



NSW GOVERNMENT
Department of Planning

***MAJOR PROJECT ASSESSMENT:
BALLAST POINT PARK – Ballast Point
Road, Birchgrove***

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

August 2006

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1 EXECUTIVE SUMMARY

The Proposal

The Sydney Harbour Foreshore Authority (the Proponent) is proposing to develop land at Ballast Point, Birchgrove, on the Balmain Peninsula for a public park ("the proposal"). The site was formerly a Caltex facility and was officially returned to public ownership in September 2002 following compulsory acquisition by the NSW Government.

The proposal comprises of a series of five precincts over the 2.6 hectare site for predominantly passive recreation purposes and includes landscaped areas, paved areas, seating, casual viewing amphitheatre, children's playground and a foreshore walking/cycle path. The proposal also includes locations for a mobile coffee kiosk, two amenities blocks, site interpretive elements, public art, shade and pergola structures and on-site parking for 18 cars.

In September 2005 the Minister for Planning adopted a master plan for the site submitted by the Proponent. The master plan provides for the site to become landscaped parklands providing a 'green' entry to the western parts of Sydney Harbour. This application relates to the use of the site as public open space and the construction of a public park and adheres to the objectives outlined in the master plan.

The site is undergoing remediation by Caltex, the former owner of the site, under the consent granted by DA 537-11-2003. Completion of remediation works is expected by July 2006.

The public art and interpretive elements in the proposal, including the treatment of salvaged panels from Tank 101 and the site of the former Menevia house, will be subject to the findings of the archaeological investigations of the site being undertaken by Caltex as part of the remediation works.

The estimated project cost of the development of the site is \$11 million.

Environmental Assessment - Exhibition and Approval Process

The Proponent prepared an Environmental Assessment (EA) which was publicly exhibited between 18 April 2006 and 18 May 2006. No public submissions were received. Submissions were received from Auburn Council, the NSW Heritage Office, Sydney Harbour Foreshore committee, the Department of Planning - Major Hazards Unit, and the Department of Planning - Sydney East Region.

Key Issues

The following key issues arose during the exhibition and assessment period:

- Traffic and parking;
- Public access to the site for recreational boat users;
- Treatment of the "Menevia" site and archaeological remains;
- Landscaping/revegetation works and associated ecological outcomes;
- Works associated with seawalls;
- Disabled access;
- Site and environmental risk management during and after construction; and
- Remediation.

The Department's assessment of these key issues and resolutions can be found in Section 6 of this report.

Conclusion

This report documents an independent assessment of the proposal and concludes that the proposal's potential environmental impacts can be mitigated to an acceptable level by adopting the draft Statement of Commitments identified by the Proponent and imposed in the Recommended Conditions of Approval.

It is recommended that the proposed Major Project be approved by the Minister.

2 BACKGROUND

2.1 The Site

The 2.6 hectare site is located at Wharf Road and Ronald Street, Birchgrove (Lot 1 DP 115939, Lot 2 DP 115939, Lot 3 DP 115939, Lot 4 DP 115939, Lot 7 DP 132691, Lot 11 DP 792332, Lot 413 DP 752049, Lot 634 DP 752049, Lot 1 DP 8259, Lot 2 DP 82593) and is owned by the Sydney Harbour Foreshore Authority.

The site is located on the tip of the Balmain Peninsula, bounded by Snails Bay to the Northwest, Port Jackson to the north, Mort Bay to the south and the suburb of Birchgrove to the west (See Figure 2 below).



Figure 1. Subject site (Source: EA)

Vehicular access to the site is along Ballast Point Road and Wharf Road leading to Ronald Street. Currently, pedestrian access to the site is also available from these roads as well as Yeend Street, the cul-de-sac to the south of the peninsula. The proposal intends to allow for pedestrian access to the foreshore promenade to be available via Mort Bay Park located adjacent to Yeend Street. There is no existing public water access to the site as Caltex is in the process of removing all wharves as part of the approved demolition and remediation. Public transport services to the site include bus services within 400m of the site and a ferry service to Thames Street Wharf 500m from the site.

The site lies within an area that is predominantly residential, characterised by a mix of freestanding residences, terrace houses and medium density townhouses. One residence on Wharf Road adjoins the site's north-west boundary, and all other residences are separated from the site by local roads. Local roads are relatively narrow and on-street parking around the site is utilised by residents.

Redevelopment of the former industrial site as a public park will be an addition to the chain of green headland spaces around Sydney Harbour including Balls Head, Yarulbin Point, and Manns Point.

The site is a relatively flat headland with steep sandstone cliffs sloping to the water's edge to the north, and a gentle slope to the water towards the east. There are terraces that step down the site towards the water, punctuated by occasional steep cliff faces and low retaining walls to accommodate a 17m change in level across the site. Vegetation on the site prior to remediation consisted of a mix of native species, exotic species and weeds.

Views north east from the site provide an uninhibited vista of the Sydney Harbour Bridge and Goat Island. South east views available are of Mort Bay, views to the north include Balls Head and views towards the north west are of Snails Bay.

The site itself is highly visible from a number of headland parks around the harbour and from vessels using the harbour including ferries, commercial transport and recreational craft.

The Fountain Boatshed Easement Area lies at the far western corner of the site and is used for the storage of boat tenders. The easement is accessible from the adjoining residential property, and the proposal does not include additional access to be created. Existing walls and steps above the easement will be retained and stabilised.

A site visit was conducted on 23 May 2006.

2.2 Site History

The site's early history includes the construction of the 'Menevia House', of which part of the wall foundation remains today. It is probable that the southern cliffs of the site were used for collecting ballast during the 19th century. In 1928 Texaco (later Caltex) purchased the site for use as a seaboard terminal and built a tank farm on the cliffs. Used initially as an oil and fuel depot, the site was later used for the manufacture and packaging of lubricating oils. Further tank farms were added as well as modifications to seawalls. Caltex ceased operation on the site in the 1990s. In September 2002 the site was returned to public ownership following compulsory acquisition by the NSW Government and the site is currently owned and managed by the Sydney Harbour Foreshore Authority.

The site is not identified as a heritage item on the State Heritage Register, nor in the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, however it has been identified in an amendment to the *Leichhardt Local Environmental Plan 2000* (LLEP 2000) as a heritage item of State-level significance.

Consent was granted by the Minister for remediation of the site by Caltex in June 2004 under DA 537-11-2003 and remediation of the site is scheduled to be completed some time after July 2006. Within that consent certain structural elements were identified for retention in-situ, for reinstatement, and/or interpretation within the completed public park as part of a heritage strategy.

A master plan for the site was adopted by the Minister for Planning in September 2005. The master plan for the site includes elements such as a maritime refuelling facility, and public wharves. It is noted that these elements are not included in this project application and the project application relates only to the use of the land as public open space and the construction of a public park.

3 PROPOSED DEVELOPMENT

3.1 Nature of Proposal

The proposal comprises:

- The development and use of the land as public open space with facilities for a variety of largely passive recreational uses, including landscaped areas, paved areas, seating, casual viewing amphitheatre, children's playground and a foreshore walking and cycle path;
- Landscaping including new plantings of predominantly native trees, shrubs and grasses, site interpretive elements and public art;
- The location of retaining walls, stairs, bridges and ramps throughout the park, and the location of shade structures, public amenities, and maintenance/store room;
- Repairs to seawalls along the northern foreshore of the site;
- Location of furniture and facilities including seating, benches, and barbeques;
- Provision of space for a small mobile food and beverage kiosk; and
- Provision of an 18 space, on-grade public car park on Wharf Road.

The Proposal is depicted in plan as follows:



Figure 2. Proposal in plan (Source: EA)

3.2 Park Layout and Landscaping

The park is proposed to be a series of terraces, set out in four precincts and connected by pathways:

- **Entry Precinct** (Wharf Road Entrance), which will incorporate the entry gates, a lookout, an area for a mobile food/beverage kiosk, a playground, amenities block, parking area, and a grove of Eucalypt species;
- **Northern Precinct** (Snails Bay Edge), which will comprise of two areas; The Northern Foreshore Promenade and The Former Tank Farm. The Northern Foreshore Promenade will include a crushed sandstone path along the sea wall edge with groups of seats at irregular spacings, an amphitheatre with grassed terraces and concrete seating walls. The Former Tank Farm area will include mounded plantings of Angophoras to interpret the former storage tanks, and partial retention of the 1929 bund wall. The western portion of the site, which is steep and inaccessible, will be planted with endemic species which will provide privacy screening for adjacent residences.
- **Ridge Top Precinct**, which will comprise of low heath plantings around former tank locations, a southern zone of Fig trees, and the remains and interpretation of the "Menevia" site and former Caltex operations.
- **Southern Precinct** (Mort Bay Edge), will comprise of four grassed, terraced picnic and viewing areas, an amenities block and maintenance facility. The terraces will be planted with Eucalypts with the top terrace separated by a garden and paved gathering space shaded by a pergola. The precinct will include The Point, a sandstone promontory jutting out towards the Harbour with broad steps allowing access to the water's edge, and The Southern Foreshore Promenade which connects The Point to Yeend Street. Ballast Point Garden, a mounded planted zone and potential site interpretive element, will extend from the cliff face to the promenade and be planted with *Ficus Rubignosa*, Cheese trees and Grey Gums.

The four precincts are depicted in plan below:

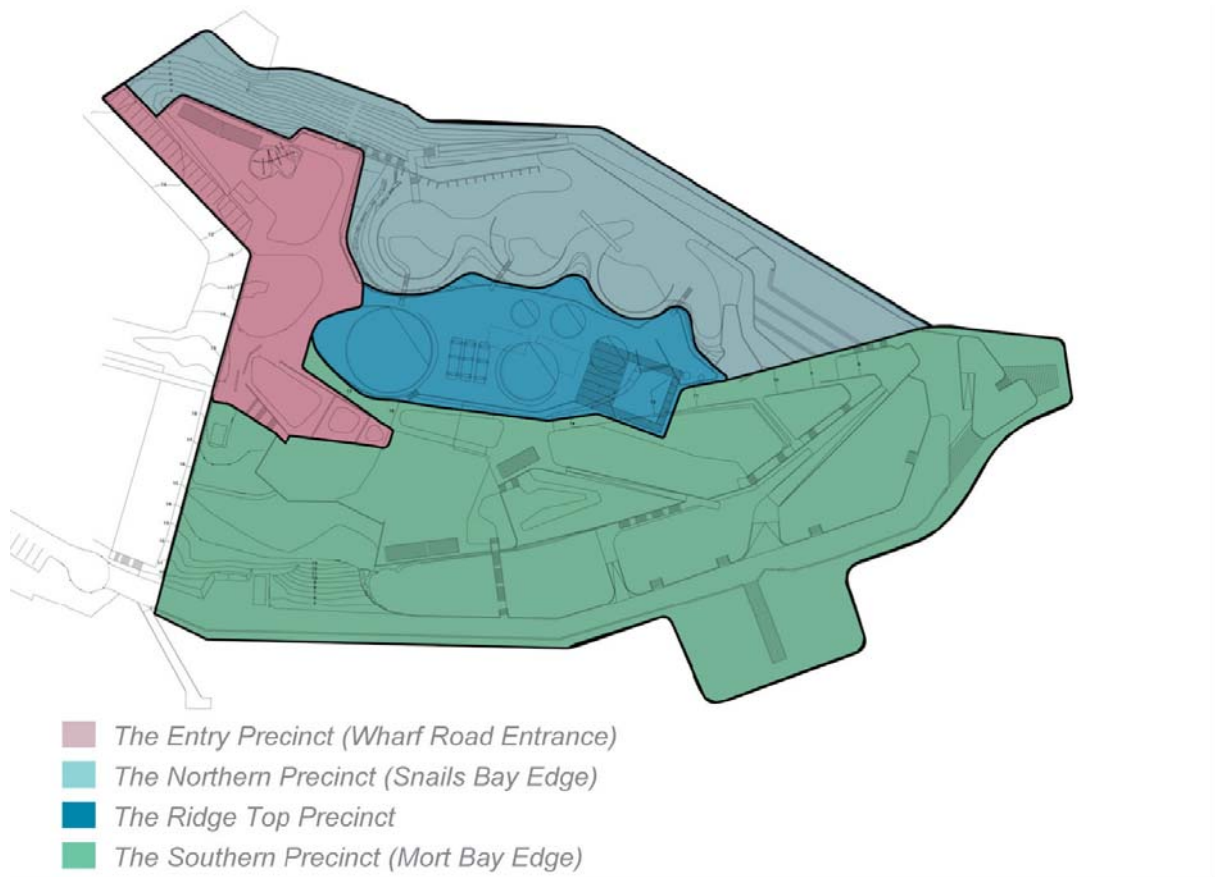


Figure 3. Park Layout (Source EA)

3.3 Vegetation

Vegetation proposed for the park will consist of species endemic to the area. There will be three principle microclimatic zones on the site; the north-facing foreshore area, the ridge top, and the south facing slopes at the western perimeter. These areas will be planted with a mix of native species in order to establish three layers of habitat, canopy, understorey and ground cover. Plant species selection will be in accordance with the recommendations in the "Horticultural Capability Study" prepared by the Royal Botanic Gardens and the Preliminary Flora and Fauna Assessment prepared in support of the approved master plan for the site.

A listing of proposed species and planting locations are identified in the Environmental Assessment at Appendix 2, *Landscape Report*, prepared by Anton James Design.

3.4 Materials and Furniture

Materials have been chosen to reflect the prior industrial use and aesthetic of the site:

- Retaining walls will be constructed from steel, concrete and sandstone;
- Open balustrades will be steel and closed balustrades will be concrete or sandstone;
- Selected stairs, decks and bridges will be constructed of steel and steel mesh;
- Remaining stairs and ramps will be concrete, with slip resistant surfaces;
- Paved surfaces will predominantly be exposed aggregate concrete with crushed sandstone mix and a colored broom finish

Furniture will include seats, benches, tables, barbeques, signage and shade structures.

3.5 Lighting

Feature lighting will be directed towards the water and safety lighting will be incorporated. Areas selected for feature lighting include:

- Gate structures at the entrances to the park;

- Tanks and the interpretative canopy;
- The remaining section of the bund wall; and
- The stone retaining wall on the south eastern side.

Vantage points and viewing platforms on the Belvedere and the Point with views across the harbour will be lit. The central pathway through the park will also be lit to a level that provides safe movement. It is envisaged this pathway will only be lit on occasions when large numbers of people will be using the park at night (such as New Years Eve). The car park will not be lit.

3.6 Safety and Security

It is not envisaged that the park would ordinarily be a destination for people to visit at night. As such, only vantage points close to the main gate will be lit and the car park will not be lit. Lighting of pathways will only be utilised for special events.

Other safety and security design elements include:

- The creation of spaces to minimise crime opportunities;
- Provision of passive surveillance opportunities, particularly around the entries, car park, and amenities block;
- Provision of a secure boundary fence and vegetative screening adjoining the residential property on Wharf Road; and
- Provision of non-slip surfaces, balustrades and handrails.

3.7 Site Interpretation and Public Art

The following areas and themes have been identified for more detailed site interpretative elements:

- The Entry Gates
- The Belvedere The pavement of this promontory will be engraved, stencilled, or etched with elements relating to the site's industrial history. The lower concrete retaining walls may be used to display industrial artefacts salvaged from the site including valves and meters.
- Tank 101 It is proposed that eight salvaged steel panels from the tank will be utilised within the footprint of Tank 101 to evoke the former tank farm and past industrial era of the site.
- The "Menevia" site It is proposed a shade structure will be erected for the practical purposes of providing shade for visitors whilst the trees reach maturity, and also as a way of interpreting the footprint and scale of the villa.
- The Ballast Garden A garden is proposed at the eastern end of the lower terrace with elements that explore this historical theme. The garden will include retaining walls, an inclined walkway, a level lawn and planting zone.
- Wagon Mound
- Potential area for Aboriginal History site interpretation Aboriginal History interpretation is possible and requires the input of someone with the required authority to speak on behalf of the local tribe to determine the most appropriate location and form this should take within the park.

A public art strategy is proposed and an artist's brief will be formulated in collaboration with the park's designers, a heritage consultant and the Sydney Harbour Foreshore Authority.

3.7 Car Parking

Car parking is proposed for the upper precinct of the site on Wharf Road (on site) where eighteen spaces, including two disabled spaces, will be provided. Vehicle access for emergency and maintenance vehicles will be available to both the upper and lower areas of the site.

3.8 Repair of Seawalls

The northern seawalls are on land owned by the Sydney Harbour Foreshore Authority. The southern seawalls are on land owned and controlled by NSW Maritime Authority and their repair is the responsibility of Caltex and subject to a separate approvals process. The proposal includes the repair of the northern seawall fronting Snails Bay. Remedial works to reduce the rate of deterioration will be carried out. Details of the repair and will be subject to further consultation with NSW Maritime and ongoing monitoring and maintenance of the seawall after the remedial works will be implemented.

4 STATUTORY CONTEXT

4.1 Major Project

The proposal is subject to assessment under Part 3A of the Act and the approval of the Minister for Planning is required to carry out the project. The Minister formed the opinion that the project is one to which Part 3A of the Act applies on 9 November 2005. Consequently the Proponent has sought the Minister's approval for the proposal under Section 75J of the Act.

4.2 Permissibility

The site is situated in the Leichhardt Local Government Area and following the gazettal of Amendment 12 to the *Leichhardt Local Environmental Plan 2000* (LLEP 2000) which rezoned the site from Special Uses to Open Space, the development of the site for the purposes of a public park is permissible with development consent.

4.3 Minister's power to approve

The Department has exhibited the Environmental Assessment in accordance with Section 75H (3) of the Act as described in Section 5 below. Additionally, the project is entirely permissible and meets the requirements of the Major Projects SEPP. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

4.4 Environmental Planning Instruments

To fulfil the requirements of Section 75I Clause 2 (d) and (e) this report includes references to the provisions of any environmental planning instruments that substantially govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The assessment of the proposed development is subject to the following environmental planning instruments and strategies:

- *State Environmental Planning Policy (Major Projects) 2005;*
- *State Environmental Planning Policy No. 55 (Remediation of Land),*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
- *Leichhardt LEP 2000;*
- *Leichhardt Development Control Plan 2000;* and
- Ballast Point Master plan

The Department has considered the proposed project against the objectives and aims of these instruments, and is satisfied that the proposed project, subject to the implementation of the recommended conditions of approval, is generally consistent with the provisions of these instruments (refer Appendix F).

4.5 Related development applications and consents

The site is subject to the master plan adopted in September 2005, prepared pursuant to the provisions of the *State Environmental Planning Policy No. 56 (Sydney Harbour Foreshores and Tributaries)* (SEPP 56) (repealed). The proposal is consistent with the approved master plan.

State Environmental Planning Policy No. 55 (Remediation of Land) applies to the site and has been addressed by the approved demolition and remediation works undertaken by Caltex under DA 537-11-2003.

5 CONSULTATION AND ISSUES RAISED

On 14 March 2006, the Proponent lodged an EA for the proposal with the Department.

The Department subsequently:

- notified all residents in the vicinity of the site who could be affected by the proposal;
- notified Leichhardt Council and all the relevant State government agencies;
- advertised the exhibition of EA in the Sydney Morning Herald and the Western Suburbs Courier; and
- exhibited the EA from 18 April 2006 until 18 May 2006.

This satisfies the requirements for public participation in the EP&A Regulation.

5.1 Submissions Received

No public submissions were received. Six submissions were received from agencies as follows:

- Leichhardt Council;
- The Heritage Council of NSW;
- Sydney Harbour Foreshores Committee;
- NSW Maritime Authority;
- Department of Planning – Sydney Region East; and
- Department of Planning - Major Hazards Unit.

Summaries of these agencies' responses is included in the Department's assessment of key issues and also listed at Appendix C. The Proponent responded to the issues raised in the submissions on 30 May 2006 and a summary of responses is listed at Appendix D.

6 ASSESSMENT

Key issues raised in the submissions to the proposal and/or identified during the Department's assessment included:

- Traffic and parking;
- Public access to the site for recreational boat users;
- Treatment of the "Menevia" site and archaeological remains;
- Landscaping/revegetation works and associated ecological outcomes;
- Disabled access;
- Works associated with seawalls;
- Site and environmental risk management during and after construction; and
- Remediation.

6.1 Environmental Impacts

6.1.1 Key Issue Traffic and Parking

Raised By Leichhardt Council

Consideration The proposal provides for 18 on-site car spaces. The Transport Report prepared by Masson Wilson Twiney dated 10 March 2006 submitted with the EA (EA, Appendix 10) concludes that although provision of 20-30 car spaces is considered the appropriate level of car parking for a passive recreational area, the proposed 18 spaces should meet demands except in exceptional circumstances. Existing car parking on the narrow streets around the site is limited. Council submitted that the minimum requirements for parking have not been met by the proposal. The Proponent raised in the EA the possibility for future parking provisions to be investigated in Yeend Street on land partly owned by Council.

Resolution It is considered that the 18 car spaces provided by the proposal will service the requirements of visitors to the park in all but exceptional circumstances. The proposal consists of predominantly passive spaces and adequate locations for sporting and community events are already provided in nearby spaces e.g. Birchgrove Oval. It is envisaged the projected park will not be a 'destination' for visitors travelling from outside the area and will be primarily used by residents of the local area. Although further consultation with Council regarding future increases in parking is encouraged, this assessment cannot consider any proposed parking in Yeend Street as the area falls outside the boundary of the Ballast Point site and will be subject to a separate planning approval.

6.1.2 Key Issue Access to the site for recreational boat users

Raised By Leichhardt Council

Consideration The application does not contain provision for recreational boat users to access the site. Council proposes that the site should provide access for recreational boat users as the adjacent Yeend Street Wharf is unsafe and not open for public access.

Resolution Although the master plan includes a pilot wharf attached to the site, the current application does not include the structure as it falls outside the boundary of the Major Project proposal as set out in the Major Projects SEPP, Schedule 2, Map 11. Provision of a pilot wharf does not form part of this application submitted for approval and therefore cannot be considered. The applicant has indicated that they may seek separate approval for the structure at a later date.

6.1.3 Key Issue Treatment of the archaeological remains of the "Menevia" site

Raised By Heritage Office

Consideration The position of the interpretive canopy for the "Menevia" site is queried in its relation to the physical position of the archaeological remains so far uncovered and consideration of appropriate future protection of the archaeological remains not directly identified. The Heritage Council requested further consultation regarding location of canopy over remains.

Resolution Statement of Commitment 4 regarding construction management has been amended to ensure protection of the archaeological remains within the Menevia site during construction. The proponent has forwarded a copy of the revised Menevia interpretation design to the Heritage Office for consideration and it is envisaged the final design and location of the canopy will be a result of continuing liaison with the Heritage Office. Future protection of archaeological remains will be addressed in the Plan of Management for the park, a copy of which will be forwarded to the Heritage Office.

6.1.4 Key Issue Landscaping/revegetation and associated ecological outcomes

Raised By NSW Maritime

Consideration The proposal offers limited opportunities for structured vegetation communities and no provision for indigenous vegetation to overhang along the seawall. The proponent has submitted that site constraints such as steep cliffs and large rocky outcrops limit the ability to create structured vegetation communities across the whole site. Furthermore the steep terrain and existing hardstand surrounding the southern seawall limits the feasibility for plantings that overhang the seawall in these locations.

Resolution The proposal provides structured vegetation communities in the north-west and south-west corners of the site and provides overhanging vegetation on the northern seawall. It is considered that the north-west and south-west areas of the site are the most suitable locations for structured vegetation communities as they have restricted human access. Considering the nature of the proposal as a recreational space, the extent of the proposed areas of structured vegetation is considered appropriate. The proposal provides for overhanging vegetation along the northern foreshore and considering the constraints of the existing topography of the site this is considered satisfactory.

6.1.5 **Key Issue** Works associated with seawalls

Raised By NSW Maritime

Consideration Remedial works for seawalls on land owned by NSW Maritime and alterations to stormwater outlets may require engineering approval from NSW Maritime.

Resolution The proponent has provided evidence that all proposed works fall within the boundaries of property owned by the Sydney Harbour Foreshore Authority. The proponent has negotiated with NSW Maritime and Condition B11 of the consent will require the proponent to forward detailed designs of any alterations to existing stormwater outlets to NSW Maritime.

6.1.6 **Key Issue** Site management during construction and after completion

Raised By NSW Maritime

Consideration NSW Maritime requested details of the landscaping works and proposed management regime to be implemented during and following construction.

Resolution It is considered that the Landscape Report, Statement of Commitments and draft Construction Environmental Management Plan submitted with the EA adequately address issues of site management, mitigation of construction impacts, and the ongoing maintenance of the park after completion.

6.1.7 **Key Issue** Access

Raised By Urban Assessments

Consideration Access within the park suitable for disabled persons is not available between the upper areas of the site and the lower foreshore promenade (see below Figure 4). Disabled access to the lower areas of the site is currently available from the Yeend Street entry and the proposal relies on future liaison with Leichhardt Council to combine parking for Mort Bay Park and Ballast Point Park to provide additional disabled parking at this lower level. The on site car parking included in the proposal (including 2 disabled spaces) is limited to Wharf Road and this provides access to the upper areas of the site.

The Applicant has provided comments from the landscape architect and an Access Report prepared by Morris Goding Access Consultants (Appendix G). The Applicant submits that providing access ramps between the upper and lower levels internal to the park would severely impact the site, the visual appearance of the site from the harbour, and the quality of the recreational space. The Applicant also submits that provision of a passenger lift within the park would require extensive earth moving works at a high capital cost and may also be subject to vandalism. The Applicant submits consideration of the provisions of the *Disability Discrimination Act 1992* (Cth), and notes Section 23 of the *Disability Discrimination Act 1992* (Cth) recognises that it may not be possible or fair to enforce the requirements of access to premises in all situations. The Human Rights and Equal Opportunities Commission (HREOC) in their Advisory Notes allow for a defence of unjustifiable hardship in situations where provisions of full access within existing premises would prove too demanding because of technical, topographical, safety or financial limits. The Report provided also concludes that it is imperative that accessible parking is made available in Yeend Street.

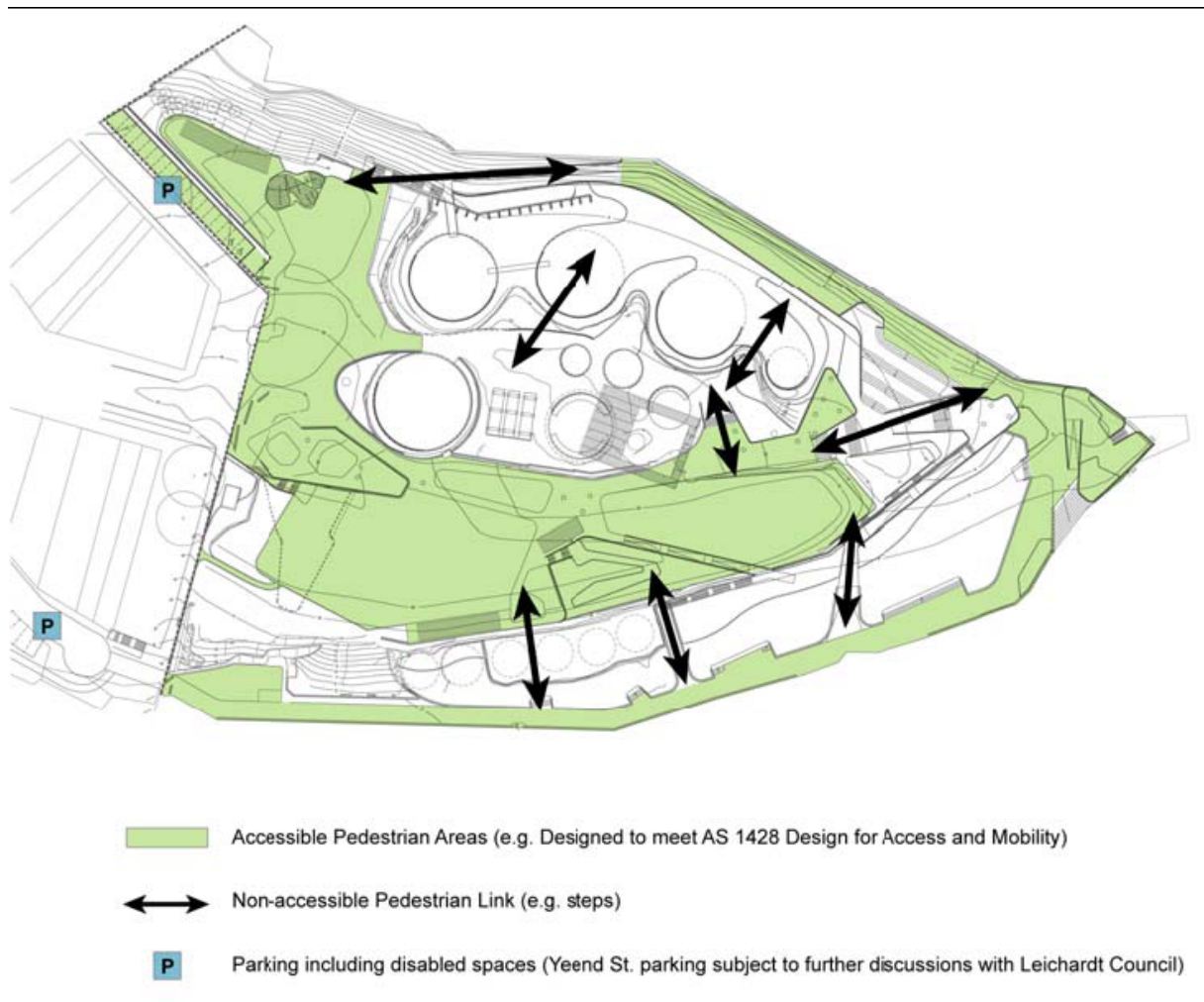


Figure 4. Pedestrian Accessibility (Source EA Appendix 2 Landscape Report prepared by Anton James Design 8 March 2006)

Resolution The landform of the site and the 17m change in level between the upper and lower precincts of the park create difficulties in providing disabled access within the site. As in paragraph 6.1.1 above, further consultation with Council regarding future parking facilities is encouraged, however this assessment cannot consider or require any proposed parking in Yeend Street as the area falls outside the boundary of the Ballast Point site and will be subject to a separate planning approval. It is considered that separate disabled access provided to the upper and lower levels of the park is satisfactory as access between the levels that is internal to the park is not feasible. Condition B6 has been proposed to require the Proponent to provide access for people with disabilities in accordance with Part D3 of the BCA's Access Policy and the provisions of the *Disability Discrimination Act 1992* (Cth).

6.1.8	<u>Key Issue</u>	Remediation
	<u>Raised By</u>	Department of Planning, Major Hazards Unit

Consideration As the EA is unclear on when remediation will be completed it is recommended that any post-remediation landscaping or construction plans are developed after the full extent of the remediation required and the details of the remediation works are known, in addition NSW EPA Auditor signoff should be required prior to commencement of works.

Resolution Statement of Commitment 4 regarding construction management has been amended to require an EPA accredited Site Auditor to sign-off that the park has been remediated to the required standard prior to commencement of construction.

6.2 Other Issues

(i) Issues raised in public submissions

There were no public submissions made in response to the public exhibition of the major project.

(ii) Public benefits

The Department considers that the public benefits of this development are:

- The provision of a large area of public parkland with linkages to existing harbour foreshore parklands and access for pedestrians and cyclists to the foreshore is desirable;
- The park will create opportunities for a variety of social and recreational activities;
- Restoration of the site to public ownership and use, the reuse of a former industrial site and the preservation of and reference to the history of the site as a part of Sydney's working harbour is considered beneficial;
- The park is a valuable addition to the collection of existing green headlands which surround Sydney Harbour and the public open space is considered a beneficial addition to the amenity of the immediate locality.

7 CONCLUSION

The Department has assessed the Environmental Assessment, and considered the submissions on the proposal. The key issues raised in submissions related to parking, public access to the site for recreational boat users, treatment of the "Menevia" site and archaeological remains, landscaping/revegetation works and associated ecological outcomes, disabled access within the site, works associated with seawalls, site and environmental risk management during and after construction, and remediation. The Department has considered these issues and recommended conditions to ensure impacts from the proposal are adequately managed.

In addition, to mitigate likely and potential impacts the Proponent proposes to implement a range of measures that are described in the Statement of Commitments (Appendix B). The Department accepts this Statement of Commitments and recommends that they be adopted with the following amendments set out in the recommended Conditions of Approval (Appendix A). The Statement of Commitments do not relieve the Proponent of its obligations under any other Act.

The proposed public park is a unique opportunity to reuse a former industrial site for public purposes, restore the headland to green vegetated parkland, and provide a large area of public open space adjoining Sydney Harbour for recreational activities. Given these benefits, the Department believes the proposal is in the public interest, and recommends approval subject to conditions.

8 RECOMMENDATION

Recommendation

It is recommended that the Minister for Planning pursuant to Part 3A of the Environmental Planning and Assessment Act, 1979 (as amended):

- (A) grant **consent** to the project as described in the Proponent's Environmental Assessment including plans and documents and the Statement of Commitments (Appendix B), subject to the Conditions of Approval (Appendix A) by signing and dating the Determination of Major Project tagged 'A', and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Approval

Prepared by: Liz Lamb/Planner

Endorsed by:

Heather Warton
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Urban Assessments

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APPENDIX A. CONDITIONS OF APPROVAL / REFUSAL

APPENDIX B. STATEMENT OF COMMITMENTS

Statement of Commitments

1. Introduction

Under S.75F(6) of the *Environmental Planning and Assessment Act 1979*, the Sydney Harbour Foreshore Authority submit the following Statement of Commitments.

2. General

- A. The development will be undertaken generally in accordance with the Environmental Assessment Report prepared by BBC Consulting Planners Pty Ltd (including accompanying Appendices).
- B. The development will be undertaken generally in accordance with the Environmental Assessment and the following drawings prepared by Context and Anton James Design, while allowing for reasonable design development to occur:

Drawing No	Drawing Title	Issue
L02	Ballast Point Park Concept Plan	B
L03	Ballast Point Park Finishes Plan	B
L04	Ballast Point Park Sections A-D	B
L05	Ballast Point Park Sections E-H	B

- C. The proponent is committed to the principles of sustainability as defined in the *Environmental Planning and Assessment Act 1979*.
- D. The proponent will continue to inform adjoining residents during the development process.
- E. The proponent will continue to liaise with Leichhardt Council during the construction process.

3. Further Approvals

- A. The proponent will obtain all necessary approvals required by State and Commonwealth legislation in undertaking the project.
- B. As a Crown project, Construction Certificates are not required to be obtained. However, the necessary engineering design and building certification will be issued by the Works Manager.

4. Construction Management

- A. The Foreshore Authority will ensure that construction of the park will not commence until the EPA accredited Site Auditor has provided sign-off that the park has been remediated to the required standard.
- B. The Works Manager will ensure that all necessary measures will be taken regarding work within the Menevia area to ensure protection of the archaeological remnants.

- C.** Prior to commencing construction, the proponent will ensure that the draft Construction Environmental Management Plan (CEMP) lodged with the EA has been further developed and implemented by the contractor. In particular, the following plans and procedures will be in place:
- Access and traffic management plan
 - Air quality
 - Erosion and sediment controls
 - Fire control
 - Fuel and chemical handling
 - Indigenous and non-indigenous heritage
 - Noise and vibration management
 - Plant and equipment use and maintenance
 - Rubbish and waste management
 - Site working area preparation and monitoring
 - Vegetation and topsoil management
- D.** The proponent will ensure that all plans prepared by the Contractor will have regard to the relevant statutory and best practice guidelines prepared by the EPA and other bodies, as specified in the draft CEMP.
- E.** Prior to commencing construction, the proponent will ensure that the contractor has developed and implemented the environmental monitoring programme in accordance with the CEMP.
- F.** Prior to commencing construction, the proponent will ensure that the contractor has addressed all other relevant aspects of the CEMP including contact and complaints handling procedures, emergency preparedness and response, environmental training and awareness and OH&S.
- G.** The final CEMP and associated management plans will be subject to the approval of the Works Manager.
- H.** Copies of the final CEMP will be provided to the Department of Planning, NSW Maritime and Leichhardt Council

5. Services

- A.** The proponent will comply with the requirements of the relevant public authorities in regard to the connection to, relocation and/ or adjustment of services affected by the construction of the proposed development.

6. Car Parking

- A.** A total of 18 parking spaces, including 2 disabled spaces, will be provided on Wharf Road toward satisfying the minimum 20 spaces identified as appropriate in the Transport Report.
- B.** The Foreshore Authority will use its best endeavours to work with Leichhardt Council to advance Council's plans for the provision of public car parking on Council land on Yeend Street.
- C.** Ongoing discussions will, in particular, attempt to resolve the issue of disabled parking on Yeend St thus allowing access for the disability impaired to both the upper and lower levels of the site.

7. Stormwater Management

- A.** The proponent will implement the recommendations of the Engineering Issues Report accompanying the EA in relation to stormwater design.
- B.** The proponent will implement stormwater harvesting, generally in accordance with one of the two options identified in the Engineering Issues Report.

8. Landscaping

- A.** Landscaping and species selection will be generally in accordance with the plans and reports accompanying the EA.
- B.** A detailed landscaping plan and schedule, including details of selected species, pot sizes, planting densities and the like, will be submitted to NSW Maritime for final review and comment prior to the commencement of landscaping works.

9. Heritage

- A.** A Public Art and Interpretation Plan will be developed in association with the detailed design of the park in accordance with the recommendations of the Statement of Heritage Impact and the Landscape Report, both of which accompany the EA.
- B.** Interpretation of the 'Menevia' area is subject to the findings of the archaeological investigations being undertaken by Caltex. Consultation with the NSW Heritage Office will occur regarding any State significant archaeological relics found during Caltex Australia's archaeological test excavations.
- C.** The proponent will incorporate the site into the Foreshore Authority's S170 Heritage and Conservation Register.
- D.** The proponent will formulate conservation policies into the Plan of Management for the park.

10. Seawall Repair

- A.** The northern seawall will be repaired generally in accordance with the recommendations of the report entitled 'Ballast Point Seawall Survey- Geotechnical Report' prepared by Coffey Geosciences and dated February 2006, subject to further detailed design and structural engineering advice.
- B.** The seawall will be repaired and a maintenance program will be implemented by the owner and manager of the park.
- C.** The final plans will be subject to the approval of the Works Manager and will be provided to NSW Maritime for review and comment.

11. Structures

- A.** Detailed plans for the two amenities blocks will be prepared following the granting of project approval, in accordance with the design concepts and range of materials set out in the EA. Prior to the commencement of construction of the amenities blocks, the design details will be submitted to the Manager Planning Assessment Team of the Sydney Harbour Foreshore Authority. The construction drawings will be subject to the approval of the Works Manager.

- B.** Construction drawings for structures such as retaining walls, seawalls and shade structures will be subject to the approval of the Works Manager.

12. Management and Maintenance

- A.** Consultation is to occur with State and Local Authorities regarding the ongoing ownership, management and maintenance of the park. Until these discussions have been held and a decision has been made, the Foreshore Authority will take interim responsibility for management and maintenance of the park.
- B.** A Plan of Management will be prepared by the proponent (or the future manager) prior to the opening of the park. The Plan of Management will include the following:
- Park Design Principles
 - Precinct Principles
 - Guidelines for the management of the park
 - Site specific issues (e.g. remediated site, anticipated outcomes)
 - Resources required
 - Income generation opportunities
 - Future park opportunities
 - Staging and phasing
 - Conservation policies
- C.** A Maintenance Manual will be prepared by the proponent (or the future manager) following the completion of the park. The manual will be prepared generally in accordance with the outline contained in the Landscape Report accompanying the EA, and will include performance measures.

APPENDIX C. SUBMISSIONS

A summary of agency submissions received after lodgement of Environmental Assessment for this application:

Date	Stage of process	Issue	Agency Comment
HERITAGE OFFICE			
6/4/06	EA adequacy (referred 15 March)	Treatment of the "Menevia" Site	<ul style="list-style-type: none"> The retention of archaeological remains of "Menevia" in-situ is supported; The position of the interpretive canopy for the "Menevia" site is questioned in its relation to the physical position of the archaeological remains so far uncovered; Consideration of appropriate future protection of the archaeological remains not directly identified; and Request further discussion with Heritage Council regarding location of canopy over remains.
LEICHHARDT COUNCIL			
29/3/06	EA adequacy	Shared Parking Area in Yeend Street	<ul style="list-style-type: none"> Council considers that the proposal relies on the parking provided in Yeend Street and a solution needs to be in place prior to consent; Council of the view that parking and facility for vehicles to turn around at the end of Yeend Street needs to be a part of the Project Application; Not satisfied by the EA statement "this matter will be further addressed during ongoing discussions with Leichhardt Council"; Requests an engineering solution be provided prior to consent; Proposal depicted in "concept plan" drawing in EA has not had Council input and does not recognise the physical constraints at the eastern end of Yeend Street; and Request detail be provided of pedestrian and Cyclist linkages to Mort Bay Park.
		Yeend Street Wharf and provision of access to recreational boat users	<ul style="list-style-type: none"> EA states "the public wharf for recreational boat users may not proceed as Council intends to upgrade the adjoining Yeend Street Wharf"; It has never been envisaged that Yeend Street Wharf would replace the proposed facility at Ballast Point; Yeend Street Wharf currently unsafe and public access denied; Wharf has structural problems which would be expensive to repair; and Council proposes purpose built public wharf at nominated master plan position within Ballast Point Park and demolition of Yeend Street Wharf.
NSW MARITIME			
19/5/06	EA assessment (referred 18/4/06)	Landscaping / revegetation works and associated ecological	<ul style="list-style-type: none"> Limited areas offer complete structured vegetation communities, this can be facilitated by providing greater diversity of habitat opportunities using suitable groundcover, understorey and canopy species in condensed pockets. No provision for areas of suitable indigenous overhanging

	outcomes	vegetation along the seawall.
	Potential encroachment of works onto land owned by NSW Maritime	<ul style="list-style-type: none"> Identify site boundaries.
	Site management during park construction and after completion	<ul style="list-style-type: none"> Provision of detailed plans and cross-sections of proposed landscaping works including plant species and locations; Provision Vegetation/Landscape Management Plan outlining management regime to be implemented following completion of initial planting; Provision of Environmental Management Plan outlining proposed management regime, monitoring and reporting measures following completion, and demonstrating suitable controls for management of environmental risks.
	Works associated with seawall	<ul style="list-style-type: none"> Proposed remedial works to the seawalls may require engineering approval from NSW Maritime if works are on land owned by NSW Maritime, additionally any stormwater drainage works that will alter existing outlets to Sydney Harbour may require approval from NSW Maritime under <i>the Maritime Services Act 1935</i>.

DEPARTMENT OF PLANNING Major Hazards Unit

16/3/06	EA adequacy	Remediation	<ul style="list-style-type: none"> As the EA is unclear on when remediation will be completed – recommend that any post-remediation landscaping or construction plan is developed after the full extent of the remediation required and the details of the remediation works are known; NSW EPA Auditor signoff should be required prior to commencement of works.
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DEPARTMENT OF PLANNING Sydney Region East

24/3/06	EA adequacy	No Issues.	<ul style="list-style-type: none"> The EA lodged appears to adequately address the issues the Regional team is concerned with and the development of the site as a public park is the desired outcome of the rezoning.
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SYDNEY HARBOUR FORESHORES COMMITTEE

15/5/06	EA assessment	No Issues.	<ul style="list-style-type: none"> In support of the application.
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Because of the varying degree of detail provided in agencies' submissions from assessment of adequacy of response to exhibition stage (i.e. some agencies submitted detailed comments assessment of adequacy stage yet did not respond during exhibition), this summary seeks to record all matters raised by agencies after acceptance of the proponent's EA.

APPENDIX D. RESPONSE TO SUBMISSIONS

A summary of the Proponent's response to submissions received on 30 May 2006:

Issue	Agency Comment	Proponent's Response
HERITAGE OFFICE		
Treatment of the "Menevia" Site	<ul style="list-style-type: none"> The position of the interpretive canopy for the "Menevia" site is questioned in its relation to the physical position of the archaeological remains so far uncovered; Consideration of appropriate future protection of the archaeological remains not directly identified; and Request further discussion with Heritage Council regarding location of canopy over remains. 	<ul style="list-style-type: none"> The Proponent has forwarded a copy of the revised Menevia interpretation design to the Heritage Office and wish to continue to liaise with the Heritage Office regarding the location of the canopy and other heritage considerations; The future protection of archaeological remains will be addressed in the Plan of Management for the park, (as required by the Statement of Commitments) and the proponent will forward a copy of the plan to the Heritage Office when finalised; The proponent has amended the Statement of Commitments to ensure that during construction any archaeological remains at the Menevia site will be protected.
LEICHHARDT COUNCIL		
Shared Parking Area in Yeend Street	<ul style="list-style-type: none"> Council considers that the proposal relies on the parking provided in Yeend Street and a solution needs to be in place prior to consent; Council is of the view that parking and facility for vehicles to turn around at the end of Yeend Street needs to be a part of the Project Application; Not satisfied by the EA statement "this matter will be further addressed during ongoing discussions with Leichhardt Council"; Requests an engineering solution be provided prior to consent; Proposal depicted in "concept plan" drawing in EA has not had Council input and does not recognise the physical constraints at the eastern end of Yeend Street; and Request details are provided of pedestrian and Cyclist linkages to Mort Bay Park. 	<ul style="list-style-type: none"> The Proponent has had a survey of the area prepared to determine the owners of the Yeend Street area under review; The proponent will develop a potential parking scheme in consultation with the landowners (including Council) to resolve parking in Yeend Street; The potential parking arrangements will ensure pedestrian and cycle linkages between Ballast Point Park and Mort Bay Park are retained in accordance with the Master plan for the Ballast Point site; The proponent will liaise with the Local Traffic Committee on any proposed parking arrangements in Yeend Street; Any proposed parking in Yeend Street will be subject to a separate planning approval as the area falls outside the boundary of the Ballast Point site.
Yeend Street Wharf and	<ul style="list-style-type: none"> EA states "the public wharf for recreational boat users may not 	<ul style="list-style-type: none"> Any wharves attached to the site and depicted in the Ballast Point

provision of access to recreational boat users	<p>proceed as Council intends to upgrade the adjoining Yeend Street Wharf";</p> <ul style="list-style-type: none"> • It has never been envisaged that Yeend Street Wharf would replace the proposed facility at Ballast Point; • Yeend Street Wharf currently unsafe and public access denied; • Wharf has structural problems which would be expensive to repair; and • Council proposes purpose built public wharf at nominated master plan position within Ballast Point Park and demolition of Yeend Street Wharf. 	<p>Master plan do not fall within the boundaries of the Major Project proposal as set out in the Major Projects SEPP, Schedule 2, Map 11 and do not form part of the Major Project application submitted for approval;</p> <ul style="list-style-type: none"> • The proponent will liaise with NSW Maritime to determine the appropriate planning process for future wharf construction; • The proponent will pursue the potential of lodging an application under the Sharing Sydney Harbour Access Program for the Yeend Street Wharf with Council.
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NSW MARITIME

Landscaping / revegetation works and associated ecological outcomes	<ul style="list-style-type: none"> • Limited areas offer complete structured vegetation communities, this can be facilitated by providing greater diversity of habitat opportunities using suitable groundcover, understorey and canopy species in condensed pockets. • No provision for areas of suitable indigenous overhanging vegetation along the seawall. 	<ul style="list-style-type: none"> • Site constraints such as large rocky outcrops limit the ability to ensure structured vegetation communities are created across the site; • The north-west and south-west corners of the site contain structured vegetation communities and are the most appropriate locations because they have restricted human access; • Habitat opportunities are maximised across the site through the use of indigenous and endemic plant species; • There is limited ability for planting overhanging vegetation along the seawall due to steep terrain and existing hardstand surrounding the southern seawall; • The north-west corner of the site will have vegetation overhanging the seawall and the heterogenous nature of the northern seawall will encourage ecological opportunities within its structure.
Potential encroachment of works onto land owned by NSW Maritime	<ul style="list-style-type: none"> • Identify site boundaries. 	<ul style="list-style-type: none"> • The Proponent has provided a plan of property boundaries indicating that all proposed works fall within the boundaries of land owned by the Sydney Harbour Foreshore Authority; • Preliminary advice was received by the Proponent from NSW Maritime that the northern seawall is located within land owned by the proponent; • A detailed search of the Land Titles Office property records has not

<p>Site management during park construction and after completion</p>	<ul style="list-style-type: none"> • Provision of detailed plans and cross-sections of proposed landscaping works including plant species and locations; • Provision Vegetation/Landscape Management Plan outlining management regime to be implemented following completion of initial planting; • Provision of Environmental Management Plan outlining proposed management regime, monitoring and reporting measures following completion, and demonstrating suitable controls for management of environmental risks. 	<p>revealed information to contradict the above.</p> <ul style="list-style-type: none"> • The Landscape Report submitted includes details of vegetation and site sections. The Proponent will forward final planting locations and species however it is not envisaged these will differ from the report supplied; • The Landscape Report and the Statement of Commitments includes the requirement for a Plan of Management for the park to be prepared detailing the proposed management regime. The Proponent offers to submit this plan upon finalisation to NSW Maritime; • The Proponent submitted a Draft Construction Environmental Management Plan with the EA, the Statement of Commitments also contains provisions addressing the mitigation of environmental risks during construction and after completion.
<p>Works associated with seawall</p>	<ul style="list-style-type: none"> • Proposed remedial works to the seawalls may require engineering approval from NSW Maritime if works are on land owned by NSW Maritime, additionally any stormwater drainage works that will alter existing outlets to Sydney Harbour may require approval from NSW Maritime under <i>the Maritime Services Act 1935</i>. 	<ul style="list-style-type: none"> • The Proponent met with NSW Maritime and agreed that any alterations to existing stormwater outlets proposed during the detailed design of the park will be forwarded to NSW Maritime.

DEPARTMENT OF PLANNING Major Hazards Unit

<p>Remediation</p>	<ul style="list-style-type: none"> • As the EA is unclear on when remediation will be completed – recommend that any post-remediation landscaping or construction plan is developed after the full extent of the remediation required and the details of the remediation works are known; • NSW EPA Auditor signoff should be required prior to commencement of works. 	<ul style="list-style-type: none"> • The Proponent has amended the Statement of Commitments to include the provision that an EPA accredited Site Auditor will sign-off that the park has been remediated to the required standard prior to commencement of construction.
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APPENDIX E. ENVIRONMENTAL ASSESSMENT

APPENDIX F. ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION

Environmental Planning Instruments considered in the assessment of the proposal:

Environmental Planning Instrument	Consideration
<i>State Environmental Planning Policy (Major Projects) 2005</i>	Schedule 2, Clause 10(2), Map 11 identifies the site as an area to which Part 3A of the Act must apply.
<i>State Environmental Planning Policy No. 55 (Remediation of Land)</i>	Applies to the site and is fulfilled Caltex currently completing remediation of the site under DA 537-11-2003. The proponent has included a commitment to require a NSW EPA accredited Site Auditor to sign-off that the park has been remediated to the required standard prior to commencement of construction.
<i>State Environmental Planning Policy No. 56 (Sydney Harbour Foreshores and Tributaries) Now repealed</i>	The Master plan adopted for the site was prepared pursuant to SEPP 56. The SEPP has been repealed and is no longer a matter for consideration.
<i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)</i>	Ballast Point is identified as a Strategic Foreshore Site for which a Master plan is required to be prepared and adopted. The Master plan adopted under SEPP 56 is considered appropriate.
2 Aims	The proposal is consistent with the aims of the SREP.
13 Sydney Harbour Catchment	The proposal is consistent with the planning principles for the Sydney Harbour Catchment including the protection of natural assets and water quality, enhancement of the visual qualities of the harbour, provision of vantage points to view the harbour, water conservation, and rehabilitation and restoration of native vegetation.
14 Foreshores and Waterways Areas	The proposal is consistent with the planning principles for the Foreshores and Waterways Areas including maintenance and protection of natural assets on the site, and provision of public access to the foreshore where before it was restricted.
15 Heritage Conservation	The proposal is consistent with the planning principles for heritage conservation including the conservation and interpretation of heritage features and relics.
21 Biodiversity, ecology and environment protection	The proposal is consistent with the matters identified for consideration relating to biodiversity, ecology and environmental protection including protection of water quality and run-off, minimal impact on aquatic vegetation, selection of indigenous vegetation, and environmental impact mitigation measures are proposed to be implemented during construction.
22 Public access to, and use of, foreshores and waterways	The proposal is consistent with the matters identified for consideration relating to public access and use of the foreshores and waterways including provision of continuous public access along the foreshore. Future development of public wharves and access for recreational boat users did not form part of this proposal and could not be considered.
23 Maintenance of a working harbour	The site was formerly used for industrial purposes and

	<p>this proposal included the use of the site for public recreational purposes. Future proposals to integrate a maritime refuelling facility within the park do not form part of this current proposal and cannot be considered.</p>
24 Interrelationship of waterway and foreshore uses	<p>The proposal is consistent with the matters identified for consideration relating to the interrelationship of waterway and foreshore uses including the fact that no private use of the waterway is proposed, and the proposal will not conflict with existing foreshore and waterway uses.</p>
25 Foreshore and waterways scenic quality	<p>The proposal is consistent with the matters identified for consideration relating to maintenance, protection, and enhancement of the foreshore and waterways scenic quality, including the provision of a predominantly vegetated headland visible from the harbour, limited built form, and lighting designed with regard for the view of the park from the harbour.</p>
26 Maintenance, protection and enhancement of views	<p>The proposal is consistent with the matters identified for consideration relating to maintenance, protection, and enhancement of views including the provision of vantage points within the park to view the Harbour and surrounds, and (as above) provision of views from the harbour towards the headland will be enhanced by its vegetated state.</p>
<i>Leichhardt LEP 2000</i>	<p>The land has been rezoned under LLEP Amendment No. 12 from Special Uses to Open Space. As such, the use proposed for the site is permissible.</p>
12 Vision of the Plan	<p>The proposal is consistent with the vision described in the LLEP as the amenity of the area will be protected and enhanced by the proposal.</p>
13 General Objectives	<p>The proposal is consistent with the matters identified for consideration in the general objectives of the LLEP, including use of sustainable principles, minimisation of negative impacts on the environment, protection of natural features, and conservation of ecologically sensitive land.</p>
15 Objectives for Heritage Conservation	<p>The proposal is consistent with the matters identified for consideration in regards to heritage conservation, including protection of archaeological sites and relics and re-use and retention of fabric of heritage significance.</p>
16 General provisions for development of land that contains Heritage items	<p>The proposal is consistent with the matters identified for consideration in the general provisions for the development of land containing heritage items, including the preparation of a Statement of Heritage Impact (Appendix 7) which is considered to adequately address the requirements in the LLEP, and the preparation of conservation policies to be incorporated in to the Plan of Management which is to be prepared for the park prior to occupation or opening.</p>
33 Foreshore building line	<p>The works to be undertaken between the Foreshore Building Line and the mean high water mark will relate to public access and seawall reinstatement and repair.</p>
34 Foreshore access	<p>The proposal provides pedestrian access to the</p>

foreshore.

Leichhardt Development Control Plan 2000

The adopted Master plan for the site was developed with regard to the provisions of the LDCP and the current proposal is consistent with the Master plan.

Ballast Point Park Master Plan

Prepared in accordance with SEPP 56, the Master plan was adopted in September 2005 and outlined various controls for the site. The Master plan outlined principles for layout, circulation, heritage interpretation, materials, plant species, lighting and other design elements and the proposal is consistent with these principles. Elements of the Master plan have been excluded from this proposal, including the future maritime refuelling facility, truck turning circle, and pilot wharf.

**APPENDIX G. SUBMISSION – ACCESS REVIEW REPORT SUBMITTED
7 AUGUST 2006**

SYDNEY HARBOUR FORESHORE AUTHORITY

BALLAST POINT PARK

ACCESS REVIEW

Morris-Goding Accessibility Consulting
FINAL v2

4th May 2006

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Introduction

General

Sydney Harbour Foreshore Authority has engaged Morris-Goding Accessibility Consulting, to provide advice including an access report for a proposed new park to be developed on one of Sydney's most significant harbour headlands, Ballast Point, Birchgrove Peninsula.

The requirements of this access review and report are:

- Review supplied drawings of the existing area and concept
- Comment overall on the accessibility and suitability of the current project design concept for use by people with disabilities.
- Provide an access report that will assist designers to ensure the design complies with the Federal Disability Discrimination Act (1992), Building Code of Australia (BCA) and AS 1428 series.

Proposed Waterfront Park Description

The proposed development relates to the construction of a 2.5 hectare public open space located at the tip of the Birchgrove Peninsula in the inner western suburb of Sydney, for predominately passive recreational uses.

The proposed park is bounded by Snails Bay to the northwest, Port Jackson to the north, Mort Bay to the south and the residential suburb of Birchgrove to the west.

The park will consist of soft and hard landscape elements over a terraced landform bounded by Ballast Point Road which follows the Ridgeline and terminates on Ronald Street, leading into Wharf Road on the west. The site can also be accessed at the south – east water edge via Yeend Street. Mort Bay Park adjoins the site to the south, with an entry to Mort Bay Park off Yeend Street.

The park design is as depicted on the development application drawing set prepared by Anton James Design and Context & Landscape Architects.

The inherent landform of the park development site poses a number of difficulties in relation to accessibility. The site has a 17 metre change in level from the Ballast Point entry to the Yeend Street entry.

Objectives

The Access Report is a key element in design development of the proposed park development and an appropriate response to the AS1428 series, Building Code of Australia (BCA), and ultimately the Federal Disability Discrimination Act (1992).

The report will attempt to deliver equality, independence and functionality to people with disabilities inclusive of people with sensory impairment, people with mobility impairments and people with dexterity impairments.

Statutory Regulations

The following standards are to be used to implement the Report:

AS 1428.1 - (80% of people with disabilities accommodated)

AS 1428.2 - (90% of people with disabilities accommodated), where relevant

AS 1428.4 - (Tactile Ground Surface Indicators)

DDA - Disability Discrimination Act

CIRCULATION AREA

General

Due to the severe gradients within the site, the park is divided into upper and lower levels.

The design shows there is stair only access between these two levels within the park. The main entrance to the upper level is via large entry gates from Ballast Point Road. The entry to the lower level is via Yeend Street.

Paths of Travel

Apart from the ramps along the northern and southern areas around the parks perimeter, the main spine of the park has a series of stair and walkways.

Possible general options to improve the accessibility between the levels would be to provide a series of ramps or passenger lift, however both these options are fraught with difficulty.

The provision of a series of ramps (over 17 metre height difference) would not be appropriate under the draft DDA Premises Standards (which has a maximum RL difference of 3.5m). Such a ramp system would be approximately 200 metres long and would cause extreme fatigue with some members of the public. Furthermore much of the natural landscaped beauty of the Park would be lost due to the provision of such a switch back ramp system.

The provision of a passenger lift would require extensive earth moving works and a high capital cost. A passenger lift in this location may also be subject to vandalism.

The design shows that similar amenities and facilities have been provided on the upper level and lower level. Both levels have accessible toilets.

There is provision of 2 accessible car parking bays on Wharf Rd for access to the upper levels of the Park. The Foreshore Authority is currently in negotiations with Leichhardt Council to provide accessible parking in Yeend Street, which would provide access to the lower level of the Park.

Recommendation:

- (i) Provide signage at the main entry on Ballast Point Rd to direct people to the accessible car bays on Yeend Street.
- (ii) Provide viewing areas to major landmarks on the upper level. These viewing areas should have appropriate sightlines overlooking the waters edge/bays, as well as rest seating and shade amenity.

Ramps/Walkways

The ramps described in the landscape report are to be made of concrete to match the surrounding area and with a slip resistance and colour contrast, in accordance with AS1428.1 and AS4586.

Recommendations:

- (i) Ensure suitable ramps and walkways are compliant with AS1428.1.

- (ii) Landings shall be minimum 1200mm in width when both ends have suitable sight lines. If the sight lines at either ends of the ramp are poor, ensure any landings are 1800mm in width to allow two people in wheelchairs to pass each other in opposing directions.

Stairs

There are several stairs within the park area. The stairs have been provided where there are extreme gradients.

The stairs appear to have a minimum 1800mm clear widths and circulation areas. From the Landscape Report, there shall be handrails on both side for all stairs as specified in AS1428.1 and tactile ground indicators as specified in AS1428.4.

FACILITIES & AMENITIES

Sanitary Facilities

There are public toilets at the upper and lower ends of the park near Yeend Street and Warf Road.

Recommendations:

- (i) Accessible toilets shall be provided in all public toilets.
- (ii) Consideration shall be given in providing an unobstructed 2300mm x 1900mm circulation area around the toilet pan, compliant with AS1428.2. The enlarged accessible bathroom will cater for those people in larger wheelchairs and scooters.

Car Parking

There are 2 accessible car bays located near the main entry on Ballast point Rd.

Recommendations:

- (i) It is imperative that accessible car bays are provided on Yeend Street
- (ii) Ensure all accessible parking bays dimensions of 5.4m x 3.2m in accordance with AS2890.1.
- (iii) Ensure all accessible parking bays have correct identification signage as outlined in AS1428.1 and AS2890.1.

Park Furniture

There will be compliant rest seating areas at convenient locations throughout the Park. The rest seating will be recessed from the pathway so it avoids any impact on the path of travel. Provisions have been made for shade over rest seating areas by virtue of the extensive tree planting proposed.

Objects near the footpath such as rubbish bins, grates, will be of a colour, which provides a contrast with their background and have a luminance factor of not less than 30%, compliant with AS1428.1.

Recommendation

- (i) Provide rest seating at intervals of 50 metres on the upper and lower levels.

MISCELLANEOUS

Signage

According to the Landscape Report signage will be provided within the park.

The signage on the site will include way finding, interpretation and site identification to areas such as sanitary facilities, continuous accessible paths of travel for wheelchair access and car parking.

Signage will be designed with a contrasting background that stands out rather than blending in with the surrounding area

Recommendation:

- (i) Signage will include international logo for the disabled, directional arrow, raised text and Braille.

Lighting

From the Landscape Report, lighting will comply with AS1680. External lighting will be glare free. Uniform level of lighting shall be provided along the main pathways.

CONCLUSION

It is acknowledged that any attempts to provide wheelchair access within the site between the upper and lower levels will require extensive capital infrastructure.

In considering wheelchair access within the site, the Disability Discrimination Act (DDA) must be taken into account. The Human Rights and Equal Opportunities Commission (HREOC) explain in their Advisory Notes that the DDA makes it unlawful to discriminate against people with a disability, in relation to access to, and use of, premises that the public enter or use.

However, the HREOC Advisory Notes allows for a defence of unjustifiable hardship in situations where the provisions of full access within existing premises would prove too demanding because of technical, topographical, safety or financial limits. This is explained in section 23 of the DDA, which recognises that it may not be possible or fair to enforce the requirements of access to premises in all situations.

The HREOC Advisory Notes explain that:

'In some circumstances, because of structural, technical or topographical limitations, or because the provision of full access to or use of existing premises might amount to an unjustifiable hardship, it may still be possible to address access issues in some way by providing an alternative or equivalent access to the actual service operating out of premises.'

Therefore, in order to mitigate the risk of possible DDA complaint, it is recommended that in lieu of the provision of ramp/passenger lift, a management plan should be in place. The plan would need to implement the use of appropriate signage and provision of similar amenities and facilities as described in this report.