

THE NEW SYDNEY FISH MARKET AT BLACKWATTLE BAY SSD 18_8925 MOD 4

RESPONSE TO SUBMISSIONS

Prepared for
Infrastructure NSW

By
BBC Consulting Planners

June 2021

Table of Contents

1.	INTRODUCTION	1
2.	RESPONSES TO MATTERS RAISED.....	2
3.	CONCLUSION	3



1. INTRODUCTION

This Response to Submissions Report has been prepared to provide a response to the submissions lodged with the Department of Planning, Industry and Environment (DPIE) in response to the notification of MOD 4 to SSD 18_8925 for the New Sydney Fish Market at Blackwattle Bay.

The Proponent, Infrastructure NSW (INSW) has considered the issues raised in the submissions made during the submission period and provides a response to the issues raised.

2. RESPONSES TO MATTERS RAISED

Submissions on Mod 4 were received from the following agencies:

- DPIE Environmental, Energy and Science Group (Biodiversity and Conservation Division)
- NSW Environment Protection Authority (EPA)
- City of Sydney Council
- Heritage Council of NSW
- Port Authority of New South Wales
- Transport for NSW (Maritime)

These submissions have been considered in detail and the applicant's response is presented in the table in **Appendix 1**. This includes a letter from JBS&G dated 7 June 2021 in response to matters raised by Council.

3. Conclusion

The proposal is to build a new Sydney Fish Market with a contemporary urban design, providing unique experiences for visitors and world-class auction and wholesale facilities. The new facility will be set within an improved public domain including the creation of a waterfront promenade with improved access to Blackwattle Bay and linking to surrounding areas and to public transport.

The development will expand and improve the functions of the existing Sydney Fish Market in a new setting achieving design excellence, authentic experience, functional performance and environmental sustainability.

The potential environmental impacts, both direct and cumulative, of Mod 4 have been identified and assessed as part of the modification application process.

The assessment in this response to submissions reinforces the findings of the Mod 4 application that the development will continue to provide a new Sydney Fish Market of international standing acting as a catalyst for the rejuvenation of the eastern foreshore of Blackwattle Bay. The assessment concludes that no significant environmental impacts have been identified as a result of the modification. Any potential impacts can be satisfactorily mitigated through a range of measures that have been identified within the conditions of consent and this response to submissions.

It is considered that the modification is in the public interest and warrants approval.



Appendix 1: Response Table

Agency	Matter Raised	Submission	Response
Environment, Energy and Science Group (EESG)	Biodiversity	<p>Under section 7.17 of the Biodiversity Conservation Act 2016 (BC Act), applications for the modification of major projects must be accompanied by a biodiversity development assessment report unless the consent authority is satisfied that the modification will not increase the impact on biodiversity values.</p> <p>To assist DPIE, EES considers that changes proposed in the modification application are not likely to result in greater impacts than the approved development, however EES makes the following comments in relation to marine ecology.</p> <p>EES has reviewed the documents pertaining to the modified sediment redistribution works, Blackwattle Bay, and advise that:</p> <ul style="list-style-type: none"> • Reprofilling is required to maintain function of existing stormwater infrastructure; • Redistribution and reprofiling of 12,500 cubic metres of sediment from beneath the former Hanson Concrete Batching Plant will not have a significant impact on existing habitat or biota because the site is so depauperate, there is little to impact • 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. 	Noted
NSW Environment Protection Authority (EPA)	EPA-accredited site auditor	The EPA considers that given the significant increase in volume of sediments requiring profiling, it is important that there is oversight of these activities throughout the entire construction process to ensure that they are managed properly. It is recommended that an EPA-accredited site auditor is engaged 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.	An EPA-accredited auditor has been on the project since 2018. INSW has contracted Tom Onus from Ramboll to undertake the scope of a site auditor until post construction.
	SSD 8925	<p>It is noted that existing conditions of consent for SSD 8925 do not ensure engagement of a site auditor throughout the duration of works. The EPA recommends modification to conditions B92 to B95 (see below) to include the requirement to obtain either interim audit advice or a B5 Site Audit Statement and associated Site Audit Report which certifies the project can be made suitable for the proposed development if requirements detailed in relevant reports are implemented. These include:</p> <ul style="list-style-type: none"> • Remedial Action Plan (RAP), prepared by JBS&G, dated 4 April 2019 (Rev 3), • Sediment Adjustment Methodology letter: SSD 8925 Modification 4: Basement Redesign and Sediment Redistribution, prepared by Senversa, dated 15 April 2021, • Acid Sulfate Soil Management Plan, prepared by JBS&G, dated 26 April 2021 • (Revised) New Fish Markets Construction Staging – Main Works 	Noted
		<p>In addition to the above modifications, the EPA also requests that the following modifications are made to SSD 8925 as previously identified in the EPA’s submission to Modification 1 (dated 1 February 2021 Ref DOC21/17940):</p> <p>B79 – remove the requirement to consult with the EPA for the Construction Noise & Vibration Management Plan.</p> <p>B81 – remove the requirement to consult with the EPA for the Construction Air Quality Management Plan.</p> <p>B96 – remove the requirement to consult with the EPA for the Hazardous Materials Management Plan and remove the requirement to submit the HMMP to the EPA. 5</p> <p>Note: The EPA’s advice regarding Modification 1 (not determined) also included an amendment to B92 to delete the requirement to submit the Unexpected Finds Protocol to the EPA. The recommendations made above override this. The</p>	The requirement for consultation with EPA for the listed management plans was removed as part of Modification 1.

		proponent should refer to Schedule 1 of the Protection of the Environment Operations Act 1997 to determine whether an Environment Protection Licence is required for the project.	
	Section A1 or Section A2 Site Audit Statement	In order to be consistent with the NSW Site Auditor Scheme's framework, the EPA recommends that prior to use of the proposed development the applicant submit a Section A1 or Section A2 Site Audit Statement and associated Site Audit Report to certify that the site is suitable for the proposed development.	The site auditor has confirmed that this is covered in condition D11.
	Condition B92	<p>Recommended modifications to conditions B92 in the Instrument of Consent are detailed in the following:</p> <p>Existing condition - B92.</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. The UFP must be implemented for the duration of construction works.</p> <p>Proposed wording for Mod 4 – B92.</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 EPA accredited Site Auditor. The UFP must be implemented for the duration of construction works.</p> <p>EPA Comment</p> <ul style="list-style-type: none"> delete the requirement to submit to the EPA; the UFP must be submitted to a Site Auditor 	<p>Agree to submit the UFP to the site auditor.</p> <p>The unexpected finds protocol has been submitted to the certifier as part of the application for the first Crown building works certificate. The suggested amendment to the condition requires the Unexpected finds protocol to be submitted to the Site Auditor. There is a concern over the inference of the condition for this to happen prior to commencement of works. Multiplex is proceeding to commence construction activities on site in accordance with an initial Crown building works certificate. As the works have commenced it is proposed that the condition be amended in part as follows:</p> <p>The UFP must be submitted to the Certifier and EPA an EPA accredited Site Auditor within 8 weeks of the approval of Mod 4.</p>
	Condition B93	<p>Recommended modifications to conditions B93 in the Instrument of Consent are detailed in the following:</p> <p>Existing condition - B93.</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> <ol style="list-style-type: none"> 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; Whether the characterisation of the site is sufficient to ensure any asbestos containing materials in soils and at ground surface are managed appropriately; 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. Any deficiencies identified by the auditor In the interim audit advice must be addressed. <p>Proposed wording for Mod 4 – B93.</p>	<p>Agree to have the site auditor to update the IAA to include the documents submitted in support of SSD 8925 Mod 4 application being the 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.</p> <p>There is an issue with timing of complying with these additional requirements prior to commencement of works.</p> <p>Multiplex is proceeding to commence construction activities on site in accordance with an initial Crown building works certificate. This does not include reprofiling. The wording</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 the appropriateness of:</p> <ul style="list-style-type: none"> 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. <p>EPA Comment</p> <ul style="list-style-type: none"> • inserted "appropriateness of" for clarity on what should be included in the interim audit advice/s • include condition B93 (d) to ensure that a Site Auditor will review and comment on the appropriateness of the documents submitted in support of SSD 8925 Mod4 application • modified "interim audit advice" to "interim audit advice/s" since more than one advice could be prepared by the Site Auditor as part of this SSD 8925 	<p>of this condition needs to consider that "prior to works commencement" will have already occurred and that the requirement for satisfaction of the revised condition needs to reflect this.</p> <p>It is requested that time be provided for the Site Auditor to comment on the appropriateness of the listed documents with no interruption to works. A suggested change to the proposed condition is as follows:</p> <p>Within 8 weeks of the approval of Mod 4 Prior to the commencement of works, the Applicant must engage an EPA-accredited Site Auditor to prepare interim audit advice which comments on the appropriateness of:</p>
	Insert new condition after B93	<p>Recommended modifications to conditions B93.1 in the Instrument of Consent are detailed in the following:</p> <p>Proposed wording for Mod 4 – B93.1</p> <p>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 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.</p> <p>EPA Comment</p> <p>Insert 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.</p>	<p>INSW have an EPA-accredited site auditor engaged for the duration of the project.</p> <p>INSW do not agree that this condition should be added as works have started and IAA has been completed. An updated IAA will be provided to satisfy updated condition B93.</p>
	Condition B94	<p>Recommended modifications to conditions B94 in the Instrument of Consent are detailed in the following:</p> <p>Existing Condition – B94.</p> <p>Prior to the commencement of works, the Applicant must engage an EPA-accredited auditor to prepare a Section B Site Audit Statement that confirms that the remediation action plan is appropriate for the site and that the site can be made suitable for the proposed use.</p> <p>Proposed wording for Mod 4 – B94.</p>	Agree

		<p>Prior to the commencement of works, the Applicant must engage an EPA accredited auditor to prepare submit to the Certifier a Section B Site Audit Statement, prepared by an EPA-accredited Site Auditor, that confirms that the remediation action plan is appropriate for the site and that the site can be made suitable for the proposed use.</p> <p>EPA Comment</p> <p>More appropriate and clearer wording.</p>	
	Insert new condition after B94	<p>Recommended modifications to conditions B94.1 in the Instrument of Consent are detailed in the following:</p> <p>Existing Condition – B94.1</p> <p>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.</p> <p>EPA Comment</p> <p>Include 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.</p>	<p>Do not agree.</p> <p>As advised by our EPA-accredited site auditor D11 already addresses this requirement and is in a more appropriate section of the conditions.</p>
	Condition B95	<p>Recommended modifications to conditions B95 in the Instrument of Consent are detailed in the following:</p> <p>Existing condition - B95.</p> <p>The Applicant must adhere to the management measures accepted or recommended by the site auditor. Prior to the commencement of works, details demonstrating compliance with the above requirements (Conditions B73-B76) must be submitted to the Certifier. A copy of all the documentation outlined in the above requirements (Conditions B74-B76) must be submitted to the Planning Secretary.</p> <p>Proposed wording for Mod 4 – B95.</p> <p>The Applicant must adhere to the management measures accepted or recommended by the site auditor. Prior to the commencement of works, details demonstrating compliance with the above requirements (Conditions B73-B76 B92-B94.1) must be submitted to the Certifier. A copy of all the documentation outlined in the above requirements (Conditions B74-B76 B92-B94.1) must be submitted to the Planning Secretary.</p> <p>EPA Comment</p> <ul style="list-style-type: none"> conditions B73-B76 are about hoardings, crime prevention, security assessment which are not related to contamination. 	Noted, for DPIE to amend in draft conditions.
City of Sydney Council	Remediation Action Plan	<p>Based on the results and findings of this assessment, it is considered that the sediment materials assessed herein are suitable for on-site retention within the framework outlined in the Remediation Action Plan (RAP) (JBS&G 2020). Notwithstanding, further 2 assessments of sediments at depth may be required, should the excavation depth (to facilitate the construction of the new Sydney Fish Market building) within the investigation footprint extend beyond the depths reached as part of this investigation.</p> <p>It is requested that the proponent clarify that the proposed increase amount of redistributed sediment from 55m3 to potentially over 12,000m3 and removal of 470m3 of existing rock will result in no material variations to the scope of remediation and/or validation works to be conducted at the site.</p>	See attached letter from JBS&G

		Further, the applicant must clarify that recommendations and conclusions within environmental reports and RAP prepared by JBS&G remain valid for the proposed modifications or submit a revised RAP which addresses the proposed works and refer to the submitted revised Acid Sulfate Soil Management Plan. Additionally, a revised letter of interim advice is required which confirms that the revised RAP is adequate to render the site suitable for the proposed use.	
Heritage Council	Built Heritage	<p>The Planning Report states that <i>approximately 12,500 m3 of sediment material in the basement footprint primarily under the former Hanson wharf may require movement as reprofiling to facilitate construction of the basement and ensure maintenance of culvert infrastructure performance and removal of existing rock revetment sections.</i></p> <p>The modification would not alter the relationship of the development to the State Heritage Register listed item, Glebe and Wentworth Park Railway Viaducts (SHR No 01034), as the visible bulk and scale of the development remains unchanged. The modified development will, therefore, remain substantially the same as the approved development and is supportable.</p>	Noted
	Maritime Heritage	<p>A letter prepared by Comber Consultants dated 16 April 2021 has identified <i>that the increase in seabed disturbance through sediment redistribution has the potential for additional impacts on archaeological deposits which date back to early industrial development at the head of Blackwattle Bay from 1886</i>, and recommends adjustments to the approved archaeological testing program.</p> <p>These include two additional archaeological test trenches in the area beneath the Hanson Concrete Dispatching Plant wharf and revised placements of test trenches to enable testing in the area to be occupied by the Eastern Plaza. The proposed mitigation measures and revisions to the archaeological testing program as outlined in the letter are supported and it is recommended that the relevant consent condition be modified to include the specific recommendations provided in the letter from Comber consultants.</p>	Noted
Transport for NSW	No comment		
Port Authority of New South Wales	No comment		