



# 13-23 Gibbons Street, Student Accommodation Modification 2

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Relocation of the substation on the ground floor  
State Significant Development Modification Assessment  
(SSD 9194 MOD 2)

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Cover image: *Applicant's EIS SSD 9194*

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# Glossary

| Abbreviation               | Definition                                                                |
|----------------------------|---------------------------------------------------------------------------|
| <b>Applicant</b>           | The Trustee for WH Gibbons Trust                                          |
| <b>Council</b>             | City of Sydney                                                            |
| <b>Department</b>          | Department of Planning, Industry and Environment                          |
| <b>EIS</b>                 | Environmental Impact Statement                                            |
| <b>EP&amp;A Act</b>        | <i>Environmental Planning and Assessment Act 1979</i>                     |
| <b>EP&amp;A Regulation</b> | Environmental Planning and Assessment Regulation 2000                     |
| <b>FSR</b>                 | Floor Space Ratio                                                         |
| <b>GFA</b>                 | Gross Floor Area                                                          |
| <b>Minister</b>            | Minister for Planning and Public Spaces                                   |
| <b>RL</b>                  | Reduced Level                                                             |
| <b>SEARs</b>               | Planning Secretary's Environmental Assessment Requirements                |
| <b>Planning Secretary</b>  | Secretary of the Department of Planning, Industry and Environment         |
| <b>SEPP</b>                | State Environmental Planning Policy                                       |
| <b>SRD SEPP</b>            | State Environmental Planning Policy (State and Regional Development) 2011 |
| <b>SSD</b>                 | State Significant Development                                             |

# Contents

|          |                                                 |           |
|----------|-------------------------------------------------|-----------|
| <b>1</b> | <b>Introduction .....</b>                       | <b>1</b>  |
| 1.1      | Background .....                                | 1         |
| 1.2      | Approval history.....                           | 3         |
| <b>2</b> | <b>Proposed modification .....</b>              | <b>4</b>  |
| <b>3</b> | <b>Statutory context .....</b>                  | <b>6</b>  |
| 3.1      | Scope of modifications .....                    | 6         |
| 3.2      | Consent authority .....                         | 6         |
| 3.3      | Mandatory matters for consideration.....        | 6         |
| <b>4</b> | <b>Engagement.....</b>                          | <b>7</b>  |
| 4.1      | Department's engagement.....                    | 7         |
| 4.2      | Summary of submissions .....                    | 7         |
| <b>5</b> | <b>Assessment .....</b>                         | <b>8</b>  |
| 5.1      | Relocation of the substation .....              | 8         |
| <b>6</b> | <b>Evaluation.....</b>                          | <b>10</b> |
| <b>7</b> | <b>Recommendation.....</b>                      | <b>11</b> |
| <b>8</b> | <b>Determination.....</b>                       | <b>12</b> |
|          | <b>Appendices .....</b>                         | <b>13</b> |
|          | Appendix A – List of referenced documents ..... | 13        |
|          | Appendix B – Statutory considerations.....      | 14        |
|          | Appendix C – Modification Instrument .....      | 16        |

# 1 Introduction

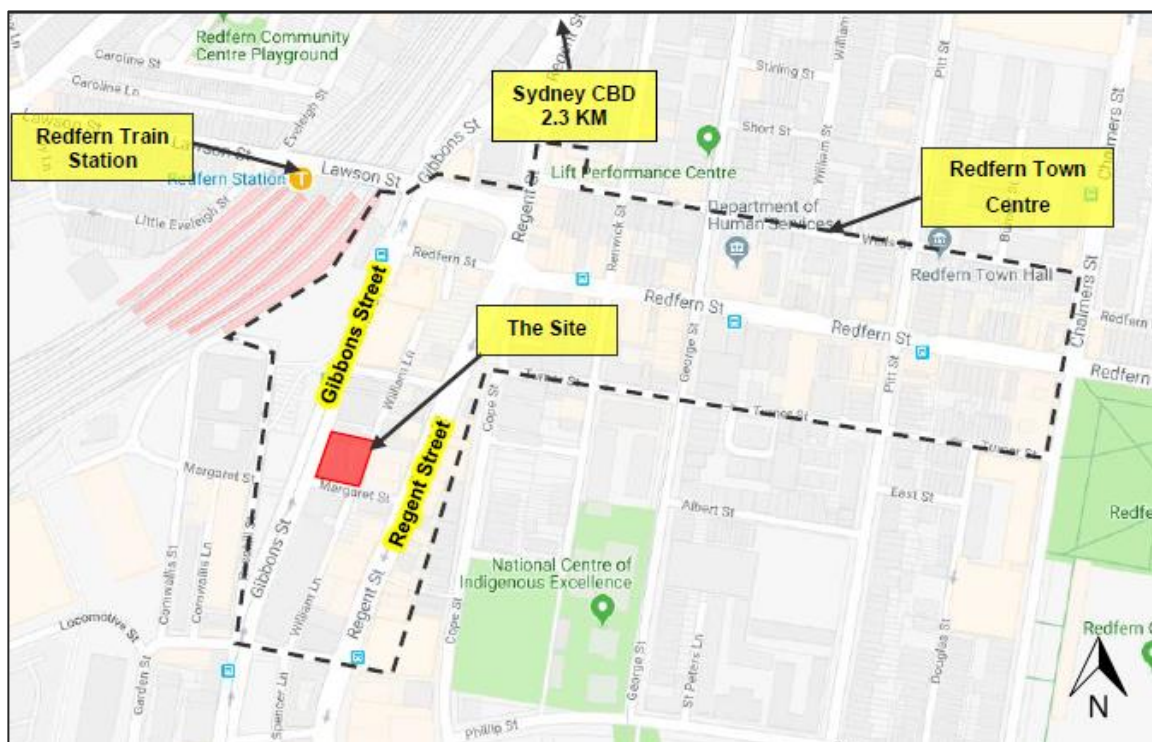
This report provides an assessment of an application to modify the State significant development consent (SSD 9194) for an 18-storey student accommodation development at 13-23 Gibbons Street, Redfern.

The application has been lodged by CW Strategic Planning Services on behalf of The Trustee for WH Gibbons Trust (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 the relocation of the substation on the ground floor of the building in accordance with Ausgrid's requirements.

## 1.1 Background

The site (Figure 1) is located at 13-23 Gibbons Street, Redfern and is legally described as SP 60485. The site is bound by Gibbons Street to the west, and Margaret Street to the south.



**Figure 1 | Site location (as shown in red) (Base source: Nearmap)**

The site is located within the Redfern Town Centre and is approximately 2.3 km to the south-west of the Sydney Central Business District and 150 m to the east of the Redfern Train Station.

The Redfern Town Centre is characterised by a mix of uses, including commercial, residential and public use buildings ranging from two to 18 storeys in height. Gibbons Street and Regent Street are four-lane, one-way State classified roads which run northbound and southbound respectively through the Town Centre.



The Redfern Town Centre is undergoing significant urban renewal and therefore has a mixed character transitioning from the traditional lower density mixed use, retail and residential developments of two to four storeys in height to buildings up to 18-storeys in accordance with the current planning controls for the area.

Immediate and proposed development within the vicinity of the site (Figure 2) includes:

- 1 Lawson Square: 18-storey mixed use development (under construction)
- 56-58 Regent Street: 21-storey hotel (SEARs issued)
- 157-159 Redfern Street (known as the Deicota building): 19-storey mixed use development (completed)
- 60-78 Regent Street: 18-storey student housing development (completed)
- 80-88 Regent Street: 18-storey student housing development (under construction)
- 7-9 Gibbons Street (known as the Urba building): 18-storey mixed-use development comprising a three-storey podium for retail/commercial uses and 15-storey residential tower above (completed)
- 11 Gibbons Street: 18-storey social and affordable housing development with ground floor retail/commercial uses (under construction)
- 90-102 Regent Street: proposed 18-storey student housing development (SSD application under assessment)
- 104-116 Regent Street: proposed 18-storey student housing development (SEARs issued).



**Figure 2 |** Site location and context (Base source: Nearmap)

## 1.2 Approval history

On 6 October 2020, the Executive Director, Regions, Industry and Key Sites, as delegate of the Minister for Planning and Public Spaces approved an SSD application (SSD 9194) for an 18-storey mixed use student accommodation building comprising:

- 419 student accommodation beds
- communal student facilities, including lounge areas, games room, gymnasium and external terraces on levels 2, 3 and 4
- one ground floor retail tenancy
- new through-site link, public domain and landscaping works.

The development consent has been modified once (see **Table 1**).

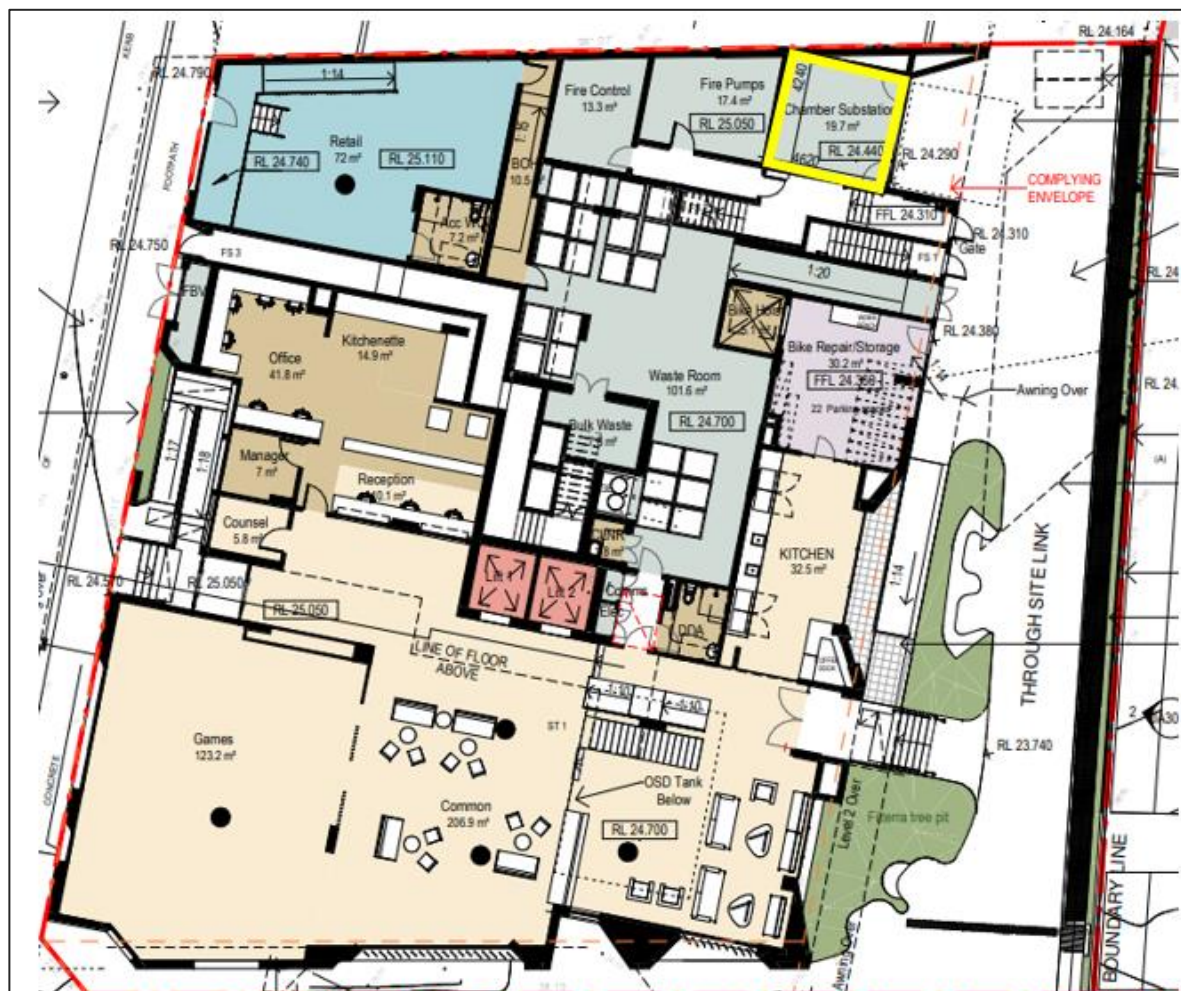
**Table 1** | Summary of Modifications

| Mod No.      | Summary of Modifications             | Approval Authority              | Type     | Approval Date   |
|--------------|--------------------------------------|---------------------------------|----------|-----------------|
| <b>MOD 1</b> | Amendments to Conditions B32 and C32 | Director, Key Sites Assessments | 4.55(1A) | 9 December 2020 |

## 2 Proposed modification

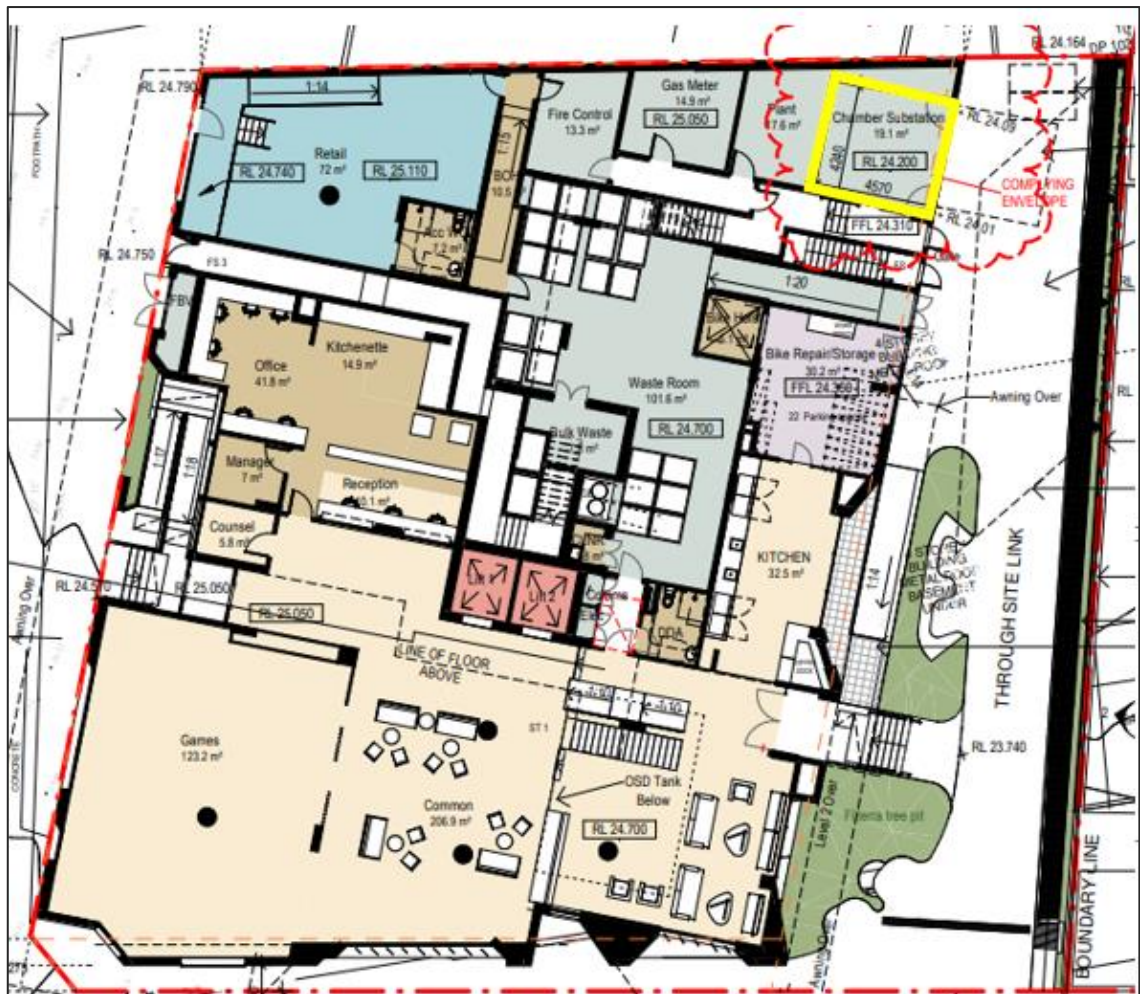
The Applicant lodged a modification application (SSD 9194 MOD 2) seeking approval, under section 4.55(1A) of the EP&A Act, for the relocation of the substation on the ground floor in accordance with Ausgrid's requirements.

The approved ground floor layout included a substation fronting the through-site link, with the substation area recessed from the main building façade line (**Figure 3**). The Applicant has revised the design and located the substation with zero setback from the building façade (**Figure 4**). The floor level of the substation is also amended from RL 24.44 to RL 24.20 to ensure access from the ground level of the through-site link.



**Figure 3 |** Approved ground floor layout (substation shown in yellow outline) (Source: Applicant)





**Figure 4 |** Proposed ground floor layout (substation shown in yellow outline) (Source: Applicant)

## 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**.

### 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, the Acting Director, Key Sites Assessments, may determine this application under delegation 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 5** and **Appendix B**.

## 4 Engagement

### 4.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact applications.

Accordingly, the application was not notified or advertised. However, the modification application was made publicly available on the Department's website and referred to the City of Sydney Council (Council).

### 4.2 Summary of submissions

The Department received one submission from Council in relation to the application. Council noted that the finished floor level of the substation does not align with Council's Interim Floodplain Management Policy. However, Council acknowledges that the substation is not a Council asset and is owned by Ausgrid, who has accepted the risks associated with potential flooding.

No public submissions were received.

## 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
- submission from Council.

### 5.1 Relocation of the substation

The proposal seeks approval for the relocation of the substation on the ground floor in accordance with Ausgrid's requirements.

The proposed substation would be relocated, with zero setback from the building façade.

The Applicant originally sought dispensation from Ausgrid to allow a recessed substation in accordance with the approved plans. Ausgrid rejected the request and noted their preference for the substation to be located at the building façade line to improve ventilation and airflow across the substation louvres. Ausgrid also noted the recessed substation has the potential to result in safety and amenity impacts as it creates a space where people could conceal themselves or where waste and debris could accumulate.

The floor level of the substation was amended from RL 24.44 to RL 24.20 to ensure access from the ground level of the through-site link.

The Applicant notes the revised design results in the substation being located below the 1:100 year flood level of RL 24.35. Ausgrid granted dispensation for the RL of the substation and noted they would prefer to manage potential flooding impacts rather than manage overheating of the substation.

Council noted that the finished floor level of the substation does not align with Council's Interim Floodplain Management Policy. However, Council acknowledges that the substation is not a Council asset and is owned by Ausgrid, who has accepted the risks associated with potential flooding.

The Department considers the proposed location of the substation acceptable as:

- Ausgrid as the owner and operator of the substation has granted dispensation for the proposed location and finished level of the substation. Ausgrid has accepted the potential flooding risks and noted they would prefer to manage potential flooding impacts rather than manage overheating of the substation
- it would improve the ventilation and airflow across the substation louvres
- it would result in improved safety and amenity outcomes by removing a space where people could conceal themselves or where waste and debris could accumulate
- it would not result in any significant visual impacts as it is not fronting a public roadway and the substation façade remains unchanged from the approved development
- it would not result in any changes to the approved GFA or FSR of the development.

The Department recommends Condition A2 is updated to reflect the revised design drawings.



The Department's assessment therefore concludes the proposed modification is acceptable.

## 6 Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate as:

- Ausgrid has granted dispensation for the proposed location of the substation and has accepted the potential flooding risks
- it would result in improved operational, safety and amenity outcomes.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

## 7 Recommendation

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

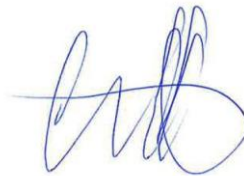
- **considers** the findings and recommendations of this report
- **determines** that the application SSD 9194 MOD 2 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD 9194 MOD 2
- **signs** the attached approval of the modification (**Appendix C**).

**Recommended by:**



**Minoshi Weerasinghe**  
Acting Senior Planning Officer  
Key Sites Assessments

**Recommended by:**



**Cameron Sargent**  
Team Leader  
Key Sites Assessments

## 8 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:



**Annie Leung**

Acting 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:

### Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41521>



## Appendix B – Statutory considerations

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is included in **Table 1**.

**Table 1** | Consideration of section 4.55(1A) of the EP&A Act

| Section 4.55(1A)                                                                                                                                                                                                           | Department's consideration                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) The proposed modification is of minimal environmental impact                                                                                                                                                           | <b>Section 5</b> of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.                                                                                                                                                                                            |
| (b) 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. | The development, as proposed to be modified, is substantially the same development as that originally approved in that: <ul style="list-style-type: none"><li>the proposed use of the site remains the same</li><li>the proposed modification to the approval will not alter the built form or scale of the building</li><li>it would not result in any additional environmental impacts.</li></ul> |
| (c) The application has been notified in accordance with the regulations.                                                                                                                                                  | The modification application has been notified in accordance with the regulations. Details of the notification are provided in <b>Section 4</b> of this report.                                                                                                                                                                                                                                     |
| (d) Any submission made concerning the proposed modification has been considered.                                                                                                                                          | The Department has considered submissions made, as addressed in <b>Section 4</b> and <b>Section 5</b> of this report.                                                                                                                                                                                                                                                                               |

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 2** identifies the matters for consideration under section 4.15(1) of the EP&A Act that apply to the proposed modification.

**Table 2 |** Consideration of the matters listed under Section 4.15(1) of the EP&A Act

| <b>Section 4.15(1) Matters for consideration</b>                                                                                                                        | <b>Department's consideration</b>                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a)(i) any environmental planning instrument                                                                                                                            | The modified proposal remains consistent with relevant EPIs.                                                                                                                                                                                                                                                   |
| (a)(ii) any proposed instrument                                                                                                                                         | Not applicable.                                                                                                                                                                                                                                                                                                |
| (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 Environmental Planning and Assessment Regulation 2000, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to <b>Section 4</b> ). |
| (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 as addressed in <b>Section 5</b> .                                                                                                                                                         |
| (c) the suitability of the site for the development                                                                                                                     | The site remains suitable for the development.                                                                                                                                                                                                                                                                 |
| (d) any submissions                                                                                                                                                     | The Department has considered submissions made, as addressed in <b>Section 4</b> and <b>Section 5</b> of this report.                                                                                                                                                                                          |
| (e) the public interest                                                                                                                                                 | The Department considers the modified proposal to be in the public interest as it would result in improved operational, safety and amenity outcomes.                                                                                                                                                           |

## **Appendix C – Modification Instrument**

The Modification Instrument can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/41521>