

Department of Planning, Housing and Infrastructure

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Modification 9 – Rozelle Marine Facility

State Significant Development Modification Assessment Report (MP06_0210-Mod-9)

February 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Modification 9 of Rozelle Marine Facility (MP06_0210-Mod-9) Assessment Report

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of Modification 9 of the State significant development (SSD) application for the Rozelle Marine Facility lodged by Sydney Boathouse Holdings. The report includes:

- an assessment of the modification against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the modification during the assessment process
- an assessment of the likely environmental, social and economic impacts of the modification
- an evaluation which weighs up the likely impacts and benefits of the modification, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether the consent should be modified and any conditions that should be imposed.

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1 Introduction

1.1 The proposal

On 21 May 2007, the then Minister for Planning granted consent for the construction and operation of a dry boat storage and marine facility. The consent was modified to provide a demountable office and café for temporary use. The Applicant is now seeking to further modify the consent to extend the use of the temporary office and café building on site.

The application (Mod 9) was lodged on 22 December 2023 by the Sydney Boathouse Holdings Pty Limited (the Applicant), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Project location

The site is located at 21 James Craig Road, Rozelle within the Inner West Local Government Area (LGA). It is on the foreshore of Sydney Harbour (see [Error! Reference source not found.](#) and [Error! Reference source not found.](#)) and is owned by TfNSW and leased to Sydney Boathouse Holdings.

The site currently contains a multi-storey dry boat storage building, surface level dry boat storage, car parking, a marina, and a single storey demountable office building.

The site is bound by:

- James Craig Road and Victoria Road to the north,
- Sydney Super Yacht Marina, TfNSW offices and the ANZAC Bridge to the east,
- a TfNSW depot and shipyards/wharfs to the west, and
- Rozelle Bay to the south.

The closest residential development is approximately 135 m to the north west of the site, on the opposite side of Victoria Road.

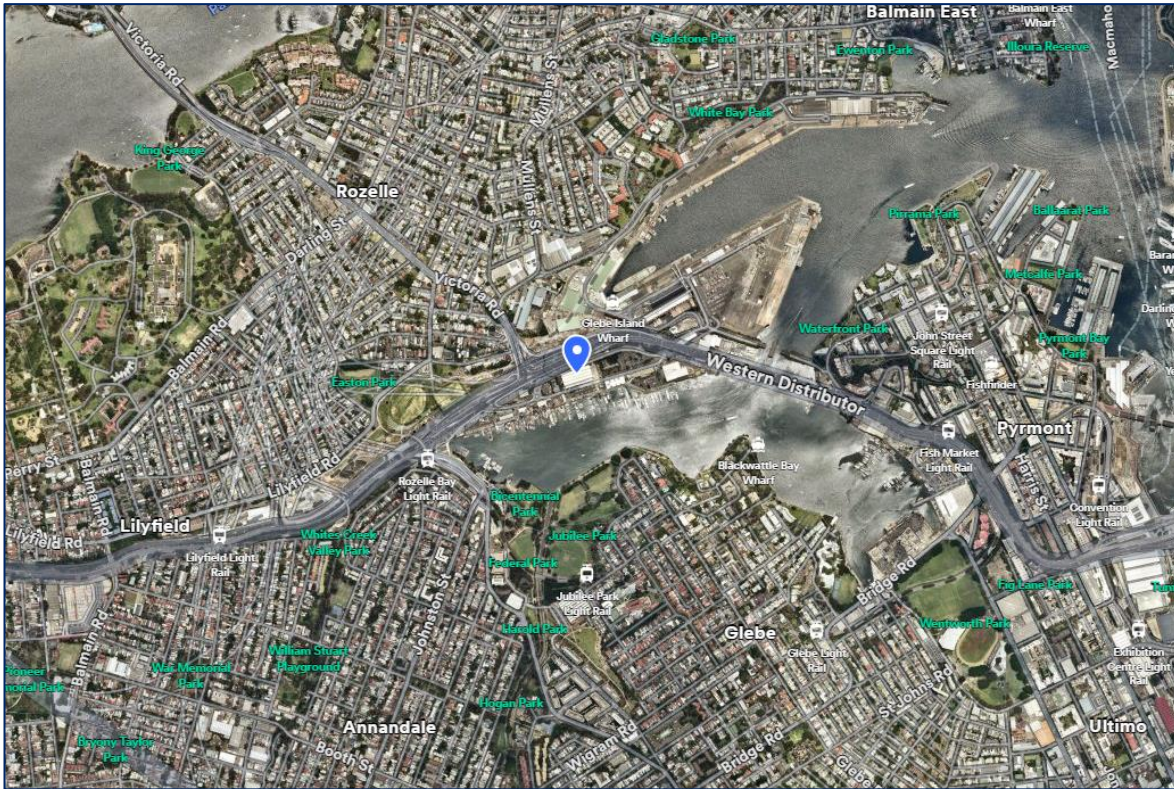


Figure 1 | Regional context map, with the site indicated by a blue arrow (Base source: Nearmap)

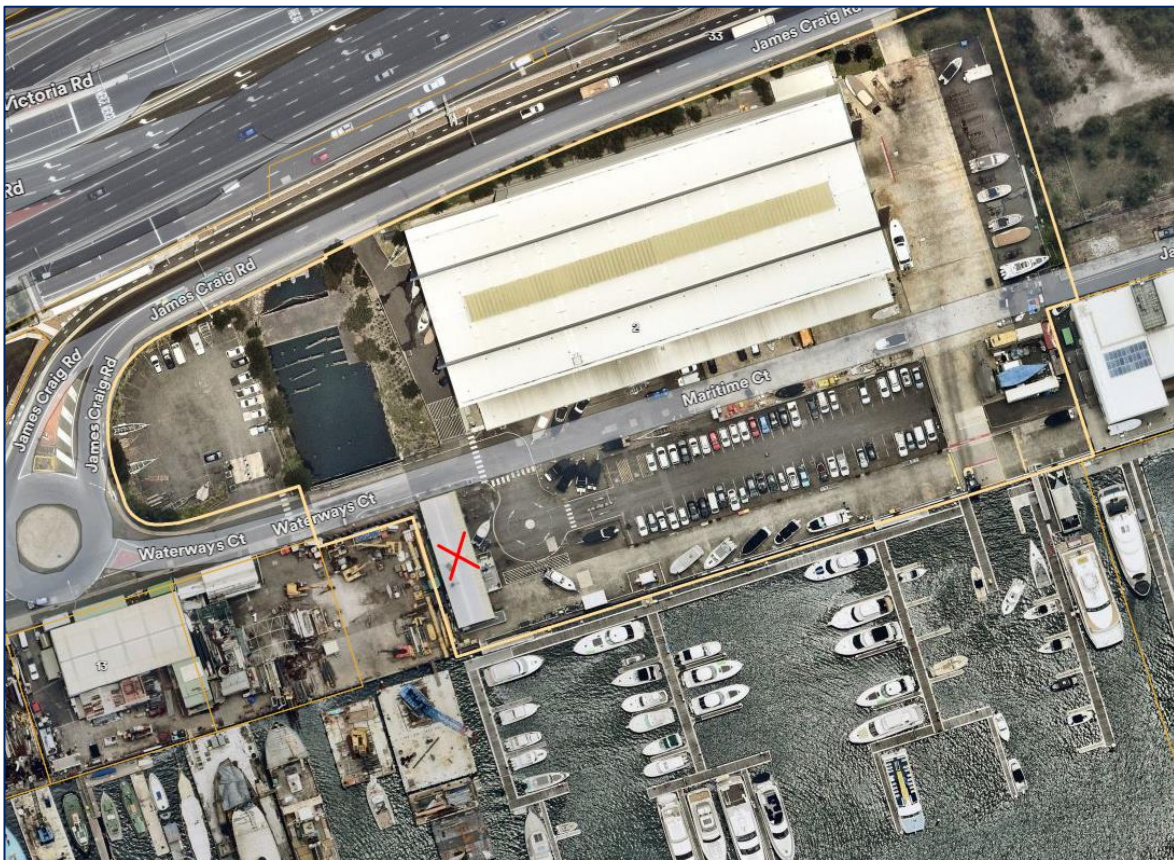


Figure 2 | Local context map – subject site outlined in yellow and the temporary building indicated by red cross (Base source: Nearmap)

1.3 Modification background

On 21 May 2007, the Minister for Planning approved the development of the Rozelle Marine Facility comprising:

- two boat storage buildings with a total capacity of 670 boats and 852 m² of commercial maritime and ancillary maritime floor space
- a commercial maritime building with 3,024 m² of commercial maritime brokerage, maritime workshop and restaurant/café floor space
- a multi-storey car park and at grade parking for 272 vehicles
- underground fuel storage tanks
- a marina comprising 36 layover berths and 24 brokerage berths
- a boat in/out feed system to move boats between the water and the dry boat stores
- signage, landscaping, rainwater tanks and other associated works.

The Rozelle Marine Facility has been modified on eight previous occasions as summarised in Table 1.

The demountable office and café building that is the subject of this application was approved in the second modification (MOD 2), as a single storey demountable building intended to serve as a temporary office until construction of the Commercial Maritime Building was completed. The temporary office building was to be used until September 2013.

MOD 5 extended the use of the temporary building until September 2015.

MOD 8 then further extended the use of the temporary building until April 2024, and sought consent for minor amendments to the building (Figure 3 and Figure 4) including:

- introducing a café use, including internal alterations and fit-out
- construction of a new 36 m² deck on the eastern side of the building
- construction of an access ramp and removing the existing windows on the southern side of the building.

Table 1 | Summary of modifications

Modification	Description	Approval Date
MOD 1	Extend the period of the approval by one year (from three to four years) in which the Applicant would commence works to prevent the approval from lapsing.	31 March 2010

Modification	Description	Approval Date
MOD 2	Reduce the height and size of the multi-storey car park, amend the conditions to allow staged construction, amend the hours of operation, and provide temporary boat storage and a temporary demountable office building.	16 September 2010
MOD 3	Include an additional phase of development within Stage 1 to provide interim dry boat storage and car parking, and the use of a temporary mobile crane.	27 March 2012
MOD 4	Amend the design, layout and roof profile of the Western and Eastern Dry Boat Stores and reduce the height of the Eastern Dry Boat Store.	19 August 2012
MOD 5	Extend the use of Lot 29 for temporary car parking and the demountable building for office use until the completion of Phase 2 of Stage 1.	19 March 2014
MOD 6	Introduce a mezzanine level to the Western Dry Boat Store building.	13 November 2014
MOD 7	Amend the marina including design changes, providing additional berths, and the temporary use of berths.	5 February 2015
MOD 8	Extend the period of use for the temporary building until April 2024 or until the Commercial Maritime Building is complete.	20 April 2018

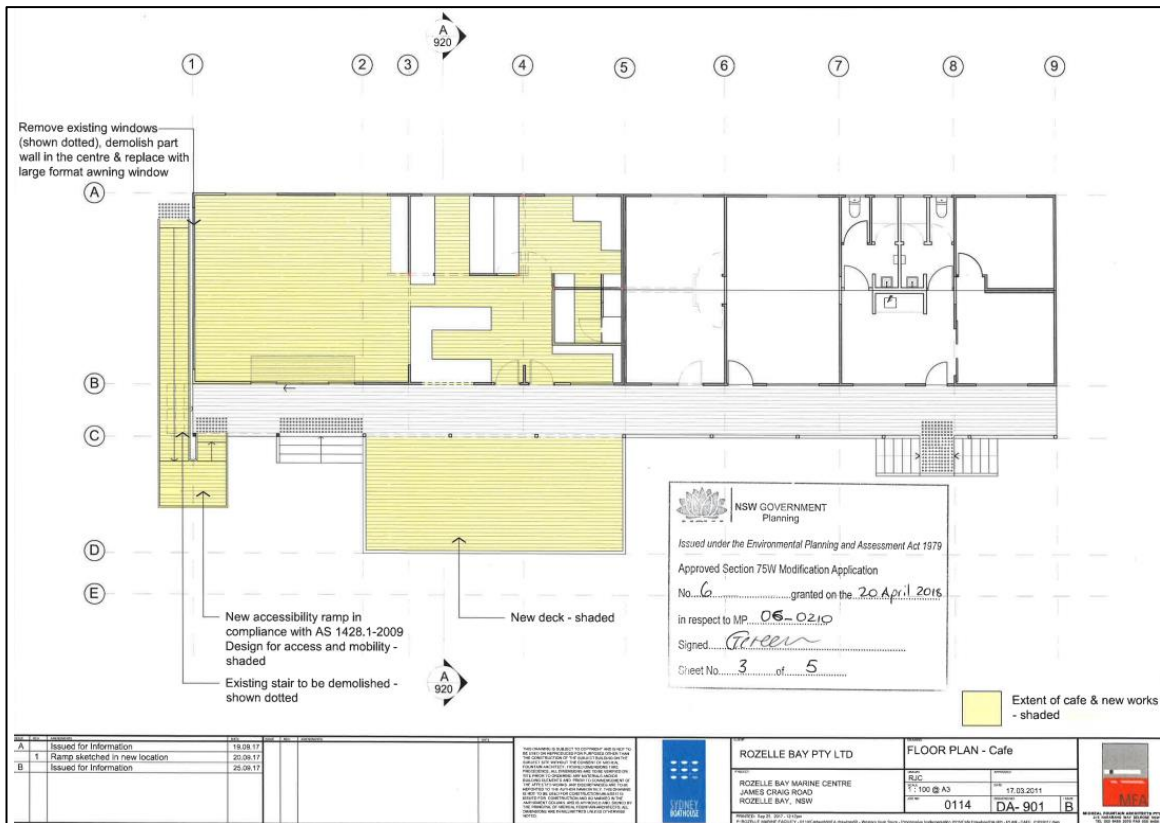


Figure 3 | Detailing the updated layout of the building from MOD 8 (Source: Modification Application)

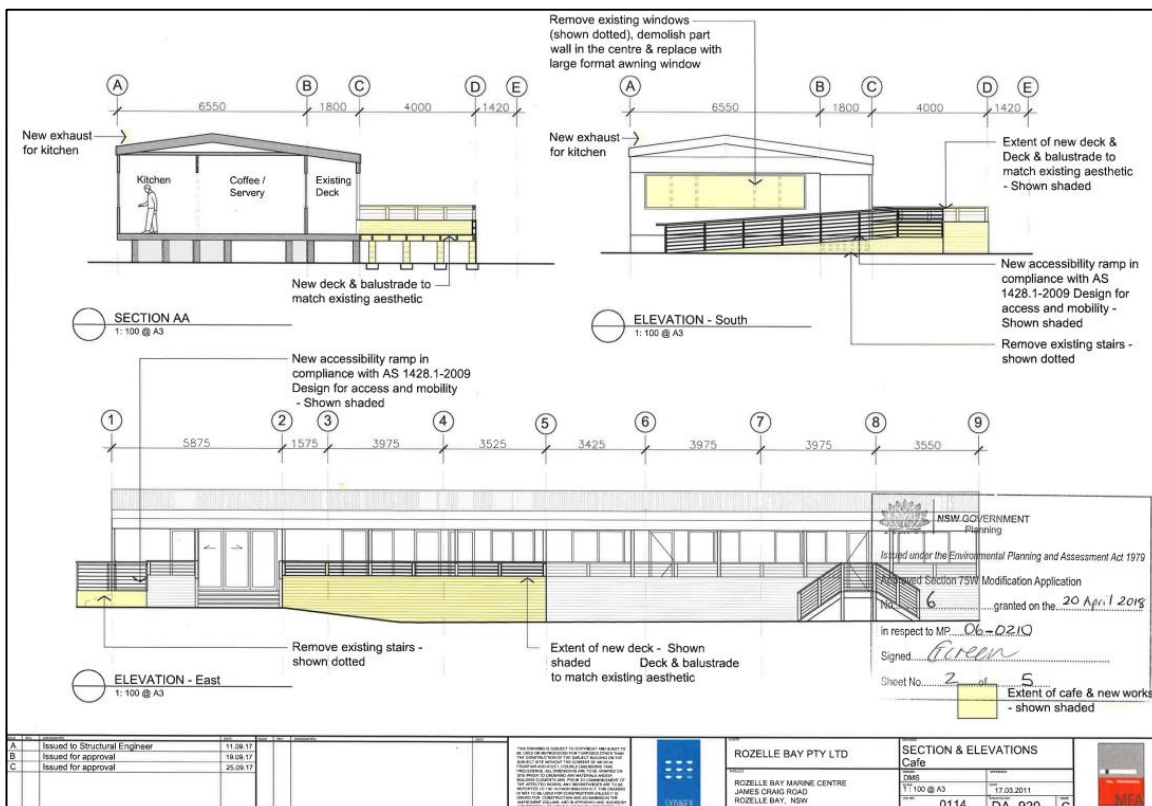


Figure 4 | Detailing the updated elevations of the building from MOD 8 (Source: Modification Application)

1.4 Bays West precinct

In November 2021, the Department finalised a Place Strategy to guide the transformation of the Bays West precinct, which includes the site. The Place Strategy includes key directions for the renewal of the precinct that are to be addressed in progressive applications to amend the planning controls.

The first rezoning application was finalised in November 2022 for the White Bay Power Station (and Metro) Sub-precinct, located to the north of the site. However, no application has been progressed at this time to rezone the subject site and enable its renewal in accordance with the vision set under the Place Strategy.

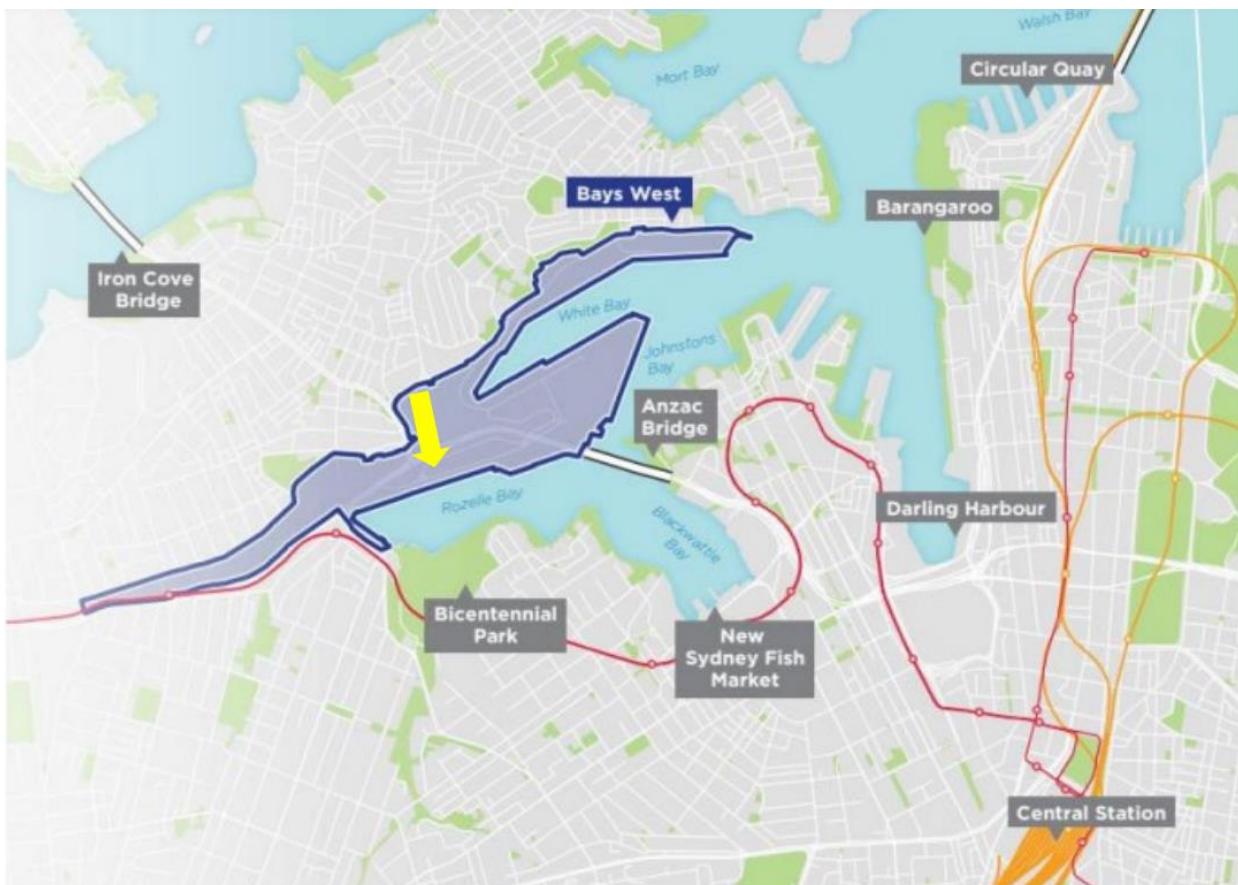


Figure 5 | Location of the site (arrow) within the Bays West precinct (Source: Modification Application)

2 Proposed Modification

This modification is limited to the temporary building on site, which is used as an office and café. The modification seeks to extend the approved use of this building until 19 April 2028, or until the construction of the Commercial Maritime Building (Stage 1, Phase 3) is completed.

The current application does not seek consent for any works to the building and only seeks an extension for the use.

The condition that limits the use of the building, is Condition A9(e) and has been modified twice previously in MOD 5 and MOD 8. The existing modified condition is shown below (words previously deleted are shown in strikethrough and words previously inserted are underlined):

“The use of ~~the~~ single storey temporary ~~office~~ buildings for a café and office on Lot 2 as illustrated by Drawings ~~MP-011-DA and TO-001-DA~~ DA-901B and DA-920 C expires ~~on 16 September 2015~~ six years from the date of approval of modification application MP 06 0210 MOD 8, or until the construction of the Commercial Maritime Building (Stage 1, Phase 3) is completed, whichever occurs first.”

The single storey temporary building and all associated site improvements shall be demolished/ removed from the site upon the expiry of the use, as required by this condition.”

This modification proposes the following change (words to be deleted are shown in strikethrough and words to be inserted are underlined):

“The use of the single storey temporary ~~office~~ buildings for a café and office on Lot 2 as illustrated by Drawings ~~MP-011-DA and TO-001-DA~~ DA-901B and DA-920 C expires on 19 April 2028 ~~16 September 2015~~ six years from the date of approval of modification application MP 06 0210 MOD 8, or until the construction of the Commercial Maritime Building (Stage 1, Phase 3) is completed, whichever occurs first.”

The single storey temporary building and all associated site improvements shall be demolished/ removed from the site upon the expiry of the use, as required by this condition.”

3 Statutory context

Details of the legal pathway under which the modification is sought is provided in Error! Reference source not found. below.

Table 2 | Permissibility and assessment pathway

Consideration	Description
Power to modify	This project was originally approved under the former section 75J of the EP&A Act and was a transitional Part 3A project under Schedule 2 of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> (EP&A (ST&OP) Regulation). Following amendments to the EP&A Act and the commencement of the EP&A (ST&OP) Regulation, the power to modify Part 3A project approvals under former section 75W is no longer available for modifications submitted after 1 March 2018. The project is declared to be SSD under Section 6 of Schedule 2 of the EP&A (ST&OP) Regulation. The project approval has become a development consent which can be modified under section 4.55 of the EP&A Act.
Scope of modification	The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minimal environmental impact as the proposal: • would not increase the environmental impacts of the project as approved • is substantially the same development as originally approved; and • would not disturb any additional areas outside the site. The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

Consideration	Description
Consent Authority	The Minister continues to be the consent authority under section 4.5(a) of the EP&A Act and has the capacity to modify the consent. However, the Team Leader, Key Sites Assessments, may determine the application under delegation as: • a political disclosure statement has not been made • there are no submissions by way of objection • Council does not object.

3.1.1 Matters of consideration required by the EP&A Act

The following are relevant mandatory for consideration:

- section 4.55(1A) of the EP&A Act, including environmental planning instruments or proposed instruments
- the objects of the EP&A Act, including the principles of ecologically sustainable development
- likely impacts of the modification application, including environmental impacts on both the natural and built environment, and social and economic impacts
- suitability of the site
- any submissions
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all the above matters in its assessment of the proposal. The Department has further considered the relevant matters as outlined in **Section 5** and considers the proposal remains consistent with the matters of consideration.

4 Engagement

4.1 Department's engagement

In accordance with the EP&A Regulation, the Department made the modification application publicly available on the NSW Planning Portal on 9 January 2024 and also forwarded the application to Transport for NSW (TfNSW) and Inner West Council (Council) for comment.

TfNSW reviewed the application and advised that they had no objection given the negligible impacts.

Council declined to comment on the application given the minor nature of the works.

No submissions were received from the public.

5 Assessment

5.1 Extension of use on temporary building

As detailed in Section 2, the modification seeks to extend the temporary use of an existing office and café building until April 2028. The current use of this temporary building will expire in April 2024.

The construction of the commercial maritime building (Stage 1, Phase 3) that would host the uses that are currently supported in the temporary building has been delayed to enable a more detailed consideration of the future of the site in accordance with the Bays Precinct Place Strategy.

The Applicant contends that an extension of four years would allow master planning for the Bays West precinct to be finalised and, in the interim, the temporary building would provide the office and cafe uses needed to support Sydney Boathouse operations.

After careful consideration, the Department finds the modification suitable for the following reasons:

- the ongoing use of the temporary building for an office and café is consistent with the Project Approval, which allows for a restaurant, café and office accommodation as part of the final stage of development
- the ongoing use of the building will not result in adverse impacts to the surrounds as it is compatible with the maritime character of the neighbouring sites including the RMS depot, shipyards and wharfs
- the ongoing use of the building will result in minimal visual impacts to the foreshore and to neighbouring residences as it is a single storey building, located at a right angle to Rozelle Bay and is 280 m away from the closest residential buildings
- no operational changes are proposed as part of this application including to traffic, parking, operational hours, and noise limitations, ensuring no intensification of the impacts
- the building would be removed once the construction of the Commercial Maritime Building is complete, resulting in no permanent impacts to the surrounds
- TfNSW considered the project would have negligible impacts, and Council and the public did not raise any concerns
- the temporary building supports the ongoing operation of the Sydney Boathouse while a more detailed consideration of the future of the site is being completed in accordance with the Bays West Place Strategy
- the site remains suitable for its current use in the context of a working harbour.

The Department recommends that a further time limit be placed on the temporary the use of the building; to be for a further four years or until the Maritime Building is completed.

6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act, advice from Council and government agencies, and all supporting documents. The Department's assessment concludes that the proposal is acceptable, subject to conditions:

- it is substantially the same development as the approved development and would not result in any adverse environmental impacts
- it complies with relevant statutory provisions and remains consistent with the relevant EPIs and the strategic planning context
- the temporary building will support the ongoing functions of the Sydney Boathouse until the Commercial Maritime building is complete
- TfNSW considered the project would have negligible impacts, and Council and the public did not raise any concerns
- the conditions of consent will ensure the temporary building is removed when the Commercial Maritime building is completed or in 4 years, resulting in no permanent impacts.

Consequently, the Department considers the modification is in the public interest and should be approved, subject to the recommended modified conditions of consent.

7 Recommendation

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

- considers the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- agrees with the key reasons for approval listed in the notice of decision
- **modifies the consent** for the Rozelle Marine Facility (MP06_0210-Mod 9) as amended, subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (Error! Reference source not found.).

Recommended by:

A handwritten signature in black ink, appearing to read 'J. De Silva'.

Janith De Silva

Planning Officer

Key Sites Assessments

8 Determination

The recommendation is ~~not adopted~~ adopted by:

A handwritten signature in blue ink, appearing to read 'Anna Nowland', written in a cursive style.

Anna Nowland
Acting Team Leader
Key Sites Assessments

Glossary

Abbreviation	Definition
Council	Inner West Council
Department	Department of Planning, Housing and Infrastructure
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EP&A (ST&OP) Regulation	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017
EPI	Environmental planning instrument
ESD	Ecologically sustainable development
LGA	Local government area
LEP	Local environmental plan
Minister	Minister for Planning and Public Spaces
Secretary	Secretary of the Department of Planning, Housing and Infrastructure
SEPP	State environmental planning policy
SSD	State significant development
TfNSW	Transport for NSW

Appendices

Appendix A – List of referenced documents

The supporting documents and supporting information to this assessment report can be found on the website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-9-extend-period-use-temporary-building>

Appendix B – Statutory considerations

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

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

Section 4.55(1A)	Assessment
The proposed modification is of minimal environmental impact	The potential environmental impacts arising from the proposed modification are minor in nature (Section 5).
The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.	The development, as proposed to be modified, is substantially the same development as that originally approved in that: • No building works are proposed with this application and thus no building will be modified with this application. • The temporary use has been extended in previous modifications, and the temporary building will still be removed at the end of construction. • The anticipated environmental impacts arising from the proposed modifications are consistent with those of the approved development.
The application has been notified in accordance with the regulations.	The application is not required to be notified in accordance with the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) (Section 4).
Any submission made concerning the proposed modification has been considered.	No public submissions were received. The submissions received from TfNSW and Council are summarised in Section 4 and considered in Section 5 of this report.

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. Table 2 identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

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

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The proposal complies with the relevant legislation as addressed in Section 4 and Appendix B.
(a)(ii) any proposed instrument	Consideration of any proposed instruments is provided below.
(a)(iii) any development control plan	Development Control Plans do not apply to SSD.
(a)(iia) any planning agreement	Not applicable.
a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications, the requirements for notification and fees.
(a)(v) (repealed)	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has assessed the likely impacts of the development and considers they are acceptable and have been appropriately managed by the existing and recommended conditions (Section 5 and Appendix C).
(c) the suitability of the site for the development	The site remains suitable for the development (Section 5).
(d) any submissions	TfNSW found that the application would have a negligible impact and Council declined to comment. No public submissions were received during assessment.
(e) the public interest	The Department considers the proposal to be in the public interest (Section 5).

Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the Department has considered the relevant EPIs as part of its assessment of the proposals.

The Department undertook a comprehensive assessment of the application against the relevant EPIs in its original assessment and the Department is satisfied the modification does not materially alter the developments consistency with EPIs.

Appendix C – Recommended instrument of modification

MP06_0210 Mod 9: <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-9-extend-period-use-temporary-building>