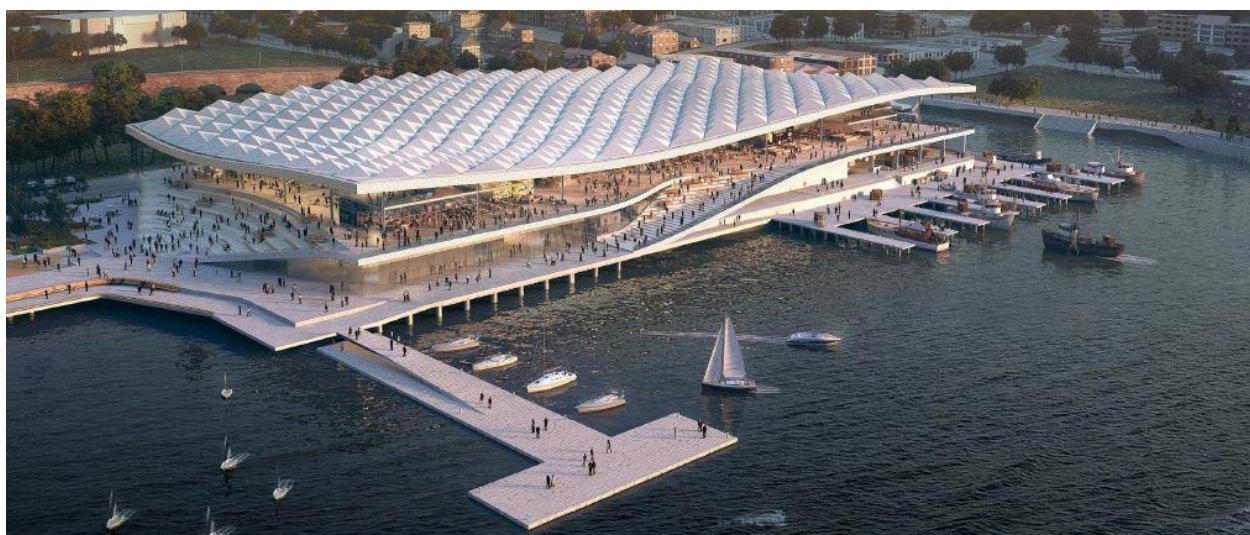




The New Sydney Fish Market Modification 3

State Significant Development Modification Assessment (SSD 8925 MOD 3)

May 2021



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Cover image: *Indicative western view of the new Sydney Fish Market (Applicant's Modification Report SSD 8925 MOD 3)*

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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 3) seeking to modify the Stage 2 main works State Significant Development (SSD) approval for 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 3 seeks to make a series of alterations to the footprint and internal layout of the basement, minor changes to the ground floor, and amendments to the subdivision plans.

1.1 Background

The modification application relates 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.

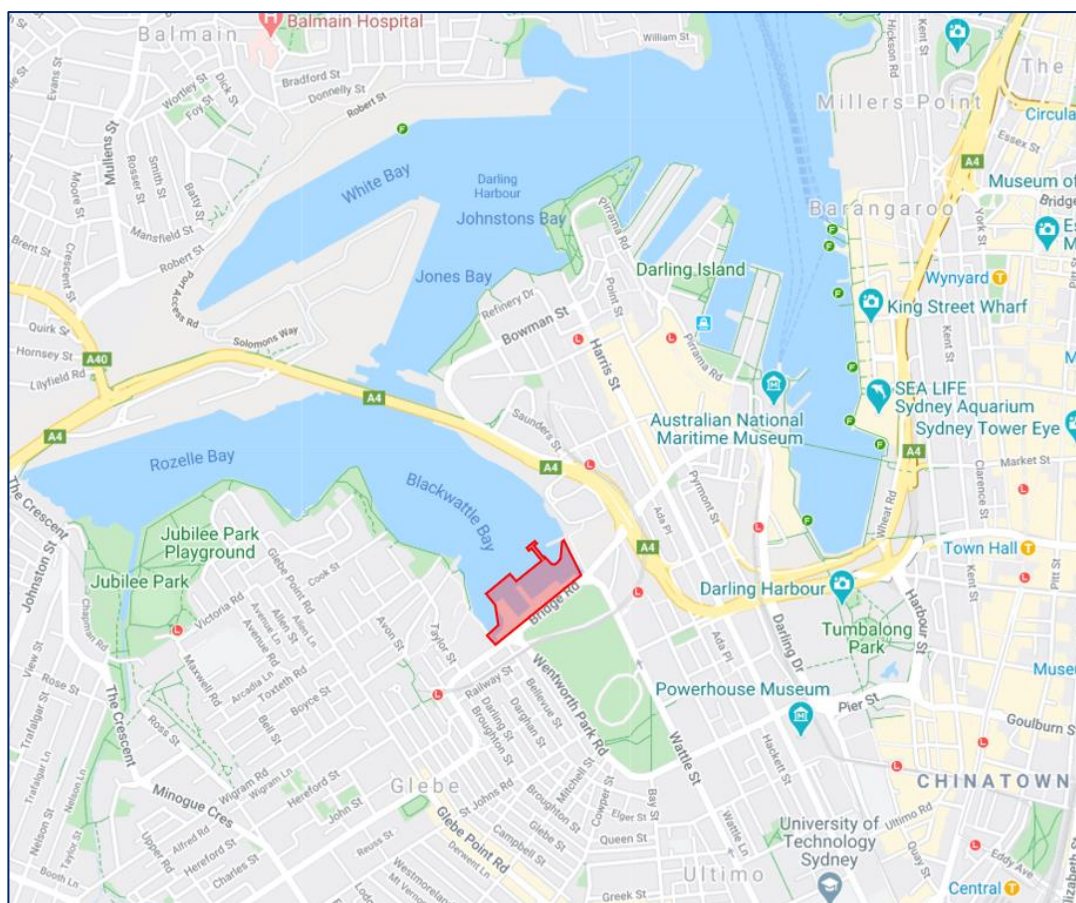


Figure 1 | Site context with the site shaded in red (base source: Nearmap)

1.2 Approval history

On 12 June 2020, the Minister for Planning and Public Spaces approved the development 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 one occasion and a number of modification applications are currently under assessment (see **Table 1**).

Table 1 | Summary of modifications

Mod No.	Summary of Modification	Approval Authority	Type	Status
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)	To be determined
SSD 8925 MOD 1	Alterations to the internal layout, façade, re-configuration of the recreational and operational	Director	4.55(1A)	To be determined

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

SSD 8925 MOD 2	Amendment to Condition B52 Marine Structures and Condition B54 Construction Vessel Traffic Management Plan	Director	4.55(1)	Approved on 19 February 2021
SSD 8925 MOD 4	Redistribution of sediment to facilitate the levelling of the seabed	Director	4.55(1A)	To be determined

2 Proposed modification

On 8 April 2020, the Applicant lodged modification application SSD 8925 MOD 3 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, including alterations to the footprint and internal layout of the basement, minor changes to the ground floor, and amendments to the subdivision plans.

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
Basement floor	Changes to the basement include (Figure 2): <ul style="list-style-type: none">• reduce the basement footprint along:<ul style="list-style-type: none">○ the south-east to improve stormwater outflow○ the west to reduce overall construction impact• enlarge the basement footprint along:<ul style="list-style-type: none">○ the south-west to consolidate plant areas and services in a more functional area• modify the layout of the aisles and parking areas to improve traffic flow, including:<ul style="list-style-type: none">○ amend the boom gate entry to facilitate a turn back isle○ kerbs added to protect areas of reduced head room due to services○ provision of turn back aisles at the end of each row• reconfigure car parking, small rigid vehicle parking, motorcycle parking, plant areas, services and storage areas and the security room• relocate the slab fold to enable parking for small rigid vehicles to be spread evenly through the basement.
Lower Ground floor	Changes to the lower ground floor include (Figure 2): <ul style="list-style-type: none">• remove the ramps within the corridors of the wholesale area (Figure 3)• amend the dock manager's office and western egress fire stair (Figure 4).
Subdivision	<ul style="list-style-type: none">• amend the subdivision plans to be consistent with the development footprint and building envelope approved under SSD 8924 MOD 1 and the proposed changes to the basement footprint under SSD 8925 MOD 3.



Figure 2 | The approved basement floor plan (top) and proposed (bottom) (base source: Modification Report)

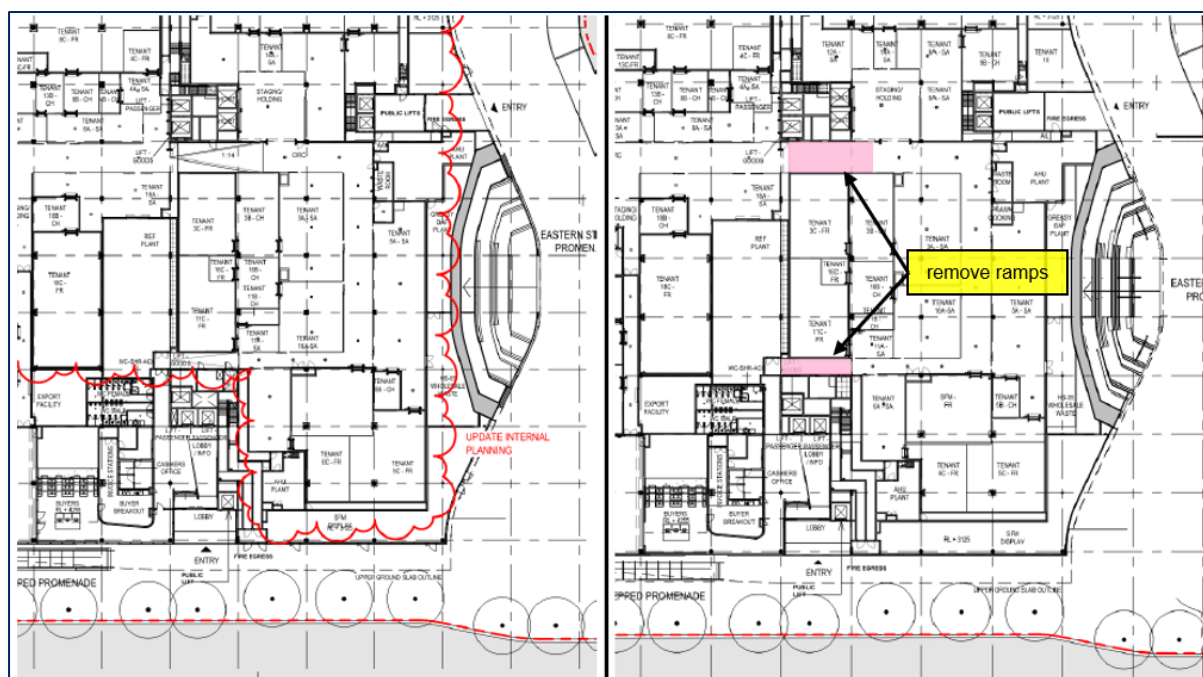


Figure 3 | The approved ground floor plan (left) and proposed (right) (base source: Modification Report)

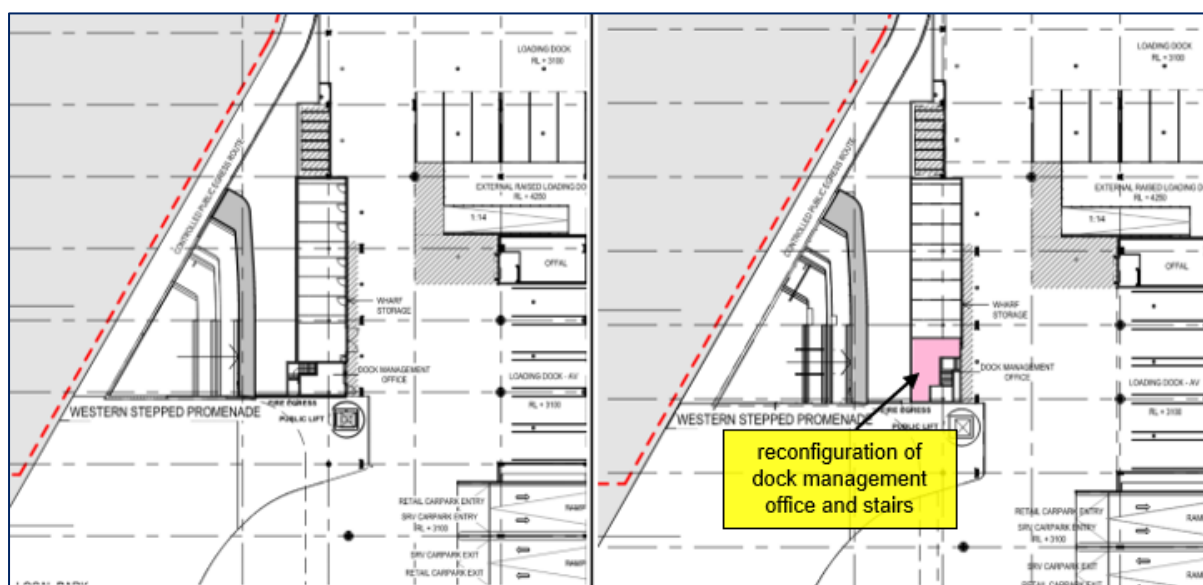


Figure 4 | The approved ground floor plan (left) and proposed (right) (base source: Modification Report)

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 Plan. The changes proposed to the basement footprint remain consistent with the development footprint and building envelope of the concept plan. Furthermore, the internal works are also minor and would not result in exceedance of the approved GFA of the approved concept plan.

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 habitat loss beyond that 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 modification.

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 referral of the application, the Department received four submissions all providing comments, comprising of three submissions from government agencies and one submission from Council.

No community 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	<ul style="list-style-type: none">recommended that the design and layout of all off-street small car parking spaces comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and SDCP 2012 relating to parking and dimensions.
Environment Protection Authority (EPA)	<ul style="list-style-type: none">considered the modifications do not alter the EPA's advice and recommendations for the approved development regarding noise and vibration, water quality, contamination, waste and air quality.
Environment, Energy, and Science Group – Biodiversity and Conservation (EESG)	<ul style="list-style-type: none">advised the changes are not likely to increase the impact on biodiversity values over the original development.
TfNSW	<ul style="list-style-type: none">advised the changes would have a negligible impact on the surrounding road network.
TfNSW (Maritime Planning)	<ul style="list-style-type: none">advised it had no comments to make on the proposal.
Port Authority	<ul style="list-style-type: none">advised it had no comments to make on the proposal.

**Heritage Council
NSW**

- raised no objection to the proposal.
-

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 separately below

5.1 Parking and Circulation

The proposal seeks changes to the basement, which includes reconfiguration of car parking and small rigid vehicle parking spaces, vehicular circulation and provision of turn back aisles at the end of each row. The changes are necessary to improve the efficiency and operation of parking and traffic movement within the basement.

These changes result in a minor re-allocation of parking (**Table 4**), including an increase of two accessible spaces, an increase of three small car spaces, a reduction of three standard car spaces and an increase of seven small rigid vehicle spaces.

No concerns were raised by Council and TfNSW regarding these changes.

Table 4 | Comparison of car parking

Level	Vehicle Type	SSD Approval	MOD 3	Difference
Basement Level	Accessible	6	8	+2
	Small car	9	12	+3
	Standard Car	383	380	-3
	SRV – combined with standard car	138	145	+7
Sub-Total		398	400	+2
Ground Level	Articulated Vehicle	5	5	nil
	Medium Rigid Vehicle	13	13	nil
	Small Rigid Vehicle	3	3	nil
Total		419	421	+2

The Department considers the changes acceptable as:

- it will result in improved vehicle circulation with spaces for small rigid vehicles spread more evenly through the basement, reducing congestion during wholesale trading times.
- the increase in the number of accessible car parking spaces is a positive outcome from an accessibility perspective
- the number of small car spaces (12) represents 3% of the overall parking provision, well less than the maximum 10% as prescribed in Australian standards
- the revised car parking remains within the maximum parking limits prescribed by Condition B44 of the consent, which stipulates a maximum of 438 spaces, with a sub-total of 417 spaces.
- existing conditions of consent will ensure that the car parking layout complies with Australian standards including queuing areas, turn paths, sight distance requirements, aisle widths, lighting and parking bays.

5.2 Basement Footprint

The proposal seeks changes to the basement footprint, including:

- moving the south-west basement wall further north to better accommodate stormwater outflow, resulting a reduction in the footprint
- reduction in the footprint along the western end to reduce overall construction impact and improve buildability
- increase in the footprint along the south-west, enabling the consolidation of plant and services in a more functional area.

Overall, the changes result in a reduction in the size of the footprint of the basement by approximately 270 m².

No concerns were raised by Council or government agencies regarding these changes.

The Department considers the changes acceptable as:

- it would not result in any additional adverse impacts beyond those considered under the Stage 2 main works application
- the basement footprint remains consistent with the building footprint under the approved concept plan.

5.3 Other issues

Other relevant issues for consideration are addressed in **Table 5**.

Table 5 | Summary of other issues raised

Issue	Findings	Recommendations
Design integrity	<ul style="list-style-type: none">• In accordance with the Design Integrity Process, the proposal was reviewed by the Design Integrity	<ul style="list-style-type: none">• No conditions are recommended.

Panel, who raised no objection to the proposed modifications.

- The Department therefore considers that the proposal would not diminish the design integrity of the approved design.

Subdivision plans

- The proposal seeks amendments to the subdivision layout, as the modifications approved to the footprint of the operational and recreational wharf under SSD 8924 MOD 1 and the proposed changes to the basement footprint, result in a minor inconsistency to the approved subdivision plans.
- The Department considers the changes acceptable as:
 - the modifications are consistent with the changes approved to the footprint of the operational and recreational wharf under SSD 8924 MOD 1
 - the modifications are consistent with the proposed changes to the basement footprint.
- The Department recommends updating the plan reference table in Condition A2, to reflect the amended subdivision plans.

GFA

- The proposal seeks changes to amend the layout and size of the dock management office on the ground floor and the security room within the basement, resulting in an increase of 25.8 m² to the overall gross floor area (GFA) from 26,927.6 m² to 26,953.4 m².
 - The Department considers the increase in GFA acceptable as the increase is relatively minor and remains below the maximum GFA of 30,000 m² approved under the concept plan.
 - The Department recommends updating the description of the development in Schedule 1.
-

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 considered to be minor in nature with no significant changes to the building footprint
- the changes will improve the functionality and operation of the basement, with an overall reduction to the footprint
- 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.

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 3 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', with a horizontal line extending to the left.

18 May 2021

Cameron Sargent

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 of Planning, Industry and Environment's website as follows:

Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41621>

Submissions on Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41621>

Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/41621>

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 result in a negligible difference to building form as the modifications proposed are internal and mostly in the basement.• 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	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iia) 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 – 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/41621>