during wholesale trading times.

The changes to the basement have resulted in a minor reallocation of parking as shown in the following table:

Table 1: Parking changes

Vehicle	SSDA Application	Mod 3
SRV	138	145
Car	398	400
Motorbike	32	35

Parking numbers remain within the maximum parking limits under condition B44 of the consent.

2.2.2 Ground floor level

The relocation of the location of the slab fold between basement and ground floor levels has resulted in a flat floor in the wholesale area on the ground floor level and the removal of the internal ramps. The other minor change to the ground floor is that the western egress stair configuration has been modified with the point of egress remaining the same. The adjacent dock manager office configuration has been altered slightly.

appointed.

2.3 Changes to subdivision plans

The minor modifications to building footprint and to wharves as a consequence of Mod 1 results in minor inconsistency with approved subdivision plans. These approved plans of subdivision have been modified to be consistent with the approved building and are contained in **Appendix 4**.

2.4 Modification to drawings

These changes can be given effect by a modification to condition A2 of Part A of Schedule 2 of the concept and early works consent in the following terms:

Architectural Drawings prepared by 3XN and BVN			
Drawing No.	Revision	Name of Plan	Date
S2-B10 L00-01	H J	Floor Plan Ground	18/09/19

			18/03/21
S2-B10 LB1-01	H J	Floor Plan Basement	18/09/19 18/03/21
S2-E43 AAA-04	H J	Wholesale and Catering Section	18/09/19 18/03/21

As a result of the minor design changes, there is a change to the approved GFA as stated in the description of the development in Schedule 1 of the consent from to 26,928m² to 26,953m². The Department is requested to modify the description of the development accordingly.

2.5 Changes to conditions

Consequential changes to condition B44 are required:

B44. A maximum number of car parking spaces and loading spaces to be provided for the development shall comply with the sub-total (417) and total (438) in the table below. Details confirming compliance with the sub-total and total parking numbers must be submitted to the Certifier prior to the issue of the relevant Crown Building Works Certificate.

Car Parking Type	Number of spaces
Office and business car parking	56
Accessible office and business car parking	4
Retail car parking	176
Flexible retail car parking (SRV parking capable)	181
Sub total	417
Small rigid vehicle loading dock(s)	3
Medium rigid vehicle loading dock(s)	13
Articulated vehicle loading dock(s)	5
Total	438

2.6 Prescribed requirements

The prescribed requirements for a Section 4.55(1A) application are set out in Clauses 115(1) and 115(1A) of the *Environmental Planning and Assessment Regulation 2000*. The Section 4.55 applications accompanied by this Planning Report have been lodged via the NSW Planning Portal and are accompanied by relevant documentation as specified on the NSW Planning Portal.

3. CONSIDERATION OF RELEVANT PROVISIONS OF SECTION 4.55(1A)

Section 4.55(1A) of the EP&A Act states as follows:

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) 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), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.”

3.1 Minimal environmental impact

In relation to **Section 4.55(1A)(a)**, the proposed modifications are considered to have a minimal environmental impact. The modifications do not change the nature of the approved development to any significant extent.

This is because:

- there is no change to the location or height of the building, points of access or the number of loading docks or permitted parking spaces;
- there are no changes do not impact on the overall appearance of the development as perceived from surrounding viewpoints;
- there is no change to the approved use or the nature of operation;
- there is no change to the proposed public domain accessible areas.

The modifications would have no significant additional environmental impact beyond that which has already been considered in the Environmental Impact Statement and determination of SSD 8925.

3.2 Substantially the same development

In relation to **Section 4.55(1A)(b)**, the consent authority can be satisfied that the development as modified in accordance with these applications will be substantially the same development as that for which the consents were originally granted. The development remains the new Sydney Fish Market with no significant change to the design, bulk scale or nature of the development. Access, loading and parking arrangements remain the same and there is no change to the nature of activities undertaken on the site. There is no change to the external appearance or materials or design.

Having regard to the details and nature of the changes it is concluded that the development as modified remains materially the same. The consents as modified are substantially the same development as the development for which the consents were originally granted.

In relation to **Section 4.55(1A)(c)**, any required notification would be undertaken.

In relation to **Section 4.55(1A)(d)**, should the Department choose to notify the application and invite submissions, any relevant submissions made will need to be considered in determining this application.

3.3 Environmental Assessment

Section 4.55(3) states as follows:

“(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.”

Section 4 assesses the environmental impacts of the requested modifications having regard to the key Secretary’s environmental assessment requirements. The following summarises this assessment addressing the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

3.3.1 Section 4.15(1)(a) – Statutory Planning Considerations

Section 4.15(1)(a) of the EP&A Act requires the consent authority to take into consideration:

“(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

- (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (v) *(Repealed),*
- that apply to the land to which the development application relates”*

The requested modifications do not alter the Minister’s findings of the development subject to the consent in relation to the assessment against relevant environmental planning instruments. The development remains permissible and consistent with all relevant planning instruments to the extent assessed in the EIS accompanying the development application and the *New Sydney Fish Market State Significant Development Assessment SSD 8924 and SSD 8925* dated June 2020 prepared by DPIE (“the DPIE assessment report”).

3.3.2 Section 4.15(1)(b) – Environmental, Social and Economic Impacts

Section 4.15(1)(b) requires the consent authority to consider:

- “(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”*

These matters are discussed in Section 4 below. The modifications do not change the likely impacts of the development as assessed in EISs accompanying the development applications and the DPIE assessment report.

3.3.3 Section 4.15(1)(c) – The Suitability of the Site

Section 4.15(1)(c) requires the consent authority to consider:

- “(c) the suitability of the site for the development”*

The modification does not change the suitability of the site for the proposed development and development outcomes will be unchanged by the requested modification. The modified development is entirely consistent with the objectives of the EP&A Act to encourage the orderly and efficient use of land.

3.3.4 Section 4.15(1)(d) – Submissions

Section 4.15(1)(d) requires the consent authority to consider:

- “(d) any submissions made in accordance with this Act or the regulations”*

Any relevant submissions to this application will need to be considered accordingly.

3.3.5 Section 4.15(1)(e) – The Public Interest

Section 4.15(1)(e) requires the consent authority to consider:

“(e) the public interest”

The public interest is best served by the requested modifications that represent positive improvements, are reasonable and appropriate, and that do not create any significant adverse impacts on the environment or the neighbourhood. The proposal is therefore in the public interest.

4. ENVIRONMENTAL ASSESSMENT

4.1 Statutory and strategic context

4.1.1 Statutory planning context

Section 4.15(1)(a) of the EP&A Act outlines the statutory planning matters to be considered in determining an application. Consideration has been given to these matters in relation to the modifications including the relevant provisions of the EP&A Act and environmental planning instruments under that Act. These include:

- Environmental Planning and Assessment Act 1979 including the objects of this Act;
- Objects of the EP&A Act;
- Environmental Planning and Assessment Regulation 2000;
- Biodiversity Conservation Act 2016;
- Environment Protection and Biodiversity Conservation Act 1999;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (State Significant Precincts) 2005;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No 33 – Hazardous and Offensive Development;
- State Environmental Planning Policy 55 – Remediation of Land;
- State Environmental Planning Policy No. 64 – Advertising and Signage;
- Sydney Regional Environmental Plan No 26—City West;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005;
- Sydney Local Environmental Plan 2012;
- Draft State Environmental Planning Policy – Environment;
- Draft Sydney Local Environmental Plan 2020;
- Other changes to State environmental planning policies.

The consents as modified do not alter the permissibility of the development which remains permissible with consent. The development remains State significant development.

The consistency of the development with these Acts, Regulations and environmental planning instruments was considered in the determination of SSD 8925. The proposed modifications do not change the findings of this assessment.

4.1.2 Strategic planning framework

The development as modified remains consistent with the strategic planning framework established for the site. The proposal remain consistent with the objectives of the State government strategic planning policies and guidelines Greater Sydney Region Plan and the Eastern City District Plan. The modifications do not alter the reasons for granting the consents including that the project is consistent with NSW Government policies and strategic direction of the Bays Precinct.

Consideration has been given to the *Pymont Peninsula Place Strategy* dated December 2020. This strategy recognises the site of the new Sydney Fish Market and acknowledges its role in revitalising Blackwattle Bay and transforming the peninsula building in its unique character and appeal. This includes its contribution to the foreshore walk from the new Sydney Fish Market to Walsh Bay. The modifications are consistent with the role of the new Sydney Fish Market as envisaged in the *Pymont Peninsula Place Strategy*.

4.2 Design excellence

A design excellence strategy for the development has been prepared in consultation with the Government Architect NSW (GA NSW) and the City of Sydney.

The modifications have been designed by BVN with ongoing review by 3XN, the lead designer for the new Sydney Fish Market, appointed following a design competition. The modifications retain design excellence and are consistent with the design excellence strategy.

4.3 Built form and urban design

The modifications do not change the built form and urban design characteristics of the development to any significant extent as indicated by the following:

- There is no change to the maximum building height which remains at RL 28 AHD.
- Boundary setbacks are unchanged and the relationship to Bridge Road and Wentworth Park does not change.
- There is no change to the relationship of the approved development to the character of the area or with Blackwattle Bay.
- There is no impact on bulk and scale. The building footprint as reflected in the roof area remains unchanged.
- There is no significant increase in GFA.
- There is no change to the proposed public domain accessible areas.

4.4 Scenic quality and visual impacts

The modifications do not alter the findings of the landscape character and visual impact assessment of the proposed development undertaken by Clouston Associates submitted with the development applications. There are no significant additional visual or scenic impacts and no additional mitigation measures are required.

4.5 Amenity

The modifications have no additional impacts on amenity in terms of overshadowing, privacy or external lighting impacts.

4.6 Transport, traffic parking and access

The proposed modification includes minor changes to the layout of parking spaces. Access to the site and to the loading dock within the new Sydney Fish Market remains unchanged. The number of parking spaces to be provided within the site remains generally the same and within the limits imposed under the consent. The revisions to the internal layout of the basement improve the efficiency of operation of the basement. The traffic implications of the changes have been assessed by JMT Consulting (**Appendix 5**) who conclude:

- *Despite the small increase in car parking numbers in the basement level from 398 to 400, this still remains below the maximum of 417 spaces as approved under SSD-8925 and documented in Condition B44 of the project approval.*
- *The design of the modified basement parking area remains compliant with the relevant Australian Standards including for general car parking, service vehicles and accessible car parking.*
- *Therefore as the revised layout complies with relevant standards and parking numbers remain below the maximum permissible under the SSDA approval the outcomes of the transport assessment undertaken for the SSDA remain unchanged.*

4.7 Maritime navigation

The proposed modifications do not alter the findings of the *Navigational Impact Assessment* submitted with the applications or the consideration of impacts in the DPIE assessment report. No change to mitigation measures are required. Condition B5 and D25 require the preparation of Vessel Traffic Management Plans for construction and operation of the new Sydney Fish Market in accordance with the recommendations of the NIA.

4.8 Biodiversity

The proposed modifications do not alter the findings of the *Biodiversity Development Assessment Report* accompanying the development applications or the consideration of biodiversity impacts in the DPIE assessment report. No offsets are required under the *Biodiversity Conservation Act 2016*.

Consequently, in accordance with Section 7.17(c) of the *Biodiversity Conservation Act 2016*, The DPIE and the Minister for Planning can be satisfied that the modification will not increase the impact on biodiversity values and therefore a further biodiversity development assessment report is not required.

4.9 Heritage and archaeology

4.9.1 Cultural heritage assessment

The modifications have no additional environmental impacts beyond those already considered in the determination of SSD 8925. Condition B101 of the consent require the implementation of the recommendations of the Aboriginal Cultural Heritage Assessment (ACHA), prepared by Artefact, dated July 2017 and updated last on 27 August 2019, as relevant to the site and Development. This shall include an Aboriginal Heritage Interpretation Plan and unexpected finds protocol.

4.9.2 Marine archaeology assessment

The modifications have no additional impacts on marine archaeology to those assessed in *New Sydney Fish Market – Maritime Heritage Impact Statement* dated November 2019 submitted with the development application.

4.10 Flooding

Engineers at&I have investigated the proposed modifications (**Appendix 6**) and conclude that:

It is not envisaged that the proposed Modification 3 basement redesign will have any further adverse civil or flooding environmental impacts.

The conclusions contained in the *Flooding and Stormwater Quality Assessment Report* dated October 2019 and submitted with the development application are still applicable to the proposed modifications. No changes to mitigation measures are required.

4.11 Contamination management

JBS&G Australia Pty Ltd (JBS&G) has previously been engaged by Infrastructure NSW (INSW, the client) to complete an Environmental Site Assessment, Remedial Action Plan and Acid Sulfate Soil Management Plan Acid Sulfate Soil Management for the site submitted with the development applications.

The changes will result in no material variations to the scope of remediation and/or validation works to be conducted at the site. Therefore, the recommendations/conclusions of JBS&G reports remain valid for the proposed modifications.

4.12 Impacts on water quality

The proposed modifications do not alter the findings of the water quality impacts assessment accompanying the development applications or the consideration of these impacts in the DPIE assessment report. The modifications have no additional environmental impacts beyond those already considered in the determination of SSD 8925.

4.13 Noise and vibration impacts

The proposed modifications do not alter the findings of the noise and vibration impacts assessment accompanying the development applications or the consideration of these impacts

in the DPIE assessment report. The modifications have no additional environmental impacts beyond those already considered in the determination of SSD 8925.

4.14 Air Quality and odour impacts

The proposed modifications do not alter the findings of the air quality assessment accompanying the development applications or the consideration of air quality in the DPIE assessment report. The modifications have no additional environmental impacts beyond those already considered in the determination of SSD 8925.

4.15 Utilities and infrastructure

All utility services are available or can be reasonably extended to meet the needs of the development as modified.

4.16 Safety and security

The proposed modifications do not alter the findings of the assessment of safety and security accompanying the development applications or the consideration of such issues in the DPIE assessment report. The modifications have no have no additional environmental impacts beyond those already considered in the determination of SSD 8925.

4.17 BCA and access compliance

Matters pertaining to compliance with the Building Code of Australia (BCA) 2019 will be suitably assessed by the appointed Certifying Authority prior to the issue of the Crown Building Certificate in accordance with Section 6.28 of the Environmental Planning and Assessment Act 1979.

4.18 Ecologically sustainable development

The proposed modifications do not change the ESD initiatives incorporated into the proposed developments or the compliance with the principles of ecologically sustainable development as defined in the EP&A Act.

4.19 General environmental risk assessment

The proposed modifications do not alter the findings of the assessment of environmental risk accompanying the development applications or the consideration of such risks in the DPIE assessment report.

5. CONCLUSION

The expected impacts of the modifications to the consent to SSD 8925 have been identified and assessed as part of this Planning Report. The modifications relate to minor internal design changes. It is concluded that:

- The development as modified will remain substantially the same as the development that was originally approved;
- No biodiversity off-set credits are required;
- The modifications have been assessed to be of minimal environmental impact;

It is considered that the development as modified is in the public interest and the approval of the modification applications is warranted.

