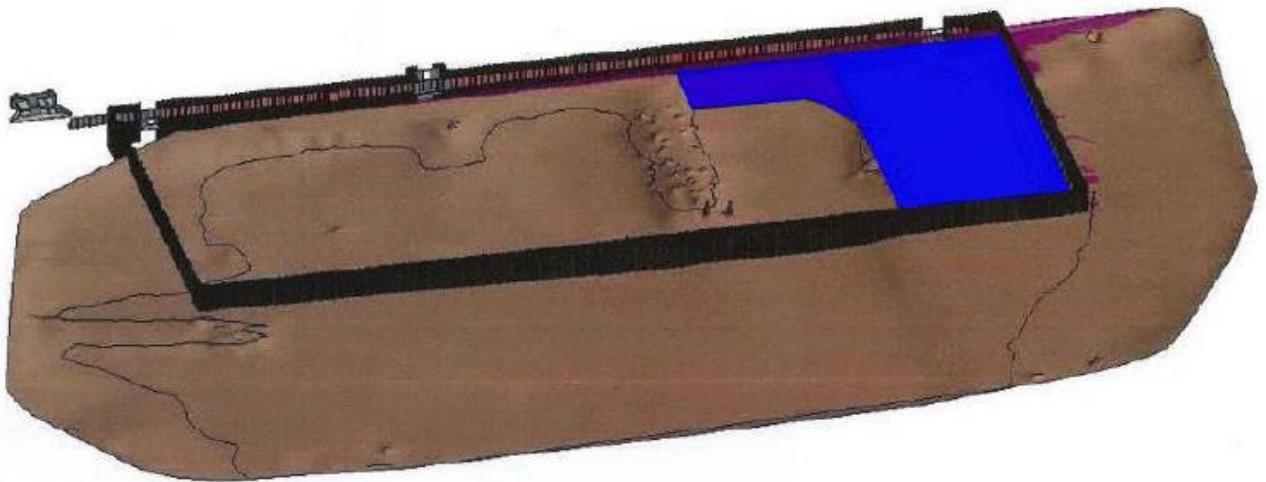




The New Sydney Fish Market Modification 4

Redistribution of sediment
State Significant Development Modification Assessment
(SSD 8925 MOD 4)

July 2021



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Glossary

Abbreviation	Definition
Applicant	Infrastructure NSW
BCA	Building Code of Australia
CBD	Central Business District
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
DIP	Design Integrity Panel (successor to the Design Review Panel)
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument
GA NSW	Government Architect NSW
GFA	Gross Floor Area
INSW	Infrastructure NSW
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
SFM	Sydney Fish Market
SSD	State Significant Development
TfNSW (Maritime Planning)	Transport for NSW (Maritime Planning)

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1 Introduction

This report provides an assessment of modification application SSD 8925 MOD 4 seeking to modify the State Significant Development (SSD) approval for Stage 2 of the new Sydney Fish Market (SSD 8925).

The application has been lodged by Infrastructure NSW (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Modification application SSD 8925 MOD 4 seeks a change in the volume of sediment requiring redistribution to level the seabed under the basement.

1.1 Background

The modification applications relate to the new Sydney Fish Market, located at the head of Blackwattle Bay between the Pyrmont Peninsula and Glebe Peninsula (**Figure 1**). The site is situated less than 2 km west of Sydney’s CBD, and the land-based component of the site is within the City of Sydney local government area.

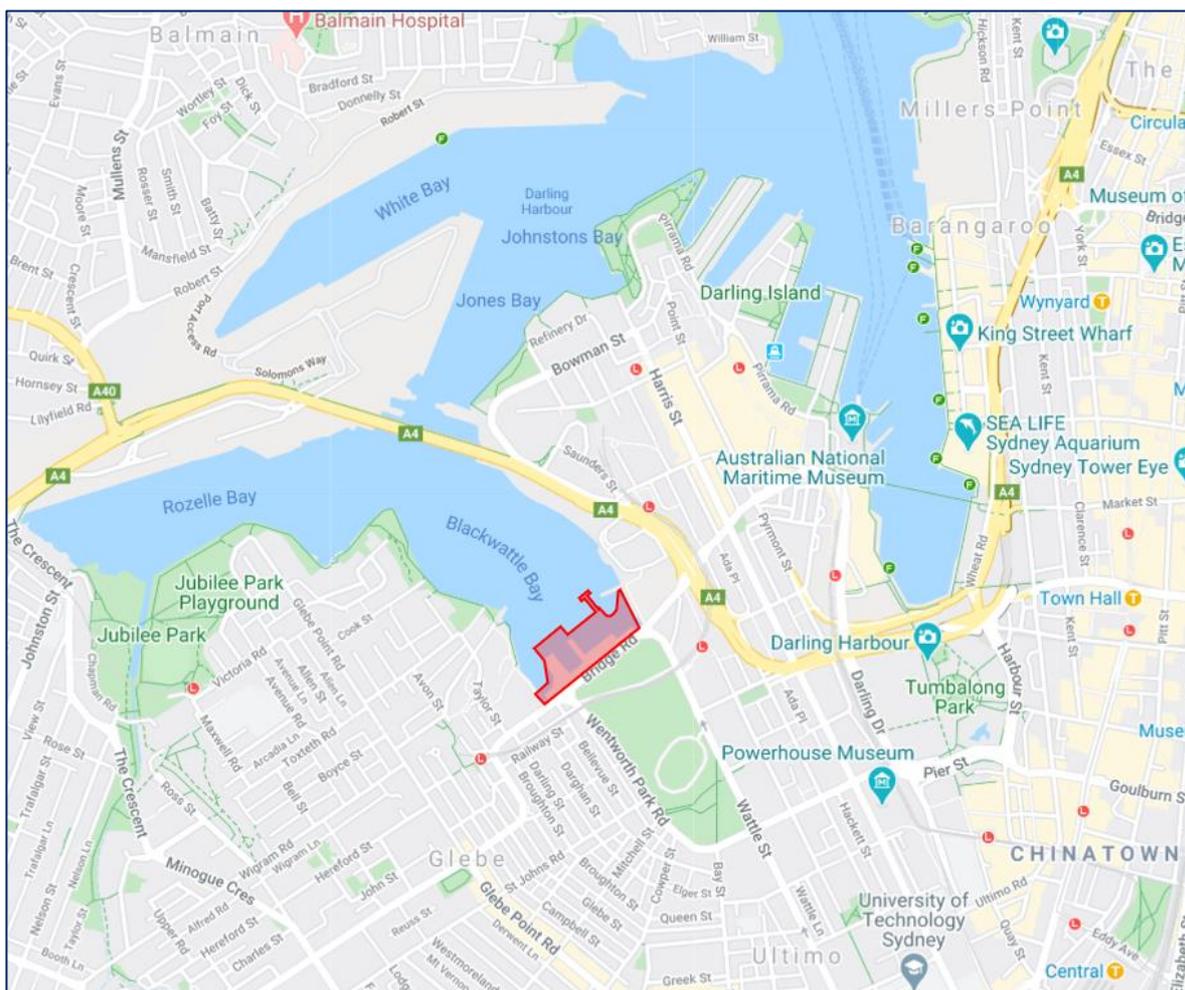


Figure 1 | Site context with the site shaded in red (base source: Nearmap)

1.2 Approval history

On 12 June 2020, the Minister for Planning and Public Spaces approved the construction and operation of a new Sydney Fish Market. The development consists of two State significant development (SSD) applications, comprising of a concept and Stage 1 early works (SSD 8924) and a Stage 2 main works application (SSD 8925).

The concept and Stage 1 early works approved:

- a concept proposal comprising:
 - building envelope for a three-storey building (AHD 28 m)
 - maximum gross floor area (GFA) of 30,000 m²
 - use of the site for a fish market, including waterfront commercial and tourist facilities and ancillary uses
 - waterfront structures, including wharves
 - public domain, including landscaping and foreshore promenade
 - pedestrian, cycle, footpath and Bridge Road works.
- Stage 1 works comprising demolition of existing wharves, structures, utilities and services.

The Stage 2 main works application approved for the construction, use and operation of a new SFM, including:

- a three-storey (4 levels) building with a GFA of 26,751 m² comprising:
 - wholesale services, product storage and processing
 - retail, business and office premises
 - multi-function spaces for events and functions
 - staff amenities and end-of-trip facilities
 - outdoor seating areas
 - basement car park.
- new public domain, including a foreshore promenade and landscaping
- marina
- pedestrian, cycle and road access
- upgrade works to Bridge Road and intersections with Wattle Street and Wentworth Park Road
- subdivision of land.

The new Sydney Fish Market development has been modified on four occasions (see **Table 1**).

Table 1 | Summary of modifications

Mod No.	Summary of Modification	Approval Authority	Type	Approval Date
SSD 8924 MOD 1	Amendments to the development footprint, building envelope, conditions relation to NSW EPA and amendment to the hours of demolition/construction	Director	4.55(1A)	7 June 2021
SSD 8925 MOD 1	Alterations to the internal layout, façade, re-configuration of the recreational and operational	Director	4.55(1A)	7 June 2021

wharfs and amendments to the western plaza, and conditions relating to the EPA

SSD MOD 2	8925	Amendment to Condition B52 Marine Structures and Condition B54 Construction Vessel Traffic Management Plan	Acting Director	4.55(1)	19 February 2021
SSD MOD 3	8925	Alterations to the footprint and internal layout of the basement, minor changes to the ground floor, and amendments to the subdivision plans	Team Leader	4.55(1A)	18 May 2021

2 Proposed modification

On 26 April 2021, the Applicant lodged modification application SSD 8925 MOD 4 seeking approval under section 4.55(1A) of the EP&A Act for amendments to the new Sydney Fish Market (Stage 2 main works) development. The application seeks approval to increase the volume of seabed sediment requiring redistribution.

The Department notes that while the redistribution volume is increasing (from less than 1,000 m³ to approximately 12,000 m³), the total seabed area within the development site is not increasing in size (**Figure 2**).

Details of the proposed changes are outlined below in **Table 2** and in **Figures 2** to **4**.

Table 2 | Proposed modifications

Element	Elements of proposal as amended
Sediment redistribution	Increase the volume (originally estimated as less than 1,000 m ³ , but now measures as approximately 12,000 m ³) of sediment requiring redistribution to level the seabed under the basement of the building (Figure 2)
Construction staging	Amend the construction staging to allow for the works associated with the redistribution and reprofiling of sediment (Figure 4)
Acid management sulfate	Amend Condition 58 to reference the updated Acid Sulfate Management Plan which contains updated strategies for managing the increase in sediment.

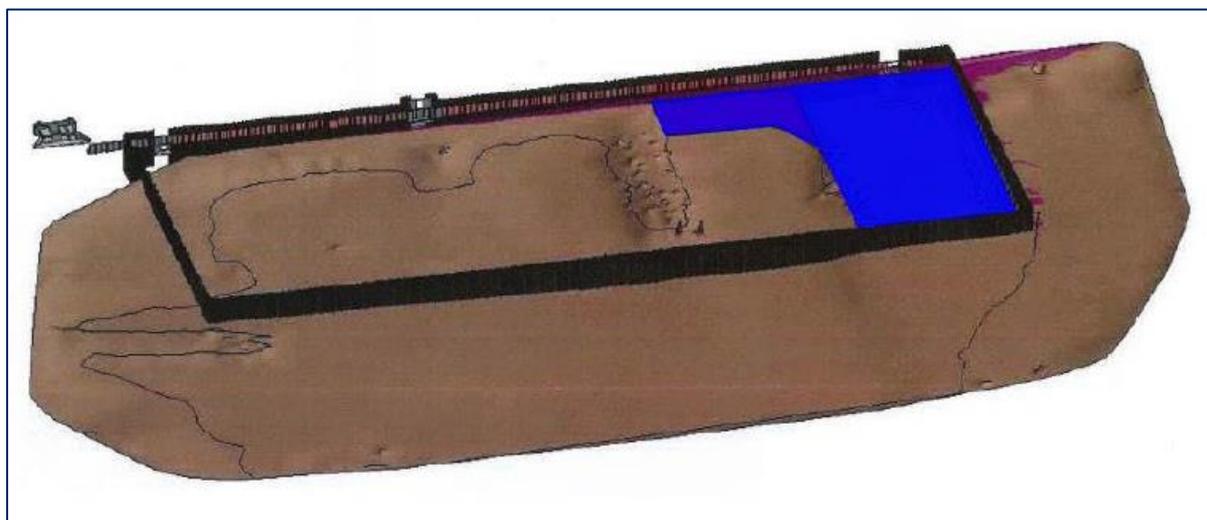


Figure 2 | Area shown in blue is the sediment which requires redistribution and former location of the Hansen batching plant and wharf was located. Note the coffer dam illustrated will be installed after the redistribution works are undertaken (Source: Modification Report)

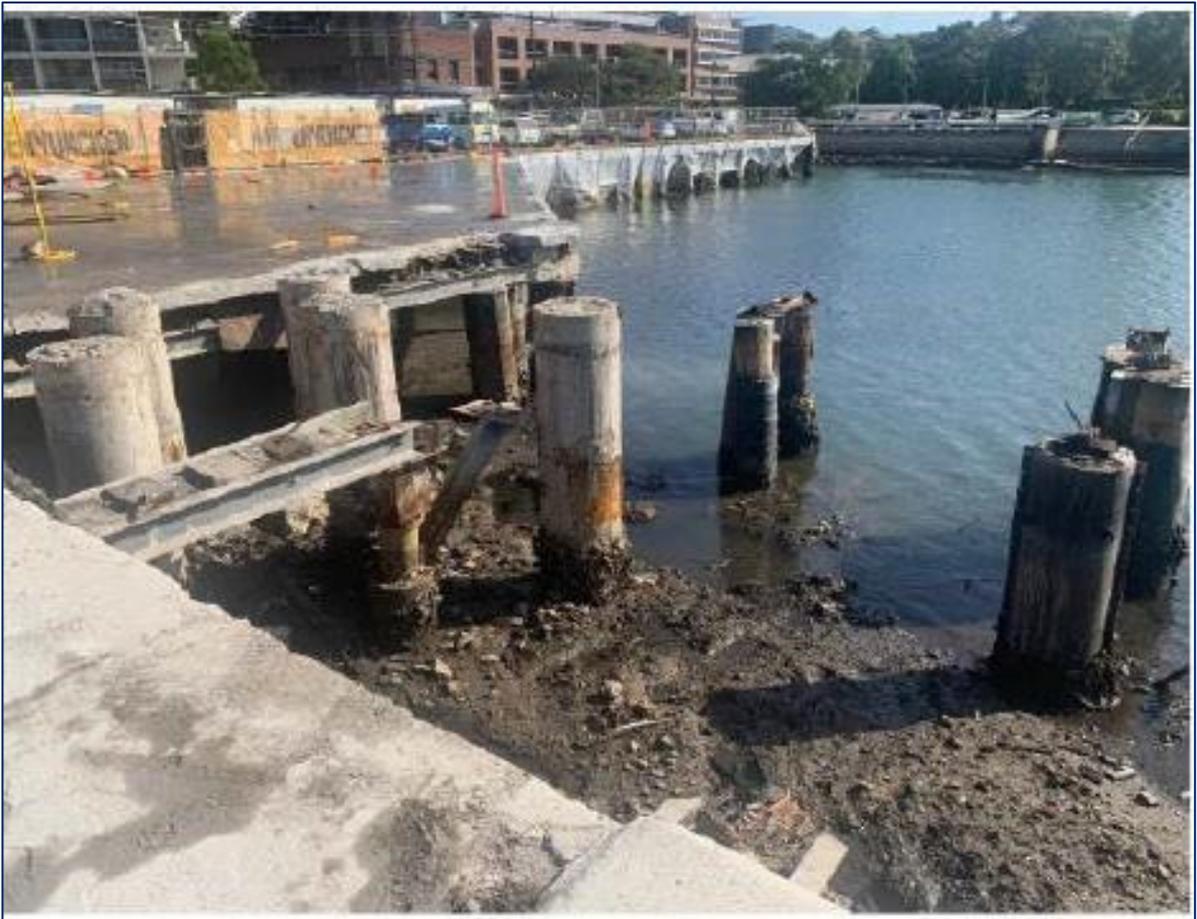


Figure 3 | Photograph of the general location of sediment requiring redistribution and location of the former Hanson batching plant and wharf (base source: Modification Report)

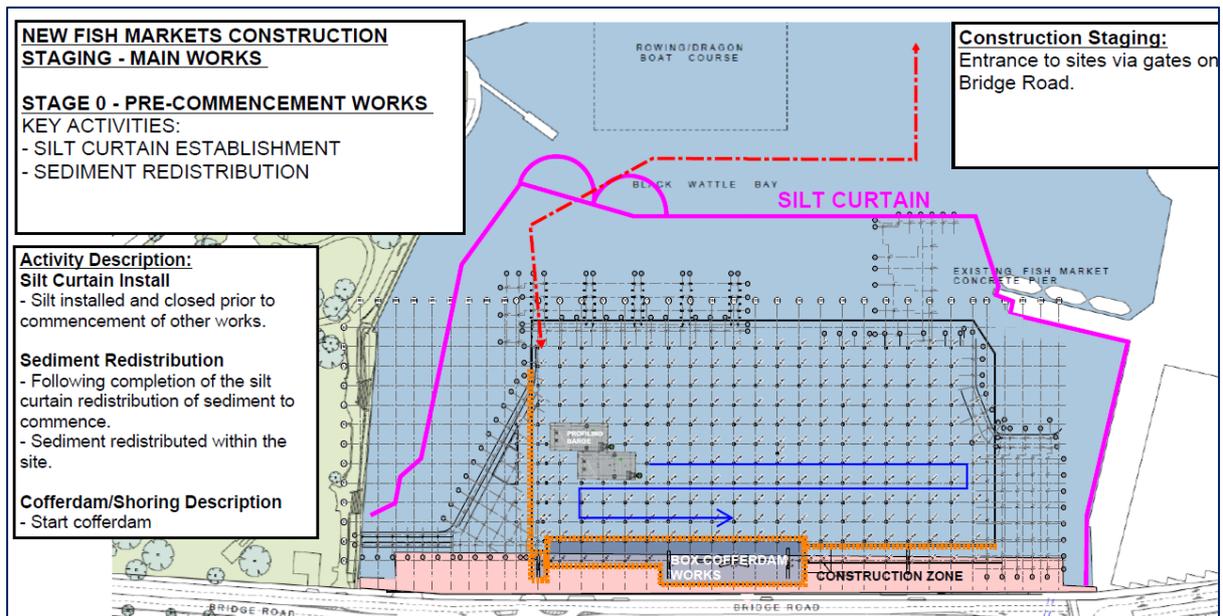


Figure 4 | Amended staging plan to include sediment redistribution (base source: Modification Report)

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved; and
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Team Leader, Key Sites Assessments, may determine the application under delegation as:

- a political disclosure statement has not been made
- there are no public submissions (other than a council) in the nature of objections
- Council has not made a submission by way of objection.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

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

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

3.4 Consistency with concept approval

In accordance with Clause 3b of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and other Provisions) Regulation 2017, the Department has considered the proposed

modification and is of the opinion the modification remains consistent with the concept development application. The changes proposed to the quantity and redistribution of sediment do not impact upon the development footprint and building envelope of the concept proposal.

3.5 Biodiversity Conservation Act 2016

Clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

The Department is satisfied that there will be no additional impacts beyond those previous assessed and considered under the original approval. In particular:

- there would be no additional impacts to microbats as the proposal does not impact upon any potential roosting areas
- the construction and development site area is not increasing in size
- existing conditions of consent will ensure any impacts on aquatic ecology during sediment redistribution works are appropriately mitigated and managed.

For the reasons discussed above, the Department's assessment concludes a BDAR is not necessary for the proposed modifications.

4 Engagement

4.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact.

Accordingly, the application was not notified or advertised. However, the application was made publicly available on the Department's website and was referred to City of Sydney Council (Council) and relevant government agencies.

4.2 Summary of submissions

In response to the application, the Department received six submissions providing comment, comprising of five submissions from government agencies and one submission from Council.

No community/public submissions were received.

4.3 Key issues raised in submissions

The key issues raised by Council and government agencies are summarised in **Table 3**.

Table 3 | Summary of key issues raised by Council and government agencies

Agency	Comments
Council	
Modification Application	<ul style="list-style-type: none">Requested clarification that the proposed increase amount of redistributed sediment from 560 m³ to potentially over 12,000 m³ and removal of 470 m³ of existing rock would result in no material variations to the scope of remediation and/or validation works to be conducted at the site.Requested clarification that the recommendations within the approved Remediation Action Plan (RAP) remain valid for the proposal or submit a revised RAP which addresses the proposal and make reference to the submitted revised Acid Sulfate Soil Management Plan.Requested a revised letter of interim advice which confirms that the revised RAP is adequate to render the site suitable for the proposed use.
Environment Protection Authority (EPA)	
Modification Application	<ul style="list-style-type: none">Recommended conditions to ensure the engagement of an EPA-accredited site auditor as early as possible, and throughout the duration of works, to ensure appropriate management of any contamination during the construction phase and to substantiate the claim that the proposed modification will remain "substantially the same" as the originally approved development.

Environment, Energy, and Science Group – Biodiversity and Conservation (EESG)

- Modification Application
- Advised that the proposal is not likely to result in greater impacts than the approved development and noted that:
 - redistribution and reprofiling of sediment will not have a significant impact on existing habitat or biota because the site is impoverished
 - ecological impacts remain the same regarding lost habitat opportunities because of increased hard substrate
 - methods to minimise escape of sediment plume appear adequate and given the location and quality of surrounding sediment within Blackwattle Bay, should the plume partially escape the proposed sediment curtains, it would not travel far and would not significantly impact the ecological function or the amenity value of the Bay.
-

TfNSW (Maritime Planning)

- Modification Application
- Advised it had no comments to make on the proposal.
-

Port Authority

- Modification Application
- Advised it had no comments to make on the proposal.
-

Heritage Council NSW

- Modification Application
- Advised that the proposal would not result in any additional impacts to State heritage listed items, as the visible bulk and scale of the development remains unchanged.
 - Supported the proposed mitigation measures and revisions to the archaeological testing program and recommended conditions be modified to include the specific recommendations provided in the Maritime Heritage Archaeological letter (prepared by Comber consultants, dated 16 April 2021).
-

4.4 Response to submissions

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

On 15 June 2021, the Applicant lodged a Response to Submissions (RtS) responding to the issues raised during the notification of the Modification Report.

The RtS provided additional information responding to comments provided by Council and government agencies (**Table 3**). The RtS also included a letter from the Applicant's Environmental Consultant (JBS&G) regarding the characterisation of the additional sediment and a response to the EPA's recommended conditions.

The Department made the RtS publicly available on its website. No submissions were received on the RtS.

5 Assessment

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

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application and the concept approval
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act and Regulation
- submissions received from Council and government agencies.

The Department has considered each of the proposed amendments below.

5.1 Sediment Redistribution and Contamination Management

The proposal seeks to increase the amount of sediment required to be redistributed on site from 1,000 m³ to 12,000 m³.

It is anticipated that approximately 12,000 m³ of sediment material within the basement footprint primarily under the former Hanson wharf (**Figure 3**) will require redistribution to facilitate construction of the basement and ensure maintenance of culvert infrastructure performance and removal of existing rock revetment sections.

No concerns were raised by Council or government agencies regarding the amount of sediment to be redistributed.

However, Council requested clarification that the proposed increase in sediment redistribution would not result in material variations to the scope of remediation and/or validation works to be conducted at the site. Council also requested that the recommendations within the RAP remain valid for the proposal or submit a revised RAP which addresses the proposal and make reference to the submitted revised ASSMP.

The EPA reviewed the proposal and provided recommendations to amend existing conditions (B92 to B95) relating to contamination and recommended a new condition requiring the engagement of an EPA accredited site auditor throughout the duration of works.

Overall, the Department supports the recommended conditions by the EPA, subject to some amendments as outlined in **Appendix C**.

In response, the Applicant provided a letter from their Environmental Consultants (JBS&G) confirming that:

- the results and findings from the sediment characterisation assessment undertaken on the additional sediment will result in no material variations to the scope of remediation and/or validation works required to be conducted at the site
- recommendations within the RAP remain valid.

The Department considers the proposal acceptable as:

- there would be no variations to the scope of remediation and/or validation works required

- consistent with the EPA's advice, a new condition (Condition C20A) is recommended requiring an EPA accredited Site Auditor to be engaged during the works. This will ensure that soil, groundwater, surface water and sediment contamination is appropriately managed and overseen by an independent EPA accredited Site Auditor
- existing and recommended conditions will continue to ensure that the land will be suitable after remediation for the proposed SFM and that the land will be remediated before the land is used for the SFM.

5.2 Maritime Archaeology

The Applicant submitted a Maritime Heritage Archaeological letter to address the potential for additional impacts on archaeological deposits due to the increase in seabed disturbance.

To mitigate impacts, the following adjustments to the archaeological testing program are proposed:

- provision of two additional archaeological test trenches within the area beneath the Hanson concrete batching plant and wharf
- the proposed placement of the test trenches on the eastern side of the new SFM be revised to enable testing in the area to be occupied by the eastern plaza.

Heritage Council reviewed the proposal and recommended the adjustments to the approved archaeological testing program be included as conditions of consent.

The Department is satisfied the adjustments to the archaeological testing program would mitigate and manage potential archaeological impacts. The Department supports the Heritage Council's recommendation that Condition C27 is updated to reference the mitigations measures within the Maritime Heritage Archaeological letter.

5.3 Other Issues

Other relevant issues for consideration are addressed in **Table 4**.

Table 4 | Summary of other issues raised

Issue	Findings	Recommendations
Acid sulfate soils	<ul style="list-style-type: none"> • The Applicant has submitted an updated Acid Sulphate Management Plan (ASSMP). Additional investigations were undertaken including acid sulphate soil (ASS) screening. The ASSMP was amended in the following manner: <ul style="list-style-type: none"> ○ make reference to the additional investigations ○ provide a more detailed description of the sediment redistribution works ○ identify additional management measures to be implemented during works 	<ul style="list-style-type: none"> • The Department recommends amending Condition C58 to reference the updated ASSMP.

- recommend additional monitoring during the sediment adjustment process
- identify appropriate contingency measures to be implemented.
- No concerns or issues were raised by Council or the EPA about potential environmental risks associated with the disturbance of ASS arising from the proposal and the updated ASSMP.
- The Department recommends amending Condition C58 to reference the updated ASSMP.
- The Department also notes that existing conditions of consent will ensure appropriate management and mitigation measures are in place to manage ASS.
- The Department considers, subject to the recommended condition and existing conditions, any environmental risks associated with the disturbance of ASS arising from the proposal are able to be appropriately mitigated and managed.

Design integrity

- In accordance with the Design Integrity Process, the proposal was reviewed by the Design Integrity Panel, who raised no concerns to the proposed modifications.
- The Department therefore considers that the proposal would not diminish the design integrity of the approved design of the development.
- No conditions are recommended.

Construction impacts

- The proposal seeks changes to the construction staging to allow for the works associated with the redistribution and reprofiling of sediment to occur as the first stage.
- The sediment redistribution works are proposed to be conducted prior to the installation of the coffer dam and piling works, but within the confines of the site that is governed by the larger silt curtain.
- No concerns were raised by Council or government agencies regarding these changes.
- The Department considers that the proposal would not result in any additional construction impacts beyond those considered under the Stage 2 main works application as:
- No conditions are recommended.

- the development site area is not increasing in size
 - sediment plumes will be contained by a silt curtain attached to the profiling barge and by the larger silt curtain for the site
 - there would be no additional impact to air quality, as dust created from the sediment leaving the water would remain saturated at all times and would be redispersed prior to end-of-day works
 - there would be no additional road traffic impacts, as works will be undertaken by marine vessels and subject to a Navigational Impact Assessment under existing conditions of consent
 - existing conditions of consent will ensure constructions impacts are appropriately mitigated and managed.
-

6 Evaluation

The Department assessed the merits of the proposal, taking into consideration comments from Council and government agencies.

The Department has considered all relevant matters under section 4.15 of the EP&A Act, and is satisfied that the development, as proposed to be modified, is substantially the same development as that originally approved.

The Department considers the amended proposal is acceptable for the following reasons:

- the changes are minor in nature with no changes to the built form of the building
- the changes will not diminish the design integrity of the development
- Council and relevant government agencies have raised no concerns about the proposed changes
- it would not result in any additional adverse impacts beyond those considered under the Stage 2 main works application
- existing and recommended conditions will manage and mitigate potential construction impacts.

The Department considers the modifications are in the public interest and should be approved, subject to the recommended modified conditions of consent.

7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 8925 MOD 4 falls within the scope of section 4.55(1A) of the EP&A Act;
- **forms the opinion** under clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 that a BDAR is not required to be submitted with this application as the application will not increase the impact on biodiversity values on the site
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modifications
- **modify** the consent SSD 8925
- **signs** the attached approval of the modification (**Appendix D**).

Recommended by:



Rodger Roppolo
Senior Planning Officer
Key Sites Assessments

8 Determination

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

A handwritten signature in blue ink, appearing to be 'CS', written over a horizontal line.

Cameron Sargent
Team Leader
Key Sites Assessments

(as delegate of the Minister for Planning and Public Spaces)

2/7/2021

Appendices

Appendix A – List of referenced documents

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

Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41741>

Submissions on Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41741>

Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/41741>

Appendix B – Statutory Considerations

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

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

Section 4.55(1A)	Department's consideration
(a) The proposed modification is of minimal environmental impact	As discussed in Section 5 of this report, the potential environmental impacts arising from the proposed modifications are minor in nature.
(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.	<p>The amended proposal is substantially the same development as that originally approved in that:</p> <ul style="list-style-type: none"> the land uses remain consistent with that of the approved development the proposed modifications to the approval will not in a difference to building form. the anticipated environmental impacts arising from the proposed modifications are consistent with those of the approved development.
(c) The application has been notified in accordance with the regulations.	Section 4 of this report demonstrates the modification application followed the consultation requirements as outlined in the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).
(d) Any submission made concerning the proposed modification has been considered.	The Department has considered submissions made, as addressed in Section 4 and Section 5 of this report.

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

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

Section 4.15(1) Matters for consideration	Department's consideration
(a)(i) any environmental planning instrument	The proposed modifications are consistent with the relevant Environmental Planning Instruments (EPIs) as addressed in this report.
(a)(ii) any proposed instrument	The proposed modifications are consistent with relevant draft (EPIs)
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.

(a)(iv) the regulations	The application satisfactorily meet the relevant requirements of the Environmental Planning and Assessment Regulation 2000, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) as addressed in Section 4 .
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers the likely impacts of the proposed modifications acceptable and have been appropriately addressed in Section 5 .
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 5 .
(d) any submissions	The Department has considered submissions made, as addressed in Section 4 and Section 5 of this report.
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would facilitate the orderly and efficient development of the site.

Environmental Planning Instruments

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 55 – Remediation of Land
- Draft State Environmental Planning Policy for the Remediation of Land
- State Environmental Planning Policy 33 – Hazardous and Offensive Development
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan No.26 – City West
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Draft State Environmental Planning Policy
- Sydney Local Environmental Plan 2012
- Sydney Harbour Foreshores and Waterways Area DCP 2005.

The Department undertook a comprehensive assessment of the proposal against the relevant EPIs in its original assessment and is satisfied the modification application remains consistent with the EPIs

Appendix C – Assessment of EPA Recommended Conditions

EPA Recommendation	Applicant's Response	Department's Assessment and Recommendation
<p>EPA recommended that Condition B92 is amended by deletion of struck out words and the insertion of bold and underlined words as follows:</p> <p>Prior to the commencement of works, an Unexpected Contamination Finds Protocol (UFP) prepared by a suitably qualified and experienced expert shall be prepared. The protocol should include detailed procedures for identifying and dealing with unexpected contamination, asbestos, and other unexpected finds. The Applicant should ensure that the procedure includes details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved. The UFP must be submitted to the Certifier and EPA an <u>EPA accredited Site Auditor</u>. The UFP must be implemented for the duration of construction works.</p>	<p>The works have commenced under the first Crown building works certificate and would therefore be unable to comply with the timing of the condition.</p> <p>It is recommended that the timing of the condition is amended to allow preparation of the interim audit advice (IAA) within 8 weeks of the approval of SSD-8925-MOD-4.</p>	<p>The Department considers it appropriate for the timing of the conditions to be amended as recommended by the Applicant, as works have already commenced on site.</p>
<p>EPA recommended that Condition B93 is amended by deletion of struck out words and the insertion of bold and underlined words as follows:</p> <p>Prior to the commencement of works, the Applicant must engage an EPA-accredited Site Auditor to prepare interim audit advice which comments on:</p>		

(a) The Data Gap Assessment - The New Sydney Fish Market 1A to 1C Bridge Road, Glebe NSW, Revision A (dated 12 March 2019) prepared by JBS&G Australia Pty Ltd for Urban Growth NSW Development Corporation which comments on the appropriateness of the assessment and the assessment's conclusions;

(b) Whether the characterisation of the site is sufficient to ensure any asbestos containing materials in soils and at ground surface are managed appropriately;

(c) Whether the Hazardous Materials Management Plan, prepared by JBS&G (dated 8 April 2019), requirements for managing asbestos at ground surface and in soils are appropriate.;

(d) sediment adjustment methodology prepared by Senversa Pty Ltd (dated 15 April 2021), the Acid Sulphate Soil Management Plan prepared by JBS&G Australia Pty Ltd (dated 26 April 2021), and revised Construction Staging Plan.

(e) Any deficiencies identified by the auditor in the interim audit advice/s must be addressed.

EPA recommended a new condition to ensure that an EPA accredited Site Auditor is engaged throughout the duration of works, for the entire project site, to ensure that any work required in relation to soil, groundwater, surface water or sediment contamination is appropriately managed:

Prior to the commencement of works, the Applicant must engage an EPA-accredited Site Auditor throughout the duration of works, for the entire project site, to ensure that any work required in relation to soil, groundwater, surface water or sediment contamination is appropriately

Do not agree with the recommended condition, noting that:

- an EPA-accredited Site Auditor has already been engaged for the project
- works have commenced and an IAA has been completed
- an updated IAA will be required under Condition B93

The Department notes that:

- there is currently no condition requiring an EPA accredited Site Auditor to be engaged throughout the project
- the timing of the recommended condition should be during works and not prior to the commencement of works (as recommended by EPA) as works have already commenced.

The Department recommends a new condition (Condition C20A) requiring an EPA accredited Site Auditor be engaged throughout the project, during works.

managed. If work is to be completed in stages, the Site Auditor must confirm satisfactory completion of each stage by the issuance of Interim Audit Advice/s.

EPA recommended a new condition to ensure that the Applicant will submit a Section A1 or Section A2 Site Audit Statement and associated Site Audit Report prepared by a Site Auditor to certify the site is suitable for the proposed development:

Prior to use of the proposed development, the Applicant must submit a Section A1 or Section A2 Site Audit Statement and associated Site Audit Report to certify the site is suitable for the proposed development. A copy of all the documentation outlined in the above requirements in B94 must be submitted to the Planning Secretary.

Do not agree with the recommended condition, noting that these requirements are addressed under existing Condition D11

The Department notes the submission of a Site Audit Statement and Report is required under Condition D11. No further conditions are required.

Appendix D – Instrument of Modification

The Instrument of Modification can be found at the Department of Planning, Industry and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/41741>