



ASSESSMENT REPORT

Former Section 75W Modification North Head Quarantine Station, Manly Local Government Area MP 08_0041 MOD 3

1. INTRODUCTION

This report is an assessment of a modification request seeking to modify the approval for the adaptive re-use of the North Head Quarantine Station (the site) for cultural tourism purposes (MP 08_0041 MOD 3) within the Northern Beaches (NB) local government area (LGA). The request has been lodged by The Mawland Group Pty Ltd (Mawland) on behalf of the co-proponents, Mawland and National Parks and Wildlife Service (NPWS) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The request seeks modifications to the existing approval to increase efficiencies in the operation of the site.

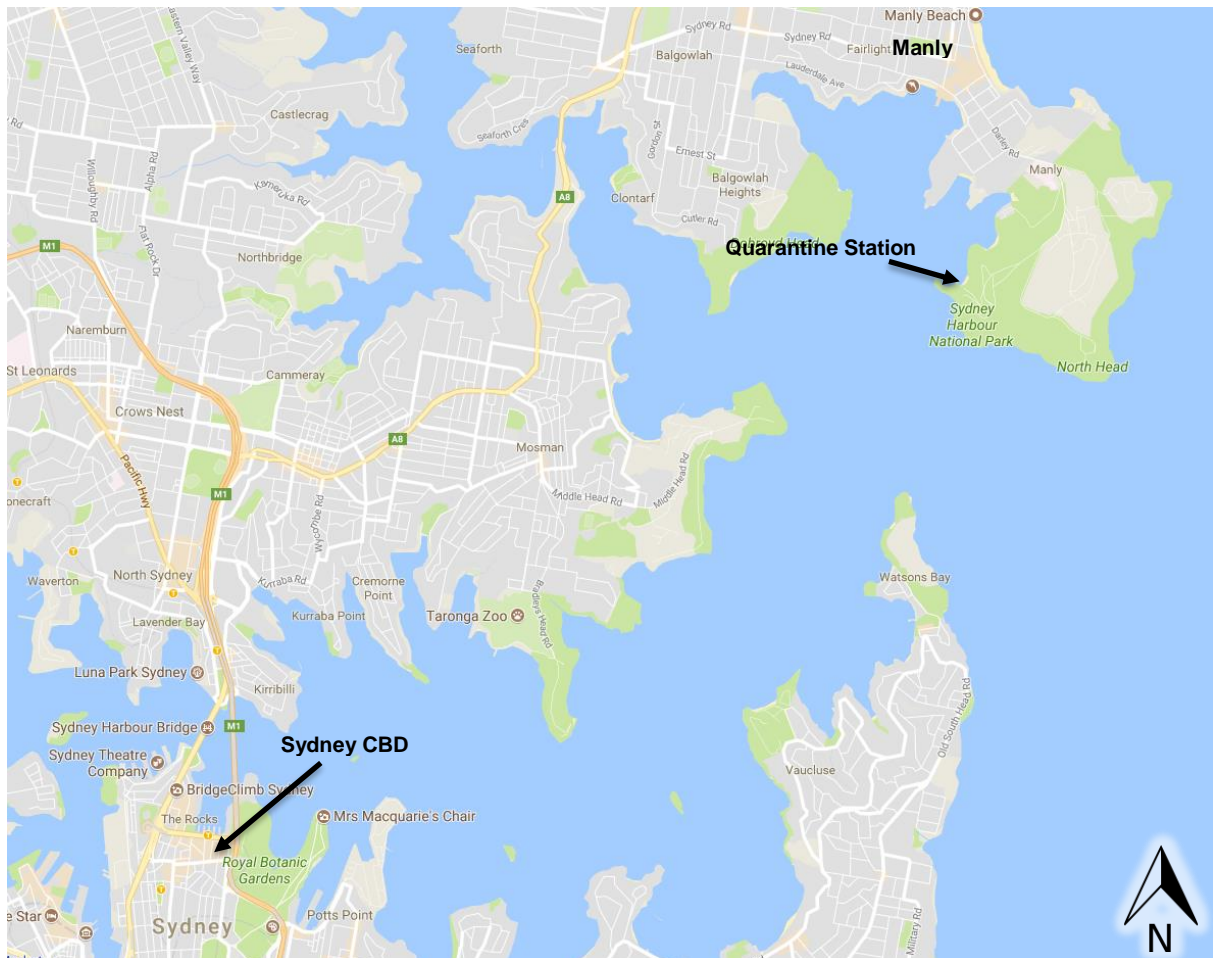


Figure 1: Regional Context (Source: Google Maps, 2017)

2. BACKGROUND

2.1 Site and Surrounds

The subject site is located on North Head, Manly, within the Sydney Harbour National Park, approximately ten kilometres (km) north-east of the Sydney central business district (see **Figure 1**). The site is located on the western edge of North Head peninsula in close proximity to the North Head Sanctuary Visitor Centre, the Former North Head Army Barracks and North Head Wastewater Treatment Plant. North of the subject site is Manly Hospital, which is sited at the interface between North Head and existing residential development, characterised by low and medium density residential development (see **Figure 2**).



Figure 2: Site Context (Source: NearMap, 2017)

The subject site has an area of approximately 36 hectares (ha) and is accessed via an internal road that connects to North Head Scenic Drive (see **Figure 3**). The site is owned by the NSW Office of Environment and Heritage (OEH) – National Parks and Wildlife Service (NPWS) and the operation of the site is managed by Mawland under a long term lease arrangement. The site contains buildings and facilities of European cultural heritage significance associated with the former use of the site as a quarantine station from 1833 to 1984, a number of natural and Aboriginal cultural heritage features and populations of the endangered Long-nosed Bandicoot and Little Penguin.

3. APPROVAL HISTORY

Joint proponents, Mawland and the then NSW Minister for the Environment sought approval for the conservation and adaptive re-use of North Head Quarantine Station for cultural tourism purposes. On 2 November 1998, environmental assessment requirements for the preparation of an environmental impact statement were issued by the then Director-General of the Department of Urban Affairs and Planning (now the Department of Planning and Environment).

On 24 October 2000, the then Minister for Urban Affairs and Planning signed an Order under section 110A of the EP&A Act, nominating the then Minister for the Environment to be the nominated determining authority in relation to any activity, within the meaning of Part 5 of the EP&A Act, for conservation and adaptive re-use of the North Head Quarantine Station site.

As the Minister for the Environment was both a Proponent and the nominated determining authority, on 2 June 2003, the then Minister for Infrastructure, Planning and Natural Resources (formerly the Minister for Urban Affairs and Planning) granted approval for the proposed adaptive re-use of North Head Quarantine Station under Division 4 of Part 5 of the EP&A Act.



Figure 3: Site Layout

On 23 December 2003, a determination report was prepared in support of the approval of the Minister for Urban Affairs and Planning by the three determining authorities, the Minister for the Environment, Waterways Authority and NSW Heritage Council, pursuant to clause 243 of the *Environmental Planning and Assessment Regulation 2000*. This joint determination report provided a comprehensive assessment and one set of conditions of approval (Conditions of Planning Approval) for the North Head Quarantine Station conservation and adaptive re-use of the site for cultural tourism purposes for 21 years.

3.1 Current Operation

North Head Quarantine Station currently has approval for the following activities and works:

- adaptive reuse of the site for cultural tourism purposes, including the development of a visitor information centre, museum, guided tours, restaurant, accommodation, event and functions centre, an environmental and cultural study centre, and other site operations (e.g. archival storage and administration functions)
- a maximum visitor limitation of 450 persons at any one time on the site
- physical changes to buildings to accommodate proposed cultural tourism uses, including works for the adaptation of existing buildings for accommodation, a restaurant, bar and café, visitor centre, and administration uses and general conservation works
- infrastructure works, including car parking infrastructure, water tanks and associated services, wharf repairs, and infrastructure upgrades
- landscaping works, including the construction of a new stairway and pathways, conservation works, fencing, and interpretation works to the croquet, badminton and tennis lawns.

A site overview is presented in **Figure 4**.

The Department's compliance unit is currently undertaking a separate investigation into the site. Once completed, any compliance actions or outcomes will be undertaken separately by the compliance unit.

4. PROPOSED MODIFICATION

On 14 December 2015, The Mawland Group lodged a request to modify the approval for the adaptive re-use of the North Head Quarantine Station (MP 08_0041 MOD 3) pursuant to section 75W of the EP&A Act. The modification request (as amended by the Submissions Report) seeks approval to modify a number of the Conditions of Planning Approval to facilitate the following:

- clearer delineation of statutory responsibilities of Mawland (lessee) and NPWS (lessor) within the terms of approval
- installation of additional shade structures of a temporary nature in the outdoor eating area at the Boilerhouse Restaurant (Building A6) and individual table umbrellas on the wharf area (Buildings A14-16)
- installation of cooling/heating in heritage buildings used for dining and administration as well as alteration to the spatial layout of Buildings P1, P2 and P9 to enable increased use of the spaces within the existing buildings
- provision of ambient dining music as part of the Boilerhouse Restaurant outdoor eating area and for specific events
- modification of timing for environmental audits and management plans, from 5 years to 8 years
- modification of management and monitoring requirements for Long-nosed Bandicoots, to more accurately reflect the increased use of North Head by businesses over the last ten years
- increase to maximum site visitor capacity from 450 to 600, for pre-planned dates/events, as approved by NPWS.

Mawland seeks these amendments based on experience gained from operating the site over the past ten years to improve operational effectiveness and efficiencies.

5. STATUTORY CONTEXT

5.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Minister's delegation of 11 October 2017, the Executive Director, Key Sites and Industry Assessments, may determine the request under delegation as:

- the relevant local Council has not made an objection
- a political disclosure statement has not been made
- there are less than 25 public submissions in the nature of objections.

The modification complies with the terms of the delegation as Manly Council, now Northern Beaches Council (Council), did not object to the modification request, a political disclosure has not been made in relation to the request and less than 25 public submissions were received in the nature of objection.

5.2 Section 75W

Part 17 of Schedule 6 of the EP&A Act states that approvals of the Minister for an activity given under Division 4, Part 5 of the EP&A Act before its repeal, are taken to be approvals granted under Part 3A of the EP&A Act.

Under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (STOP) Regulation), the power to modify transitional Part 3A projects under former section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification
- the modification is of a scale that warrants the use of former section 75W of the EP&A Act
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.



Figure 4: Site Overview

Therefore, the Department is satisfied the proposed modification is within the scope of the former section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the request should be assessed and determined under former section 75W of the EP&A Act rather than requiring a new development application to be lodged.

6. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. However, due to the varied requests and the potential for public interest in the site, the Department exhibited the request from **Thursday 14 January 2016** until **Monday 29 February 2016**

- on the Department's website
- at the Department of Planning and Environment's Information Centre (Sydney)
- at the information centre of Manly Council (now part of Northern Beaches Council).

The modification request was advertised in the Manly Daily. Nearby landowners in the vicinity of the proposed development were invited to make a submission and the modification request was referred to relevant public authorities and Manly Council.

Departmental assessment and compliance officers undertook a site visit prior to the exhibition.

In response to the exhibition, the Department received a total of 20 submissions including a submission from Council, four from public authorities and 15 public submissions, the majority (12) of which raised objections to aspects of the modification request. A summary of the issues raised in submissions is provided below.

6.1 Government Authorities

Manly Council raised no objection to the modification request and did not provide any additional comments.

Office of Environment and Heritage (OEH) raised no objection to the request, however provided the following comments:

- recommended provisions be included to ensure the Little Penguins would not be impacted during breeding season when large events occur on-site, particularly around nest sites near the Boilerhouse Restaurant
- raised concern about the impact upon Long-nosed Bandicoot foraging habitat during proposed additional events
- noted the inconsistency with the proposed rewording of Condition 134 'Special Interest Tours' with the required approval process outside the lease area. If this is to be modified, environmental impact on wildlife would need to be assessed
- recommended incorporation of the amended protection, monitoring and reporting requirements for Long-nosed Bandicoots endorsed by OEH in December 2015 into the modification request
- noted the need to revise the Long-nosed Bandicoot mortality numbers and the triggers for mitigation action, given the reduced length of road that required reporting of death under this action
- strongly recommended that appropriate reporting of and ongoing consideration of traffic and Long-nosed Bandicoot mortality monitoring data for both the lease area and North Head by NPWS and the North Head Stakeholder group
- proposed establishment of an increased Long-nosed Bandicoot monitoring program, including provision of funding to OEH, to address the proposed increase in visitor numbers and introduction of amplified music and assess potential impacts
- recommended that conditions 180 and 181 be amended to remove reference to population viability assessments.

Heritage Council of NSW (Heritage Council) did not raise an objection to the modification request, however provided detailed comments for consideration, as follows:

- noted that approval under the *Heritage Act 1977* would be required prior to any approval under the EP&A Act
- recommended that Mawland take over all responsibilities of both proponents
- noted a heritage impact statement would be required to address proposed changes to Building P9
- requested additional detail regarding the proposed cooling systems (air conditioning and ceiling fans) and the proposed temporary shade structures and umbrellas to assess the potential impacts on heritage significance

- recommended additional consultation with NSW Heritage regarding modifications to Schedule 3 in relation to Buildings P1, P2 and P9, methods for cooling and heating, and shade structures prior to any modifications of the consent
- requested that the satisfactory completion of conditions not form part of any modification, rather as a separate activity.

Sydney Harbour Federation Trust (SHFT) raised no objection to the request, however provided the following comments:

- supported obtaining up-to-date traffic survey data to enable all land managers (i.e. Quarantine Station, NPWS, Australian Institute of Police Management and Sydney Water) to better understand vehicle movements across North Head for analysis and preparation of measures to collaboratively implement to reduce threats to wildlife
- welcomed improvements to the existing public bus service to North Head to increase the attractiveness of public transport.

The Department has reviewed SHFT's comments and considers that comments made would be applicable to the overall operation and management of North Head. Notwithstanding, the Department provided these comments to the co-proponents for consideration.

NSW National Parks and Wildlife Service (NPWS) raised no objection to the modification request, noting that it supported the submission from OEH, and provided the following additional comments:

- supported the increase in visitor numbers
- supported amplified "Here comes the bride" style music
- requested removal of reference to 'co-proponency' to provide clarity and better reflect the lessor/lessee responsibilities at Quarantine Station
- required that shade structures do not contain third party advertising, the placement and colours of the shade structures be sensitive to the surroundings and that the structures be removable and secured for safety purposes
- considered proposed internal layout amendments to Buildings P1, P2 and P9 are acceptable if works are capable of being reversed and a means of interpretation being installed e.g. building plans, signage and photos
- requested detail on how heritage, visual and noise impacts from air conditioning would be mitigated
- considered it inappropriate to have Long-nosed Bandicoot monitoring triggers outside of the site and supported the monitoring area and trigger modifications requested
- supported the proposed amendments to the timing of environmental audit reports
- recommended consultation with RMS regarding the transfer of the existing wharf to RMS's control.

Issues relating to the ownership of the wharf are outside of the scope of the assessment of this modification and as such, are not considered further.

Roads and Maritime Services – Maritime (RMS) provided no response during the exhibition.

6.2 General Public

The Department received 15 public submissions, including eleven from individuals (nine submissions of objection and two submissions providing comments) and four from special interest groups (three submissions of objection and one submission providing comments).

A summary of the submissions from the public is provided within **Table 1**.

Table 1: Public submission summary

Key issue	Summary of matters raised
General	<ul style="list-style-type: none"> • Proposed conditions pose potential for conflicts of interest and recommended the Department revise conditions to balance the public's interests and Mawland's. • The modification request presents an opportunity to ensure conditions are clear and explicit to avoid ambiguities or inconsistencies. • Proposed amendments to Condition 53 'Environmental Manager' are not supported and the position must be filled by an appropriately qualified Environmental Manager with authority and independence to address matters of management, monitoring and compliance.

Key issue	Summary of matters raised
Co-proponency	<ul style="list-style-type: none"> The proposed amendments to the co-proponency are considered to represent a weakening in compliance responsibility as it would remove the requirement for NPWS to monitor the use of the site and compliance with the conditions. The proposed division of responsibilities between the lessor and lessee is not clearly articulated in relation to a number of conditions.
Shade structures	<ul style="list-style-type: none"> The proposed design and times of usage should be clearly defined to protect the sensitivity of the penguin nesting area. The proposed amended condition wording should restrict locations for shade structures and wind breaks to exclude the foreshore areas adjacent to Quarantine Beach, visually prominent parts of the wharf and sensitive habitats. It is noted that NPWS required shade structures be retractable or demountable and of minimal visual impact. This was not defined as part of the proposed changes to Condition 18 and Schedule 3. The increased use of umbrellas and shade structures would encourage increased patronage in the area closest to the penguin nesting sites.
Amplified music	<ul style="list-style-type: none"> The description of Quarantine Station as an urban space is fundamentally flawed and this would equate the site to Manly's Corso or urban residential environments, when it should be seen more as a sanctuary. The proposed amended wording of condition 201 should be tightened to ensure the maximum ambient or amplified outdoor music is the lesser of 5 d(B(A) above the existing ambient noise level or 50 dB(A), 20 metres from the source. The precautionary principle must apply to the proposed introduction of amplified music and music should therefore not be permitted as the impacts on Little Penguins is unknown. The Biosis report fails to refer to any instances where impacts of amplified music on penguins have been studied. The EIS does not assess the impacts of the music in the Boilerhouse outdoor eating area and increased activity at peak visitor times in spring and early summer on the sensitivity of the nearby penguin nesting area and breeding season. Amplified music would reverberate and magnify across the water to houses and apartments of Little Manly and Addison Road and cause disturbance to residence.
Cooling and heating	<ul style="list-style-type: none"> Air conditioning units should not be installed in any accommodation/sleeping units and any installations should be restricted to major function and conference rooms. The objective of mechanical air conditioning in Schedule 3 was intended to avoid impacts on heritage fabric and the proliferation of mechanical plant and equipment changing the character of Quarantine Station.
Spatial layout	<ul style="list-style-type: none"> The original spatial layout of Buildings P1 and P2 should not be altered as this would impact the heritage fabric. Insufficient details of the proposed amendments to Building P9 are provided and as such, amendments cannot be supported. Any changes to Buildings P1, P2 and P9 should only be permitted if the existing common rooms are maintained for communal rooms for use by the guests and not converted.
Flexibility of building uses	<ul style="list-style-type: none"> Condition 1 should be revised to add reference to the <i>Quarantine Station Conservation Management Plan</i> and <i>Detailed Area Conservation Management Plan</i> to provide guidance as to what is considered a 'minor' change to the prescribed uses outlined within the Preferred Activity Statement.
Audit cycles	<ul style="list-style-type: none"> Proposed amendments to Condition 228 should allow for sufficient time to allow for audits to coincide with the timing of environmental reports and site wide plan reviews. The proposed review cycle changes are supported, however the implications of the proposed amendments to Conditions of Planning Approval to make reference to the lessor and lessee responsibilities has not been adequately considered. Proposed changes to the co-proponency arrangements is a strong reason to continue the current audit cycle. No changes should be made to the audit cycle until Mawland have achieved greater than 96 per cent compliance audit result for the next two audit cycles i.e. approximately 10 years time. No change should be made to the current five year review cycle to ensure that best practice is continuously evolving.

Key issue	Summary of matters raised
Long-nosed Bandicoot monitoring	<ul style="list-style-type: none"> The proposed Schedule 6 amendments relating to Long-nosed Bandicoot mortality monitoring requirements should only be considered with a corresponding downward adjustment to the trigger number of mortalities, due to the smaller area being monitored. Mawland have the largest staff of any operation on North Head and are the only large group to use the stretch of road from Parkhill Archway to the Quarantine Station turn-off. It is reasonable that Mawland continue to monitor that stretch of road for Long-nosed Bandicoot mortalities.
Visitor capacity	<ul style="list-style-type: none"> The proposed amendments to the maximum visitor capacity have not been adequately assessed to address concerns about increased impacts on sensitive parts of the site. A 25 per cent increase in visitors to the site every second weekend will adversely impact every Manly resident east of Belgrave Street due to increased traffic impacts, air pollution, and traffic noise. The proposed increase in visitor capacity 20 times per year is likely to result in a concentration of events in spring and summer, coinciding with penguin breeding times. Increased visitor capacity would increase traffic movements to North Head that would result in greater impacts on Long-nosed Bandicoots.

6.3 Response to Submissions

A Response to Submissions (RTS) was provided on 22 September 2017. The RTS included additional information, withdrew some minor requests (including changes to special events and the environmental manager) and provided clarification around issues raised within the submissions and by the Department.

Following receipt of the RTS, the Department undertook additional consultation with NSW Heritage in relation to the modifications to heritage buildings and the co-proponents in relation to traffic. Additionally, the Department referred the RTS to NBC (formerly Manly Council), OEH, NSW Heritage, SHFT and NPWS in addition to publishing the RTS on the Department's website.

The Department received a submission from the Environment Protection Authority (EPA) and NSW Heritage. NSW Heritage indicated it was satisfied with the information provided within the RTS and noted that approvals had been granted for the requested amendments. EPA noted the modifications do not constitute a Scheduled Activity under Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act) and as such an Environment Protection Licence would not be required.

The Department has considered the issues raised in submissions, the RTS and supplementary information provided by the Applicant in its assessment of the modification within **Section 7**.

7. ASSESSMENT

The Department has assessed the merits of the modification request. During this assessment, the Department has considered the:

- Environmental Assessment (EA) supporting the proposed modification (see **Appendix B**) and the RTS
- the assessment report of the original application and the existing Conditions of Planning Approval
- submissions from State government authorities, Council and members of the public on the modification request (see **Appendix C**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issues to be:

- impacts upon threatened species
- noise
- traffic.

The Department's assessment of other issues is provided in **Table 3**.

7.1 Impacts upon threatened species

The modification request seeks to increase the visitor capacity of the site and allow music for functions and in the outdoor dining area of the Boilerhouse Restaurant. An increase in the number of visitors and

functions, in addition to an increase in noise at the site have the potential to impact upon the threatened populations of Long-nosed Bandicoots and Little Penguins.

Long-nosed Bandicoots

The population of Long-nosed Bandicoots, *Perameles nasuta*, at North Head is considered an 'endangered population' in NSW under the *Biodiversity Conservation Act 2016*. The OEH threatened species database indicates that this population forage at or after dusk and evidence of foraging is often seen at the interface of naturally vegetated areas and areas of open grass around the Quarantine Station. Threats to the North Head population are considered to be habitat loss and fragmentation, predation, increased levels of road mortality and breeding depression and disease.

An increase in visitors at the site, particularly during the evening and night time has the potential to impact upon the habitat of the population at, and in the area of, the site. The associated increased traffic along North Head Scenic Drive has the potential to increase the risk of road mortalities of the species.

Impacts of increased visitation on the site

The modification request is seeking an increase in the maximum number of visitors at the site for pre-planned events from 450 visitors to 600 visitors for up to six hours on up to 20 occasions per year. The increase would be managed through the application of existing management plans and additional traffic management measures (discussed in further detail within **Section 7.2**).

In the submission received from the OEH, concerns were raised in relation to the potential impacts of additional events and functions and subsequently visitors, upon high value Long-nosed Bandicoot foraging habitat. OEH considered that the existing monitoring and research on the North Head population should be utilised to identify high value foraging areas which should be avoided during evening and night-time periods. OEH also sought amendments to the Conditions of Planning Approval to reflect analysis of the last twelve years of data from the 'North Head Long-nosed Bandicoot recovery team' and requested modifications to the timeframe associated with Long-nosed Bandicoot population viability assessments to reflect monitoring undertaken of the population more broadly by OEH.

The Department considered the modification request and the input received from the OEH. Given that the Long-nosed Bandicoot population at North Head is considered an 'endangered population', the Department considers careful management of the population at the site is required. As such, the Department has recommended a condition requiring the identification of the areas of high value Long-nosed Bandicoot foraging habitat within the lease area in consultation with the 'North Head Long-nosed Bandicoot recovery team', and once identified, access to these areas be restricted during the evening and night-time periods.

Recommendations proposed by OEH in relation to the population viability assessments are supported by the Department as these modifications would ensure that monitoring of the Long-nosed Bandicoot at the site can be utilised in the ongoing management of the species. As such, the Department has recommended that population viability assessments (PVA) be undertaken every six years, rather than every two and a half to coincide with the results of previous surveys and findings of the 'North Head Long-nosed Bandicoot recovery team'.

Impacts of increased traffic at North Head

The modification request seeks to reduce the area of Long-nosed Bandicoot mortality monitoring to reflect the boundary of the lease area (see **Figure 3**) rather than the much broader area of North Head Scenic Drive between Parkhill Archway and Quarantine Station (see **Figure 5**).

Since the commencement of operations at the site, activities at North Head have increased with an increase in publicly accessible facilities beyond the Parkhill Archway. This has included the development of the Headland Montessori School, gyms, shared office space and other businesses. Consequently, the number of vehicles along North Head Scenic Drive has increased.

Noting the changes in operations at North Head more broadly, OEH supported the modifications to Long-nosed Bandicoot road mortality monitoring, however, indicated that the mortality triggers that prompt mitigation actions should be updated to reflect the reduced length of road.



Figure 5: North Head Scenic Drive Monitoring Area

The Department acknowledges the changes that have occurred at North Head since the commencement of operations at the site that have resulted in increased traffic along North Head Scenic Drive. As such, the Department notes that road mortality impacts to bandicoots are not only attributable to the operation of the site, but rather the road traffic of North Head more broadly. The Department supports a reduction in the Long-nosed Bandicoot mortality monitoring area and mortality triggers to enable the impacts of the operation at the site to be more accurately identified and managed.

Little Penguins

The Little Penguin (*Eudyptula minor*) population in the Manly Point area, like the Long-nosed Bandicoot population, is considered an 'endangered population' in NSW. The Little Penguin population in the Manly Point area (extending from Cannae Point toward Smedleys Point, including both Quarantine Beach and Store Beach (see **Figure 3**)) is the only known breeding population of Little Penguins on the mainland in NSW.

The OEH threatened species database indicates the major threat to this population is the loss of suitable habitat, particularly around the foreshore. Additionally, disturbance around nesting areas from movement, noise, light and waterway activities pose a threat to the species.

The modification to the maximum number of visitors at the site for functions and events has the potential to increase the disturbance around nesting areas. Further, an increase in noise as a result of ambient music has the potential to impact upon this endangered population.

The existing Conditions of Planning Approval indicate that any special events or functions held in the Wharf Precinct after sunset must be held indoors. The modification request seeks to remove the restriction on amplified music in outdoor areas requesting ambient dining music or wedding music be permitted outside the Boilerhouse building (Building A6) during daylight hours. The justification relates to the experience of Mawland in operating the site and the anticipated minimal impacts anticipated as a result of amplified music and amplified announcements for weddings and open day events.

Submissions received raised concerns with the impact of noise upon the Little Penguin population. OEH noted the proximity of the population (4-5 metres from the boundary fence) and the potential for the increased noise to impact upon the adjoining Little Penguin population. Additionally, given the lack of information regarding the impact of amplified music and increased visitors upon the Little Penguins, the OEH is proposing to increase the monitoring program of the Little Penguins at the site. As such, the OEH has requested the annual contribution to Little Penguin monitoring be re-negotiated to ensure this can be adequately implemented. Furthermore, OEH recommended other modifications to the Conditions

of Planning Approval relating to the utilisation of long-term sustainability targets rather than the current requirement for population viability analyses.

The RTS provided further information from OEH confirming that daylight amplified music would unlikely impact upon the Little Penguin population as during daylight hours birds that are ashore are within their burrows or boxes. During the evening as birds approaching their nesting sites or investigating other breeding sites may be 'put off' by sudden increases in volume of noise afforded by the amplification of music or speech. Additionally, Mawland did not support the request to alter any contributions made in relation to monitoring, noting that Mawland presently provide for a significant Site Environmental Levy to cover costs associated with this task.

In considering the submissions received and the RTS, the Department considers that amplified sound during the evening and night has the potential to disturb an endangered breeding colony of Little Penguins. As such, the Department has imposed seasonal restrictions on ambient dining music in accordance with the recommendation from the OEH, to take into consideration the variability of Little Penguin breeding seasons from year to year. As such, the Department recommends a restriction on ambient dining music during the evening and night at Building A6 (Boilerhouse Restaurant) between May to July (inclusive) when Little Penguins are selecting nesting locations and are most sensitive to noise disturbance. Additionally, to account for the feeding of Little Penguin chicks, a restriction is imposed on ambient dining music during the evening and night from August to February.

Given the sensitivities associated with the population of Little Penguins, the Department has recommended a condition that requires the co-proponents restrict access to the Wharf and Quarantine Beach throughout the evening and night time periods during special events and functions to minimise any impacts upon the Little Penguin habitat. The Department emphasises that these restrictions are focussed upon special events and functions and does not preclude the normal day-to-day operations of the facility, particularly the outdoor dining area of the restaurant at Building A6, nor transportation within and to/from the site via the wharf.

To ensure that the modified operations of the site do not adversely impact the population of Little Penguins and that monitoring data is being effectively utilised, the Department supports the recommendation by OEH in relation to long term monitoring of the population and has subsequently recommended modifications to the Conditions of Planning Approval. The Department has also recommended that funding in relation to Little Penguin monitoring be negotiated with, and provided to, the OEH to undertake review of monitoring and review sustainability targets every five years following the determination of this modification.

Conclusion

With the implementation of the recommended conditions including modifications to the monitoring requirements and trigger mechanisms for mitigation measures, it is not anticipated that an increase in visitors or amplified sound from the site would have a significant impact upon the Long-nosed Bandicoot or Little Penguin populations.

The Department concludes the impacts of the proposed modifications upon the endangered populations of Long-nosed Bandicoots and Little Penguins within and adjoining the site can be managed with the implementation of all mitigation measures proposed within the environmental assessment and RTS in addition to strict compliance with the Department's recommended conditions.

7.2 Traffic

The site is accessible by various modes of transport including private car, taxi, bus, ferry, boat and kayak/canoe. Currently, the primary mode of transport to the site is private car with over three quarters of people accessing the site via this mode. Cars accessing the site can access a free, unrestricted carpark of approximately 110 unmarked spaces, adjoining the reception building. Vehicle access beyond the carpark is restricted by Mawland, with a shuttle bus transporting visitors beyond the reception building around the site. The requested increase in visitors has the potential to result in an increase in traffic along North Head Scenic Drive during the periods of increased visitation and an increase in parking demand.

The traffic assessment, undertaken by GTA Consultants, indicated that the average traffic volume travelling past the Parkhill Archway along North Head Scenic Drive was 2,700 vehicle movements (two-way) per day. Noting the number of other publicly accessible facilities beyond the Parkhill Archway

including the Headland Montessori School, gyms, shared office space and other businesses, the total daily vehicle movements are not considered representative of those accessing the site.

The traffic survey utilised the number of vehicles accessing the site carpark to provide a conservative estimate of traffic generated by the site. The survey of the number of vehicles utilising the carpark coincided with the 'Taste of Manly' festival – a day where the Manly area experiences an increase in visitation. As such, traffic counts were assumed to be indicative of peak times and typical maximum visitor numbers to the site, representing a worst case scenario.

The existing traffic movements resulting from all operations along North Head Scenic Drive, including those associated with the site are presented within **Table 2**. Analysis of the potential future traffic to the site, extrapolated from the distribution of existing access to the site, is also presented within **Table 2**.

Table 2: Traffic Movements

EXISTING			FUTURE	
Weekly Average traffic (North Head Scenic Drive)	Daily average traffic (North Head Scenic Drive)	Peak site traffic - daily	Daily average traffic (North Head Scenic Drive)	Peak site traffic – daily
18,744	2,678	479	2,837	639
Percentage Increase			~6% Increase	~33% Increase on site

The proposed increase in visitors to the site would have a minor impact upon the current traffic movements along North Head Scenic Drive, which is utilised to access a variety of businesses. The traffic report indicated that this increase would result in an average of 13 vehicle movements per hour along North Head Scenic Drive and would be unlikely to affect the safety or operation of the surrounding road network. Based on the traffic assessment provided, it is assumed that arrival and departure times for occasions of peak visitation would be distributed across the day, particularly given that events can only run for a period of six hours.

No objections were raised by public authorities in relation to the potential increase in traffic movements to the site. Notwithstanding, concerns were raised in public submissions in relation to increased traffic and subsequent noise and air quality impacts to the residents east of Belgrave Street (i.e. Manly CBD) and impacts to Long-nosed Bandicoots (See **Section 7.1**) resulting from increased visitation.

The Department sought additional information in relation to the management of traffic, transport and car parking to support the proposed increased visitors. Mawland provided clarifications around the management of traffic, committing to:

- installing a boom gate at the entrance to the car park to restrict access to visitors of the site only
- reducing staff parking provisions on peak visitation days
- providing 30 additional spaces beyond the reception area
- encouraging shared transport to the larger events held at the site.

The Department supports the installation of the boom gate as this would enable Mawland to have greater control over the provision of parking spaces at the site. Additionally, the Department encourages Mawland to continue to restrict vehicle access onto the site beyond the reception area and does not support an increase in the number of car spaces beyond the reception area on the site.

The Department recognises the increase in traffic along North Head Scenic Drive would unlikely impact the operability of North Head Scenic Drive and that the parking provisions are adequate when managed appropriately.

To ensure that traffic resulting from events of up to 600 visitors are adequately managed, the Department has recommended details of parking and access to the site for each sized event be provided to the Secretary, for approval in a Site Travel and Access Plan. This plan is to detail mode share targets, measures required to implement the plan (resource and financial requirements), parking provisions for both staff and visitors and how this will be managed, arrival and departure times and measures to minimise impacts upon the surrounding road network and other parking provided at North Head.

With the development and implementation of the Site Travel and Access Plan for each event scenario, the Department concludes that the traffic impacts of events with a capacity of 600 people on up to 20 occasions per year, as well as events of other sizes would be adequately managed with minimal impact.

7.3 Noise

As stated in **Section 7.1**, the modification seeks to remove the restrictions imposed upon amplified music at the site, seeking amplified music and amplified announcements for weddings and open day events throughout the day across the site.

Objections were raised in the public submissions in relation to the request, given the surrounding residential areas, particularly the nearby residences across the Sydney Harbour and sensitivity of the nearby Little Penguin population (Little Penguins are addressed in **Section 7.1**). The Department raised concerns regarding the discrepancies between the proposed hours of operation of amplified music within the EA and sought a description of the potential impacts on the Little Penguins between 5:00pm and 10:00pm.

The request seeks a specific noise limit (50 dB(A) LA_{eq} – a limit currently stipulated for internal noise within the Conditions of Planning Approval), measured at a location 20 metres from the building and requested amplified music outdoors during daylight hours. The Department notes the request does not detail specific time periods where the amplification of music or announcements is required.

In considering the surrounding noise environment of the site, the Department notes there is often extraneous noise from function boats and traffic noise in the North Head area during the day, particularly on weekends and during the summer period. As such, the Department considers it reasonable to support the request to modify the restriction of amplified sound from the site during the daytime period. Noting the proximity of residences and the variability in the way sound travels, the Department has imposed a noise limit for the site of 50dB, as measured at any point along the existing fence line to the beach area.

The modification does not provide specific time periods for the ambient dining or outdoor amplified sound or wedding music. Whilst generally supporting the request for amplified dining music, the Department has recommended restrictions on ambient dining music to ensure minimal impacts upon the nearby Little Penguins (see **Section 7.1**).

As existing Conditions of Planning Approval stipulate a complete restriction on amplified sound, the levels of disturbance upon nearby residences is unknown. To ensure that impacts arising from this change is adequately managed and mitigated, the Department has recommended the preparation of a Noise Validation Report within one year of the date of this modification to verify compliance with the limit, detail any complaints received and make recommendations on any required mitigation or management measures to address any issues identified. The Department's assessment concludes that with the implementation of the imposed conditions, the impacts of the addition of outdoor amplified announcements and music during the daytime period would be negligible.

7.4 Other Issues

The Department's assessment of other issues is provided in **Table 3**.

Table 3: Assessment of Other Issues

Issue	Assessment	Recommendation
Heritage	<ul style="list-style-type: none"> • The modification request seeks to modify conditions to enable internal spatial layout amendments to Buildings P1 and P2, the First and Second-Class Precincts, to provide ensuite bathrooms. • The Conditions of Planning Approval required that these buildings remain <i>in situ</i> to ensure that significant spatial layout aspects are preserved and unaltered. • Public submissions received objected to any changes to the spatial layout of Buildings P1 and P2. • Heritage Council sought additional information in relation to the alterations to the spatial layout, which were provided within the RTS and in separate correspondence directly with the Heritage Council. • The Heritage Council provided approval to undertake the work. • Noting the advances in technologies and heritage preservation since the time of the original approval, the Department considers the conditions may be modified, where works do not alter the historic fabric and are reversible. • The Department is satisfied the alterations to Buildings P1 and P2 would be independent of the significant fabric of the building and notes the commitment of Mawland to removing/restoring the layout at the conclusion or termination of the lease agreement. Additionally, the Department supports the installation of interpretative signage of the original spatial layout to acknowledge the original use of the buildings. • The Department's assessment supports the conclusions made by the Heritage Council and considers that works to Buildings P1 and P2 to install ensuite bathrooms would be unlikely to permanently impact upon the heritage significance of these buildings. 	<ul style="list-style-type: none"> • Permit the adaptation of buildings within the First and Second-Class Precincts (Buildings P1 and P2) in accordance with specifications of the Conditions of Planning Approval and any relevant approvals from NSW Heritage. • Require that all buildings that have been altered in any way be returned to their condition and spatial layout/internal configuration as at the commencement date of the lease. • Require that interpretation of the original spatial layout and internal configuration of Buildings P1 and P2 be exhibited prominently near these buildings.
Installation of air-conditioning and ceiling fans	<ul style="list-style-type: none"> • Mawland sought amendments to the Conditions of Planning Approval to contemporise aspects of the operation of the site. • The modification request seeks to specifically permit air conditioning and ceiling fans to remove ambiguity associated with the current wording (installation of 'contemporary technologies for cooling and heating') of the existing condition. • Public submissions objected to the installation of air-conditioning that would impact on the heritage fabric of rooms. • The Heritage Council did not object to the installation of air-conditioning or ceiling fans and stated that any new air-conditioning works should not alter the original fabric of the buildings and external units should not be visible from the public domain. Additionally, the Heritage Council requested the compressor unit for air-conditioning in Building S7 be relocated to beneath the building to improve visual amenity. • The Department considers that as the existing condition specifically allows for the installation of 'contemporary technologies for cooling and heating' the anticipated impacts of the cooling and heating technologies, such as ceiling fans and air-conditioning, were considered as part of the original approval. 	<ul style="list-style-type: none"> • Modify the conditions to allow the installation of air-conditioning in rooms used for dining, administration and in the kitchens in accordance with the approval granted by the Heritage Council on 2 March 2017, where it does not interfere with the fabric of the room and can be reversed. • Modify the condition relating to the installation of ceiling fans in all other buildings without air-conditioning.

Issue	Assessment	Recommendation
	<ul style="list-style-type: none"> The Department is satisfied that air-conditioning and ceiling fans may be installed where they do not interfere with the fabric of the rooms and can be reversible, and recommends modification to the Conditions of Planning Approval to reflect this. The Department concludes that the risk to the heritage fabric of the buildings would be low and acceptable. 	
Shade Structures	<ul style="list-style-type: none"> The modification request seeks to install additional shade structures in outdoor dining areas. A number of submissions objected to additional shade structures in visually prominent areas of the site and requested that, if shade structures are to be utilised, that they be retractable and demountable. The Heritage Council requested clarifications regarding the specific locations of the proposed shade structures and the potential visual impacts from the wharf and Sydney Harbour. Mawland provided additional drawings that confirmed that the shade structure located near Building A14-17 would not be visible from the wharf. The Heritage Council provided an approval for the installation of the shade structure at this location. The Department supports the conclusion of the Heritage Council in relation to shade structures near Building A14-17 and outside Building A6, and has recommended a condition that the specific detail regarding times of use, colour and type be provided to the Heritage Council for approval prior to use. The Department concludes that with the additional approval of the Heritage Council, the visual impacts of the proposed shade structures/umbrellas would be minimal. 	Modify the restrictions on shade structures and umbrellas ensuring that where they are utilised, they are removed during the evening and night and are in accordance with any approval granted by The Heritage Council
Co-proponency	<ul style="list-style-type: none"> The modification seeks to amend the conditions of approval to delete reference to the term 'co-proponents', originally being Mawland and NPWS and replace with 'lessor' and 'lessee'. The modification was sought to more accurately reflect the separate site management and operational responsibilities of Mawland and NPWS. The submission from NPWS indicated the request to amend these arrangements was instigated by NPWS to provide clarity and reflect the on-site responsibilities. No objections were raised by Manly Council, though NSW Heritage stated it was important that Mawland take over all on-site responsibilities and that the proposed condition changes referencing 'lessee' not be made. Concerns were raised in public submissions that the proposed amendments would result in a weakening in compliance and that the responsibilities of each party were not clearly articulated. The Department does not consider splitting the environmental and operational responsibilities within the conditions of approval the most appropriate approach to managing on-site activities. As the original determination was made in accordance with Part 5 of the EP&A Act, the 'proponent' of the development was a statutory authority, being the then Minister for Environment. As such, the Department would have the ability to remove Mawland from the co-proponency, but not the statutory authority, being NPWS. To ensure that responsibilities can be clearly outlined and that the Conditions of Planning Approval reflect these arrangements, the Department has 	Retain references to 'co-proponent' throughout the Conditions of Planning Approval and insert a reference to the lease agreement within the 'Definitions' to provide additional clarity.

Issue	Assessment	Recommendation
Environmental management audit cycles	<p>recommended a definition be added to the Conditions of Planning Approval specifically referencing the lease agreement.</p> <ul style="list-style-type: none"> • The modification request seeks to extend the audit timeframe throughout the Conditions of Planning Approval from a five-year period to an eight-year period. • Submissions received both objected and supported this request. • The justification for the request claimed the timeframe required to undertake the audits resulted in audit-related tasks occurring during 60% of the time. • The Department does not consider the justification adequate. • A five-year audit period is a common timeframe across various industries as it provides sufficient data to detect any changes in operation, however is short enough that any modifications to processes and procedures can be implemented prior to significant environmental impacts. • As such, the Department has concluded that the five-year audit period remains adequate for the scale of operation. 	Retain all existing conditions relating to the five-year audit cycle.
Administrative amendments	<ul style="list-style-type: none"> • The Department considered administrative changes were required to the Conditions of Planning Approval to enhance the usability of the instrument, in addition to providing clarity to the operation of the North Head Quarantine Station. • The Department has recommended that definitions be added to the instrument to clearly articulate the key site activities at the site, in addition to including definitions of important terms used throughout. • Further, the Department has recommended a modification relating to future variations to the Preferred Activity Statement, which forms the management plan for the site. • The Department recommended the management of the operation of the North Head Quarantine Station, as outlined in the Preferred Activity Statement, may be modified with the written support of NPWS and the Heritage Council. • The Department emphasises that any modifications to the Preferred Activity Statement would require the operation of the site to remain consistent with 'Key Site Activities' and all other terms of the Conditions of Planning Approval. 	<ul style="list-style-type: none"> • Recommend definitions be added to the Conditions of Planning Approval to clearly stipulate the 'Key Site Activities' (restaurant, tourist accommodation, visitor centre and museum, guided tours, environmental and cultural study centre and functions and events), periods of the day and key agencies/authorities. • Modify conditions to allow modifications to the Preferred Activity Statement in accordance with the defined 'Key Site Activities' where they are supported by OEH and the Heritage Council.
Satisfaction of conditions within the approval	<ul style="list-style-type: none"> • The modification request sought to remove all conditions from the Conditions of Planning Approval that had been satisfied. • These conditions form part of the permitted operation at the site and as such, the Department does not support the removal of satisfied conditions. 	Retain all existing conditions that are satisfied.

8. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department did not support all modifications requested, however is satisfied the proposed modifications to the Conditions of Planning Approval will modernise the approval, provide greater access to the site and will ensure that the significant threatened species at the site will continue to be appropriately protected. The introduction of amplified music and announcements during the daytime period is considered reasonable if managed appropriately. The proposed modifications to the visitor numbers would enhance public access to a significant site and with the implementation of an appropriate access and travel plan, would have minimal impact upon the amenity and traffic at and around North Head.

The Department considers the proposed modification is appropriate on the basis that it will enhance the ongoing operation of the site and contemporises aspects of the Conditions of Planning Approval.

The Department is satisfied that the modification should be approved, as outlined in **Section 7**, subject to conditions.

9. RECOMMENDATION

It is recommended the Executive Director, Key Sites and Industry Assessments, as delegate for the Minister for Planning:


- **consider** the findings and recommendations of this report
- **determine** that the request falls within the scope of section 75W of the EP&A Act
- **modify** the approval (MP 08_0041)
- **sign** the attached instruments of modification.

Prepared by: Rebecca Sommer
Senior Planning Officer

Recommended by:


Joanna Bakopanos
Team Leader – Industry

12/5/18


Sally Munk
A/Director, Industry Assessments

12/5/18

DECISION

The recommendation is: Approved by:

Anthea Sargeant
Executive Director, Key Sites and Industry Assessments
as delegate of the Minister for Planning

APPENDIX A – INSTRUMENT OF MODIFICATION

APPENDIX B – ENVIRONMENTAL ASSESSMENT

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7448

APPENDIX C – SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7448