



***MODIFICATION REQUEST:
Baileys Marine Supply and Refuelling
Facility
White Bay, Berth 6
(MP06_0037 MOD 4)***

***Caretaker's accommodation, new buildings &
increasing dry boat storage***

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

March 2014

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1. BACKGROUND

1.1 Site Location

This report provides an assessment of a section 75W modification application seeking to modify the project approval for the Baileys Marine Refuelling Facility (MP06_0037 MOD 4). The site is located at Berth 6, White Bay, in Balmain, being the eastern most berth and in close proximity to Pyrmont and Barangaroo. It is under lease from the Sydney Ports Corporation which owns and controls the land. Immediately adjoining the site to the west is Berth 5, being the Cruise Passenger Terminal. Adjoining to the north are residential areas of Balmain and the Sydney Water Police site. The project location is shown in **Figure 1**.

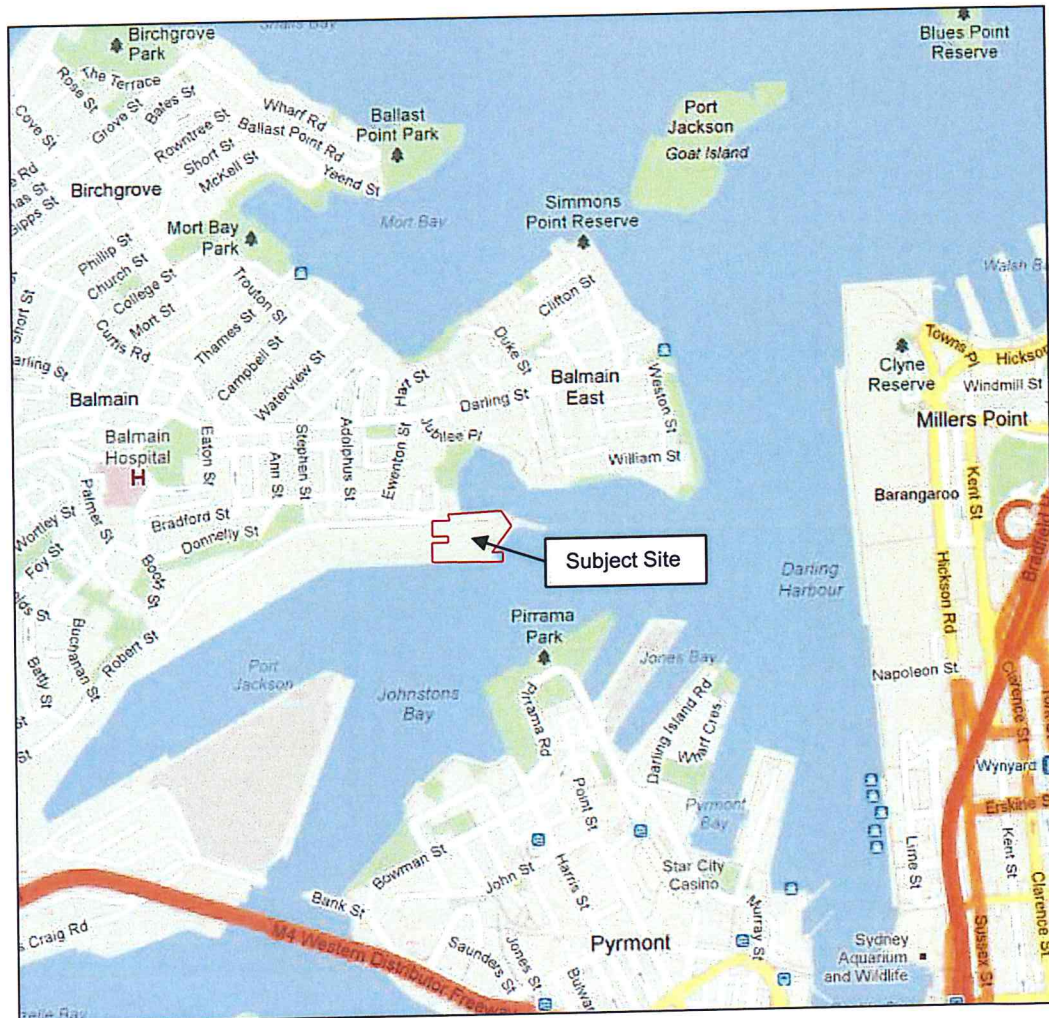


Figure 1: Project Location

1.2 Previous Approvals

The project was approved by the then Minister for Planning on 12 June 2009. The approval allowed for the following:

- marine refuelling facilities consisting of a tank farm capable of storing 385,000 litres of diesel fuel and 55,000 litres of unleaded fuel, eight card-operated refuelling dispensers and associated pipe work;
- a building approximately 11m high and 50m long (600m² footprint) for bulk storage and a small number of office leases for commercial marine service businesses;
- a building approximately 10m high and 50m long (1,000m² footprint) for bulk indoor storage space for boat storage and marine equipment, including rope, buoys, lifeboats and other marine hardware and work shed for refit and repair of boats;

- a roll-on/roll-off (RoRo) ramp for intermodal freight operations to service Sydney Harbour islands, with an associated lay-down area for temporary storage of goods for water transport;
- a 75-tonne capacity travel-lift with associated construction of dual ramps adjacent to the RoRo ramp;
- grey water and sullage pump facilities, consisting of card-operated pump to remove sullage from vessels;
- a supply point for commercial vessels to collect pre-ordered supplies; and
- three temporary vessel moorings.

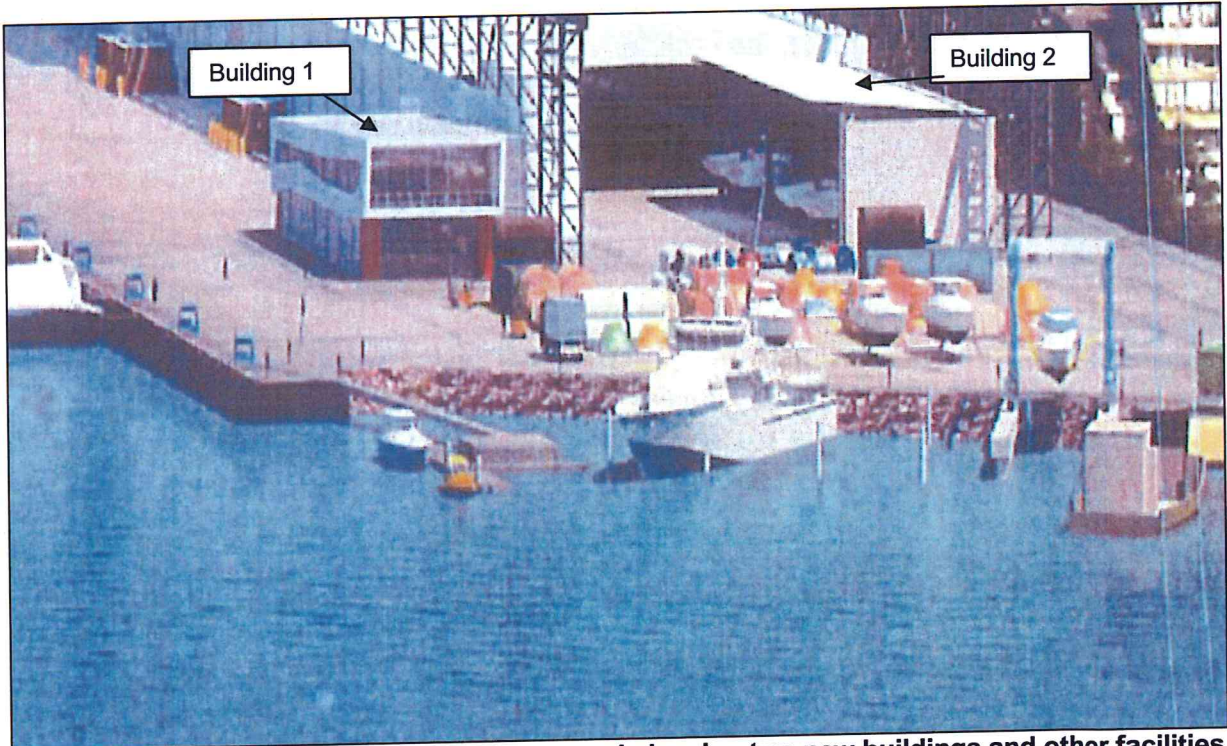


Figure 2: Photomontage of the original proposal showing two new buildings and other facilities

The project approval has been the subject of three modifications:

- Modification 1 (approved on 14 September 2009) – Modified conditions F1 and F2 to reflect the La1(1 minute) noise criteria in addition to amending the proponent's name in Schedule 1 of the notice of determination.
- Modification 2 (approved on 11 November 2009) – Replaced condition A4 'Lease Renewal' with a new condition providing that approval is time limited and expires on 31 December 2020.
- Modification 3 (approved on 14 August 2012) approved the following modifications:
 - An increase in the number of temporary moorings from three to eight;
 - Increased the mooring period; and
 - Introduction of de-fouling and anti-fouling activities to the site's operations.

1.3 Existing Operations

In early 2011, part of the project commenced operation, which included the refuelling, grey water and sullage pump operations. A small office and an amenities block were refurbished and are now in use. In mid 2012, the travel lift, RoRo ramp and wash down bay commenced and in late 2012, de-fouling and anti-fouling activities commenced on the site.

Construction of Building 1 and Building 2 has not commenced and the moorings modified through Modification 3 are yet to be commenced.

Refer to **Figure 3** for the current layout.

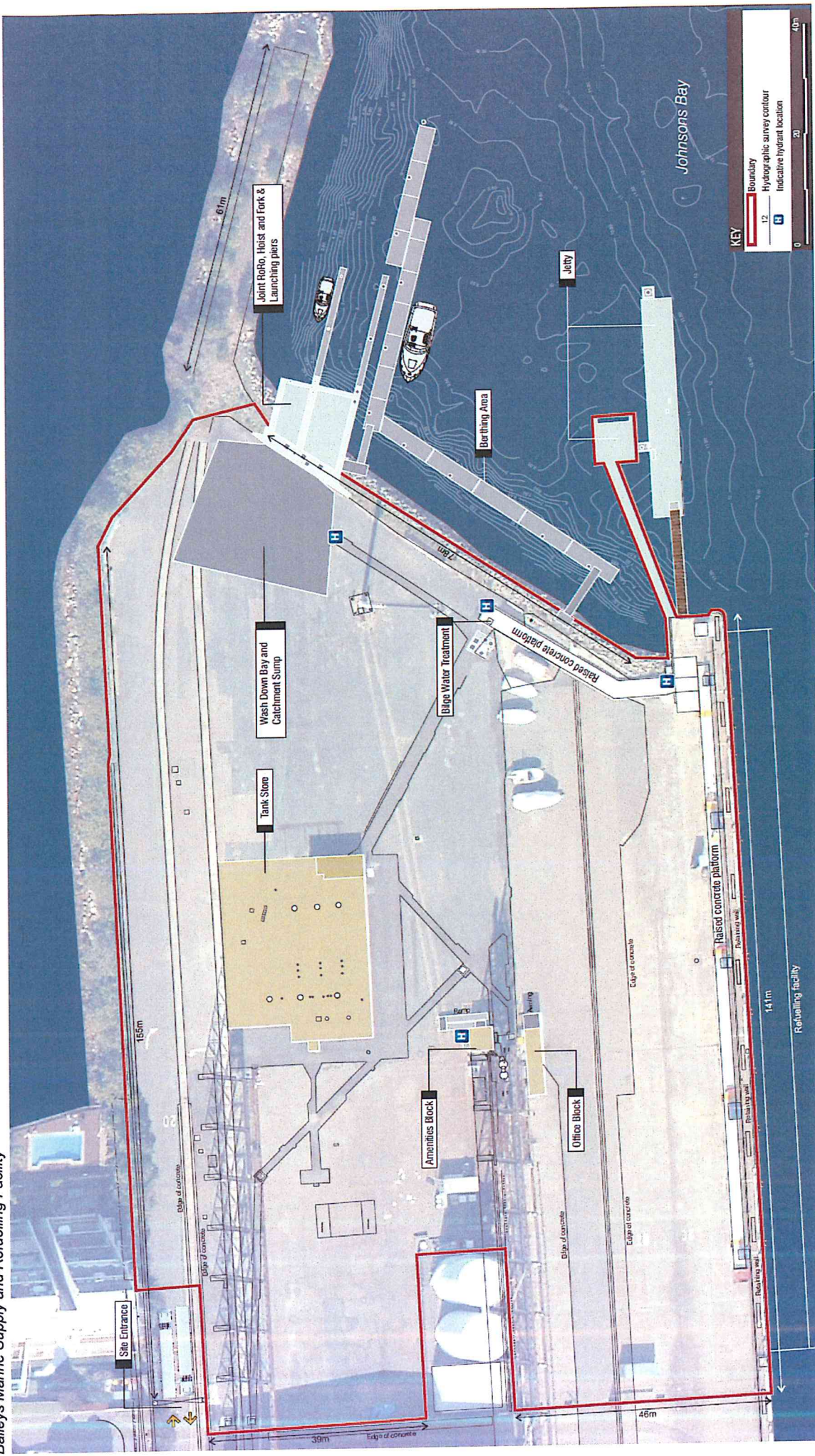


Figure 3: Current Site Operations (source: Proponent's EA)

2. PROPOSED MODIFICATION

2.1 Modification Description

The original modification request (as exhibited), included:

- Alteration of the footprint and intended use of Building 1 (to allow dry boat storage, with offices, workshops, a showroom and caretakers' accommodation);
- Alteration of the footprint and intended use of Building 2 (to increase dry boat storage, with offices, workshops and a showroom);
- Two additional buildings (Buildings 3A and 3B) between Building 1 and Building 2, to be used for dry boat storage, as well as offices, workshops and a showroom;
- Total dry boat storage for 150 vessels;
- An increase in the number of car parking spaces from 30 to 68 with changes to the location and layout of car parking areas;
- New floating pontoons to provide a temporary tie-up area for boats being launched / retrieved;
- Three new demountable style single-storey buildings to provide waiting rooms, offices and amenities on the eastern edges of the site; and
- Modification to access arrangements so that James Craig Road would be used by customers when cruise ships are berthed at the adjoining Cruise Passenger Terminal.

Following exhibition of the modification request, the proponent amended the proposal and submitted a preferred project report (PPR). Significantly, the PPR stated that the proposal no longer sought changes to the use, footprint or external design of Buildings 1 and 2, and deleted the proposed new Buildings 3A and 3B. The PPR also deleted the proposed changes to access arrangements so that James Craig Road would remain unused by customers.

The modification application (as amended by the PPR) includes:

- Internal changes to Building 1 to provide caretaker's accommodation within the building;
- Internal changes to Building 2 to facilitate the increased storage of up to 50 small boats;
- Four new single-storey demountable style buildings to be used as offices and amenities located on the northern boundary, with a possible alternative configuration incorporating three new buildings further south to enable flexibility if the northern part of the site is resumed by Sydney Ports;
- Number of car parking spaces increased from 30 to 42 with changes to the location and layout of car parking areas (along the northern boundary of the site with possible alternative location / layout to the south); and
- New floating pontoons to provide a temporary tie-up area for boats being launched / retrieved.

Figure 4 provides an example of a dry boat storage facility. **Figure 5** presents the layout of the project, as proposed to be modified. To enable sufficient flexibility in the site layout in case Sydney Ports resumes the northern part of the site, the proponent also seeks approval of an alternative layout, as shown in **Figure 6**, as there are currently discussions between the proponent and Sydney Ports concerning a possible road and U-turn facility for the Cruise Passenger Terminal.

The proponent's justification for the modification request is that it is consistent with NSW government objectives, namely the *Maritime Policy Agenda* (Transport for NSW, 2012) which identifies the need to "encourage development of dry-stack storage facilities on Sydney Harbour" and the Draft Sydney Harbour Boat Storage Strategy (Transport for NSW, April 2013) which sets a target for the provision of 1000 to 1200 new dry stack spaces on Sydney Harbour by 2021.



Figure 4: Example of dry boat storage facility (source: Proponent's EA)



Figure 5: Preferred Configuration (source: Proponent's PPR)



Figure 6: Alternative Configuration (source: Proponent's PPR)

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

The modification request may be determined under section 75W of the EP&A Act as it seeks to change the terms of an existing determination. The existing approval allows for a wide variety of marine related uses on the site, and the proposal seeks to permit an additional marine-related use. As such it is not considered to result in a radical transformation of the site and is considered to result in only limited environmental consequences as compared to those previously assessed. On this basis, Planning and Infrastructure is satisfied that the proposed modification is within the scope of the Minister's powers under section 75W.

3.2 Delegated Authority

On 27 February 2013, the Minister delegated his functions to the Executive Director to determine section 75W modification requests, where the council has not made an objection, a political disclosure statement has not been made, and there are less than 25 public submissions objecting to the proposal.

Leichhardt Council made comments and requested the provision of additional information, but did not object to the application. A political donation disclosure statement has not been made, and 11 public submissions were received in objection to the proposal. As such, the Executive Director, Development Assessment Systems and Approvals, can determine the application under delegation.

3.3 Sydney Regional Environmental Plan No 26 – City West

The land is located within the 'Port and Employment Zone' under the SREP. Uses are permissible if they are consistent with one or more of the zone objectives. In this case, Planning and Infrastructure is satisfied that the proposal is permissible as it is consistent with the zone objective "to encourage a mix of land uses which generate employment opportunities, particularly in relation to port and maritime uses" as it includes a range of activities on the site, all of which, generate employment opportunities. Clause 40 also requires that consideration be given to any master plan for the site. The current master plan that applies to the site is the Glebe Island / White Bay Master Plan 2000, and the proposal is consistent with the master plan's aims and objectives.

3.4 Glebe Island/White Bay Master Plan 2000

The master plan provides controls for the future development of the port facilities, which a consent authority must consider when determining a development application in the area. The master plan identifies a number of considerations relating to land uses, building design, zones and heights, environmental impacts, landscaping and heritage conservation. Planning and Infrastructure is satisfied that the modification request is generally consistent with the master plan and, where relevant, issues have been considered in **Section 5** below.

3.5 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Planning principles which apply to the assessment of the proposal relate to environmental and ecological impacts, visual impacts, foreshore access, and appropriate foreshore land uses. Where relevant to the proposed modification, these issues have been considered in **Section 5** below. The land is not zoned under SREP 2005, but the adjoining waterway is zoned 'W1 Maritime Waters'. The proposed pontoons located within White Bay will be associated with the dry boat storage use, and as the proposed pontoons are located within the waterway, the application was referred to the Foreshores and Waterways Planning and Development Advisory Committee who raised no concerns with the proposal.

3.6 Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005

This DCP applies to all development proposals within the 'Foreshores and Waterways Area' identified in SREP (Sydney Harbour Catchment) 2005, including the Bays Precinct. The DCP aims to:

- Protect ecological communities;
- Ensure that the scenic quality of the area is protected and enhanced;
- Provide siting and design principles for new buildings and waterside structures within the area; and
- Identify potential foreshore access locations in the area.

Relevant issues have been considered in **Section 5** below. The proposed modification is not considered to give rise to any inconsistencies with the DCP.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 75X(2)(f) of the EP&A Act, the Director-General is required to make the modification request publicly available. However, in this case, it was appropriate to exhibit the proposed modification as it resulted in material changes to the built form, height and density of development on the site. Planning and Infrastructure:

- publically exhibited the application from 31 July to 30 August 2013 (30 days) on its website and its Information Centre, and at Leichhardt Council;
- advertised the public exhibition in the Sydney Morning Herald and Daily Telegraph on 31 July 2013 and The Inner City Courier on 1 August 2013; and
- notified relevant landowners and relevant state and local government authorities in writing.

4.2 Public Authority Submissions

Eight submissions were received from public authorities in response to the exhibition of the original modification request and a further three submissions were received in response to the PPR. The submissions from public authorities are summarised in **Table 1** below.

Table 1: Summary of Issues Raised in Public Authority Submissions

| Leichhardt Council | |
|-------------------------------|---|
| <i>Response to Exhibition</i> | <ul style="list-style-type: none">• Further traffic analysis should be carried out to take into account existing and approved development in the vicinity. Requests traffic generation data for individual components of the proposal;• Raised concerns regarding the exacerbation of traffic issues at the Victoria Road/Robert Street and Robert Street/Mullens Street intersections;• There is a need for a master plan for the White Bay area which includes consideration of public access to the foreshore;• There is a need for an on-going noise assessment and monitoring program to be implemented to ensure compliance with acceptable levels and approved hours of operation;• Potential contamination issues in relation to proposed residential use;• Further information should be provided to demonstrate the visual impacts of the proposal including 3D images and installation of temporary screens or structures to demonstrate height of future buildings;• Requests further details in relation to lighting, hours of operation, compliance with zone objectives and proposed floor space; and• Suggests a range of measures to improve the visual appearance of the proposal. |

-
- Response to PPR*
- Notes the reduction in scale of the proposal but requests the following prior to approval being granted:
 - a master plan be prepared for White Bay;
 - design and visual impact assessment supported by shade cloth screening to indicate the height of the re-located office buildings;
 - cumulative traffic impact assessment of the proposed development and surrounding facilities;
 - agreement of ongoing noise assessment and monitoring arrangements; and
 - confirmation that the proposed showroom has been deleted.
-

Roads and Maritime Services: Maritime

- Response to Exhibition*
- No specific concerns with regard to the additional water based structures (pontoon); and
 - Requests an amended Vessel Management Plan (VMP) for the site taking into account the proposed dry boat storage use before it can assess the water navigational impacts of the proposal.
-

- Response to PPR*
- Has reviewed the revised VMP and is satisfied that the proposal will have minimal impact upon navigation;
 - Has no objection to the proposal; and
 - Would appreciate the opportunity to comment on any documents to be provided to clients with regards to vessel movements.
-

Transport for NSW / Roads & Maritime Services (RMS)

- Response to Exhibition*
- Supports the proposed modification proposal and will support all development applications that seek to increase boat storage capacity on Sydney Harbour in the short, medium and long term;
 - The development of dry boat storage facilities on Sydney Harbour is a key priority under the Government's Maritime Policy Agenda. The draft Sydney Harbour Boat Storage Strategy notes that the number of boats to be stored in and around Sydney Harbour is likely to increase and will need to be accommodated through a combination of increased on-water and dry stack storage options;
 - A Construction Traffic Management Plan (CTMP) should be prepared in consultation with relevant agencies; and
 - A Road Occupancy Licence (ROL) should be obtained for any activity likely to impact on the operational efficiency of the road network. The ROL allows the applicant to use a specified road space at approved times.
-

Sydney Harbour Foreshore Authority

- Response to Exhibition*
- The proposal may be a 'change in use' as it involves permanent storage of vessels, defined as a 'marina', rather than a refuelling facility. Raises concerns that the large number of vessels proposed (150) cannot be described as ancillary to the predominant refuelling function;
 - White Bay and Glebe Island are the last remaining deep-water berths with backup land for commercial port uses in Sydney Harbour. The Bays Precinct Taskforce has recommended that the commercial port uses be retained in in this area in the medium term. Concerns are raised that the previous approvals and current proposal are leading to an incremental change in focus away from commercial port uses;
 - Navigation safety from numerous small scale recreational vessels in close proximity to cargo ships and cruise liners and the deck at the site being designed for larger vessels;
 - There are other sites in the area more suitable for dry boat storage which would not impact on port operations;
 - Traffic impacts; and
 - Visual impacts of new buildings on the point.
-

| | |
|--|--|
| Sydney Harbour Federation Trust | |
| EA | <ul style="list-style-type: none"> Advised that it has also received an application for dry boat storage to be located on Cockatoo Island. |
| EPA | |
| EA | <ul style="list-style-type: none"> The proposal can be managed with the conditions of the existing Environmental Protection Licence for the site. |
| NSW Office of Water | |
| | <ul style="list-style-type: none"> No issues with the proposal; and Suggests clarifying the location and detail of any landscape plating proposed. |
| Foreshores and Waterways Planning and Development Advisory Committee | |
| | <ul style="list-style-type: none"> The consent authority should take into account the matters prescribed in the SREP2005 and the associated Sydney Harbour Foreshores and Waterways Area DCP. |
| Sydney Ports Corporation | |
| | <ul style="list-style-type: none"> Sydney Ports were consulted but did not make a submission. |

4.3 Public Submissions

Forty one (41) submissions were received from the public, including 5 submissions from community groups or clubs. An architect, solicitor and traffic engineer also made submissions on behalf of a local business. Of the 41 submissions, 29 were in support of the application, 11 in objection, and 1 did not specify. The key issues raised in public submissions are listed in **Table 2**.

Table 2: Summary of Issues Raised in Public Submissions

| Issue | Proportion of submissions |
|--|---------------------------|
| There is a need for increased boat storage | 70% |
| Visual and View impacts | 17% |
| Noise Impacts | 17% |
| Traffic impacts | 12% |
| The proposal is a significant intensification and change of use | 12% |
| Insufficient Consultation | 10% |
| Safety Issues | 7% |
| Light Spill | 5% |
| Air Pollution | 5% |
| Inconsistency with Zone objectives | 5% |
| There is a need for a master plan | 5% |
| The existing lease should be left to expire | 5% |
| Inadequate information / deficiencies with assessment | 5% |
| No weight should be given to draft Boat Storage Strategy | 5% |
| Other (proposal is outside the scope of s75W; is not permissible; no assessment of alternatives; ecological impacts; need for public access on the site) | Each 2% |

A further submission was received from solicitors on behalf of a local business in response to the PPR, which reiterated concerns previously raised.

Planning and Infrastructure considers that, where relevant, the issues raised have been adequately addressed by the PPR and/ or in Planning and Infrastructure's assessment of the application.

5. ASSESSMENT

Planning and Infrastructure considers that the key issues associated with the proposed modification to be visual impacts, noise and traffic. Other relevant issues in this assessment relate to vessel safety, light spill, air and water quality, aquatic ecology, air emissions and contamination issues.

5.1 Land Use and Dry Boat Storage

The proposal (as modified in the PPR) includes caretaker's accommodation in Building 1, increasing the capacity of Building 2 to store up to 50 boats, and the erection of four demountable style office and customer facility buildings. Concerns were raised in response to the public exhibition of the original modification request about the dominant use of the site changing from a marine refuelling facility to a dry boat storage facility which would store up to 150 boats.

The PPR amended the proposal so that only Building 2 would be used for the dry boat storage of up to 50 boats. Planning and Infrastructure notes that the original project approval for Building 2 permits its use for the storage of boats and that the plans and photomontages submitted with the original application always envisaged that the building would store boats (refer to **Figure 2**). Whilst the number of boats housed within the building is proposed to increase to 50, this increase is attributed to the size of the boats being smaller as well as being stacked in storage racks. Consequently, Planning and Infrastructure considers that the use of Building 2 is consistent with its original intention and remains similar to the approved use.

In relation to the caretaker's accommodation, Planning and Infrastructure has no concerns about the use specifically, as it is ancillary to the approved uses on the site, and is necessary to have a staff member on site for safety and security reasons as refuelling can occur 24-hours-a-day. However, Planning and Infrastructure has recommended a condition that its building classification under the Building Code of Australia is not defined as a Class 2 residential dwelling (at Construction Certificate and Occupation Certificate stage) as this would trigger the need for a BASIX certificate which has not been sought by the proponent or provided as part of the application.

In relation to the 4 new demountable style buildings for office and customer facility uses, Planning and Infrastructure has no concerns about their use as they will support existing operations on site.

5.2 Visual Impacts

The modification now sought by the proponent does not involve any external changes to the two main buildings (Buildings 1 and 2) on the site. Visual impacts associated with the proposal are therefore limited to the 3 or 4 single-storey office and customer facility buildings, as well as, the amended car parking layout.

Office and Customer Facility Buildings

Under the preferred scheme, 4 new demountable style buildings would be erected, of which 3 would be located in the north-east corner of the site (the 'meet and greet' facilities) and one would be located in the central northern part of the site (the gate house) (refer to **Figure 5**).

The buildings are all single-storey in scale with maximum heights of around 3.7 metres. They have small foot prints of 36m² to 72m². In the context of the other approved buildings on the site which have maximum heights around 11 metres, and very large foot prints of 650m² to 800m², the proposed new buildings present as very modest in scale.

However, due to their proximity to the water's edge, particularly the 'meet and greet' buildings which would be setback around 10 metres from the harbour, they will be visible from the waterway and from surrounding foreshores.

To minimise visual impacts, the Glebe Island and White Bay Masterplan suggests height limits for buildings on the site. While it includes a 12 metre height control for the western and central parts of the site, for the eastern and foreshore areas of the site (where the new buildings are proposed) it recommends a '0' metre building height limit. However, the Masterplan permits shipping containers stacked 3 containers high on this part of the site. While the proposed new buildings would not comply with the building height control, it is considered that they would have considerably less visual impact than shipping containers stacked 3 high.

The proponent has advised that the meet and greet facilities need to be located in close proximity to the pontoons for boat launching and for operational and safety reasons. They provide a sheltered place for customers to wait out of the way of forklifts and operations on the site while awaiting their boats to be transferred to the water. To minimise visual impacts the buildings have been:

- located as far north as possible on the site where they are less prominent as viewed from the city and Pyrmont, and where there is some existing foreshore vegetation which will partially screen the buildings from the north and east;
- designed to be lightweight in appearance and relatively small in scale; and
- incorporate butterfly room forms (the gatehouse) or curved roof forms (the meet and greet facilities) to provide visual interest and to complement nearby development (the Cruise Passenger Terminal has curved roof elements). Refer **Figures 7 and 8**.

Therefore, as viewed from the waterway and other foreshores, Planning and Infrastructure considers that the buildings will not result in any adverse visual impacts.



Figure 7: Meet and Greet Customer Facilities (source: Proponent's PPR)



Figure 8: Gate House / Office (source: Proponent's PPR)

As viewed from Grafton Street and nearby residential buildings in Balmain, the buildings will be visible. However, visual impacts are considered to be minor within the context of the expansive views enjoyed from these locations (Refer **Figure 9**). The impacts are also considered to be minor within the context of other built form elements and consistent with the character and port use of the site.

It is also noted that under State Environmental Planning Policy (Infrastructure) 2007, certain development on land in the area of a port managed by a port corporation may be carried out as complying development, including 'canteen, kiosk or amenity facilities' with a floor area up to 500m² and height up to 12 metres, or any other building of the same size, provided it is setback 12 metres from the boundary. The proposed development is therefore considered very modest in scale, and visual and view impacts are far less than compared to what might otherwise be provided on the site.



Figure 9: View from Grafton Street (base image source: Proponent's EA)

As previously discussed, an alternate configuration of the demountable style buildings would be adopted if Sydney Ports resumes the northern part of the site for a roadway and roundabout. In that case, the gatehouse and meet and greet facilities would be located slightly further south on the site. The meet and greet facilities would be in a more visible location as viewed from the harbour and foreshores to the east and south, but would have a reduced footprint. Overall, the visual impacts would be very similar to the preferred configuration and are therefore also considered acceptable. The issue of the roadway and building layouts may be resolved before construction commences, but if not, the lightweight demountable nature of the buildings means that it would be possible to change to the new layout if the northern part of the site is resumed at some point in the future. For that reason, a condition is recommended that the alternate layout be adopted if Sydney Ports resumes the land or constructs the roadway and turning facility.

Car parking

Concerns were raised that the car parking layout as originally proposed, with parking for 98 vehicles, many of which were located along the southern and eastern parts of the site, would be highly visible and would result in unacceptable visual impacts. Car parking is now limited to 42 vehicles and is proposed along the northern boundary, or in the alternate layout, in the central part of the site. The department considers that the car parking layouts as proposed are well located to minimise the extent of visual impacts.

Marine Structures

New floating pontoons up to 70m in length are proposed adjacent to the break wall. Due to their low profile on the water, their location adjacent to the break wall, and as they will not provide permanent mooring for boats, their visual impacts on the foreshore are considered to be minor and consistent with the character of the site.

5.3 Noise Impacts

Noise impacts were raised as a concern in the public submissions. Leichhardt Council also suggested that noise monitoring arrangements should be agreed with Council.

Condition A7 of the existing approval sets out approved hours of operations on the site. Condition F1 sets specific noise emission limits for the site as measured at 4 residential locations in the vicinity of the site. Condition F2 specifies how noise is to be measured. Condition F3 specifies that a noise compliance assessment must be undertaken within 3 months of commencement of operations and further reporting must be undertaken every 12 months.

The proponent has advised that the hours of operation of the dry boat storage facility would be the same as the existing approved hours of operation for all activities on the hardstand area, being 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and public holidays. It is noted that the proposal allows for boat users to return their boats after 6pm, but they would be left tied up to the wharf and transferred to the storage area the following day during normal operational hours.

An acoustic assessment was submitted with the modification request before it was amended (i.e. including 150 dry boat berths) and considered the noise impacts of the forklift associated with moving the boats between the storage areas and the harbour. The assessment demonstrated that the modified development would comply with the noise emission limits at the nearest residential receiver during day time hours as set out in Condition F1. The acoustic assessment did not consider noise impacts outside of day time hours (noise from customers returning to the site and cars associated with the dry boat storage leaving the site), however, Planning and Infrastructure considers that noise from these sources is likely to be infrequent and not dissimilar from the scope of activities already approved for evening and night time activities (for example recreational vessels already may arrive, depart, and moor between 5am and 10pm, and commercial vessels at any time of the day).

Further, it is also noted that Condition F1 also sets specific noise limits for the evening and night time periods. Given that all existing conditions in relation to noise emissions, measurement, and reporting will remain in place, it is considered that the approval provides sufficient safeguards to ensure the amenity of the surrounding area is maintained and protected.

5.4 Traffic and Access

Traffic modelling undertaken for the modification (as exhibited) was predicted to result in a substantial increase in daily traffic movements to and from the site (From 130 to 310 daily movements, and resulting in an increase of 27 vehicle movements during peak hour). The modification also proposed to change access arrangements to the site, to incorporate some access via James Craig Road and a new internal roadway, in addition to current access arrangements via Roberts Road (**Figure 10**).

In response to the exhibition of the modification application, a number of concerns were raised by Council and the public, regarding the traffic impacts of the proposal. Council raised concerns that existing problems at the intersections of Robert Street/Victoria Road and Robert Street/Mullens Street would be exacerbated by the proposal. Council also raised concerns that the traffic analysis did not take into account the effects of already approved development in the vicinity of the site. A submission made on behalf of a local business also raised concerns with the adequacy of the traffic assessment, particularly in relation to impacts on James Craig Road, and with regard to the assumptions used to derive peak hour trip generation rates. However, despite these concerns, RMS did not have any concerns regarding the traffic impacts of the proposal, although suggested that a Road Occupancy Licence (ROL) could be obtained for any activity likely to impact on the operational efficiency of the road network.

Whilst Planning and Infrastructure did not have any concerns about the peak hour trip generation rates used by the proponent's traffic engineer, a request was made to the proponent that it provide more information on the performance for all relevant intersections, including those on James Craig Drive, and consideration of traffic impacts in light of recently approved developments in the immediate vicinity (**Figure 10**).

In response, the PPR substantially reduced the number of dry berths proposed. Based on the reduced traffic movements and the deletion of access from James Craig Road, the proponent submits that it is not necessary to provide any additional traffic analysis. The proponent noted the following:

- The proposal results in only a very minor net increase in vehicle movements (a net increase of 4 vehicle movements a day to a total of 134 movements);
- A redistribution of movements throughout the day results in an additional 11 movements predicted during the peak period, however this figure is conservative and indicative of a worst case scenario. It equates to less than 0.2% of movements through the Roberts Street / Victoria Road intersection and less than 0.7% of movements during the Roberts / Mullens Streets intersections at peak hours;
- In relation to cumulative impacts of surrounding development:
 - The impacts of the traffic from the adjoining Cruise Terminal were considered in the traffic assessment;
 - Access and egress to the Super Yacht Marina is via James Craig Road and as this route is no longer part of the application, no further consideration of this development is warranted; and
 - Traffic associated with the new Exhibition Centre is mostly via James Craig Road, although does affect the Roberts Street route to the site outside of the am peak. On the basis of advice from the RMS, Planning and Infrastructure previously supported that application which results in a much greater number of vehicle movements in the surrounding area (116 during the PM peak) than the proposed modification does. RMS has not raised any concerns with the use of the Roberts Street route in this case.

Planning and Infrastructure agrees that the modification request (as amended) results in only a very minor increase in vehicle movements within the locality. Furthermore, it is noted that due to a change in the nature of activities on the site, there is also a change in the type of vehicles accessing the site. The proponent has found that since it has commenced operations, there is very limited demand for trucks accessing the site and, as such, the current traffic assessment predicts only 10 large truck movements per day (reduced from 70 under previous applications). Therefore, although the proposal results in a small increase in total daily vehicle movements, it results in a substantial reduction in large truck movements so that the actual effects on the local road network outside of peak hours would be materially *improved* as compared to impacts predicted in earlier approved applications.

During peak hours it is acknowledged that there would be a minor impact on nearby intersections and that the Roberts Street / Victoria Road intersection is already operating at or beyond capacity with very poor levels of service and that the Roberts / Mullens Street intersection is operating at or past capacity on certain approaches during peak hour. However, the predicted additional 11 vehicle movements which would account for significantly less than 1% of movements through these intersections during peak hours, is considered to be very minor, and does not warrant additional analysis, intersection upgrades or refusal of the application.

Planning and Infrastructure also notes the RMS's suggestion that a Road Occupancy Licence (ROL) be obtained for any activity likely to impact on the operational efficiency of the road network. Given the minor nature of the impacts and the fact that no works will occur outside of the site, Planning and Infrastructure considers that the application does not give rise to the need for a ROL.

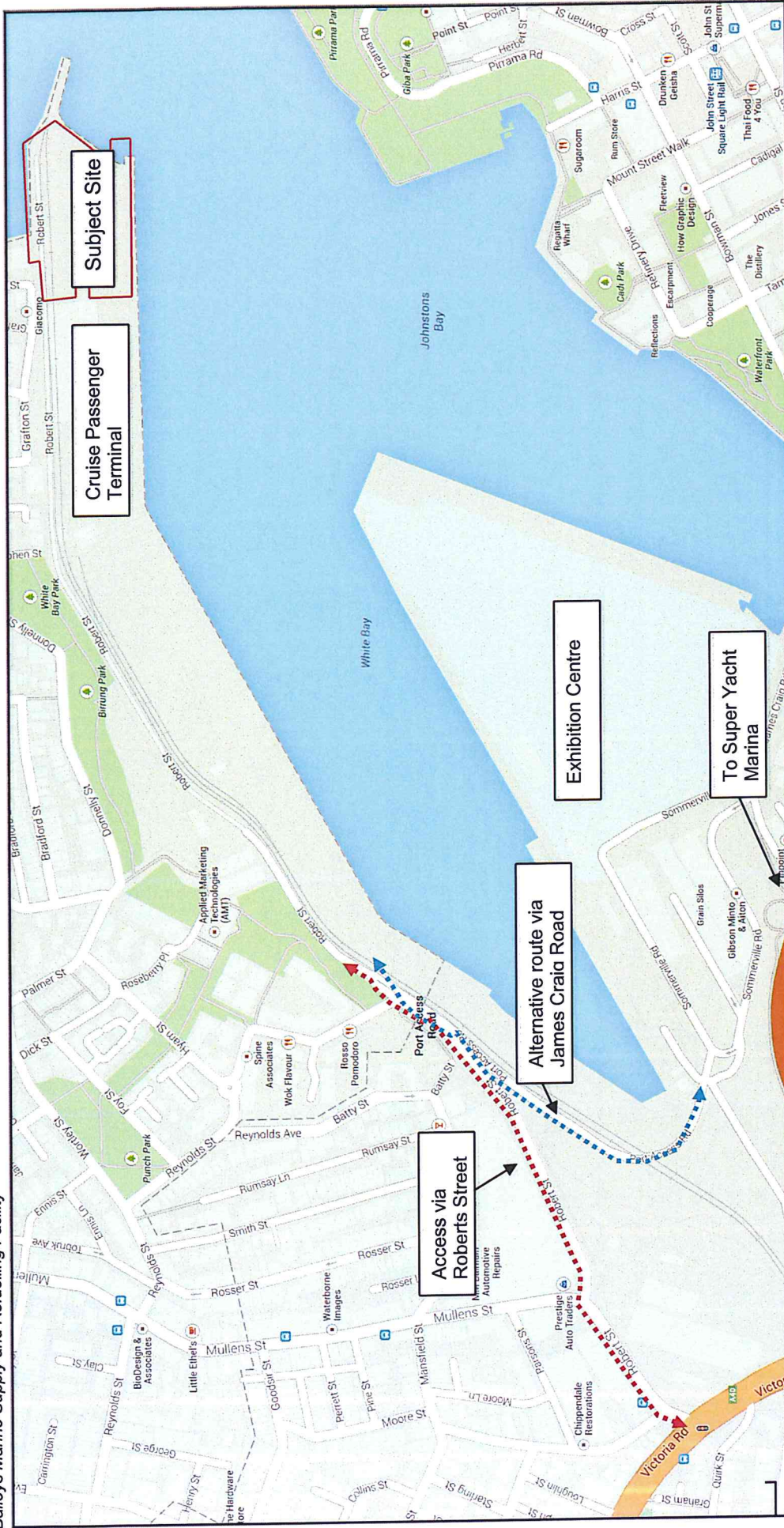


Figure 10: Site Location and Access Routes

5.5 Other Issues

Vessel Safety

RMS (Maritime) is responsible for issues of vessel safety in the harbour. The application, which included a revised Vessel Management Plan (VMP) for the site was referred to the RMS, which advised that it has no concerns with the proposed water based structures, or with the VMP. However, RMS has advised that it would appreciate the opportunity to comment on any documents to be provided to clients with regards to vessel movements. A condition to this effect has therefore been included in the recommendation. Relying on the advice from the RMS, Planning and Infrastructure is satisfied that the proposal will not result in any unacceptable impacts in terms of vessel safety.

Floating Pontoons

New floating pontoons are proposed for use in association with the dry boat storage. They will provide an area for the dry storage vessels to be launched and hauled for customers. They are not intended for use as a permanent mooring facility. However, where boats arrive back at the site after 6pm, they may be moored overnight and then hauled out for storage the following morning. The pontoons will be located parallel and adjacent to the break wall and will be up to 70 metres in length in total (refer to **Figures 5 and 6**). The pontoons will be fixed in place by pilings, although no details of the piling construction have been provided as part of the application. The application was referred to RMS (Maritime), which is responsible for structures within Sydney Harbour. RMS advised it has no concerns with the proposed water-based structures. Further, existing condition B2 requires that detailed plans of marine based structures be provided to, and approved by, the RMS prior to the issue of a construction certificate. It is recommended that the approved detailed plans also be submitted to Planning and Infrastructure to ensure there is a complete record of all approved plans for the site. Condition B2 has been modified accordingly. Construction impacts of the floating pontoons on water quality are discussed below.

Air and water quality and ecological issues

Two public submissions raised the issue of air quality, and one raised the issue of water quality impacts and associated ecological impacts. These issues are also matters for consideration under the Glebe Island and White Bay Masterplan, SREP 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan.

The application was referred to the NSW Office of Water (NOW) and to the EPA. The NOW advised it has no issues with the proposal and the EPA advised that the proposal can be managed by the existing conditions contained in Environmental Protection Licence for the site.

The modification of the project is not expected to materially change any previously identified air quality or water quality construction impacts. As such, Planning and Infrastructure is satisfied that that the management of water quality during construction is adequately addressed via existing conditions of approval.

In terms of impacts to marine ecology, it is noted that although the new floating pontoons would shade a portion of the sea floor, as per the previous ecological assessment undertaken as part of the original application, the sea bed in this location consists of soft silty sand and there are no mangroves, saltmarsh or seagrass that would be affected by the shading. This part of the seabed does not currently support extensive aquatic fauna habitats. Planning and Infrastructure is therefore satisfied that the proposal would not result in significant adverse impacts to aquatic ecology.

In terms of water quality impacts during construction of the pontoons and associated piling, existing condition D4 requires the provision of floating booms and silt curtains, which will ensure sediment is localised and the plumes are contained. Condition D5 requires this process to be monitored through water sampling during the construction process. In terms of ongoing water

quality associated with the use of the site, the proponent advises that the existing Environment Protection Licence (EPL) and existing management measures that are in place will continue to apply, including the use of a wash-down bay, catchment sump, containment bunds and spill response equipment. Hence, Planning and Infrastructure considers that the combination of the EPL, existing conditions of consent and management measures are adequate to mitigate water quality impacts during construction and use of the site.

In terms of air quality, Planning and Infrastructure is also satisfied that the proposed storage of boats in a building already approved for storage of marine related equipment (including boats) would result in no significant additional air quality impacts. Further, existing condition F10 provides that the proponent may not permit the emissions of offensive odours from the site.

Light spill

The issue of lighting was raised by Council and in two public submissions, and is a matter for consideration under the Glebe Island and White Bay Masterplan. The proponent advises that additional lighting would be limited to that associated with the meet and greet area, navigational lights and low lit lighting on the pontoons for safety purposes. Condition B11 of the approval requires that lighting comply with Australian Standard's AS4282-1997 'Control of the Obstructive Effects of Outdoor lighting' and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network. As such, Planning and Infrastructure is satisfied that light spill impacts arising from the proposed modification will be minimal and will be adequately managed by existing condition B11.

Contamination and Residential Use

The original project application was accompanied by Stage 1 and Stage 2 Environmental Site Investigations prepared by Coffey Environments Pty Ltd in March 2007 and August 2009 respectively. The reports concluded that the risks to users of the site from soil contamination was low and that the site was suitable for use as a marine refuelling facility.

The subject modification seeks to include caretaker's accommodation on the first floor of Building 1 and in accordance with clause 7 of State Environmental Planning Policy No 55—Remediation of Land, consideration has been given to whether the land is contaminated or suitable in its contaminated state for the proposed caretaker's accommodation.

The proponent's PPR includes a letter from Hayes Environmental Consulting who has advised that the level of contaminants found on the site in the previous investigations have been found to comply with EPA endorsed criteria for residential sites. Moreover, the site does not represent a significant hazard as the ground surface is mostly covered by a concrete hard stand area and there is very little potential for soil disturbance. On this basis, Hayes has concluded that the site is suitable for a residential use consistent with the provisions of SEPP 55. Planning and Infrastructure agrees with these findings.

Foreshore Access and Need for a new Master Plan

A number of submissions suggested that the proposal should not be considered until a new master plan is developed for the area and that public access should be provided to the site (potentially through a future master plan).

Planning and Infrastructure considers that these issues are not relevant to the current modification application as the recently completed Bays Precinct Taskforce Report notes that whilst there may be a need for a new master plan, the current master plan and EPLs continue to be valid for the purpose of development assessment.

There is also nothing so significant about the proposed modification that specifically gives rise to the need for provide public access to the site as part of this application. Foreshore access has never been proposed or envisaged for the site, and Planning and Infrastructure considers that if foreshore access was desired in the future, there is sufficient scope within the site layout to

permit foreshore access through future planning controls and / or changes to Sydney Port's security requirements.

6. CONCLUSION

Planning and Infrastructure considers that the proposed modification to permit a caretaker's residence and increase the number of boats for dry boat storage in conjunction with existing approved marine-related uses on the site is appropriate and will not result in any significant adverse impacts to the site or the locality.

The primary matter for consideration was the visual impacts of the additional proposed structures. In this regard, the proposed new buildings on the site were found to be modest in scale and would not result in unacceptable visual or view impacts.

An assessment of traffic impacts has demonstrated that the proposal will result in only a marginal impact to nearby intersections at peak hours and otherwise will result in an improvement to traffic conditions in the vicinity of the site as compared to previous traffic assessments. Traffic impacts are therefore considered acceptable, and the modified car parking arrangements can be adequately accommodated on site.

Consideration has also been given to a range of other issues including noise, safety, light spill, air and water quality, and contamination. Planning and Infrastructure is satisfied that the impacts arising from the modification request in this regard would be minimal and can be adequately managed through a combination of the management measures identified by the proponent, the EPL, existing conditions of approval and recommended conditions.

In view of the above, it is recommended that the modification request be approved, subject to conditions.

7. RECOMMENDATION

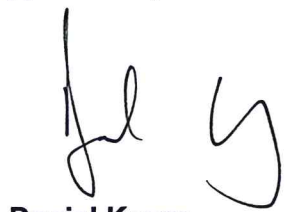
It is recommended that the Executive Director, Development Assessment Systems and Approvals, as delegate of the Minister for Planning and Infrastructure:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request, subject to conditions as set out in the attached Instrument of Modification; and
- (c) **sign** the attached modifying instrument (**Appendix D**).

Endorsed by:

 24/3/14

Cameron Sargent
Team Leader
Key Sites

 25/3/14

Daniel Keary
Director
Industry, Key Sites and Social Projects

 28.3.14

Chris Wilson
Executive Director
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