

# Modification 4 of the Sydney Heritage Fleet Facility

Modification Assessment Report (MP11\_0001 MOD 4)

April 2025



# Acknowledgement of Country

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

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Modification 4 of the Sydney Heritage Fleet Facility (MP11\_0001 MOD 4)  
Assessment Report

Published: April 2025

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# 1 Introduction

## 1.1 The proposal

On 26 March 2014, the Planning Assessment Commission (now Independent Planning Commission) granted approval to the construction and operation of the Sydney Heritage Fleet Facility (MP\_11\_0001) consisting of a water-based component with a fixed wharf and floating pontoons, and a land-based component with a two/three storey building to be used as a museum, community, and exhibition space.

The third modification to this approval (MOD 3) converted the approved Sydney Heritage Fleet Facility into a new charter and tourism boating facility known as the “Blackwattle Bay Marina”. The charter and tourism boating facility was conditioned to operate for a maximum of 5 years (ending on 11 August 2025) and included temporary buildings.

All Occasion Cruises Pty Ltd (the Applicant) is seeking to modify Condition A8 to remove the maximum 5-year time limit.

## 1.2 Project location

The site is located at 5-11 Bank Street, Pyrmont within the City of Sydney local government area (LGA). It is on the foreshore of Blackwattle Bay and wraps around the eastern pylon of the ANZAC Bridge beneath the bridge’s road deck.

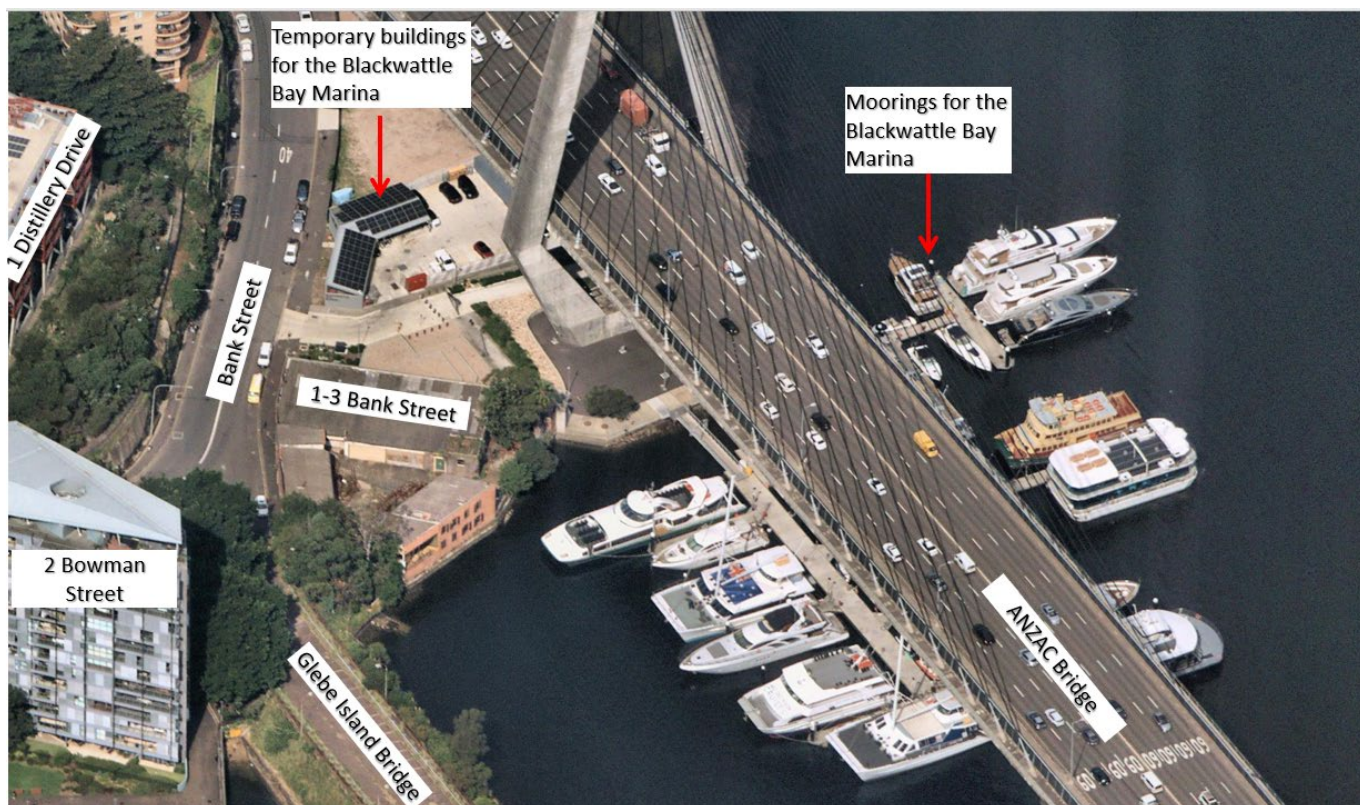
The site is legally described as part of Lot 20 in DP 803159 and part of Lot 5 in DP 1209992.

The site is surrounded by a range of existing buildings and temporary structures, including:

- high-density residential development to the north that has been constructed on a steep sandstone cliff, creating a significant level change between the site and the northern side of Bank Street
- four vacant buildings surrounding a central paved area to the north-west at 1-3 Bank Street
- a series of open boat storage racks and shipping containers to the south-east that provide storage and amenities for Dragon Boats NSW and 15 registered clubs
- a paved area to the south-east accommodating informal vehicle parking and storage racks and shipping containers used by the dragon boating clubs.

An aerial image of the site is provided at **Figure 1**, and site context images are provided at **Figure 2** to **Figure 3**.





**Figure 1** | Site location and context, looking south-east (Base source: Nearmap)



**Figure 2** | Existing temporary building for the Blackwattle Bay Marina looking north-east



**Figure 3** | Existing moorings under the ANZAC Bridge looking west

## 1.3 Related projects and works

### 1.3.1 Approval history

On 26 March 2014, the Planning Assessment Commission (PAC) approved a Project Approval application (MP 11\_0001) under (then) Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Project Approval permitted the construction of a permanent maritime facility used for the storage and restoration of Sydney Heritage Fleet's historic vessels.

The Project Approval was then modified on three occasions as summarised in **Table 1**. The Project Approval (as modified) has since been acted on, and the development has been operating.

**Table 1** | Summary of modifications

| Modification | Description                                                                                                                                                                                     | Decision-maker | Type        | Date              |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------|-------------------|
| <b>MOD 1</b> | Amendment of deferred commencement condition requiring remediation work to be completed prior to approval becoming operative, to allow remediation works to be carried out during construction. | Director       | Section 75W | 18 September 2015 |
| <b>MOD 2</b> | Amendment to the 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.            | Director       | Section 75W | 15 March 2017     |
| <b>MOD 3</b> | Amendment to the Project Approval to allow a temporary charter and tourism boating facility in-place of the approved permanent maritime facility.                                               | Minister       | Section 75W | 12 December 2018  |

### 1.3.2 Bank Street Park (SSD-53386706)

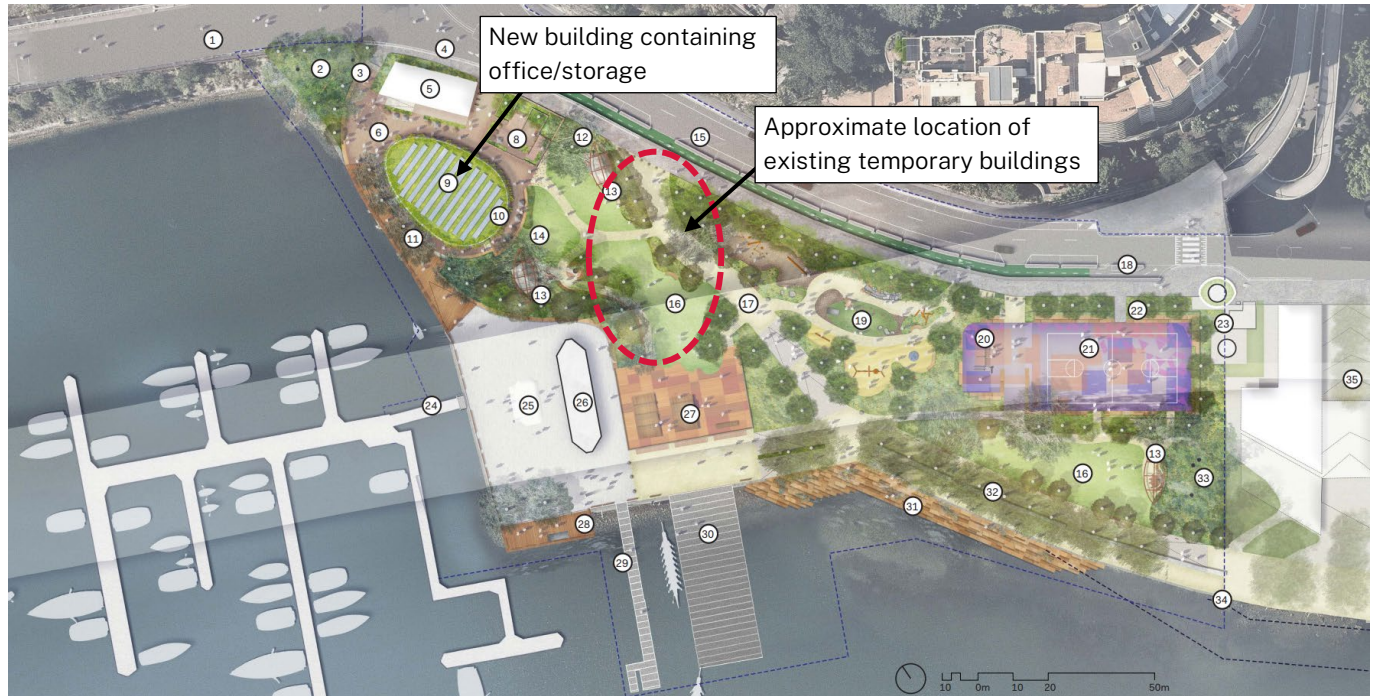
On 31 July 2024, the Director of Key Sites and TOD Assessments approved an SSD application under delegation from the Minister for Planning and Public Spaces for the redevelopment of a portion of the subject site and surrounding land to deliver a new public park and associated facilities.

The application will demolish the existing temporary building used as offices and storage by the tourism and charter boating facility at 5-11 Bank Street, and provide a new office and storage space as part of a new building at 1-3 Bank Street, Pyrmont (see **Figure 4**).



The SSD application does not modify or remove the existing moorings or any other waterside structures currently used by the charter and tourism boating facility, or amend the operational controls for the facility under the existing approval (MP11\_0001).

No works have commenced to demolish the existing Blackwattle Bay Marina office.



**Figure 4** | Bank Street Park layout (Source: SSD-53386706 with DPHI edits)

## 2 Proposed modification

### 2.1 Modification overview

The modification is outlined in the Modification Report at **Appendix A**.

The Applicant is requesting to amend Condition A8 so that:

- the waterside component of the facility is not restricted by the existing 5-year limit
- the landside component of the facility operates until such time as that land is required to deliver the approved Bank Street Park (SSD-53386706).

No changes are proposed to the built form or the day-to-day operations of the facility.

The Applicant's proposed wording is as follows; with the words to be deleted shown in ~~strike through~~ and the words to be inserted shown in **bold underlined**:

#### Limits on Approval

A8. ~~The operation of this approval from the commencement of the operation of this use is restricted to a maximum of five years.~~

**The operation of the land component on its current site (5-11 Bank Street) is restricted to such time as that land is required for the purposes of a public park and until such time that alternate land-based facilities are available at 1-3 Bank Street thereafter.**



# 3 Strategic context

## **Blackwattle Bay State significant precinct**

The site is located on the north-western edge of the Blackwattle Bay State significant precinct (SSP). The SSP was rezoned in December 2022 to facilitate a new mixed-use community, including buildings ranging from 6 storeys to 35 storeys around the foreshore that will provide 1,200 new apartments and 5,600 new jobs.

Updated planning and land use controls were incorporated into the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and the site-specific Blackwattle Bay Design Guidelines. Consequently, land to the east and south of the site was rezoned for either mixed uses or general residential.

The Blackwattle Bay Design Guidelines include a Precinct Plan that identifies the existing 'day charter marina' as forming part of the illustrative vision for the SSP. There are no further references to the intended future operation of the marina or the use of the existing moorings.

The landside components of the site will be used as a public park, consistent with the approved Bank Street Park SSD application.

## 4 Statutory context

### 4.1 Scope of modification and assessment pathway

Details of the legal pathway under which the modification is sought are provided in **Table 2** below.

**Table 2** | Permissibility and assessment pathway

| Consideration                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Power to modify</b>       | <p>This project was approved under section 75J of the EP&amp;A Act and was a transitional Part 3A project under Schedule 2 of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> (ST&amp;OP Regulation).</p> <p>Following amendments to the EP&amp;A Act and the commencement of the ST&amp;OP Regulation, the power to modify Part 3A project approvals under former section 75W is no longer available to modifications submitted after 1 March 2018.</p> <p>The project is declared to be SSD under Section 6 of Schedule 2 of the ST&amp;OP Regulation. The project approval has therefore become a development consent which can be modified under section 4.55 of the EP&amp;A Act.</p> |
| <b>Scope of modification</b> | <p>The Department has reviewed the scope of the modification and considers it can be characterised as a modification involving minimal environmental impact.</p> <p>The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&amp;A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&amp;A Act rather than requiring a new development application to be lodged.</p>                                                                                                                                                                                               |
| <b>Consent authority</b>     | <p>While the Planning Assessment Commission (now the Independent Planning Commission (IPC)) determined the original application, the consent authority for this modification application under section 4.5(a) of the EP&amp;A Act will be the Minister for Planning and Public Spaces.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Decision-maker</b>        | <p>The Minister's Instrument of Delegation dated 9 March 2022, and the Independent Planning Commission's Instrument of Delegation dated 14 June 2022 specify that the Director, Key Sites and TOD Assessments, may determine the application as:</p> <ul style="list-style-type: none"><li>• The application has not been made by a person who has disclosed a reportable political donation under Section 10.4 of the EP&amp;A Act in connection with the modification application.</li><li>• There are less than 15 public submissions by way of objection.</li></ul>                                                                                                                                                                                  |

| Consideration | Description                                                                                    |
|---------------|------------------------------------------------------------------------------------------------|
|               | <ul style="list-style-type: none"> <li>Council has not objected to the application.</li> </ul> |

## 4.2 Mandatory matters for consideration

### 4.2.1 Matters of consideration required by the EP&A Act

In determining the modification, the consent authority must take into consideration such of the matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for granting consent to the application that is being modified.

The Department's consideration of these matters is shown in **Table 3** below.

**Table 3** | Matters for consideration

| Matter for consideration                                                                                             | Department's assessment                                                                         |
|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <b>Environmental planning instruments, proposed instruments, development control plans &amp; planning agreements</b> | <b>Section 6</b> – Assessment, and <b>Appendix C</b> – Statutory Considerations.                |
| <b>EP&amp;A Regulation</b>                                                                                           | <b>Appendix C</b> – Statutory Considerations.                                                   |
| <b>Likely impacts</b>                                                                                                | <b>Section 6</b> – Assessment                                                                   |
| <b>Suitability of the site</b>                                                                                       | <b>Section 1</b> – Introduction, and <b>Section 6</b> – Assessment                              |
| <b>Public submissions</b>                                                                                            | <b>Section 5</b> – Engagement, and <b>Section 6</b> – Assessment                                |
| <b>Public interest</b>                                                                                               | <b>Section 5</b> – Engagement, <b>Section 6</b> – Assessment, and <b>Section 7</b> – Evaluation |
| <b>Reasons for granting consent</b>                                                                                  | <b>Appendix C</b> – Statutory Considerations.                                                   |

### 4.2.2 Objects of the EP&A Act

In determining whether or not to modify the consent, the consent authority should consider whether the modified project is consistent with the relevant objects of the EP&A Act (section 1.3) including

the principles of ecologically sustainable development. Consideration of those factors is described in **Appendix C**.

The Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

#### **4.2.3 Biodiversity development assessment report**

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017)

The modification does not seek to alter the built form or day-to-day operations of the site. The Department is, therefore, satisfied that the modification will not increase the impact on biodiversity values and consequently a BDAR is not required to accompany the modification application.

The application also does not require the concurrence of the Environment Minister under Section 7.14 of the BC Act.



# 5 Engagement

## 5.1 Department’s engagement

There are no notification requirements of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) for Section 4.55(1A) modifications.

The Department made the modification application publicly available on the NSW Planning Portal and issued the application to City of Sydney Council (Council) for comment.

The Department also issued written notice of the application to Infrastructure NSW (INSW) and surrounding landowners/occupiers and invited comments on the application between Thursday 6 June 2024 to Wednesday 19 June 2024.

### 5.1.1 Summary of Council/agency feedback

The Department received comments from Council and INSW, and their final advice has been summarised in **Table 4** below.

A link to the full copy of the advice is provided in **Appendix B**.

**Table 4 |** Summary of Council and agency advice

| Agency  | Feedback summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Council | Council considers a time-limited consent is still warranted while the Blackwattle Bay Precinct continues to evolve and would only support a further 5-year period being granted.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| INSW    | <ul style="list-style-type: none"><li>INSW is comfortable with an amendment to Condition A8 to enable a 12-month extension to the approval (until August 2026).</li><li>INSW requests the following condition:<br/><i>An updated Operational Management Plan must be prepared in consultation with INSW. The updated plan is to address any adaptations required to the marina operations during and after the construction of Bank Street Park (SSD 53386706). The updated Operational Management Plan must be endorsed by INSW and TfNSW within 4 months of the date of approval of this modification.</i></li></ul> |

### 5.1.2 Summary of public feedback

The Department received feedback from nine members of the public, including from the Pyrmont Action Group. Eight objections were received and one community member supported the application.

The key issues raised are summarised in **Table 5** below. A link to all feedback in-full is provided at **Appendix B**.

**Table 5** | Summary of public feedback

| Issue                       | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Objection</b>            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Mismanagement</b>        | <p>The existing facility operations have breached the conditions of consent in relation to:</p> <ul style="list-style-type: none"> <li>• Refuelling boats, and docking/undocking patrons on the site, which are prohibited activities under the consent.</li> <li>• Sewage pump-out not occurring correctly.</li> <li>• Parking more vehicles on site than the four permitted in the consent.</li> <li>• Mooring additional vessels than the 22 permitted in the consent.</li> <li>• Undertaking waste removal, loading, and maintenance activities outside of the approved hours.</li> <li>• Poor maintenance of landscaping and the site generally.</li> </ul> |
| <b>Strategic context</b>    | <ul style="list-style-type: none"> <li>• The Blackwattle Bay SSP proposed to move the marina south of Bank Street Park and convert the existing waterside facilities to a public marina.</li> <li>• The moorings must be converted to public use.</li> <li>• The charter vessels would be incompatible with the vision for the Bays Precinct.</li> </ul>                                                                                                                                                                                                                                                                                                         |
| <b>Operational concerns</b> | <ul style="list-style-type: none"> <li>• Concern for how sound equipment and party supplies etc will be transported through the site from new storage facilities in the Bank Street Park to the boats.</li> <li>• Patrons and staff will use on-street parking, contributing to congestion and demand.</li> </ul>                                                                                                                                                                                                                                                                                                                                                |
| <b>Planning matters</b>     | <ul style="list-style-type: none"> <li>• The wording of the proposed condition is open-ended and requires the landowner to find the operator an alternative premises before they can redevelop the site.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Support</b>              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Operations</b>           | <ul style="list-style-type: none"> <li>• The continued operation of facilities provides services to support boating and recreational activities and local businesses, employment, and tourism.</li> <li>• Continuous operations provide stability to employees and clients.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                           |

## 6 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification applications and associated documents.
- the Environmental Assessment and conditions of approval for the original application.
- relevant environmental planning instruments, policies, and guidelines.
- the requirements of the EP&A Act and Regulation.
- the advice of Council and INSW and the public feedback.

The Department considers the key issues associated with the project to be site and land use compatibility and the operation of the existing facility. Further assessment of the relevant legislation is provided in **Appendix C**.

**Table 6 | Department's consideration of key matters**

| Issue                                  | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Recommended conditions                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Site and land use compatibility</b> | <ul style="list-style-type: none"> <li>• Public submissions raised concerns that the charter and tourism boating facility was not compatible with the strategic vision for the site.</li> <li>• Council supported a further 5-year operational period for the facility while the Blackwattle Bay SSP would continue to evolve.</li> <li>• INSW supported a 12-month extension if an updated Operational Management Plan was prepared addressing how the waterside component of the facility could continue to operate while Bank Street Park and the new permanent building for the facility were being delivered.</li> <li>• In response, the Applicant noted the facility contributes to the tourist and visitor economy, and it is compatible with the desired future character of the site and surroundings. The Applicant also provided evidence to the Department that an updated management plan was being progressed with INSW and TfNSW. The Applicant's lease with TfNSW would enable a 15-year operational period.</li> </ul> | <p>The Department recommends:</p> <ul style="list-style-type: none"> <li>• Condition E23 be inserted requiring the Operational Management Plan be updated to address the delivery of Bank Street Park.</li> <li>• Condition A8 be deleted, and two new conditions inserted to permit a 12-month extension to the landside component of the development and noting that (where required) separate approval must be obtained for any temporary structures.</li> </ul> |

| Issue                                     | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Recommended conditions                                                                                                                                                                               |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                           | <ul style="list-style-type: none"> <li>• The Department has considered the submissions received and the Applicant's response and considers the facility to be generally compatible with the strategic vision for this area.</li> <li>• The Department acknowledges that the surrounding area will change in the next 5+ years in accordance with the vision set under the Blackwattle Bay SSP. However, the facility is bordered by the new Bank Street Park, which has been intentionally designed to incorporate the marina. Accordingly, the Department accepts that the continued operation of the facility would not adversely impact or conflict with the desired future character of the area.</li> <li>• The Department recommends the following: <ul style="list-style-type: none"> <li>– insert a new condition (Condition E23) that an updated Operational Management Plan be endorsed by INSW and TfNSW and approved by the Planning Secretary within six months.</li> <li>– delete Condition A8 to remove the temporary operational period as it applies to the waterside component and insert two new conditions (A8.1 and A8.2) permitting a 12-month extension to the landside component and requiring that the Applicant seek consent for any temporary structures.</li> </ul> </li> </ul> |                                                                                                                                                                                                      |
| <b>Operation of the existing facility</b> | <ul style="list-style-type: none"> <li>• INSW and a number of public submissions raised concerns about the operation of the existing facility and identified potential non-compliance with the conditions of consent.</li> <li>• Council and the Department's Compliance team confirmed they had not received any complaints regarding the existing facility.</li> <li>• The Applicant states compliance issues are not relevant to the administrative changes proposed in Mod 4, which does not change the operational conditions or any other environmental conditions.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>The Department recommends imposing a new condition (Condition E24) requiring the Applicant maintain a complaints register and that this register be periodically submitted to the Department.</p> |

| Issue | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Recommended conditions |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
|       | <ul style="list-style-type: none"> <li>The Department acknowledges the concerns raised in submissions and recommends that a new condition (Condition E24) be imposed requiring the Applicant to maintain a complaints register. The complaints register is to be provided to the Planning Secretary every six months for a three-year period, including a summary of the main areas of any complaints, the actions taken to resolve them, and the proposed strategies for reducing the recurrence of such complaints.</li> </ul> |                        |



## 7 Evaluation

The Department has reviewed the modification application and comments from Council, INSW and the public, taking into consideration the relevant matters under section 4.15 of the EP&A Act and the objects of the EP&A Act.

The Department's assessment concludes the proposal is acceptable, subject to conditions, as:

- the operation of the facility is substantially the same as MP 11\_0001 MOD 3
- the modification continues to comply with the relevant statutory provisions and remains consistent with the relevant EPIs
- the modification does not seek to amend the built form or operation of the site and would not result in any significant new environmental impacts
- an updated Operational Management Plan ensures the operation of the existing facility can be coordinated with, and does not prevent, the delivery of the approved Bank Street Park, and
- the complaints register ensures the Applicant can continue to address and improve the operation of the existing facility.

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

## 8 Recommendation

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

- **Considers** the findings and recommendations of this report.
- **Accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification.
- **Modifies the consent** for the Sydney Heritage Fleet Facility (MP 11\_0001 MOD 4) as amended, subject to the conditions in the attached instrument of modification.
- **Signs** the attached instrument of modification (**Appendix D**).

Recommended by:



**Anna Nowland**  
Principal Planning Officer  
Key Sites and TOD Assessments

Recommended by:



**Cameron Sargent**  
Team Leader  
Key Sites and TOD Assessments

## 9 Determination

The recommendation is **adopted** by:



8 April 2025

**Anthony Witherdin**

Director

Key Sites and TOD Assessments

# Glossary

| Abbreviation                 | Definition                                                                                         |
|------------------------------|----------------------------------------------------------------------------------------------------|
| <b>Council</b>               | City of Sydney Council                                                                             |
| <b>Department</b>            | Department of Planning, Housing and Infrastructure                                                 |
| <b>EP&amp;A Act</b>          | <i>Environmental Planning and Assessment Act 1979</i>                                              |
| <b>EP&amp;A Regulation</b>   | Environmental Planning and Assessment Regulation 2021                                              |
| <b>EPI</b>                   | Environmental planning instrument                                                                  |
| <b>ESD</b>                   | Ecologically sustainable development                                                               |
| <b>IPC</b>                   | Independent Planning Commission                                                                    |
| <b>LGA</b>                   | Local government area                                                                              |
| <b>LEP</b>                   | Local environmental plan                                                                           |
| <b>Minister</b>              | Minister for Planning and Public Spaces                                                            |
| <b>PAC</b>                   | The former Planning Assessment Commission, which is now the IPC                                    |
| <b>Planning Systems SEPP</b> | State Environmental Planning Policy (Planning Systems) 2021                                        |
| <b>Secretary</b>             | Secretary of the Department of Planning, Housing and Infrastructure                                |
| <b>SEPP</b>                  | State environmental planning policy                                                                |
| <b>SSD</b>                   | State significant development                                                                      |
| <b>ST&amp;OP Regulation</b>  | Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 |
| <b>TfNSW</b>                 | Transport for NSW                                                                                  |

# Appendices

## Appendix A – List of referenced documents

The Modification Assessment report and other referenced documents can be found on the Department of Planning, Housing and Infrastructure's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-operation-marina>

## Appendix B – Submissions and government agency feedback

All submissions and government agency advice can be found here on the Department of Planning, Housing and Infrastructure's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-operation-marina>



## Appendix C – Statutory considerations

### Objects of the EP&A Act

A summary of the Department's consideration of the relevant objects (found in section 1.3 of the EP&A Act) are provided in **Table 7** below.

**Table 7 | Objects of the EP&A Act and how they have been considered**

| Object                                                                                                                                                                                                  | Consideration                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</b>      | The ongoing use of the existing charter and tourism boating facility does not impact the social and economic welfare of the community, noting that no modification is proposed to the approved built form or day-to-day operations of this facility. The modified and existing conditions of consent ensure the proper management of the site.                                                                                       |
| <b>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</b> | The modification does not seek to change the approved development's response to ESD.                                                                                                                                                                                                                                                                                                                                                 |
| <b>(c) to promote the orderly and economic use and development of land,</b>                                                                                                                             | <p>The modification enables the continued operation of the existing facility while the urban renewal and desired future character for Blackwattle Bay is further realised.</p> <p>Delivery of the new Bank Street Park (SSD-53386706) would be coordinated between INSW and TfNSW and the facility operator, including the demolition of any existing temporary structures and the delivery of the new office and storage space.</p> |
| <b>(d) to promote the delivery and maintenance of affordable housing,</b>                                                                                                                               | No housing is proposed.                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</b>                              | The Department is satisfied there will be no additional biodiversity impacts beyond those previous assessed and considered under the original approval.                                                                                                                                                                                                                                                                              |

| Object                                                                                                                                                     | Consideration                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</b>                                  | The Department is satisfied there will be no additional heritage impacts as a result of the modification.                                                                                                                                   |
| <b>(g) to promote good design and amenity of the built environment,</b>                                                                                    | The modification does not seek to change the existing built form on the site.                                                                                                                                                               |
| <b>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</b>          | The construction of the charter and tourism boating facility is complete, and the maintenance of buildings would occur in accordance with the existing conditions of consent or relevant building codes and health and safety requirements. |
| <b>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the state,</b> | The Department consulted with Council and INSW during the assessment of the application.                                                                                                                                                    |
| <b>(j) to provide increased opportunity for community participation in environmental planning and assessment.</b>                                          | Section 5 of this report sets out details of the Department's engagement and the submissions received.                                                                                                                                      |

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) and (3) of the EP&A Act is included in **Table 8** below.

**Table 8** | Consideration of Section 4.55(1A) and (3) of the EP&A Act

| Section                                                                                           | Assessment                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Section 4.55(1a)</b><br><b>a) The proposed modification is of minimal environmental impact</b> | The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minimal environmental impact. The modification does not seek to alter the built form or day-to-day operations of the facility. |

| Section                                                                                                                                                                                                                                                                                                                                                            | Assessment                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| b) The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified                                                                                                                                           | Schedule 2, Section 3BA(6) of the ST&OP Regulation specifies that the development is to be substantially the same as that development last modified under Section 75W. The Department is satisfied that the operation of the facility is substantially the same as MP 11_0001 MOD 3.                                                                                                                                                     |
| c) The application has been notified in accordance with the regulations                                                                                                                                                                                                                                                                                            | <p>No notification is required for Section 4.55(1A) application under the EP&amp;A Regulation. Notwithstanding this, the Department made the modification application publicly available on the NSW Planning Portal and forwarded the application to Council for comment.</p> <p>The Department also issued written notice of the application to INSW and surrounding landowners /occupiers and invited comments on the application.</p> |
| d) Any submission made concerning the proposed modification has been considered.                                                                                                                                                                                                                                                                                   | The Department has considered the matters raised in submissions in the assessment at <b>Section 6</b> .                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Section 3</b></p> <p>The consent authority must take into consideration the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.</p> | <p>The Department has addressed Section 4.15 of the EP&amp;A Act at <b>Section 4.2.1</b> of the report.</p> <p>The Department has also considered the reasons given for determining the consent that is being modified and considers the modification would not substantially alter these reasons. This includes that the development will not impact the broader strategic urban renewal of Blackwattle Bay.</p>                        |

## Appendix D – Recommended instrument of modification

The modification instrument can be found on the Department of Planning, Housing and Infrastructure's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-operation-marina>