

Bank Street Park
Blackwattle Bay / Tjerruing

SSD-53386706

Appendix B

Statutory Compliance Table (Architectus)



December 2023

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30 November 2023

Revision history

Issue Reference	Issue Date	Issue Status
A	07/11/2023	Preliminary Draft to Client
B	16/11/2023	Draft
C	17/11/2023	Test of Adequacy
D	30/11/2023	Final Draft
E	30/11/2023	Final

File Ref: \\architectus.local\DFS\Projects\220576.00\Docs\C_Client\C05_REPT\EIS\Appendix D_Community Engagement

Acknowledgement of Country

Architectus acknowledges the Australian Aboriginal and Torres Strait Islander peoples of this nation as the Traditional Custodians of the lands on which we live and work.

We pay our respects to Elders, past and present and emerging.

Architectus is committed to honouring Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters, and seas and their rich contribution to society.

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1. Statutory Requirements

To satisfy the requirements of Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), this EIS addresses the statutory requirements governing the carrying out of the project and have been taken into consideration in the environmental assessment of the proposed development.

The statutory requirements that have been assessed against the proposed development are:

- Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act);
- EP&A Act 1979;
- Environmental Planning and Assessment Regulation 2021 (EP&A Regulation);
- Biodiversity Conservation Act 2016;
- Heritage Act 1977;
- Roads Act 1993;
- Fisheries Management Act 1994;
- Marine Safety Act 1998 (Ports and Maritime Administration Regulation 2012);
- Water Management Act 2000;
- State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP);
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP);
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP);
- State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP);
- State Environmental Planning Policy (Industry and Employment) 2023;
- Sydney Local Environmental Plan 2012 (SLEP 2012); and
- Blackwattle Bay Design Guidelines.

1.1 Crown Development Application

This development is a Crown development application because it is a development application made by or on behalf of the Crown. The Crown in this context includes a public authority (not being a council). Infrastructure NSW is a public authority.

2. Compliance with Controls

2.1 Environment Protection and Biodiversity Conservation Act 1999

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) provides legislation for the protection of environments of national environmental significance. Under the EPBC Act, the Commonwealth Environment Minister needs to approve any development that is likely to have a significant impact on Matters of National Environmental Significance (MNES). Should such an impact, as defined in the EPBC Act Policy Statement 1.1 – Significant Impact Guidelines (Department of the Environment 2013), be likely, the preparation and submission of a Referral is required. MNES relevant to this study includes threatened ecological communities, flora and fauna species and migratory species that are listed under the Act.

Marine Ecology

A response to the EPBC Act is provided in the Marine Ecology Assessment prepared by Eco Logical at **Appendix AS**. The report concludes the proposed development will not have a significant impact on any aquatic threatened species, population or community.

Terrestrial Ecology

For terrestrial matters, refer to the Biodiversity Development Assessment Report (BDAR) (ELA 2023) at **Appendix AP**.

Three Matters of National Environmental Significance (MNES) listed under the EPBC Act were identified, Bar-tailed Godwit, Curlew Sandpiper and Grey-headed Flying-fox. Assessments of significance were undertaken for these MNES in accordance with Significant impact guidelines 1.1 (Commonwealth of Australia, 2013). These assessments concluded that the proposed works are unlikely to have a significant impact on these species.

2.2 Environmental Planning and Assessment Act 1979

Objects of the Environmental Planning and Assessment Act 1979

A response to the objects of the EP&A Act is provided at **Table 1**.

Table 1 Objects of the Act

Objects of the EP&A Act	Response
<i>(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,</i>	The proposed park will promote the social welfare of the community, by providing much needed open space, recreational facilities and amenities for surrounding residents, and visitors. The site's natural resources will be improved with extensive native planting and aquatic habitat restoration.
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	Ecologically sustainable development (ESD) principles have been embedded in the project. The sustainability ethos of the proposed development is structured around five core principles that underscore a commitment to meaningful and enduring sustainability: <ul style="list-style-type: none"> – Net Zero Carbon – Resilient and Adaptable – Biodiverse and Regenerative – Integrated Mobility – Healthy and Inclusive Refer to the Sustainability Strategy at Appendix AQ .
<i>(c) to promote the orderly and economic use and development of land,</i>	The proposed development is an orderly and economic development and use of the land. The proposed open space is zoned for the purpose of

Objects of the EP&A Act	Response
	public recreation and is needed to support the existing community and proposed development of Blackwattle Bay.
<i>(d) to promote the delivery and maintenance of affordable housing,</i>	This item is not relevant to the proposed development.
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	<p>Impacts to flora and fauna have been considered in the BDAR at Appendix AP and the Marine Ecology Assessment at Appendix AS. Threatened species will be protected and habitat will be restored.</p> <p>Impacts of tree and vegetation removal has additionally been addressed through the Arboricultural Impact Assessment at Appendix AO.</p>
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	<p><u>Aboriginal heritage</u></p> <p>An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared by GML is appended at Appendix Q to the EIS which confirmed the identification of archaeological deposit within the site, the potential for additional areas of potential archaeological deposit (PAD) and aboriginal values associated with the site.</p> <p>GML recommend that staged Aboriginal heritage management strategies be followed for the Bank Street site, involving impact avoidance where possible, archaeological monitoring in areas of potential impact to potential deposits with PAD, and further Aboriginal archaeological investigation in the instance of identification unexpected finds or areas of PAD within the impact area.</p> <p><u>Built heritage</u></p> <p>A Statement of Heritage Impact (SOHI) was prepared by GML at Appendix O. This finds 1–3 Bank Street has heritage significance at a local level as a rare example of an early twentieth-century maritime industrial complex in Blackwattle Bay.</p> <p>The proposal will demolish Buildings A, B and C of 1–3 Bank Street and adaptively reuse Building D. This will have a major adverse impact on the assessed heritage significance of the complex.</p> <p>GML considers the impacts of the proposal to be acceptable from a heritage perspective. This is in light of the constraints on retaining the buildings and the low significance of Building C and Building B’s poor viability for re-use. Retention of Building A would also place significant constraints on the design of the park and impede the achievement of several key project objectives.</p> <p><u>Historical archaeology</u></p> <p>A Historical Archaeological Assessment (HAA) was prepared by GML at Appendix S.</p> <p>This finds the proposed development has potential to impact on archaeology of local significance. An archaeological research design and excavation</p>

Objects of the EP&A Act	Response
	<p>methodology (HARDEM) has been prepared and included in the HAA to guide development.</p> <p><u>Maritime archaeology</u></p> <p>A Maritime (underwater) Archaeological Assessment has been prepared by Comber Consultants at Appendix U.</p> <p>This finds the risk of significant heritage impacts is assessed as low. However, in the absence of seabed physical or remote sensing survey data, it cannot be currently established whether evidence of those earlier wharves is still present or the degree of impact from the proposed works.</p> <p>It is therefore recommended that:</p> <ol style="list-style-type: none"> 1. a survey in the form of (a) an archaeological dive inspection or (b) shallow water side scan sonar is undertaken prior to the commencement of disturbance of the harbour bed. 2. This report should then be reviewed and updated to include the results of the above geophysical data/dive survey
<p><i>(g) to promote good design and amenity of the built environment,</i></p>	<p>The proposed design of the park has been subject to a Design Excellence Strategy (refer Appendix L), whereby various design excellence measures were incorporated, such as State Design Review Panel (SDRP) members involvement in the tender selection process. The design has also evolved with SDRP oversight and an extensive community consultation process regarding the park options. The amenity of the park has been ensured through social infrastructure needs assessment, targeted consultation with stakeholders, and the broader consultation process on development options for the park.</p>
<p><i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i></p>	<p>The proposed development will promote proper construction and maintenance of the buildings. Former Building D will be adaptively reused for amenities and storage as part of the proposed works. It is noted in the Hazardous Building Materials Assessment at Appendix AV, that low risk, friable asbestos was identified in the form of paper backed sheet vinyl within the existing Building D kitchen. Mitigation measures have been proposed to ensure this material is treated correctly within the demolition and construction stages. Refer to Appendix AV for further detail.</p>
<p><i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i></p>	<p>Consultation has been undertaken with relevant state agencies and the City of Sydney Council and consideration of their responses incorporated into the design. Refer to the EIS and a community engagement summary at Appendix D.</p>
<p><i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i></p>	<p>Extensive consultation has been undertaken with the community as part of the Blackwattle Bay State Significant Precinct Study, and consultation for the park on development options.</p>

Section 4.15(1) Matters for Consideration

Section 4.15(1) of the EP&A Act identifies the matters for consideration that apply to State Significant Development (SSD) in accordance with section 4.40 of the EP&A Act. **Table 2** represents a summary for which additional information and consideration is provided in **Section 4** of the EIS and relevant appendices.

Table 2 Section 4.15(1) EP&A Act matters for consideration

Section 4.15(1) EP&A Act Evaluation	Consideration
<i>(a)(i) any environmental planning instrument</i>	Satisfactorily complies. Consideration of the relevant Environmental Planning Instruments (EPIs) is provided from Section 2.10 to Section 2.16 below.
<i>(a)(ii) any proposed instrument</i>	There are none of relevance to the proposal.
<i>(a)(iii) any development control plan (DCP)</i>	Under Section 2.10(a) of the Planning Systems SEPP, DCPs do not apply to SSD. Moreover, the Blackwattle Bay Design Guidelines have been prepared for the Blackwattle Bay State Significant Precinct in support of Sydney LEP 2012 and in lieu of Sydney DCP 2012.
<i>(a)(iii) any planning agreement</i>	<p>There are no Planning Agreements which apply to the land, however INSW is currently negotiating a Planning Agreement with DPE as part of the broader urban renewal of the Blackwattle Bay Precinct.</p> <p>The Planning Agreement is proposed to be attached to the title(s) of the existing Sydney Fish market site and includes the delivery of a range of infrastructure, including Bank Street Park. Under the Planning Agreement, INSW have proposed to deliver much of the public domain in the broader precinct, including Bank Street Park, prior to occupation of the first residential and/or commercial development on the existing Fish Markets site. This is to ensure the early delivery of public benefits.</p> <p>DPE has provided draft terms to INSW for review, with a view to the agreed document being exhibited imminently.</p>
<i>(a)(iv) the regulations</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation. Refer Section 2.3 .
<i>(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i>	The impacts of the proposed development have been assessed (refer Section 6 of EIS) and appropriately mitigated (refer Appendix D for mitigation measures).
<i>(c) the suitability of the site for the development</i>	The site is suitable for the development as discussed in Section 6 of the EIS.
<i>(d) any submissions</i>	Consideration has been given to the submissions received during the community consultation period. Refer to Section 5.4 of EIS which summarises issues raised by community members.
<i>(e) the public interest</i>	Refer to Sections 3, 7 and 8 of the EIS.

Section 4.38(3) of EPA Act

Section 4.38(3) of the EPA Act provides that development consent may be granted despite the development being partly prohibited by an environmental planning instrument.

There are two matters which may require reliance on Section 4.38(3) of the EPA Act. These are:

- Clause 6.18 ‘Overshadowing of Certain Public Places’ of SLEP2012.
- The office component of the community building is ancillary to the dominant purpose of the proposal, being a *recreation area*. The office is also ancillary to the existing marina, which is situated adjacent to the proposed building and is subject to a separate development consent. Notwithstanding and for the avoidance of doubt, Section 4.38(3) of the EP&A Act could also provide allows for development consent to be granted for this component of the development.

These are addressed further at Section 2.16 below.

2.3 Environmental Planning and Assessment Regulation 2021

The EIS has addressed the criteria within Sections 190, 191 and 192 of the EP&A Regulation.

Table 3 Section 190 of EPA Regulation

Section 190 of EPA Regulation	Response
<p>(a) <i>the name, address and professional qualifications of the person who prepared the statement,</i></p> <p>(b) <i>the name and address of the responsible person,</i></p> <p>(c) <i>the address of the land—</i></p> <p>(i) <i>to which the development application relates, or</i></p> <p>(ii) <i>on which the activity or infrastructure to which the statement relates will be carried out,</i></p>	<p>Statement of veracity on page 1 of EIS.</p>
<p>(d) <i>a description of the development, activity or infrastructure,</i></p>	<p>Section 3 of EIS.</p>
<p>(e) <i>an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.</i></p>	<p>Sections 4 and 6 of EIS.</p> <p>Appendix B Statutory Compliance Tables (this document)</p>
<p>(2) <i>The person preparing the statement must have regard to—</i></p> <p>(a) <i>for State significant development—the State Significant Development Guidelines, or</i></p> <p>(b) <i>for State significant infrastructure—the State Significant Infrastructure Guidelines.</i></p>	<p>The EIS has been prepared in accordance with the SSD Guideline.</p>
<p>(3) <i>An environmental impact statement must also contain a declaration by a relevant person that—</i></p> <p>(a) <i>the statement has been prepared in accordance with this Regulation, and</i></p> <p>(b) <i>the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and</i></p> <p>(c) <i>the information contained in the statement is not false or misleading, and</i></p>	<p>Statement of veracity on page 1 of EIS.</p>

(d) for State significant development or State significant infrastructure—the statement contains the information required under the Registered Environmental Assessment Practitioner Guidelines.

Refer to **Appendix A** for an outline of how the SEARs have been addressed within the EIS and subsequent consultant deliverables (s190 of EPA Regulation).

Table 4 Section 192 of EPA Regulation

Section 192 of EPA Regulation	Response
<i>(a) a summary of the environmental impact statement,</i>	Executive Summary of EIS
<i>(b) a statement of the objectives of the development, activity or infrastructure,</i>	Section 3.4 of EIS
<i>(c) an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,</i>	Sections 2.6 and 2.7 of EIS
<i>(d) an analysis of the development, activity or infrastructure, including—</i>	-
<i>(i) a full description of the development, activity or infrastructure, and</i>	Section 3 of EIS
<i>(ii) a general description of the environment likely to be affected by the development, activity or infrastructure and a detailed description of the aspects of the environment that are likely to be significantly affected, and</i>	Section 2 of EIS
<i>(iii) the likely impact on the environment of the development, activity or infrastructure, and</i>	Section 6 of EIS
<i>(iv) a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and</i>	Appendix C Mitigation Measures
<i>(v) a list of the approvals that must be obtained under another Act or law before the development, activity or infrastructure may lawfully be carried out,</i>	Section 4 of EIS and below sections
<i>(e) a compilation, in a single section of the environmental impact statement, of the measures referred to in paragraph (d)(iv),</i>	Appendix C Mitigation Measures
<i>(f) the reasons justifying the carrying out of the development, activity or infrastructure, considering biophysical, economic and social factors, including the principles of ecologically sustainable development set out in section 193.</i>	Sections 6.16 and 7 of EIS 'Ecologically Sustainable Development' below.

Ecologically Sustainable Development

The proposed development is consistent with ESD principles of s193 of the EPA Regulation, as outlined in the Sustainability Strategy prepared by Atelier Ten at **Appendix AQ**.

Table 5 Section 193 of EPA Regulation

Section 193 of EPA Regulation	Response
<i>(a) the precautionary principle,</i>	There is no threat of serious or irreversible environmental damage, with the sustainability approach and strategy focusing on environmental remediation and preservation of existing ecology and habitats.
<i>(b) inter-generational equity,</i>	The sustainability strategy implements strategies that greatly improves the health, diversity and productivity

Section 193 of EPA Regulation	Response
	of the environment for future generations to benefit from, aligning with precinct and government documents that aim to improve the environment and create sustainable environments and places for future generations.
<i>(c) conservation of biological diversity and ecological integrity,</i>	Biological diversity is considered through the sustainability strategy at Appendix AQ of the EIS which aims to promote existing biodiversity such as native vegetation types, migratory birds, mammals and aquatic life through the initiatives recommended. Ecological integrity is also considered in the sustainability strategy with recommendations such as retaining significant trees.
<i>(d) improved valuation, pricing and incentive mechanisms.</i>	Having a comprehensive sustainability strategy in place, coupled with a strong emphasis on positive sustainability outcomes, will facilitate the development of improved valuation, pricing, and incentive mechanisms. Thereby enhancing the economic viability and long-term value proposition of Bank Street Park.

2.4 Biodiversity Conservation Act 2016

Under section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act), SSD applications are *“to be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values”*.

Refer to **Section 6** of the EIS for impact assessment and the BDAR prepared by Eco Logical at **Appendix AP**.

2.5 Heritage Act 1977

The site for Bank Street Park contains two listed heritage items, Anzac Bridge (State agency’s S170 heritage and conservation register) and Glebe Island Bridge (State Heritage Register).

The SoHI at **Appendix O** concludes:

- The proposal will result in a neutral impact to Anzac Bridge;
- The proposal will result in a neutral impact to the setting of Glebe Island Bridge; and
- The proposal will have a neutral impact to heritage items in the vicinity of the site.

2.6 Roads Act 1993

Under Section 138 of the Roads Act 1993, *“a person must not erect a structure or carry out a work in, on or over a public road otherwise than with the consent of the appropriate roads authority”*.

The proposed development seeks to deliver works to Bank Street road reserve and around the Anzac Bridge pylons, including:

- Road space reallocation to provide separated cycleway;
- Cycleway transition to Bank Street to continue south as part of future works;
- Reinstatement of existing on-street parallel parking;
- Tree planting;
- Paving around Anzac Bridge pylon;

- Accessible parking space; and
- Loading zone adjacent 1-3 Bank Street.

Schedule 2, Part 2, Division 1, clause 5(1) of the Roads Act, states that Section 138 does not require a public authority to obtain a roads authority's consent to the exercise of the public authority's functions in, on or over an unclassified road, other than a Crown road.

Notwithstanding, INSW has consulted with the City of Sydney, as the roads authority, in relation to the proposed works to Bank Street. Transport for NSW has also been consulted on works in the vicinity of the Anzac Bridge pylons.

2.7 Fisheries Management Act 1994

The Fisheries Management Act 1994 (FM Act) is the principal piece of legislation protecting aquatic habitat in NSW. The act aims to conserve fish stocks, key fish habitat (KFH), aquatic vegetation, and threatened species, populations and communities. Threatened aquatic species, populations and communities are listed under Schedules 4, 4A and 5 of the FM Act, while key threatening processes are listed under Schedule 6. No threatened species, populations or communities listed under the FM Act would be significantly impacted by the proposal, and therefore a Species Impact Statement is not required. If works involve harm to marine vegetation (saltmarsh, mangroves, macroalgae or seagrass) or other aquatic habitat types, then the proponent is required to apply the DPI Fisheries' offset policy to ensure there is no net loss of key fish habitat, as described in Section 3.3.3 of the Policy and Guidelines for Fish Habitat Conservation and Management (Fairfull 2013).

The Marine Ecology Assessment at **Appendix AS** finds the works would ordinarily require a permit or consultation under Part 7 of the FM Act if the development was not SSD. The kayak gangway, replacement dragon boat ramp and overwater boardwalk would shade, and likely harm marine vegetation (31 m² of Sargassum) and a seahorse relocation plan is recommended prior to construction. However, as provided above, no threatened species, populations or communities listed under the FM Act would be significantly impacted by the proposal.

2.8 Marine Safety Act 1998

The Marine Ecology Assessment at **Appendix AS** addresses the following Regulation.

NSW Ports and Maritime Administration Regulation 2021

Section 110 of the NSW Ports and Maritime Administration Regulation 2021 states that a person must not use drags, grapplings, or other apparatus for lifting an object or material from the bed, or other disturb, the bed of a port described in Schedule 4, except with the written permission of the relevant Harbour Master and in accordance with the conditions attaching to such permission. Schedule 4 describes the port boundaries, that includes the waters of Sydney Harbour and of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by mean high water mark together with that part of the Tasman Sea below mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Hornby Lighthouse. The proposal will disturb the harbour bed during demolition and construction of seawall and piles and so therefore written permission must be sought under Section 110 of the NSW Ports and Maritime Administration Regulation 2021.

2.9 Water Management Act 2000

The Water Management Act 2000 (WM Act) aims to provide for the sustainable and integrated management of water sources for NSW. The Act requires developments on waterfront land to be ecologically sustainable, and recognises the benefits of aquatic ecosystems to agriculture, fisheries and recreation. Approvals under Section 91 are required for controlled activities on waterfront land. A controlled activity includes work that builds on, removes, or deposits material or affects water flows in the channel or within 40 m from top of bank. However, the foreshore and bed of Port Jackson (Sydney

Harbour) is 'exempt waterfront land', as identified in Schedule 4 Clause 36 of the Water Management (General) Regulation 2018, therefore, a controlled activity approval or the application of the State riparian guidelines is not required.

2.10 State Environmental Planning Policy (Planning Systems) 2021

An assessment of the development against the relevant considerations of the Planning Systems SEPP is provided in **Table 6**.

Table 6 Relevant provisions of Planning Systems SEPP

Section	Response
2.6 Declaration of State significant development: section 4.36	Section 2.6(1) of the Planning Systems SEPP establishes development that is SSD, as inclusive of the development types listed in Schedule 2 of that SEPP. The proposed development has a capital investment value of more than \$10 million and is located within the Bays Precinct Site as shown on the State Significant Development Sites Map, and accordingly is SSD pursuant to Section 2 of Schedule 2 of the Planning Systems SEPP.
2.10 Exclusion of application of development control plans	DCPs do not apply to SSD.

2.11 State Environmental Planning Policy (Transport and Infrastructure) 2021

Table 7 Relevant provisions of Transport and Infrastructure SEPP

Section	Response
Chapter 2 Infrastructure	
Division 17 Roads and Traffic	
2.119 Development with frontage to classified road	The Transport and Accessibility Impact Assessment (refer Appendix AN) finds the site does not have a direct frontage to a classified road, therefore not triggering the assessment requirements of clause 2.119 of the SEPP.
2.121 Excavation in or immediately adjacent to corridors	<p>The Transport and Accessibility Impact Assessment (refer Appendix AN) finds the site adjoins a classified road, namely Western Distributor.</p> <p>Development that involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is the road corridor of the Western Distributor or road project, requires written notice of the application to TfNSW, and the consent authority to take into consideration their response and certain matters specified under the provision.</p> <p>Excavation is proposed within the road corridor and possibly within the extent of the Western Distributor Smart Motorways project that is greater than 3m depth.</p> <p>TfNSW, as landowner for most of the land under this SSD application, have been consulted and will ultimately be required to provide land owners consent for the works to be approved and carried out.</p>
2.122 Traffic-generating development	The Transport and Accessibility Impact Assessment (refer Appendix AN) finds the proposal is not expected to impact the operation of the local road network and is therefore not considered to be 'traffic

	generating development' as defined under the Transport and Infrastructure SEPP.
Division 15 Railways	-
2.99 Excavation in, above, below or adjacent to rail corridors	<p>Clause 2.99 of the Transport and Infrastructure SEPP provides that concurrence with the rail authority may be required given that penetration of the ground to a depth of at least 2m below ground level within 25m (measured horizontally) or above a rail corridor will occur. In accordance with Clause 2.99, the following needs to be considered in deciding whether to provide concurrence:</p> <ul style="list-style-type: none"> <i>i. the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor;</i> <i>ii. the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor; and</i> <i>iii. what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.</i> <p>A Geotechnical Assessment was prepared for the site by JK Geotechnics at Appendix X. This finds the future Sydney Metro tunnel extending from Westmead to The Bays will extend below the subject site and approximately parallel with the northern side of Anzac Bridge.</p> <p>There are two proposed structures that may fall within the tunnel reserves; the Community Centre Café/Marina and the Dragon Boat Store. Proposed piles for these buildings are expected to be found outside the tunnel second reserve.</p> <p>In JK Geotechnics opinion, given the presence of high strength sandstone, the relatively lightly loaded footings that will have minimal penetration into the sandstone bedrock, as well as these footings being outside the second reserve of the tunnel, they consider the potential effects of the proposed development on the rail corridor to be negligible and therefore satisfy (i) and (ii) above. Given the expected negligible impact, further measures to avoid or minimise the potential effects is not considered warranted, beyond the typical measures taken during construction, such as review of structural drawings, inspection of piled footings by a geotechnical engineer, etc.</p>

2.12 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal Management

Table 8 Relevant provisions of Chapter 2 Coastal Management

Section	Response
2.3 Land to which Chapter applies	The land is within the coastal zone.
2.4 Identification of coastal management areas	The subject land is mapped under the NSW Department of Planning and Environment Coastal Management SEPP Interactive Map. The proposed

	works are located within the Coastal Environment Area and Coastal Use Area.
2.10 Development on land within the coastal environment area	As the site is in the Foreshores and Waterways area, therefore this provision does not apply to the proposed development.
2.11 Development on land within the coastal use area	As the site is in the Foreshores and Waterways area, therefore this provision does not apply to the proposed development.
2.12 Development in coastal zone generally—development not to increase risk of coastal hazards	N/A
2.13 Development in coastal zone generally—coastal management programs to be considered	N/A – no coastal management program applies.

Chapter 4 – Remediation

Key provisions under Chapter 4 Remediation of land under the Resilience and Hazards SEPP are addressed at **Table 9** below.

Table 9 Relevant provisions of Resilience and Hazards SEPP

Section	Response
4.6 Contamination and remediation to be considered in determining development application	A Detailed Site Investigation, Remediation Action Plan, and Site Audit Report have been prepared for the proposed development. Refer to these at Appendix X, Appendix AA and Appendix respectively.

2.13 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Table 10 Relevant provisions of Biodiversity and Conservation SEPP

Section	Response
Chapter 6 Water Catchments	
6.1 Land to which Chapter applies	The chapter applies as the site is in the Sydney Harbour Catchment.
Part 6.2 Development in regulated catchments	-
6.6 Water quality and quantity	<p>The Marine Ecology Assessment (refer Appendix AS) provides the following response.</p> <p><i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—</i></p> <p><i>(a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial.</i></p> <p>As part of the proposed stormwater management strategy, Water Sensitive Urban Design measures have been introduced to improve the quality of stormwater runoff into Blackwattle Bay (Enspire 2023). The proposed water quality treatment system involves:</p> <ul style="list-style-type: none"> - Proprietary filter baskets at surface inlet pits; - Vegetated swales;

	<ul style="list-style-type: none"> – Bioretention tree pits; and – Proprietary storm filters. <p>Enspire (2023) conclude that the treatment system is required to meet the pollutant removal targets as defined in the Blackwattle Bay Design Guidelines during the operational phase of the proposed development.</p> <p><i>(b) the impact on water flow in a natural waterbody will be minimised.</i></p> <p>No flowing watercourses occur in the study area. The modification to seawalls and additional structures are unlikely to significantly affect tidal movement given the small area versus larger waterbody.</p> <p>Furthermore, the Stormwater Management Report at Appendix AE provides that stormwater runoff to the harbour will actually reduce compared to the existing situation due to removal of hard surfaces.</p>
<p>6.7 Aquatic ecology</p>	<p>The Marine Ecology Assessment (refer Appendix AS) provides the following response.</p> <p><i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</i></p> <p><i>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development.</i></p> <p>Modification to the seawall would improve the intertidal habitat. Additional macroalgae habitat can be included to offset the loss of existing macroalgae, and improve connectivity around the bay.</p> <p><i>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves.</i></p> <p>No aquatic reserves are nearby and would not be impacted.</p> <p><i>(c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained.</i></p> <p>The proposal for this State significant development does not require permits under the WM Act or FM Act (Section 4.41(1) of the EP&A Act).</p>
<p>6.8 Flooding</p>	<p>The Marine Ecology Assessment (refer Appendix AS) provides the following response.</p> <p><i>(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—</i></p> <p><i>(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody.</i></p>

	<p>In assessing the overland flow and resulting flood hazard through the precinct, the small catchment contributing most to the precinct means the worst case flooding conditions are typically caused by surcharging flows or flows in excess of the pit and pipe system capacity, resulting in localised pooling (Mott MacDonald Australia 2023). Sources of contamination exist at the site as reported in JBS&G (2023a). Subject to the successful implementation of the measures described in the Remedial Action Plan, JBS&G (2023b) conclude that the site can be made suitable for the intended uses and that the risks posed by contamination can be managed in such a way as to be adequately protective of human health and the environment. Therefore, any localised flooding is unlikely to release pollutants into the bay.</p> <p><i>(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</i></p> <p>The site is not located between waterbodies and would not interfere with wetland/riverine flood processes.</p>
6.9 Recreation and public access	<p>The Marine Ecology Assessment (refer Appendix AS provides the following response.</p> <p><i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</i></p> <p><i>(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.</i></p> <p>The proposed kayak pontoon and stepped seawall will enhance access to the harbour, whilst improving marine ecology through improved wall design and habitat connectivity (see recommendation to add rock rubble for macroalgae).</p>
6.10 Total catchment management	N/A – there will be no adverse impact.
6.11 Land within 100m of natural waterbody	Water recreation structures are proposed that are water-dependent uses. An assessment of navigational impacts has been assessed in the Navigational Impact Assessment. Refer to this at Appendix AH . This finds that conflicts between uses will be minimized with the preparation and implementation of a Plan of Management.
6.21 Stormwater management	The proposed development will discharge treated stormwater to Sydney Harbour. Refer to the Stormwater Report at Appendix AE . This provides that the proposed treatment train will achieve compliance with the targets in the Blackwattle Bay Design Guidelines.
Part 6.3 Foreshores and Waterways Area	-

6.24 Application of Part	The site is in the Foreshores and Waterways Area, and so Part 6.3 of the SEPP applies.								
6.25 Consent authority	As the Planning Systems SEPP provides the development is SSD for which the Minister for Planning is the consent authority, therefore the Minister for Planning remains the consent authority under this provision.								
6.26 Zoning of Foreshores and Waterways Area	The harbour component of the site is zoned Zone 1 Maritime Waters.								
6.27 Zone objectives and Land Use Table	<p>In order to ensure consistency with the zone objectives, a Navigation Impact Assessment has been carried out (refer Appendix AH). This finds the proposed on-water structures would not have any significant impact on the navigation of vessels within the waterway area of Blackwattle Bay or on vessel access to the adjacent Blackwattle Bay Marina. The Navigation Impact Assessment recommends a future Plan of Management be prepared and implemented for dragon boat and kayak/passive craft users.</p> <p>The permissibility of proposed harbour components is set out at Table 11 below.</p> <p>Table 11 Harbour development as defined under the Biodiversity and Conservation SEPP</p> <table border="1" data-bbox="938 958 1469 1308"> <thead> <tr> <th data-bbox="938 958 1198 1066">Proposed Component</th> <th data-bbox="1198 958 1469 1066">Land Use Term under Biodiversity and Conservation 2021</th> </tr> </thead> <tbody> <tr> <td data-bbox="938 1066 1198 1149">Boat launching ramp and pontoon</td> <td data-bbox="1198 1066 1469 1149">Public water recreational facility</td> </tr> <tr> <td data-bbox="938 1149 1198 1196">Overwater boardwalk</td> <td data-bbox="1198 1149 1469 1196">Public boardwalk</td> </tr> <tr> <td data-bbox="938 1196 1198 1308">Restoration, repair and alterations to the existing seawall</td> <td data-bbox="1198 1196 1469 1308">General restoration works</td> </tr> </tbody> </table>	Proposed Component	Land Use Term under Biodiversity and Conservation 2021	Boat launching ramp and pontoon	Public water recreational facility	Overwater boardwalk	Public boardwalk	Restoration, repair and alterations to the existing seawall	General restoration works
Proposed Component	Land Use Term under Biodiversity and Conservation 2021								
Boat launching ramp and pontoon	Public water recreational facility								
Overwater boardwalk	Public boardwalk								
Restoration, repair and alterations to the existing seawall	General restoration works								
6.28 General	<p><i>“having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites” –</i></p> <p>The Navigation Impact Assessment at Appendix AH finds the proposed on-water structures would not have any significant impact on the navigation of vessels within the waterway area of Blackwattle Bay or on vessel access to the adjacent marina.</p> <p><i>“if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,” –</i></p> <p>Refer above response.</p> <p><i>“if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,” –</i></p> <p>The Navigation Impact Assessment at Appendix AH finds the new dragon boat launching ramp would service the existing level of usage at the site by dragon boat clubs, whilst the kayak/passive craft pontoon would provide public access to the area for launching of passive craft. It is not anticipated that there will be a</p>								

	<p>significant increase in passive craft accessing the site as a result of the development due to the likely constraints imposed by available parking and the use of the multiple facilities at Bank Street Park by several other user groups.</p> <p><i>“the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—</i></p> <p><i>(i) the Foreshores and Waterways Area, and</i></p> <p><i>(ii) public places, landmarks and heritage items.”</i></p> <p>The View Analysis and Visual Impact Assessment at Appendix K finds the proposal has a minimal impact on public domain views, and that the overall visual impact of the proposal is minor and as such, is appropriate and acceptable.</p>
<p>6.31 Dredging</p>	<p><i>“Development consent must not be granted to development for the purposes of dredging or maintenance dredging in the Foreshores and Waterways Area unless the consent authority has considered—</i></p> <p><i>(a) the adequacy of an acid sulfate soils management plan prepared for the development in accordance with the Acid Sulfate Soils Assessment Guidelines, and</i></p> <p><i>(b) the likelihood of the development resulting in the discharge of acid water.”</i></p> <p>The Marine Ecology Assessment at Appendix AS identifies there will likely be dredging associated with installation of new harbour structures. An Acid Sulfate Soils Management Plan has been prepared for the site, including harbour component. Refer to this at Appendix Z.</p>
<p>6.32 Rocky foreshores and significant seagrasses</p>	<p><i>(1) This section applies to land identified as a rocky foreshore or significant seagrass area on the Rocky Foreshores and Significant Seagrasses Map.</i></p> <p>The Rocky Foreshores and Significant Seagrasses Map does not identify this land as a rocky foreshore of significant seagrass area.</p>
<p>6.33 Boat storage facilities</p>	<p><i>“(a) whether the development will increase the number of public boat storage facilities and encourage the use of the facilities”</i></p> <p>The proposed development removes existing dragon storage and replaces with new storage building. The Navigation Impact Assessment states that this and the new ramp would service the existing level of usage at the site by dragon boat clubs. The architectural plans show Potential future kayak storage structure.</p> <p><i>“(b) whether the development will avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark”</i></p> <p>Refer above response. The new dragon boat storage will be located above the mean high water mark. The proposed boat ramp and pontoon, while partly below</p>

	<p>the mean high water mark, will replace the existing boat ramp.</p> <p><i>“(c) whether the development will provide for the shared use of private boat storage facilities”</i></p> <p>There will be shared use of dragon boat storage. There is identified potential future location for shared kayak boat storage.</p> <p><i>“(d) whether the development will avoid the proliferation of private boat storage facilities in and over the waterways by providing facilities that satisfy a demonstrated demand”</i></p> <p>The proposed boat storage for dragon boats is simply replacing existing storage in a new building. Storage for kayaks is only potential future use and not subject to this SSD application.</p> <p><i>“(e) whether the development will minimise the visual intrusion caused by the boat storage facility”</i></p> <p>The proposed dragon boat storage building is set into the topography, thereby minimizing visual impact.</p> <p><i>“(f) for development involving permanent boat storage—whether the development will—</i></p> <p><i>(i) be adversely affected by the wave environment in relation to safety and utility, –</i></p> <p>Figure 3-6 in the Flood Risk and Impact Assessment (refer Appendix AF) shows that the dragon boat storage building will sit outside of the existing 1% AEP Flood Depth with climate change. Section 3.2.2 of the assessment finds, “the position of Blackwattle Bay is relatively protected from sources of wave set-up and the risk of tidal flood levels along the Blackwattle Bay foreshore are not sensitive to wave run-up influences.” Furthermore, the land is being raised to account for sea level change. As such, the proposed dragon boat storage should not be adversely affected by the wave environment in relation to safety and utility.</p> <p><i>(ii) avoid adverse impacts on safe navigation and single moorings.”</i></p> <p>The Navigation Impact Assessment finds the proposed on-water structures would not have any significant impact on the navigation of vessels within the waterway area of Blackwattle Bay or on vessel access to the adjacent marina.</p>
Part 6.4 Heritage conservation in Sydney Harbour	-
6.51 Application of Part	The site includes “125 – Glebe Island Bridge, including abutments” which is listed as a heritage item.
6.52 Heritage development	The erection of a building is proposed near two listed heritage items, Anzac Bridge (State agency’s S170 heritage and conservation register) and Glebe Island Bridge (State Heritage Register).
6.53 Requirement for development consent	The SoHI at Appendix O concludes:

- The proposal will result in a neutral impact to Anzac Bridge;
 - The proposal will result in a neutral impact to the setting of Glebe Island Bridge; and
 - The proposal will have a neutral impact to heritage items in the vicinity of the site.
- Refer to **Section 6** of the EIS on Heritage Impact.

2.14 State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)

The Sustainable Buildings SEPP came into effect on 1 October 2023.

Table 12 Relevant provisions of Sustainable Buildings SEPP

Section	Response
Chapter 3 Standards for non-residential development	
3.1 Application of Chapter	The new community building has a CIV over \$5 million. Therefore Section 3.2 of the SEPP applies to this new building.
3.2 Development consent for non-residential development	<p>A Sustainability Strategy report at Appendix AQ has been prepared for the proposed development by Atelier Ten.</p> <p>The proposed development has been designed to enable the following:</p> <p><i>(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,</i></p> <ul style="list-style-type: none"> - Reuse brickwork from existing buildings - Seating and planting in existing building 'ruins' - Reuse of existing building brickwork for paving <p><i>(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,</i></p> <ul style="list-style-type: none"> - Reduce lighting energy and overlighting through energy efficient LED lighting and monitoring/smart lighting systems. - Adopt the use of energy-efficient mechanical systems, specifically focusing on the integration of high-efficiency heat pumps for heating, cooling, and hot water needs. <p><i>(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,</i></p> <ul style="list-style-type: none"> - Optimise all façades to shade glazing to reduce cooling energy use yet provide high quality daylighting. - Maximise the free cooling provided by outdoor air through design for cross ventilation, and night purging. - Green roof with solar panels reduces heat transfer to the building.

- Dragon boat storage building is partially sunk into the earth, leveraging the natural insulative properties of the ground to significantly improve thermal efficiency, reducing reliance on artificial heating and cooling systems, and contribute to energy savings.
- Integrate high performance facades eliminate thermal bridging, condensation, and water penetration.

(d) the generation and storage of renewable energy,

- Integrate solar panels on rooftop of the community building to capture solar energy.

(e) the metering and monitoring of energy consumption,

- Implement individual building metering to monitor and manage energy consumption.
- Ensure the continuous monitoring of energy and electricity consumption and adaptability for reduced consumption

(f) the minimisation of the consumption of potable water.

- Enable connection to existing or future recycled water network identified in Mott MacDonald's Bank St Park Infrastructure Delivery, Management & Staging Plan Report
- Use recycled water from recycled water network for non-potable uses (e.g. toilet flushing, landscape irrigation, dragon boat cleaning)
- Installing water saving fixtures and appliances can provide significant water use savings

(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

An Embodied Emissions Materials Form has been quantified by Altus at **Appendix AR**.

Refer to the Sustainability Strategy report at **Appendix AQ** for further detail.

2.15 State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 - Advertising and Signage

Chapter 3 of State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) applies to all signage under an Environmental Planning Instrument (EPI) that can be displayed with or without development consent and is visible from any public place or public reserve.

Section 3.6 of the Industry and Employment SEPP provides that the signage must be consistent with the objectives of the chapter, and it must satisfy the assessment criteria under Schedule 5.

Wayfinding Signage

A wayfinding concept design has been prepared by Buro North at **Appendix M** and a Signage Strategy Plan has been prepared by Collins + Turner at **Appendix I**. This

identifies signage zones across the park by signage type and purpose, and identifies associated principles for signage.

The objectives for Advertising and Signage are provided in Chapter 3 of the Industry and Employment SEPP, while the assessment criteria are listed in Schedule 5. The consistency of the signage against the objectives and assessment criteria are considered below.

**Table 13 Relevant provisions of the Industry and Employment SEPP
Chapter 3 Advertising and Signage**

Objectives	Wayfinding signage is compatible with the desired amenity and visual character of Blackwattle Bay Precinct. It will provide effective communication for users of the proposed development, guiding them towards to and around Bank Street Park.
Schedule 5	Assessment Criteria
Character of the Area	Wayfinding signage is in keeping with the character of the area within Sydney Local Government Area, as it will be guided by the <i>City of Sydney Legible Sydney – Volume 2 Design Manual</i> .
Special Areas	The intention for signage on site is to create an engaging environment that links Blackwattle Bay to Pyrmont. The following elements are to be considered for signage, as detailed in the Wayfinding and Interpretation Strategy prepared by Buro North at Appendix M : <ul style="list-style-type: none"> – Utilise colour; – Integrate with the environment; – Create opportunities for variety; and – Deliver an engaging journey.
Views & Vistas	It is appropriate for the wayfinding signage on site to be visible from Bank Street and public views and vista, to direct people towards the site considering it is a public park and major destination within Blackwattle Bay.
Streetscape, Setting or Landscape	Wayfinding signage is in keeping with the streetscape, setting or landscape as it will be guided by the <i>City of Sydney Legible Sydney – Volume 2 Design Manual</i> and/or <i>TfNSW signage kit</i> . As such, any proposed wayfinding signage will be consistent with the surrounding area.
Site & Building	Wayfinding signage will be integrated into the site to direct people around the site, towards proposed buildings such as the community, café and marina facilities building, and the amenities and storage building.
Associated devices and logos with advertisements and advertising structures	Details of any safety devices and logos will be developed at detailed design stage.
Illumination	Illumination details will be developed at a later stage. Any illumination will be designed to avoid unacceptable glare or light spill.
Safety	The proposed signage zones will not reduce road, pedestrian or cyclist safety.

Building Identification Signage

Building Identification Signage is proposed for the following aspects of the development:

- Primary Entrance ID: Metal signage vertically mounted on stone ridge;
- Building Entries: Metal letters;
- Marina Signage: Fabricated sign box; and
- Bathroom Amenity: Metal panel.

The Wayfinding Strategy by Buro North at **Appendix M** provides early building identification concept designs for the proposed new buildings at 1-3 Bank Street, including the community, café and marina facilities building, and the amenities and storage building. In addition, the Signage Strategy Plan prepared by Collins + Turner at **Appendix I** identifies the location for such building identification signage.

Note that building identification signage will be subject to ongoing design development.

Table 14 Relevant provisions of the Industry and Employment SEPP

Chapter 3 Advertising and Signage	
Objectives	Building signage is compatible with the desired amenity and visual character of Blackwattle Bay Precinct. It will provide effective communication for users of the proposed development, guiding them towards built elements on site.
Schedule 5	Assessment Criteria
Character of the Area	Building identification signage is in keeping with the character of the area. Signage will be of high quality and be integrated with the building façade, facilitating effective directions to important buildings on site.
Special Areas	Building identification signage will adopt a dual naming/language approach, to acknowledge the Aboriginal history of the site and provide Connections to Country. Dual naming /language approach will continue to be defined during Design Development, in consultation with Placemaking NSW and their First Nations advisors.
Views & Vistas	It is appropriate for building identification signage on site to be visible from Bank Street and public views and vista, to direct people towards the facilities provided at 1-3 Bank Street.
Streetscape, Setting or Landscape	Proposed building identification signage is of high quality and is designed to be integrated into the built form so that it complements the building's design and does not appear uncluttered.
Site & Building	Building identification signage is designed to direct people towards proposed buildings such as the community, café and marina facilities building, and the amenities and storage building.
Associated devices and logos with advertisements and advertising structures	Details of any safety devices and logos will be developed at detailed design stage.
Illumination	No illuminated building identification signage is proposed to the community, café and marina facilities building, or the amenities and storage building.


Safety	The proposed building identification signage will not reduce road, pedestrian or cyclist safety.
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2.16 Sydney Local Environmental Plan 2012

The development is consistent with the relevant provisions of Sydney Local Environmental Plan 2012 (SLEP 2012). Consideration of the relevant clauses of the SLEP 2012 is provided in **Table 15** below.

Table 15 Sydney Local Environmental Plan 2012

Provision	Compliance	Response																
Land Use Table RE1 Public Recreation	Yes	<p>Land areas of the site are zoned RE1 Public Recreation under SLEP 2012.</p> <p>Development consent is sought for a “recreation area” for the primary purpose of a “public park”.</p> <p>The land use permissibility of proposed park components is set out at Table 16 below.</p> <p>Table 16 Land development as defined under SLEP 2012</p> <table border="1"> <thead> <tr> <th>Proposed Component</th> <th>Land Use Term under SLEP 2012</th> </tr> </thead> <tbody> <tr> <td>Park (including children’s playground, multi purpose court for community use, and amenities building)</td> <td>Recreation area</td> </tr> <tr> <td>Office component of community building</td> <td>Ancillary to the dominant purpose of the proposal, being a <i>recreation area</i> and also to the existing approved <i>marina</i> use adjacent to the site.</td> </tr> <tr> <td>Boat launching ramp and pontoon</td> <td>Water recreation structure</td> </tr> <tr> <td>Boat storage building with change facilities</td> <td>Community facility</td> </tr> <tr> <td>Community building (except office)</td> <td>Community facility</td> </tr> <tr> <td>Café / kiosk</td> <td>Food and drink premises</td> </tr> <tr> <td>Cycleway</td> <td>Roads</td> </tr> </tbody> </table>	Proposed Component	Land Use Term under SLEP 2012	Park (including children’s playground, multi purpose court for community use, and amenities building)	Recreation area	Office component of community building	Ancillary to the dominant purpose of the proposal, being a <i>recreation area</i> and also to the existing approved <i>marina</i> use adjacent to the site.	Boat launching ramp and pontoon	Water recreation structure	Boat storage building with change facilities	Community facility	Community building (except office)	Community facility	Café / kiosk	Food and drink premises	Cycleway	Roads
Proposed Component	Land Use Term under SLEP 2012																	
Park (including children’s playground, multi purpose court for community use, and amenities building)	Recreation area																	
Office component of community building	Ancillary to the dominant purpose of the proposal, being a <i>recreation area</i> and also to the existing approved <i>marina</i> use adjacent to the site.																	
Boat launching ramp and pontoon	Water recreation structure																	
Boat storage building with change facilities	Community facility																	
Community building (except office)	Community facility																	
Café / kiosk	Food and drink premises																	
Cycleway	Roads																	
4.3 Height of buildings	N/A	There is no maximum permissible height applying to the site.																
4.4 Floor space ratio	N/A	There is no Floor Space Ratio control applying to the site.																
5.10 Heritage conservation	Refer response	<p>The site for Bank Street Park contains two listed heritage items, Anzac Bridge (TfNSW’s s170 heritage and conservation register) and Glebe Island Bridge (State Heritage Register).</p> <p>The SoHI at Appendix O concludes:</p>																

		<ul style="list-style-type: none"> – The proposal will result in a neutral impact to Anzac Bridge; – The proposal will result in a neutral impact to the setting of Glebe Island Bridge; and – The proposal will have a neutral impact to heritage items in the vicinity of the site. <p>Refer to Section 6 of the EIS on Heritage Impact.</p>
5.21 Flood planning	Yes	<p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area (FPA) unless the consent authority is satisfied of certain matters under the clause.</p> <p>The site is within the flood planning area.</p> <p>A Flood Risk and Impact Assessment has been prepared for the proposed development by Mott McDonald and is appended at Appendix AF.</p> <p>Refer to the flood assessment within Section 6 of the EIS.</p>
6.18 Overshadowing of certain public places	Yes	<p><i>“Development consent must not be granted to development resulting in part of a building causing additional overshadowing to the following places shown on the Sun Access Protection Map during the specified dates and times</i></p> <p><i>(6) Development results in a building causing additional overshadowing if the total overshadowing of the relevant location during the specified times would be greater after the development is carried out than the overshadowing of that location during the specified times caused by existing buildings.”</i></p> <p>The Design Report prepared by Oculus and Collins + Turner at Appendix J evaluates overshadowing impacts of the proposed development during the specified dates and times. It accounts for demolition of existing buildings, existing shadowing from Anzac Bridge, and 1-3 Bank Street not forming part of the sun access protection area (refer to Figure 1).</p>  <p>Figure 1 Extract of the sun access protection map Source: SLEP 2012 – Sun Access Protection Map – Sheet SAP_007</p> <p>The analysis covers mid-winter (21 June), the spring equinox (23 September) and summer solstice (22 December) and demonstrates that, compared to the area of existing overshadowing, there will be an overall</p>

net reduction in overshadowing of the park between 10am and 2pm mid-winter and at the equinox.

However, there would be a small area of additional overshadowing, from the dragon boat storage building, for a short period between 10am and 11am at mid-winter.

This is shown in the following summary of the measured area of the park in hourly increments.

Table 17 Net change in overshadowing

Time of day	Net change in overshadowing		
	1-3 Bank Street*	Dragon Boat Storage	Combined
10am	0 m ²	+175 m ²	+175 m ²
11am	-207 m ²	+129 m ²	-78 m ²
12pm	-312 m ²	+107 m ²	-205 m ²
1pm	-369 m ²	+119 m ²	-250 m ²
2pm	-458 m ²	+105 m ²	-353 m ²

*1-3 Bank Street indicates net overshadowing of 5-19 Bank Street created by the new building and the removal of existing building

The additional 175m² area of shadow of the total area of the relevant location occurs only for a brief period between 10am and 11am. This is justified and acceptable for the following reasons:

- The area in shade is a narrow 4 to 5m wide band of the waterfront promenade. The remaining 6m (approx.) width of the promenade, adjacent the water's edge, remains in full sun.
- The location of the shadow is adjacent to the entry of the dragon boat storage area, a location where park users are less likely to dwell.
- In addition to extensive sun lit lengths of the rest of the promenade during this period between 10am and 11am, there are large expanses of park that offer places to walk, sit and play, in full sun.
- The proposal results in a significant net reduction of area in shadow for the remainder of the specified period through until 2pm.
- In the context of the large area of new waterfront parkland with high amenity and solar access, this area of shadow is immaterial.

Depending on interpretation, it could be argued that the proposal is compliant with Clause 6.18, on the basis that overall, the proposal does not result in additional overshadowing to the identified area, during the specified times. To clarify, this interpretation is on the basis that between the total period from 10am to 2pm there is a significant net reduction in the total area of the park overshadowed.

However, in the event that the clause is interpreted to require no additional overshadowing of the park at

different time intervals between 10am and 2pm, the proposal could be considered to involve a partial prohibition. Section 4.38(3) of the EP&A Act allows development consent to be granted despite that.

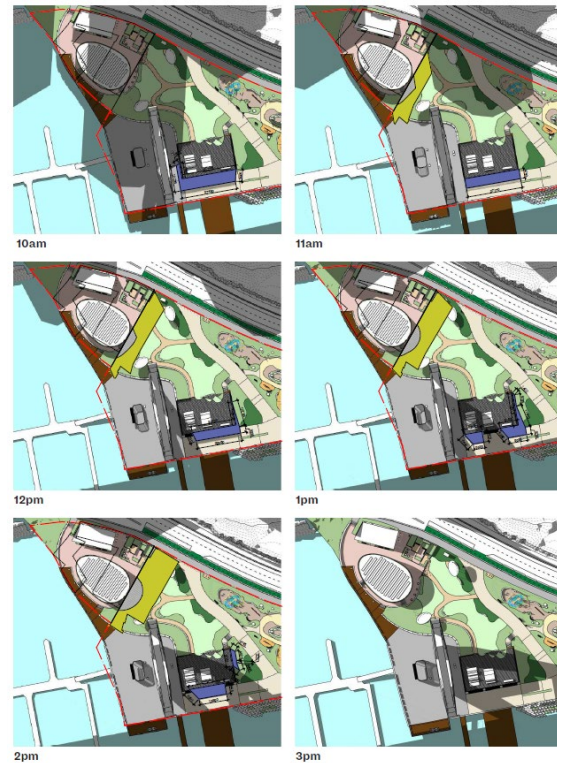


Figure 2 Overshadowing between 10am and 2pm – winter solstice – 21 June
Source: Design Report prepared by Oculus and Collins + Turner

Division 4 Design excellence		
6.21B Application of Division	Yes	This Division applies as the development involves the erection of a new building and external alterations to an existing building
6.21C Design excellence	Yes	Refer to response in Design Report at Appendix J .
6.21D Competitive design process	N/A	The development does not trigger a competitive design process.
Division 7 Blackwattle Bay Precinct		
6.67 Preliminary	Yes	The site is located within the Blackwattle Bay Precinct
6.68 Erection of buildings	Yes	The development is consistent with the Blackwattle Bay Design Guidelines. There is necessary public utility infrastructure in place or proposed, as detailed in the Infrastructure Delivery, Management and Staging Report at Appendix M .

		The proposed development includes sustainability measures and demonstrates a high standard of sustainability. INSW has signed an agreement with the Green Building Council of Australia (GBCA) for the Communities Rating Tool v1.1 in Nov 2023, for the Blackwattle Bay precinct (including Bank Street Park). This rating tool is pivotal in achieving a highly ambitious, sustainable precinct and will be realised as part of the ongoing development of the government owned lands.
6.69 Foreshore promenade	N/A	This clause does not apply to the site.
6.70 Affordable housing	N/A	The site is not subject to this clause as it does not include any lot and deposited plan listed. However, refer to response to Clause 7.13 below.
6.71 General industries prohibited	N/A	No general industries are proposed as part of the proposed development.
Part 7 Local Provisions		
Division 3 Affordable Housing		
7.13 Contribution for purpose of affordable housing	Refer response	Contributions are payable under the clause as the site is within the Ultimo-Pyrmont area of the plan and the development involves new building over 200sqm, and alterations to an existing building/change of use over 60sqm. An exemption for affordable housing contributions is proposed on the basis that the proposal relates to public infrastructure and does not increase demand for affordable housing. Refer to response to on affordable housing contributions at Section 2.18 below.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is subject to Class 1 and Class 2 Acid Sulfate Soils (ASS) in accordance with ASS LEP Map and clause. An Acid Sulfate Soils Management Plan has been prepared by JBS&G at Appendix Z .
7.16 Airspace operations	N/A	The proposed buildings are below the Obstacle Limitation Surface (OLS).
7.26 Public art	Yes	Proposed public art at the site as documented in the Public Art Plan (Appendix N). Proposed public art ///generally complies with public art requirements as it does not: <ul style="list-style-type: none"> – Involve the display of advertisement. – Increase the gross floor area of any building. – Have significant impact on the any heritage conservation area, heritage item or place of heritage significance. Public art is based on curatorial principles that focus on celebrating and commemorating place based stories, and prioritise Aboriginal artists. – Have a significance adverse impact on the amenity of the public domain.

2.17 Blackwattle Bay Design Guidelines

The Blackwattle Bay Design Guidelines provides supplementary provisions of the Sydney Local Environmental Plan 2012 to guide the development of Blackwattle Bay.

Refer to **Appendix E** to the EIS for how the proposed development aligns and is consistent with the Blackwattle Bay Design Guidelines.

2.18 Development Contributions

Consultation with Council

Consultation regarding item 23 of the SEARs was undertaken with the City of Sydney Council (*Marie Burge, Manager, Major Projects*) via email on 14 November 2023. This was referred on to Siobhan Fox-Roberts, Senior Planner (Contributions) at Council, who requested a detailed description of development and GFA breakdown, which was supplied on 28th November 2023. At the time of writing a response had not yet been received.

The proposed community building is subject to the City of Sydney Development Contributions Plan 2015, which requires the payment of monetary contributions under Section 7.11 of the EP&A Act. Therefore, this plan needs to be referenced and any exemptions that may apply to the development should be addressed in line with Sections 1.3 and 2.1 of the Plan.

Section 7.13 of SLEP 2012 requires contributions for the purposes of affordable housing for non-residential land uses. The accompanying Plan is the Ultimo Pyrmont and City of Sydney Affordable Housing Program..

Development Contributions Plan

Section 7.11 of the EP&A Act allows the consent authority to require the dedication of land free of cost or payment of a monetary contribution where a development will or is likely to require the provision of or increase the demand for public amenities and public services within the area.

Bank Street Park is a public amenity in itself. Further to that, INSW providing more than \$150M in public infrastructure across Blackwattle Bay Precinct, and Bank Street Park is one component of that.

The *City of Sydney Development Contributions Plan 2015* (Contributions Plan) applies to the site.

The proposed development will not increase the demand for public amenities and services within the area.

Section 1.3 of the Contributions Plan provides for exemptions from the requirement for contributions. While the proposed development is not excluded under the plan, item 10 under excluded works provides for open space and community facilities by Council.

The provision of Bank Street Park is in response to direct demand for social infrastructure (open space and community and recreational facilities) created by the proposed urban renewal of Blackwattle Bay; unmet demand (existing community needs) in the surrounding community; and regional demand, generated by the provision of destination social infrastructure. It would therefore be unreasonable to require payment under this plan for the proposed park therefore should be excluded from payment of contributions under the plan.

Planning Circular

Furthermore, an exemption from contributions is supported by Planning Circular (Circular D6) relating to Crown Development Applications issued by the then Department of Urban Affairs and Planning.

Circular D6 sets out the circumstances in which it is appropriate for a consent authority to seek the approval of the applicant or the Minister to impose conditions of consent.

Circular D6 also notes that where a consent authority intends to levy contributions on Crown Development, they must be justified, and consideration should be given to the

Crown's role in providing an essential community service, the cost of which is accountable to all taxpayers in the State.

Affordable Housing Contributions

Clause 7.13 of the Sydney LEP 2012 states:

*(2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable **affordable housing levy contribution** for the development provided for in subclause (2A), (2B) or (2C).*

Clause 7.13 of Sydney LEP 2012 is applicable. Contributions are payable under the clause as the site is within the Ultimo-Pyrmont area of the plan and the development involves new building over 200sqm. The levy payable is 1.1% of the total floor area of the development that is not intended to be used for residential purposes, calculated in accordance with the Revised City West Affordable Housing.

Note Clause 6.70 of Sydney LEP 2012 does not apply to the site as the site does not contain the lots listed under the clause.

The proposed development does not qualify for an exemption on the basis of Section 2.2 of the *City of Sydney Affordable Housing Program 2020*. However, as per Clause 7.13 (2) of the Sydney LEP 2012, it is at the discretion of the consent authority whether to impose a contribution.

Section 7.32 of the EP&A Act allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument and where one of the following applies: (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or (d) the regulations so provide.

The proposed development will not reduce the availability of affordable housing within the area, and will not create a need for affordable housing within the area.

Summary

The Minister for Planning has discretionary powers to waive the imposition of development contributions and affordable housing contributions for the proposed development.

The proposal does not create a need for affordable housing, nor does it introduce additional population to the precinct.

The proposal delivers on an identified shortfall in demand for open space and community facilities for the existing local community, forecast community following the development of Blackwattle Bay, and destination social infrastructure to meet regional demand.

The proposed Bank Street Park will be providing a significant public benefit, and therefore should be exempted from these contributions.

Planning Agreement and Special Contributions Plan

INSW is currently negotiating a Planning Agreement with DPE as part of the broader urban renewal of the Blackwattle Bay Precinct.

The Planning Agreement is proposed to be attached to the title(s) of the existing Sydney Fish market site and includes the delivery of a range of infrastructure, including Bank Street Park. Under the Planning Agreement, INSW have proposed to deliver much of the public domain in the broader precinct, including Bank Street Park, prior to occupation of the first residential and/or commercial development on the existing Fish Markets site. This is to ensure the early delivery of public benefits.

The draft agreement is likely to be exhibited in early 2024.