



# The New Sydney Fish Market Modification

State Significant Development Modification Assessment  
(SSD 8924 MOD 2 and SSD 8925 MOD 5)

November 2021



Published by the NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: The new Sydney Fish Market Modification (SSD 8924 MOD 2 and SSD 8925 MOD 5)

Cover image: *Indicative western view of the new Sydney Fish Market (Applicant's EIS)*

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2021) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Glossary

<b>Abbreviation</b>	<b>Definition</b>
<b>Applicant</b>	Infrastructure NSW
<b>CBD</b>	Central Business District
<b>CCC</b>	Sydney Fish Market Community Consultative Committee
<b>Council</b>	City of Sydney Council
<b>Department</b>	Department of Planning, Industry and Environment
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	Environmental Planning and Assessment Act 1979
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPI</b>	Environmental Planning Instrument
<b>GFA</b>	Gross Floor Area
<b>HSC</b>	Higher School Certificate
<b>INSW</b>	Infrastructure NSW
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning and Public Spaces
<b>SEPP</b>	State Environmental Planning Policy
<b>SFM</b>	Sydney Fish Market
<b>SSC</b>	Sydney Secondary College, Blackwattle Bay Campus
<b>SSD</b>	State Significant Development

# Contents

<b>1</b>	<b>Introduction</b> .....	<b>1</b>
1.1	Background .....	1
1.2	Approval history.....	2
<b>2</b>	<b>Proposed modification</b> .....	<b>4</b>
<b>3</b>	<b>Statutory context</b> .....	<b>6</b>
3.1	Scope of modifications .....	6
3.2	Consent authority .....	6
3.3	Mandatory matters for consideration.....	6
3.4	Biodiversity Conservation Act 2016 .....	7
<b>4</b>	<b>Engagement</b> .....	<b>8</b>
4.1	Department’s engagement.....	8
<b>5</b>	<b>Assessment</b> .....	<b>9</b>
<b>6</b>	<b>Evaluation</b> .....	<b>11</b>
<b>7</b>	<b>Recommendation</b> .....	<b>12</b>
<b>8</b>	<b>Determination</b> .....	<b>13</b>
	<b>Appendices</b> .....	<b>14</b>

# 1 Introduction

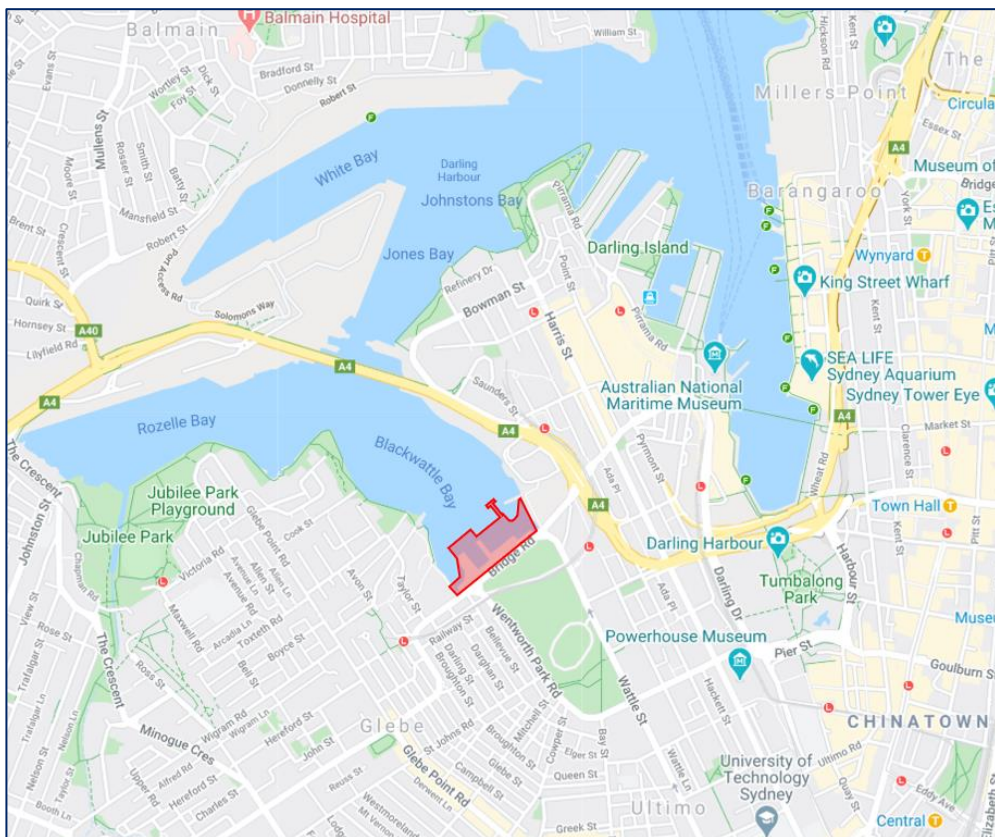
This report provides a concurrent assessment of two modification applications seeking to modify the Stage Significant Development (SSD) concept and Stage 1 early works and Stage 2 main works approvals for the new Sydney Fish Market (SFM).

The applications have 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 applications SSD 8924 MOD 2 and SSD 8925 MOD 5 seeks to alter the hours of noise-intensive constructions activities and respite periods during the 2021 HSC examination period.

## 1.1 Background

The modification applications relate to the new SFM, located at the head of Blackwattle Bay between the Pyrmont Peninsula and Glebe Peninsula (**Figure 1**). The site is situated less than two km west of Sydney's CBD, and the land-based component of the site is within the City of Sydney local government area. The Sydney Secondary College, Blackwattle Bay Campus (SSC) is located to the immediate west of the site.



**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 development of a new SFM. The development consists of two SSD applications, comprising 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 m<sup>2</sup>
  - 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 m<sup>2</sup> 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 SFM development has been modified on five occasions (**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(1)	7 June 2021
SSD 8925 MOD 1	Alterations to the internal layout, façade, reconfiguration of the recreational and operational wharfs and amendments to the western plaza, and conditions relating to the EPA	Director	4.55(1)	7 June 2021

SSD 8925 MOD 2	Amendment to Condition B52 Marine Structures and Condition B54 Construction Vessel Traffic Management Plan	Acting Director	4.55(1)	19 February 2021
SSD 8925 MOD 3	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
SSD 8925 MOD 4	Redistribution of sediment to facilitate the levelling of the seabed	Team Leader	4.55(1A)	2 July 2021

## 2 Proposed modification

On 22 October 2021, the Applicant lodged modification applications SSD 8924 MOD 2 and SSD 8925 MOD 5 seeking approval under section 4.55(1A) of the EP&A Act to amend the hours of noise-intensive constructions activities and respite periods during the 2021 HSC examination period.

The proposed modifications are detailed in **Table 2** below.

**Table 2 | Proposed modification**

Aspect	Proposed modification
Condition C6	<ul style="list-style-type: none"> <li>amend condition C6 of SSD 8924 and SSD 8925, through the addition of Condition C6A, to enable noise-intensive construction activities (rock breaking, rock hammering, sheet piling, pile driving and similar activities) to occur within the demolition/construction hours specified in Condition C2, during the 2021 HSC exams period of Tuesday 9 November 2021 to Friday 3 December 2021, with respite periods as follows: <ul style="list-style-type: none"> <li>7.00 am to 7.45 am, Monday to Friday;</li> <li>during HSC exams (<b>Table 3</b>)</li> </ul> </li> <li>It is noted the approved hours for noise-intensive construction activities and respite periods on Saturdays, during the 2021 HSC exam period will remain as approved.</li> </ul>

**Table 3 | Proposed Respite Periods**

Date	Respite Period			Total Respite Hours
	1	2	3	
<b>Week 1</b>				
Tuesday 9 November 2021	7.00 am – 7.45 am	9.50 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Wednesday 10 November	7.00 am – 7.45 am	9.25 am – 11.30 am	1.55 pm – 5.00 pm	5 hrs, 55 mins
Thursday 11 November	7.00 am – 7.45 am	11.25 am – 2.30 pm	Nil	3 hrs, 50 mins
Friday 12 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
<b>Week 2</b>				
Monday 15 November	7.00 am – 7.45 am	9.20 am – 12.30 pm	1.50 pm – 5.00 pm	7 hrs, 5 mins
Tuesday 16 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Wednesday 17 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Thursday 18 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Friday 19 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.50 pm – 4.00 pm	5 hrs, 55 mins
<b>Week 3</b>				
Monday 22 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 5 mins
Tuesday 23 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Wednesday 24 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.50 pm – 4.00 pm	6 hrs
Thursday 25 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Friday 26 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.50 pm – 3.30 pm	5 hrs, 25 mins
<b>Week 4</b>				
Monday 29 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 5 mins
Tuesday 30 November	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.50 pm – 4.00 pm	6 hrs
Wednesday 1 December	7.00 am – 7.45 am	9.25 am – 11.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins

Thursday 2 December	7.00 am – 7.45 am	9.25 am – 12.30 pm	1.55 pm – 5.00 pm	6 hrs, 55 mins
Friday 3 December	7.00 am – 7.45 am	9.25 am – 12.30 pm	Nil	3 hrs, 50 mins

The Applicant advises that the modifications are necessary to minimise construction noise and vibration impacts on students sitting their HSC exams at SSC.

## 3 Statutory context

### 3.1 Scope of modifications

The Department has reviewed the scope of the modification applications and considers the applications can be characterised as modifications involving minimal environmental impacts as the proposals:

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

Therefore, the Department is satisfied the proposed modifications are within the scope of section 4.55(1A) of the EP&A Act and do not constitute a new development application. An assessment of the proposed modification applications 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 applications under section 4.5(a) of the EP&A Act. However, the Team Leader, Key Sites Assessments, may determine these applications under delegation as:

- a political disclosure statement has not been made
- there are no public submissions 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 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 previously assessed and considered under the original approval.

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 applications were not notified or advertised. However, the applications were made publicly available on the Department's website. No public submissions were received.

The Department notes the proposal was discussed at the SFM Community Consultative Committee (CCC) at its meeting on Wednesday 13 October 2021. The SFM CCC includes representatives from Glebe Rowing Club, Dragon Boats NSW, the Body Corporate of No. 84 Wentworth Park Road, SSC, Council, stakeholder groups and community representatives. No concerns were raised by the CCC to the proposal. Letters of endorsement from the majority of the SFM CCC members for the proposal have also been provided to the Department.

## 5 Assessment

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

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

The Department has considered the proposed amendments below.

### 5.1 Condition C6 – Hours of Demolition/Construction

The proposal seeks to amend Condition C6 of SSD 8924 and SSD 8925 to enable noise-intensive construction activities (rock breaking, rock hammering, sheet piling, pile driving and similar activities) within the demolition/construction hours specified in Condition C2, during the 2021 HSC exam period from Tuesday 9 November 2021 to Friday 3 December 2021, with respite periods as follows:

- 7.00 am to 7.45 am, Monday to Friday
- during HSC exams (**Table 3**).

The approved demolition/construction hours and respite periods are provided in **Table 4**.

**Table 4 | Approved demolition/construction hours and respite period**

	SSD 8924	SSD 8925
<b>Condition C2 – Hours of Demolition/Construction</b>	<ul style="list-style-type: none"> <li>• 7.00 am to 5.30 pm, Monday to Friday</li> <li>• 7.30 am to 3.30 pm, Saturday</li> <li>• no work on Sundays or public holidays</li> </ul>	
<b>Condition C6 - Hours permitting noise intensive construction activities</b>	<ul style="list-style-type: none"> <li>• 9.00 am to 12.00 pm, Monday to Friday</li> <li>• 2.00 pm to 5.00 pm, Monday to Friday</li> <li>• 9.00 am to 12.00 pm, Saturday</li> </ul>	<ul style="list-style-type: none"> <li>• 9.00 am to 12.00 pm, Monday to Friday</li> <li>• 1.00 pm to 5.00 pm, Monday to Friday</li> <li>• 9.00 am to 1.00 pm, Saturday</li> </ul>
<b>Total Respite Hours</b>	<ul style="list-style-type: none"> <li>• 4 hrs, 30 min respite period, Monday to Friday</li> <li>• 5 hrs respite period, Saturday</li> </ul>	<ul style="list-style-type: none"> <li>• 3 hrs, 30 min respite period, Monday to Friday</li> <li>• 4 hrs respite period, Saturday</li> </ul>

The Applicant notes that in light of COVID-19 health guidelines, SSC are required to provide natural ventilation to students undertaking their HSC exams. This will be achieved by the opening of windows and doors, which will in turn increase exposure to outside noise sources.

The approved hours for noise intensive construction activities generally coincide with the HSC exams, with the majority of respite periods occurring outside of exam times. The proposed amendment to

Condition C6 would ensure respite periods occur during exam times, and noise intensive construction activities occur outside of exam times.

The Department considers the proposed amendment acceptable in this instance for the following reasons:

- the amendments are temporary, for Monday to Friday, during the 2021 HSC examination period
- a greater total amount of respite period will be provided (up to 7 hours per day) compared to the current approved hours for noise intensive activities which provides up to 4 hours and 30 minutes of respite period, Monday to Friday
- the respite periods align with the HSC exams, therefore minimising construction noise and vibration impacts to SSC students sitting their HSC exams
- there are no changes to the hours of construction/demolition
- the proposal is supported by the SFM CCC
- it would not result in any additional impacts beyond those considered under the concept and Stage 1 demolition application and the Stage 2 main works application.

The Department also notes the existing conditions of approval would continue to appropriately mitigate and manage construction impacts in terms of noise and vibration.

The Department is therefore satisfied the proposed changes to the hours of noise-intensive constructions activities are acceptable and recommends amending Condition C6, through the addition of Condition C6A, for SSD 8924 and SSD 8925.

## 6 Evaluation

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

The Department considers the amended proposals are acceptable for the following reasons:

- it would minimise construction noise and vibration impacts to SSC students sitting their HSC exams
- the proposal is supported by the SFM CCC
- it would not result in any additional adverse impacts beyond those considered under the concept and Stage 1 demolition application and the Stage 2 main works application.

The Department considers the modifications are in the public interest and should be approved, subject to the recommended modified condition 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 applications SSD 8924 MOD 2 and SSD 8925 MOD 5 fall 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 the applications as the modifications 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 consents SSD 8924 and SSD 8925
- **signs** the attached approval of the modifications (**Appendix C**).

Recommended by:



**Rodger Roppolo**  
**Senior Planning Officer**  
**Key Sites Assessments**

## 8 Determination

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

A handwritten signature in black ink, appearing to read 'Andy Nixey', written in a cursive style.

**Andy Nixey**  
**Acting Team Leader**  
**Key Sites Assessments**

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

# Appendices

## Appendix A – List of referenced documents

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

### **SSD 8924 MOD 2**

Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/43111>

### **SSD 8925 MOD 5**

Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/43111>

## 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 <b>Section 5</b> 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.	The amended proposal is substantially the same development as that originally approved.
(c) The application has been notified in accordance with the regulations.	<b>Section 4</b> of this report demonstrates the modification applications followed the consultation requirements as outlined in the EP&A Regulation.
(d) Any submission made concerning the proposed modification has been considered.	Not applicable.

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 EPs as addressed in this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, DCPs do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	The applications satisfactorily meet the relevant requirements of the EP&A Regulation, 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 <b>Section 4</b> .
(b) the likely impacts of that development including environmental impacts on both the	The Department considers the likely impacts of the proposed modifications acceptable and have been appropriately addressed in <b>Section 5</b> .

natural and built environments, and social and economic impacts in the locality,

---

(c) the suitability of the site for the development	The site is suitable for the development.
(d) any submissions	Not applicable.
(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, while ensuring construction noise and vibration impacts are minimised during the HSC examination period.

---

### 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. Due to the minor nature of the modification applications, the Department is satisfied the applications remain consistent with the EPIs.

## **Appendix C – Notice of Modification**

The Notice of Modification can be found on the Department's website as follows:

### **SSD 8924 MOD 2**

<https://www.planningportal.nsw.gov.au/major-projects/project/43111>

### **SSD 8925 MOD 5**

<https://www.planningportal.nsw.gov.au/major-projects/project/43111>