

APPENDIX E – CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS AND DEVELOPMENT CONTROL PLANS

CONSIDERATION OF STATUTORY ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Major Development) 2005

The subject site is included in Clause 4 "*Port and related Employment Lands*", where the value of the development is less than \$5 million, of Schedule 6 of SEPP (Major Developments) 2005. The proposed development is therefore affected by Clause 9A(1) of the Policy where the Minister is the consent authority for Part 4 applications that are subject to the provisions of Schedule 6. The Minister for Planning and Infrastructure is therefore the consent authority for the land-based portion of the proposal.

No other provisions of the SEPP directly relate to the subject application.

Consequently, the Minister is the approval authority for the proposal. However, the Planning Assessment Commission may determine the application on the Minister's behalf under delegation because the proposal generated greater than 25 submissions and an objection from the relevant council.

Sydney Regional Environmental Policy No. 26- City West

Permissibility

The site is zoned Port and Employment Zone by the SREP26 - City West.

The proposed activity is not a Port and Employment related development, however, by virtue of Clause 22 – *Temporary Use* the proposed activity is a permissible form of development noting the following:

- The proposal seeks to operate for the purpose of carrying out two concerts over a period of 24 days, 18th December, 2011 to 10 January, 2012. Upon completion of these concerts the land would revert back to its original form of development; and
- The proposal will not jeopardise any existing port functions and is therefore considered acceptable in relation to the objectives of the SREP26 - City West.

Heritage Provisions

Where development is proposed in the vicinity of heritage items consideration must be given to potential impacts to these items.

Under Schedule 4 of SREP26-City West the Glebe Island precinct has two heritage structure items, Glebe Island Silos and a War Memorial. Neither of these items are on the proposed event site but are in the immediate locality. It is noted that the applicant's Security Management Plan includes the stationing of guards at these items to ensure no vandalism or graffiti occurs during the event. This is to be required conditionally, see Condition D9. It is considered that these security measures would be adequate to ensure the protection of the items.

Conclusions

Based upon the above assessment, the Department considers that the proposed development is consistent with the aims and objectives of SREP26 - City West.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Foreshores and Waterways Area

The subject site is identified as being within the Foreshores and Waterways Area as defined by the SREP 2005. The proposal is generally consistent with the provisions of the SREP 2005 dealing with the protection and preservation of the waterways and foreshores, waterway views and the maritime operations of Sydney Harbour. The temporary nature of the proposed events will not permanently impact upon the long term natural scenic quality of the harbour or prevent on-going foreshore access in this locality. The proposal, being a popular concert on New Years Eve will provide opportunity for the promotion of Sydney Harbour, and its environs. At the conclusion of the concerts the land use will revert back to the existing maritime operations and the structures would be removed from the site.

The proposal is unlikely to result in visual impacts for neighbouring property as the Anzac Bridge and its raised approaches are to the south whilst primary views from properties to the east or west will be northeast towards the bridge and City skyline. The maximum height of any structure on site will be 20 metres for the main stage, whilst the grandstands will be 8.5 metres. Temporary lighting associated with the facility will be required conditionally to be suitably positioned in order to reduce light spill impacts for the local community and on the waterway. These temporary structures are unlikely to adversely impact upon views due to their position within the site.

Conclusions

Based upon the above assessment the Department considers that the proposed development is generally consistent with the aims and objectives of SREP 2005.

State Environmental Planning Policy No.55 – Remediation of Land

The proposal, being undertaken on an industrial site, is subject to consideration of the provisions of SEPP 55.

The subject land has been used for port and maritime based industrial activity over many years and is potentially contaminated. However, the land has previously been capped with a concrete apron which would effectively protect patrons from any potential contamination in the soil during the temporary operation of the site as a concert venue.

Based upon the preliminary findings of the applicant's Environmental Health and Safety Inspection Report, knowledge of past use of the site and the previous concrete apron capping of the land, it is considered that the subject land is suitable for the proposed temporary use. Notwithstanding, conditions are recommended to ensure the safe use of the site, including:

- Soil and Water Management Plan (Condition B7);
- Pollution of Waters (Condition D10);
- Health and Safety (Condition D14); and
- Demolition, Excavation and Construction Management (Condition D22).

There are no other matters within SEPP 55 of relevance to the proposed use.

State Environmental Planning Policy (Temporary Structures) 2007

The proposed development will involve the erection of a performance stage, temporary 8.5 metres high grandstands, village stalls, portable toilets and associated structures. The Temporary Structure SEPP sets out that development consent is required and consideration

must be given to the issues such as patron numbers, noise impacts, hours of operation, crime minimisation and serviceability of the land.

The Department notes that the matters raised above are primary considerations for the proposal should it be approved, and they have also been raised as part of public submissions. General comments are as follows:

Patron Numbers

The Applicant seeks a maximum of 30,000 and 20,000 patrons, respectively, to the concerts. Objections have been raised regarding the proposed second concert as being unjustified, apart from its economic viability for the proposal. The second concert now is proposed to accommodate less than half the original number proposed. This will reduce impacts associated with traffic management, patron security, servicing and time for dispersal after the event. These issues are discussed in detail in Section 3.0 and 6.1.7.

Noise and Acoustics

The applicant has provided Noise and Acoustic assessments in support of the proposal which is addressed in Section 6.1.7 of this report. Construction work associated with setting up the facilities prior to, and then dismantling after the concerts, is restricted to 7am-7pm, 7 days per week, with no vehicle operations after 6pm. These hours of operation are considered to be reasonable considering the temporary nature of the proposal, and will be imposed conditionally, see Conditions B4 and B5. This will ensure that construction and dismantling works only take place during daylight hours in summer.

Hours of Operation

The two concerts are proposed to operate as follows:

- New Years Eve 2011 concert:
 - gates open 2pm, 31 December and close at 3am 1 January; and
 - support act : 6pm-9pm, main act : 9:30pm-11:55pm, third act : midnight-1:30am
- 3 January, 2012 concert:
 - gates open 2pm and close midnight; and
 - support act 6pm-9pm with principal act from 8:30pm.

The primary issue of contention with operating times is the justification for any amplified music/announcements and general site noise after midnight. The Applicant contends that by staging the third act after midnight patron dispersal can be staggered and thus not impact on crowds using buses/trains/pedestrian routes that are exiting the Sydney CBD after the midnight NYE fireworks. The Department considers this provides some benefit, however, it can result in extending noise/music impacts for local residents.

In order to provide a reasonable compromise for this issue it is recommended that a condition of consent (**Condition B5**) be imposed that noise level emissions be restricted to 75dBA prior to midnight and 70dBA after midnight at the nearest residential boundaries, and that all amplified music and announcements, apart from emergency announcements, cease at 1:30am on NYE and 11am on 3 January respectively.

Traffic and Parking

The applicant has addressed this issue through a revised Traffic and Parking Management Plan and various meetings with Major Event Officers of government agencies. Events of this nature will create unusual impacts upon traffic flow and pedestrian movements due to the volume of patrons attending the concerts. The two events, however, are one-off functions with the primary impact being on the night of the event only. The DoT has reviewed the Plan and considers that it will reasonably cater for the movement of patrons to and from the venue when in final approved form, subject to conditions (**Part A and Condition A1**). This

is discussed in greater detail in Section 6.1.7. Further, the applicant has provided a Security Management Plan, subject to final approval prior to the commencement of operations, which will manage the direction of traffic/pedestrians as well as the behaviour of patrons in the local community.

Security and Crime

The Applicant has prepared a Security Management Plan which addresses staffing operations, identifies issues/concerns, recommends high levels of monitoring and surveillance measures and should result in the concert events being highly managed and safe for both patrons and the surrounding communities. NSW Police has reviewed this Plan and has acknowledged that it will reasonably respond to security concerns when in final form, subject to conditions (**Part A and Condition A1**). This issue is dealt with in greater detail at Section 6.1.7.

Site Suitability

The applicant has submitted that the subject land is an ideal site for the event. The Department's consideration is discussed in detail in Section 6.1.8.

Public Facilities

Adequate toilet and washbasin facilities will be provided for the event, and have been identified on the plans. A suitable condition of consent is recommended (**Condition D23**) requiring that such facilities be provided in accordance with the requirements of the Building Code of Australia requirements.

Duration of Event

The Applicant has submitted that the temporary structures will be erected on the site from the 17 December 2011 and removed by the 10 January 2012. This arrangement is considered satisfactory when undertaken in accordance with the Construction Management Plan controls. A condition of consent is recommended requiring compliance with these requirements (**Condition A4**).

General Safety

An OHS Statement has been prepared for the concert event proposal and will be implemented as part of any development consent. Appropriate conditions of consent are recommended as part of the consent (**Conditions A1 and D13**).

Conclusion

On the basis of the above assessment it is considered that the proposed concert events can be adequately controlled conditionally for the relatively short duration of the events in order to minimise amenity impacts for the surrounding locality and meet the requirements of the Temporary Structure SEPP.

State Environmental Planning Policy (Infrastructure) 2007

The ISEPP identifies under Schedule 3 matters which are required to be referred to the NSW Roads and Traffic Authority (RTA) for comments where they are considered to be traffic generating development. It is noted that the matter has been referred to DoT, including the RTA, as part of this application assessment for general traffic management comments.

CONSIDERATION OF DEVELOPMENT CONTROL PLANS

Leichhardt Council Development Control Plan

The Leichhardt Council DCP applies to all land within the Leichhardt Local Government Area. Section C3.0 "Interface Amenity" applies only to land where non-residential development is located within or adjoining residential use or area. The subject site does not technically adjoin any residential areas as they are separated by the waterway. However, public submissions have raised concerns that the proposal will directly impact residential amenity due to its proximity to the residential areas. All of the matters addressed under Part C "Non-Residential" of the DCP have been considered and in particular the following:

C3.1 – Noise and Vibration

The proposed temporary event will not result in long term on-going amenity impacts relating to noise and vibration. The noise issues have been addressed in the reports prepared for the Applicant. The Department's consideration of noise is discussed in detail at Section 6.1.7 of this report;

C3.3 – Working Hours

The operation will occur on site over 24 days and shall generally operate during normal daylight hours, apart from the days of the actual concerts when hours of operation are extended to midnight and beyond for those two days. The applicant has proposed that truck deliveries will cease at 6pm daily and the premises will close at 7pm daily, apart from the concert days. The Department considers this to be acceptable;

C4.3 – Non-Residential Foreshore Development

The proposed event is taking place on a fully developed foreshore location, being a concrete apron. The proposal does not seek to physically alter the nature of the site and hence the proposal is considered to be consistent with the provisions of the Plan;

C4.5 – Public Domain

The subject development is confined to within the boundaries of the subject land and will not directly impact the public domain. The public areas outside the site that will be affected by the proposal, being along roads and Anzac Bridge, are proposed to be suitably policed/secured and are likely to be well managed. This is discussed in detail in Section 6.1.7 of this report;

C4.7 – Transport Facilities

The proposal includes the establishment of a temporary bus terminal area, both at the site and Central Station, to provide safe and secure transfer of the event patrons. Public Safety is the primary concern under this part of the DCP. This is discussed in detail at Section 6.1.7 of this report. It is noted that both the NSW Police and DoT support the proposal subject to conditions relating to public safety and traffic management; and

C4.9 – Licensed Premises

This section relates primarily to hotels, nightclubs and restaurants. The subject proposal will involve a portion of the site as a restaurant and licenced bar areas but would not technically fall within the above definitions. The application has been supplemented with a noise report, parking and traffic report and a security management plan as required by the DCP, apart from a Social Impact Plan. However, the Department does not consider that this document is required in this instance given the temporary nature of the proposed event.

Sydney Harbour Foreshores and Waterways Area Development Control Plan

The Glebe Island site is located within the boundaries of the Foreshores and Waterways Area identified under this DCP and is thus subject to the provisions of the DCP. Glebe Island is not identified as containing any relevant terrestrial community and has no identified Landscape value for the harbour, primarily as the site accommodates a working developed maritime environment. It is considered that as the proposed use is temporary in nature and the original maritime activities will be re-established post the concerts that the proposal is consistent with the aims, objectives and principles of the DCP.