|  |  |
| --- | --- |
| \\VFILERDPI\DPI-Home\OBRIENR2\My Documents\Downloads\PP logo.jpg | COUNCIL LOGO |
| **COUNCIL ASSESSMENT REPORT – MODIFICATION APPLICATION**Choose an item. PLANNING PANEL  |

|  |  |
| --- | --- |
| PANEL REFERENCE & DA NUMBER | [Panel Ref Number] – [MOD/DA#]  |
| PROPOSAL  | [brief description] |
| ADDRESS | Lot ## DP ## [Street Address] |
| APPLICANT |  |
| OWNER |  |
| MOD LODGEMENT DATE |  |
| ORIGINAL DA DETERMINATION DATE |  |
| APPLICATION TYPE  | Modification Application under Section 4.55(2) or 4.56 |
| REGIONALLY SIGNIFICANT CRITERIA | Clause ##, Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* : [type] |
| CIV | $#### (excluding GST) |
| CLAUSE 4.6 REQUESTS  | [Nominate relevant LEP/SEPP Clause to be varied and zoning] |
| KEY SEPP/LEP | Housing SEPP, Biodiversity and Conservation SEPP, LEP |
| TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS |  |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | [Plans, reports, Clause 4.6] |
| SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24) |  |
| RECOMMENDATION | Approval/Refusal/Deferred Commencement/Partial consent |
| DRAFT CONDITIONS TO APPLICANT | [YES] [NO] [N/A] |
| SCHEDULED MEETING DATE | Select Date |
| PLAN VERSION | Select Date Version No  |
| PREPARED BY |   |
| DATE OF REPORT | Select Date |

**[Red text – complete and/or delete]**

**[Green text – examples for reference; delete once completed]**

**NOTE: This report template is for s4.55(2) and 4.56 modification applications only. All other modification applications are to be determined by Council pursuant to the Instruction made under Cl 123BA(2) of the EP&A Regulation which took effect on 1 August 2020 (**[**https://www.planningportal.nsw.gov.au/planning-panels/planning-panel-publications**](https://www.planningportal.nsw.gov.au/planning-panels/planning-panel-publications)**).**

**EXECUTIVE SUMMARY**

[approx. 2 pages – Prepare following completion of the report]

* Brief outline of proposal and its characterisation (its definition and permissibility)
* Brief outline of site
* Brief outline of history of application (if significant delays) including original DA
* Whether the proposed modification is substantially the same development pursuant to s4.55(2)(a) or 4.56(1)(a) of the EP&A Act
* Outline the criteria satisfied by the proposed modification to be considered by the Panel in the Instruction pursuant to Clause 275(2) of the EP&A Regulation 2021
* Key issues (urban design, density, compatibility with the area etc as bullet points if there are several)
* Key concerns from agencies, community etc (bulk and scale, bushfire)
* Pre-conditions/jurisdictional prerequisites satisfied (prior to the grant of consent)? (i.e., Section 4.6 of SEPP (Resilience & Hazards); Clause 4.6(4) of therelevant LEP or satisfactory arrangement clauses) – listed and relevant recommendations summarised,
* How issues were resolved (briefly – through amendments, conditions)
* Consistent with or contrary to the public interest??
* Recommendation – 1-2 lines (approval/refusal/why??) including approval from Crown to impose conditions where required
* Summary of s4.15(1) matters

Example:

The modification application has been lodged pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’) and seeks consent for amendments to a consent granted under DA [####] approved by the [Council/Panel] on [Select Date]. This consent approved the [INSERT APPROVED WORKS] at [INSERT SITE ADDRESS] (‘the site’). The modification application includes the relevant information required by Clause 100 of the *Environmental Planning and Assessment Regulation 2021* (‘2021 EP&A Regulation’).

The application is referred to the [INSERT PANEL NAME] (‘the Panel’) as the development is ‘*regionally significant development’*, pursuant to Section 2.19(1) and Clause # of Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 as it comprises [INSERT DEVELOPMENT TYPE – i.e., *place of public worship* with a CIV over $5 million]. The proposed modification satisfies the criteria to be considered by the Panel in the Instruction issued pursuant to Clause 275(2) of the EP&A Regulation 2021 (formerly Cl 123BA of the Regulation 2000).

The proposed modification relates to an extended basement floor level, changes to the ground and first floors and the removal of one (1) additional tree from the site. The proposed modification is considered to satisfy the substantially the same development test required by Section 4.55 of the EP&A Act.

The application was placed on public exhibition from [Select Date to [Select Date, with [INSERT NUMBER] submissions received. These submissions raised issues relating to building height, streetscape and site context, views, residential use in an infrastructure zone, overdevelopment, and potential acoustic, privacy and overshadowing impacts. These issues are considered further in this report.

A briefing was held with the Panel on 11 March 2021 where key issues were discussed, including ……...

The key issues associated with the proposal identified in the assessment of the application included:

1. *Urban Design* - The proposed built form achieves a sympathetic response to the existing and desired future context, and the building facades contribute positively and provide visual interest to the existing streetscape character. Front setbacks are sufficient and there are minimal impacts to surrounding properties and the streetscape.
2. *Bulk and Scale* - The bulk and scale of the proposal is incompatible with the existing prevailing character of the surrounding residential area and the future development standards proposed for the site under the Draft LEP 2020.
3. [INSERT ISSUES]

Other issues include the inadequacy of the Acoustic Report, Waste Management Plan, tree protection on adjoining sites and the proposed stormwater management provisions for the site. These issues have been resolved [explain how the issues have been resolved or not resolved].

Following consideration of the matters for consideration under Section 4.15(1) and 4.55 of the EP&A Act, it is considered that the proposed modification can be supported.

1. **THE SITE AND LOCALITY**
	1. **The Site**
* Dimensions (including site area), topography, orientation, vegetation, existing development, adjoining development, street frontages etc
* Special features – heritage, environmental, distance from town centre,
* Location map
* Aerial photograph of the site and photos of site
	1. **The Locality**
* Type and scale of existing adjoining and surrounding development
* The context of the site – a low density residential area, town centre location, industrial, rural??
* Other similar developments in the area
* Close to services and/or public transport
1. **THE PROPOSAL AND BACKGROUND**
	1. **The Proposed Modification**
* Description of the proposed modification outlining the proposed changes from the original development consent including any changes to hours of operation and/or land use etc.
* Provide plans/diagrams/perspectives/montages to show general outline of the proposed modification (use comparison plans to demonstrate changes proposed) and include in Annexures. Refer to the current version of the plans upon which the report is based (a list if required).

*Proposed Changes to Conditions*

* Outline the proposed changes to conditions, including conditions relating to approved plans and documents which may require amendments. Provide a table if there are multiple conditions proposed to be modified.

**Table 1: Proposed Changes to Conditions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Condition No** | **Condition requirements** | **Change Proposed**  | **Reason for Change** |
| 1 | Approved plans and documents  | Modify architectural plans  | Modify to update plans to reflect proposed modification |
|  |  |  |  |
|  |  |  |  |

*Development Data*

* Development data (in table below) – provide the key development data such as GFA, FSR, setbacks and heights, car parking spaces etc to ensure the information is easily identified by the Panel and make any necessary comparisons between the approved and proposed modified development (where appropriate).

**Table 2: Development Data**

|  |  |
| --- | --- |
| **Control** | **Proposal** |
| Site area |  |
| GFA |  |
| FSR (retail/residential) |  |
| Clause 4.6 Requests | Yes/No – specify  |
| No of apartments |  |
| Max Height |  |
| Landscaped area |  |
| Car Parking spaces |  |
| Setbacks |  |
|  |  |

* 1. **Background**

A pre-lodgement meeting was/was not held on Select Date prior to the lodgement of the application where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

* Height and FSR
* Urban Design

The original development consent was issued on **Select Date**, with the key issues considered in the assessment of the original development comprising the following:

* Key issue …..
* Key issue …..

The proposed modification application was lodged on **Select Date.** A chronology of the modification application since lodgement is outlined below in **Table 3** including the Panel’s involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the Modification Application**

|  |  |
| --- | --- |
| **Date** | **Event** |
| Select Date | Modification application lodged  |
| Select Date | Exhibition of the application  |
| Select Date | Modification referred to external agencies  |
| Select Date | Request for Information from Council to applicant (Cl 104 of the 2021 Regulation |
| Select Date | Panel briefing  |
| Select Date | RFI letter from Council pursuant to Cl 121 A of the Regulation which requested the following information:  |
| Select Date | Amended plans lodged [outline main change and discuss outside table if needed] dated Select Date accepted by Council under Cl 113(1) of the 2021 Regulation on Select Date.  |
|  |  |
|  |  |
|  |  |

* 1. **Site History** (delete if no relevant site history)
* Has the site been the subject of a previous/ numerous development proposals?
* Has there been any other modification applications lodged??
* Are there any concurrent applications currently being considered?
* Any other important points on site or application history
* Any other relevant information on context of the site e.g., adjacent approvals / applications that the Panel should be made aware of.
1. **STATUTORY CONSIDERATIONS**

When determining a modification application, the consent authority must take into consideration the matters outlined in [4.55(2) or 4.56] of the EP&A Act in relation to modification of consents provisions, Section 4.15(1) of the EP&A Act in relation to matters for consideration for applications and Part 5 of the 2021 EP&A Regulationin relation to information requirements and notification. These matters are considered below.

* 1. **Section [4.55 or 4.56]** **of the EP&A Act**

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] (for s4.55 applications) or [the Court] (for Section 4.56 applications) and subject to and in accordance with the regulations, modify the consent if a number of matters are satisfactorily addressed pursuant to Section 4.55(2) of the EP&A Act. The matters include the following:

**For Section 4.55(2) applications: [Delete this section if not relevant]**

1. *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all) (s4.55(2)(a)), and*

Outline whether the proposed modification is substantially the same development.

The proposed changes are minor and do not substantially alter the approved development in that the land is still be used for a residential dwelling and does not result in any significant changes to the built form. The majority of the proposed changes are internal with only minor changes to some of the windows proposed. Furthermore, the proposed changes are considered unlikely to adversely impact on the amenity of nearby residents as only a new door is proposed to the southern boundary and will be screened by planting from the roof terrace.

There are no other aspects of the proposed modification which may result in additional noise, overshadowing or overlooking for adjoining properties. Accordingly, it is considered the proposed modification is substantially the same development as the development for which consent was originally granted as modified in July 2020.

1. *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent (s4.55(2)(b)), and*

Outline any consultation undertaken for concurrence and/or GTAs for integrated development. Any objections from agencies? Are the GTAs required to be amended for the proposed modification?? Refer to Section 4 of this Report.

1. *it has notified the application in accordance with—*
2. *the regulations, if the regulations so require, or*
3. *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 (s4.55(2)(c)), and*

Outline any notification undertaken in accordance with the Council’s Community Participation Plan, Division 2 of Part 5 of the 2021 EP&A Regulation or whether notification is not required. Refer to Section 4 of this Report.

1. *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be (Section 4.55(2)(d)).*

The modification application was notified between [insert dates of notification] and [###] submissions were received. The issues raised in these submissions are considered in Section 4 of this report.

1. *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 4.55(3)).*

The matters required to be considered include:

* Matters for consideration pursuant to Section 4.15(1) of the EP&A Act – these matters are considered below in Section 3.2 of this report; and
* Reasons given by the consent authority for the grant of the consent that is sought to be modified – outlined below.

*Reasons for Grant of Consent*

The Choose an item. Planning Panel granted consent to the original development in a notice of determination dated Select Date. The reasons outlined in the Statement of reasons for this decision included the following:

* List reasons
* ###

Outline whether the proposed modification is consistent with the reasons for which consent was originally granted.

The proposed modification is consistent with these reasons for the decision on this consent in that the proposed development is entirely consistent with the planning controls and expectations for the site given the zoning and other planning controls for the site.

**For Section 4.56 applications: [Delete this section if not relevant]**

1. *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) (s4.56(1)(a)), and*

Outline whether the proposed modification is substantially the same development (*refer above for 4.55 applications for example)*

1. *it has notified the application in accordance with—*

*(i)  the regulations, if the regulations so require, and*

*(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 (s4.56(1)(b)), and*

Outline any notification undertaken in accordance with the Council’s Community Participation Plan, , Division 2 of Part 5 of the 2021 EP&A Regulation or whether notification is not required. Refer to Section 4 of this Report.

1. *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person (s4.56(1)(c)), and*

Outline any notification undertaken as outlined above.

1. *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 (s4.56(1)(d)).*

Outline submissions – Refer to Section 4 of this Report.

1. *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 (s4.56(1A)).*

The matters required to be considered include:

* Matters for consideration pursuant to Section 4.15(1) of the EP&A Act – these matters are considered below in Section 3.2 of this report; and
* Reasons given by the consent authority for the grant of the consent that is sought to be modified – outlined below.

*Reasons for Grant of Consent*

The Choose an item. Planning Panel granted consent to the original development in a notice of determination dated Select Date. The reasons outlined in the Statement of reasons for this decision included the following:

* List reasons
* ###

Outline whether the proposed modification is consistent with the reasons for which consent was originally granted.

The proposed modification is consistent with these reasons for the decision on this consent in that the proposed development is entirely consistent with the planning controls and expectations for the site given the zoning and other planning controls for the site.

* 1. **Section 4.15(1) of the EP&A Act**

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application and modification applications pursuant to [Section 4.55(3)) or Section 4.56(1A)], which are of relevance to the application.

These matters include the following, which are considered in detail below:

1. *the provisions of—*
2. *any environmental planning instrument, and*
3. *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*
4. *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*

1. *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

*that apply to the land to which the development application relates,*

1. *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
2. *the suitability of the site for the development,*
3. *any submissions made in accordance with this Act or the regulations,*
4. *the public interest.*
	* 1. **Section 4.15(1)(a) - Provisions of Environmental Planning Instruments, Proposed Instruments, DCPs, Planning Agreements and the Regulations**

The relevant provisions under s4.15(1)(a) are considered below.

1. ***Environmental planning instruments (s4.15(1)(a)(i))***

The following Environmental Planning Instruments are relevant to this application [add/delete as required]:

* [*State Environmental Planning Policy (Biodiversity and Conservation) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722)
* [*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2004-0396)
* [*State Environmental Planning Policy (Housing) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714)
* [*State Environmental Planning Policy (Industry and Employment) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723)
* [*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2002-0530)
* [*State Environmental Planning Policy (Planning Systems) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724)
* [*State Environmental Planning Policy (Precincts—Central River City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0725)
* [*State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0726)
* [*State Environmental Planning Policy (Precincts—Regional) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727)
* [*State Environmental Planning Policy (Precincts—Western Parkland City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0728)
* [*State Environmental Planning Policy (Primary Production) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729)
* [*State Environmental Planning Policy (Resilience and Hazards) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730)
* [*State Environmental Planning Policy (Resources and Energy) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731)
* [*State Environmental Planning Policy (Transport and Infrastructure) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732)
* *[NAME] Local Environmental Plan [YEAR];*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

**Table 4: Summary of Applicable State Environmental Planning Policies (Preconditions in bold)**

|  |  |  |
| --- | --- | --- |
| **EPI** | **Matters for Consideration***(Brief summary)* | **Comply (Y/N)** |
| State Environmental Planning Policy (Biodiversity & Conservation) 2021  | Chapter 2: Vegetation in non-rural areasChapter 3: Koala Habitat Protection 2020Chapter 4: Koala Habitat Protection 2021Chapter 5: River Murray Lands Chapter 6: Bushland in Urban AreasChapter 8: Sydney Drinking Water CatchmentChapter 9: Hawkesbury-Nepean RiverChapter 10: Sydney Harbour CatchmentChapter 11: Georges River CatchmentChapter 12: Willandra Lakes Region World Heritage Area | Y/N |
| BASIX SEPP | No compliance issues identified subject to imposition of conditions on any consent granted.  | Y/N |
| State Environmental Planning Policy (Housing) 2021 | Chapter 2: Affordable HousingInfill affordable housing, boarding houses, boarding houses – Land and Housing Corporation, supportive accommodation, Residential flat buildings—social housing providers, public authorities and joint ventures, Residential development—Land and Housing CorporationChapter 3: Diverse HousingSecondary dwellings, Group Homes, Co-living housing, build-to-rent housing, Housing for Seniors and people with a disability, short-term rental accommodation, manufactured home estates and caravan parks.  | Y/N |
| State Environmental Planning Policy (Industry and Employment) 2021 | Chapter 2: Western Sydney Employment AreaChapter 3: Advertising and Signage* Section 3.6 – granting consent to signage
* Section 3.11(1) – matters for consideration
 | Y/N |
| SEPP 65 | * Clause 30(2) - Design Quality Principles - The proposal is consistent/contrary to the design quality principles and the proposal is consistent/contrary to the ADG requirements for car parking, communal open space….
 | Y/N |
| State Environmental Planning Policy (Planning Systems) 2021 | Chapter 2: State and Regional Development * Section 2.19(1) declares the proposal regionally significant development pursuant to Clause # of Schedule 6 as it comprises [INSERT DEVELOPMENT TYPE].

Chapter 3: Aboriginal Land (where applicable)* Section 3.8 – consent authority must have regard to matters in section 3.7(2) that are included in a development delivery plan that is applicable to land to which this Chapter applies when determining an application for development consent to carry out development on that land.
* Section 3.10 – declaration as regionally significant development
 | Y/N |
| State Environmental Planning Policy (Precincts—Central River City) 2021 or State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 orState Environmental Planning Policy (Precincts—Regional) 2021 or State Environmental Planning Policy (Precincts—Western Parkland City) 2021 | Based on geographical location. | Y/N |
| State Environmental Planning Policy (Primary Production) 2021 | * Chapter 2: Primary Production and rural development
* Chapter 3: Central Coast Plateau Areas
 | Y/N |
| SEPP (Resilience & Hazards)  | Chapter 2: Coastal Management * Section 2.7(4) – certain development in coastal wetlands or littoral rainforest on the *Coastal Wetlands and Littoral Rainforests Area Map*
* Section 2.8(1) -Development on land in proximity to coastal wetlands or littoral rainforest
* Section 2.10(1) & (2) - Development on land within the coastal environment area
* Section 2.11(1) - Development on land within the coastal use area
* Section 2.12 - Development in coastal zone generally —development not to increase risk of coastal hazards.
* Section 2.13 - Development in coastal zone generally - coastal management programs to be considered.

Chapter 4: Remediation of Land* Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.
 | Y/N |
| State Environmental Planning Policy (Resources and Energy) 2021 | * Chapter 2: Mining, petroleum production and extractive industries
* Chapter 3: Extractive industries in Sydney Area
 | Y/N |
| State Environmental Planning Policy (Transport and Infrastructure) 2021 | Chapter 2: Infrastructure* Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions.
* Section 2.118(2) - Development with frontage to classified road
* Section 2.119(2)   Impact of road noise or vibration on non-road development
* Section 2.121(4) - Traffic-generating development

Chapter 3: Educational Establishments* Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities

Chapter 4: Major Infrastructure CorridorsChapter 5: Three Ports – Port Botany, Port Kembla and Newcastle | Y/N |
| Proposed Instruments  | No compliance issues identified. | Yes |
| LEP | * Clause 2.3 – Permissibility and zone objectives
* Clause ? - Urban release areas/satisfactory arrangements clauses
 | Y/N |
| DCP  |  | Y/N |

For each SEPP:

* Outline key points of the SEPP including any pre-conditions, definitions, or other threshold tests
* Only provide detailed tables of compliance in the attachments
* Note if permissibility is provided via a SEPP (Seniors Housing, Education SEPP etc)
* Note if a Site Compatibility Statement has been provided
* Note design review, ADG etc for SEPP 65

Delete/add SEPPS where required

[*State Environmental Planning Policy (Biodiversity and Conservation) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722)

[*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2004-0396)

*State Environmental Planning Policy – Building Sustainability Index BASIX– 2004* (‘BASIX SEPP’) applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No.1139640M\_02 prepared by Northrop Consulting Engineers Pty Ltd dated 29 September 2020 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

[*State Environmental Planning Policy (Housing) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714)

[*State Environmental Planning Policy (Industry and Employment) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723)

[*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2002-0530)

[*State Environmental Planning Policy (Planning Systems) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724) *(‘*Planning Systems SEPP’)

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause ## of Schedule 6 of the Planning Systems SEPP as the proposal is development for [INSERT DEVELOPMENT TYPE].Accordingly, the [INSERT PANEL NAME] Panel is the consent authority for the application. The proposal is consistent with this Policy.

[*State Environmental Planning Policy (Precincts—Central River City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0725)*/*[*State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0726)*/*[*State Environmental Planning Policy (Precincts—Regional) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727)*/*[*State Environmental Planning Policy (Precincts—Western Parkland City) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0728)

The site is located at [INSERT LOCATION] and therefore the [INSERT RELEVANT SEPP] SEPP is relevant to the development application.

* [*State Environmental Planning Policy (Primary Production) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729)
* [*State Environmental Planning Policy (Resilience and Hazards) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730)

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 (‘the* Resilience and Hazards SEPP’) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation (‘PSI’) has been prepared for the site.

The PSI consisted of a search of historical records and a site walkover. This research found that the main church and storage building have been present and in use on the site since approximately 1919. The administration office was present in 1943 and the demountable Chinese church in 1961. Building extensions/modifications were completed in 1961 for the main church, and 1982 for the administration office. Outside of these changes, the land use has remained the same. The report also notes that aerial photographs show the land immediately surrounding the site has remained predominantly residential.

The potential sources of contamination were considered to be weathering of hazardous building materials such as asbestos, metal flashing and lead based paint as well as fill materials of unknown origin on the front (northern) garden of …….

The report concluded that the site can be made suitable for the proposed community facility/place of worship and residential/crisis accommodation subject to conditions of consent. This conclusion was based on the proposed demolition of the buildings and the excavation of the site for the basement removing fill materials (if present) as well as shallow residual soils and perched water that may have been impacted by the contamination sources identified. This will effectively mitigate the potential health and ecological risks associated with these materials for future use of the site. The proposal is considered to be consistent with SEPP 55, subject to imposition of relevant conditions of consent in relation to remediation works during construction on any consent granted.

[*State Environmental Planning Policy (Resources and Energy) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731)

[*State Environmental Planning Policy (Transport and Infrastructure) 2021*](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732)

*[NAME] Local Environmental Plan [YEAR]*

The relevant local environmental plan applying to the site is the *[NAME] Local Environmental Plan [YEAR]* (‘the LEP’). The aims of the LEP include ……… The proposal is consistent/inconsistent with these aims as the proposal [give reasons].

*Zoning and Permissibility (Part 2)*

The site is located within the …. Zone pursuant to Clause 2.2 of the LEP [insert extract of zoning map].

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of [land use] which is a permissible use with consent in the Land Use Table in Clause 2.3. [If proposal is permissible under a SEPP, this should also be referenced here].

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

* *To provide …...*

The proposal is considered to be consistent with these zone objectives for the following reasons:

* ….

*General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 5** below. [The proposal does not comply with the development standard/s in Part 4 of the LEP/Clause ## of SEPP ###. This is considered in the key issues section of this report].

**Table 5: Consideration of the LEP Controls**

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Requirement**  | **Proposal** | **Comply** |
| Minimum subdivision Lot size (Cl 4.1) | ##m² |  | Yes/No |
| Height of buildings (Cl 4.3(2)) | # metres |  | Yes/No |
| FSR (Cl 4.4(2)) | #:1 (##m²) |  | Yes/No |
| Land acquisition (Cl 5.1/5.1A) |  |  | Yes/No |
| Heritage (Cl 5.10) |  |  | Yes/No |
| Acid sulphate soils (Cl 6.1) |  |  | Yes/No |
| Flood planning (Cl 6.3) |  |  | Yes/No |
| Stormwater Management (Cl 6.4) |  |  | Yes/No |
| [Insert] |  |  |  |

The proposal is considered to be generally consistent/ inconsistent with the LEP.

1. ***Provisions of any Proposed Instruments (s4.15 (1)(a)(ii))***

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

* *Draft XXXX Local Environmental Plan YYYY*
* *Draft Remediation of Land SEPP*
* *Design and Place SEPP*
* *Draft SEPP (Environment)*

These proposed instruments are considered below in **Table 6**:

**Table 6: Consideration of Proposed Instruments**

|  |  |  |  |
| --- | --- | --- | --- |
| **Proposed EPI** | **Proposed Changes** | **Proposal** | **Consistent (Y/N)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

The proposal is generally [consistent or inconsistent] with these proposed instruments.

1. ***Provisions of any Development Control Plan (s4.15(1)(a)(iii))***

The following Development Control Plan is relevant to this application:

* *[NAME] Development Control Plan [YEAR]* (‘the DCP’)

Summarise the most important controls, list non-compliances/issues/discuss

Detailed tables to be provided as attachments.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

* *[NAME] S7.11 Development Contributions Plan [YEAR]*

This Contributions Plan has been considered and included the recommended draft consent conditions [Provide information on whether it is applicable etc].

1. ***Planning agreements under Section 7.4 of the EP&A Act (s4.15(1)(a)(iiia))***

The following planning agreement/s has been entered into under Section 7.4 of the EP&A Act:

* **XXXX**

[Clearly outline the status of any relevant planning agreements – i.e., adopted/advertised etc]

The applicant has offered to enter into following draft planning agreement/s under Section 7.4 of the EP&A Act:

* **XXXX**

**Or**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

The proposal is consistent/inconsistent with this Planning Agreement as discussed in this report.

1. ***Provisions of Regulations (s4.15(1)(a)(iv))***

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

* If demolition of a building proposed - provisions of AS 2601;
* If on land subject to subdivision order under Schedule 7, provisions of that order and any development plan;
* Dark Sky Planning Guideline if applicable;
* *Low Rise Housing Diversity Design Guide for Development Applications* (July 2020) if for manor house or multi dwelling housing (terraces);
* If a building for residential purposes on land in Penrith City Centreis proposed, the *Penrith City Centre Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre;*
* Development on land to which Wagga Wagga LEP 2010 applies, the*Wagga Wagga Special Activation Precinct Master Plan*(DPE, May 2021);
* Development on land to which Moree Plains LEP 2011 applies, the *Moree Plains Special Activation Precinct Master Plan (DPE,* January 2022).

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are [INSERT relevant/not relevant] to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

* + 1. **Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

* Note – consideration of impacts needs to include those off-site that directly relate to the DA e.g., provision of infrastructure which may require additional vegetation removal or retaining walls on the boundary etc.
* Note – where conditions of consent are recommended to address impacts, these should be cross referenced in this section of the report.
* Note – any technical / specialist reports that are being relied upon should be summarised and the key findings described and conclusions critically analysed in this part of the report. Do not cut and paste large sections of consultant’s reports with no discussion.

The consideration of impacts on the natural and built environments includes the following:

* Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed changes #### is appropriate as a result of ……regional and local context, scenic qualities?? Character and amenity of the locality and streetscape, scale, mass, form, character etc of surrounding development, potential impacts on adjoining properties (discussed in key issues if significant), previous and existing land uses.
* Access and traffic – The proposed #### ……... traffic and travel demand, public transport options??, parking spaces, traffic generation and capacity of road network?
* Public Domain – does the proposal impact on, and/or improve the public domain?? Is there public open space in the area?? Pedestrian linkages in the area?
* Utilities – are all utilities available at the site??, agency comments (if significant, should be in key issues)
* Heritage – does the site contain or adjoin a heritage item?? Heritage conservation area? State heritage item?? Impacts on heritage values (if significant, should be in key issues)?
* Other land resources – water catchment, mining, agricultural land??
* Water/air/soils impacts - Contamination?
* Flora and fauna impacts - tree and vegetation removal? Threatened species? Biodiversity?
* Natural environment – Any significant changes to the natural contours of the site?
* Noise and vibration – construction and operational impacts? Mitigated with conditions?
* Natural hazards – is the site affected by any natural hazards such as flooding, bushfire and has the hazard been adequately addressed by the proposal (consultant reports and GTAs etc)
* Safety, security and crime prevention – CPTED Principles
* Social impact – health and safety of the community, sense of place, community facilities, interactions between the new development and the community;
* Economic impact – employment generation, existing/future businesses, economic benefits, business investment, anything dedicated to Council that would assist the community (car parking etc)
* Site design and internal design – is the proposal set out appropriately on the site to mitigate potential impacts?
* Construction – have the potential impacts from construction been adequately mitigated in conditions? Are special hours of construction or demolition methods etc warranted for the site?
* Cumulative impacts – will the proposal result in any adverse cumulative impacts? Is it generally consistent with the planning controls etc that it will not result in an adverse cumulative impact?

Accordingly, it is considered that the proposed modification [will/will not] result in any significant adverse impacts in the locality as outlined above.

* + 1. **Section 4.15(1)(c) - Suitability of the site**
* Does the proposal fit within the locality?
* Is there adequate services, transport infrastructure and open space in the vicinity?
* Is the site affected by any natural hazards (bushfire, flooding, coastal hazards, climate change, land slip) which have not been addressed in the application?
* Are the site attributes conducive to the development?
* Are there any adjoining uses prohibitive of the proposal?
	+ 1. **Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 4.3 of this report.

* + 1. **Section 4.15(1)(e) - Public interest**

Is or is not in the public interest?

Potential impacts are mitigated?

Consistency with planning controls

How will the health and safety of the public be affected?

Will provide economic or social benefits?

Is consistent with the regional strategy

Consistency with the *Greater Sydney Region Plan: A Metropolis of Three Cities*

Consistent with the principles of Ecologically sustainable development

Climate change

On balance the proposal is consistent/contrary to the public interest?

* 1. **Part 5 of the 2021 EP&A Regulation**

There are a number of matters required to be addressed in an application for modification of development consent pursuant to Division 1, 2 and 3 of Part 5 of the 2021 EP&A Regulation.These matters are considered in **Table 7** below.

**Table 7: Consideration of the Requirements under the Regulation**

|  |  |  |
| --- | --- | --- |
| **Matter** | **Comment**  | **Comply** |
| Clause 100 Application for modification of development consent |
| May be made by—(a)  the owner of the land to which it relates, or(b)  another person, with the consent of the owner of the land (Cl 98(1)) | The application has been made by [INSERT]. | Y/N |
| NSW Aboriginal Land Council consent required for land owned by a Local Aboriginal Land Council (Cl 98(6)). | The land is/is not owned by a Local Aboriginal Land Council and consent is not required/has been provided. | Y/Nor N/A |
| Form approved by Planning Secretary and on portal (Cl 99).  | The application has/has not been provided in accordance with the Regulation.  | Y/N |
| Applicant details (Cl 100(1)(a)) | Provided on the NSW Planning Portal (‘the Portal’). | Y/N |
| Description of the development (Cl 100(1)(b))  | Provided on the Portal and outlined in Section 2 of this Report. | Y/N |
| Address and title details (Cl 100(1)(c)) | Provided on the Portal and outlined in Section 1 of this Report. | Y/N |
| Description of the proposed modification (Cl 100(1)(d)) | Provided on the Portal and outlined in Section 2 of this Report. | Y/N |
| Whether to correct a minor error, mis-description or miscalculation, orsome other effect (Cl 100(1)(e)) | The proposed modification is to modify the original consent under Section 4.55(2) or 4.56 to allow [insert reason for MOD] and is not to correct a minor error, misdescription or miscalculation. | Y/N |
| Description of the expected impacts of the modification (Cl 100(1)(f)) | There are unlikely to be any significant impacts resulting from the proposed modification given there are no significant changes to the external building form or features. Only minor changes are proposed largely to the internal layout of the dwelling. Any other impacts were considered in the original proposal, which was supported by Council. Refer to key issues section (where required).  | Y/N |
| Undertaking that modified development will remain substantially same as development originally approved (Cl 100(1)(g)) | The modified development will remain substantially the same development as that originally approved. Refer to Section 3.1 of this Report.  | Y/N |
| If accompanied by a Biodiversity development assessment report, the biodiversity credits information (Cl 100(1)(h)) | [Outline if proposal is accompanied by a biodiversity development assessment report] | Y/Nor N/A |
| Owner’s consent (Cl 100(1)(i)) | An undertaking has been provided on the Portal. | Y/N |
| Whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56) (Cl 100(1)(j)). | This Application is made to the consent authority pursuant to Section 4.55(2) or 4.56(1) of the EP&A Act. | Y/N |
| BASIX Certificate (Cl 100(3)) | The proposed modification does/does not involve BASIX development and an updated BASIX Certificate has/has not been provided/is not required. | Y/Nor N/A |
| Penrith Lakes Development Corporation (Cl 101) | The proposed modification does/does not Penrith Lakes Development Corporation. | Y/Nor N/A |
| Qualified designer statement for residential apartment development (Cl 102) | The proposed modification does/does not involve residential apartment development and a qualified designer statement has/has not been provided/is not required.  | Y/Nor N/A |
| Mining and petroleum development consents (Cl 102) | The proposed modification does/does not mining and petroleum development consents. | Y/Nor N/A |
| Notification and exhibition requirements (Cll 105-112) | Refer to Section 4.3 of this report.  | Y/N |
| Notification of concurrence authorities and approval bodies (Cl 109) (to be undertaken by Council) | The modification application has been referred to the relevant concurrence and approval bodies as outlined in Section 4.1 of this Report. | Y/Nor N/A |

1. **REFERRALS AND SUBMISSIONS**
	1. **Agency Referrals and Concurrence**

The modification application is [delete where not relevant]:

* Integrated Development (s4.46)
* Designated Development (s4.10)
* Requiring concurrence/referral (s4.13)
* Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided.

Accordingly, the modification application was referred to various agencies for comment/concurrence/referral as required by the EP&A Act and Clause 109 of the 2021 EP&A Regulation and outlined in **Table 8**.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report OR

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

**Table 8: Concurrence and Referral Agencies**

|  |  |  |  |
| --- | --- | --- | --- |
| **Agency** | **Concurrence/referral Trigger** | **Comments (Issue, resolution, conditions)** | **Resolved** |
| Concurrence Requirements (s4.13 of EP&A Act) |
| Environment Agency Head (Environment, Energy & Science Group within DPIE) | S7.12(2) - *Biodiversity Conservation Act 2016* | The proposal is likely to significantly affect threatened species and accordingly, the proposal has provided a biodiversity development assessment report. This report concluded…… Concurrence has not/has been granted. | Y/N |
| Rail authority for the rail corridor  | S2.98 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* | The proposal involves the excavation of ground to a depth of at least 2m below ground level (existing) on land within, below or above a rail corridor. Concurrence has not/has been granted. | Y/N |
| Referral/Consultation Agencies |
| Electricity supply authority | S2.48 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* |  | Y/N |
| Transport for NSW | S2.121 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* |  | Y/N |
| Integrated Development (s4.46 of the EP&A Act) |
| RFS | S100B - *Rural Fires Act 1997*bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes |  | Y/N |
| Natural Resource Access Regulator | S89-91 – *Water Management Act 2000*water use approval, water management work approval or activity approval under Part 3 of Chapter 3 |  | Y/N |

* 1. **Council Referrals**

The modification application was referred to various Council officers for technical review as outlined **Table 9.** The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

**Table 9: Consideration of Council Referrals**

|  |  |  |
| --- | --- | --- |
| **Officer** | **Comments** | **Resolved** |
| Engineering  | Council’s Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions. Outcome: Satisfactory subject to standard conditions being imposed on any consent granted (refer to Attachment A). | Y/N |
| Traffic  | Council’s Traffic Engineering Officer reviewed the proposal and raised concerns in relation to traffic generation and car parking. These issues are considered in more detail in the Key Issues section of this report.  | Refer to key Issues |
| Building |  |  |
| Health |  |  |
| Waste |  |  |
| Public Domain/Assets |  |  |
| Heritage  | Council’s Heritage Officer/Consultant reviewed the submitted Heritage Impact Statement (‘HIS’) prepared for the applicant and concurred with the conclusion of the HIS that there would not be any adverse impacts on heritage values arising from the proposal. It was also recommended that conditions are to be imposed on any consent issued regarding the salvage of materials and building elements, the retention of the commemorative plaques, provision of a photographic archival recording and a Heritage Interpretation Strategy to be prepared. Standard heritage discovery conditions were also recommended. Outcome: Satisfactory subject to standard conditions being imposed on any consent granted (refer to Attachment A).  | Yes (conditions) |

* 1. **Notification and Community Consultation**

The modification application was notified in accordance with the DCP/Council’s Community Participation Plan from Select Date until Select Date. The notification included the following:

* An advertisement in the local newspaper [name of publication] (where applicable);
* A sign placed on the site;
* Notification on a website;
* Notification letters sent to adjoining and adjacent properties (a rough estimate of the number of letters sent);
* Notification on the Council’s website.

The Council received a total of ### unique submissions, comprising ## objections and ## submissions in support of the proposal. The issues raised in these submissions are considered in **Table 10** [Table to include issues/themes raised and not individual submissions, indicate whether the issue is/is not a planning consideration and why, submitters list provided as required as an attachment].

The issues raised in the community submissions have been addressed in this report and in the recommended conditions of consent in **Attachment A**.

**Table 10: Community Submissions**

|  |  |  |
| --- | --- | --- |
| **Issue** | **No of submissions** | **Council Comments** |
| Flooding and stormwaterSubmissions raised concern the development will adversely impact flooding within the locality. | 59 | The application proposes an appropriate stormwater management network which will capture and control discharge of stormwater to the watercourse in the southern portion of the site. Stormwater modelling has been submitted to demonstrate the proposed stormwater management chain, including discharge to watercourse, and will not have negative impacts on downstream properties in peak storm events. Council’s Development Engineer has reviewed the proposal and raises no objections to the proposed stormwater management arrangements.Outcome: This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (Schedule 1).  |

1. **KEY ISSUES**

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

[Note here if the proposed modification raises any issues which were also raised in the original development application ensuring the proposed change are still consistent with the original approval.]

* 1. **XXXX**

Describe the issue, the reports/plans considered (i.e., Acoustic report), any areas of disagreement, and how it was resolved.

Resolution: The issue has been resolved through recommended conditions of consent Note – where specific conditions of consent are recommended to address impacts these should be cross referenced in this section of the report.

OR

The issue has not been resolved and accordingly, warrants refusal of the application.

* 1. **Urban Design**

The proposed building form presents an unsympathetic response to the streetscape and is of an excessive bulk and scale that does not positively contribute to the desired future character of the area. The parallel building alignment to street frontages with insufficient setbacks and facade articulation to ### Road and side boundaries further exacerbates its perceived bulk and scale and is incompatible with the existing residential streetscape character, which comprises a low-density residential area.

The design of the proposed facades to both the side and rear boundaries are considered unacceptable as the proposal presents a 3-storey continuous wall of development, with an approximate facade length of 39 metres to ### and nearly 52 metres to the eastern side boundary with limited changes in alignment. This does not present a harmonious fit to the context and is considered excessive in its current form.

There is no setting back of upper levels and the proposed vehicle entry from ### Road, with a width of 6.58 metres and height of up to 5.4 metres closer to the street boundary, exacerbates this bulk and scale and is considered to be a non-contributory element to the existing residential streetscape character.

A design which is more compatible with the low-density residential environment is recommended, with increased setbacks and deeper/wider vertical indentations to building facades to achieve a more ‘pavilion’ style development with increased opportunity for pockets of landscaping to break up the form and its visual bulk.

The proposed use of a mansard roof form as an ‘attic style’ third storey to mitigate the visual appearance of the proposal fails to achieve this objective. The continuous roof form exhibits inadequate articulation, setbacks and variations making it appear as a normal habitable floor level, contributing to the excessive form. A considerable reduction in its footprint area is required to create an appropriate roof profile that will moderate the proposed form, i.e., increased setbacks, breakups in the roof form etc.

The applicant has not addressed this issue satisfactorily with amended plans and accordingly, this issue remains outstanding. The lack of an appropriate urban design outcome warrants refusal of the application.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application

* 1. **Noise and vibration Assessment**

The potential for noise and vibration to impact on adjoining properties is an important consideration given the extent of demolition proposed and the demolition methods likely to be utilised. The application was accompanied by a Demolition Noise and Vibration Assessment prepared by Wilkinson Murray, dated July 2018 (‘Noise and Vibration Report’) which considered this issue.

The Noise and Vibration Report considered the noise and vibration impacts arising from the proposed demolition of the buildings on the site. The report concluded that construction noise levels at nearby receivers are likely to exceed the noise management levels and, in some instances, could exceed the construction noise level of 75dB(A). Similarly, the use of a hydraulic hammer was identified as having the potential to cause exceedance of vibration criteria. Alternative work methods and vibration monitoring were recommended to manage the impacts from vibration intensive plant.

The report concluded that the works could proceed if a Construction Noise and Vibration Management Plan to reduce the likelihood of noise impacts due to construction activity are prepared. Council has considered this report and following a detailed assessment, concluded the report was satisfactory notwithstanding the likely noise exceedance which could be addressed in recommended conditions of consent, which is supported.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

1. **CONCLUSION**

This modification application has been considered in accordance with the requirements of the EP&A Act and the 2021 EP&A Regulation as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can/cannot be supported.

Include a short summary of key issues, whether the site is suitable and whether the proposal is compatible with the locality etc.

It is considered that the key issues as outlined in Section 5 [have or have not] been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

1. **RECOMMENDATION**

It is recommended:

* That the Modification Application [MOD/DA No ##/####] for [insert description] at [address] be APPROVED/REFUSED pursuant to [Section 4.55(2) or 4.56(1)] of the *Environmental Planning and Assessment Act 1979* [ subject to the draft conditions of consent / reasons for refusal] attached to this report at Attachment A; and
* Pursuant to Clause 118 of the *Environmental Planning and Assessment Regulation 2021,* a notice of determination is to be prepared by Council following the Panel’s determination of this modification application.

The following attachments are provided [as relevant to the application]:

* Attachment A: Draft Conditions of consent/reasons for refusal
* Attachment B: Approval from the Crown (applicant) for imposition of Conditions [where relevant]
* Attachment C: Tables of Compliance
* Attachment D: Architectural Plans
* Attachment E: Clause 4.6 Request