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Friday, 30 August 2013.

Director General
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

By Email - natasha.harras@planning.nsw.gov.au

Attention: Ms Natasha Harras

Dear Ms Harras,

**Objection to Section 75W Application to Modify an Approval
MP06_0037 MOD 4 - Marine Refuelling & Supply Facility, White Bay
Applicant: White Bay 6 Pty Limited**

Introduction

1. We act for Rozelle Bay Pty Ltd ATF Rozelle Bay Trust.
2. We have been instructed by our client to raise the following concerns in response to the public exhibition of the above application lodged by White Bay 6 Pty Limited.
3. For the reasons contained in this letter, we submit that the Application cannot be lawfully approved as the environmental assessment is inadequate and flawed.

Background

Micheal Fountain Architects Pty, (MFA) was commissioned by Rozelle Bay Pty Ltd to design a 600 vessel dry boat store at Rozelle Bay, approximately 1km south of the subject development.

This development was assessed and approved under Part 3a of the Environmental and Assessment Act and was found to be both integrated and designated development which required a full Environmental Assessment that responded to the requirements of the Director General of the Department of Planning.

The experience and knowledge gained through this process informs the following comments.

MICHEAL FOUNTAIN
ARCHITECTS PTY LTD
2/5 Narabang Way
Belrose NSW 2085
Tel: 02 9450 2070
Fax: 02 9450 2757

ABN 91 003 952 574

Omissions from the report.

The report attached to the proposed modification fails to address the following issues:

Item	Item No.	Concern
1.	Alternatives	<p>The report makes no mention of the existing approved 600 berth dry boat store at Rozelle Bay which is located less than 1km to the south.</p> <p>This facility is currently operating and stores over 50 vessels on the hardstand and 20 in the water.</p> <p>Construction is due to commence on the first phase of the facility which will see a dry boat store with a capacity of 298 vessels.</p> <p>No assessment can be made of potential alternatives for the use on other sites.</p>
2.	Consultation	<p>Consultation, either by direct communication with local residents, relevant government departments, focus groups, newsletters, advertisements or via a project website does not appear to have been carried out.</p> <p>This raises the direct possibility that the proposed development if approved, could be constructed without the knowledge of the residents directly affected or of the broader community.</p> <p>Community consultation should have at least been carried out in accordance with the Department of Planning's Community Consultation's Guidelines.</p>
3.	Maritime Structures	<p>The proposal anticipates the construction of a number of floating pontoons and the operation of two marine forklift trucks.</p> <p>No detail is provided of these structures or the forklift trucks as they impact the waterway.</p>

		<p>The impact of these structures and equipment on the surrounding wave climate, water quality, water levels, maritime traffic and noise levels has not been addressed.</p> <p>No assessment can be made of the impacts on the local environment that will be caused by the proposed maritime structures.</p>
4.	Ecological Assessment	<p>The proposal anticipates the construction of a number of floating pontoons.</p> <p>No information is provided as to the potential impacts of these structures, either during construction or operation, on the surrounding aquatic fauna and flora including threatened species.</p> <p>No assessment can be made on the proposals impact on the surrounding ecology.</p>
5.	Air Quality	<p>The proposal anticipates the dense stacking of 150 vessels in relatively open racks.</p> <p>These vessels are all powered by internal combustion engines generally requiring premium unleaded fuel or in some cases diesel.</p> <p>As the boats are kept out of the water the air temperature in the racks will often approach 40 degrees Celsius.</p> <p>This will cause large amounts of fuel vapour to be generated from the vessels.</p> <p>The proposal does not describe any measures to control these vapours nor does it discuss the potential air quality issues that would affect the residential properties almost directly adjacent the proposal.</p>

		No assessment of the impact on air quality can be made.
6.	Lighting Impact	<p>The proposed operational time limit for the berthing of vessels is between 5.00am and 10.00pm.</p> <p>Since this process will be undertaken in darkness as will the passage of owners and guests between the proposed car parking zones and the berthing area, artificial flood lighting will be required.</p> <p>No flood light design or light spill analysis has been provided in the application as such no assessment of the potential light spill to surrounding residents can be made.</p>
7.	Social and Economic Impact	<p>It appears that no community consultation was undertaken in the preparation of proposal.</p> <p>No analysis has been made of the existing social environment or local communities. The potential impacts of the proposal on those communities and required mitigation measures to balance those impacts been not been addressed.</p> <p>Similarly the economic impacts of the proposal have not been addressed.</p> <p>No assessment of the social and economic impacts of the proposal can be made.</p>
8.	Cumulative Impacts	<p>No analysis of existing and approved developments in the precinct has been made.</p> <p>No assessment of the cumulative impacts of the proposal can be made.</p>
9.	Environmental Management and monitoring.	<p>No draft statement of commitments is attached to the proposal.</p> <p>Many of the impacts of the proposal have not been addressed and no commitments</p>

		have been made. The application is incomplete and should not be considered in its current form.
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Concerns related to:

White Bay Berth 6 – Dry Boat Storage Facilities.

Section 75W Modification Request

by Aecom dated 12th July 2013.

Item	Clause	Page	Quote	Concern
1	2.0	3	<p>Overview</p> <p><i>“Due to changes in the economic environment and the identification by the NSW government of the need for greater dry boat storage on Sydney Harbour the operations intended for building 1 & 2 are unlikely to be realised”.</i></p>	<p>The changes in the economic environment that are claimed to have created the need for the change in use of the subject facility have not been articulated.</p> <p>The report fails to identify the fact a dry boat storage facility with a capacity of approximately 600 boats has been approved on a site in Rozelle Bay and will be commencing construction in the near future.</p> <p>As the economic changes and the existing dry boat storage capacity in the area have not been articulated the need for the change of use has not been substantiated.</p>
2	2.2.4	5	<p>Additional Floating pontoons.</p> <p><i>“Allow vessels waiting to be hauled to safely queue along the pontoons and safely manoeuvre to and from</i></p>	<p>The report acknowledges the need to queue vessels waiting to be lifted.</p> <p>It states in a later section that up to 25% of the boats in storage will be arriving and leaving and arriving the</p>

			<p><i>the launch zone, particularly on high wind days”</i></p>	<p>facility at peak.</p> <p>This equates to 38 boats.</p> <p>As there are not 38 queue positions, should all 38 vessels return, say when a southerly hits Sydney on a typical summer’s afternoon, the returning vessels will need to stand off the facility.</p> <p>The safety and environmental impacts of and on these vessels standing off has not been addressed.</p> <p>The 25% figure may be an underestimate and as such the provision of queue positions may be considerably less than will be required.</p> <p>This poses a serious safety concern when considering the fact that the vessels standing off the facility will be doing so in the waterway being used by large cruise ships entering and exiting the adjacent Cruise Ship Terminal.</p>
3	2.3.1	5	<p>Car Parking <i>“the second car parking area would be parallel to the southern boundary of the site , adjacent the refuelling bowers, adjacent the waterfront.”.</i></p>	<p>The location of parking on the waterfront is a direct contravention of the DCP.</p> <p>Ref: Attachment 1</p> <p>The location of parking adjacent the fuelling facility creates a dangerous situation as vessels are at their highest fire risk while</p>

				<p>re- fuelling.</p> <p>The cars would not only be in the fire zone they would also prevent access of emergency vehicles to the scene of a fire at the fuelling facility.</p> <p>Owners and guests that need to access their vessels from this car park will need to traverse the vessels handling area, meaning they will be in the same space as operating large forklift trucks and a straddle lift.</p> <p>The visual and safety impacts of this area parking area render it unsuitable for the purpose.</p>
4	3.2	13	<p>Environmental Planning Instruments SREP 26</p> <p><i>“The land based areas of the site are zoned Ports and Employment under SREP 26 – City West.</i></p> <p><i>Under clause 20C of the SREP, uses within the zone are permissible only if a consent authority is satisfied that the use is generally consistent with one or more of the zone objectives.</i></p> <p><i>The projects modified would continue to be consistent with the objective to “encourage</i></p>	<p>It is questionable as to whether recreational boating can be classified as a port or maritime use.</p> <p>The intent of the port use is clearly to facilitate the berthing of large ships as evidenced by the adjacent cruise ship terminal.</p> <p>The intent of the maritime use is professional marine businesses similar to those currently being carried out on the subject site.</p> <p>The proposed use of the site for recreational boat storage can be seen to be inconsistent with the industrial nature of the zone.</p>

			<p><i>a mix of land uses which generate employment opportunities, particularly in relation to port and maritime uses."</i></p>	<p>Further more clause 5.1.3 Operation, page 28 of the report states that the proposed change of use will create the situation where,</p> <p><i>"staff levels have been halved based on operational needs of the development from 30 to 15 full time staff".</i></p> <p><i>Far from creating employment opportunities, the change report states that the change of use from a compatible commercial to a questionable recreational boat storage will halve the employment opportunities on the site.</i></p> <p>This brings the proposal into direct conflict with the objectives of the zoning under SREP 26 and as such the proposal should be rejected.</p>
5	3.2	13	<p>Environmental Planning Instruments SREP (Sydney Harbour Catchment)</p> <p>The water based area of the site are zoned W1 – Maritime Waters under SREP (Sydney Harbour Catchment) 2005. The proposed floating pontoon would be located within this zone.</p> <p><i>The objectives of the zone are:</i></p> <p><i>To give preference to</i></p>	<p>The proposed amendment would see the location of a 150 boat recreational dry boat store directly adjacent a large cruise ship terminal.</p> <p>This will mean that the waters adjacent the facility will be shared by large cruise ships that are attempting to berth in all weather conditions and small recreational that are attempting similar operations.</p> <p>Nowhere else on Sydney Harbour is such sharing</p>

			<p><i>and protect the waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally.</i></p> <p><i>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.</i></p>	<p>permitted.</p> <p>Indeed recreational craft are banned from Circular Quay and garden Island.</p> <p>Nowhere in this report does it discuss this issue let alone demonstrate how the proposal will not affect the commercial operation</p>
6	3.2	14	<p>Environmental Planning Instruments</p> <p>“The provision of floating pontoon would not adversely affect commercial shipping, public water transport or maritime industry operations, and would promote the equitable use of the water way for passive recreation craft”.</p> <p>As such it is considered that the proposal is consistent with the objectives of the zone.</p>	<p>The fact that the pontoons may not be in the path of large ships does not address the issue of the small vessels that would be arriving and leaving those pontoons at the same time as large commercial vessels would be attempting to berth.</p> <p>As such the objective has not been shown to have been met.</p>
7	3.4	15	<p>Table 2</p> <p><i>General requirement Congestion of the waterway and foreshore is minimised</i></p>	<p>Congestion of the waterway is not addressed in Section 5.1.</p> <p>The nature of boat usage does not see boats exit or</p>

			<p>Consideration <i>Section 5.1 (Traffic and Transport) would not affect congestion levels of the foreshore.</i></p> <p><i>The proposed modification would not affect congestion levels of the water way.</i></p> <p><i>Due to the staggered entry of boats to the water via the travel lift and the area bats to rest in wet berth area before exiting the marina.</i> <i>The marina will be managed according to a Vessel Management Plan."</i></p>	<p>leave in a staggered fashion.</p> <p>Regardless of how rapidly a boat could be lifted from the water experience shows that most boats exit the facility in the morning and return late in the afternoon.</p> <p>This is why the proposed rest area is provided.</p> <p>Later in the report it is stated that the number of boats using the facility on a peak day will be 25% of the boats stored or 38 vessels.</p> <p>Experience shows that Sydney Harbour, as the cities primary civic space, operates differently to the referenced boats stores in other cities.</p> <p>It is not unusual to see 50% of the boats in storage being used during the city's many special events held on the harbour.</p> <p>The report states that cruise ships will enter and leave the cruise ship terminal in the morning and late afternoons.</p> <p>The rest area will be able to contain less than half the amount of returning boats if during normal peaks and far less than this on special event days</p> <p>This will mean that more than 10 boats will be circulating in the same</p>
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				<p>water space as the cruise ships that are leaving the adjacent facility in all weather conditions.</p> <p>This poses obvious safety concerns for all the vessels involved.</p> <p>The Vessel Management Plan referenced in this clause and the minutes of meeting with Sydney Ports has not been provided in this proposal as such the proposal can only be seen as inadequate and should be rejected.</p>
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Conclusion

The Section 75W Modification Request does not adequately address the issues outlined above and it actually requests the halving of the employment opportunities in a zone whose objective it is to generate employment.

Accordingly, the request is incomplete, inadequate and flawed.

It should not be considered let alone approved by the Department of Planning & Infrastructure at this time.

Yours sincerely,




Micheal Fountain Architects Pty Ltd

Lorraine Chahla.

(BArch, UNSW)



 Proposed Car Parking

REV	DATE	BY	CHKD	DESCRIPTION	DATE

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ROZELLE BAY PTY LTD	
ROZELLE BAY MARINE CENTRE JAMES CRAIG ROAD ROZELLE BAY, NSW	
PROJECT NO:	0114
DATE:	August 2013
SCALE:	Not to Scale

WHITE BAY 6 CAR PARK VIEW LINES	
DESIGNER:	RJC
DATE:	August 2013
PROJECT NO:	0114
SCALE:	MP- 501
DATE:	A



PRINTED: 8-Aug-2013 10:30am
 PROJECT: ROZELLE BAY MARINE CENTRE
 FILE: C:\Users\jrc\Documents\Projects\0114\0114_CAD\0114_VIEW_LINES_MP-501.dwg

MICHAEL FOUNTAIN ARCHITECTS PTY. LTD.
 2/3 WINDHAM WAY SCURIE NSW 2202
 TEL: (02) 8480 2070 FAX: (02) 8480 3757

HONESLAHOOD LAWYERS

Practical experience, specialist expertise

Our Ref: JBH:13225
Your Ref: Natasha Harras

3 September 2013

The Proper Officer
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Natasha Harras

By Email

Dear Ms Harras,

**Rozelle Bay Pty Ltd - Objection to Bailey's Marina Modification
Pty: White Bay, 6 Marine Park**

We act for Rozelle Bay Pty Ltd ATF Rozelle Bay Trust ("our client"). As you may be aware our client is the operator of the Sydney Boathouse.

Introduction

1. We have been instructed by our client to make the following objection in response to the public exhibition of the above application ("the Application") lodged by White Bay 6 Pty Limited ("the Applicant").
2. For the reasons contained in this letter, we submit that the Application cannot be lawfully approved and, in any event, the Application is not one to which approval would be granted on a considered assessment of the merits of the Application.
3. We ask that it be noted that our client is not objecting to the Application simply because it would result in direct competition for the dry boat storage service provided by our client. However, our client is extremely concerned with the fact that the site the subject of the Application was represented to be a site that was excluded as being capable of being used for the purposes of dry boat storage (by Sydney Ports Corporations public expressions of interest). Our client has relied on such representations as a basis for its substantial investment, including an extensive environmental assessment.
4. At the outset we note that the Application purports to rely on an unsatisfied demand within Sydney Harbour for dry boat storage. The basis of the Applicant's assertion is



the Draft Sydney Harbour Boat Storage Strategy prepared by Transport NSW dated April 2013 (the "**Draft Strategy**").

5. The Draft Strategy makes no mention of our clients significant dry boat storage approval (670 boats) and in fact it states that there is no dry boat storage facility available on Sydney Harbour, which is incorrect and misleading because:
 - (a) Our client currently provides this service and have done so for nearly two years; and
 - (b) Many yachting clubs provide such a service.
6. Our client has recently held discussions with Senior Officials of Roads and Maritime Services who has noted errors and deficiencies in the Draft Strategy.
7. Our client therefore instructs us that its clear understanding is that the Draft Strategy will be amended before it is made final. In this regard we point out that for a non-statutory planning document to be given any significant weight as a tool for assessment of an application for development, the policy must have resulted from a detailed consultation with relevant parties (including the community and owners of affected land) and reflect outcomes which are within a range of sensible planning options: see *Stockland Development Pty Ltd v Manly Council* (2004) 136 LGERA 254 at 273. Such consultation has not yet occurred (or finally occurred) and, on that basis, we submit that no weight can be placed on the information and recommendations contained in the Draft Strategy.

The Minister has no statutory power to approve the Application

8. In order for development to be the subject of Part 3A (now repealed) of the *Environmental Planning and Assessment Act 1979* (the "**EPA Act**") it must have been declared to be a project to which Part 3A applies. The project the subject of the Application (the "**Project Application**") was so declared by clause 6 (now repealed) of *State Environmental Planning Policy (Major Projects) 2005*. We are instructed the Minister for Planning granted the authorisation for a Project Application to be made on 22 February 2006.
9. The application and declaration contained in the Departments website for the project described the project as being for "*a marine refuelling and supply facility*".
10. Pursuant to section 75F of the EPA Act, the Director General's requirements for the Project Application were issued on 8 September 2008 (the "**DG Requirements**"). The Project Application was described by the DG Requirements as:

Construction and operation of a marine refuelling facility, including a commercial refuelling facility, associated fuel storage, office and bulk goods storage building, a roll on and roll off ramp, handling and lay down areas and temporary facilities.
11. The Project Application was subsequently described in the Environmental Assessment Report (the "**EAR**") which accompanied the Major Project Application

made on 21 September 2006 as being for the “*construction and operation of a marine supply facility*”.

12. The Director General’s Assessment Report of February 2009 (the “**DG Assessment Report**”) described the Project Application more fully. However, nowhere in the DG Assessment Report is reference made to the Project Application purporting to include general permanent dry boat storage. In particular, the DG Assessment Report (at page 19) expressly states that: “*The proposal does not include provision for permanent boat storage*”.
13. The Minister’s Determination dated 12 June 2009 (the “**Minister’s Approval**”) described the terms of the Minister’s Approval in Schedule 1 Part A and Schedule 2 Part A Condition A1 as being:
 - *Construction of a 2 storey commercial office and storage building*
 - *Construction of a bulk storage building*
 - *Construction of refuelling infrastructure*
 - *Construction of 3 temporary moorings, wharf, travel lift ramp, roll on roll off ramp and steel pontoon.*

Such a description is wholly consistent with the application and declaration, the DG Requirements, the EAR and the DG Assessment Report.

14. In order for a Minister’s approval to be one which may be modified under section 75W of the EPA Act it is implicit that the modification be within the scope of the “Minister’s approval” as defined by section 75W(1)(a) of the EPA Act.
15. The scope of the power of the Minister to modify an approval under section 75W of the EPA Act was considered in *Barrick Australia Ltd v Williams* [2009] NSWCA 275. Basten JA in the Court of Appeal stated (emphasis added):

*“53 The absence of precision in relation to what might constitute a modification of an approval has formed part of the reasoning for considering that the legislature did not intend that it be the subject of conclusive determination only by a court. As noted, the defined phrase means “changing the terms of an approval to carry out a project under this Part”. Although that is defined to include changing a condition of the approval, there is no clear dividing line between that which may constitute a condition and that which may constitute an element of the underlying project. All that can usefully be said in the abstract is that the requirement for approval of a modification must be understood in the context of three factors. The first is that the subject matter of Pt 3A is defined by reference to major infrastructure developments, as identified by the Minister (or by a State environmental planning policy), as having State or regional environmental planning significance: s 75B. Secondly, the project is required to undergo environmental assessment and public consultation, of a kind not required of a modification. **Construing s 75W in its context, it is clear that the modification of an approval was something intended to have limited environmental consequences beyond those which had been the subject of assessment.** (Given the powers of the Director-General, it cannot be said, of course, that only modifications which properly required no further environmental*

assessment were envisaged.) Thirdly, the 'consent authority' was to be the Minister. Conferring authority on a Minister may have a number of purposes. One such purpose may be to permit the decision-making authority to have regard to matters such as State and regional planning significance, being matters which stand above and beyond developments having limited local impact or insignificant impact at a regional or State level."

16. In order to appreciate the context in which the Application is made, it follows that the extent of the changes to the Minister's Approval which is sought by the Application must be truly understood. The extent of change contemplated by the Application includes:
 - (a) the new use of dry boat storage for 150 boats;
 - (b) an increase in the number of buildings from 2 to 4;
 - (c) a decrease of employees from 30 to 15; and
 - (d) two separate car parking areas which seeks to increase the approved number of spaces from 30 to 68.
17. and, further, no environmental assessment has ever been undertaken in respect of the elements which now make up the Application.
18. Put another way, what is now proposed had nothing to do with the assessment of the original proposal – either in terms of use or environmental impacts/assessment.
19. We submit that there is no power to approve the Application as it is not within the scope, object and purpose of of s75W of the EPA Act for two reasons.
 - a. First, as the proposed use for dryboat storage is a new land use which does not form part of the Approved Project under Part 3A. The Approved Project must be construed by having regard to its express terms and the documents which are expressly incorporated by reference into the instrument of approval (*Auburn Municipal Council v Szabo* (1971) 67 LGERA 427, at 433-434 per Hope J; *Bardsley-Smith v Penrith City Council* [2013] NSWCA 200 at [75] per Sackville J (with whom McColl JA and Barrett HA agreed at [72])). In our view, it can be clearly discerned from the Project Approval which incorporates by express reference the environmental assessment lodged with the Project Application, that the proposed dryboat storage use is not a use which was approved by the Minister.

Secondly, as the proposed new use for dryboat storage and the significant built form amendments to the Approved Project have not been the subject of prior assessment. In our view, it is clear that the environmental consequences of the proposed dryboat storage use, properly assessed, will not be **"limited environmental consequences beyond those which had been the subject of assessment"** and are thus beyond power under s75W (*Barrick* at [53]).
- 20.
21. In this regard, we note that if a new development application is lodged under part 4 of the EPA Act, the dry boat storage facilities proposed in the Application would be "designated development" as defined by clause 23 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* and "integrated development" pursuant to section 91 of the EPA Act as part of the proposed works

also requires approval under the *Water Management Act 2000*. As such, the proposed dry boat storage use would be subject to more rigorous environmental assessment and public consultation.

22. Further, we are of the view that that the scope of section 75W must be narrowly construed in light of the fact that Part 3A has been repealed. In our opinion, it would not be in the public interest to allow a new land use which is likely to have more than "limited environmental consequences" and has not been the subject of environmental assessment and public consultation under Part 3A to be in effect 'added on' to an Approved Project for a separate and independent use of land – particularly in circumstances where the approval process under Part 3A has now been repealed..
23. For the reasons we have given the Application is beyond the (now repealed) power contained in s75W of the EPA Act. Accordingly, we are of the view that the Application must now be the subject of a development application under Part 4 of the EPA Act.
24. Indeed, in our opinion, any approval of the Application under Part 3A of the EPA Act is likely to be set aside by the Land and Environment Court as beyond power.

The proposed development is not a permissible use under SREP 26 as it is inconsistent with the zone objectives

25. We note that the site the subject of the Application is within the Port and Employment zone under *Sydney Regional Environmental Plan No 26—City West* ("SREP 26").
26. Pursuant to clause 20C of SREP 26, only uses which the consent authority is satisfied are generally consistent with one or more of the zone objectives are permissible within that zone.
27. In relation to the zoning under SREP 26, the Section 75W Modification request (the "AECOM Report") (at section 3.2), relies on the objective of the Port and Employment "to encourage a mix of land uses which generate employment opportunities, particularly in relation to port and maritime uses" in order to assert that the development proposed by the Application is permissible.
28. However, we note that at section 5.1.3 of the AECOM Report the Applicant concedes that "staff levels have been halved based on the operational needs of the development from 30 to 15 full time staff".
29. The halving of the workforce that the Application proposes renders, in our view, the Application clearly inconsistent with the only relevant objective of the Port and Employment zone in that it reduces employment opportunities rather than encourages them, and, as such, it cannot be development which is permissible in that zone.
30. We are of the view that approval of the Application would result in a distinct and separate use that comprises recreational boating. The use of the site for that

purpose is also fundamentally inconsistent with the primary objective of facilitating the continuation of commercial port uses.

Inadequate information of likely environmental impacts

31. Our client obtained approval for its development for a dry boat storage and marina facility on 21 May 2007. In preparing its application for approval, our client was required by its DGRs to prepare environmental assessment reports relating to water traffic and navigation; wash reports; and sediment reports.
32. We note that no such requirement has been imposed in respect to this Application.
33. In our view there must be a consistency in environmental assessment requirements having regard to the similar nature of the use proposed by the Application and the approval given to our client.
34. The failure to provide such environmental assessment reports as part of the Application would mean that any assessment and determination would be lacking in basic and essential information for the decision maker.
35. To make a decision to grant approval to the Application in such circumstances is again likely to be set aside by the Land and Environment Court for failure to consider relevant considerations or otherwise as the decision would be manifestly unreasonable (*Associated Provincial Picture Houses Ltd. v Wednesbury Corporation* [1948] 1 KB 223).
36. We also note that no formal advice appears to have been provided by the Department of Planning & Infrastructure in relation to the Application. This is, in our view, further evidence of inadequate consideration and a proper and genuine review of the likely environmental impacts arising from the development proposed by the Application.
37. Furthermore, it is also evident from the AECOM Report that there has been vague and inadequate consultation with other relevant statutory departments, agencies and the community. By way of example, at section 4.1 of the AECOM Report reference is made to Sydney Ports Corporation requesting a review by the proponent of the existing vessel management plan (the "VMP").
38. We note that no such review of the VMP accompanies the AECOM Report or is otherwise provided as part of the Application. This is further borne out in the submission to the Application by Roads and Maritime Services (the "RMS"). In that the RMS has sought an amended VMP in order to make an assessment of the navigational issues resulting from 150 dry storage berths. There are significant water navigation and safety issues associated with small boats being in such close proximity to big ships, like cruise liners. These rules are well documented by SPC and RMS and include safe distances which cannot be complied with. We submit that in the absence of such basic information concerning the likely environmental impacts of the proposal, the Application simply cannot be approved.

Traffic and parking impact

39. The proposal is unacceptable on traffic and parking grounds. The AECOM Report concedes that existing key intersections accessing the site have a poor level of services. The proposal will only add to the poor level of service.
40. We also note that the proposed car parking areas are wholly inconsistent with the controls in the Sydney Harbour Foreshore Areas Development Control Plan (the "DCP").
41. The DCP requires that the visual impact of car parking when viewed from the waterway be minimised.
42. The Application proposes to expand the two car parking areas which are already in a highly exposed viewing corridor. We note that the AECOM Report details consideration of alternate locations but concedes that there is simply not the space to cater for the needs of parking and truck servicing generated by the development.
43. The need to place the additional parking in such an exposed viewing corridor is therefore indicative of an overdevelopment of the site. We submit that to compound that situation is unacceptable and a clear reason for refusal.

Continuing unlawful use

44. Our client has photographic evidence that the subject site has, and is continuing to be, used for permanent dry boat storage for approximately 50 boats. The Applicant's existing approval permits short term storage under specific usage conditions for only 20 boats.
45. Our client expects that the Director General will take immediate steps to require the Applicant to comply with the conditions of its approval and to immediately cease any unlawful use of the site.

Conclusion

46. We submit that the Application cannot be approved for the following reasons:
 - (a) The Application does not seek to modify an existing approval. It proposes a fundamentally different development which must, as a matter of law, be the subject of a new and separate development application under Part 4 of the EPA Act.
 - (b) The Application relies on a Draft Strategy which is grossly misleading given it is incomplete and does not mention our clients dry boat storage approval for up to 670 boats.

- (c) The Application proposes a use that is otherwise prohibited in the Port and Employment zone under SREP 26 which applies to the subject site because of its clear lack of inconsistency with the objectives of that zone.
- (d) The Application contains an incomplete and inadequate assessment of relevant environmental impacts arising from the development that is proposed – in particular an assessment of the impacts caused by the 150 new dry boat storage areas.
- (e) The Application, in its current form, is so grossly inadequate that it must be refused.

We request that we be notified in writing about any additional information that is submitted, or amendments that are proposed, in respect to the Application before it is determined.

In the meantime, should you wish to discuss this matter or our submission we ask that you kindly contact Jason Hones of our office.

Yours faithfully
HONES LA HOOD



Jason Hones
Partner
jhones@honeslahood.com.au



Our ref White Bay
T 02 6253 1555
E graeme.shoobridge@mottmac.com.au
Your ref

Director General
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Friday, 30 August 2013

Attention: Ms Natasha Harras
natasha.harras@planning.nsw.gov.au

Dear Ms Harras

**Objection to Section 75W Application to Modify an Approval
MP06_0037 MOD 4 Marine Refuelling & Supply Facility, White Bay
Applicant: White Bay 6 Pty Limited**

I wish to lodge this objection to the application to modify the approval for MP06_0037 MOD 4 Maritime Refuelling & Supply Facility at White Bay for the reasons set out below. My interest in this matter is that I have an ongoing involvement in the traffic operating conditions in the road network in the precinct of the SICEEP development and I have been involved in detailed traffic assessments, analysis and microsimulation modelling of the local street network in this area.

I have reviewed the AECOM report dated 12 July 2013 which has been lodged in support of the application and I believe that there are some deficiencies in relation to the consideration of traffic and transport which is presented in Section 5.1 of the AECOM report. References in this submission refer to Clauses and page numbers in the AECOM report.

Annexed to this letter is a more detailed analysis of the items which are considered to be deficient or that may require further information or analysis to demonstrate that the adjoining road network can accommodate the additional traffic which is expected to be generated by the proposed development.

James Craig Road

It is apparent that the AECOM report does not present adequate assessment of additional traffic volumes and adverse impacts on operating conditions along James Craig Road and at key intersections along this road (particularly at its intersection with The Crescent).

Section 5.1 does not consider traffic conditions on James Craig Road, despite the fact that this road is likely to be substantially affected by additional traffic generated as a result of the proposed development. Table 4 does not include traffic volumes on James Craig Road and there is no evidence to confirm that consideration has been given to operating conditions along this road.

Clause 5.1 (reference page 23) includes discussion about Robert Street as the street which will provide access to the proposed development and Table 6 indicates that Robert Street displays unsatisfactory Level of Service (LOS E or F) during both am peak hour and pm peak hour in 2013. These adverse operating conditions, where Robert Street is operating at capacity during peak periods, will be expected to increase the volume of traffic generated by the proposed development using James Craig Road.

The reference on page 29 to Net Changes in Traffic Generation during Operation (paragraph 1) includes a comment that a majority of vehicle movements associated with the CPT "*...would access the site via James Craig Road and an internal road.*" and (in paragraph 4) that "*... On cruise days, the White Bay 6 site would be accessed via James Craig Road / Sommerville Road, with no access via the Robert Street gate*".

The report suggests on page 29 (paragraph 1) that "*...approximately 2,164 vehicle movements would occur between the hours of 6.30am and 4.30pm during a ship docking. However, the majority of these movements would comprise passenger vehicles, coaches and taxis, which would access the site via James Craig Road and an internal road.*" This It is apparent that the majority of these vehicles would also pass through the intersection of James Craig Road and The Crescent in addition to the additional traffic generated by the White Bay Berth 4 project.

I am of the view that the traffic study must consider the impact of additional traffic on James Craig Road, particularly during peak activity times when CPT traffic is also diverted along this road on cruise days. The analysis would need to include consideration of traffic conditions at the intersection of James Craig Road and The Crescent during both am and pm peak traffic periods.

Traffic Generation During Operation

Clause 5.1.3 on page 28 assumptions are made about peak period trip generation, however, I do not believe that these assumptions are reasonable in relation to dry berth trips. I do not agree that the "... heaviest demand for the project as modified would occur during weekends or outside peak periods during the weekday, being the late morning and early afternoon given the recreational nature of service." for the reason that a typical day of recreational boating sees the vessel leave the facility early-morning and return in the late afternoon on the basis that most owners wish to maximise their time on the water.

Similarly, the comment that "...it is assumed that around 10 vessel movements per hour could be accommodated totalling 110 movements per day." is not supported by revealed behaviour for such a dry berth facility. In my experience, the pattern of vessel movement is not directly related to traffic generation as the use of a dry boat facility is typified by users arriving in the morning and leaving in the afternoon. The owners do not arrive at staggered times, therefore explaining the need for waiting areas both on land and in the water, and as a result, the generation of traffic is in definite peaks and not uniformly distributed throughout the day.

Clause 5.1.3 on page 29 (refer to paragraph 3) states that "... The peak use period for private vessels is generally outside of these times, being late morning to early afternoon." and as indicated above, this is not consistent with the preference for recreational trips to leave early in the morning so as to maximise the time on the water.

In my opinion, the estimate of peak traffic generation of traffic associated with the facility is considered to be significantly under-estimated. I suggest that it will be appropriate for the peak period trip generation estimates to be increased so as to more accurately reflect the behaviour of users.

Mid-block and Intersection Traffic Volumes and Level of Service

Tables 6. 8 and 12 present information on intersection traffic volumes and Level of Service for a number of intersections in the vicinity of the White Bay Berth 6 site. I note that the tables do not include any data in relation to James Craig Road and The Crescent, although it is apparent that they will be significantly affected by the additional traffic expected to be generated as a result of the proposed development. The tables clearly indicate that Robert Street is already operating at an unsatisfactory Level of Service and that this will not improve following completion of the proposed development.

Similarly, Tables 7 and 11 present mid-block traffic volume data and report good Level of Service for Robert Street, however the optimistic mid-block capacity used in the assessment fails to consider that the performance of Robert Street at key intersections will always prevent these nominated saturation flows from being achieved in the street. These tables do not present any data on the traffic volumes in James Craig Road during peak traffic conditions, and more particularly when there is a cruise ship at berth at the CPT.

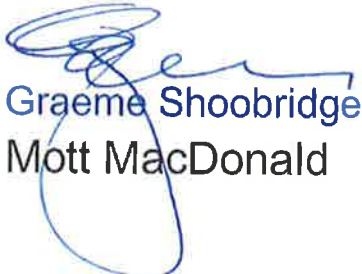
On pages 30 and 32, the AECOM report presents information on intersections that would be expected to be affected by the proposed development, however despite the probable network impacts within the street network, there has been no attempt to predict the impacts across the network, including at the identified intersections.

Local network modelling would reveal that traffic is likely to divert from a poorly-performing intersection to other nearby intersections, however the report does not consider the possibility of such local saturation and poor Levels of Service. For example, (Table 12) if the intersection of Robert Street with Victoria Road or Mullens Street led to delays of 2 to 3 minutes for vehicles arriving along Robert Street, then it is likely that some of these vehicles will divert to James Craig Road and possibly to its intersection with The Crescent. It is noted that the traffic impact assessment has not considered the traffic volumes along this street or at this intersection, either with or without the additional traffic which may be diverted.

Conclusion

I submit that there is insufficient information submitted in support of the application with regard to traffic and Transport to demonstrate that the local road network has the capacity to accommodate the additional traffic expected to be generated by the proposed development and that additional analysis will be necessary to determine if it will be necessary for any remedial measures of intersection improvements will be required to accommodate any additional traffic.

Yours faithfully



Graeme Shoobridge
Mott MacDonald

**Analysis of Traffic and Transport Sections of:
White Bay Berth 6 – Dry Boat Storage Facilities
S75W Modification Request
Report prepared by AECOM dated 12 July 2013.**

Item	Clause	Page	Quote	Comment
1	5.1	20	Table 4	No mention is made of James Craig Road despite the fact that this road is likely to be substantially effected by the proposed development.
2	5.1	23	“As Robert Street will provide access to the proposed development”	Later in the report it is stated that James Craig Road will provide access to the proposed development during times when cruise ships are berthed. As these times coincide with peak use times of the proposed facility the impacts of the increased traffic flow on James Craig Road and the intersection with the Crescent should be assessed as this scenario is the likely highest impact the proposed development will have on surrounding traffic flows
3	5.1.3	28	“It is expected that the heaviest demand for the project as modified would occur during weekends or outside peak periods during the weekday, being the late morning and early afternoon given the recreational nature of service.”	A typical day of recreational boating sees the vessel leave the facility early-morning and return in the late afternoon. Most owners wish to maximise their time on the water. It is not the case that a boat owner would only use their vessel for 2 or 3 hours in the middle of the day. Note 5.2.3 Page 36 Hours of operation 7.00am to 6.00pm 8.00am to 6.00pm Table 14 5.00am to 10.00pm

4	5.1.3	28	<p>“it is assumed that around 10 vessel movements per hour could be accommodated totalling 110 movements per day”.</p>	<p>The pattern of vessel movements is not directly related to traffic generation as the use of a dry boat facility is typified by users arriving in the morning and leaving in the afternoon.</p> <p>The fact that the forklifts can only lift 10 boats an hour does not mean the owners arrive at staggered times</p> <p>This is why there are proposed waiting areas both on land and in the water.</p> <p>The generation of traffic as such is in peaks not evenly distributed throughout the day.</p>
5		29	<p>“Approximately 2,164 vehicle movements would occur between the hours of 6.30 am and 4.30pm, during ship docking.</p> <p>However the majority of these movements would comprise passenger vehicle, coaches and taxis, which would access the site via James Craig Road and an internal road.</p> <p>Only service vehicles would access the site via Robert street”</p> <p>“ during ship docking this would equate to 29 vehicles per hour in the morning peak and seven vehicles per hour in the evening”</p>	<p>The vast majority of the 2,164 vehicles will be using James Craig Road and its intersection with the Crescent</p>
6	5.1.3	29	<p>“It is also noted that based on the Cruise Schedule April 2013 – November 2020 for the white Bat CPT, the majority of cruise ships arrive at dock early in the morning, with departures being late in the afternoon to evening. The peak road traffic periods would be anticipated to coincide with these arrival and departure times.</p>	<p>The highlighted statement is simply not the case .</p> <p>A typical day of recreational boating sees the vessel leave the facility early-morning and return in the late afternoon.</p> <p>The often extends to the early evening during daylight savings.</p> <p>Most owners wish to maximise their time on the water.</p>

			<p>The peak use period for private vessels is generally outside these times, being late morning to early afternoon”.</p>	<p>It is not the case that a boat owner would only use their vessel for 2 or 3 hours in the middle of the day.</p> <p>Therefore the actual scenario will see the peaks of traffic generation both on the water and on the land coincide in both the morning and afternoon in summer on the weekends.</p> <p>During these times over 90% of the traffic will generated by the CPT and the proposed development will be directed along James Craig Road and through its intersection at the Crescent</p> <p>This will also be the peak times for the approved dry boat store and Superyacht Marinas on James Craig Road.</p> <p>These facilities have combined approved parking capacity of over 400 vehicles all of which will use James Craig Road and the intersection with the Crescent.</p> <p>Neither the impact of the proposed facility and the CRT terminal nor the combined impact of the additional substantial facilities have been modelled in this report</p> <p>As such this report fails to address the major impact of the proposal.</p>
7	5.1.3	30	Table 11 Mid Block Traffic Volumes	This table does not address James Craig Road.
8	5.1.3	30	<p>“Intersection Operation</p> <p>Intersections in the area that would be impacted by operational traffic from the proposed development include</p> <p>The Crescent – James Craig Road”</p>	<p>Despite acknowledging that The Crescent and James Craig Road intersection would be impacted by operational traffic in this paragraph it is not modelled in the subsequent table 12.</p> <p>As such the intersection that will suffer the highest impact from the proposal has been left out of the report.</p>

Natasha Harras - Re: MP06_0037Mod 4 Dry Boat Storage Facilities at White Bay Berth 6

From: "Frank Hetherton" <fhethert@hotmail.com>
To: "Natasha Harras" <Natasha.Harras@planning.nsw.gov.au>
Date: 8/23/2013 3:24 PM
Subject: Re: MP06_0037Mod 4 Dry Boat Storage Facilities at White Bay Berth 6

Natasha,

thank you for this information about the wharf at White Bay and proposals to expand it as a commercial site by the existing boat refuelling, storage and repair company. This was Bailey's, I believe, who, I understand, sold out to a public company - Brambles?

Baileys carried on the business of providing facilities for boats in Western Australia and expanded into other states and more recently Sydney Harbour

Their proposal to extend this business to White Bay was submitted about seven years ago. Getting this approval was, seemingly, a vital part of getting together a package of harbour work sites around Australia for on sale to a public company

A public Meeting was held in the departmental offices in Bridge Street Sydney chaired by Frank Sartor who was the responsible minister at the time. A visual of this submission to Sartor I am sending to you separately

There was a long delay during which Sartor was replaced as the minister in charge

Bailey's finally got approvals, including 24 hour operation of the refuelling facility, and commenced operation at the site approximately three years ago. Their lease was approximately for 10 or 20 years. At this time it was hoped that the land would revert to public open space - a breathing space for the densely populated Balmain peninsula and for visitors to Sydney harbour

The new owners (previously Baileys) now want to substantially increase the scope of this development well beyond the original plan which itself was an ill judged use of our precious harbourside public land; particularly this area which is only about 900 metres from the central business district and is directly overlooked by the skyscrapers of the Sydney Business District. This recent Baileys development was wrongly approved by the previous government. The new government should not compound the ill judged decision of the previous government.

Baileys wanted a longer lease to make it possible to have a much larger development of this key harbour site. The refuelling facility, including very large fuel tanks, allows for 24 hour customer use of the facility without supervision at some times. Their overall plan was and is to make this high density, residential part of Sydney harbour a much larger industrial /port side facility.

This would turn the clock back a hundred years. In this last 100 years Balmain has become a densely populated residential suburb improved by very small parks. After Circular Quay it carries the most waterways passenger traffic. It's maritime roots have been transferred to Port Botany. The government should not have allowed the initial Bailey's development. It would be

reprehensible to compound this error by enlarging this use at the expense of breathing space and visual amenity of this site

There is another potential hazard in Bailey's presence in this sensitive area

When Government were considering the Bailey's development application, a subsequent decision was reached by Government to relocate the large passenger liners from the Barangeroo site to White Bay, adjoining what has become the Baileys refuelling, etc. site. As a result approximately 4000 crew and passengers embark and disembark from these ships every few days and nights, nights when **unsupervised refuelling takes place a hundred metres or so from this embarkation/disembarkation**

Finally, the Bailey's site directly abuts the Balmain residential district. Most affected are the adjoining houses situated at a substantial elevation above this dock area and vulnerable to noise generated by this development

The only sensible course of action is not to expand the original Bailey counter productive development application –but to wait until the existing lease expires - about 16 years and then return the area to the people for their recreation

I am not directly affected by the Bailey's wharf now or as proposed but only as a concerned citizen of Sydney conscious of the need to preserve the precious foreshore of this wonderful harbour city for the use of the people who live here and come here.

Thank you for your assistance

Frank Hetherton

Pyrmont Community Group

working for a better environment

Department of Planning
Received
27 AUG 2013
Scanning Room



Objection to MP06_0037 Mod 4

Bays Precinct – the need for a Master Plan

White Bay, Johnson's Bay, Glebe Island, Rozelle Bay and Blackwattle Bay form the Bays Precinct, an expansive body of water much larger than Darling Harbour. The Bays Precinct is surrounded by affluent, educated and highly employed communities living in an area which is short of recreational open space and other amenity.

Historically, the bays were part of the working harbour of Sydney. While creating employment for a past era, working harbour had major impacts on the nearby residential community and on the harbour itself. It was highly a polluting and contaminating industry. To accommodate working harbour, virtually the whole of the natural shoreline, the vegetation and fauna was completely removed.

The population changes which have occurred all around the Bays have been recent and dramatic. The changing nature and focus on maritime industries has also been dramatic. Neither State Government nor Sydney Ports has managed this transition well and falling short in recognizing the substantial and innovative role that could have been taken in managing this change with open and balanced consultation with the communities surrounding the Bay. Sydney Ports has operated in a defensive ad-hoc manner which conflicts with our aspirations for a better environment and for a wonderful world-class harbour as desired by the surrounding residential communities and the people of NSW.

Today, the community has much broader aspirations for the Bays Precinct. This area is vital and strategic importance to Sydney's future as a global city.

The ongoing conflicts and community campaigns over the use of the public foreshore lands in the Bays areas have been epitomised by the continued call for a Bays Precinct Master Plan. State Government must make a commitment to a master plan for the Bays Precinct which should be the source document for future planning decisions by State Government agencies so as to make accountable and transparent decisions about these very important public foreshore lands.

Bailey's Marine Fuel Depot –overwhelming opposition to this proposal

In 2004, Graham Bailey Pty Ltd trading as Bailey's Marine Fuels Pty Ltd (BMF) responded to an Expression of Interest to lease and develop White Bay Wharf 6 as a marine fuelling depot consisting of below ground fuel tanks, a slipway, boat storage and a two storey office building. The terms and conditions of this lease are unknown. Sydney Ports approved the lease arrangements and gave permission for BMF to lodge a Development Application (DA) with

SHFA. BMF lodged the DA in September 2006 with the estimated cost of the project being \$8 million.

Leichhardt Council, many local community groups and residents conducted a five year campaign with 100% opposition against the BMF development application. The main reasons for the objections were:

- The clear need for a new Master Plan for Glebe Island/White Bay. In March 2007, the NSW Premier (at the time) committed to a new master plan for Glebe Island/White Bay but this process was never initiated.
- The very close proximity of working harbour activity to a high density residential community.
- White Bay was the most likely location in the Bays Precinct where working harbour and residential amenity would conflict, yet, it was the first place for development approvals. Other locations were available and the proponent would have found these acceptable. Why was White Bay chosen?
- The operational requirements of an industrial and refuelling development are inconsistent with a high density inner-city residential environment.
- The desire to see White Bay Wharf 6, a harbour 'headland', to be made available for community purposes. State agencies had, in fact, identified this location as open space.
- There was concern from other fuel providers about Baileys, a new supplier, being given preferential treatment: being allocated a prime foreshore location and that the Baileys service model was not the most efficient for the boating community, nor better than what other suppliers were offering.
- The business case, as well as the returns to the people of NSW for use of this valuable site by BMF was always disputed.
- There was great concern when the Baileys project was given Status as a Part 3a development. How this occurred remains very unclear.
- The proximity to the residential area and the future cruise terminal was viewed as a significant environmental issue. Baileys DA approval was for 6 inground stainless steel tanks. Aerial images from 24.04.2012 show stored on site and ready for installation 12 tanks, together with 2 massive above ground tanks. It is vitally important for Sydney Ports to confirm the exact type and quantities of fuel stored and that all environmental procedures are to World standards.

Announcement of Bays Precinct Process was undermined by BMF approval and cruise terminal

In June 2010, the NSW Minister for Planning, Kristina Kenneally, announced the establishment of the Bays Precinct Community Reference Group (BPCRG), a multi-disciplinary team whose work was expected to lead to the delivery of a Master Plan for the Bays Precinct.

At the very same announcement Ms Kenneally approved BMF, a Part 3a proposal, and announced that the Cruise Terminal would be considered for relocation from Barangaroo to White Bay.

- How it was possible to initiate a major planning process for the Bays Precinct while, at the same time, approving and signalling major development of those very same

foreshores. The Minister had undermined the BPCRG right from the outset and in the most confrontational way.

- Why and how was this Part 3a proposal approved and, so quickly, by a new Minister after long and overwhelming opposition.
- State Authorities were seen to be carelessly handing out valuable and strategic public foreshore land for short term gain and against the express objections of the wider community.

Lease conditions must be enforced

The Minister of Planning issued approval of MP 06_0037 MOD 2 on the 11 November 2010 to amend Condition A4 with a time limited approval to expire on the 31 December 2020. It is essential that no further extension of this time be permitted or negotiated in order to maintain public confidence in the planning and approval process.

On 5 June 2012 the Minister of Ports opened White Bay 6 Marine Park (BMF). At this time the Bays Precinct Task Force (BPTF) was well into its work toward developing a Bays Precinct Master Plan.

It was understood that during this process (of the BPTF) that Sydney Ports would limit all new and unsigned leases to an 8 year period. The reason for the 8 year limitation was to enable outcomes from the BPTF to have effect within a reasonable planning timeframe. The Sydney Ports lease schedule over the lands is attached. Some of the leases issued have a life of 32 to 52 years!

During the BPTF process it was revealed that Bailey's held an eight year lease with an ultimate period of 35 years. How did this occur and why does it conflict with the publicly known lease end of 2020?

Leasing of important foreshore lands must be viable for the NSW community

Sydney Ports are obligated to lease the land on a firm commercial basis, to have investigated the commercial details of the businesses leasing the lands and to ensure the best possible return to the State. This investigation would include the financial ability of the lessor operate successfully within the terms of the lease.

It is obvious that this MP 06_0037 MOD 2 lease arrangement is not commercially viable given an expenditure of \$8 million to be recovered over 8 years. The public has the right to know details about:

- The financial capability and viability of the companies leasing White Bay Wharf 6 and the returns to the NSW community for the occupation of prime foreshore land.
- The duration of this lease in order to determine when future change can occur in providing better community and State outcomes.

Objection to the Modification Proposal MP06_0037 Mod 4

It appears from the current application that Graham Bailey Pty Ltd, that the original leaseholder, has sub-leased the refuelling facility to Caltex and that Graham Bailey Pty Ltd now want to change the overall lease holder to a new company White Bay 6 Pty Ltd.

This is public land and it must be managed in the public interest. Instead, we find that an extraordinary and complex arrangement for the lease of public land by a State Agency has evolved. It is essential that matters that relate to sub-leases and change of ownership be investigated and are made in an open and transparent way.

The original approval was given under Part 3a and applied only to the marine refuelling functions and not to the dry storage of boats which could not surely be considered of state significance.

The modification proposal has now morphed a Part 3a fuelling station into a massive dry boat storage facility placed in front of the Cruise Terminal and function centre and next to the high density residential community of Balmain.

It is self evident that this is the most appalling vision for the Sydney Harbour, the Bays Precinct and for the local residents. This is the entry point for tourists and visitors to Sydney.

The applicant attempts to put forward a commercially compelling forecast on the growth of recreational boating and therefore the State Significant need for dry boat storage.

There are compelling reasons for this site not to be used for the proposed development.

- It greatly intensifies the existing operational environment which is located next to a high density residential location.
- No further changes should be allowed before the Bays Precinct Master Plan is handed down.
- The original approval for development made it clear that the existing operations were all that were proposed. Now, only two years later the applicant has on sold the business and major modifications are proposed. This is unreasonable.
- As a Part 3a proposal the approval of the original application, in the first place, is highly objectionable. The original approval process should be investigated rather than modifications being considered.
- It is a gateway site which should be a landscaped headland.
- It should not detract from the temporary Cruise Terminal.
- It should not detract from the views to and from Balmain which until now have been obscured by the previous monster building.
- The local community has a compelling need for recreation space.
- The current business viability is ambiguous.

This proposal must be considered as a new DA, not as yet another Sydney Ports driven ad-hoc development which attempts to bypass local communities.


The fact that this modification proposal is being considered demonstrates that the planning process is fatally flawed. This modification proposal comes on top of a highly controversial and

politically motivated Part 3a approval which was forced against the unanimous objections of the local communities.

The legality and commercial arrangements of the leases needs to be made completely transparent, shown to be commercially viable and environmentally responsible. This matter alone should be referred to the NSW Ombudsman prior to any consideration of this application.

Jean Stuart

Jean Stuart President P.C.G.



David Boddam-Whetham

Attachments

Lease Schedule of Sydney Ports

No	Authority	Company	Activity	Approval	Signed Lease	Unsigned Lease	Termination Date	Lease Option	Total Duration Yrs
1	Sydney Ports Corp	Baileys	Refuelling and Storage	Part 3a + S96 modification	X		2020	?	8
2	Sydney Ports Corp	Cruise terminal	Cruise Ships	Part 3a + S96	Permanent				Permanent
3	Sydney Ports Corp	Ports	Working Harbour	?	?				?
4	Sydney Ports Corp	Gypsum Resources Australia	Unloading	?	?		2020	?	8
5	Sydney Ports	Cement Australia	Unloading	?	?		2020	?	8
6	Sydney Ports	Sugar Australia	Unloading	?	?		2020	?	8
7	SHFA	Vacant							
8	Roads and Maritime Services	Heritage Fleet	Boat Restoration	Part 3a		X	2057	?	45
9,10,11,12	Freehold								
13	State Property Authority	Co Operative	Fish Mkt	?	?		2044	?	32
14	Roads and Maritime Services	Site B1 All Occasions	Pleasure Harbour Cruises	Part 3a + S96		X	2051	10	49
15	Roads and Maritime Services	Site B2 All Occasions	Pleasure Harbour Cruises	Part 3a + S96		X	2051	10	49
16	Roads and Maritime Services	Hanson	Cement Supply	?	?		2013	5	6
17	Roads and Maritime Services	Seawind	Private Multi Hull Marina	Part 3a + S96		?	2054	10	52
18	Roads and Maritime Services	Devine Marine	Salvage	Part 3a + S96		?	2024	10	22
19	Roads and Maritime Services	Devine Marine	Salvage	Part 3a + S96		?	2024	10	22
20	Roads and Maritime Services	Waterway Construction	Waterway Construction	?		?	2024	?	12
21	Roads and Maritime Services	Polaris Marine	?	?	X		2028	?	16
22	Roads and Maritime Services	Australian Wharf and Bridge	?	?		?	2023	?	11
23	Roads and Maritime Services	Heritage Fleet	Boat restoration	?	?		2016	?	4
24	Roads and Maritime Services	Sydney Boathouse				?	2046	?	34
25	Roads and Maritime Services	Sydney Superyacht Marina	Pleasure Boats	Part 3a + S96		?	2060	?	48
26	Roads and Maritime Services	Sydney City marine	Boat Mtc	?	?		2063	?	41
27	Roads and Maritime Services	Longitude	Restaurant ?	?	?		2063	?	41

22 August 2013

Dear Sir/Madam

White Bay 6 Dry Boat Storage—supporting submission

As a local resident, I fully support the Dry Boat storage application on exhibition. I believe that for the life of a community and its ongoing relevance as a place where people can live and work, a diversity of industry and business is essential. I have lived in Balmain on and off since the 1970s and watched the rapid closure of shipyards and ship refitting businesses as the waterfront became a place of accessibility only for the wealthy. It is depressing, and locks ordinary people out of the area. A dry boat rack and stage storage would create waterfront industry bringing much needed employment, skills and investment to the inner west.

I also understand that this site—which has never been one of great aesthetic attributes in itself, but certainly highly utilitarian—is ideal for the purpose of dry boat storage. It is highly accessible from both land and water, being at the centre of the inner western bays. It already has an existing gantry structure and adequate vehicle access because of the adjoining cruise passenger terminal. And it already has a range of complementary marine uses, with the boat lift, refuelling services and so on.

It seems that wherever there's a quiet spot of inner harbour, there's agitation for yet another marina which, again, closes that bit of waterfront off from the general public. Providing a dry boat rack and stack storage would lessen the need for more marinas. Many streets locally—for example, Lilyfield Road—are becoming cluttered with parked boats, taking up car park spots on a permanent basis, and creating a road safety hazard. I gather there's no other such storage on the harbour which makes it even more critical that it's approved.

Having talked with people involved in the project, I understand that the impacts will be positive and manageable. The proposed structures will be visually integrated with the gantry and cruise terminal, blending with current marine activity. In fact, they won't extend any higher than existing structures and will therefore make little impact on any sightlines from surrounding residential areas. The road system is already in place for port users and the facility will be used largely on weekends and at off-peak times. This won't be a problem re noise because boat storage and movement is a pretty quiet activity—the lifting vehicles that already exist there are rubber-tyred and very quiet—and because of the care required in handling boats, that also lessens any noise impacts.

It is a waterfront dock on a busy harbour, and should therefore be used for boating activities. Some already occur there, such as the refuelling and pumping, so I believe it's a natural extension, given the huge amount of unused space—and the people who have already developed the business on that site should be allowed to further expand it in this way. They are professional maritime business people who want to bring employment back to the inner city; they want to keep boating activities alive in the harbour; and they want to develop a successful maritime business in a highly suitable location.

I believe they should be allowed to do so.

Simon Truong - MP06-0037 Modification 4 White Bay 6 Pty Ltd

From: <antsim@iinet.net.au>
To: <simon.truong@planning.nsw.gov.au>
Date: 8/6/2013 10:34 AM
Subject: MP06-0037 Modification 4 White Bay 6 Pty Ltd

Simon

Could you provide a montage from outside 1-13 Grafton St Balmain where the street turns left. Could the boats presently randomly sitting on the wharf and not in use be placed in a more tidy manner.

I would like to have trees/shrubs planted alongside the wire fence to screen White Bay 6 wharf.

Tony Simons
1/1 Grafton St Balmain 2041
0402 967 393