

**Fit-out and first use of
Tenancy H at Sydney
Superyacht Marina**

Development Application
Assessment
(DA 9431)

February 2019

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	CFC Sydney Superyacht Marina Pty Ltd
BCA	Building Code of Australia
CIV	Capital Investment Value
CIP	Community Involvement Plan
Consent	Development Consent
Council	Inner West Council
Department	Department of Planning and Environment
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
PAC	Planning Assessment Commission
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
SSI	State Significant Infrastructure
The Marina	Sydney Superyacht Marina



Executive Summary

CFC Sydney Superyacht Marina Pty Ltd (the Applicant) seeks development approval for the internal fit-out, external seating and first use as a restaurant (DA 9431) at Tenancy H (the site) of the Sydney Superyacht Marina (the Marina), Rozelle, in the Inner West local government area.

Engagement

The Department publicly exhibited the development application (DA) and sought advice from Inner West Council (Council). Surrounding businesses were also notified of the DA.

Council did not provide a submission and no public submissions were received.

Assessment

The Department has assessed the merits of the DA and concludes the key assessment issues are noise impacts and car parking.

Summary

The Department considers the proposed fit-out and first use of Tenancy H as a restaurant is a suitable use for the site. The Department also considers the proposal acceptable as environmental impacts are considered minor and can be managed and mitigated by the Plan of Management and the recommended conditions of consent.

The Department concludes the development would not result in any adverse environmental impacts and therefore recommends development consent be granted, subject to conditions.



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1. Introduction

1.1 Background

This report provides an assessment of a development application (DA 9431) lodged by CFC Sydney SuperYacht Marina Pty Ltd under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application seeks consent for the fit-out, external seating area and first use as a restaurant at Tenancy H of Sydney Superyacht Marina, Rozelle.

1.2 The site

The Marina is located on the northern foreshore of Rozelle Bay (**Figure 1**). Tenancy H is located on the ground level of the western building known as 2 Maritime Court, Rozelle. The site is legally described as Lot 2 DP 1209992 and is shown in **Figure 2**. The closest residential properties are located approximately 270 m to the south, across Rozelle Bay.

The site has an internal area of 300 m² with an additional 87 m² of external decking area situated along the southern and eastern perimeter of the building. Tenancy H comprises one of eight retail tenancies located on the ground level of the western building. Seven commercial office tenancies are located on level 1.

The site, in association with the car park building and the eastern building, represent the land-based component of the Marina that is approved for commercial, marine, yacht club and other ancillary uses (MP 09_0165).



Figure 1 | Site Location shown by red shading (Base source: Nearmaps)



Figure 2 | Tenancy H identified by the red outline (Source: Applicant's EIS)



Figure 3 | The ground level of the Marina with Tenancy H identified by the red hatching (Base Source: Applicant's EIS)

1.3 Approval History

The previous approvals and other relevant applications for the site include:

MP 09_0165

On 26 November 2012, the NSW Independent Planning Commission (IPC) approved MP 09_0165 for the redevelopment of the land-based component of the Sydney Superyacht Marina, including:

- demolition of existing buildings
- construction of commercial maritime building with ancillary uses known as the 'eastern building'
- construction of a commercial maritime building known as the 'western building'
- construction of four-level car parking building for 140 car spaces

- provision of 79 at-grade car parking spaces and associated landscaping.

MP 09_0165 has been modified on four occasions. Modification 1 (MOD 1) increased the number of car parking spaces from 206 to 288 with flexible use of 53 car parking spaces. Modification 3 (MOD 3) included the relocation of approved uses between the eastern and western buildings and deleted 13 car parking spaces at the Marina. Modification 4 (Mod 4) included the relocation of the approved provedore and cafe uses between the eastern and western buildings.

DA 9433

On 15 September 2018, the Director, Key Sites Assessments, approved the external signage strategy for the Marina under Part 4 of the EP&A Act.



2. Project

2.1 Description of proposal

The DA seeks approval for the fit-out, external seating and first use of Tenancy H as a restaurant. The DA includes the following elements:

Internal and external layout

- food preparation areas
- staff training space
- offices
- 70 internal dining seats
- 28 external dining seats.

Staff and patron details

The DA seeks approval for the premises to accommodate six staff members and 98 patrons at any time.

Hours of operation

The proposed indoor hours of operation are:

- Monday to Thursday: 7 am to 9 pm
- Friday and Saturday: 7 am to 11 pm
- Sunday: 7 am to 10 pm.

The proposed outdoor hours of operation are:

- Monday to Thursday: 7 am to 9 pm
- Friday to Sunday: 7 am to 10 pm.

The proposed works are shown in **Figures 4** and **5**.

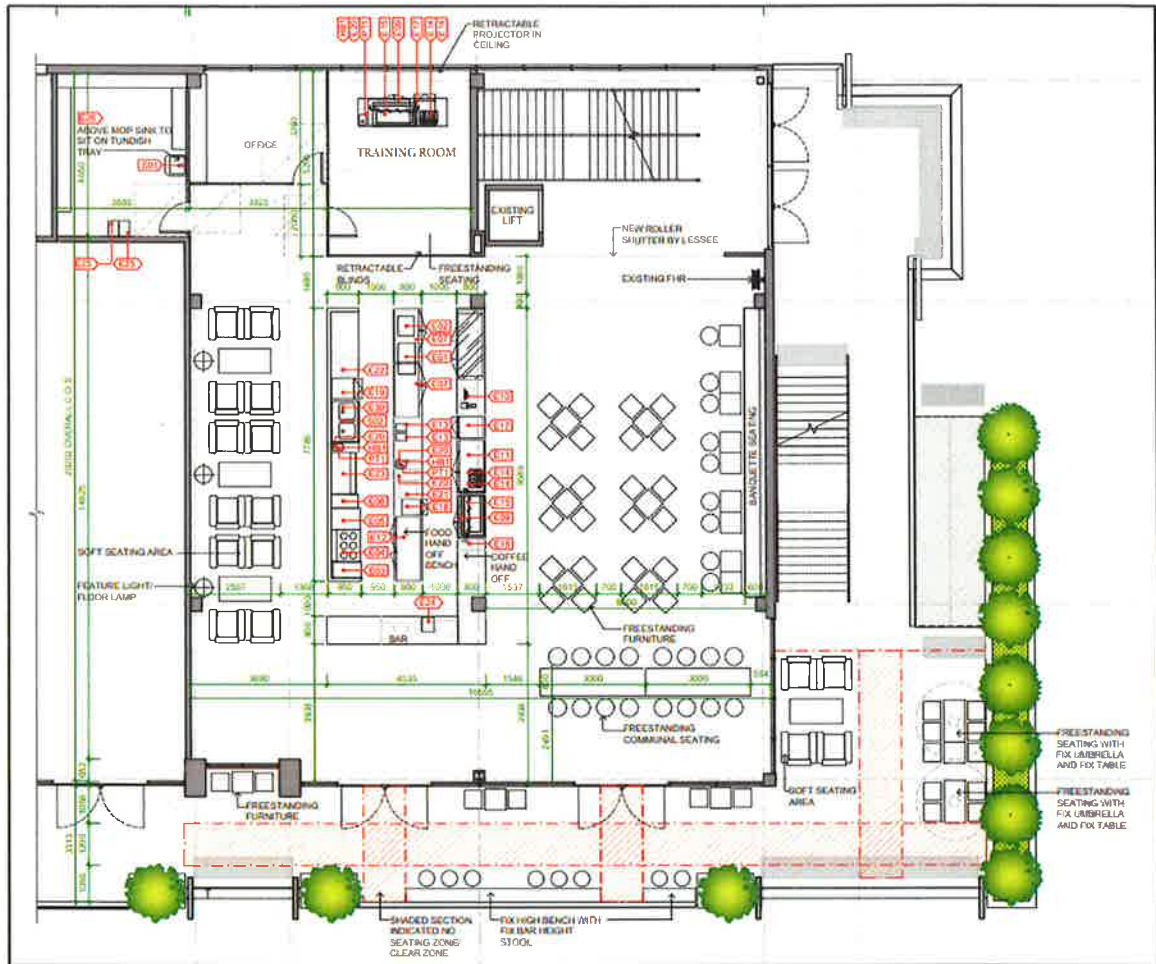


Figure 4 | The proposed layout plan (Source: Applicant)

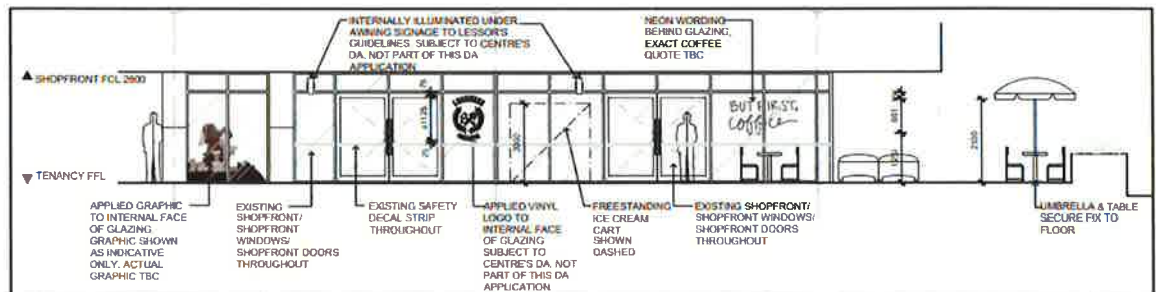


Figure 5 | The proposed southern elevation (Source: Applicant)



3. Strategic Context

Greater Sydney Regional Plan

The 'Greater Sydney Regional Plan – A Metropolis of Three Cities' sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney and includes 10 directions. The Plan's key directions are to provide:

- a city supported by infrastructure – infrastructure supporting new developments
- a collaborative city – working together to grow a Greater Sydney
- a city for people – celebrating diversity and putting people at the heart of planning
- housing the city – giving people housing choices
- a city of great places – designing places for people
- a well-connected city – developing a more accessible and walkable city
- jobs and skills for the city – creating conditions for a stronger economy
- a city in its landscape – valuing green spaces and landscape
- an efficient city – using resources wisely
- a resilient city – adapting to a changing world.

The Inner West Council is located within the Eastern Harbour City. The proposed development supports the directions and objectives of the Plan, in particular by:

- ensuring Greater Sydney attracts investment and business activity in centres by facilitating the operation of a new restaurant premises.

Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The Eastern City District Plan covers the Inner West local government area. The DA is consistent with the Eastern City District Plan by supporting investment, business and job opportunities in strategic centres (Planning Priority E11).



4. Statutory Context

4.1 Consent Authority

In accordance with clause 4 of Schedule 5 of State Environmental Planning Policy (State Significant Precincts) 2005, the Minister for Planning is the consent authority for the application. The development is on land identified as Rozelle Bay on the Sydney Harbour Port and Related Employment Lands Map with a capital investment value of less than \$10 million and is carried out by a person other than a public authority.

In accordance with the Minister's delegation of 11 October 2017, the Director, Key Sites Assessments, may determine this application as:

- the relevant Council has not made an objection
- there are no public submissions in the nature of objection
- a political disclosure statement has not been made.

4.2 Permissibility

The site is identified as being located within the Waterfront use zone under Sydney Regional Environmental Plan No.26 – City West.

A use is only permissible within this zone if the consent authority is satisfied a proposed use is consistent with at least one of the following zone objectives:

- to provide for development of water-based commercial and recreational activities, including facilities for the servicing, mooring, launching and storage of boats
- to allow a range of commercial maritime facilities (such as boating industry facilities, marinas, waterfront service operations, waterfront commercial and tourism facilities and uses associated with the servicing, temporary mooring, launching and storage of boats and uses ancillary to these), which will take advantage of the harbour location
- to provide public access within and across the zone and to facilitate the extension of the Ultimo-Pyrmont foreshore promenade from Blackwattle Bay to Rozelle Bay and link with public access networks surrounding the precinct
- to create, retain and enhance views and links between Wentworth Park and the foreshores of Blackwattle Bay.

The Department is satisfied the proposed use of Tenancy H is consistent with the objectives as it is ancillary to the primary use of the Marina as a maritime facility. Furthermore, the proposed restaurant is also consistent with the objectives as it is a commercial facility that takes advantage of the harbour location. The Department notes the other uses at the Marina were approved under the Part 3A approval (**Section 1.3**). The Department therefore considers the DA to be permissible with consent in the Waterfront use zone and may determine the application. Refer to **Table B** in **Appendix B** for further information.

4.3 Environmental Planning Instruments

Under section 4.15(1)(a)(i) and (ii) of the EP&A Act, the consent authority is required to consider any environmental planning instrument (EPI) or proposed instrument that is of relevance to the DA. The following EPIs apply to the proposed development:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- Sydney Regional Environmental Plan No.26 – City West (SREP 26)
- Rozelle and Blackwattle Bays Maritime Precincts Master Plan
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land)
- State Environmental Planning Policy (Coastal Management) 2018.

The Department has provided a detailed assessment of these EPIs in the application for the western building in MP 09_0165, MOD 3 and MOD 4 (see **Section 1.3**) and consider the proposed DA would remain consistent with the EPIs without resulting in any additional environmental impacts beyond those already assessed.

4.4 Objects of the EP&A Act

In accordance with the EP&A Act, the Department has considered the proposal with regard to the objects of the EP&A Act (**Table 2**) and conclude it is satisfactory.

Table 2 | Response to the objects of the Act

Objects of the EP&A Act	Department's Response
a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The DA would provide commercial jobs that enhance the economic and social welfare of the area without impacting on any natural or artificial resources or agricultural land.
b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The Department has considered the merits of the DA in Section 6 of this report.
c) the promotion and co-ordination of the orderly and economic use and development of land	The DA facilitates the orderly and economic use of the Marina. The merits of the proposal are considered in Section 6 of this report.
d) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The DA involves the fit-out of Tenancy H and would not adversely impact on any native animals, plants, threatened species, populations and ecological communities, and their habitats.
e) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The DA would not impact upon built or cultural heritage.

f) to promote good design and amenity of the built environment	The proposed development would not have an adverse impact on the natural environment.
g) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal promotes the proper construction and maintenance of buildings as imposed by the conditions of consent.
h) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the proposal, which included consultation with Council and surrounding business owners (see Section 5).
i) to provide increased opportunity for community participation in environmental planning and assessment	Section 5.1 details the Department's public exhibition of the proposal.

4.5 Ecologically Sustainable Development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes. The Department has considered the project in relation to ESD principles. The precautionary and inter-generational equity principles have been implemented throughout the decision-making process and assessment of the environmental impacts of the proposal as detailed in **Section 6** of this report.

The DA is consistent with the precautionary principle as the proposed development would not result in any serious or irreversible environmental damage. The proposed works are minor and relate only to the internal fit out, external seating area and use of the site as a restaurant. No significant construction works are proposed that could give rise to air quality or water quality impacts.

The DA is also consistent with the ESD principle relating to the conservation of biological diversity and ecological integrity. The DA would have no significant impacts on biodiversity or ecological value as the site is highly developed and the works relate only to the fit-out and operation of an existing building.

4.6 Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for notification (Part 6, Division 7) and fees (Part 15, Division 1) have been complied with.

5. Engagement

5.1 Department's Engagement

In accordance with Schedule 1 of clause 9 of the EP&A Act and the EP&A Regulation, the Department publicly exhibited the application from 27 July 2018 until 9 August 2018.

The DA was exhibited on the Department's website and Inner West Council offices. Surrounding landowners were also notified of the DA in writing.

5.2 Summary of Submissions

Council did not provide a submission and no submissions were received from members of the public.

5.3 Response to Submissions

The Department issued a Response to Submissions (RtS) letter requesting the Applicant provide additional information in regard to:

- demonstrating compliance with sanitary requirements of the Building Code of Australia (BCA)
- updating the acoustic assessment to reflect the results of the modelling undertaken and to reflect the proposed number of patrons and staff at the site
- updating the Plan of Management to ensure consistency with the assumptions of the acoustic assessment
- documentation demonstrating how the cost of works was calculated
- further detail regarding the type of odour filtration proposed for the kitchen area
- confirmation the other ground level tenancies at the Marina would not be used for food and drink premises
- correction of errors on the plan relating to revision numbers and date of issue.

On 13 December 2018, the Applicant provided an RtS letter addressing the matters raised by the Department. The Applicant also provided a BCA statement, updated Acoustic Assessment, updated Plan of Management and documentation confirming the cost of works. On January 7, 2019, the Applicant provided updated plans to reflect the final design and ensure consistency with the Plan of Management. Correspondence was also received confirming the remaining tenancies on the ground level of the Marina would be maritime shops and not additional food and beverage premises. On 6 February 2019, the Applicant issued plans with corrected revision numbers and dates.



6. Assessment

6.1 Section 4.15 matters for consideration

The matters for consideration under section 4.15 of the EP&A Act have been addressed in **Table 2**.

Table 2 | Section 4.15 matters for consideration

Section 4.15 Evaluation	Consideration
(a)(i) any environmental planning instrument	The proposal complies with the relevant legislation as addressed in Section 4.3 and Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	The proposal complies with the relevant environmental planning instruments (Section 4.3 and Appendix B) but no development control plan applies to the site.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 7) and fees (Part 15, Division 1) (refer to Section 4 of this report).
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	The Department considers the likely impacts of the development, including BCA compliance and acoustic impacts, are acceptable and/or have been appropriately mitigated by the recommended conditions of consent (refer to Section 6 and Appendix D of this report).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 4 and 6 of this report.
(d) any submissions	No submissions were received (refer to Section 6 of this report).
(e) the public interest	The Department considers the proposal to be in the public interest (refer to Section 6 of this report).
Biodiversity values impact assessment	Not applicable.

6.2 Key Assessment Issues

The Department considers the key issues associated with the proposal are noise impacts and car parking. BCA compliance and waste management have also been considered. Each assessment matter has been addressed separately below. The proposed hours of operation

6.2.1 Noise Impacts

The DA proposes that Tenancy H operate as a restaurant, accommodating a moderate capacity of 98 patrons and 6 staff members. The application also includes an outdoor seating area that would accommodate a maximum of 28 patrons. The Department notes the closest residential properties are located approximately 270 m to the south, across Rozelle Bay, in Glebe. The proposed hours of operation (**Section 2**) are typical for a restaurant and are not considered to be late night trading hours.

The Applicant provided an acoustic assessment for the proposed development in accordance with the NSW EPA guidelines and the Australian Standards. The assessment concluded the proposed outdoor seating would comply with the EPA noise guidelines and would not adversely impact the amenity of the nearest residential properties or surrounding commercial premises.

The Applicant also provided a Plan of Management that includes the following measures and actions:

- a maximum of 28 people in the outdoor seating area at any one time
- the outdoor area is accessible to patrons until 10 pm each night
- speakers will not be installed and live music will not be played in the outdoor area
- speakers located within the premises will not be placed as to direct the playing of music towards the outdoor seating areas
- low noise generating equipment will be used to prevent the transmission of noise to nearby properties
- if noise complaints are received, they will be recorded and immediately investigated by the manager on duty. The complainant will be contacted and advised of the action taken to remedy the situation.

In addition to the above, the Department has recommended conditions of consent relating to hours of operation, outdoor seating limits, noise control and restrictions on amplified music.

Subject to the above, the Department concludes the potential noise impacts associated with the proposal are acceptable and is satisfied the operation of the premises can be managed by the Plan of Management and recommended conditions of consent (**Appendix D**).

6.2.3 Car Parking

The Marina currently provides a total of 275 car parking spaces, primarily located within a four-storey car parking building, operating in accordance with the Marina's Traffic Management Plan. The on-site car parking comprises:

- 215 car parking spaces in the four-level car parking building (including 53 flexible car parking spaces)
- 60 car parking spaces at grade.

The proposal does not seek any changes to the approved number of car parking spaces on-site.

The original assessment of the Marina (MP 09_0165) included a car parking demand schedule for the various land uses at the Marina. The schedule includes a provision for a tenancy at the Marina to operate as a restaurant and considers the use would generate demand for 50 car parking spaces during the day and 80 car parking spaces during the evening/night times and on the weekends.

In the original application for the Marina, the Applicant provided a car parking management plan to outline how car parking spaces will be shared between the various land uses according to the differing demand schedules at the Marina. It is assumed the commercial offices would require car parking during the working day but it is unlikely to require car parking at night. Similarly, the car parking allocated to the yacht club experiences greater demand on the weekend than during the working week.

The current application relates to the use of Tenancy H for restaurant purposes, consistent with the original assessment report and the allocated parking demand schedule. The Department does not consider the proposed restaurant would generate any additional car parking demand beyond that already noted in the schedule. Furthermore, the Department notes the car park sharing arrangement manages the demand on car parking at the Marina while promoting alternative modes of active transport such as walking, cycling or public transport.

The Department is therefore satisfied the Marina accommodates the car parking required for the use of Tenancy H as a restaurant and would not result in any adverse traffic or car parking impacts. The Department concludes the car parking arrangement is acceptable.

6.2.1 Other issues

BCA Compliance

At maximum capacity, the site would accommodate 98 patrons and six staff. The calculations also assessed the demand upon communal sanitary facilities by assuming that 24 staff from the ground floor retail units and 87 staff from the level one offices would also rely on the amenities. The Applicant has advised that all other tenancies on the ground level would be used for marine related retail uses and would not contain additional food and beverage premises.

While there is a shortfall of one male urinal, this could be resolved by attributing one additional unisex accessible toilet, previously identified as a female toilet, as a male urinal.

The Department has reviewed the statement and recommend a condition of consent requiring the Applicant to demonstrate compliance with BCA requirements prior to operation.

Waste Management

The Applicant proposes to manage the waste generated by the restaurant as follows:

- packaging and food waste will be temporarily stored in waste bins located within the premises. Staff will be responsible for transferring the bins to the building garbage room for collection
- glass will be carried out in containers and returned to the supplier for reuse
- a private contractor will be responsible for emptying the grease trap
- the premises will be cleaned daily by a private contractor between 5 am and 7 am
- the restaurant manager will be responsible for ensuring the forecourt and spaces surrounding the tenancy are free from loose rubbish.

The Department is satisfied the waste management practices, outlined above, would not result in any adverse environmental impacts and has recommended specific waste management conditions of consent.



7. Evaluation

The Department has assessed the DA in accordance with the matters for consideration under Part 4 of the EP&A Act, including the relevant environmental planning instruments.

The Department considers the proposed fit-out and use of Tenancy H would facilitate the orderly and efficient use of the site as a restaurant. The Department has considered the potential impacts of the DA. The DA has adequately demonstrated the proposed fit-out and use of the site would not result in any adverse environmental impacts.

The Department therefore concludes the impacts of the development are acceptable and the proposal is in the public interest. The Department recommends the application be approved, subject to conditions.



8. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **accepts and adopts** all the findings and recommendations in this report as the reasons for making the decision to approve the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of DA 9431, subject to the conditions in the attached development consent;
- **signs** the attached development consent and recommended conditions of consent

Recommended by:

Tim Green
Planning Officer
Key Sites Assessments

Recommended by:

Cameron Sargent
Team Leader
Key Sites Assessments



9. Determination

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

David McNamara

Director

Key Sites Assessments



Appendices

Appendix A – Documentation

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

1. Environmental Impact Statement
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9431
2. Submissions
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9431
3. Response to Submissions
http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9431

Appendix B – Environmental Planning Instruments

To satisfy the requirements of Section 4.15(1) of the EP&A Act, the following EPIs, DCP and guidelines were considered as part of the assessment of this proposal:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- Sydney Regional Environmental Plan No.26 – City West (SREP 26)
- Rozelle and Blackwattle Bays Maritime Precincts Master Plan
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land)
- State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)

The State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP) seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State (State Significant Precincts) for the benefit of the State.

Under clause 4, Schedule 6 of the SSP SEPP, the proposed development is within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on the Sydney Harbour Port and Related Employment Lands Map, has a capital investment value of less than \$10 million and is carried out by a person other than a public authority. Therefore, in accordance with the SSP SEPP, the Minister for Planning is the consent authority for the application.

Sydney Regional Environmental Plan No.26 – City West (SREP 26)

Sydney Regional Environmental Plan No. 26 – City West (SREP 26) provides planning principles for development within the area identified as City West. The site is located within the Bays Precinct part of the City West, and the relevant provisions of the SHC SREP have been considered in **Table 3**.

Table 3 | Section 4.15 matters for consideration

SREP 26	Criteria	Department Comment / Assessment	Compliance
Part 1 Introduction			
Clause 2 Area covered by this plan	• This plan applies to the land shown on Map 1 as the City West Area. • This plan does not apply to land to which the Sydney Local Environmental Plan 2012 applies.	• The site is located on land shown on Map 1. • The site is not located on land to which the Sydney Local Environmental Plan 2012 applies.	Yes
Clause 3 Precincts	The City West area incorporates four precincts	The site is located within the "Bays Precinct".	Yes

Clause 4 Aims of the Plan	This plan aims to establish planning principles and controls and promote the orderly and economic use and development of land.	The proposed fit-out and use of the site would result in the orderly and economic use of the land.	Yes
Part 2 City West			
Clause 11 Planning principles of regional significance for City West	Provides a set of planning principles for land within City West.	The proposed fit-out and use will not result in any adverse environmental impacts. The DA would be suitably managed through the Plan of Management and the conditions of consent as addressed in Section 6 of this report. Therefore, the proposal is consistent with the relevant planning principles for City West.	Yes
Part 3 Precincts			
Division 3 Planning principles for precincts			
Clause 15 Planning principles of regional significance for Precincts	Provides a set of planning principles for land within the Bays Precinct.	The proposed fit-out and use will facilitate the commercial operation of the site and will not impact upon views, consistent with the Bays Precinct planning principles.	Yes
Division 4 Zoning			
Clause 16 How land is zoned	The zoning of the land is shown on Map 2.	The site is located on land zoned Waterfront use as identified on Map 2.	Yes
Clause 20B Port and Employment Zone	Only uses which the consent authority is satisfied are generally consistent with the zone objectives are permissible within this zone. The objectives of the 20B Waterfront Use Zone are: - to provide for development of water-based commercial and recreational activities, including facilities for the servicing, mooring, launching and storage of boats, and - to allow a range of commercial maritime facilities (such as boating	The proposed fit-out and use will enable waterfront commercial activity at the site that takes advantage of the harbour location and is ancillary to the commercial maritime facilities at the site.	Yes

	industry facilities, marinas, waterfront service operations, waterfront commercial and tourism facilities and uses associated with the servicing, temporary mooring, launching and storage of boats and uses ancillary to these), which will take advantage of the harbour location, and - to provide public access within and across the zone and to facilitate the extension of the Ultimo-Pyrmont foreshore promenade from Blackwattle Bay to Rozelle Bay and link with public access networks surrounding the precinct, and - to create, retain and enhance views and links between Wentworth Park and the foreshores of Blackwattle Bay. Uses such as hotels, hotel apartments and tourist resort development will not be permitted.		
Division 5 Building height and floor space controls			
Clause 24 Application of urban design planning principles	The consent authority must be satisfied that the building will be consistent with the urban design planning principles for the Precinct as detailed in clause 15.	The proposed fit-out and use will not adversely affect the adjoining street systems or building form and will not result in a loss of views. It is therefore consistent with the urban design planning principles.	Yes
Clause 26A Scale and alignment of building facades	The scale and alignment of the building facades on the street boundary or boundaries respects the width of the street, adjoining heritage items or other contextual elements, as may be defined in an urban development plan prepared and adopted under Division 7 of this plan, or defined in a Master Plan prepared and adopted under Division 8 of this plan.	The proposed fit-out and use will not impact upon the scale and alignment of the building's facades.	Yes
Division 8 Master Plans			
Clause 40 Requirement for and use of Master Plans	The consent authority must consider the relevant Master Plan.	The proposed fit-out and use is generally consistent with the Rozelle and Blackwattle Bays Maritime Precincts Master Plan as considered below.	Yes
Division 9 Miscellaneous provisions			

Clause 49 Land decontamination	The consent authority must consider whether there's a risk to health and whether remediation is required.	There are no contamination issues.	N/A
Clause 52 Views of other bodies about development in Precincts	The consent authority must, where it considers it appropriate, seek the views of the Inner West Council, the City West Development Corporation, the Sydney Ports Corporation, the Office of Marine Administration, the Maritime Authority of NSW, the Rail Access Corporation, the State Rail Authority, the Freight Rail Corporation and the Director-General of the Department of Transport.	The Department has consulted with the Inner West Council as outlined in Section 5 of this report.	Yes

Rozelle and Blackwattle Bays Maritime Precincts Master Plan 2004

SREP 26 identifies the Bays Precinct as a working waterfront for port and other maritime purposes and requires the preparation of a master plan for the precinct. The Rozelle and Blackwattle Bays Maritime Precincts Master Plan (Master Plan) was prepared by the department on behalf of RMS (then the Waterways Authority) and sets the program and principles for the rejuvenation of the maritime precinct. The Master Plan provides land use guidelines and urban design principles within the Bays Precinct and includes site specific urban design controls encompassing building heights, setbacks, site coverage, access, landscaping and public domain requirements. The department has considered the requirements of the Master Plan in the assessment of the proposal and concluded the proposed development would not affect the Marina's compliance with the Master Plan.

The proposal is generally consistent with the principles, objectives and provisions contained within the Rozelle and Blackwattle Bays Maritime Precincts Master Plan. The proposed fit-out and use will facilitate the orderly use of the site, taking advantage of the harbour front location without obstructing any views or vistas.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP) provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area, and the relevant provisions of the SHC SREP have been considered in **Table 4**.

Table 4 | Section 4.15 matters for consideration

Assessment criteria		Comments	Compliance
Part 1 Preliminary			
Clause 2 Aims of the Plan	This clause sets out the aims with respect to the Sydney Harbour Catchment and establishes the principles for the purpose of enabling these aims to be achieved.	The proposal is consistent with the aims of the Plan for the following reasons: The catchment, foreshores and waterways will not be impacted by the proposal.	Yes
Clause 3 Land to which plan applies	Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area as identified in the zoning map.	Yes
Part 2 Planning Principles			
Clause 13 Sydney Harbour Catchment	Provides a set of planning principles for land within the Sydney Harbour Catchment.	The proposal is consistent with the planning principles for the Sydney Harbour Catchment for the following reasons: The proposal will not impact the natural environment and assets including, hydrological, ecological and geomorphological processes and water quality.	Yes
Clause 14 Foreshores and Waterways Area	Provides a set of planning principles for land within the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area and is consistent with the planning principles for the following reasons: The proposal will not have any impact upon the natural assets and visual qualities of Sydney Harbour.	Yes
Clause 15 Heritage conservation	Provides a set of planning principles for heritage conservation.	The proposal will not detract from the heritage significance of surrounding heritage items.	Yes
Part 3 Foreshores and Waterways Area			
Division 1 Development Control			
Clause 16 Zones indicated on Zoning Map	Land is zoned in accordance with the zoning map.	The site is on land adjacent to the waterway zoned W1 – Maritime Waters.	N/A

Clause 17 Zoning objectives	The objectives of the W1 – Maritime Waters Zone are as follows: • to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally • to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations • to promote equitable use of the waterway, including use by passive recreation craft.	The Marina is located adjacent to the W1 Maritime Waters Zone. However, the site is located wholly on land. The proposal will not affect the movement of commercial shipping, public water transport and maritime industry operations.	N/A
Division 2 Matters for consideration			
Clause 20 General	The matters referred to in Division 3 must be considered by the consent authority.	The Department has considered the relevant matters below.	Yes
Clause 21 Biodiversity, ecology & environmental protection	The consent authority must take into consideration the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	The proposal relates to the fit-out and use of an existing building and would not have any adverse impacts on the biodiversity, ecology or the general environment.	Yes
Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must take into consideration the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	The proposal does not impede upon public access or the use of the foreshores and waterways.	Yes
Clause 23 Maintenance of a working harbour	The consent authority must take into consideration the matters listed in relation to the maintenance of a working harbour.	The proposed signage will not reduce the capacity of the Sydney Harbour to function as a working harbour.	Yes
Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must take into consideration the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.	The proposed fit-out and use will enable the continued use of the foreshore and waterway related uses.	Yes
Clause 25	The consent authority must take into consideration the matters listed in relation to the maintenance,	The proposed fit-out is contained within Tenancy H and the external seating area is suitably located as to	Yes

Foreshore and waterways scenic quality	protection and enhancement of the scenic quality of foreshores and waterways.	not impact upon the scenic qualities of the foreshore and waterways.	
Clause 26 Maintenance, protection and enhancement of views	The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of views.	The proposed fit-out is contained within Tenancy H and the external seating area is suitably located as to not impact upon the views to or from the harbour.	Yes
Division 4 Miscellaneous			
Clause 59 Development in vicinity of heritage items	The consent authority must assess the impact of the proposed development on the heritage significance of heritage items within the vicinity of the development.	The proposal will not have any adverse impacts on the heritage significance of heritage items within the vicinity of the development.	Yes

Draft State Environmental Planning Policy (Environment)

The Department notes that the Explanation of Intended Effect for the Environment SEPP was exhibited until 15 January 2018. The Environment SEPP proposes to simplify the planning controls for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposal would be consistent with the intended effect of the Environment SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) aims to ensure that contaminated land is remediated to prevent the risk of harm to human health and the environment. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose for the proposed development. The application relates to the fit-out and use of an existing building and will therefore not raise any additional issues in regard to contamination. The Department therefore considers the site to be suitable for the restaurant use.

Draft State Environmental Planning Policy (Remediation of Land)

The Department notes that the Explanation of Intended Effect for a new Remediation of Land SEPP was exhibited until 13 April 2018. The Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposed works are not expected to result in any contamination issues, the Department considers that the DA would be consistent with the intended effect of the Remediation of Land SEPP.

State Environmental Planning Policy (Coastal Management) 2018

The Coastal Management SEPP gives effect to the objectives of the *Coastal Management Act 2016* from a land use planning perspective. It defines four coastal management areas and specifies assessment criteria tailored for each coastal management area. The consent authority must apply these criteria when assessing proposals for development that fall within one or more of the mapped areas.

The Coastal SEPP identifies the site as being located within the Coastal environment area and Coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, clauses 13 and 14 of the Coastal SEPP do not apply.

Appendix C – Community Views of draft decision

Appendix D – Development Consent