



**Maritime Facility
(Former Sydney
Heritage Fleet)
Bank Street,
Pyrmont**

Section 75W
Modification Application
(MP 11_0001 MOD 3)

December 2018

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BBD	Blackwattle Bay District
BBM	Blackwattle Bay Marina
BCA	Building Code of Australia
BWP	Bays Waterfront Promenade
CIV	Capital Investment Value
Council	City of Sydney Council
Commission	Independent Planning Commission
DCP	Development Control Plan
Department	Department of Planning and Environment
EA	Environmental Assessment prepared by RobertsDay Pty Ltd dated June 2017
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
INP	Industrial Noise Policy
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
NPI	Noise Policy for Industry
OEH	Office of Environment and Heritage
PPR	Preferred Project Report (includes Response to Submissions)
Proponent	UrbanGrowth NSW, on behalf of RMS
RMS	Roads and Maritime Services
RPPR	Revised Preferred Project Report (includes Revised Response to Submissions)
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
TfNSW	Transport for NSW



Executive Summary

UrbanGrowth NSW (the Proponent) seeks approval to modify the Project Approval (MP 11_0001) for a maritime facility, including a land and water-based component at 5-11 Bank Street Pyrmont, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

On 26 March 2014, the Planning Assessment Commission (now Independent Planning Commission) granted approval for the Sydney Heritage Fleet maritime facility consisting of 11 historic vessels, ranging in size from 15.2 m to 51 m. The permanent approved facility included a water-based component comprising an 85 m long fixed wharf with attached floating pontoons. The land-based component included a part two / three-storey building for use as a museum, community work and exhibition space. The maritime facility also included a publicly accessible foreshore walk.

The modification application seeks approval for a change of use to a charter and tourism boating facility for a temporary period of 10 years, including:

- the mooring of 22 charter vessels (15 m to 48 m in length) for 10 years, with operational hours of 7 am to 1 am, 7-days-per-week
- associated land-based uses, including a demountable office building, waste compound, 19 shipping containers, construction of a timber promenade and provision of public open space and landscaping.

The proposed modification would facilitate the relocation of the Blackwattle Bay Marina from its current site in order to make way for the new Sydney Fish Market.

Engagement

The modification application was publicly notified between 28 June 2017 and 11 August 2017. The Department of Planning and Environment (the Department) received a total of 208 submissions, including one objection from Council, seven from government agencies and 200 from the public. Of the public submissions, 191 out of 200 objected to the proposed modification. An objection was received from the local Member of Parliament, Mr Alex Greenwich, Member for Sydney. In response to the Proponent's Preferred Project Report (PPR), a submission was received from Council maintaining its objection, nine additional submissions were received from government agencies and 104 submissions from the public, of which 100 were objections.

The key issues raised in the submissions include impacts on maritime traffic and safety (including on non-motorised vessel users), noise, public open space and foreshore access, visual impact, car parking and operational matters.

The Department also met with residents on-site and at the local community centre on 2 August 2017 and held a community information session at its offices on 9 August 2017 during the consideration of the application.

Key changes made by the Proponent in response to community concerns

Key amendments made by the Proponent in response to community concerns include:

- reducing the water licence area from 12,824 m² to 10,976 m²
- replacing fixed with floating pontoons to improve visibility and assist in abating adverse swell and wind conditions
- reconfiguring pontoons and mooring locations to separate motorised from non-motorised vessels
- reducing the number of shipping containers from 22 to 19 to reduce visual impacts
- limiting potentially noisy activities such as removal of waste from vessels to between 8 am and 4 pm daily, and sewage pump out to between 7 am and 6 pm daily.

Assessment

The Department has assessed the merits of the proposed modification taking into consideration the issues raised in all submissions as well as the Proponent's response to these, and considers the impacts have been satisfactorily addressed by the proposed modification and through the Department's recommended conditions.

The Department notes the proposed modification seeks approval for the use of the charter and tourism facility for a 10-year period. This is inconsistent with the broader strategic urban renewal delivery objectives for the site which envisage public open space and a foreshore promenade. A shorter five-year timeframe is therefore recommended which would align more closely with the strategic delivery targets for the area and would allow further consideration to be given after this time to the progress of these planned works and their implications for the subject site.

The Department considers the changes to the built form acceptable it would reduce the bulk and scale of the approved development and would provide more open space on the site and reduce visual impacts. While the Department accepts there is the potential for the shipping containers to have a negative impact on the visual and scenic quality of the foreshore, a condition is recommended to ensure all buildings, structures, shipping containers, open space and perimeter fencing are maintained in a proper and efficient condition.

The Department acknowledges community concerns about the need for public open space and access to the foreshore. The Department considers the investigation of alternative sites acceptable, and notes the site is appropriately zoned for the proposed uses and would provide public open space and foreshore access where it is currently not available. The design of the public domain and foreshore area is also an acceptable interim solution that would sufficiently allow for pedestrian circulation and access to the foreshore and would not preclude the delivery of the Bays Waterfront Promenade intended as part of the Bays Precinct Transformation Plan. However, the Department does not agree to the removal of the Commission's condition requiring a 10 m wide foreshore promenade, and has recommended amended plans be prepared to ensure the driveway, ramp and associated landscaping are set back 10 m from the foreshore.

The Department considers the proposed modification is acceptable from a maritime navigation and safety perspective, with the Proponent having reorientated vessel berthing locations to minimise conflict with non-motorised vessel users using the launching ramp on the neighbouring site. The Department notes RMS has not raised any maritime navigation or safety issues, and recommends conditions requiring the preparation of an updated Marine Traffic Management Plan, approved by the RMS and the Harbour Master.

The Department considers the construction and operational acoustic impacts of the proposed modification acceptable, and has recommended conditions imposing noise limits to minimise impacts on the surrounding area. Conditions are also recommended requiring the preparation of a Construction Environmental Management Plan, Construction Noise and Vibration Management Plan and preparation of a Community Communication Strategy to facilitate communication between the Proponent and affected landowners and businesses during the design and construction of the development.

In respect of operational noise, the Department has recommended conditions restricting operational hours, preventing passengers embarking or disembarking at the site and prohibiting amplified music from vessels when they are berthed at the marina. The Department has also recommended noise monitoring and the preparation of an Operational Noise and Vibration Management Plan to ensure the ongoing use is appropriately managed and does not result in detrimental amenity impacts.

The Department is satisfied the traffic and parking impacts of the proposed modification can be accommodated by the surrounding road and parking network and recommends the preparation of a Construction Traffic and Pedestrian Management Plan to minimise impacts on the local road network during construction.

All other issues (construction and operational management) associated with the modification application have been assessed, and appropriate conditions recommended, where necessary, to ensure the impacts of the development are appropriately mitigated and/or managed and community concerns are addressed.

Summary of additional matters required by the Department to address community concerns

As noted above, the Department recommends key conditions to ensure the impact of the development is appropriately mitigated and/or managed, which in summary include the following:

- a restriction on the timeframe of the use to five years
- restrictions on construction and operating hours
- prevention of passengers embarking or disembarking at the site
- preparation of amended plans to ensure the driveway, ramp and associated landscaping in the middle of the site are set back 10 m from the foreshore, to ensure the intent of the Independent Planning Commission's condition in the Project Approval requiring a 10 m foreshore promenade is achieved
- preparation of a Community Communication Strategy during the design and construction of the development and compliance reporting to facilitate communication between the Proponent and affected landowners and businesses
- preparation of a Marine Traffic Management Plan in consultation with RMS Maritime and the Port Authority of NSW to provide for the safe movement of vessels
- preparation of a Construction Environmental Management Plan, Construction Pedestrian Traffic Management Plan and Construction Noise and Vibration Management Plan
- preparation of an Operational Plan of Management.

Conclusion

The proposed modification would assist in delivering the government's strategic aim of transforming the Bays Precinct and would facilitate the relocation of the Sydney Fish Market by moving the Blackwattle Bay Marina to the subject site. The Department therefore concludes the modification application is in the public interest and recommends the modification application be approved, subject to recommended conditions.



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1. Introduction

This report provides an assessment of a request to modify the Project Approval (MP 11_0001) for a maritime facility including a land and water-based component at 5-11 Bank Street, Pyrmont. The request has been lodged by UrbanGrowth NSW, on behalf of the landowner, RMS, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

The Proponent seeks approval to modify the Project Approval for a permanent maritime facility to a temporary charter and tourism boating facility, including:

- the mooring of 22 charter vessels (15 m to 48 m in length) for 10 years, with operational hours of 7 am to 1 am, 7-days-per-week
- floating pontoons over an area of 10,967 m²
- associated land-based works to support this use, including a demountable office building, waste compound, 19 shipping containers, construction of a timber promenade and provision of public open space and landscaping
- deletion of a condition of approval requiring a 10 m wide foreshore promenade.

1.1 Background

The site is located at 5-11 Bank Street, Pyrmont, on the foreshore of Blackwattle Bay, below the road deck of the ANZAC Bridge, wrapping around its eastern pylon. The site has a land and adjoining water component and is located approximately 2 km from the Sydney CBD (refer to **Figure 1**). The site is located within the Sydney local government area (LGA).

The land-based component of the site contains previously filled and compacted soil retained by a seawall and falls 3 - 4 m from Bank Street to the shoreline of Blackwattle Bay. There are no buildings on the site, with the majority of the site covered by concrete, bitumen and gravel. The site is currently fenced off to the public.

The water-based component is generally rectangular and extends westward from the land component into Blackwattle Bay (see **Figure 1**). The adjoining land to the south-east contains a non-motorised vessel launching ramp used by several nearby dragon boat clubs to launch and store its boats. The ramp and land (measuring 312 m²) were included in the Project Approval but have been removed from the current proposed modification.

The buildings at 1-3 Bank St to the north-west of the site are vacant 1-2 storey buildings. Further to the north is the State heritage listed Glebe Island Bridge. The escarpment face of the former Saunders Quarry to the north-east of the site is listed as an item of local significance and forms the eastern edge of Bank Street. Above this are several residential flat buildings ranging in height from 7-15 storeys, which overlook the subject site (refer to **Figure 3**).

To the west of the site are the waters of Rozelle and Blackwattle Bays. The southern shoreline of Rozelle Bay is predominantly occupied by residential land uses and open space, whilst the western and northern shorelines are predominantly 'working harbour' commercial and light industrial maritime activities (refer to **Figure 2**). The eastern and southern shorelines of Blackwattle Bay are a mixture of commercial, industrial and maritime uses. The western shoreline of Blackwattle Bay is predominantly residential and open space land uses.

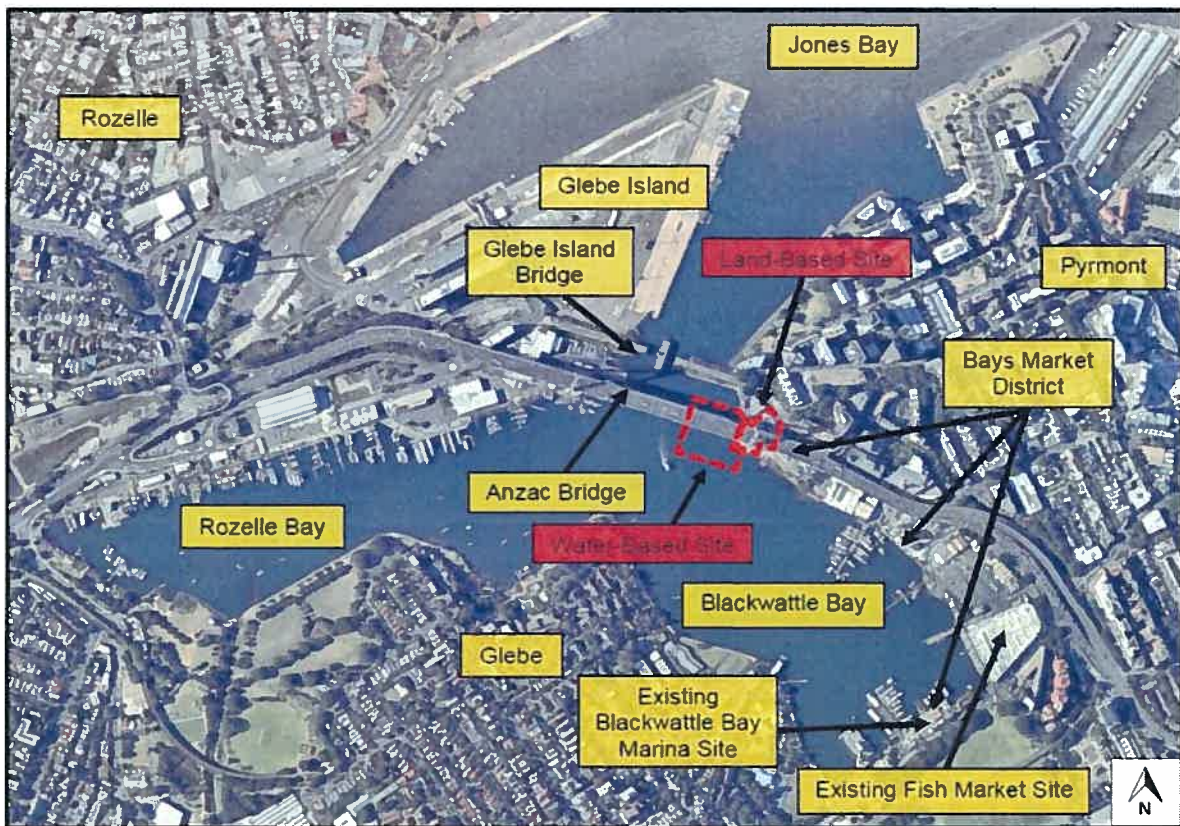


Figure 1 | Site location (Base source: NearMap)



Figure 2 | Looking west from the site to the Glebe Island Bridge and working harbour uses of Rozelle Bay (Base source: DPE photograph)

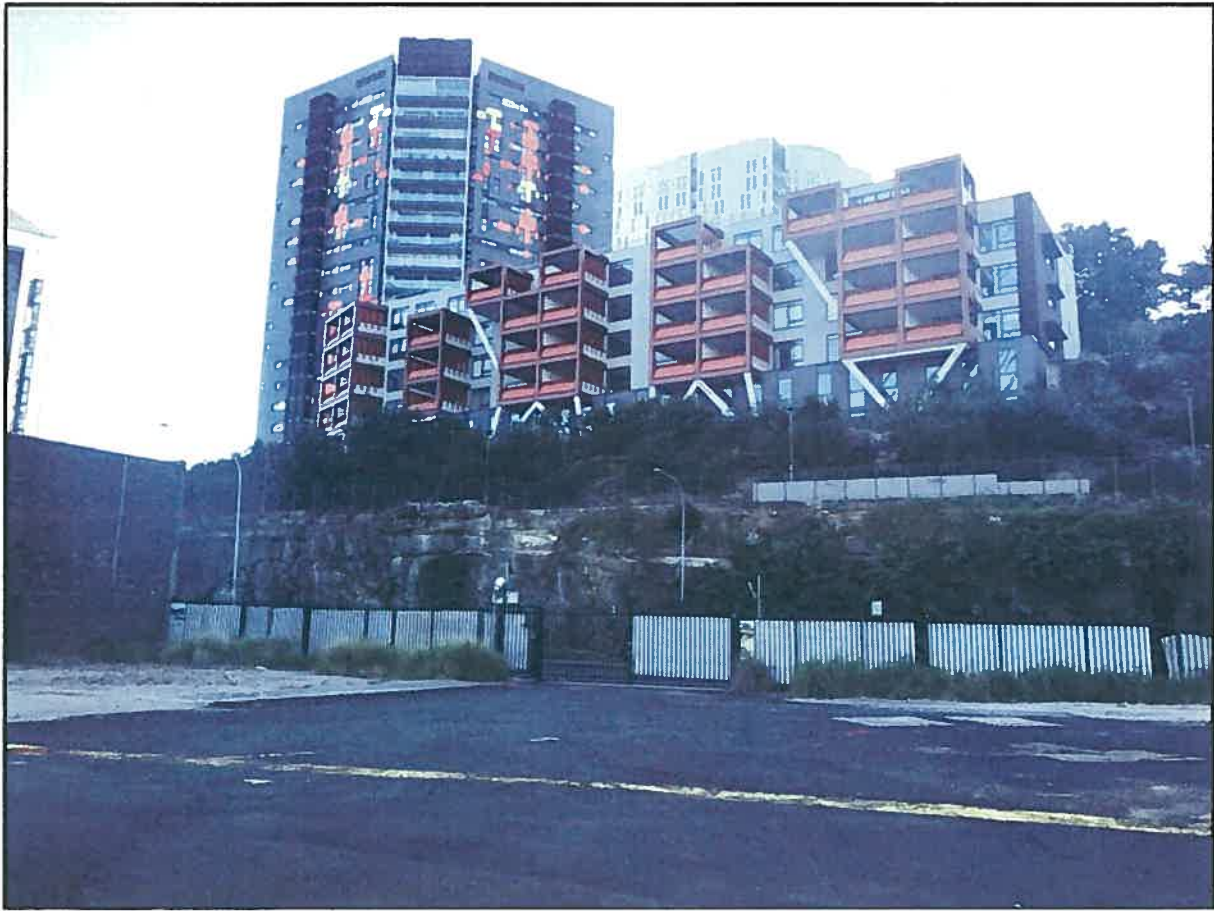


Figure 3 | Looking north from the northern part of the site towards Jacksons Landing (Base source: DPE photograph)

1.2 Approval History

On 26 March 2014, the Independent Planning Commission (Commission) approved a Project Approval (MP 11_0001) for a permanent maritime facility to be used as the operational base for the storage and restoration of Sydney Heritage Fleet's collection of 11 historic vessels.

The vessels ranged in size from 15.2 m to 51 m and the site was to serve as a drop-off and pick-up point for the public to participate in historic vessel tours. The approval included:

- a water-based component comprising an 85 m long fixed wharf with attached floating pontoons
- a land-based component comprising a part two / three-storey building to be used as a museum, community work and exhibition space and ancillary kiosk
- a publicly accessible foreshore walk.

The Project Approval has been modified on two occasions, as summarised in **Table 1**. The Project Approval is shown at **Figures 4** and **6**. The Project Approval has not been acted on and construction has not commenced.

Table 1 | Summary of modifications to the Project Approval

Mod No.	Summary of Modifications	Approval Date
MOD 1	Amendment of a deferred commencement condition requiring remediation works to be completed prior to the approval becoming operative, to allow remediation works to be carried out during construction.	18 September 2015
MOD 2	Approval to amend Statement of Commitments and the timing of certain conditions to allow the construction of the water-based components of the project prior to the land-based works.	15 March 2017



2. Proposed Modification

The modification application (MOD 3) seeks approval for a change of use from a maritime facility for the mooring of 11 vessels (defined as a combination of information and education facilities, jetties, kiosk, food and drinks premises and signage and water recreation facilities) to a charter and tourism boating facility.

The proposed modification would facilitate the relocation of the Blackwattle Bay Marina from its current site at the head of Blackwattle Bay in order to make way for the future construction of the new Sydney Fish Market.

The key components and features of the modification (as amended by the Preferred Project Report and revised Preferred Project Report) are outlined in **Table 2** below, including a comparison with the Project Approval. The proposed modification layout is shown at **Figure 5** and photomontage at **Figure 7**.

Table 2 | Key components of the proposed modification with comparison to the Project Approval (as modified)

Aspect	Description of Project Approval	Description of proposed modification
General		
Length of use	• Permanent	• 10 years (proposed)
Definition	• Maritime facility	• Charter and tourism boating facility
Hours of operation	• No hours conditioned, however generally: ○ 8 am – 6 pm typically ○ 7 am – 10 pm occasionally ○ 9.30 am – 5.30 pm for the museum, 7-days-per-week	• 7 am to 1 am, 7 days-per-week, shorter during non-peak periods (April to August)
Foreshore promenade	• 10 m wide promenade on land and 5 m boardwalk over water (total width 15 m)	• Minimum 8 m wide promenade on land and 5.75 m timber promenade over water (total width 15.75 m)
Staff and crew	• 15-20 and up to 40 volunteers	• 31 (predominantly), 81 during peak periods (3 days per year)
Land-based Component		
Structures	• One building containing: ○ a workshop ○ two boat storage sheds, one designed to facilitate dragon boat clubs ○ volunteer change rooms and amenities area	• Demountable office building and storage compound for waste, gas cylinders and ice machines • 19 shipping containers for storage– 11 6 m long x 3 m wide x 2.59 m high and 8 x 12 m long x 3 m wide x 2.59 m high

	○ exhibition and meeting room	• Sewage pump-out facility • Electrical substation
Building Height	• 2-3 storeys (8.5 m – 11.3 m)	• 1 storey (up to 4.74 m)
Landscaping	• Street tree planting • Green roof to building adjacent to Bank Street, hardstand landscaping	• Approximately 3000 m² of public open space and landscaping
Signage	• Illuminated identification sign	• Business identification signage – vinyl
Car Parking	• 1 space, no visitor parking	• 5 spaces for use by staff and visitors
Bicycle parking	• 8 • No end-of-trip facilities	• 4 • End-of-trip facilities
Water-based Component		
Marine licence area	• 10,700 m² (including approximately 700 m² for the existing non-motorised vessel ramp)	• 10,976 m²
Berthing structure	• Fixed wharf with floating pontoons	• Floating pontoons
Number of vessels	• 11	• 22
Vessel size	• 15 m to 51 m	• 15 m to 48 m
Vessel movements	• 3-10 per day	• 10-30 per day
Public use of the marina	• Shuttle buses and coach drop-off • Disembarkation of visitors	• No loading or unloading of passengers
Other operational details	• Minor servicing/hand tools only • Refuelling	• Minor servicing/hand tools only • No refuelling

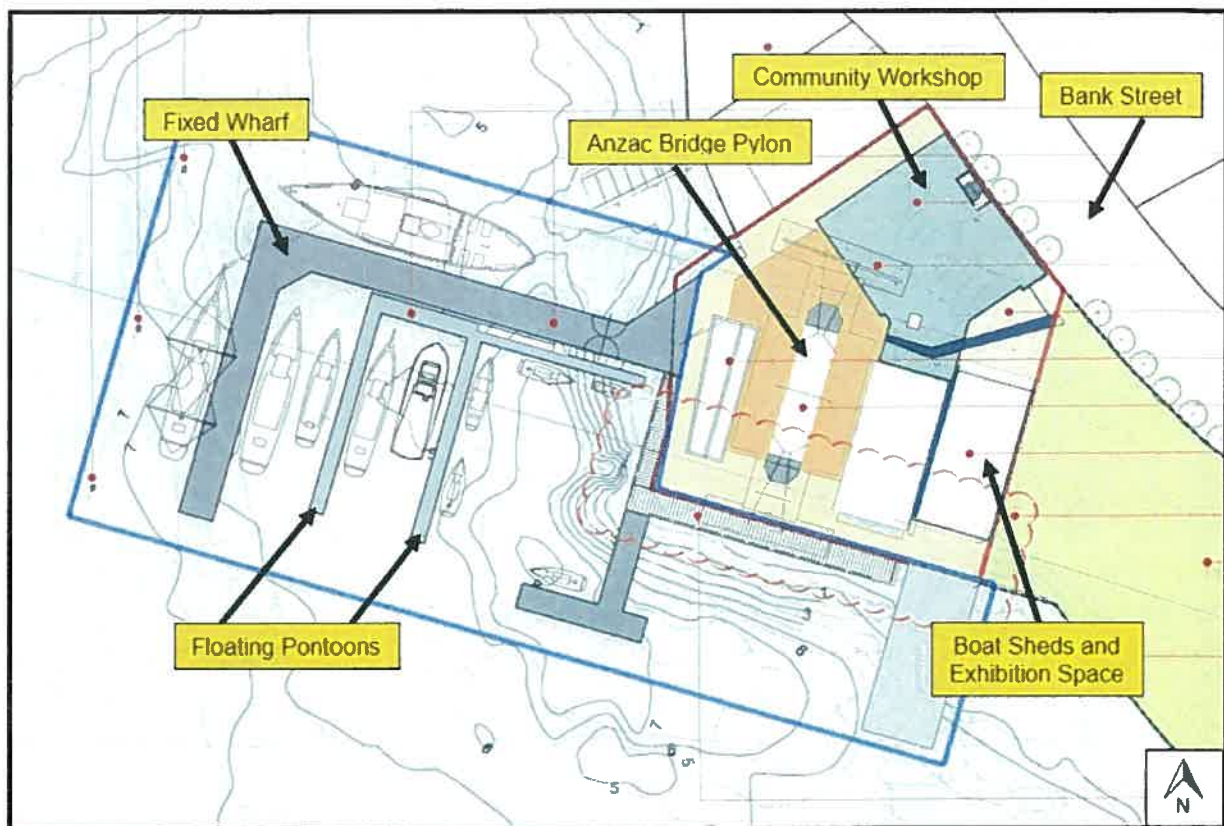


Figure 4 | The Project Approval layout (Base source: MP 11_0001)

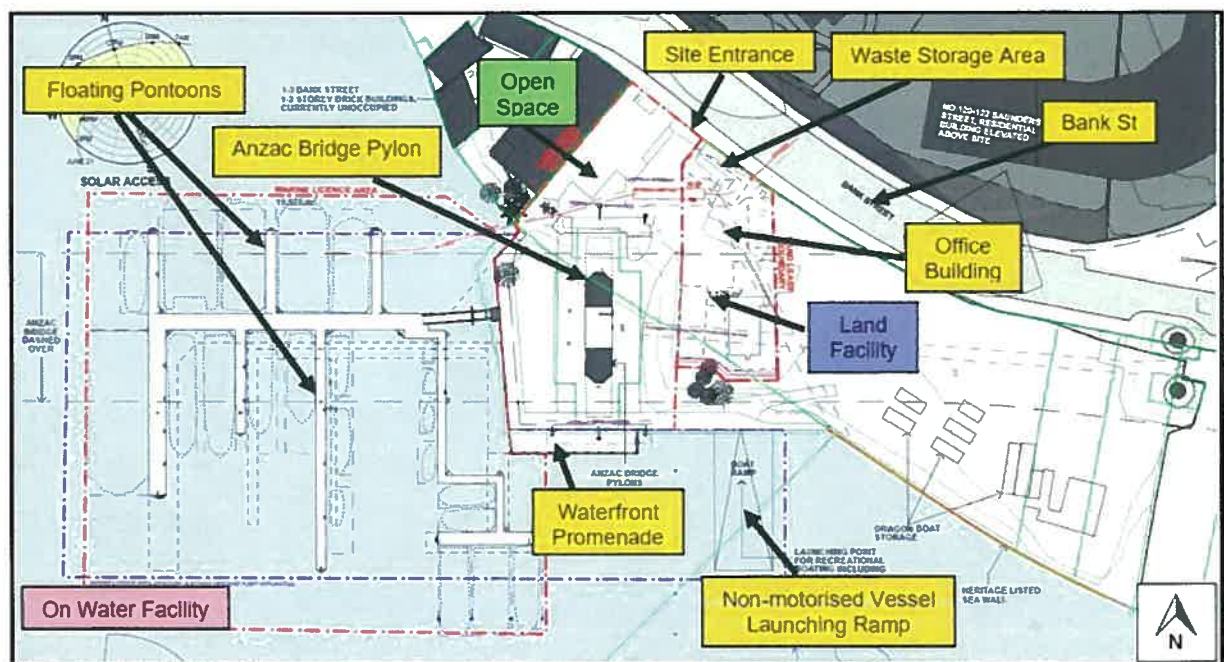


Figure 5 | Proposed modification layout (Source: RPPR)



Figure 6 | The Project Approval viewed from Blackwattle Bay (Source: MP 11_0001)



Figure 7 | The proposed modification viewed from 1-3 Bank Street (Source: RPPR)



3. Strategic Context

3.1 Greater Sydney Region Plan

The Greater Sydney Region Plan supports a 40-year vision for a metropolis of three cities that will rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney.

The site is more broadly encompassed within the Global Economic Corridor and more specifically located within the Harbour CBD and its Innovation Corridor extending from the Bays Precinct through Pyrmont, Sydney University and to the Australian Technology Park.

The proposed modification is consistent with the Greater Sydney Region Plan as it would provide for the preservation of tourism assets and related employment in the form of a chartered boat facility and support the diversity of activities in Greater Sydney's visitor economy, in accordance with Objective 18 – Harbour CBD is stronger and more competitive.

3.2 Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The site is located within the Eastern City District. The proposed modification is consistent with the relevant priorities of the Eastern City District Plan as it will provide for the preservation of tourism assets and related employment in the form of a chartered boat facility and support the diversity of activities in Greater Sydney's visitor economy, in accordance with Planning Priorities E7: Growing a stronger and more competitive Harbour CBD and E13: Supporting growth of targeted industry sectors.

3.3 The Bays Precinct and Bays Precinct Transformation Plan

The site is located within the Bays Precinct, which comprises Glebe Island, Blackwattle Bay, Wentworth Park, Rozelle Bay (including the rail yards) and White Bay. This precinct has historically been utilised for maritime, light industrial and working waterfront purposes.

In October 2015, UrbanGrowth NSW released the Bays Precinct Transformation Plan (the Plan) which sets out a strategy for the transformation of the Bays Precinct over a two to 30-year timeframe. In particular, this Plan has a strategic vision of transforming the foreshore and renewing waterfront industrial land for urban purposes, including public open space and promenades.

The Plan contains the following seven key actions:

- divide The Bays Precinct into eight distinct but linked Destinations
- introduce the Bays Waterfront Promenade
- recover and repurpose the White Bay Power Station
- create the Bays Market District incorporating a rejuvenated Sydney Fish Market
- include Wentworth Park in the Program area
- work towards repurposing Glebe Island Bridge
- introduce water quality initiatives in the Bays Waterways.

A map showing the seven key actions of the Transformation Plan is at **Figure 8**, indicating the subject site.

One of the short-term opportunities identified by the Plan currently being investigated includes the Blackwattle Bay District (BBD), formerly known as the Bays Market District – being one of the identified destinations which incorporates the first stage of the Bays Waterfront Promenade.

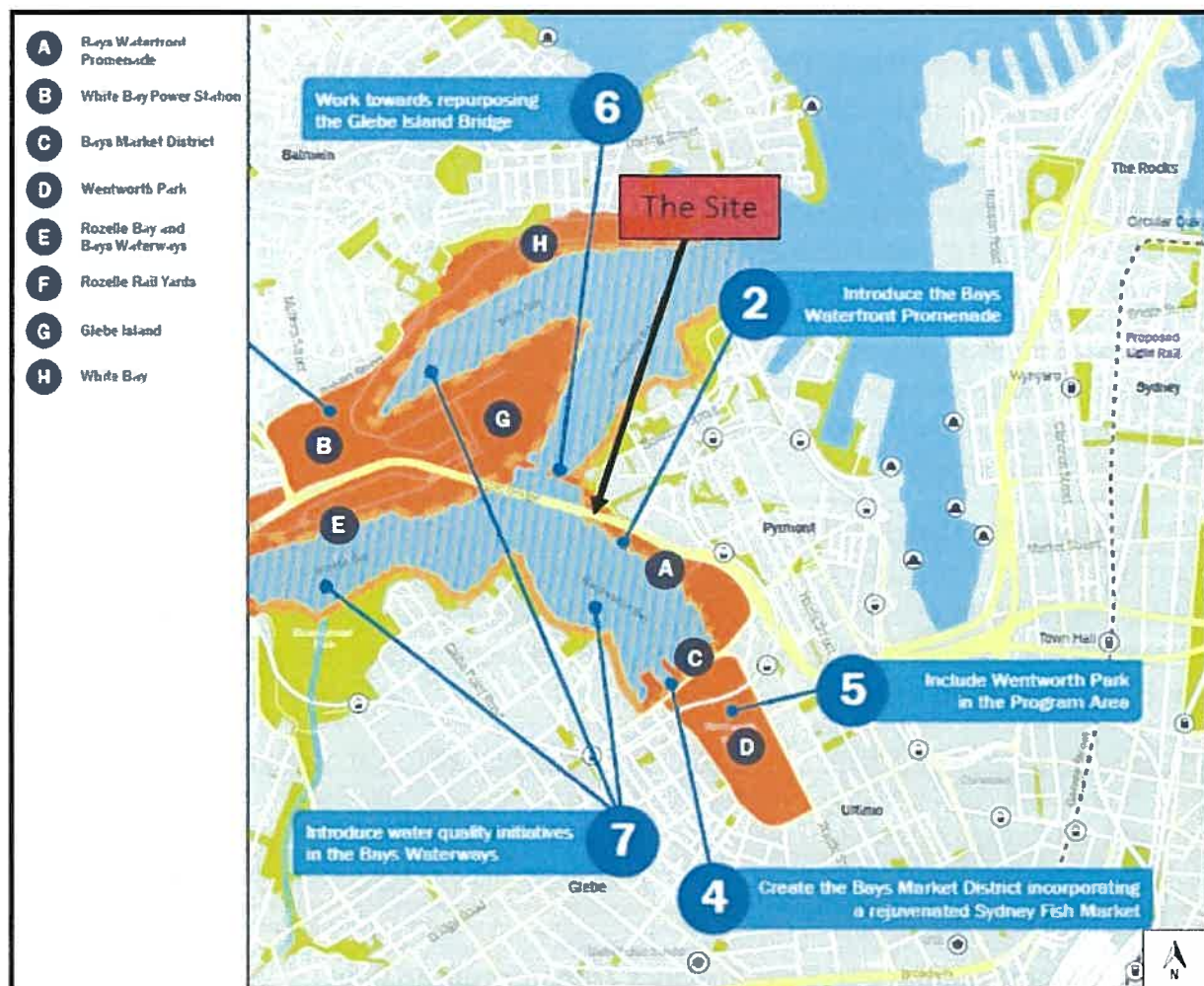


Figure 8 | Key actions of the Transformation Plan (Source: Bays Precinct Transformation Plan 2015)

3.3.1 Blackwattle Bay District (previously referred to as the Bays Market District)

The Bays Market District, now referred to as the Blackwattle Bay District (BBD) is a proposed food and dining area, incorporating a new relocated Sydney Fish Market. The BBD stretches from the head of Blackwattle Bay and along its north-eastern foreshore to the immediate south of the Glebe Island Bridge, including the subject site. The BBD in the context of the Bays Precinct indicating the proposed relocation of the Blackwattle Bay Marina and current and likely future Sydney Fish Market sites is shown in **Figure 9**. The Department notes that although referred to in the documentation as the Bays Market District, as of August 2018 this area is now known as the Blackwattle Bay District.

The proposed modification will facilitate the relocation of the Blackwattle Bay Marina (BBM) from its current site (also within the BBD) adjoining Bridge Road at the head of Blackwattle Bay, to the subject site. This would allow for the Sydney Fish Market to move to the current BBM site, once vacated. The BBD is identified as having an immediate priority (2015 – 2019) timeframe.

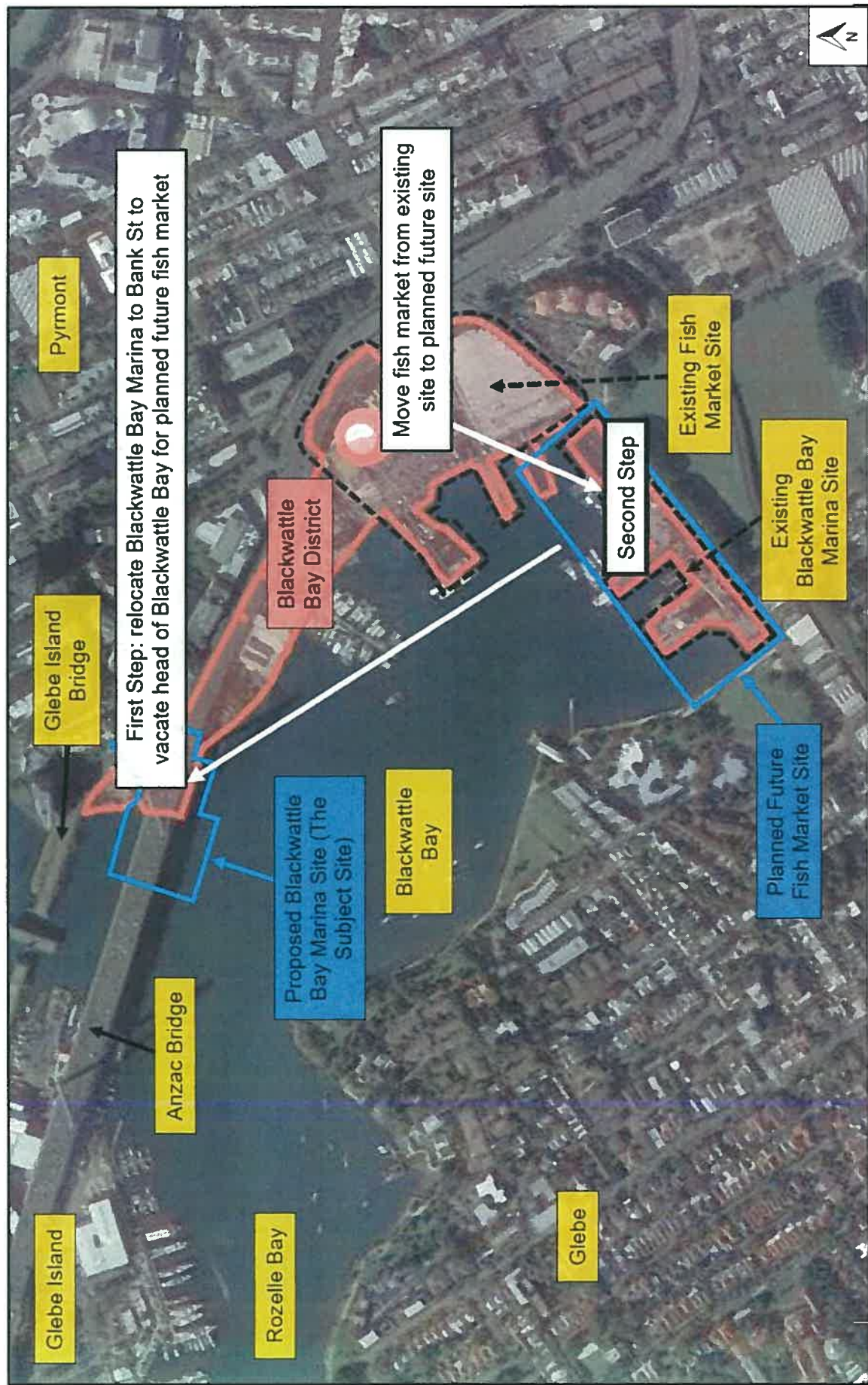


Figure 9 | Blackwattle Bay District in the context of the Bays Precinct (Source: Nearmap)

The Department issued State Significant Precinct Study requirements on 28 April 2017 for the rezoning of the BBD to provide a new planning framework for the renewal of the Bays Market District. This will provide a new world-class food market, connected to the harbour and centred around a new relocated Sydney Fish Market. The framework will also provide for new public open space, including a foreshore promenade, community facilities, and other compatible uses.

UrbanGrowth NSW has commenced developing a draft master plan for the BBD to inform its planning proposal. UrbanGrowth NSW has advised it intends to lodge its planning proposal with the Department in mid-2019, following public consultation in late 2018.

Facilities for passive water-based recreation and new open space (above and beyond these alternative locations) are proposed to be identified to cater for the demand generated by the new population envisaged, as part of the draft master plan and rezoning process.

3.3.2 New Sydney Fish Market

Consistent with the Bays Precinct Transformation Plan, two SSD applications are currently being prepared for the new Sydney Fish Market – a Concept and Stage 1 early works (SSD 8924), and Stage 2 detailed design (SSD 8925). The Department issued Secretary's Environmental Assessment Requirements (SEARs) for both proposed applications on 22 December 2017. The Department anticipates the Environmental Impact Statements for the proposed Sydney Fish Market will be publicly exhibited shortly.

3.3.3 Bays Waterfront Promenade

Another key action of the Transformation Plan is the Bays Waterfront Promenade, a proposed continuous link from Balmain to Pyrmont. The subject site is included within Stage 1 of the promenade from Blackwattle Bay to Pyrmont, with masterplanning work underway as part of the abovementioned Bays Market District masterplan. The Plan states construction work is proposed to commence before the end of 2019.

The Department notes the proposed modification forms a role in the implementation of specific matters relating to the future development of the Bays Precinct in the above strategic plans as it would (in part) enable the relocation of the Sydney Fish Market by moving the Blackwattle Bay Marina to the subject site.

3.3.4 Bank Street, Pyrmont Master Plan 2006

The Bank Street Precinct is bounded by the Sydney Fish Market to the south, Blackwattle Bay to the west, Bank Street to the east and the Glebe Island Bridge and Jackson's Landing to the north. The subject site is the north-western portion of land identified as Site 3 in the Master Plan being land owned by RMS. This includes the subject site and the remainder of the undeveloped area further towards the head of Blackwattle Bay currently used for boat storage.

The Bank Street Master Plan has the status of a Development Control Plan, and the provisions of the Master Plan do not take precedence over the zoning and related objectives applicable to the site under SLEP 2012 or SHC SREP.

The Master Plan assumes the subject site will be redeveloped as a public facility, with passive water access and identifies public recreation, non-motorised vessel launching/club facilities and open space being the desired future land-use character for the site. The Master Plan identifies potential facilities on the site (and the larger NSW Maritime site incorporating land currently used for boat storage to the south-east of the site) as being a ten-metre-wide foreshore promenade, landscaping and passive recreation facilities (e.g. children's play equipment and BBQ facilities), a boat ramp and storage for dragon boats, potentially within a two storey (7 m) high building.

UrbanGrowth NSW has since prepared the Bays Precinct Transformation Plan to reflect the updated needs of the area.



4. Statutory Context

4.1 Continuing operation of Part 3A to modify project approvals

The project was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 to the *EP&A (Savings, Transitional and Other Provisions) Regulation 2017*. The power to modify transitional Part 3A projects under section 75W of the 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.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations and the Minister for Planning (or delegate) may approve or disapprove the carrying out of the project under section 75W of the EP&A Act.

Section 75W of the EP&A Act provides that a Proponent may request the Minister to modify the Minister’s approval for a project. The Minister’s approval of a modification is not required if the project, as modified, would be consistent with the original approval. In this instance, the modification requires the Minister’s approval because it is seeking to amend the approved land and water-based uses and alter conditions of approval.

The Department has also considered whether the scope of the proposed changes constitute a modification as opposed to a new application. The Department notes the scope of section 75W is broad and is satisfied the proposed modification is within the scope of section 75W as it relates to an existing approval for the berthing of vessels and use of buildings for associated maritime uses and activities.

Having regard to the above, the Department recommends the Minister can reasonably form the view that the modification request is within the scope capable of being approved as a modification under section 75W of the EP&A Act.

4.2 Approval Authority

The Minister is the approval authority for the modification request.

4.3 Secretary’s Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Secretary with scope to issue Environmental Assessment Requirements (SEARs) that must be complied with before the matter will be considered by the Minister. SEARs were issued for this modification on 12 April 2017. The Department considers the Proponent’s Environmental Assessment (EA), Preferred Project Report (PPR) and revised PPR have adequately addressed compliance with the modified SEARs, in order to enable a comprehensive assessment of the application.

4.4 Permissibility

The water-based component of the site is identified as being located within the W1 Maritime Waters zone by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP).

The proposed charter and tourism boating facilities are permissible with consent in the W1 Maritime Waters zone.

The land-based component of the site is identified as being located within the RE1 Public Recreation zone by the Sydney Local Environmental Plan (SLEP) 2012.

The proposed charter and tourism boating facilities are permissible with consent in the RE1 Public Recreation zone.

4.5 Environmental Planning Instruments

The Department has reviewed relevant environmental planning instruments that apply to the site including:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy for the Remediation of Land (draft SEPP Remediation)
- State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment) (draft SEPP Environment)
- Sydney Local Environmental Plan (SLEP) 2012.

The Department undertook a comprehensive assessment of the proposal against relevant EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the proposed modification is consistent with these EPIs. Consideration of the modification application against the above EPIs is provided at **Appendix B.**

4.6 Objects under the Act

The Minister or delegation must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the Act.

5. Engagement

5.1 Department's Engagement

In accordance with section 75X(2)(f) of the EP&A Act, the Department publicly notified the application from 28 June 2017 until 11 August 2017 (42 days). The application was placed on the Department's website, at the NSW Service Centre and at the City of Sydney Council's office.

The Department placed a public exhibition notice in the Sydney Central Courier on 28 June 2017, and notified adjoining landowners and relevant State and local public authorities in writing.

The Department also met with residents on-site and at the local community centre on 2 August 2017 and held a community information session at its offices on 9 August 2017 during the consideration of the application.

5.2 Summary of Submissions

The Department received a total of 208 submissions, comprising one from Council, seven from government agencies and 200 submissions from the general public, including four submissions from community groups (the Glebe Society, Pyrmont Action Group, The Blackwattle Cove Coalition and Save Blackwattle Foreshore Group) and a submission from Mr Alex Greenwich, Member for Sydney. A summary of the issues raised in the submissions is provided at **Tables 3** and **5** below. A link to the submissions is available online and provided at **Appendix A**.

The Department has considered the comments raised in Council, government agency and public submissions during the assessment of the application in **Section 6**, and where relevant, recommended conditions in the instrument of modification approval at **Appendix C**.

5.3 Key Issues – Government Agencies

The key issues raised in the government agency submissions are provided at **Table 3** and copies of the submissions may be viewed at **Appendix A**.

Table 3 | Summary of Government Agency Submissions

Submitter	Position
Transport for NSW (TfNSW)	TfNSW does not object to the modification, however, it provided comments, requesting that: - the Proponent should be required to prepare a Vessel Traffic Management Plan (VTMP) - the Proponent should amend the proposed modification to include dedicated loading bays and prepare a service and loading bay management plan in consultation with TfNSW - given bicycle parking spaces are included, the Proponent should include end-of-trip facilities - a condition should be included requiring the Proponent to prepare a Construction Pedestrian and Traffic Management Plan (CPTMP), to be submitted to TfNSW for endorsement prior to the commencement of any work.
Roads and Maritime Services (RMS) – combined response from both the maritime and the roads divisions	RMS does not object to the modification, however it provided comments in relation to:

- requesting consideration be given to a floating wharf design to allow greater flexibility for future planning
- a condition should be included requiring the Proponent to prepare a Construction Pedestrian and Traffic Management Plan (CPTMP), to be submitted to TfNSW and Council for endorsement prior to the issue of a Construction Certificate.

Roads and Maritime Services – Commercial and Property Management (RMS Commercial)

RMS Commercial supports the proposed modification on the grounds that:

- it would maintain the working harbour character of Blackwattle Bay
- it would facilitate the relocation and rejuvenation of the Sydney Fish Market at the existing Blackwattle Bay Marina site
- the proposed use of the site would not extend beyond the current approved footprint
- public foreshore access, generally as approved, would be retained and provided, aligning with the NSW Government's Sharing Sydney Harbour Program.

Port Authority of NSW

Port Authority of NSW does not object to the modification, however it commented that:

- Harbour Master approval provided for the disturbance of the bed of a 'Special Port Area' in 2013 has expired and must be re-sought
- condition G11 of the Project Approval, which outlines requirements in relation to water safety and navigation, should be retained.

Department of Industry – Crown Lands & Water and Primary Industries (DPI)

DPI does not object to the modification, however, it commented that:

- the mitigation measures relating to aquatic flora and fauna, and stormwater quality stated within the Amended Statement of Commitments are implemented
- contamination at the site should be dealt with appropriately to avoid any human health and environmental hazard.

Environment Protection Authority (EPA)

EPA does not object to the modification, however, it commented that:

- the proposed works would involve the disturbance of potentially contaminated fill materials, therefore consideration should be given to obtaining a Site Audit Statement (Section A) certified by a site auditor accredited by the EPA under the *Contaminated Land Management Act 1997* for the site, prior to construction works beginning.

Office of Environment and Heritage (OEH Environment)

OEH Environment stated the proposed modification does not contain biodiversity, natural hazards or Aboriginal cultural heritage issues that require it to provide a formal response.

5.4 Key Issues – Council/Community

5.4.1 Council

Council noted the relocation of Blackwattle Bay Marina is an important step in the Sydney Fish Market renewal, however, objects to the modification on the following grounds:

- the proposed modification is incompatible with the vision for the Bays Precinct and the intended use of the site for public recreation and open space and with the inevitable repurposing of the Glebe Island Bridge for active and public transport

- an alternative location should be considered, potentially near the commercial port operations of Glebe Island/White Bay
- the proposed modification is a significant increase in commercial operations and associated impacts have not been considered, for example conflict between motorised and non-motorised vessels
- inadequate consideration has been given to the provision of a mix of locally indigenous and low-maintenance plants
- visual impact, noting an assessment of the water-based use has not been included
- traffic and transport, noting the assessment has not been based on the maximum number of vessels for which approval is sought (22)
- acoustic impact, noting it is unclear whether the acoustic assessment is based on the worst-case scenario for vessel movements during mooring and unmooring operations
- a lack of information has been provided on the sewage pump-out facility
- the Air Quality Constraints Analysis may not be a true representation of the worst-case scenario as the conditions during the visit were sunny, warm and calm
- waste management, in relation to waste being stored on vessels overnight
- the Flora and Fauna Assessment does not provide substantive recommendations or identify opportunities to create habitat for known species of local conservation significance
- the contamination status of nos. 7, 9 and 11 Bank Street have not been confirmed.

5.4.2 Community

The Department received 200 submissions from the general public, comprising 191 objections (96 of these from Pyrmont residents), eight comments and one in support. The location and position of all public submissions are included in **Table 4** and **Figure 10**.

Table 4 | Summary of Community and Special Interest Group Submissions

Submitters	Number	Position
Community	196	
Alex Greenwich – Member for Sydney	1	Object
	96	Object
• Pyrmont	1	Support
	0	Comment
	32	Object
• < 5 km (outside Pyrmont)	0	Support
	1	Comment
	32	Object
• 5 – 10 km	0	Support
	4	Comment
	26	Object
• > 10 km	0	Support
	3	Comment
Special interest groups	4	
• Blackwattle Cove Coalition	4	Object

- Glebe Society
- Pyrmont Action Group
- Save Blackwattle Foreshore Group Community

0

Support

0

Comment

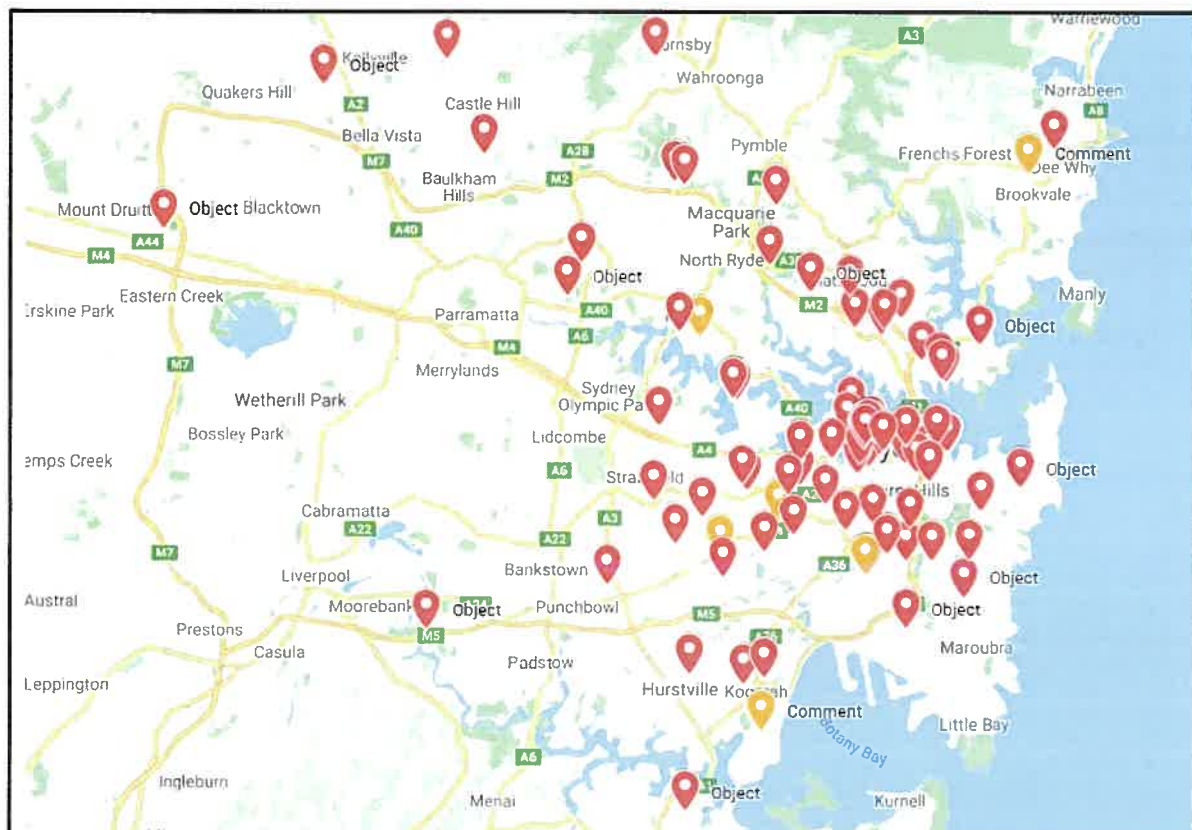
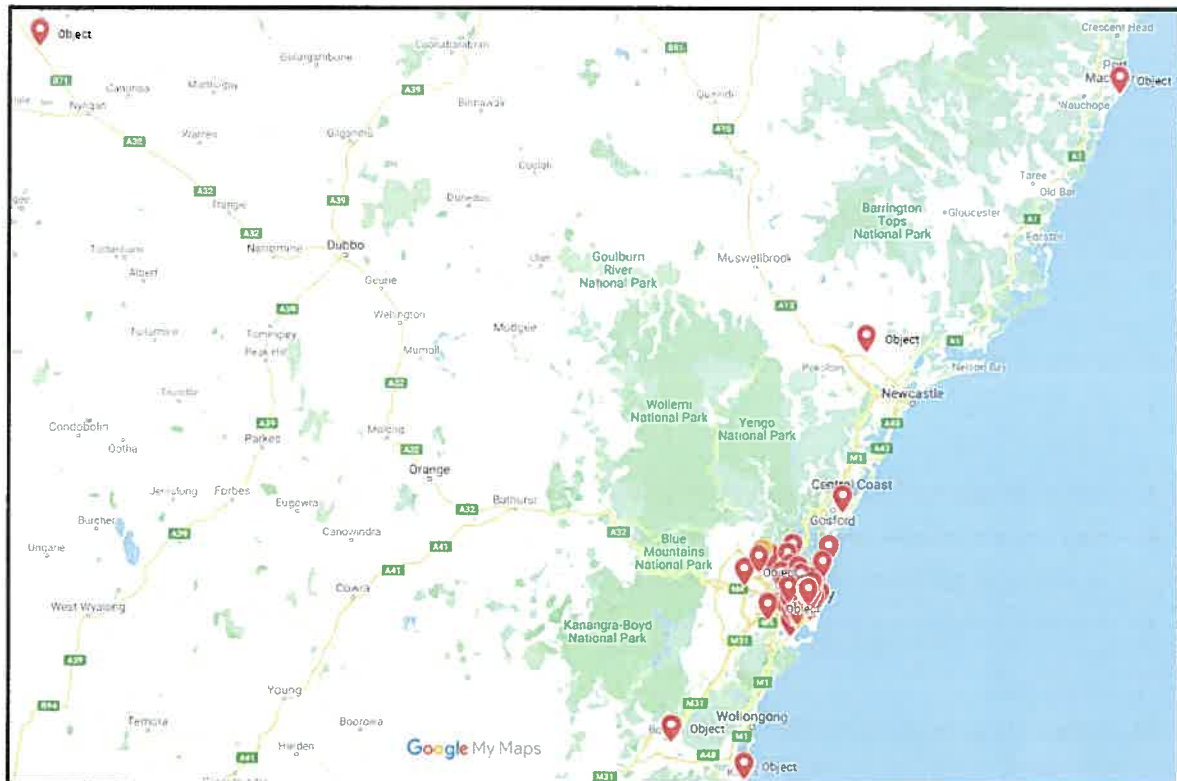
TOTAL**200**

Figure 10 | Location of public submissions on the EA - object (red), support (green), comment (yellow) from the south-east coast of Australia and central Sydney (Base Source: Google Maps)

The key issues raised in public objections are noted in **Table 5**.

Table 5 | Summary of key issues raised in public objections to the proposed modification

Key Issues	% of Submissions
Reduction in maritime safety	55%
Negative impact on non-motorised vessel users	52%
Increase in maritime traffic	42%
Noise during operation and construction	42%
Need for public open space	30%
Adverse visual impact	27%
Loss of parking	27%
Adverse impact on general amenity of area	26%
Excessive hours of operation	23%
Waste management	23%
Proposed modification considered beyond the scope of reasonable modification	20%
Use is inappropriate for the site	17%
Lack of community consultation by Proponent	16%
Impact on foreshore access	16%
10-year timeframe excessive/not considered temporary	14%
Increase in traffic	13%
Inconsistent with Bays Precinct strategic planning	13%

Public submissions also raised concerns about the following issues:

- failure to provide public benefit
- impacts on heritage
- impacts on public transport
- deterioration in water quality
- reduction in air quality
- adverse odour
- passengers embarking/disembarking from the site
- impacts on privacy.

The Glebe Society, Pyrmont Action Group, The Blackwattle Cove Coalition and Save Blackwattle Foreshore Group Community groups raised issues consistent with the key issues in **Table 5**. A submission received from Alex Greenwich, Member for Sydney, also raised all the issues in **Table 5**.

Eight public submissions were received that made comments on the proposed modification, raising the following matters:

- reduction in maritime safety
- increase in maritime traffic
- negative impact on non-motorised vessel users.

One public submission supported the proposed modification, and raised the following matters:

- the proposed modification is better than currently approved, as the absence of a permanent building on the site is more compatible with the RE1 zone and preserves the prospect of future recreational and parkland use
- detrimental impacts of the original development on the Anzac Bridge pylon are eliminated and enhanced by the parkland around the pylon
- the time period should be restricted to no more than 10 years
- the commitments in the Workplace Travel Plan should be imposed as conditions
- a condition should be imposed that vessels do not use amplified music when leaving or returning to the site, or when moored
- embarking or disembarking should be prohibited by condition
- garbage should be collected directly by a contractor from the waste collection area within the site, rather than placed on the footpath
- the Proponent should consider providing some community benefit on the adjoining site to the east.

5.5 Preferred Project Report

Following the notification of the application, the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised in the submissions.

On 27 November 2017, the Proponent provided a Preferred Project Report (PPR) (**Appendix A**) in response to the issues raised during the notification of the proposed modification and made the following changes to the project:

- amendment from fixed to floating pontoons and reconfiguration of structures, mooring location and provision of safety devices to separate motorised from non-motorised vessels
- reduction in water licence area
- addition of:
 - o sewer pump-out facility below ground within open space area
 - o electrical substation in the northern part of the site
 - o end-of-trip facilities for cyclists
 - o additional screening planting.

The PPR included a Navigation Impact Assessment and updated technical reports, including:

- updated Visual Impact Assessment
- updated Plan of Management
- updated Acoustic Assessment
- Air Quality Constraints Analysis addendum
- Transport Impact Assessment addendum.

The PPR was made publicly available on the Department's website and was referred to Council and relevant government agencies. An additional submission was received from Council, nine submissions from government

agencies, and 104 submissions from the public, of which 100 objected. The Department received 82 submissions from Pyrmont residents, of which 81 objected. A summary of the issues raised in the submissions is provided at **Tables 6** and **8** and copies of the submissions may be viewed at **Appendix A**.

5.5.1 Key Issues - Government Agencies

The Department received nine submissions from government agencies, which are summarised in **Table 6** below.

Table 6 | Summary of Government Agency to the PPR

Submitter	Position
Roads and Maritime Services (RMS) - Maritime	RMS Maritime advised the proposed modification is acceptable from a navigation perspective, although the following mitigation measures in relation to navigational aids proposed in the Navigation Impact Assessment would be subject to RMS Maritime and Port Authority of NSW approval, prior to determination of this application: • new marker buoys on the western side of the dragon boat launching ramp • navigation lights • piled marker buoys with navigation lights • relocated lit port beacons • signage at the Glebe Island Bridge entrance advising that "non-powered vessels are using this area frequently" or words to this effect.
Department of Industry – Crown Lands & Water and Primary Industries (DPI)	DPI advised the relevant matters have been adequately addressed.
Roads and Maritime Services (RMS) - Roads	RMS Roads advise it has no further comment.
Office of Environment and Heritage (OEH Environment)	OEH Environment reiterated it did not have any comments to provide.
Port Authority of NSW (Ports)	Port Authority of NSW agrees with the mitigation measures proposed in the Navigation Impact Assessment and reiterates a condition should require Harbour Master approval for sea bed disturbance and the measures in the original Condition G11 should be included.
Environment Protection Authority (EPA)	EPA notes its original concerns regarding potentially contaminated fill materials and maintains its recommendation that a Section A Site Audit Statement should be submitted to the EPA for review prior to the commencement of earthworks at the site.
Office of Environment and Heritage – Heritage Division (OEH Heritage)	OEH Heritage considers the proposed modification would not have any additional adverse impacts on the heritage items in the vicinity and therefore raises no objection to the proposed modification. OEH also made the following comments: • compared to the approved project, the proposed modification would have lesser visual impacts due to the reduction in footprint and scale of new buildings • the temporary use as compared to the approved permanent use would ensure the development is reversible • the floating pontoon may lessen impacts on any potential submerged maritime sites within the study area.
Roads and Maritime Services – Commercial and Property Management (RMS Commercial)	RMS Commercial advised it does not have any specific comment, but would seek to ensure the Department consider the safe and equitable use of the waterway in this location.

TfNSW clarified that as it is unlikely there would be impacts on the CBD Metro corridor, documentation is no longer required in this regard. TfNSW reiterated its previous comments regarding the requirement for the preparation of Vessel Traffic Management Plans and Construction Traffic Management Plans by condition and made the following additional comments:

Transport for NSW (TfNSW)

- a temporary wharf facility is supported as it would better enable flexible planning for maritime needs in the Bays Precinct and fish markets
- the Proponent should prepare a final Plan of Management that includes measures to accommodate loading and servicing vehicles within the site to ensure no queueing occurs on Bank Street
- the provision of end-of-trip facilities in the form of a change room and lockers are acknowledged but should be supplemented with shower facilities.

5.5.2 Key Issues – Council

Council confirmed the PPR provided clarification on several matters, however maintained all previous objections. In addition, Council advised it does not support a sewer pump-out facility or electrical substation.

5.5.3 Key Issues – Community

The key issues raised in the 100 public objections on the PPR reiterated the issues raised previously. Two submissions supported and two made comments on the PPR. Two submissions were received from community groups, being the Pyrmont Action Group and Save Blackwattle Foreshore Group. The location and position of all public submissions is included in **Table 7** and **Figure 11**. A summary of the key issues is in **Table 8**.

Table 7 | Summary of Community and Special Interest Group Submissions to the PPR

Submitters	Number	Position
Community	102	
	81	Object
• Pyrmont	1	Support
	0	Comment
	11	Object
• < 5 km (outside Pyrmont)	1	Support
	2	Comment
	2	Object
• 5 – 10 km	0	Support
	0	Comment
	4	Object
• > 10 km	0	Support
	0	Comment
Special interest groups	2	
	2	Object
• Pyrmont Action Group	0	Support
• Save Blackwattle Foreshore Group Community	0	Comment
TOTAL	104	

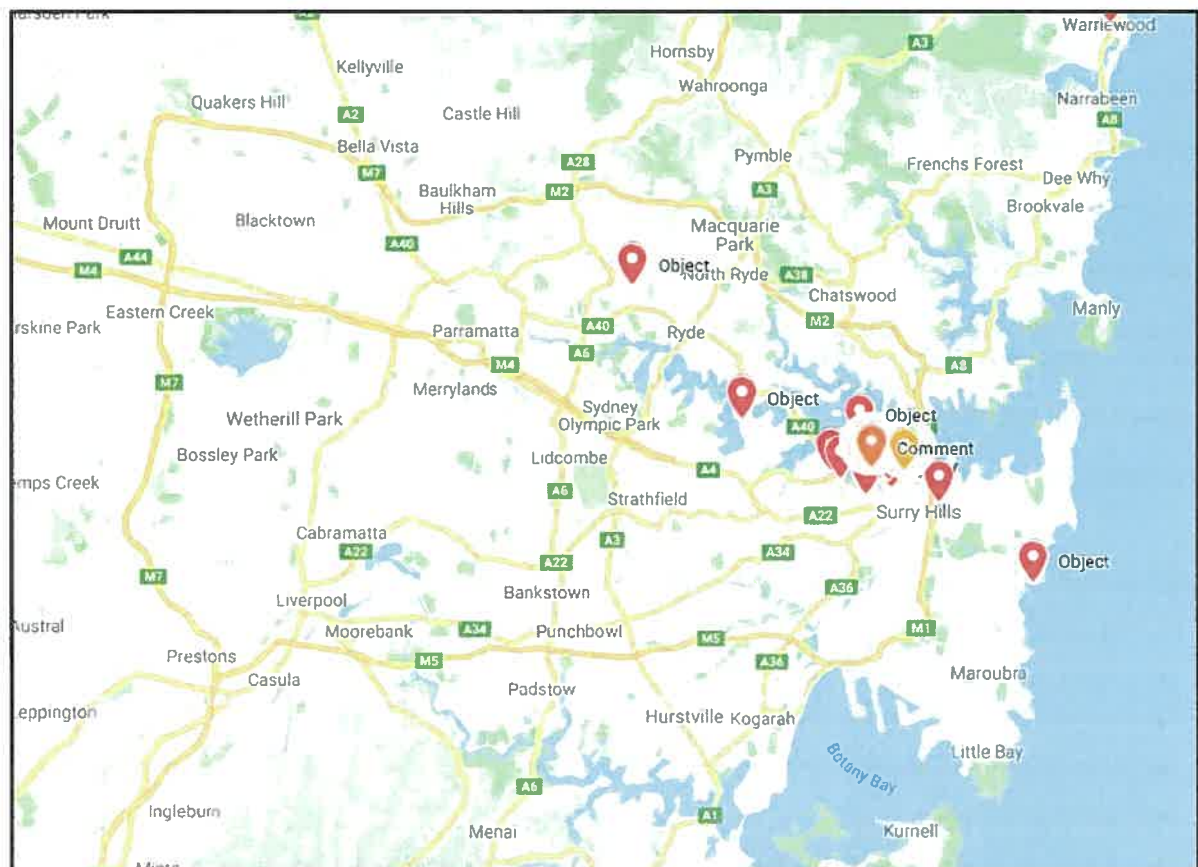
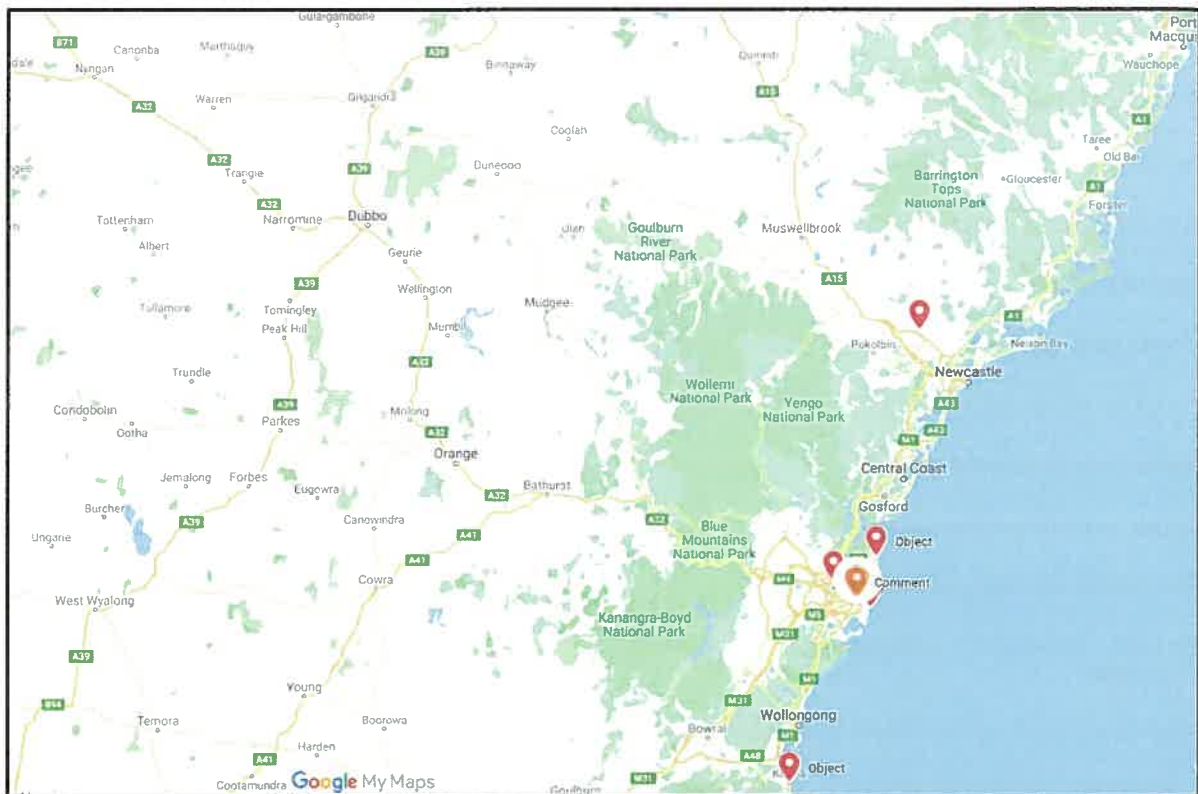


Figure 11 | Location of public submissions object (red), support (green), comment (yellow) from the south-east coast of Australia and central Sydney (Base Source: Google Maps)

Table 8 | Summary of key issues raised in public objections to the PPR

Key Issues	% of Submissions
Noise during operation and construction	66%
Adverse visual impact	57%
Loss of parking	47%
Waste management	46%
Need for public open space	46%
Reduction in maritime safety	35%
Impact on foreshore access	34%
Alternative sites not sufficiently explored	34%
10-year timeframe excessive/not considered temporary	32%
Negative impact on non-motorised vessel users	28%
Lack of community consultation by Proponent	27%
Increase in traffic	26%
Inconsistent with Bays Precinct strategic planning	26%
Excessive hours of operation	24%
Adverse impact on general amenity of area	22%
Use is inappropriate for the site	20%
Proposed modification considered beyond the scope of reasonable modification	17%
Impacts on public transport	14%
Increase in maritime traffic	13%

Public submissions also reiterated the following issues:

- adverse odour
- reduction in air quality
- failure to provide public benefit
- deterioration in water quality
- positive for tourism
- adequate facilities need to provided - e.g. security, sewerage, power, berth size
- cumulative assessment not undertaken
- failure to pursue sustainability & climate change resilience.

Additional issues raised stated alternative sites have not been sufficiently explored – particularly that a superior site available at the northern foreshore of Rozelle Bay (the Sydney Harbour Environmental Services base) and the perception that compliance will not be monitored if the development is approved.

Concerns were also raised in the public submissions about the failure to consult with the public prior to exhibition of the EA in accordance with the SEARs. The Department considers consultation has adequately been provided for during exhibition and the subsequent re-notification to those who originally made a submission.

The Pyrmont Action Group and Save Blackwattle Foreshore Group community groups reiterated the following issues:

- noise during operation and construction
- adverse visual impact
- need for public open space and impact on foreshore access
- loss of parking
- waste management
- reduction in maritime safety
- negative impact on non-motorised vessel users
- lack of community consultation by the Proponent
- increase in traffic
- inconsistent with Bays Precinct strategic planning
- excessive hours of operation
- proposed modification considered beyond the scope of reasonable modification
- adverse odour.

Two public submissions were received that made comments on the proposed modification, regarding the following matters:

- essential services should remain available for all commercial vessels in the hospitality and entertainment industry when new facilities become available at Bank Street
- increase in traffic
- impact on foreshore access
- the use should be genuinely temporary, so as not to undermine long-term planning for the area.

Two public submissions were received in support of the proposed modification, raising the following matters:

- cruising on Sydney Harbour is an important tourist attraction and the vessels providing these services need to be based on the harbour, in proximity to key departure points. This should co-exist with residential and tourism uses
- the potential to locate the use elsewhere in the harbour is not currently feasible
- would allow the tenant more certainty and provide for a more attractive base
- the change from fixed to floating pontoons is welcomed
- the amendments in relation to navigational safety for recreational users are positive
- the proposed use is permissible in the zone
- the assertion that open space should be provided immediately on this land is a misunderstanding
- a condition should be imposed that vessels do not use amplified music when leaving or returning to the site, or when moored

- garbage should be collected directly by a contractor from the waste collection area within the site, rather than placed on the footpath.

5.6 Revised Preferred Project Report

On 3 April 2018, the Proponent provided a revised Preferred Project Report (RPPR) (**Appendix A**) in response to the issues raised during the notification of the PPR and made the following amendments to the project:

- an increase from two to five car parking spaces
- reduction in the number of shipping containers from 22 (10 x small and 12 x large) to 19 (11 x small and 8 x large) and reconfiguration to allow for the additional car parking spaces
- reduction in the waste storage area from 70 m² to 34 m², and associated reduction in number of bins from 13 x 3000 L bins to four 1000 L capacity bins. The 34 m² would include a 13 m² dedicated bulky waste storage area not previously provided. Servicing of the waste storage area would be from within the site, rather than from Bank Street. The roof structure would remain as previously proposed and would sit over (and linking) the waste storage area with the office building
- revision of details of street furniture locations in the open space area, including concrete benching and seating and bollard placement, in order to provide access for servicing of utilities and the proposed sub-station
- provision of shower facilities within the office building.

No government agency or public submissions were received on the RPPR or on further additional information received that included revised drawings to reflect the Ausgrid electricity easement and landscape changes as a result of security protection for the ANZAC Bridge pylon.



6. Assessment

6.1 Key assessment issues

The Department has considered the EA, PPR and revised PPR and the issues raised in submissions in its assessment of the proposed modification and the Proponent's response to these. The Department considers the key issues associated with the proposed modification are:

- charter and tourism boating use
- design and visual impacts
- public domain
- maritime safety
- noise (construction and operation)
- transport, traffic and vehicle access and car parking (construction and operation).

Each of these issues are discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the application and are discussed at **Section 6.8**.

6.2 Charter and tourism boating use

The Department notes a key objection raised in public submissions and by Council is that alternative locations have not been properly considered and the acceptability and intensification of the approved use may undermine the long-term planning for the Bays Market District and delivery of the waterfront promenade.

One submission in support of the proposed modification noted cruising on Sydney Harbour is an important tourist attraction and should co-exist with residential and tourism uses, and the opportunity to locate the use elsewhere in the harbour is not currently feasible.

RMS Commercial supports the proposed modification as it would maintain the working harbour character of Blackwattle Bay and would facilitate the relocation and rejuvenation of the Sydney Fish Market at the existing Blackwattle Bay Marina site. TfNSW stated a temporary wharf facility is supported as it would enable flexible planning for maritime needs.

The Department acknowledges these concerns and differing points of opinion and considers the key issues in this regard to be:

- consideration of alternative sites
- the acceptability of the change of use
- the duration of the use.

These are considered in the following sections.

6.2.1 Consideration of alternative sites

Concerns have been raised in the public submissions that alternative sites have not been properly considered. This includes locations such as Glebe Island/White Bay and Rozelle Bay, with particular concerns raising questions about the potential use of a site on the northern shore of Rozelle Bay.

The Proponent advised the proposed site was chosen due to the lack of available alternatives. This is largely a result of the existing long-term leases at alternative locations around the inner Sydney Harbour foreshores, and the

proposed temporary use of sites for construction purposes associated with major infrastructure projects in and around Glebe Island, White Bay and Rozelle Bay. There is also competition for access to the foreshore by other working harbour and passive recreation uses.

The Proponent also advises an alternative site on the northern foreshore of Rozelle Bay is not suitable as it is fully occupied by a permanent RMS office, and operational facilities such as Sydney Harbour Environmental Services and commercial tenants under lease or licence. This site also lacks the combination of water and land-based space that is required for the proposed use.

The Department notes that in its consideration of the project as approved, the Commission was satisfied an appropriate level of investigation of alternate sites had occurred. The Department has revisited these considerations given the proposed change in maritime use and the proposed temporary nature of the facility. Having regard to site occupation, tenure and length of lease, the Department considers the assessment of alternative sites has been adequately investigated and is acceptable.

6.2.2 The acceptability of the change of use

Concerns have been raised in public submissions regarding the acceptability of the change in maritime use, particularly in relation to its intensification.

The site is proposed in Bays Precinct Transformation Plan for new public open space, including the Bays Waterfront Promenade, community facilities, and other compatible uses. However, the site currently has a project approval for a permanent maritime facility for the restoration of Sydney's heritage fleet of vessels. This modification would change the use of the site from a permanent maritime facility to a temporary use for a charter and tourism boating facility.

The Department notes the use is permissible with consent in the zones applying to both the land and water-based components of the site.

While the proposed modification would represent an intensification of the maritime use of the site, it would not have an adverse impact on other users in the waterway, including non-motorised recreation craft (**Section 6.5**) and would not result in unacceptable noise impacts (**Section 6.6**) or traffic impacts (**Section 6.7**). Other operational impacts are similarly considered minor and acceptable (**Section 6.8**).

The positive benefits of the proposed modification include the preservation of tourism assets and related employment, delivery of 100 m² of additional public open space and provision of more open public access to the foreshore when compared to the Project Approval. The Project Approval provided a public pathway along the western edge of the site, however in addition to retaining this, the proposed modification also includes a pathway through the middle of the site. It would also assist in delivering the government's strategic aim of transforming the Bays Precinct, by vacating the head of Blackwattle Bay to allow for the planned future Sydney Fish Market to occupy that site, and in turn allow for the renewal of the current Sydney Fish Market site and broader Bays Market District.

The Department therefore concludes the use of the site for a proposed charter and tourism boating facility is acceptable as a temporary use.

6.2.3 The duration of the use

The Proponent is seeking approval for the temporary use of the site for a period of 10 years. It has advised that this period of time:

- is required to enable sufficient time to find a permanent site for the use

- will allow for the use of the site during the time that will be required to undertake the renewal of the Blackwattle Bay District (BBD) subsequent to the conclusion of the intended rezoning process in early 2021.

The Department notes the proposed 10-year timeframe would allow the site to operate as a temporary charter and tourism boating facility until 2029. Concerns were raised in submissions by Council and the community that the use of the site for a marina is incompatible with the desired future use of the site and the proposed 10-year use would be inconsistent the intended renewal of the area as identified by the Transformation Plan (**Figure 9**).

The Department shares this concern and considers the proposed charter and tourism boating facility is industrial in its nature and this use of the site would be incompatible with the desired future character of the area noting the work done to date in this respect:

- identifies a vision for the BBD which incorporates public open space including a foreshore promenade, community facilities, and other compatible uses
- earmarks the site for recreation uses, with open space and possible storage for non-motorised watercraft.

Further, the proposed 10-year timeframe for the use is significantly longer than intended timeframe for the renewal of the area, noting the intended BBD rezoning process is likely to conclude in early 2021. The proposed use could undermine the objectives of the Transformation Plan as it would remain as an incompatible use for a period of time following the renewal of the BBD foreshore area.

The Department therefore does not accept the proposed use of the site for a 10-year period is reasonable.

The Department considers a more reasonable and appropriate timeframe for the proposed temporary use to be five years. A five-year period following occupation would likely extend through to 2024. The Department considers this period would more appropriately:

- provide for the need to find a temporary location for the proposed use, while in the meantime allowing time for consideration of permanent sites for the BBM
- avoid a longer-term situation in which there will be an incompatible use on the site in the context of the emerging BBD foreshore character (following the likely conclusion of the BBD rezoning process in 2021).

The Department therefore recommends a condition that requires the use to cease five years from occupation, which it expects would allow the Proponent to operate on the site until approximately mid-late 2024.

The Department concludes the proposed use is acceptable, subject to it being temporary for five years from the commencement of operations, after which the use would be required to cease. The Department expects by this time, the renewal of this area would be significantly progressed.

6.3 Design and visual impacts

The proposed modification has a land-based component consisting of an office, waste compound, 19 shipping containers and public open space, and a water-based component consisting of the mooring of 22 vessels at floating pontoons and a timber promenade. Concerns have been raised in the Council and public submissions regarding the extent of the marina, visual impact and loss of outlook from both land and water and the design quality of the land-based structures. These issues are considered separately below, noting there is an existing approval for a permanent maritime facility on the site. Therefore, the consideration of this modification is made of the context of that Project Approval.

6.3.1 Land-based component

6.3.1.1 Bulk and scale

The Department notes the Project Approval provides for a part two and part three-storey building with a height of 2-3 storeys (8.5 m – 11.3 m). The proposed modification seeks approval for a single storey demountable office building measuring 12 m x 6 m and storage compound measuring 6 m x 7m. The proposed modification also includes 11 shipping containers measuring 6 m long x 3 m wide x 2.59 m high and eight shipping containers measuring 12 m long x 3 m wide x 2.59 m high. A comparison between the built form of the approved project and proposed modification is provided at **Figure 12**.

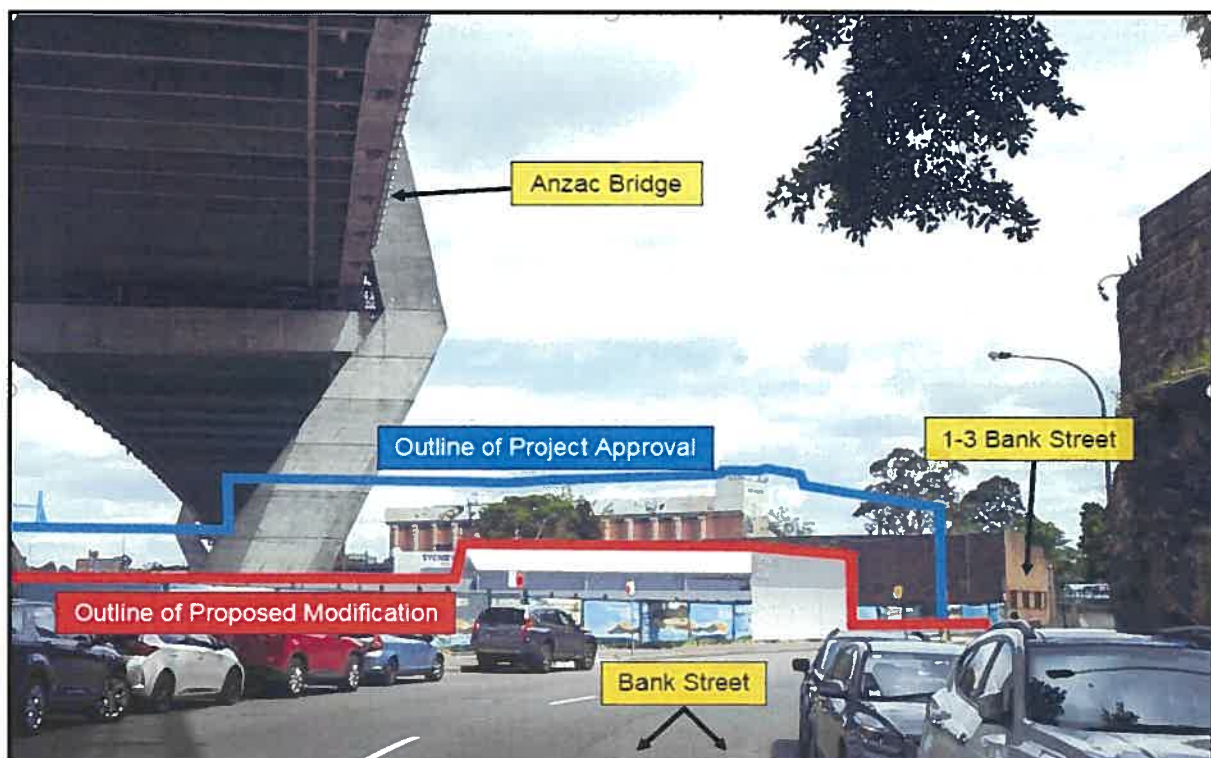


Figure 12 | Comparison between Project Approval and proposed modification (Source: PPR)

The office building and waste storage area are single storey and have a maximum height of 4.74 m. The shipping containers are 2.59 m in height. Additionally, the proposed buildings would also be lower in height than the adjacent buildings at 1-3 Bank Street, which are approximately 6.5 m high.

The Department considers the substation (to be erected in the northern part of site measuring 1.475 m wide x 2.71 m long x 1.62 m high) is of an acceptable scale and it is considered the proposed landscaping discussed in **Section 6.4.1** would sufficiently ameliorate any potential visual impact.

The Department notes the proposed building and structures would have a reduced bulk and scale compared to the originally approved buildings (**Figure 12**). The Department therefore considers the proposed bulk and scale of the buildings and structures are minor and acceptable, and that views of the ANZAC Bridge pylon would be preserved to a greater extent than the original application.

6.3.1.2 Design quality

Concerns were raised in the public submissions about the design quality of the proposed modification, visual impacts and loss of views. Concerns were also raised about the poor visual amenity of the current Blackwattle Bay Marina.

One public submission was lodged in support of the proposed modification which noted the absence of a permanent building would preserve the future recreational and parkland use of the site.

The office building and waste storage area would be open framed galvanised steel clad in corrugated metal sheeting and translucent polycarbonate sheeting (see **Figure 13**). The 19 shipping containers would be stacked one high and an artistic wrap would be erected on the perimeter fence fronting Bank Street. The artistic wrap would be a screening that is visually appealing and sympathetic to the streetscape. This would reduce the visual impacts of the development on the streetscape by shielding the views of the shipping containers.

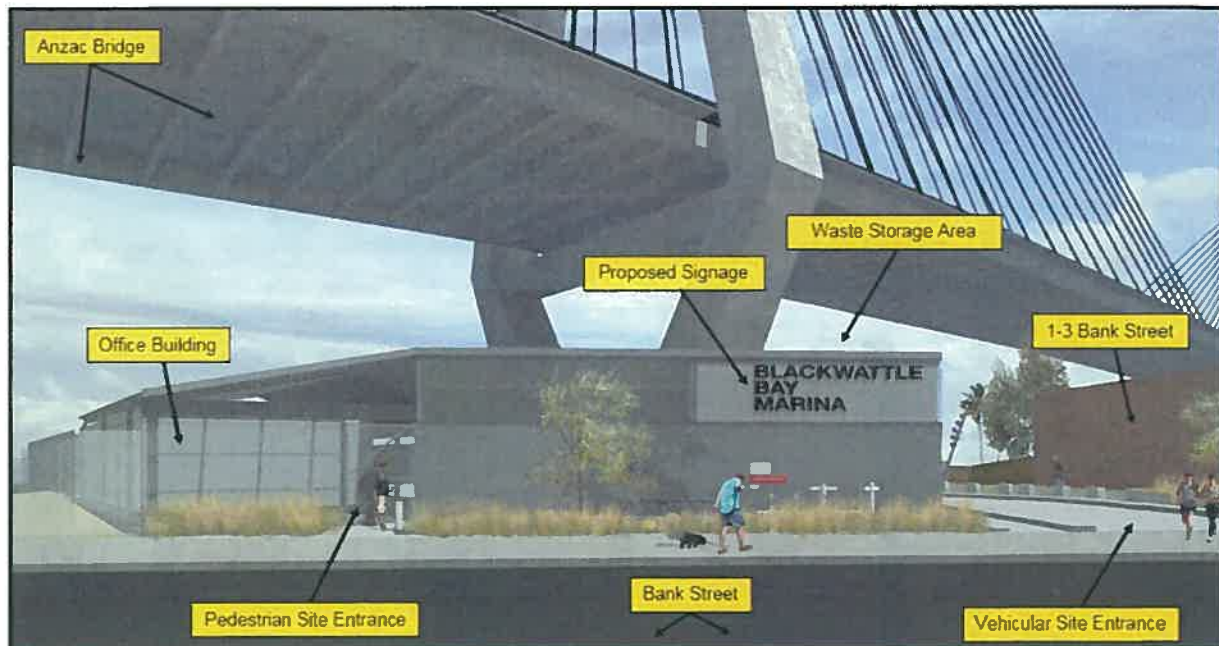


Figure 13 | Photomontage from Bank Street (Source: RPPR)

The Department considers the artistic wrap will suitably screen the development from Bank Street and is a suitable response to public concerns about the visual impacts of the proposed modification. Public submissions stated that the current BBM site is disorderly, and so the Department recommends a condition requiring the site to be maintained in a proper and efficient manner throughout its operations. The Department also notes the proposed 11 small and eight large containers would represent a reduction in shipping containers from the current BBM site, which contains 22 small and nine large containers.

The Department considers the design and materials of the office building, waste storage area and shipping containers appropriate on this site as they are consistent with the visual amenity and working industrial waterfront character of Blackwattle Bay and consistent with a temporary maritime use.

6.3.1.3 Visual impact

In its consideration of the original Project Application, the Commission noted views of the ANZAC Bridge pylon were a matter of importance, determining the security fencing around the ANZAC bridge pylon was to be visually transparent and kept open during daylight hours in order to enable unobstructed views of the base of the pylon. The Proponent has advised no fencing is required around the ANZAC Bridge Pylon, as RMS have installed a new security system.

The Department notes the layout of the site is dictated by easements and the layout of the waste storage area was reduced as part of the revised PPR (see **Figure 14**). The Department considers the reduced area would result in a reduction of the visual impacts of the development.

The Department has also considered the visual impact of the proposed modification in relation to heritage, noting the Heritage Division of OEH considers the proposed modification would not have any additional adverse impacts on the heritage items in the vicinity, and would have lesser visual impacts than the Project Approval due to the reduction in footprint and scale of new buildings.

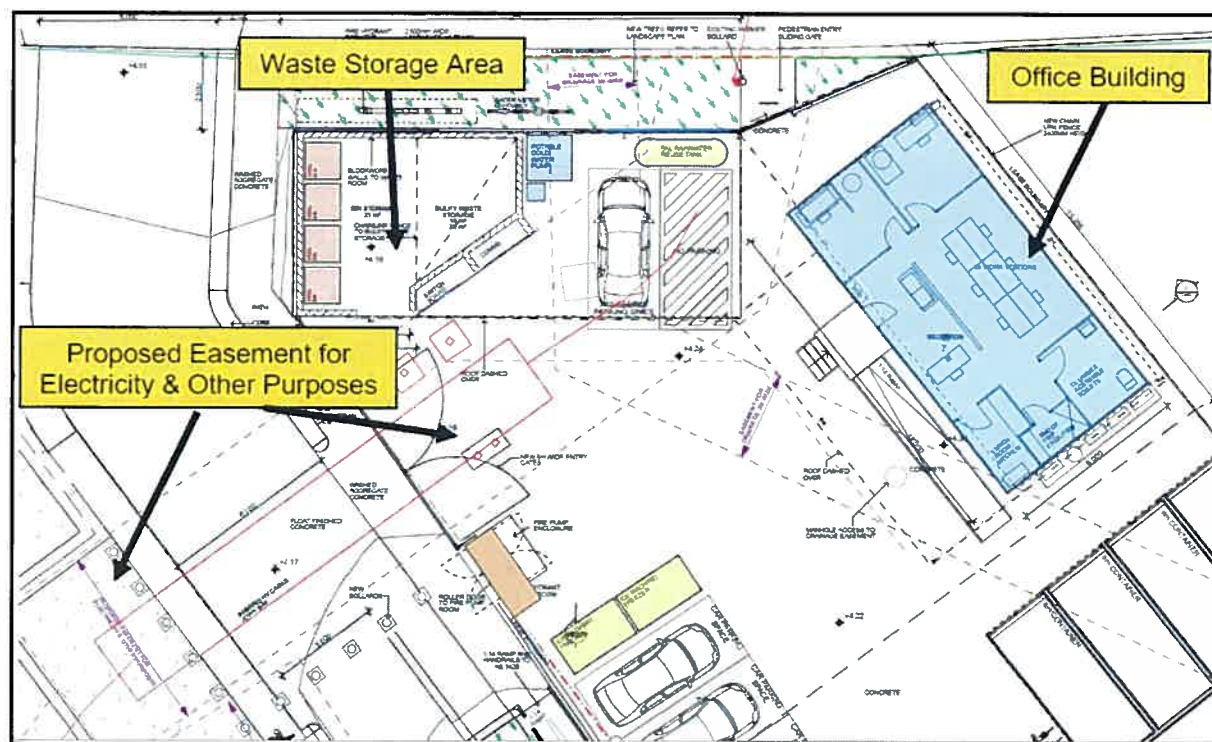


Figure 14 | Waste storage area amended due to electricity easement (Source: RPPR)

The Department concludes the changes to the built form of the proposed modification are reasonable as it would reduce the bulk and scale of the approved development. The Department also concludes the design quality of the proposed modification and visual impacts are acceptable. To ensure the site does not become visually unappealing, cluttered and unkempt, the Department recommends conditions that require the final detailed design of the artistic perimeter fence wrap is submitted to and approved by the Secretary and that all buildings, structures, open spaces areas and perimeter fencing be maintained in a proper and efficient condition.

6.3.2 Water-based component

The Project Approval allows for the mooring of 11 vessels, between 15 m and 51 m in length. The proposed modification seeks approval for the mooring of 22 vessels, between 15 m and 48 m in length. The proposed marine licence area, at 10,976 m², would exceed that of the approved project by approximately 276 m² and so would be approximately 2.5 per cent larger in its footprint.

The marine licence area would extend approximately 100 m west and 50 m south into the waterway from the existing shoreline. The Project Approval area extends slightly further west into the Blackwattle Bay water than the area proposed in this modification proposal (**Figure 5**). The Proponent has altered the location of vessels in the south-eastern part of the water-based component to minimise impacts on recreational vessels. This results in the licence area extending 20 m further to the south than the Project Approval (see comparison at **Figure 15**).

The Project Approval included fixed pontoons (**Figure 4**). The current proposed modification seeks approval for floating pontoons (**Figure 5**). These pontoons would be connected to shore by a single gangway attached to the western shoreline of the site and are lower in profile than the approved fixed pontoons.

Concerns were raised by Council and in the public submissions about the extent of the marina and its visual impacts.

The Proponent advises the visual impacts of the proposed modification are anticipated to be comparable to those already approved as the vessels are a similar maximum size despite the number of vessels being greater (22 as opposed to 11 in the original).

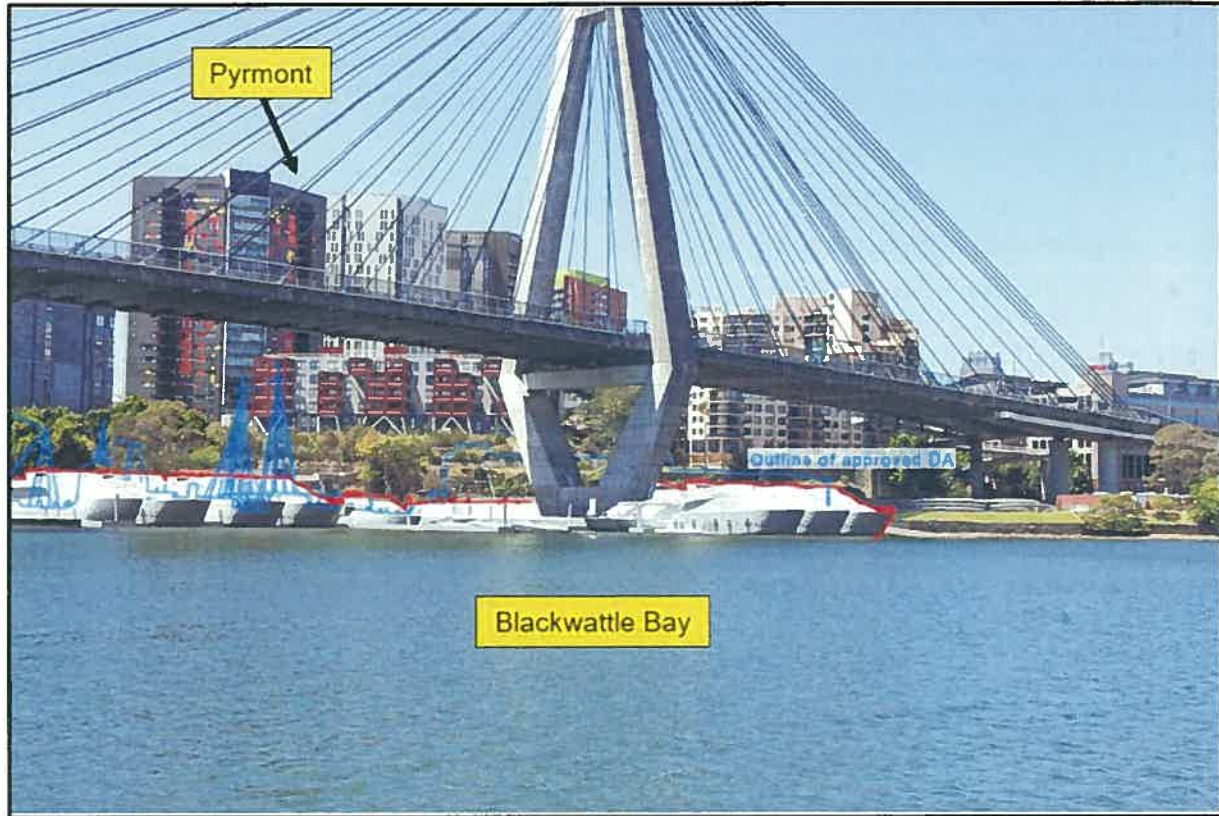


Figure 15 | View from water comparing Project Approval (blue) to proposed modification (red) (Source: PPR)

The Visual Impact Assessment includes all 22 vessels being on the site at one time. However, this scenario would occur predominantly on mid-winter mornings, based on the proposed operational characteristics of the site. The Proponent anticipates during the daytime, typically up to 19 berths will be occupied at any one time.

The Department notes that the proposed modification is permissible in the W1 Maritime Waters zone which encourages water-based development and considers the floating pontoons would have less visual impact compared to fixed pontoons as they are lower in profile and will rise and fall with the tide rather than protrude from the water at low tide.

While it is accepted the number of vessels berthed at the site would increase, the overall increase in the footprint of the water-based area (+10%) is moderate compared to what has been approved and thus would not substantially change the background or foreground visual impacts of the proposed modification from different outlooks.

The proposed modification would be consistent with the visual character of the working harbour and would not have an unacceptable visual impact on the scenic quality of the harbour and surrounding foreshores, noting its location in Blackwattle Bay beneath the ANZAC Bridge.

The Department concludes the proposed modification would have an acceptable visual impact.

6.3.3 View loss

In its assessment of the original application, the Department considered the impacts of the proposal on public and private views using the Views Planning Principle established by *Tenacity Consulting v Warringah* [2004] NSWLEC 140 ('Tenacity'). The residential properties at 2 Bowman Street and 1 Distillery Drive were considered to be those most affected, as these are in close proximity to the site and have views to the water and ANZAC Bridge across the subject site. The Department concluded the impact on residences was minor and the retained views would still provide a high level of amenity for neighbouring properties.

The Department has followed a four-step assessment in accordance with the Tenacity principles to assess the impact of the proposed modifications against the Project Approval, which are:

- assess what views are affected and the qualitative value of those views
- consider from what part of the property the views are obtained
- assess the extent of the impact (negligible, minor, moderate, severe, devastating)
- assess the reasonableness of the proposed modification that is causing the impact.

The findings of the assessment against these steps are summarised in **Table 9**.

Table 9 | Consideration of view loss principles

Principle	Consideration
Assess views to be affected	The residential properties at 2 Bowman Street and 1 Distillery Drive have: • Views of the waters of Blackwattle Bay/Rozelle Bay and the Glebe foreshore across the site and adjoining sites and over/ underneath the ANZAC Bridge carriageway (depending on the height of the unit). The views vary dependent upon the height and location of the apartment relative to obstructions • Views of the ANZAC Bridge structure, including its pylons and stay cables. This is illustrated in Figure 16, indicating the views afforded by both the Project Approval and the proposed modifications.
From what part of the property the views are obtained	<u>2 Bowman Street:</u> • Views are obtained from west facing windows of a significant number of units. These views are secondary views, with primary, north-facing views of Johnstons Bay and the Glebe Island, Balmain and Pyrmont foreshores being obtained from the living rooms and adjoining deep balconies on the northern elevation. <u>1 Distillery Drive:</u> • Views are obtained from the west-facing living room areas. The view ranges from the non-motorised vessel launching ramp to the south, to the old Glebe Island Bridge to the west, and includes the waters of Blackwattle Bay/Rozelle Bay, the Glebe foreshore and partial iconic views of the ANZAC Bridge.
Extent of impacts	<u>2 Bowman Street:</u> • In its assessment of the original project, the view impact from this building was considered minor. • The secondary water views from 2 Bowman Street, beneath the road apron of the ANZAC bridge, and immediately to the north of the eastern pylon would be partially obscured by the proposed pontoons and the vessels at their moorings. However, distant views to the southern (Glebe) foreshore would be retained, as would the visibility of the ANZAC Bridge pylon, road apron and stay cables. • Despite the additional obscuring effect of the water-based component when compared to the Project Approval, including vessels, the visibility of the water beneath the ANZAC Bridge apron would still dominate this outlook. The Department

considers the additional view impact is relatively minor when compared to the Project Approval, also noting the proposed facility would be temporary.

1 Distillery Drive:

- In its assessment of the original project, the view impact from this building was considered minor.
- The residential properties at 1 Distillery Drive are elevated above the site and sit atop a high sandstone embankment. Given the single-storey height of the proposed building, the proposed building would obscure a negligible area of water view currently available beneath the ANZAC Bridge road deck, as viewed from the lower level units and would result in an improvement when compared to the Project Approval. The extent of this impact would be further diminished at higher levels.
- The proposed pontoons and berthed vessels would obscure a greater area of water view than the Project Approval, however this additional amount is considered acceptable when balanced against the reduced impact resulting from the amendments to the land-based component of the project. The view to the opposite Glebe foreshore would be retained in its entirety, together with the majority of the existing water views available when considering the approved project. The Department considers the additional view impact is relatively minor when compared to the Project Approval, also noting the proposed facility would be temporary.

The reasonableness of the proposed modification which is causing the impact

- In its assessment of the original project, the Department concluded the impact on residences was minor.
- The proposed modification is considered reasonable as the impact from the land-based component is less than the Project Approval due to the reduced bulk and scale of the proposed modification. The Department notes there is also no height limit that applies to the site.
- The proposed modification would remain compatible with the maritime use of the foreshore and adjacent waterway. It is reasonable for a maritime use requiring direct water access to be situated in such a location and have an associated low scale land-based use adjacent to it.
- The proposed modification is permissible within the site's land and water zones and is consistent with the priorities of the Sydney Region Plan as it would preserve tourism assets in the form of a chartered boat facility to support the diversity of activities in Greater Sydney's visitor economy.
- The proposed modification represents a small element within the context of the visual prominence of the ANZAC Bridge and the affected views. The views to the ANZAC Bridge design are such that sight is naturally directed upwards to the tip of the ANZAC Bridge's eastern pylon and to the stay cables in order to appreciate the full figure of the bridge. The additional impact on residences is minor when compared to the Project Approval and the retained views will still provide a high level of amenity for neighbouring properties.



Figure 16 | View to Blackwattle Bay comparing Project Approval to proposed modification (Source: PPR)

6.4 Public domain

Concerns were raised by Council and in public submissions that the proposed modification does not provide a quality public park on the entire site consistent with the planned transformation of the area from working waterfront and industrial to public open space and urban uses.

Council stated the proposed open space is unsatisfactory as it does not comply with the Bays Market District State Significant Precinct study requirements and therefore is contrary to the Bays Vision and will delay the realisation of the planned foreshore promenade for at least a decade.

Concerns were also raised in public objections about the inconsistency of the proposed use with the Bank Street Master Plan. The Bank Street Master Plan assumes the subject site will be redeveloped as a public facility with passive water access and identifies public recreation, non-motorised boat launching/club facilities and open space as being the desired future land-use character for the site.

The Department notes RMS Maritime stated public foreshore access, generally as approved, would be retained and provided, aligning with the NSW Government's Sharing Sydney Harbour Program.

In its assessment of the original project, the Department considered the Project Approval was generally consistent with the Bank Street Master Plan (2006), noting that it would provide public access to the waterfront and provide recreational opportunities. The Bank Street Master Plan required a 10 m wide foreshore promenade to be provided for the entire length of the foreshore of the site. The Commission imposed a condition in the original Project Approval consistent with this requirement.

The Department acknowledges the proposed public domain is not consistent with public domain anticipated by the Bays Precinct Transformation Plan and Bank Street Master Plan. However, the proposed modification is permissible in the zone and is an interim use, with a footprint smaller than the land-based component of the Project Approval. Further, the Project Approval is for a permanent use, whereas this modification is for a temporary five-

year use that will enable the vision for recreation space on this site to be realised in the future. The proposed design also provides for public access along the foreshore, consistent with the objectives of the Bank Street Master Plan and the Sharing Sydney Harbour Program. This access would be in a form which can be connected with adjoining lands as they are developed in the future.

The Department considers the key issues associated with the public domain are the provision of open space and quality of landscaping, foreshore access and waterfront promenade. These are discussed in turn below.

6.4.1 Open space and landscaping

The Project Approval provided approximately 2900 m² of public open space. The open space provided in the Project Approval consisted of hard surfaces, with only street tree planting. Open space was provided around the ANZAC Bridge pylon and part of the building contained a green roof.

The proposed modification seeks approval for a slight increase in the amount of public domain, proposing approximately 3,000 m², which represents approximately 70% of the total site area. This includes hard and soft landscaping elements (see **Figures 17** and **18**).

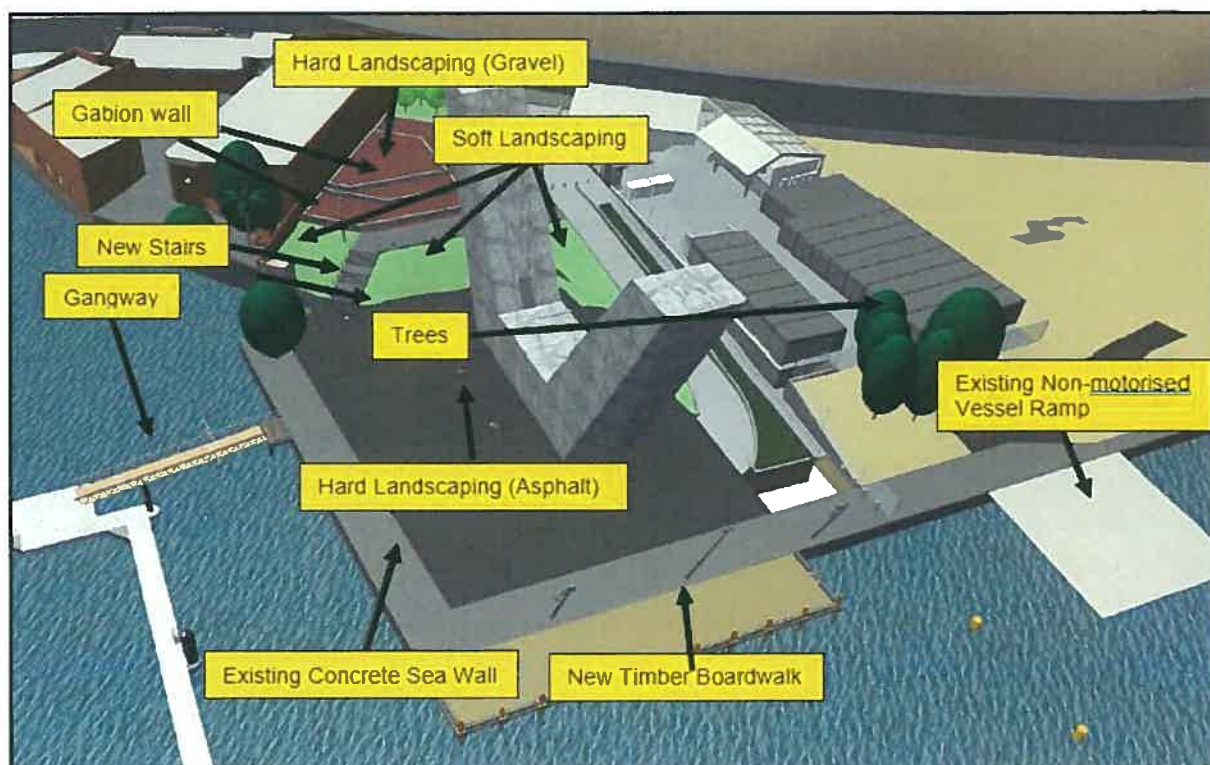


Figure 17 | Aerial photomontage indicating proposed landscaping, open space and timber promenade
(Source: RPPR)

Soft landscaping would be provided in the following areas:

- adjacent to Bank Street, both next to the storage compound and in the north-west area of the site. The latter would include concrete benches
- the western part of the site adjacent to the stairs between the hardstand areas in the north-western part of site and at the base of ANZAC Bridge pylon
- strip planting to separate pedestrian and vehicular movements.

The remainder of the public domain area would consist of hardstand surfaces of loose gravel in the north-western part of the site and asphalt at the base of the ANZAC Bridge pylon.

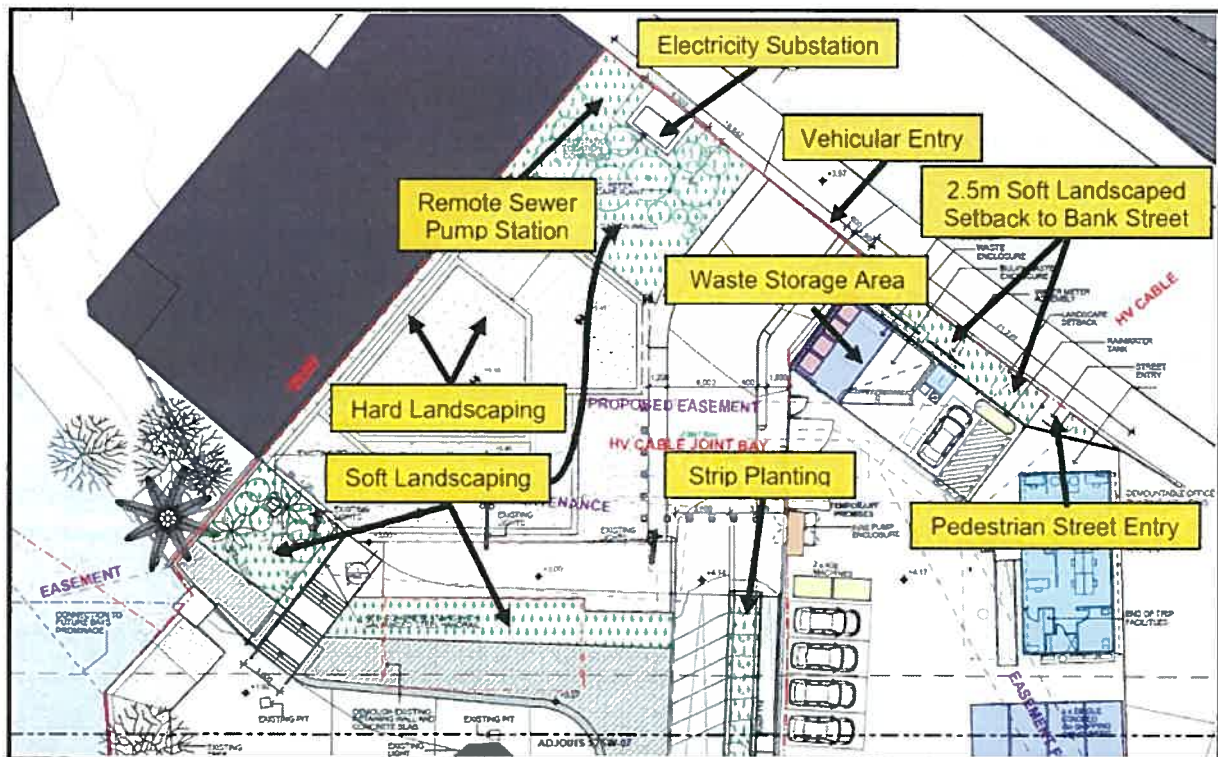


Figure 18 | Proposed landscaping and open space (Source: RPPR)

Concern was raised in public submissions regarding the quality of open space, the need for more public open space in the surrounding area, and the incompatibility of the proposed modification with the planned use of the site for public recreation and open space.

The Department notes the amount of open space (approximately 3000 m²) provided is similar to the Project Approval. However, the Department considers the quality of the open space area is an improvement as the Project Approval provided only hard surfaces with some street tree planting. The hard surfaces were mainly around the ANZAC Bridge pylon and were accessible through a path on the western edge of the site, rather than an open arrangement through the middle of the site.

The proposed modification provides a more usable open space area and while containing hard landscaping, it will allow for pedestrian circulation and define the western edge of the site. The proposed modification also provides soft landscaping along the Bank Street setback, adjacent to the driveway access to the pylon and in the western part of the site where the site slopes to the water.

The Proponent has updated the Landscape Plan to include a greater diversity of plantings drawn from the City of Sydney's "Recommended local natives for habitat gardens" list. This includes vegetation endemic to the area such as the Sickle Wattle, White Feather Honey Myrtle and Blueberry Ash. These species have the potential to grow to between 4-6 m in height with a 2 m spread which the Department considers satisfactory as it would provide adequate landscape visual interest without impeding views.

To ensure the final detailed design of the landscaping has been reviewed, the Department recommends a detailed Landscaping Plan be submitted to and approved by the Secretary prior to the commencement of the relevant works. The Department also recommends a condition requiring all landscaping in the approved plan to be complete prior to occupation or commencement of the use.

The Department notes the Commission imposed a condition in the Project Approval requiring a 2.5 m wide landscaped setback from Bank Street, as it considered Bank Street to be part of an important pedestrian route. This

condition was imposed because there would otherwise have been no setback from the proposed buildings to Bank Street. The modification proposes a 2.5 m setback for the majority of the 35 m wide landscaped frontage to Bank Street, with the exception of a 5 m wide area in the north-east of the site, due to the proposed pedestrian entry (**Figure 18**). The Department considers this acceptable as the setback would apply to the majority of the landscaped frontage with the remaining area containing the pedestrian entry from Bank Street.

The Department concludes subject to the recommended conditions, the proposed open space is of adequate size and quality, and adequate landscaping has been provided consistent with the proposed use. As previously noted, the proposed open space and landscaping would be temporary and would therefore not prevent the realisation of planned open space for this site in the future.

6.4.2 Foreshore access and waterfront promenade

In determining the Project Approval, the Commission imposed a condition that a 10 m wide promenade must be provided wholly on land and unobstructed for the full length of the foreshore of the site, stating the proposed 5 m wide boardwalk over the water could remain, but must be supplementary to the 10 m requirement. This condition was imposed because the workshop and boat store were setback 9 m at ground level from the foreshore, and a deck at first floor was proposed to be cantilevered over the promenade. Public access to the foreshore was provided by a path along the western perimeter of the site.

The Proponent has requested the deletion of the Commission's condition requiring a 10 m wide promenade, stating the proposed modification includes a flexible interim public access strategy that would be permanent, but constructed to allow a connection to the future Bays Waterfront Promenade as this is progressively constructed on adjoining sites.

The proposed modification also includes construction of a 5.75 m wide timber promenade over the water. In addition to this timber promenade, a minimum 10 m setback would be maintained with the exception of an 8 m setback in the south-east corner of the site due to the location of the driveway providing access to the Anzac Bridge pylon, an adjoining ramp and associated landscaping. A 14 m setback from the shipping containers to the foreshore has been provided (which includes land on the adjoining site, adjacent to the non-motorised vessel launching ramp - **Figures 17 and 19**). It is intended that the waterfront promenade can be adapted to facilitate through-site access when works to construct the Bays Waterfront Promenade are undertaken around the site. Public access to the foreshore would be provided by stairs in the western part of the site and a ramp through the middle of the site. **Figure 20** highlights in green the parts of the site that would be accessible to the public and indicates the pedestrian through-site linkage proposed from Bank Street.

Public submissions stated the Proponent should provide the permanent waterfront promenade envisaged in the Bays Precinct Transformation Plan sooner than the proposed 10-year timeframe.

Council objected to the proposed foreshore access arrangements as the Bays Market District State Significant Precinct study requirements include the investigation of a 30 m wide public domain setback from the foreshore to the building alignment, allowing at least 10 m of width for paths. Council also objected on the grounds that the ability of the public to access the foreshore would be hindered by the maintenance easements in the proposed plans.

In respect of easements, the Department notes Council's concerns, however accepts the majority of the easement area is required for maintenance access to the ANZAC Bridge pylon and therefore must remain on site (**Figure 18**). These easements would also remain in future when this area forms part of the planned Bays Waterfront Promenade. The Department considers the proposed modification has been adequately designed around easements on the site and allows access to the foreshore.

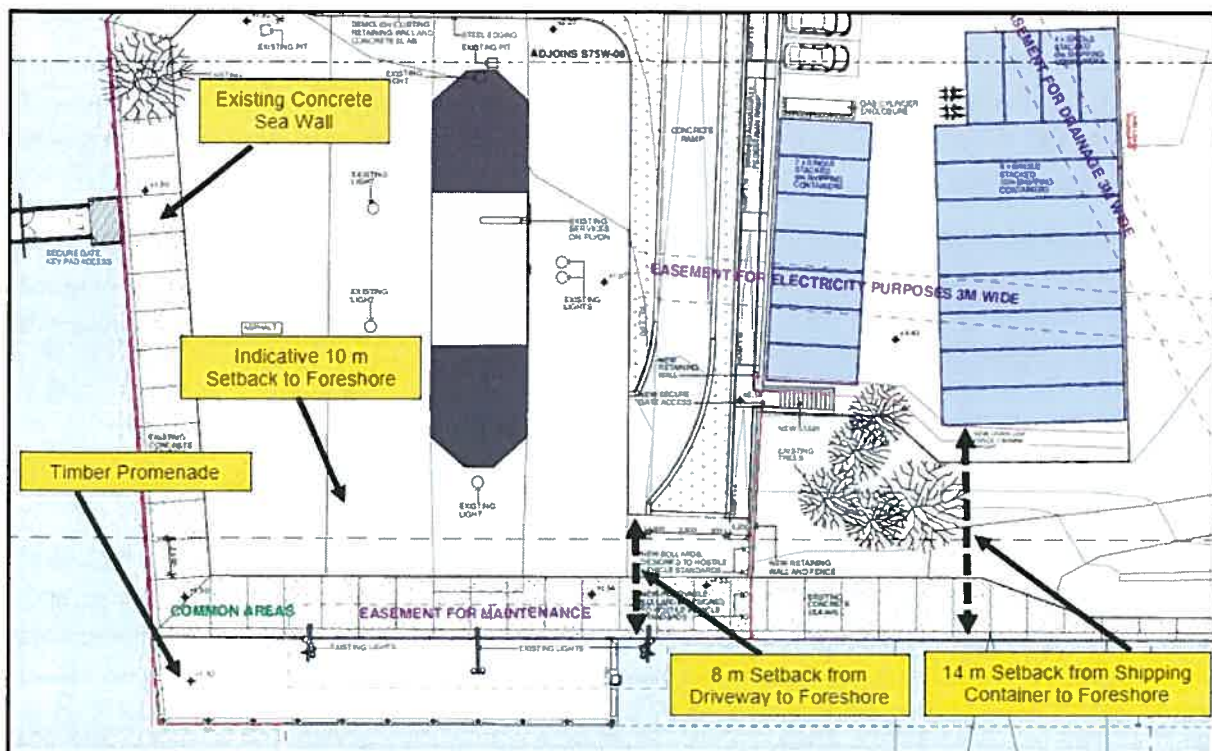


Figure 19 | Proposed waterfront area (Source: RPPR)

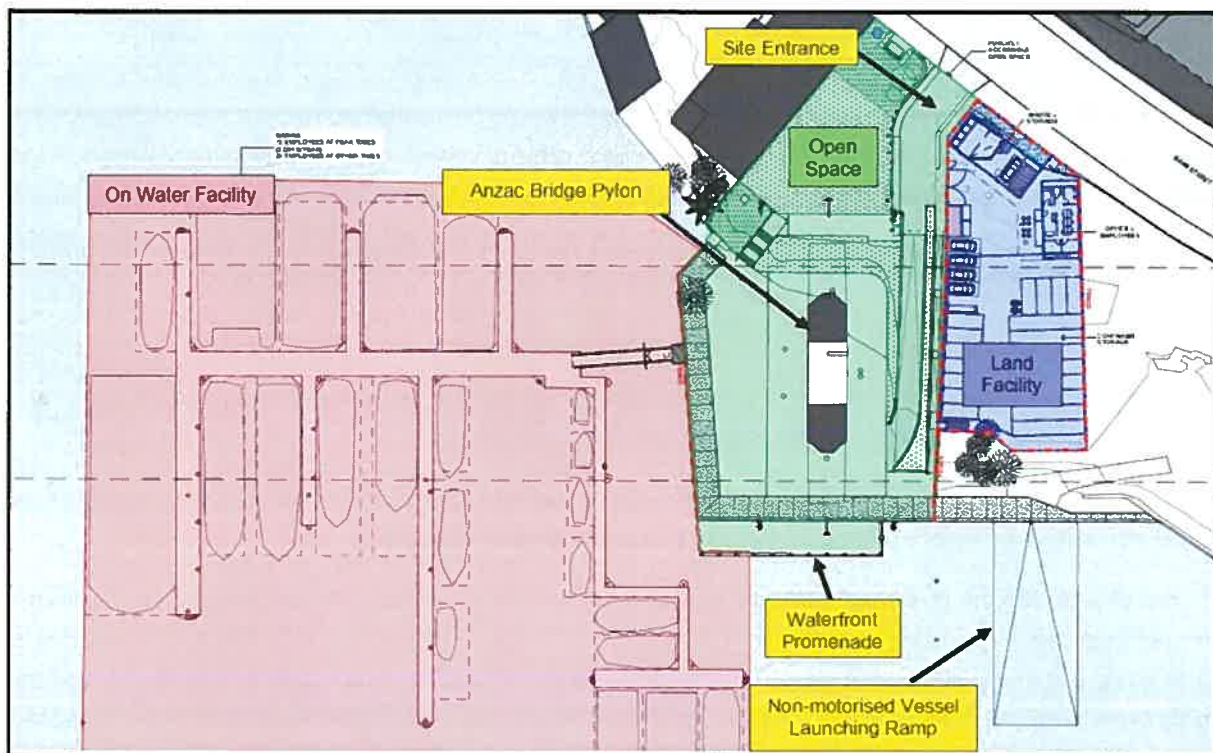


Figure 20 | Proposed publicly accessible area – shown as open space (Source: RPPR)

The Department recognises there is presently no public or foreshore access to or through this site and notes a 5.75 m timber promenade is proposed over water. However, the Department does not consider the deletion of the Commission's condition requiring a 10 m wide promenade is warranted, as the driveway and associated landscaping are only setback from the foreshore by 8 m. The Department recommends the 10 m foreshore promenade condition is retained, and to ensure the intent of the Commission's condition is achieved, amended

drawings are to be submitted to the Secretary for approval requiring the driveway, ramp and associated landscaping to be set back 10 m from the foreshore.

The Department therefore considers the proposed public domain and foreshore area is an acceptable interim solution that would sufficiently allow for pedestrian circulation, subject to this new recommended condition. The Department considers the modification would not preclude the delivery of the eventual public domain setback intended as part of the Bays Precinct Transformation Plan or the future waterfront promenade.

6.5 Marine navigation and safety

The Project Approval permits 11 vessels between 15 m to 51 m with 3-10 vessels movements per day. The proposed modification seeks the mooring of 22 vessels, between 15 m and 48 m in length with 10-30 vessel movements per day.

The vessels proposed to occupy the subject site currently operate out of the existing Blackwattle Bay Marina, located in Blackwattle Bay approximately 500 m to the south-east. The Proponent has advised the following in relation to vessel activity, generally:

- peak season is November and December (7-days-per-week)
- lesser movements occur between January and April (4-days-per-week) and spring (3-4 days-per-week)
- low-season is during winter (1-2 days-per-week).

The Proponent states the hours of activity per day also increase during the November-December peak period, with mid-morning commencement of movements, whereas otherwise year-round fleet activity starts at noon or in the case of the winter months, late in the afternoon. During the daytime up to 19 berths will be occupied at any one time, whilst a maximum of 22 berths will be occupied overnight.

In response to concerns raised by Council and public submissions about marine navigation and safety, the Proponent prepared a Navigation Impact Assessment (NA).

The NA considers the navigation of vessels from the proposed marina is similar to the existing vessel operations of the Sydney City Marine Facility opposite the site on the northern bank of Rozelle Bay. The NA estimates there are currently between 200 – 300 vessel movements per day through the Glebe Island Bridge. The NA found the proposed modification is acceptable from a navigation and safety perspective, subject to a number of mitigation measures, including:

- the provision of safety devices in the form of navigation lights, marker buoys and relocation of existing lit port beacons on either side of ANZAC Bridge, the precise location of which would be subject to approval from RMS (Maritime) and the Port Authority of NSW
- installation of prominent signage at the Glebe Island Bridge entrance advising “non-powered vessels are using this area frequently” or words to this effect, with the exact location to be determined in consultation with RMS
- further consultation with stakeholders (non-motorised vessel users and RMS) to investigate the potential relocation of the rowing route turn in the vicinity of the marina to enhance segregation of motorised and non-motorised vessels (as indicated in **Figure 21**).

Additionally, the Proponent further addressed these concerns by amending the application to:

- reduce the marine licence area from 12,824 m² to 10,976 m²
- change the pontoons from fixed to floating to improve visibility and sightlines and assist in abating adverse swell and wind conditions
- reorientate vessels in the south-east corner of the marina to minimise impacts with non-motorised vessels, particularly the adjacent non-motorised vessel launching ramp (see **Figure 22**).

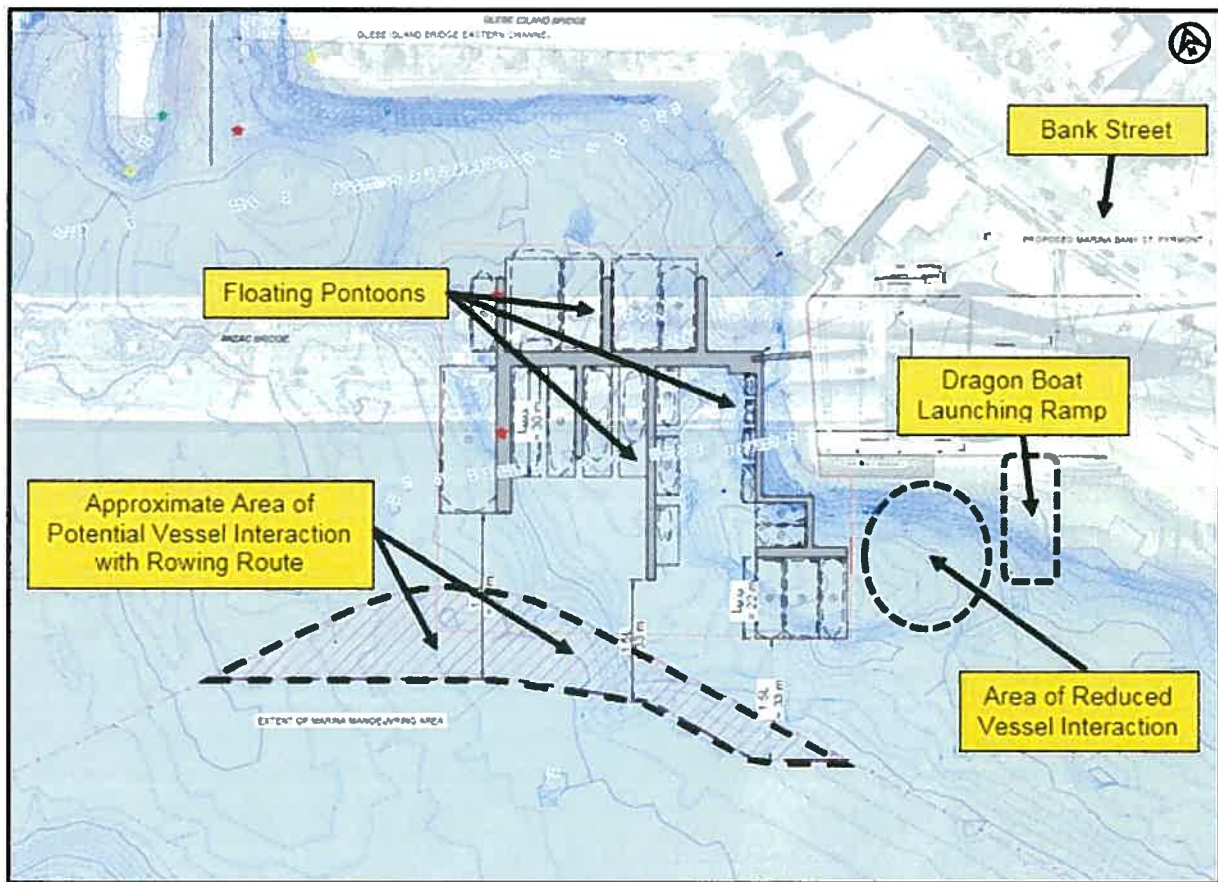


Figure 21 | Amended marina layout (Source: RPPR)

RMS Maritime stated following review of the NA that the proposed modification does not pose a significant risk to navigational safety. RMS Maritime also stated the safety risk of the proposed modification is low, and any decision regarding signage and aids to navigation should be made solely by RMS Maritime in consultation with the Port Authority of NSW, with this decision to be made post-determination of the application.

The Port Authority of NSW similarly raised no concerns to the amendments to the proposed modification, but has requested Harbour Master approval for sea bed disturbance to be re-sought by condition and the retention of a condition requiring a Marine Traffic Management Plan (MTMP).

The Department notes the MTMP aims to provide for the safe movement of vessels and includes measures to provide for this such as buoys, dolphins & lights and emergency response and communications plans. The Department considers the mitigation measures proposed in the NA, including the provision of safety devices, lighting and signage would assist in minimising the potential for conflict between motorised and non-motorised vessels.

The Department proposes to retain the condition requiring a MTMP, subject to it being updated to reflect the proposed use and the adoption of all mitigation measures outlined in the NA. The MTMP would also need to be submitted to and approved by RMS Maritime and the Harbour Master prior to occupation or commencement of the use. A copy of the MTMP would have to be submitted to the Department.

Support was received in the public submissions for the change from fixed to floating pontoons and other amendments made in relation to navigational safety. The Department considers the change from fixed to floating pontoons would result in the pontoons sitting lower in the water, improving visibility and sightlines, and assisting

in abating adverse swell and wind conditions. The Department proposes to retain the condition requiring compliance with Australian Standard AS 3962-2001 Guidelines for design of marinas.

The reduction in the marine licence area from 12,824 m² to 10,976 m² from the modification application as originally submitted is also considered a positive amendment. This results in the closest moored vessel within the marina being located approximately 40 m to the west of the non-motorised vessel launching ramp used primarily by Dragon boaters (see amended layout at **Figure 21**). These vessels have been oriented so as not to enter or exit the marina facing the ramp. Larger sized vessels with higher powered engines are located in berths that are positioned away from the ramp. The Department considers this would minimise potential conflict between motorised and non-motorised vessels.

The Department acknowledges the concerns raised in the public submissions in relation to additional commercial traffic and the associated difficulties in passing through the Glebe Island Bridge opening. Concerns have also been raised by Council that the proposed modification is inconsistent with the inevitable repurposing of the Glebe Island Bridge for active and public transport. However, the Department recognises there is currently a maritime facility approved at this location.

Additionally, the existing BBM operation is also making these trips currently within Blackwattle Bay and will therefore not create any additional boat storage or movement in Blackwattle Bay.

The Department concludes the marine navigation and safety impacts associated with the proposed modification are acceptable, subject to the recommended conditions.

6.6 Noise

6.6.1 Operational noise and vibration

The operation of the site by the Sydney Heritage Fleet was not limited in its hours of operation, however the use was proposed to operate typically between 8 am and 6 pm. The Project Approval anticipated up to 49 visitors to the site at any one time, most arriving by shuttle bus or coach or via a proposed private ferry service.

In its assessment of the original application, the Department considered the predicted noise levels would be acceptable given the site's location underneath the ANZAC Bridge, noting the noise generated by vehicles traversing the ANZAC Bridge dominates the noise environment. The Commission raised no concerns about noise in its consideration and determination of the original proposal.

The proposed modification seeks hours of operation from 7 am to 1 am, 7-days-per-week. Although the Proponent states the business would only operate for these hours in peak periods and not all operations would take place until 1 am.

Council and public submissions raised concerns in respect of operational noise impacts, including excessive hours of operation, the movement of vessels back to the marina at late hours and associated horn use, use of forklifts and delivery vehicles, and waste from vessels being emptied late at night. Council objected based on acoustic impacts, noting it is unclear whether the Acoustic Assessment (AA) is based on the worst-case scenario for vessel movements during mooring and unmooring operations.

An updated AA was prepared which included worst-case scenarios and noise generated by vessel engines, thrusters, sewage-pump, forklifts, cars, vehicle doors closing and manual waste disposal. The worst-case scenario represents the December peak period when approximately 100% of the vessel fleet would be engaged on a weekend night. The AA assesses operational noise using the EPA's *Industrial Noise Policy* (INP).

At the time the SEARs were issued for the proposed modification (April 2017), the INP was the relevant noise guideline. While concerns have been raised that this guideline was superseded in October 2017 by the *Noise*

Policy for Industry (NPI), the Department accepts the INP is the relevant guideline as the issue of the SEARs pre-date the NPI and substantial noise assessment work had already been undertaken using this guideline.

In response to concerns raised in public submissions, the Department notes the NPI has a section on sleep disturbance criteria which is no more stringent than the INP and so these requirements would still be met by the proposed modification.

The Department considers the key sources of noise associated with water-based activities are noise from vessel engines, particularly at night, and other vessel related noise sources, such as horns, and from land-based activities waste collection, use of forklifts and delivery vehicles.

The revised AA includes noise monitoring and identifies seven noise receiver locations, of which receivers R1-R4 are residential and R5 is industrial. Receivers R6 and R7 are public recreation locations at Blackwattle Bay Park and Glebe Point respectively (**Figure 22**). The revised AA also acknowledges the existing high levels of traffic noise from the ANZAC Bridge particularly in the evening and night-time periods and includes the noise monitoring that was undertaken for the original project application.

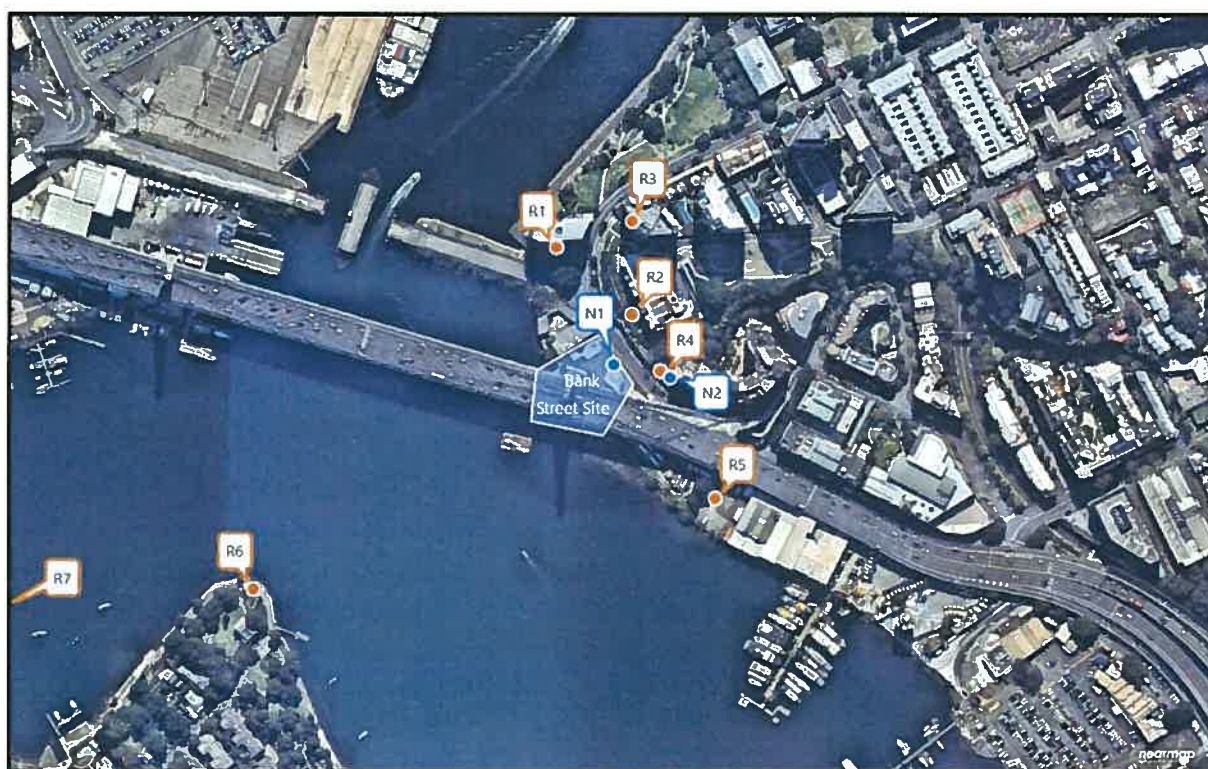


Figure 22 | Noise receiver locations (Source: Revised AA)

The revised AA predicts noise levels (amenity) at all receiver locations would be below the maximum allowable level during the day (7 am to 6 pm) and evening (6 pm to 10 pm) periods, and at or below the maximum allowable level at night-time (10 pm – 1 am). The revised AA also predicts intrusive and sleep disturbance noise levels at all receiver locations would be well below the noise criteria at all times.

While public submissions raised key concerns about noise associated with engines late at night, the proposed hours of operation from 7 am to 1 am would not occur for the entirety of this time. **Table 10** shows the Proponent's worst-case scenario for predicted vessel movements at different times of the year.

It is evident from **Table 10** that the business would only be expected to operate every night of the week in November and December, with this dropping to 1-2 days per week in the period from May to August, making approximately one trip per vessel each day.

Table 10 | Worst-case scenario for vessel movements

Principle	January – April	May – August	September – October	November – December
Days per week	4	1-2	3-4	7
Frequency per day	2	1	1	2-3
Hours of vessel movements	12 pm – 12 am	5 pm – 12 am	5 pm – 12 am	10 am – 12 am
Movements per day (based on worst case scenario of all 22 vessels operating)	88	44	44	132

The Department also notes the hours of activity per day increase during the November-December peak period with mid-morning commencement of movements, whereas otherwise year-round fleet activity starts at noon or as late as 5 pm in the afternoon in the May to August period. Therefore, the generation of noise by vessels in the morning would be limited to November and December, which would assist in ensuring that noise impacts are not borne by residents for the duration of the day.

The Department proposes a condition recommending the Plan of Management be updated to reflect these proposed hours and days of operation, and considers this will protect the amenity of nearby residents.

In response to other concerns raised in public submissions, the Department has considered reverberation of sound from the ANZAC Bridge and noise travelling across the water, along with bow thrusters (i.e. not only idling engines), and considers the proposed modification acceptable in this regard.

In respect of concerns about horn use, RMS Maritime has advised it is optional for commercial vessels to use horns, but does not consider this site an area where significant horn use will be required and notes it is similar to most marinas in Blackwattle Bay where horns are rarely used due to relatively low vessel traffic movements. The revised AA states the Plan of Management for the marina should limit use of horns to emergency situations only to avoid unnecessary impacts. The Department acknowledges the need for the use of horns in this area, however recommends a condition to ensure their use is limited to emergency situations only in order to avoid potential noise impacts.

Despite the revised AA predicting that the operation of the facility would result in noise levels below the criteria (amenity, intrusive and sleep disturbance), it recommends the following management measures to mitigate potential impacts:

- no use of forklift after 8 pm
- acoustic screens around sewage pumps
- roof over waste enclosure (as shown on the plans)
- good behavioural practices after 10 pm as part of a Plan of Management (minimal use of vehicles, minimal shouting etc.)
- limiting horns to emergency situations.

The Proponent has also clarified a number of matters raised in public submissions and updated its preliminary Plan of Management and Preliminary Construction and Operational Waste Management Plan to restrict:

- loading between 7 am and 6 pm Monday to Friday and 8 am and 1 pm Saturday to Sunday
- sewage pump-out between 7 am and 6 pm daily
- removal of waste from vessels only between 8 am and 4 pm daily, with rubbish collected on board vessels to be stored on board during this time and removed by staff the following day
- minor servicing and maintenance to consist only of paint touch-ups, internal/non-visual work, and cleaning and essential service maintenance from time to time, to be undertaken between 7 am and 6 pm, Monday to Saturday.

The Department notes reversing beepers for delivery and rubbish removal have been assessed in the revised AA, and the Department considers this is not significant as the condition is proposed to limit deliveries and loading of stores to between 7 am and 6 pm Monday to Friday and 8 am and 1 pm Saturday to Sunday.

The Department also recommends conditions that do not permit vessel refuelling or amplified music from vessels while berthed at the facility and that no passengers can embark or disembark from vessels at the site.

The Department accepts due to the location of the site underneath the ANZAC Bridge, the noise generated by vehicles dominates the evening and night-time noise environment and in this context operational noise generated by the project would not be unreasonable. The Department also accepts the predicted noise levels are below the recommended maximum levels and would therefore not result in offensive noise or amenity impacts on residential receivers.

The Department concludes the operational noise impacts of the proposed modification are acceptable, subject to mitigation measures and recommended conditions restricting the hours of individual operations and the Proponent undertaking noise monitoring and preparing an Operational Noise and Vibration Management Plan and updated Operational Plan of Management. As a further safeguard and consistent with the Project Approval, the Department has recommended that noise generated by the proposal does not exceed the existing amenity noise levels for all residential receivers in Pyrmont.

6.6.2 Construction noise and vibration

The Noise Impact Assessment submitted with the original project stated the predicted construction noise levels at the receivers complied with Noise Management Levels (NML), except during piling operations for the middle pontoon, where there was a noise level of 78 dBA, a potential 'moderate exceedance' of 3 dBA over the highly noise affected level of 75 dBA for the 2 Bowman Street receiver location and a potential 'negligible exceedance' of <1 dBA over the highly noise affected level of 75 dBA on Floors 3 and 4 of 1 Distillery Drive (which was classified in the Noise Impact Assessment of the original project as the new Bovis Residential receiver).

In order to ensure that the construction noise limits associated with the proposed modification are reasonable, the Project Approval included a condition to provide assurance that noise limits as outlined in the Environmental Assessment could be complied with as part of a Noise Management Plan and restricted construction hours.

The proposed modification seeks standard construction hours between 7 am and 6 pm Monday to Friday and 8 am to 1 pm on Saturday. No work is proposed on Sundays or public holidays. These hours are consistent with the construction hours in the Project Approval.

The proposed modification anticipates construction of the water-based and land-based components would take five and four months respectively, which are proposed to be undertaken concurrently. The revised AA identifies the key construction-related activities as being site establishment, vegetation clearing, piling, earthworks, surfacing works, structure installation and truck deliveries.

Concerns have been raised in public submissions about construction noise associated with these activities.

The revised AA assesses the noise impact of these construction activities using the EPA's *Interim Construction Noise Guideline* (ICNG) and sets NMLs at all seven receivers. The Department notes the ICNG states where the predicted noise level is greater than the NML, the Proponent should apply all feasible or reasonable work practices to meet the NML and should inform all potentially impacted residents of the works. The ICNG also states where the highly noise affected level of 75dB(A) is exceeded, the relevant consent authority may require respite periods by restricting the hours when very noisy activities can occur.

The predicted construction noise levels in the revised AA are shown in **Table 11**. The revised AA predicts noise received at all receivers identified in **Figure 22** from site establishment and installation of structures are below the Noise Management Levels. During vegetation clearing, residential receivers R2 and R4 would be most affected with a predicted noise level of 79 dB(A). This would be due to chainsaws and chipper trucks. However, given the limited amount of vegetation on-site, these exceedances are likely to be for a short period of time. During piling & earthworks and piling & surface works, residential receivers R1, R2 and R4 would be most affected with predicted noise levels of 73 dB(A) for R2 and 72 dB(A) for R1 and R4 respectively.

Table 11 | Predicted construction noise levels

ID	Address	Predicted noise levels, $L_{Aeq}(15min)$, dB(A)					
		NML	SITE	VEGE	PILE + ERWK	PILE + SURW	STRC
R1	2 Bowman St, Pyrmont	68	59	<u>72</u>	<u>72</u>	<u>72</u>	57
R2	1 Distillery Drive, Pyrmont	68	67	79	<u>73</u>	<u>73</u>	65
R3	2 Distillery Drive, Pyrmont	68	60	68	67	67	54
R4	120 Saunders St, Pyrmont (Bayview Towers)	68	66	79	<u>72</u>	<u>72</u>	65
R5	19-21 Bank St, Pyrmont	75	59	68	61	61	52
R6	Blackwattle Bay Park, Glebe	60	50	57	<u>63</u>	<u>63</u>	40
R7	Glebe Point, Glebe	60	39	41	55	55	29

Key: NML = Noise Management Level, SITE = site establishment, VEGE = vegetation clearing, PILE + ERWK = piling & earthworks, PILE + SURW = piling & surface works, STRC = structure installation

Note: Underlined text indicates an exceedance of the NML
Bold text indicates noise levels above 75dB(A) (highly noise affected)

To manage and mitigate construction noise, the revised AA recommends that construction activities only occur during standard construction hours and respite periods are adopted for highly intensive noise activities such as piling, rock hammering and saws. The revised AA further recommends a complaints-handling system is implemented, residences are notified before works commence and noise monitoring in the event of a complaint.

The Department acknowledges there would be some additional noise impacts when compared to the Project Approval and that some construction activities exceed the NMLs and highly affected noise level of 75 dB(A), although the latter is only at two receivers for a short period of time. However, the Department accepts the Proponent has proposed a range of satisfactory management and mitigation measures to reduce the impact of construction noise on surrounding receivers consistent with the ICNG.

The Department recommends maintaining the approved standard construction hours between 7 am and 6 pm Mondays to Fridays and between 8 am and 1 pm Saturdays. The Department also recommends restricting periods of high noise activities to between 9 am and 12 pm and 2 pm and 5 pm Monday to Friday and 8.30 am to 12 pm on Saturday, consistent with the Project Approval. While the Proponent has requested to undertake high noise activities between 8.30 am and 12 pm, and carry out pile driving between 12 pm and 2 pm Monday to Friday to a limit of 75 dB(A) at the nearest residential receivers, the Department considers a two-hour respite period is necessary given the predicted construction noise levels.

No construction work would be permitted on Sundays or public holidays. Vibration caused by construction at any residence or structure outside the site would also be subject to strict vibration limits.

The Department also recommends conditions requiring the preparation of a new Construction Environmental Management Plan and Construction Noise and Vibration Management Plan to ensure noise is effectively managed and that all potentially affected receivers are informed of the works prior to their commencement.

Additionally, the Department recommends a new condition which requires the preparation of a Community Communication Strategy to facilitate communication between the Proponent, Council and the community during the design and construction of the development. In particular, the Strategy must set out procedures and mechanisms through which the community can discuss or provide feedback to the Proponent and how the Proponent will respond to enquiries or feedback from the community. The Strategy would also need to outline how it would resolve any issues and mediate any disputes that may arise in relation to construction.

Subject to the recommended conditions, the Department is satisfied the proposed modification will not result in any unreasonable noise impacts on the surrounding environment and residential receivers.

6.7 Transport, traffic, access and car parking

6.7.1 Transport context

The site is serviced by a range of existing public transport services, including Sydney Buses (routes 501 and 389 are between 5 – 10 minutes walk to the site); Metro Light Rail service between Central Station and Lilyfield (both the John Street, Pyrmont and Fish Markets stations are a 5 to 10 minute walk from the site); and the Sydney Ferry service to Pyrmont Bay, which is a 15 minute walk from the site. Bicycle access is also provided via the shared footpath route, which runs along Bank Street and connects with the broader bicycle network.

The number of staff expected to be present during typical operation of the site is 31. The water-based staff numbers would typically be 25, where the approved project included 5-10 staff members. The Department notes the number of water-based staff would be up to 75 during peak periods, which are only expected to be 3 days per year. The proposed modification would have six land-based staff, where the approved project allowed for up to 10 staff and up to 40 volunteers over the course of a weekend.

The Proponent has provided a Transport Impact Assessment Report which provides an expected journey-to-work mode share, being 50% of trips made by public transport, 26% by private vehicle, 14% cycling and 10% walking. These assumptions are reinforced by the actions contained in the Workplace Travel Plan which encourage the use of public transport. These actions are discussed further in **Section 6.7.3**.

As previously noted, no passengers would be able to embark or disembark at the site, therefore the transport and parking demand would be entirely generated by staff and servicing access requirements.

6.7.2 Traffic and vehicle access

6.7.2.1 Operational traffic

Concerns were raised in the public submissions about general impacts on the traffic and public transport network and the age of the traffic data. However, the Department considers the data valid because it is based on the traffic data provided by RMS. The Department notes the travel demand forecast only considers the typical operation of the site, given the infrequent nature of the absolute peak events (expected to be three days per year).

Traffic surveys undertaken on Bank Street indicates that it currently carries 340 vehicles per hour during an average weekday morning peak hour, including 180 eastbound and 160 westbound vehicle movements. The proposed modification would result in up to six movements in the AM and PM peak periods respectively. The original project indicates approximately five to 10 movements in the AM and PM peak.

The Department considers this is a negligible additional impact compared to the existing traffic movements in the area and the movements associated with the original project. The Department also notes TfNSW and RMS have not raised any traffic impacts concerns in this regard.

The Department concludes there is adequate capacity in the surrounding road network to cater to the traffic generated by the proposed development.

6.7.2.2 Loading and servicing

Loading is proposed to be undertaken from within the car parking area within the site. It is expected the site would receive six food and drink deliveries and 1-2 other loading vehicles per week.

Waste collection would be undertaken by a private contractor, with 1-2 waste collection vehicles expected per week. Waste collection would be undertaken from within the site, rather than from Bank Street as originally proposed, which addresses concerns raised about impacts on the road network raised in public submissions. The Department also considers the new vehicular crossover to Bank Street is acceptable as it would be in a similar location to the existing crossover at the site.

The Department considers the amount of trips generated by servicing the site via loading and waste management is negligible and therefore concludes loading and servicing movements acceptable.

6.7.2.3 Construction traffic and vehicle access

The Proponent anticipates water-based and land-based construction would take five and four months respectively. Construction is expected to generate a maximum of 46 vehicle movements per day, including six heavy vehicle movements. The original project identified the number of construction traffic movements would be outlined in a Construction Traffic Management Plan.

The Proponent has prepared a Construction Traffic Management Plan that finds all construction car parking could be accommodated within the site. Pedestrian and cycling facilities are expected to be maintained at all times and therefore would not be impacted during construction.

Typical construction vehicles would enter and exit the site from Bank Street in a forward direction. Some larger and infrequent construction vehicles (such as the excavator) would be required to reverse into the site. These movements are proposed to be facilitated by appropriate traffic management measures, including traffic controllers as required.

The total traffic generated by construction would represent an increase of approximately 1% of vehicles per day using Bank Street. The Department considers this would be comfortably accommodated within the surrounding road network.

TfNSW and RMS raised no objection and requested a revised Construction and Pedestrian Traffic Management Plan (CPTMP) be prepared prior to the issue of a Construction Certificate. The Department considers the proposed modification is acceptable from a construction traffic perspective and recommends a condition should be imposed requiring an updated CPTMP to be provided to the Secretary.

6.7.3 Car parking

The Project Approval provided one car parking space for up to 10 staff and up to 40 volunteers expected over the course of a weekend, and anticipated approximately six spaces for visitors per hour from 10 am – 4 pm and nine staff spaces over the weekend days would be required off-site.

The proposed modification originally included two car parking spaces. Both the community and the Department raised concerns about the ability of the proposed modification to manage car parking demand on site.

The Proponent subsequently amended the proposed modification to add three car parking spaces, therefore providing a total of five car parking spaces on site.

The Traffic Impact Assessment (TIA) concludes the likely car parking demand for the facility (based on the typical six office staff and 25 vessel-based staff) is five car parking spaces. This assumes 75% of staff (23 staff members) are on-site at any one time, noting staff would not be on-site all day due to the proposed 18-hour operation of the business.

The TIA anticipates 26% of trips (six trips) would be made by private vehicle, meaning there would be a deficit of one space on the site. The TIA identified on-street car parking within 400 m of the subject site is time restricted, with these restrictions ranging from 1-hour parking to 6-hour parking and generally applicable 7-days-a-week, which would prevent employees from parking nearby for long periods. The TIA stated on-site observations indicate the on-street car parking has moderate to high demands during weekday daytime and evening periods, with weekend demands typically lower than weekdays. However, given there is only a one space deficit, the Department considers there is sufficient on-street parking available to accommodate a single vehicle when required.

The Proponent has prepared a Workplace Travel Plan, which puts in place several recommendations for encouraging public transport use, including producing a map of safe walking routes to and from the site, provision of lockers, developing maps showing public transport routes, interest free loans for Opal card purchases, publicising the formal allocation of the five car parking spaces, and establishing a car pooling roster. The Department considers these measures would support the increased use of public transport by workers (with a proposed mode share of 50%, equating to 16 staff during typical operation).

The Department concludes adequate car parking has been provided on-site.

6.7.4 Bicycle parking

Council's bicycle parking standards require five bicycle parking spaces to be provided on-site, based on the number of staff employed on-site, with one of these being a visitor space.

The proposal seeks to provide four spaces. The TIA states this is acceptable and that during peak demand, ad-hoc bicycle storage could be provided. Eight spaces were provided in the approved project.

End-of-trip facilities in the form of cycle storage, lockers, a shower facility and a change room have been provided for the proposal. The Department notes the berthed vessels also have bathroom and shower facilities on board for the use of marina staff.

The Department considers the site can comfortably accommodate an additional bicycle space (therefore five in total) in order to meet Council's standards, and recommends a condition requiring five spaces to be provided on site.

The Department concludes that subject to this condition, the proposed modification is acceptable with regards to bicycle parking.

6.8 Other issues

The Department's consideration of other issues is provided at **Table 12**.

Table 12 | Department's assessment of other issues

Issue	Consideration	Recommended Condition
Construction management	- Concerns have been raised in public submissions regarding air quality during construction. - The Department has assessed the primary impacts associated with the construction of the development earlier in this report. Where relevant, the Department has incorporated the requirements of government agencies, including TfNSW, into the recommended conditions. - The Department is satisfied all other residual construction impacts (waste, air quality etc.) would be minor and can be effectively managed in accordance with standard conditions. This would include the requirement for the Proponent to update the CEMP. - The CEMP would also address a number of other issues, including construction noise and vibration, erosion and sediment control, and include a suite of other documents, including a Construction Noise and Vibration Management Plan, Construction Pedestrian and Traffic Management Plan (CPTMP) and Waste Management Plan (WMP), and would be prepared in consultation with key government agencies, where relevant, to ensure all issues are addressed. - The Department is satisfied the CEMP and its associated matters for consideration, including CNVMP, CPTMP and WMP would provide a suitable framework for managing the potential construction impacts of the proposed development.	The Department recommends conditions requiring the Proponent to: finalise the CEMP, CNVMP, CPTMP and WMP.
Sewage pump out	- Council and public concerns were raised about odour impacts associated with sewage pump-out. - The vessels would be connected from inlets then piped on underside of floating wharves to a tank within a pump station below ground within open space area, where it will be discharged into the Sydney Water sewerage system. An overflow tank is placed adjacent to the holding tank. - The line would be a leak-tight line and tanks would have an air-tight seal. - The Proponent's assessment identifies the odour levels downwind of the existing BBM facility as acceptable and therefore considers impacts would be acceptable for the subject site, provided it is well managed. - Sewage pump-out is not proposed between the hours of 6 pm and 7 am. The Department considers this acceptable and recommends a condition restricting the hours of operation. - The Department considers sewage pump-out would not result in adverse odour impacts.	The Department recommends a condition requiring the Proponent to: only undertake sewage pump-out between the hours of 6 pm and 7 am.
Contamination	- The subject site is located within an area previously occupied by a large range of industrial activity and was subject to reclamation works. - The Department has approved the previous Proponent's site audit statement and Remedial Action Plan (RAP), which involves	The Department recommends a condition

the creation of a capping layer on top of the contaminated soil to provide a suitable physical barrier to contamination.

- The Project Approval includes a condition requiring the submission of validation report and site audit statements and a detailed site audit summary report to verify the land is suitable for the proposed use, prior to the issue of any Occupation Certificate.
- The Proponent originally proposed to delete this condition and manage potential risks during construction through the implementation of a Construction Environmental Management Plan (CEMP) by capping, containing and managing the potential contamination, in addition to the use of an Unexpected Finds Protocol.
- Council raised concerns in relation to contamination.
- EPA stated it does not object to the modification, however, based on the information provided and the risks of encountering contaminated material, it recommends consideration be given to obtaining a Site Audit Statement (Section A) prior to construction works beginning.
- The Department proposes to retain this condition requiring a validation report, site audit statement and a detailed site audit summary report.
- Regarding water-based contamination, the Department notes the change to floating pontoons would result in reduced piling impacts during construction. The Navigation Impact Assessment states four vessels would cause sea bed disturbance at mean low water levels and three at mean high water levels, however the predicted mass of sediment that would be disturbed from the bed is considered relatively low.
- Due to relatively low tidal currents in Blackwattle Bay, disturbed bed materials are expected to be deposited in the locality of the marina, rather than being transported as suspended sediment to other areas. The Project Approval currently contains a condition requiring Harbour Master Approval for sea bed disturbance from the Port Authority of NSW and the Department proposes to retain this.
- With recommended conditions in place, the Department considers the proposed modification is acceptable with regards to contamination, and the site is suitable for the proposed use.

requiring the Proponent to:

- notify the Department of Industry – Crown Lands & Water and Primary Industries (DPI) in the event of any significant contamination issues arising.

Stormwater Drainage and Water Quality

- The Proponent's Stormwater Management Report states the proposed drainage system would cater for storms up to and including the 1 in 20-year storm event and overland flows up to and including the 1 in 100-year storm event.
- An increase in the size of two pits and drains is proposed to meet the 1 in 20-year storm event requirements. A 5L rainwater tank is proposed to achieve 75% of the rainwater reuse demands and water quality requirements. Post-development flow rates would not exceed the pre-existing development rates and therefore no on-site detention would be required. The existing overland flow path would be diverted through into the pedestrian footpath heading towards Blackwattle Bay.
- The Stormwater Management Report recommends requirements for the control of sediment, dust, and site maintenance during construction works, including silt fences, filter bales dust control measures such as wheel washing and water spraying.
- Concerns have been raised in public submissions regarding the potential deterioration of water quality.
- Stormwater pits would be fitted with enviropod filter baskets and lines would then run through treatment tanks to remove pollutants before either discharging to Blackwattle Bay or to the existing stormwater network. MUSIC (Model for Urban Stormwater Conceptualisation) modelling demonstrates the stormwater treatment system would exceed performance targets for reduction in stormwater pollution in Sydney Development Control Plan 2012. The proposed reductions in percentages for

The Department considers no additional conditions or amendments are necessary.

pollutants would exceed City of Sydney targets and are therefore supported by the Department.

- DPI Crown Lands & Water and Primary Industries does not object to the modification, provided the mitigation measures relating to stormwater quality within the Statement of Commitments are implemented. The Department considers these measures generally acceptable.

Ecology

- The Proponent's Flora and Fauna Assessment finds the proposed modification is not likely to have adverse impacts on locally occurring flora and fauna, aquatic ecology or biodiversity values.
- Council notes the assessment does not provide substantive recommendations or identify opportunities to create habitat for known species of local conservation significance that utilise the harbour foreshore and there is no discussion of sea bed dredging to accommodate vessels.
- In relation to opportunities for creating habitat for known species of local conservation significance, the Flora and Fauna Assessment report states the site (both land and water) contains no land-based or aquatic habitat or marine vegetation. The Department therefore considers there is therefore no need to provide opportunities to create such habitat as part of this temporary use.
- The Department notes the Project Approval includes a condition prohibiting dredging and proposes to retain this.
- The Department considers the proposed amendments would have minimal or fewer additional impacts than those already assessed, and therefore considers the proposed modification acceptable.

The Department considers no additional conditions or amendments are necessary, noting the existing condition prohibiting dredging is proposed to be retained.

Signage

- The proposed modification includes two black vinyl business identification signs stating 'Blackwattle Bay Marina'. These would be situated on the western (1.3 m high x 3.4 m wide) and northern (measuring 1.3 m high x 4.2 m wide) elevations of the waste enclosure, having a total area of 9.9 m².
- The Department considers the proposed signage acceptable as it would not have an adverse visual impact.

The Department considers no additional conditions or amendments are necessary.

Security and Crime Prevention Through Environmental Design (CPTED)

- Concerns have been raised in public submissions about the adequacy of security protection for the ANZAC Bridge.
- The Proponent advises concealed security measures at the perimeter of the site would allow the ANZAC Bridge pylon to remain free of fencing.
- The Department notes the open space provided and nature of the land-based component (in that there would be a visible human presence during operating hours outside the buildings) would adequately provide for passive surveillance.
- The site is overlooked by several residences and is a relatively busy and visible area from both land and water. Further surveillance would be provided by the CCTV at the site perimeter and existing ANZAC Bridge pylon lighting.
- The Proponent originally proposed the erection of bollards, a low height concrete bench and concrete blocks on the western side of the driveway to assist in preventing unauthorised vehicles from accessing the area around the base of the ANZAC Bridge pylon.
- The Proponent has consequently provided amended plans to remove the bollards, concrete bench and bollards and replace them with gabion walls - cages filled with rocks or concrete. The gabion wall structure would consist of three tiers up to a height of up to 1.95m. A number of bollards are proposed to be maintained, but are only required to be low in height due to the gabion wall.
- Whilst the Department acknowledges there are some additional impacts on views to the water in terms of height and solidity, this is considered acceptable as it is concentrated in a smaller area,

The Department recommends the drawing schedule be updated to reflect the security design measures.

with protection no longer required to the open space in the north-west corner of the site, adjacent to Bank Street.

- The Department considers the proposed measures are adequate to separate the open space from the water-based component and the remainder of the land-based component adequate to provide security from vehicles.

Dragon boat storage

- Concerns have been raised in public submissions that there is no dragon boat storage provided in this proposed modification.
- The Department requested this be considered, however the Proponent stated this could not be provided given the space constraints and the temporary nature of the use.
- The Department notes the proposed modification is not permanent and the adjoining site could continue to be used for storage, and further notes the Master Plan to inform the Bays Market District Study must consider the provision of facilities for non-motorised vessel users.
- The Department therefore considers storage space for non-motorised vessels will be provided for in the permanent development of this area.

The Department considers no additional conditions or amendments are necessary.

Sydney Heritage Fleet

- In response to submissions raising concerns about the removal of the community and educational uses, the Department considers the modification would not preclude the Sydney Heritage Fleet from continuing its activities at its two current premises at Wharf 7, Pirrama Road, Pyrmont and at Rozelle Bay.
- Sydney Heritage Fleet has also advised the Department it has secured an alternate site.

The Department considers no additional conditions or amendments are necessary.

Operational Management

- The Department has assessed the primary impacts associated with the operation of the development earlier in this report. Where relevant, the Department has incorporated the requirements of government agencies, including RMS Maritime into the recommended conditions.
- Concerns have been raised in the public submissions that compliance will not be monitored, however the Department considers this will be managed by the Department's compliance team, who will become responsible for the enforcement of conditions of approval.
- The Department is satisfied that all other residual operational impacts of the proposed modification (air, odour etc.) would be minor and can be effectively managed in accordance with standard conditions.
- To ensure this is the case, the Department has formalised the requirement for an updated Operational Management Plan (OMP) into the recommended conditions, addressing:
 - governance and operational strategies for the precinct
 - roles and responsibilities of key personnel
 - hours of operation
 - all environmental management, mitigation, monitoring measures and response actions
 - all potential issues (traffic and transport, pedestrian access, noise and vibration, heritage and conservation, security and staff management, emergency evacuation and incident response, alcohol and food management, occupational health and safety, waste, lighting etc.)
 - community consultation and complaints management.
- The OMP would also incorporate a suite of other plans, including an updated Noise and Vibration Management Plan and updated Waste Management Plan and would be prepared in consultation with key government agencies such as Council, TfNSW and RMS to ensure all relevant issues are addressed.

The Department recommends conditions requiring the Proponent to:

- prepare an updated OMP in consultation with Council, TfNSW, and RMS.
- undertake a review of the Statement of Commitments following determination, which will incorporate a review of proposed management measures.

- The Department is satisfied the updated OMP and its associated sub-plans would provide a suitable framework for managing the potential on-going operational impacts of the proposed development.



7. Evaluation

The Department has assessed the merits of the proposed modification taking into consideration the issues raised in all submissions as well as the Proponent's response to these, and considers the impacts have been satisfactorily addressed by the proposed modification and through the Department's recommended conditions.

The Department notes the proposed change from a maritime facility for the storage and restoration of historic vessels to a commercial maritime operation would intensify the operational impacts of the project, however concludes the proposed modification is acceptable as it relates to an existing approval for the berthing of vessels and use of associated buildings of a smaller footprint, and is temporary in nature.

The Department considers the investigation of alternative sites has been satisfactorily undertaken and that this site is suitable for the proposed operation as it is appropriately zoned for uses on both land and water, and can provide public open space and foreshore access where it is currently not available.

The Department considers the changes to the built form of the proposed modification acceptable as it would reduce the bulk and scale of the approved development and therefore provide more open space on the site and reduce visual impacts.

The design of the public domain and foreshore area is also an acceptable interim solution that would sufficiently allow for pedestrian circulation and access to the foreshore and would not preclude the delivery of the Bays Waterfront Promenade intended as part of the Bays Precinct Transformation Plan. However, the Department does not agree to the removal of the Commission's condition requiring a 10 m wide foreshore promenade, and has recommended amended plans be prepared to ensure the driveway, ramp and associated landscaping are set back 10 m from the foreshore.

The Department considers the proposed modification is acceptable from a maritime navigation and safety perspective, with the Proponent having reorientated vessel berthing locations to minimise conflict with non-motorised vessel users using the launching ramp on the neighbouring site.

The Department considers the construction and operational noise impacts of the proposed modification acceptable. The Department also considers the traffic and car parking impacts acceptable.

The Department does not support the Proponent's request for a 10-year period, and considers a condition should be composed to limit the duration of the use to five years, in order to allow for the planned works in the Bays Precinct Transformation Plan to take place as scheduled, which could proceed following the finalisation of the Blackwattle Bay District rezoning, which is expected to be in late 2020/early 2021.

Key issues associated with the application have been assessed, and appropriate conditions recommended, where necessary to ensure the impact of the development is appropriately mitigated and/or managed. Key conditions recommended include:

- limit the operations on site to five years
- restrictions on construction and operating hours
- prevention of passengers embarking or disembarking at the site
- preparation of a Community Communication Strategy during the design and construction of the development and compliance reporting

- preparation of a Marine Traffic Management Plan in consultation with RMS Maritime and the Port Authority of NSW
- preparation of a Construction Environmental Management Plan, Construction Pedestrian Traffic Management Plan and Construction Noise and Vibration Management Plan
- preparation of an Operational Plan of Management.

The proposed modification assists in delivering the government's strategic aim of transforming the Bays Precinct and specifically, relocating the Sydney Fish Market through moving the Blackwattle Bay Marina to the subject site. The project therefore has broader public benefit.

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



8. Recommendation

It is recommended that the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **determine** the application MP 11_0001 MOD 3 falls within the scope of section 75W of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the modification application;
- **modify** the approval MP 11_0001;
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:

Cameron Sargent

Team Leader

Key Sites Assessments

Recommended by:

Ben Lusher

Director

Planning Frameworks

Recommended by:

Anthea Sargeant 10/12/18

Executive Director

Key Sites and Industry Assessments



9. Determination

The recommendation is **approved** by:



12/12/2011

Anthony Roberts

Minister for Planning



Appendices

Appendix A – List of Documents

The following supporting documents and information to this assessment report can be found on the Department of Planning and Environment's website as follows:

Environmental Assessment

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Submissions on Environmental Assessment

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Proponent's Response to Submissions/Preferred Project Report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Submissions on Proponent's Response to Submissions/Preferred Project Report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Proponent's Revised Response to Submissions/Revised Preferred Project Report – April 2018

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Further information in addition to Revised Preferred Project Report and Revised Response to Submissions - May 2018

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Additional further information in addition to Revised Preferred Project Report and Revised Response to Submissions – June 2018

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338

Appendix B – Consideration of Environmental Planning Instruments

To satisfy the requirements of section 75I(2)(d) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment of the project.

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy for the Remediation of Land (draft SEPP Remediation)
- State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment) (draft SEPP Environment)
- City of Sydney City Local Environmental Plan (SLEP) 2012.

Development standards contained within local environmental plans are not required to be strictly applied in the assessment and determination of major projects under section 75R Part 3A of the EP&A Act. Notwithstanding, the objectives of the above EPIs, relevant development standards and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment.

To satisfy the requirements of section 75I(2)(d) and (e) of the EP&A Act, this report includes reference to the provisions of the Environmental Planning Instruments that substantially govern the carrying out of the proposed modification and have been taken into consideration in the Environmental Assessment of the proposed modification.

State Environmental Planning Policy (State Significant Precincts) 2005

This SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State (State Significant Precincts) for the benefit of the State.

On 21 January 2011, the proposed modification was declared a Major Project under Part 3A of the EP&A Act, as it is development described in Schedule 2 of State Environmental Planning Policy (Major Development) 2005 (now State Environmental Planning Policy (State Significant Precincts) 2005), being development on a nominated Sydney Harbour Foreshore Site that has a capital investment value of more than \$5 million.

No further consideration of this SEPP is required.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP (ISEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant government agencies about certain development during the assessment process.

The proposed use does not trigger any of the referral or consultation requirements in this SEPP, including for land adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles (being the ANZAC Bridge).

The proposed modification is not considered traffic generating development under Schedule 3, having considered the following uses: commercial premises, transport terminals or tourist facilities.

The proposed modification is therefore not inconsistent with this SEPP, and the Department notes it has consulted with RMS on this proposed modification and the Proponent has consulted with RMS as the landowner.

State Environmental Planning Policy No. 55 - Remediation of Land

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application.

The Department has approved the Proponent's site audit statement and Remedial Action Plan (RAP), which involves the creation of a capping layer on top of the contaminated soil to provide a suitable physical barrier from future users of the site.

The existing approval contains a condition requiring the submission of a detailed site audit summary report and site audit statement and validation report to verify the land is suitable for the proposed use, prior to the issue of any Occupation Certificate. The Department considers the existing conditions acceptable for managing contamination impacts. The EPA's advice that a Section A Site Audit Statement be obtained prior to construction works commencing is therefore not considered necessary.

Draft State Environmental Planning Policy for the Remediation of Land

The Explanation of Intended Effect for the Draft State Environmental Planning Policy for the Remediation of Land seeks to update SEPP 55 and was on exhibition until 13 April 2018.

The Explanation of Intended Effect sets out the key changes proposed from SEPP 55 which largely relate to:

- categorisation of remediation works based on scale, risk and complexity
- more clearly specifying remediation works requiring development consent
- introducing certification and operational requirements for remediation works that can be undertaken without development consent
- requiring environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council.

The key operational framework of SEPP 55 is to be maintained in the new SEPP and new provisions are unlikely to significantly affect this application. As such, the Department considers the proposed development would be consistent with the intent of the Draft SEPP.

State Environmental Planning Policy No 33 – Hazardous and Offensive Development

State Environmental Planning Policy 33 – Hazardous and Offensive Development seeks to ensure the relevant authority has sufficient information to assess whether a development is hazardous or offensive, and if the development is found to be hazardous or offensive, to impose conditions to reduce or minimise any adverse impact.

The Proponent has prepared a Risk Screening in accordance with SEPP 33, which concludes the hazardous materials identified for storage (Liquefied Petroleum Gas and Carbon Dioxide gas cylinders) would not result in the proposed modification being considered a potentially hazardous industry. Therefore, a Preliminary Hazard Analysis is not required. The Department considers the proposed modification is acceptable in this regard.

State Environmental Planning Policy (Coastal Management) 2018

The State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP) commenced on 3 April 2018. The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The Coastal Management SEPP gives effect to the objectives of the *Coastal Management Act 2016* (NSW) from a land use planning perspective. It defines four coastal management areas and specifies assessment criteria that are tailored for each. The consent authority must apply those criteria when assessing proposed modifications for development that fall within one or more of the mapped areas.

The Coastal SEPP identifies the site as being located within the Coastal environment area and Coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, clauses 13 and 14 of the Coastal SEPP do not apply.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP) provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area, is in the foreshores and waterways area and is identified as a Strategic Foreshores Site. No items of heritage significance are identified within the site. The nearest item is the Glebe Island Bridge and its abutments, located to the north-west of the site.

The proposed modification is consistent with the aims of the plan as it:

- will not adversely affect the catchment, foreshores and waterways of Sydney Harbour. The proposed modification will provide public open space and waterfront access that will contribute to the use of Sydney Harbour as a public asset and the relocation of the marina will enable the development of the new Sydney Fish Market, which has broad public benefits.
- would be ecologically sustainable (noting the proposed temporary timeframe) and would not have adverse environmental impacts on either the land or water-based components of the site
- continues the use of the area as a working harbour without adverse impacts on the transport corridor.

Zone objectives

The water-based component of the site is identified as being located within the W1 Maritime Waters zone by the SHC SREP. Charter and tourism boating facilities are permissible with consent in the W1 Maritime Waters zone.

The proposed modification is consistent with the objectives of this zone as it:

- would be compatible with and not adversely affect the use of these waters for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations, as this marina currently operates within Blackwattle Bay and RMS Maritime and Ports have not raised objection with regard to navigational impacts
- would not have an adverse impact on other users in the waterway, including non-motorised vessels, as considered in **Section 6**. Further, the development would provide public access to the foreshore.

Matters for consideration

The proposed modification is consistent with the relevant matters for consideration for land within the foreshores and waterways area as it:

- would not have any adverse impacts on the biodiversity or ecology of the area, noting the site is not considered to have high environmental values. Water controls measures are proposed to reduce and control runoff from the site, removal of noxious species is proposed and the shading of aquatic habitat would be reduced compared to the approved project
- would maintain public access to the foreshore approved in the original application and provide public open space and not adversely impact on access to the waterway for recreational purposes. The proposed

boardwalk would not be provided below the mean high-water mark and the Department notes this access would be an interim measure until the Bays Waterfront Promenade is finalised.

- would minimise the disturbance of contaminated sediments
- continues the use of the area as a working harbour and caters for demand for charter and tourism boating facilities
- promotes equitable use of the waterway, including use by non-motorised vessels, and would not have adverse impacts on the wider use of the waterway subject to the measures proposed in the conditions
- would have an acceptable impact on the scenic quality of the waterway, noting the temporary nature of the proposed use and the improved impacts in this respect due to the change to floating from fixed pontoons
- would be consistent with the visual character of the working harbour and would have an acceptable impact on surrounding views, including of the heritage listed ANZAC Bridge pylon
- would not provide public boat storage facilities, however the Department considers this is acceptable due to the temporary nature of the proposed modification and the planned future use of the site in accordance with the Bays Precinct Transformation Plan.

Additional provisions

The proposed modification would be consistent with clause 33 'Commercial marinas within Zone No W1' as access to the commercial marina would not be provided on or across land within Zone No W2, W3, W7 or W8.

Under clause 41(1) of the SCH SREP, a master plan is required prior to the granting of consent to any development on a Strategic Foreshores Site. The Bank Street Pyrmont Master Plan 2006 was therefore adopted and remains in place. An assessment against the provisions of this Master Plan is made in the section below.

The Department has considered the proposed modification in relation to heritage impacts, as required by clause 59 and finds this proposed modification is acceptable, as discussed in **Section 6**.

Bank Street, Pyrmont Master Plan 2006

The Bank Street Precinct is bounded by the Sydney Fish Market to the south, Blackwattle Bay to the west, Bank Street to the east and the Glebe Island Bridge and Jackson's Landing to the north. The subject site is the north-western portion of land identified as Site 3 in the Master Plan being land owned by Roads and Maritime Services (RMS). This includes the subject site and the remainder of the undeveloped area further towards the head of Blackwattle Bay currently used for boat storage.

The Master Plan has the status of a Development Control Plan, and the provisions of the Master Plan do not take precedence over the zoning and related objectives applicable to the site under SLEP 2012 or SHC SREP.

The Master Plan assumes the subject site will be redeveloped as a public facility, with passive water access and identifies public recreation, non-motorised vessel launching/club facilities and open space being the desired future land-use character for the site. The Master Plan identifies potential facilities on the site (and the larger NSW Maritime site incorporating land currently used for boat storage to the south-east of the site) as being a ten-metre-wide foreshore promenade, landscaping and passive recreation facilities (e.g. children's play equipment and BBQ facilities), a boat ramp and storage for dragon boats, potentially within a two storey (7 m) high building.

The Department acknowledges the project introduces a use not anticipated by the Bank Street Master Plan, however considers the inconsistency with the Master Plan is acceptable for the following reasons:

- the project is temporary, whereas the Project Approval is for a permanent facility
- the proposed modification is permissible with consent under SLEP 2012 and the SHC SEPP

- the project provides for public access along the foreshore, consistent with the objectives of the Bank Street Master Plan. This access would be in a form which can be connected with adjoining lands as they are developed
- UrbanGrowth NSW has since prepared the Bays Precinct Transformation Plan to reflect the updated needs of the area and is undertaking masterplanning work for the broader area that must give consideration to the needs of recreational water users, in accordance with the study requirements issued by the Department.

Draft State Environmental Planning Policy (Environment)

The Explanation of Intended Effect for the draft Environment SEPP was exhibited from 31 October 2017 until 31 January 2018. The Environment SEPP proposes to simplify the planning rules for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The provisions of the SREP are proposed to be included in the Environment SEPP, which is currently in draft form. The provisions relevant to this proposed modification are largely proposed to remain unchanged.

The references in the aims of the plan to a working harbour are proposed to be amended to provide clarification of the importance of the role of recreational and tourism uses in a modern working harbour. The proposed development is consistent with these aims as would provide for both a charter and tourism boating facility and public open space.

The objectives for the W1 Maritime Waters zone will be updated to align with the relevant Standard Instrument zone W3 Working Waterways. The Department considers these objectives are currently closely aligned and therefore the proposed modification would be consistent with the future zone objectives.

The relevant matters for consideration and the general provisions relating to the Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposed development would be consistent with the intended effect of the Environment SEPP.

The Sydney Harbour Foreshores and Waterway Area DCP 2005 DCP is proposed to be transitioned into one or more guidelines that would cover the current content and provide updated guidance to consent authorities based on design principles and landscape character, however these guidelines are not currently in draft form.

Sydney Local Environmental Plan 2012 (SLEP 2012)

The SLEP 2012 aims to encourage the development of housing, employment, infrastructure and community services to meet the needs of the existing and future residents of the Sydney LGA. The SLEP 2012 also aims to conserve and protect natural resources and foster economic, environmental and social well-being.

While the proposed modification is a transitional part 3A project application rather than a Development Application, the Department considers it would be prudent to consider the provisions of SLEP 2012.

City of Sydney Local Environmental Plan 2012 applies to the site and the land component is zoned RE1 Public Recreation. The objectives of this zone are as follows:

- to enable land to be used for public open space or recreational purposes
- to provide a range of recreational settings and activities and compatible land uses
- to protect and enhance the natural environment for recreational purposes
- to provide links between open space areas
- to retain and promote access by members of the public to areas in the public domain including recreation facilities and waterways and other natural features.

The proposed use is defined as a charter and tourism boating facility and is permissible with approval in the RE1 Public Recreation zone. The use is consistent with the relevant zone objectives as it would include a public open space component for passive recreation use, would provide a land use that is compatible with the water-based component of the project and would enable links between the site and future open space areas envisaged for the Bays Market District. Further, the project would provide public access to the foreshore and would not hinder the existing access to the launching ramp for non-motorised vessels on the adjoining site.

The signage is considered ancillary to the charter and tourism boating facility, but the Department notes it is permitted with consent in the RE1 zone in SLEP 2012.

No maximum building height or floor space ratio applies to the site.

Clause 5.10 Heritage Conservation seeks to conserve the environmental heritage of particular items, conservation areas, archaeological sites and Aboriginal heritage. These matters have been considered in **Section 6** of this report and the Department considers the proposed modification would not have an adverse impact on heritage.

Clause 6.21 Design Excellence applies to the erection of a new building and states consent must not be granted to development unless it exhibits design excellence. The Department notes the proposed modification is a modification for an existing approval for a temporary use, although considers the relevant matters under this clause including site suitability, proposed uses, heritage, view impacts, built form and materials have been considered throughout **Section 6** of this report and deemed acceptable.

Clause 7.14 Acid Sulfate Soils aims to ensure development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The site is classified as having Class 1 and 2 lands under this clause. Relevantly to this development, due to the proposed cut and fill, consent is required for any works on Class 1 land and works below the natural ground surface on Class 2 land. The Department notes this was considered in the original application and considers the existing condition requiring an Acid Sulphate Soil Management Plan is adequate for the purposes of this matter and therefore should remain.

Clause 7.15 Flood Planning seeks to minimise flood risk to life and property, allow development that is compatible with the land's flood hazard, considering climate change, and to avoid adverse impact on flood behaviour and the environment. This clause applies to this site as it is below the 1 in 100-year flood planning level and requires the consent authority to be satisfied the above objectives are adhere to. The Department determines the development is acceptable in this regard.

Sydney Harbour Foreshores and Waterways Area DCP 2005

The site is within the defined Foreshores and Waterways Area under the SREP (Sydney Harbour Catchment) 2005 and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment, and design guidelines for development within the area.

The proposed modification complies with the objectives and requirements for water-based and land/water interfaces under the DCP as follows:

- public access to the waterway would be improved as a result of the proposed open space and foreshore walk. The proposed walkway would enable future linkages with the proposed Bays Waterfront Promenade
- the proposed modification would not adversely impact on non-motorised vessels, subject to conditions
- the reduction in building footprint compared to the original project would assist in minimising the cumulative impact of buildings on the environment of the Harbour
- the foreshore location is warranted in order for the marina business to function effectively.

The Department has considered the submitted Flora & Fauna Assessment and concludes the proposed modification would not result in detrimental impacts on the ecological communities within the study area of the site. As such, the proposed modification satisfies Part 2 (Ecological Assessment) of DCP 2005.

Part 4 of DCP 2005 identifies the design guidelines for land/water interface development and applies to commercial marinas. The proposed modification is consistent with the matters for consideration as it would not adversely impact on non-motorised vessel users, and as advised by RMS Maritime, would not result in congestion or conflicts on the waterway, subject to measures such as navigational aids proposed in the conditions.

Section 4.7 of the DCP lists numerous objectives and guiding principles that must be considered for marinas, relating to location, design and layout, facilities and services, visual impact, environmental management, and health and safety. The proposed modification generally meets the various objectives and principles. In particular, the proposed modification would provide a suitable location for the Blackwattle Bay Marina given the proposed Sydney Fish Market development. Further, the Department considers the proposed modification as an acceptable level of visual and acoustic impact and parking impacts can be addressed subject to conditions.

Accordingly, the proposed modification is considered consistent with the objectives and provisions of DCP 2005.

Appendix C - Notice of Modification

The Notice of Modification can be found on the Department of Planning and Environment's website as follows.

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8338