WHITE BAY 6 MARINE PARK

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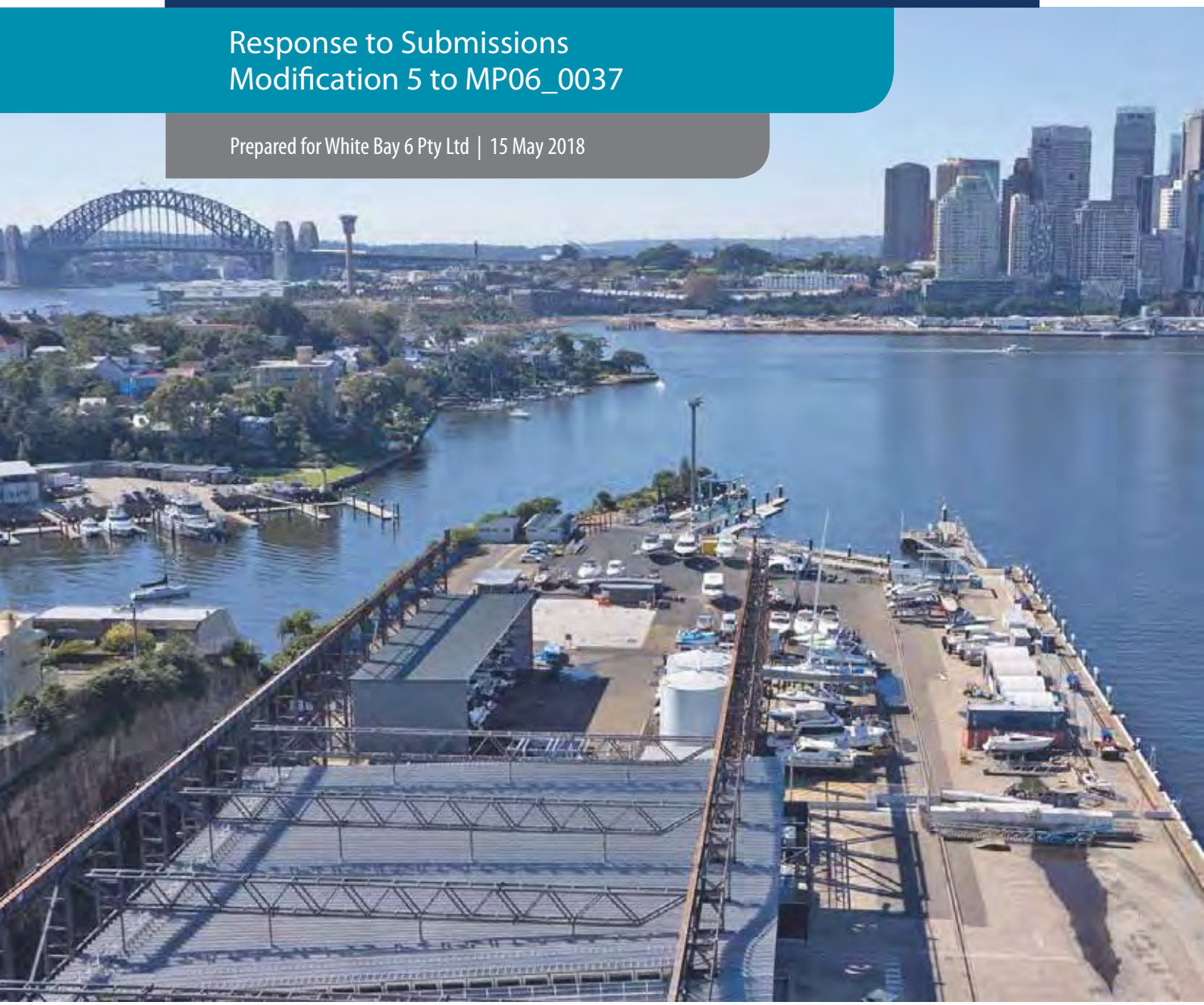
Response to Submissions
Modification 5 to MP06_0037

Prepared for White Bay 6 Pty Ltd | 15 May 2018



EMM

White Bay 6 Marine Park

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White Bay 6 Marine Park

Final

Report J13129RP2 | Prepared for White Bay 6 Marine Park | 15 May 2018

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Signature		Signature	
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1 Introduction

1.1 Background

White Bay 6 Marine Park (WB6) is an existing marine fuelling, supply and maintenance facility with indoor dry boat storage located on the northern foreshore of White Bay in Balmain, NSW (Site location at Figure 1.1).

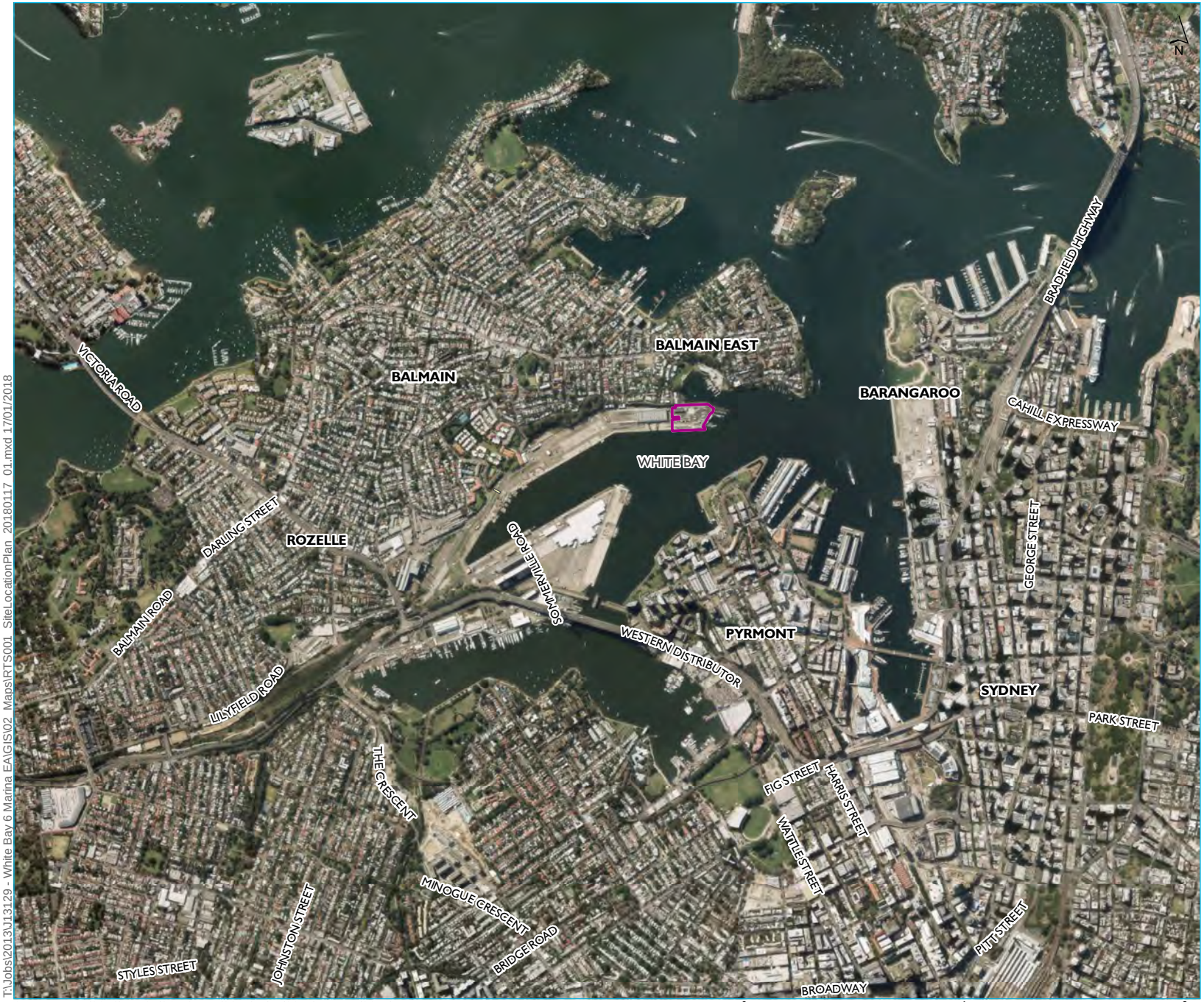
White Bay 6 Pty Ltd (the proponent) is seeking to modify major project approval MP06_0037 under Section 75W of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act) to provide enhanced workshop and employee facilities, all weather cover to support existing tenancies and approved activities, as well as permitting additional boat storage (the proposed modification).

The owners of the site are Port Authority of NSW (Port Authority) and the Roads and Maritime Services (RMS), which own the on-land and on-water portions of the site, respectively. The proponent has leased and successfully operated the site since 2009.

A modification application and accompanying environmental assessment (EA) was submitted to the NSW Department of Planning and Environment (DPE). The EA was publically exhibited for 30 days between 11 October and 9 November 2017.

This report summarises and responds to the submissions received during exhibition in accordance with the NSW Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) and as requested by DPE in its letter dated 17 November 2017.

The proponent acknowledges and thanks all stakeholders for taking the time to review the EA and submit a response.



KEY

The site

Site location plan

White Bay 6

Response to submissions

Figure 1.1

EMM

T:\Jobs\2013\J13129 - White Bay 6 Marina EA\GIS\02 Maps\RTS001 SiteLocationPlan 20180117 01.mxd 17/01/2018

Source: EMM (2018); DFSI (2017); LPI (2015); GA (2015); LPMA (2011)

0 1 2 km

GDA 1994 MGA Zone 56

1.2 Modification overview

The proposed modification would enable:

- the reorientation of the footprint of Building 1;
- two new purpose built workshops (Building 3 and Building 5);
- the extension of Building 2 to support additional undercover boat maintenance tenancies;
- boat storage for up to 126 boats on portable racks on the site's hardstand area;
- an extension to the main office (Building 4);
- a new floating 'finger' pontoon and pile attached to the existing marina;
- an increase in the number of car parking spaces from 45 to 81;
- identification signage;
- administrative changes to existing conditions of approval, comprising:
    - changes to the wording of Condition F19 Anti-fouling and Spray Painting in relation to the application of anti-foul;
    - changes to the wording of Condition A7 Hours of Operation to allow for an extension of hours; and
    - removal of Condition A4 Time Limit Approval.

The components of the proposed modification are shown on the proposed and revised alternative site plans (Appendix A).

It is noted that an alternative site plan is provided to accommodate the potential for the take back of a northern portion of the site, which could occur under the current lease agreements between the proponent and Port Authority. The alternative option comprises a reconfigured parking layout and the incorporation of the site's meet and greet facility and amenities within Building 1.

It is also noted that minor changes have been made to the Statement of Commitments presented in Chapter 6 of the EA, in response to submissions received. The revised Statement of Commitments is presented in Appendix B. As a result of a review of the submissions, this report also provides:

- details of measures that are and will be taken to mitigate air (Section 3.6.3) and water quality impacts (Section 0) related to anti-fouling activities;
- details on activities during extended hours (Section 3.6.5), which are now reduced, compared with those proposed in the EA; and
- an updated proposed site plan (alternative) with additional car park details (Section 3.6.6 and Appendix A).

1.3 Need for the project

The proposed modification primarily seeks to optimise the site for the future and incorporates dedicated zones for each of the activities undertaken on site, primarily refuelling, boat maintenance and storage.

The provision of workshop, office and employee amenity areas are proposed to improve condition both on the site and in the surrounding area.

Outdoor maintenance activities are currently permitted on site. By moving these activities into workshops where possible, employee conditions will be improved. Further, impacts, including visual and acoustic, will be reduced for the surrounding area. The workshops will not increase employee or customer traffic and are considered to be a positive outcome.

Additionally, the proposed modification will provide an essential supply of boat storage in a high demand region, particularly considering the expected future growth of the Sydney Harbour boating community.

A study completed in 2010 by the former NSW Maritime titled *NSW Boat Ownership and Storage: Growth Forecasts to 2026* (NSW Maritime, 2010) outlines the significant boat storage shortage that will be faced in the future if facilities do not cater for expected projections of growth in boat ownership in NSW. The subsequent *Maritime Policy Agenda* (Transport for NSW, 2012) identifies the need to 'encourage development of dry-stack storage facilities on Sydney Harbour.'

To meet the requirement of the *Maritime Policy Agenda*, the NSW Government prepared the *Sydney Harbour Boat Storage Strategy* (Transport for NSW, April 2013). This strategy sets a target for the provision of 1,000 to 1,200 new dry stack spaces on Sydney Harbour by 2021, but also notes that there are limited potential sites on the Harbour. The proposed modification will assist in meeting these targets by providing for an additional 126 outdoor boat storage berths on Sydney Harbour.

The need for dry boat storage is consistent with the operations on the site where there has been increasing demand for boat storage/maintenance, especially since the commencement of anti-fouling operations.

The *Sydney Harbour Boat Storage Strategy* also notes that the provision of dry-stack storage is likely to result in additional benefits including the reduced storage of boats on residential streets, which has become an increasing problem for communities living near the water and in coastal areas. In 2014 the NSW Government issued a media release committing to invest $5 million to build dedicated off street boat trailer parking facilities and bring in measures such as the introduction of a three month parking limit on local streets and the issuing of fines for unregistered boat trailers left on the street. In line with this policy, additional boat storage at the site will provide an opportunity to decrease the number of vessels stored on the street.

Growth in boat ownership has been predicted by the former NSW Maritime by modelling using previous increases in ownership and population growth predictions. Overall, boat growth in NSW is expected to rise to approximately 351,113 by 2026, which is an increase of 117,000 from ownership levels predicted for 2012. By 2026 Sydney Harbour is expected to boast a cumulative growth of 19% from current levels (AECOM 2013). In its report, the former NSW Maritime states that 'development of strategies for better integrated planning, management and satisfaction of demand are needed' including the need for 'identification of new sites and funding sources for moorings and other options such as dry stack storage for smaller boats such as dinghies.

In October 2017, the NSW Government published an Explanation of Intended Effect (EIE) for a proposed Environment SEPP. The proposed Environment SEPP will amalgamate and replace several existing SEPPs and deemed SEPPs, including the current *Sydney Regional Environmental Plan (Sydney Harbour Catchment)* 2005.

The EIE aims to:

> protect and enhance the distinctive foreshores and waterways of the Harbour by ensuring development decisions are consistent and address ecological sustainability, scenic quality, built form and design, maintenance of views, cultural heritage and public access, as well as the promotion of recreation and working harbour uses of the foreshores and waterways. The policy intent of the existing Harbour Regional Environmental Plan will continue.

As an expression of current Government policy, the EIE also notes that

> It is proposed to amend aim 1(d) of the Harbour Regional Environmental Plan to clarify that the 'working harbour' includes a range of recreational, transport, tourism and commercial uses. This reflects the changes to Sydney Harbour in recent years that has seen a shift away from traditional industrial and heavy shipping uses to a more modern working harbour. The provisions will continue to provide a framework that balances development for these uses against the values of the harbour as a public asset and the need for public access to the waterways and foreshores.

The proposed modification is consistent with the aims of the EIE.

1.4 Approvals process

The proponent is seeking to modify major project approval MP06_0037 under Section 75W of the EP&A Act.

A stakeholder engagement strategy, developed in consultation with Port Authority, was implemented during preparation of the EA that comprised consultation with relevant government agencies, special interest groups and the local community.

The EA was publically exhibited from 11 October to 9 November 2017.

DPE received 18 community, four special interest group and five government submissions. An analysis of submissions is provided in Chapter 2.

It is also noted that the RMS has approved a permission to lodge (PTL) request on 10 May 2018 based on a review of the EA. The RMS PTL, included at Appendix C, raised no issues with the EA.

This RTS has been reviewed by Port Authority prior to submission to DPE, as requested by Port Authority. Separate PTL for lodgement of this RTS has been provided and is included at Appendix C. RMS did not request a review, but provided feedback regarding navigational safety, as discussed in Section 3.6.7.

The determining authority for the proposed modification is the NSW Minister for Planning. Following receipt of this report, DPE will prepare its Assessment Report and draft conditions, if approval is recommended.

2 Submission analysis

2.1 Submissions received

During public exhibition of the EA submissions were received from:

- 18 community members;
- four special interest groups; namely, Oz Jet Boating, Hones Lawyers acting on behalf of Rozelle Bay Pty Ltd, B Marine Pty Limited and Collins Marine; and
- five government entities, comprising:
    - Inner West Council;
    - Department of Industry;
    - Environment Protection Authority;
    - Office of Environment and Heritage; and
    - Transport for NSW.

All submissions are available on DPE's website:

http://www.majorprojects.planning.nsw.gov.au/page/development-categories/tourism---recreation/marina-facilities/?action=view_job&job_id=7712

In its letter dated 11 November 2017, DPE requested that the proponent address the matters raised in the submissions by the 31 January 2018 and provided a number of additional matters to be addressed. This was later extended to 16 February 2018 in order to incorporate feedback from relevant stakeholders.

2.2 Analysis of pubic submissions

A copy of submissions is provided at Appendix D.

Of the 18 submissions from the community, seven (39%) were in support of the proposed modification and ten (61%) objected to the proposed modification. Seven of the ten objecting submissions reference the same apartment block at 1 – 13 Grafton Street, Balmain.

Of the four submissions from special interest groups, three (75%) were in support of the proposed modification, and one (25%) objected to the proposed modification.

Matters most commonly raised in objecting submissions were noise, hours of operation and potential conflicts with the character of the area.

Matters most commonly raised in supporting submissions are provided in Chapter 4.

Matters raised by individuals and special interest groups are addressed collectively, rather than individually.

2.3 Analysis of government submissions

Submissions from Inner West Council and four government agencies were received on the proposed modification. These submissions are summarised and addressed in Chapter 3.

Table 2.1 provides an overview of the outcomes of these submissions. No government entities objected to the proposed modification, only providing requests for clarification and additional information.

Table 2.1 Outcome of government submissions

Name	Outcome
Inner West Council	No objection. Matters raised are addressed in Chapter 3
Department of Industry	No objection. Recommendations provided
Environment Protection Authority	No objection
Office of Environment and Heritage (Heritage Division)	No objection. Matters raised are addressed in Chapter 3
Transport for NSW	No objection. Matters raised are addressed in Chapter 3

3 Government submissions

3.1 Inner West Council

The Inner West Council (IWC) submission, dated 13 November 2017, discussed a number of subject areas with clarification requested. These matters and requests are summarised below.

3.1.1 Noise monitoring

In its submission, IWC states:

> The reduction in dry boat storage, boat movements, car parking and general intensification of use of the site by the Department as part of Mod 4 was used by the proponent as justification for no ongoing assessment or monitoring of environmental / amenity impacts as follows.
>
> "In light of fewer vessels an utilisation of noise management on site, ongoing assessment and monitoring of operational noise is not considered necessary."
>
> The proposed intensification of use similar to the original Mod 4 proposal means this position is no longer justified and Council requests ongoing monitoring mechanisms be put in place to enable enforcement of conditions of consent should it be required.
>
> The proposed increases to operating hours are opposed by Council, both the increases in commercial operations and the 24/7 recreational operations, and emphasise the need for ongoing monitoring of amenity impacts onsite.

Acoustic impacts are discussed in Section 5.4 of the EA. As noted in the EA, annual compliance noise monitoring is undertaken. This is outlined in Conditions F1, F2 and F3 of the current consent. As this is an existing activity, it is expected that the requirement would continue into the future and was not considered as a commitment specific to the proposed modification.

Potential noise impacts beyond monitoring are discussed in Section 3.6.5.

3.1.2 Navigation, safety and marine traffic

In its submission, IWC states:

> The current modification aims to construct a new floating finger pontoon and pile attached to the existing marina and increase the number of boats onsite to 126, up from 50 in the existing consent, an increase of 252%. The potential impact of this change on the public waterway is then assessed to be minimal. In 2013 the increase proposed as part of the previous modification was also assessed as minimal. This contradiction is included throughout the material provided as part of the modification request. This assessment is also inconsistent with the proponent's and Department's 2013 assessment of Mod 4, which stated that a reduction in the number of proposed dry boat storage spaces from 150 to 50 would see a subsequent reduction in intensification of land use to mitigate potential detrimental impacts on the Bays and adjacent residential properties.

Marine traffic impacts are discussed in Section 5.3 of the EA, including cumulative impacts with Sydney Boat House's boat capacity of 750. Further, the impacts are measured against NSW Maritime's 2020 forecasts for recreational boats owned in Sydney Harbour, being 20,162 vessels.

This cumulative assessment is the most appropriate way to determine the potential impacts of the proposed modification given the proximity of the site and SHB and the larger catchment.

The EA details the expected absolute movements (eg exiting and re-entering) at 32-48 during a weekend and 60-100 during a public holiday. This is a minimal contribution to marine traffic on its own, and when compared to SHB, and negligible when compared to overall Sydney Harbour boat ownership. As such, the EA's concludes that the proposed modification's contribution to marine traffic is minimal is not contradictory to assessments of Mod 4's similar minimal impacts.

Navigational safety and vessel management is discussed further in Section 5.3.

3.1.3 Public access

In its submission, IWC stated:

> Public access to the Sydney Harbour foreshore and increasing access are stated objectives for both Council and the NSW government.
>
> The proposed modification needs to be amended to detail how this access is to be provided and managed to ensure operations of the facility are not compromised and public safety is ensured.

The site is an operational facility with heavy machinery operating across the site. Further, the site is owned by Port Authority, limiting the proponent's ability to introduce public access.

In addition the neighbouring sites present substantial impediments to enabling pedestrian access. To the west is the White Bay Cruise Terminal, a secure site with controlled access. To the north is 1 Grafton Street, a private apartment building with private foreshore access.

As such, direct and through public access is not considered to be practical or beneficial.

3.1.4 Visual impacts

In its submission, IWC stated:

> All proposed structures on-site are to be low rise and potential visual impacts from the waterway and surrounding residential and public recreation areas minimised and mitigated.
>
> Mod 4 saw the removal of two proposed large buildings to reduce visual impacts. The proposed modification be amended to detail how these impacts are to be reduced.

Height controls are discussed in EA Section 3.5.1ii and visual impacts are discussed in EA Section 5.6 and Table 3.2. As noted in EA Section 3.5.1ii, the two tallest buildings (Building 1 and Building 2) are under the relevant height controls. Building 4 and Building 5 are in a zero metre height area. However, these at low rise (2.8 m and 3.2 m, respectively), as justified by the EA. Building 5 is discussed further in Section 3.6.9.

Visual impacts are measured against Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (DCP) and found to be compliant with the relevant controls. The visual assessment identifies lower overall impacts for the modified Building 1 and minor impacts for the extension to Building 2 when compared to the approved project (further detailed in Section 5.9). As such, it meets the test applied to Mod 4, which, as noted by IWC was reduced in scope, in part due to reduced visual impacts.

A comparison of visual impacts between the original application and the proposed modification is provided at Section 5.9.

3.2 Department of Industry

In its submission dated 9 November 2017, the DPI raised a number of matters. These matters are listed below, followed by a response to each matter:

- The proponent should provide details on the proposed maximum depth of all excavations required for the project.

On-land excavation is not proposed as part of the proposed modification. The existing hard stand is sufficient for the required construction works.

- The proponent should ensure all works are carried out in accordance with the Guidelines for Controlled Activities on Waterfront Land (2012).

Water quality impacts associated with construction were assessed as part of the original application and subsequent applications. Potential water quality impacts were addressed at Section 5.7 of the EA.

The existing conditions of approval include conditions directly addressing water quality, including:

- **B6: Erosion and Sediment Control**: Requires a Water and Sediment Control Plan be prepared, including procedures to prevent run-off from the site onto the public way, collection and treatment of stormwater and waste water, regular inspection of erosion and sediment controls during construction, and location of stockpiles away from locations that could lead to discharge of materials into the stormwater system.

- **D3 Erosion and Sediment Control:** Requires construction to be carried out in a manner than minimised the potential for materials, including construction and demolition debris, sediments and other pollutants to entering the Bay and waterway. In the event that material enters the Bay and waterway, it must be removed immediately.

- **D4 Floating Booms and Silt Curtains:** Requires a floating boom and silt curtain to be installed and maintained around construction areas until water quality inside the curtain and the Bay are equal.

- **D5 Water Sampling:** Requires that water sampling during construction targeting total suspended solids within 1 metre of the outside of the curtain.

As such, construction works will be undertaken in accordance with the existing consent conditions, which are consistent with relevant guidelines, including *Guidelines for Controlled Activities on Waterfront Land*, and the requirements of the *Water Management Act 2000*.

- The proponent should ensure measures are employed during construction to minimise any disturbance to the nearby algal communities adjacent to the seawall, in accordance with Policy and guidelines for fish habitat conservation and management (2013).

Policy and guidelines for fish habitat conservation and management (2013) discussion of construction impacts on algal communities primarily relates to water pollution, with management measures including establishment of buffer zones, effective management and minimisation of discharges and forbidding unnecessary and significant pollution of waters.

Impacts on the nearby algal communities are addressed in the Section 5.1 of the aquatic ecology assessment attached to the EA, with operational and construction mitigation measures outlined in Section 4. Generation of water and water pollution is addressed at Section 4.2, with direct damage addressed at Section 4.3 of that report.

Mitigation measures with respect to potential impacts to aquatic ecology are listed at Chapter 6 of the EA and repeated at Appendix B. These mitigation measures have been informed by the findings of the aquatic ecology assessment.

These mitigation measures will minimise any disturbance to the nearby algal communities adjacent to the seawall.

3.3 Environment Protection Authority

In its submission dated 9 November 2017, the EPA confirmed that the site is operating under Environmental Protection Licence (EPL) 20144 and that the EPL would not be required to be varied if the current activity is modified in accordance with the application. The EPL is attached at Appendix E.

For reference, the EPL applies to the entirety of White Bay, Berth 6 and allows the for the scheduled activity of 'Marinas and Boat Repairs' and the fee based activity of 'Boat construction/maintenance (general)' with a scale of any handling capacity.

The EPA's comments with regard to the EPL are noted.

3.4 Office of Environment and Heritage

In its submission dated 9 November 2017, the Office and Environment and Heritage provided the following comments, with responses provided:

- The EA notes that there are no listed heritage items located within the subject site and identifies an existing metal gantry on site that is of some heritage significance. It is noted the gantry will be retained and protected during the construction phase of the project which will have a positive impact.

Noted.

- Although the subject site is not within the curtilage of any State Heritage Register (SHR) listed item or historic archaeology, it is located near the SHR items White Bay Power Station (SHR No 01015) and Glebe Island Bridge (SHR No 01914), which are important landmarks in the area. These items are, however, located well over a kilometre away from the site and the proposed modifications will have no major adverse impact on the views to and from these items. No objection is, therefore, raised on the modified proposal.

Noted.

- It is noted that the EA does not provide adequate heritage assessment of the proposal and does not address impacts of the modified development on places of heritage significance near the SSD site. It is recommended that any future modification proposal should be supported by an EA which gives due consideration, to potential visual impacts on nearby heritage items.

Potential heritage impacts were considered in Table 5.6 of the EA, with included a review of the following heritage registers:

- Leichhardt LEP 2013;
- Sydney Regional Environmental Plan No.26 - City West;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- NSW State Heritage Inventory;
- Newcastle Port Corporation (trading as Port Authority of NSW);
- Sydney Harbour Foreshore Authority; and
- Ports Authority Heritage and Conservation Area Register (Section 170 of the *NSW Heritage Act 1977*).

No heritage items were identified on the site and the item of potential heritage significance was to be protected via an appropriate mitigation measure. Further, visual impacts are considered in Section 5.6 of the EA, including possible impacts on heritage items. However, it is agreed that future modifications could provide additional information on surrounding heritage items.

- The proposed works include the construction of a new floating finger pontoon and pile attached to the existing Marina. The sinking of this new pile will have a direct impact on the seafloor. However, the EA does not assess the impact of the new pile on potential shipwrecks or submerged maritime heritage sites within the study area. A desktop assessment was undertaken including the review of relevant heritage registers, however, the NSW Maritime Heritage Database does not appear to have been searched. It is recommended that any future modification proposal involving impacts to the seafloor should be supported by an EA which addresses impact to potential maritime heritage sites including a search of the maritime heritage database.

The EA was informed by a review of the registers noted above, which did not include a review of the NSW Maritime Heritage Database (MHD), based on the outcomes of previous assessments of the site.

The MHD was reviewed on 15 December 2017 for shipwrecks, aircrafts and maritime heritage sites between Mort Bay (-33.85406, 151.18664) and Tumbalong (-33.87247, 151.20087). This area was chosen as it includes the site and the waters leading to Sydney Harbour. The review did not identify any shipwrecks, aircrafts or maritime heritage sites.

The MHD was also searched for the key words of 'White Bay', 'Johnstons Bay', 'Jones Bay', 'Darling Harbour', 'Balmain', 'Mort Bay', 'Blackwattle Bay' and 'Waterview Bay', 'Blackwattle Bay' and 'Rozelle Bay' Extracts from the searches for vessels sunk in these areas are provided below.

- The 23 ton vessel *Erina* sank on the 4th of July 1911 at Long Wharf, White Bay, Sydney Harbour and was later refloated.
- The 38 ton lighter *Grower's Friend* was transporting fruit when she collided with the Lady Northcote, between ASNC and NCSNC Wharves in Darling Harbour, on the 14th of July 1910, but was refloated.

- On the 4th of June 1899 the boiler of the wooden 16 ton screw steamer *Omeo* exploded at its wharf in Bathurst St., Darling Harbour in Sydney Harbour.
- The wooden lighter *Orphan Girl* collided with the *Southern Cross* in Darling Harbour on the 20th of January 1880, on a trip from Pennant Hills to Darling Harbour carrying 40 tons of blue metal.
- A screw steamer, the *Sterling* wrecked in collision on the 16th of August 1919 in Federal Wharf, Darling Harbour, Sydney Harbour.
- The *Arabian* was a fully rigged ship that, in 1857, was hulked and scuttled as the base of a wharf in Waterview Bay, Balmain in Sydney Harbour.
- The launch *Claude*, owned by the Adelaide SS Company, collided with the *Newcastle* in Waterview Bay, Balmain (Sydney Harbour). The *White Heather* also sank in collision with the Newcastle.
- Built in 1886 by James Lynch in Waterview Bay, Balmain, Sydney Harbour *Daphne* was registered in Sydney. Powered by a compound engine, the wooden screw steamer was owned by the Balmain New Ferry Co Ltd. On the 9th of June 1916 the ferry was destroyed by a fire and wrecked on Waterview Bay, Balmain, Sydney Harbour.
- Built in 1816 in County of Surry, United Kingdom, the wooden barquentine *Jane* was wrecked at Balmain, Sydney Harbour, in 1866.
- On the 9th of June 1916 the *Leichhardt* was destroyed by a fire at Waterview Bay, Balmain, Sydney Harbour, but had no passengers on board.
- In June, 1952, off Peacock Point at Balmain East, *Protex* sank after colliding with the ferry, *Provide*, which hit her amidships. Both vessels were the property of Nicholson Bros. of Balmain. After being lifted, she received major repairs to her port side.
- On the 8th of November 1908, the *White Heather* collided with the Newcastle in Mort's Dock, Waterview Bay, Sydney Harbour and sank - but was later raised.
- First boom defence vessel, 'Net' class, built by Cockatoo Island Dock Yard. Sold for scrap in 1967. Partly broken up in Rozelle Bay. Stern section sank while being towed to sea.

No vessels or other maritime heritage items were identified in proximity to the site. Further, the Aquatic Ecology report surveyed the seafloor, with photos provided, and did not note evidence of shipwrecks. As such, the potential the pile impacting shipwrecks or maritime heritage items is low.

3.5 Transport for NSW

In its submission dated 13 November 2017, Transport for NSW provided the following comments:

- The methodology adopted for the traffic analysis between "Cruise Ship Visiting" and "No Cruise Ship Visiting" does not provide an appropriate comparison between the two scenarios. Two separate surveys at different points of time were conducted at the relevant local/regional road intersections. These intersections which would generally experience variations in traffic flows on a day-to-day basis due to external factors.

- A more suitable assessment approach would be to undertake a survey of traffic directly generated between “Cruise Ship Visiting” and “No Cruise Ship Visiting”. That is, traffic surveys at the relevant terminal access points within White Bay with no (or minimal) external traffic flows.

- Subsequently, the assessment would compare the two scenarios against existing intersection traffic flows for a single peak period (which would thereby remove the variability in day-to-day traffic flows) with and without the traffic generated by the cruise ship terminal.

As discussed in Section 3.1 of the EA’s Traffic Impact Assessment (TIA), traffic related to the cruise ship terminal is not permitted on Robert Street on cruise ship days. Instead, cruise ship related traffic is diverted to James Craig Road, as shown in Figure 1.1 of the TIA. The only exception to this is heavy vehicles, which are still permitted to access the cruise ship terminal via Robert Street. Further, non-cruise ship related traffic may enter the terminal area either through James Craig Road or Roberts Street during a cruise ship day.

During non-cruise ship days (ie day-to-day), James Craig Road is closed to through traffic.

As such, the traffic at the intersection of Robert Street and Victoria Road during a cruise ship day would be equal to or less than that on non-cruise ship days. This is supported by Table 4.1 of the TIA.

An addendum to the traffic report (addendum TIA) has been prepared, analysing the effects of traffic during a cruise ship day, as measured on 14 December 2017, from 6 am to 6 pm (Appendix F, Section 2.3). This is specific to the primary access to the terminal access at the intersection of James Craig Road and Robert Street. Results are compared to logging undertaken at the site during the same time period in order to determine traffic relevant to the cruise ship terminal.

It is assumed that all traffic movements associated with the site would be associated with traffic to and from Robert Street, as Robert Street is the standard day-to-day access to the site and the most direct access. Further, it is assumed that the remaining traffic movements are associated with a cruise ship, given that it is the primary attractor at the terminal. While a facility at berth 2 was operating during this time, it was not practical to separate it and combining it with cruise ship associate traffic allows for a more conservative ‘worst case’ scenario.

A summary of the existing WB6 site operations and the Cruise Ship Terminal traffic surveyed is shown in Table 3.1.

Table 3.1 Summary of existing site operations and Cruise Ship Terminal traffic

Survey Period	Direction of Traffic Movement	Cruise Terminal traffic via James Craig Drive	Cruise Terminal traffic via Robert Street	White Bay 6 site traffic	Total combined traffic visiting both sites
Full twelve hour period 6 am – 6 pm	In	1,313	275	83	1,671
	Out	1,347	255	66	1,668
	Combined	2,660	530	149	3,339
External morning peak hour 7.15 am – 8.15 am	In	138	30	14	182
	Out	70	14	0	84
	Combined	208	44	14	266

Table 3.1 Summary of existing site operations and Cruise Ship Terminal traffic

Survey Period	Direction of Traffic Movement	Cruise Terminal traffic via James Craig Drive	Cruise Terminal traffic via Robert Street	White Bay 6 site traffic	Total combined traffic visiting both sites
External afternoon peak hour 4.15 pm – 5.15 pm	In	0	4	1	5
	Out	6	26	7	39
	Combined	6	30	8	44

For the twelve hour survey period, the total observed traffic which visited both sites (excluding the traffic which turned around at the gate house) was a total of 3,339 vehicle movements of which approximately:

- 2,660 vehicles (79.6%) was cruise terminal traffic travelling via James Craig Road;
- 530 vehicles (15.9%) was cruise terminal traffic travelling via Robert Street; and
- 149 vehicles (4.5%) was the White Bay 6 site traffic travelling via Robert Street.

During the external road network (Victoria Road) morning and afternoon commuter peak hour traffic periods, the total observed traffic movements were much lower and consisted of the following site traffic generation movements during the morning peak hour, 7.15 – 8.15 am:

- 208 vehicles (78.2%) was cruise terminal traffic travelling via James Craig Road;
- 44 vehicles (16.5%) was cruise terminal traffic travelling via Robert Street; and
- 14 vehicles (5.3%) was the White Bay 6 site traffic travelling via Robert Street.

The following was observed during the afternoon peak hour, 4.15 – 5.15 pm:

- 6 vehicles (14 %) was cruise terminal traffic travelling via James Craig Road;
- 30 vehicles (68 %) was cruise terminal traffic travelling via Robert Street; and
- 8 vehicles (18 %) was the White Bay 6 site traffic travelling via Robert Street.

Overall, during the full twelve hour traffic survey period which was considered in Table 3.1, the White Bay 6 site traffic generally represents about 5% of the total White Bay locality traffic on a Cruise Ship day and the remaining 95% of the locality traffic, which is visiting the Cruise Ship Terminal, travels approximately 80% via James Craig Road and approximately 15% via Robert Street.

The EA's TIA noted Robert Street traffic movements at the Robert Street/Victoria Avenue intersection to be 1,752 movements during the 7.15 am to 8.15 am peak and 1,818 movements during the 4.15 pm to 5.15 pm peak. Conversely, there were a total 58 (3%) and 38 (2%) traffic movements that would affect Robert Street associated with the terminal, including the site, during those times, respectively.

Given this, the contribution to traffic at Robert Street and the Robert Street/Victoria Road intersection from a 'cruise ship day' is not significant and does not warrant additional study, beyond that completed as part of this RTS.

3.6 Department of Planning and Environment

The Department of Planning and Environment provided a request for response to submissions (RTS Request) dated 17 November 2017 (Appendix G). The RTS request included a number of subjects to be considered as part of an RTS).

3.6.1 Statutory context

i Section 75W

The following matters were raised in the RTS Request under the Statutory Context heading:

- Demonstrate how the proposed modification application can be considered within the scope of section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act).

This matter is discussed in Section 5.1 and Appendix L.

ii Condition A4

- Demonstrate how the proposed deletion of Condition A4 which places a time-limited approval on the development to 31 December 2020, can be achieved using section 75W of the EP&A Act noting the Court's decision in Billinudgel Property Pty Ltd v Minister for Planning [2016] NSWLEC 139.

a. Current time limited approval condition

Condition A4, sought by Modification 5 to be deleted, reads as follows:

> **A4 Time limited approval**
>
> This Approval expires on 31 December 2020

This condition was previously modified as part of MP06_0037 (Mod 2). The application for Mod 2 sought to replace the previous condition that related to a lease renewal to a time limited approval. The Director General's report for Mod 2 noted that future uses of the Bays Precinct were the subject of on-going consideration. Specifically, it is noted that the time limited approval is not a matter of a 'trial period' but more related to possible future policy changes.

b. Original lease renewal condition

The original Condition A4 read as follows:

> **A4 Lease Renewal**
>
> Prior to renewing any lease arrangements for the continuation of the use, the Proponent shall consult with the Director General, and the Proponent is to demonstrate that:
>
> (a) The environmental amenity performance of the development are consistent with the condition of this approval; and
>
> (b) The use of the site and the operation of the facility is consistent with planning controls applicable at the time.

The 2009 Director General's report for the original application gives further insight into the reasoning for this condition. The report noted that the proposed modification was considered to be consistent with relevant zoning and master plan controls, but that the long term strategic vision for the Bays Precinct was expected to be the subject of future review. As such, the lease end date of 2020 was recommended as the end date for a time limited approval. It is also noted that while the report describes the facility as an interim facility, with buildings and infrastructure being able to be removed at minimal cost, at no point is the consent described as a 'trial'. Instead, it is recognised that the proposed modification falls within the planning controls of the day, with the support of the working harbour considered to be in the public interest.

The origin of the time limitation appears to be the establishment of the Bays Precinct Taskforce in 2009 the IHAP panel that assessed the project noted that submissions stated that the master plan would be made redundant by the Taskforce. However, the panel found that the application was consistent with the master plan and SREP 26 and that a review validity of the master plan was not within the panel's terms of reference.

However, the Department considered the inclusion of the Lease Renewal condition as a way of ensuring that the facility was consistent with a potential future master plan. The condition did not require a second application, only consultation with the Director General to demonstrate that environmental impacts were in line with the assessment (ie an audit) and that the planning controls-of-the-day continued to support the site.

c. Comparison with Billinudgel decision

The Billinudgel decision (*Billinudgel Property Pty Ltd v Minister for Planning [2016] NSWLEC 139*) is based on a number of specific aspects of the case. These aspects are outlined in Table 3.2, with differences for MP06_0037 detailed.

Table 3.2 Comparison of Billinudgel and White Bay 6 contexts

Billinudgel	White Bay 6 original approval
Condition C1 specifically required a future application to be made under Part 4 of the EP&A Act, with a number of specific studies to be undertaken.	Condition A4 only required consultation and demonstration to the satisfaction of the Director General, not a new formal assessment.
Condition C1 was originally required by the PAC due to concerns with the operational an environmental management plans may not be effective.	Condition A4 was made by the Director General in response to potential future policy changes, not shortfalls with the application.
Condition B2 specifically notes a trial period for uses, with C1 requiring an assessment of the performance of the trial events.	Condition A4 requires a performance check that is similar to an audit and a review of policy changes.
Condition C1 was an essential part of the approval and removing it would change the nature of the approval.	Condition A4 is designed to be 'turned off' at the time of a lease renewal and serves as a checkpoint test to ensure that it continues to be consistent with relevant policy.
Condition C1 had not been modified before.	Condition A4 has since been modified from a general time period for review to be more specifically time based.

Notes: Adapted from Billinudgel Property Pty Ltd v Minister for Planning [2016] NSWLEC 139, Director General's Environmental Assessment Report for MP09_0028 and Director General's Environmental Assessment Report for MP06_0037.

The applications to remove Condition C1 from the Billinudgel approval and to remove Condition A4 of the White Bay 6 approval are significantly different in their circumstances and nature. Condition A4 was not originally intended as an end date on the approval, only as a checkpoint at a future date to ensure that the project continued to be supported by the policy of the day. As such, removal of the condition, regardless of the now modified time-limited wording of the condition, would not be changing the nature of how the approval operates, as discussed in the Billinudgel judgement.

Removal of Condition A4 is further supported by EA Sections 3.4 and 3.5, which discuss the proposed modification's relation to relevant planning instruments and policy documents. As supported by those sections, the proposed modification, and the original application itself, continue to be consistent with the objectives, principles and provisions of the relevant planning instruments a policy documents. This includes SREP 26, which provides planning principles and development controls for the Bays Precinct, including the White Bay Area and the *Glebe Island White Bay Master Plan 2000*, the relevant master plan for the area.

As noted above, the reasoning for inclusion of the original A4 Lease Renewal condition was to ensure that the project remained consistent with future land use policy for the Bays Precinct. Nine years have passed since the original approval was granted. In that time, SREP 26 and the master plan's vision for the site have remained constant.

As such, the intent of the original A4 Lease Renewal condition, to allow the Director General to assess the original approval against current planning controls, can be satisfied by the assessments undertaken as part of the EA and this RTS. Therefore, removal of the condition would not change the nature of the approval, if the Director General is satisfied that current controls can be met.

3.6.2 Operational management

The following matters were raised in the RTS Request under the Operational Management heading:

- In conjunction with the below items, please provide an general outline of the need for the proposed intensification of the site associated with the increased storage of 50 to 176 boats and the proposed extension of operating hours for recreational vessels to 24-hours-a-day, 7-days-a-week (up from 5 am to 10 pm currently).

This is discussed in Section 5.2.

- Provide an updated Operational Management Plan and Vessel Management Plan, having regard to the proposed changes outlined in the modification application.

A draft Operational Environmental Management Plan (OEMP) and draft Marine Traffic Management Plan (MTMP) are provided at Appendix H and J. The draft MTMP is discussed further at Section 5.3.

The draft plans have been updated based on the proposed modification and have been reviewed by Port Authority, with the MTMP reviewed by the Harbour Master. It is noted that the draft plans are 'live' documents and will undergo further updates based on future conditions of consent and during the lifespan of the facility.

As shown by the documentation, the proponent regularly updates relevant documentation with the involvement of relevant stakeholders and regulators.

3.6.3 Air quality

The following matter was raised in the RTS Request under the Air Quality heading:

- Provide an air quality impact assessment with specific consideration to the proposed antifouling activities and the intensification of the use of the site and outline proposed mitigation and management measures.

Air quality impacts during construction and operation are addressed in Table 5.6 of the EA. Potential air quality impact origins and responses/mitigations are provided below:

Table 3.3 Air quality impact origins and mitigations

Origin	
Construction of new building is associated with air quality impacts due to particulate matter and dust deposition.	Construction of Buildings 1 and 2 were assessed as part of the original application.
Operation of sewerage transfer.	Sewerage transfer was assessed as part of the original application and deemed to be adequately addressed by transferring sewerage directly into the main sewer line via a pump out system with a closed vacuum link. The proposed modification will not increase sewerage transfer, and no changes are proposed.
Operation of fuel transfer facilities.	Fuel transfer was assessed as part of the original application and deemed to be adequately addressed by vapour check valves and locking caps at the unloading point. The proposed modification will not increase refuelling operations and no changes are proposed.
Motor vehicle traffic	Additional traffic movements are discussed in EA TIA Section 3.2, with the addendum TIA at Appendix F discussing traffic impacts. The original application had the potential for approximately 130 daily traffic movements. The currently approved operations have the potential for approximately 134 daily traffic movements. The proposed modification has the potential for 344 daily traffic movements. As such, the proposed modification may result in between 200 and 210 additional traffic movements. It is noted that this traffic is exclusively light vehicles, with no additional heavy vehicle (eg fuel deliveries) traffic expected. This is the equivalent of approximately one additional vehicle every three minutes (or a total of one vehicle every two minutes).
Plant and equipment	Air quality impacts of plant and equipment were considered as part of the original project EA and Mod 4. It has previously been determined that air quality impacts associated with refuelling, sewerage, repair and dry boat storage would have no significant additional air quality impacts. Given that the proposed modification seeks to move a portion of repair works into workshops, and on-land extended hours are now only restricted to activities relating to approved dry storage uses (eg a forklift operating for an additional two hours per day from 1 September to 30 April), air quality impacts from plant and equipment are expected to be negligible.

Table 3.3 Air quality impact origins and mitigations

Origin	
Anti-fouling	Anti-fouling measures were first proposed and approved in MP06_0037 (Mod 3). As part of that approval, anti-fouling application was restricted to not include tributyltin, not be applied to vessels containing toxic chemicals, and with spray only being permitted at the stern drive area. As noted in EA Section 2.4.2, the proposed modification seeks to allow airless spray application of anti-foul over the remainder of the hull. Since Mod 3 was approved in August 2012, the EPA has prepared *Applying antifouling paints at marinas* (2013), which includes the following guidelines and mitigation measures to prevent pollution: • Not spraying during high wind; • Painting in hardstand areas; • Using a tarpaulin on slip rails to catch particles; and • Training in the use of airless spray equipment. These guidelines are implemented in the procedures outlined in section 2.4.3 of the existing and draft OEMP (Appendix H) and have been committed to in the EA and at Appendix B). Record keeping is also required, including details of the product, volume, equipment and weather conditions. Records are to be kept for three years for review by the EPA. Given that airless spray systems have low potential for overspray and allow for the efficient application of anti-foul, air quality impacts are expected to be minimal. The site experiences light to moderate winds (as explained in the Mod 3 RTS and Air Quality Report), minimising the potential for air quality impacts in the surrounding area. Mitigation measures, including re-scheduling activities during windy weather or use of tarpaulins to prevent emissions have previously been committed to (Mod 3 RTS). As noted above, the draft revised OEMP (Appendix H) includes mitigation measures specific to air quality impacts of anti-foul at Section at Section 2.4.3 and Table 4. Further, Altex and International, the providers of anti-foul for WB6, highly recommend that the product be applied by airless spray guns. As such, air quality impacts associated with the application of anti-foul via airless spray are expected to be minimal.

Given the above, it is expected that air quality impacts associated with the proposed modification would be minimal. It is also noted that the EPA raised no objection to the proposed modification, including the application of anti-foul via airless spray.

3.6.4 Water Quality

The following matter was raised in the RTS Request under the Water Quality heading:

- Provide a water quality impact assessment with specific consideration to the proposed antifouling activities and its potential impacts on water quality (dissolved copper concentrations etc) and aquatic ecology. The assessment should also give consideration to the Australian and New Zealand Guidelines for Fresh and Marine Water Quality.

The EA provides a water quality impact assessment with consideration of proposed anti-fouling activities in Section 5.7. The proposed expansion to the application of anti-foul via airless spray will not result in any additional contaminants being released beyond what has already been assessed and approved for MP06_0037. Given that airless spray allows for a more efficient application with low potential for over spray or over application, less anti-foul may be applied. Therefore, the proposed changes are expected to have negligible impacts on water quality parameters, including criteria specified in the Australian and New Zealand Guidelines for Fresh and Marine Water Quality.

The environmental impacts of anti-fouling activities at the site were considered and approved under Mod 3. The environmental assessment conducted for Mod 3 (AECOM 2012) found that the risks to water quality from anti-fouling activities can be controlled through the adoption of engineering measures and operational procedures. Controls to reduce the potential risks of anti-fouling to water quality will continue to be implemented as detailed in Section 5.7 of the EA.

The existing OEMP also provides extensive mitigation measures relating to anti-foul. These are detailed within the draft OEMP (Appendix H) at Section 2.4.3 and Table 4. These management measures are already in place and appropriately address water quality and spill management matters.

In summary, the proposed changes to anti-fouling activities will not result in any additional water quality or subsequent aquatic ecology impacts. Further, the mitigation measures proposed in Section 3.6.3, previously committed to in the Mod 3 RTS and exiting OEMP, will minimise the potential for impacts to water quality.

3.6.5 Noise

The following matters were raised in the RTS Request under the Noise heading, with responses provided to each matter:

- The Noise Impact Assessment (NIA) is to be reviewed and is to address the following:

An amended NIA is included at Appendix I. The NIA has been updated to include the information presented below in the context of the EA to provide a comprehensive assessment.

  - updated background noise levels

Noise impacts were addressed in the EA at Section 5.4 and at a Noise Impact Assessment (NIA) at EA Appendix J.

Background noise levels have been surveyed extensively in the area surrounding WB6 since the original Noise Impact Assessment (Bridges Acoustics 2006). The White Bay Passenger Terminal Noise Assessment (Wilkinson Murray 2010) presents historical background noise levels in Table 4.1 which are reproduced in Figure 3.1 below. Historic background noise levels at nearest sensitive receivers in Grafton St and Datchett St (also represented by Johnston St and Hosking St monitoring locations) are generally unchanged since 2003 for evening and night periods, which are of relevance to the proposed modification.

Table 4-1 Historical Background Measurements around White Bay

Monitoring Location	Measured L_{A90} Rating Background Noise Levels (RBL)																			
	Day							Evening							Night					
	KBR[A]	ERM[B]	EA[C]	BA[C]	Challis[C]	RTA[D]	WM[E]	KBR[A]	ERM[B]	EA[C]	BA[C]	Challis[C]	RTA[D]	WM[E]	KBR[A]	ERM[B]	EA[C]	BA[C]	Challis[C]	RTA[D]	WM[E]
Johnston St, Balmain East	46	-	-	-	-	-	-	42	-	-	-	-	-	-	39	-	-	-	-	-	-
Hosking St, Balmain East	-	-	-	-	-	50	-	-	-	-	-	-	49	-	-	-	-	-	-	48	-
Datchett St, Balmain East	-	-	46	45	43	-	-	-	-	42	43	43	-	-	-	-	39	39	35	-	-
Mansfield St, Balmain	42	-	-	-	-	-	-	41	-	-	-	-	-	-	36	-	-	-	-	-	-
Grafton St, Balmain	45	-	45	49	45	40	-	43	-	43	48	42	41	-	44	-	44	44	35	40	-
Donnelly St, Balmain	47	47	-	-	-	49	-	46	47	-	-	-	49	-	45	44	-	-	-	48	-
Batty St, Balmain	54	55	-	-	-	-	-	52	52	-	-	-	-	-	47	48	-	-	-	-	-
Buchanan St, Balmain	48	55	-	-	-	-	-	46	52	-	-	-	-	-	43	48	-	-	-	-	-
Hyam St, Balmain	-	48	-	-	-	-	-	-	46	-	-	-	-	-	-	42	-	-	-	-	-
Booth St, Balmain	-	47	-	-	-	-	-	-	47	-	-	-	-	-	-	44	-	-	-	-	-
Bradford St, Balmain	47	50	-	-	-	-	-	47	48	-	-	-	-	-	44	44	-	-	-	-	-
Refinery Dr, Pyrmont	50	-	-	-	-	-	49	48	-	-	-	-	-	47	46	-	-	-	-	-	45
Bowman St, Pyrmont	48	-	-	-	-	-	-	46	-	-	-	-	-	-	47	-	-	-	-	-	-
Cardigal Ave, Pyrmont	-	-	-	-	-	44	-	-	-	-	-	-	42	-	-	-	-	-	-	40	-

A – August September 2003, Reference A
B – October – November 2004, Reference B
C – January 2008, Reference C
D – August 2008, Reference D
E – May 2007, Reference E

Figure 3.1 Extract from White Bay Passenger Terminal Noise Assessment (Wilkinson Murray 2010)

Background noise levels on Grafton Street were monitored recently for the Peer Review of the White Bay Cruise Terminal Operational Noise Management Plan (Rodney Stevens Acoustics 2017). Background noise monitoring at 12B Grafton Street was undertaken from 27 December 2016 to 3 January 2017. An extract of Table 2.2 of this report is provided in Figure 3.2 (refer RBL values).

Of importance to this modification are the background noise levels during the evening and night where additional activity to support the intensification of WB6 is proposed. Noise levels of 43 dB and 42 dB were recorded during the evening and night periods, respectively. Historic background data for Grafton Street presented in Figure 3.2 show evening noise levels of 41 to 48 dB and night noise levels of 35 to 44 dB (typically at 40 to 44 dB). The results of the recent 2017 background noise monitoring therefore indicate similar levels to those recorded historically between 2003 and 2008.

Table 2-2 Operational Noise Criteria

Receiver	Time of Day	ANL [1] $L_{Aeq(15min)}$	Measured		Criteria for New Sources	
			RBL [2] $L_{A90(15min)}$	L_{Aeq} Noise Level)	Intrusive $L_{Aeq(15min)}$	Amenity [3] $L_{Aeq(15min)}$
Residential	Day	60	47	56	**52**	58
	Evening	50	43	57	48	**47**
	Night	45	42	54	47	**44**

Note 1: ANL = "Acceptable Noise Level" for residences in Urban Areas.
Note 2: RBL = "Rating Background Level".
Note 3: Assuming existing noise levels are unlikely to decrease in the future
Note 4: Current measured RBL meets the ANL requirement

Figure 3.2 Extract from Peer Review of White Bay Cruise Terminal Operational Noise Management Plan (Rodney Stevens Acoustics 2017)

Noise criteria for the site contained within MP06_0037 have been set in accordance with the NSW *Industrial Noise Policy* (INP) (EPA 2000). The procedures for setting INP noise criteria include establishing existing background noise levels which was completed at the time of the original Noise Impact Assessment (Bridges Acoustics 2006). Given background noise levels are generally unchanged, re-measuring background noise is unlikely to change the outcomes of the assessment for the proposed modification.

- all potential noise sources and levels associated with the intensification of use, including forklift and car movements, people embarking/disembarking and garbage disposal.

The proponent has confirmed that the proposed changes to approved activities and operating hours referred to in EA Table 2.1 have been modified to only include the following:

Table 3.4 Proposed changes to operating hours (amended)

Activity reference	Activity	Day of week	Existing approved	Proposed modification
1	Dry storage of boats and related activities	Monday to Saturday Sunday and Public Holidays	7:00 am to 6:00 pm 8:00 am to 6:00 pm	7:00 am to 7:00 pm[1] 7:00 am to 7:00 pm[1]
2	Recreational vessel arrivals, departure and mooring	Monday to Sunday	5:00 am to 10:00 pm	Anytime[2]
	Recreational vessel refuelling and grey water sewerage pump out			

Notes: 1. Daylight saving period of 1 September to 30 April only.
2. Peak season only from 1 October to 31 January.

As such, the proposed modification now proposes the following activities during the extended periods of 7am to 8am Sundays, and 6pm to 7pm seven days a week, during daylight saving time:

- forklift operation;
- people embarking/disembarking; and
- car movements.

No garbage collection will occur during the proposed extended periods. All other site operations will not change as a result of the modification.

- provide detail on how these disturbances will be managed with specific consideration of significant increased activities.

Measurements of the forklift operating at a reduced speed were captured on 11 January 2018 at nearest receivers to site. The forklift's primary contributor to noise was related to the RPMs of the equipment (as opposed to speed). Noise levels were found to satisfy MP06_0037 noise limits (discussed further below).

The proponent has committed to reducing offsite noise levels during the proposed extended operational periods of 7am to 8am, Sundays and 6pm to 7pm, 7 days a week, during the daylight saving period., including exposed areas of the site where it is feasible to do so, and reducing RPMs. The revised commitment at Appendix B reflects this change.

Noise from people embarking/disembarking and from vehicle movements will be less than marine forklift operation and will be minimised with a site operational policy, or captured in an OEMP. This will include user agreements with vendors regarding the minimisation of noise from people and vehicle noise during the extended operating periods.

The proponent has confirmed that no garbage collection will occur during the proposed extended hours.

There will be no changes to site operations as a result of the modification. Site noise from existing operations is therefore expected to satisfy MP06_0037 noise limits as demonstrated in past annual compliance noise assessments.

- the inconsistencies contained within the NIA and the Traffic Impact Assessment (TIA) are to be revised. Section 5.3 Traffic Noise of the NIA, refers to a total of 309 daily traffic movements, however the TIA proposes 344 daily traffic movements.

Road traffic noise calculations were revised based on a total of 344 daily traffic movements and the result remains at 50 dB $L_{Aeq,15hour}$ at 10 m from Robert Street. This level is 10 dB less than the RNP daytime criterion of 60 dB relevant to this class of road. If a noise level is 10 dB below another, it is theoretically impossible for an increase in total noise levels to occur. That is, 50 dB plus 60 dB remains at 60 dB. Therefore, the outcome of the NIA remains unchanged, whereby the total traffic generated by all operations on the site could not lead to an exceedance of RNP criteria.

- provide additional operational noise compliance assessments for Datchett St Balmain, 33 Adolphus St, Balmain and 2 Point St, Pyrmont.

Short-term 15-minute attended noise measurements were conducted on 11 January 2018 at the site boundaries of 1 Grafton Street, Balmain and 24 Datchett Street, Balmain East. During the monitoring, site operations were consistent with a mode typical of the evening / night hours. This mode includes operating the forklift at a reduced speed.

The attended noise monitoring was carried out using a Brüel & Kjær 2250 Type 1 integrating sound level meter (serial number 3008201). The meter carries current manufacturer conformance certificates and complies with *Australian Standard AS 2659.1 - 1998: Guide to the use of sound measuring equipment - Portable sound level meters*. The sound level meter was calibrated in the field prior to and following the noise measurements. All measurements were taken in accordance with AS 1055.1-1997 Acoustics - *Description and measurement of environmental noise - General procedures*.

The noise measurements were conducted in accordance with the EPA's INP and *Noise Policy for Industry* (EPA 2017) (NPI) requirements. The weather at the time of monitoring was overcast with light winds (<3m/s).

During measurements, one 3.5 tonne marine forklift was in operation. Yard scheduling allows for one boat loading/unloading in a 15-minute period. This takes approximately 7 to 8 minutes. The boat hoist and workshops were not in operation and no garbage disposal events occurred. This scenario would be typical of proposed evening/night hours.

Table 3.5 summarises the attended noise measurements. The site was clearly audible at 1 Grafton Street Balmain; however, industrial noise sources from other bays were also significant elements of the noise environment. The site was faintly audible at 24 Datchett Street, Balmain East and inaudible at 33 Adolphus Street and 2 Point Street in MP06_0037. Site operations did not approach the $L_{A1(1\text{-min})}$ criteria at any location, hence sleep disturbance is not considered to be a risk posed by the site.

Table 3.5 Attended noise measurements – 11 January 2017

ID	Location (Refer Figure 1)	Time	Noise measurement, dB				Comments/noise source observations
			L_{Aeq}	L_{A90}	L_{Amax}	$L_{Aeq,site}$ [2]	
3	East boundary of 1 Grafton St, Balmain	11:57	52	45	76	49	Forklift traversing (47 – 50 dB). Forklift idling (43 – 46 dB). Broadband reverse signal (45 dB). Occasional pass-bys from cars entering the White Bay 6 site (67 – 73 dB). Occasional aircraft fly-overs (54 – 62 dB). Intermittent Industrial noise from other bays audible. Distant boat traffic audible.
3	East boundary of 1 Grafton St, Balmain	12:29	49	46	66	n/a	Site completely off. Industrial noise from other bays audible. Distant boat traffic audible. Occasional aircraft fly-overs (52 dB).
3	West boundary of 1 Grafton St, Balmain	13:56	49	47	75	≤ 47	Intermittent industrial noise from other bays dominant (49 – 52 dB). Forklift traversing (45 – 48 dB). Forklift idling (≤ 44 dB). Reverse siren not used or masked. Occasional car pass-bys (52 – 57 dB). Occasional aircraft fly-overs (50 dB).
5	24 Datchett Street, Balmain East	16:15	56	51	67	≤ 43	Barangaroo construction noise dominant followed by boat traffic. Traversal of site forklift faintly audible during lulls in Barangaroo construction noise (≤ 46 dB). Occasional aircraft fly-overs (63 dB). Seagulls audible on occasion.

The site was not audible at 33 Adolphus Street and 2 Point Street residential receivers due to high ambient noise levels. The contribution of the site at these properties was therefore determined as per section 11.1.2 of the INP requirements, which allows for measuring noise emissions from a site at a near field reference location and then calculating the noise-emission levels back to the receiver.

The site contribution at 33 Adolphus and 2 Point Street receiver locations was determined in accordance with this method using near field measurements at site and by accounting for attenuation losses by distance and/or acoustically significant topographical features to receiver locations.

Table 2 summarises the measured and predicted site noise contributions at all residential receivers in MP06_0037.

The noise level measured at the east boundary of 1 Grafton Street was 1 dB above the noise criteria. The noise level measured at other residential receivers, as noted within the current conditions, satisfied noise limits. The INP states that a development will be deemed to be in non-compliance, with a consent or license condition, if the monitored level is more that 2 dB above a noise limit. The measured operation is therefore considered to be within compliance of MP06_0037 noise limits at all residential assessment locations listed in the current approval.

As noted in Section 3.1.1, the current conditions for the site require annual noise monitoring as part of condition F3 Noise Compliance Monitoring, with condition F7 Complaints Procedure and F8 Complaints Register. This annual monitoring would continue in the future, as required by the conditions.

- confirm that the assessment has been conducted in accordance with the current Industrial Noise Policy (2017).

The noise assessment has been conducted in accordance with the INP, which was current at the EA issued to DPE.

Table 3.6 Noise compliance assessment, dB

Location	Criteria				Measured/Calculated noise levels, dB[1]				Compliance	
	Evening	Night			Evening	Night			Evening	Night
	$L_{Aeq(15min)}$	$L_{Aeq(15min)}$	$L_{Aeq(9\ hour)}$	$L_{A1(1min)}$	$L_{Aeq(15min)}$	$L_{Aeq(15min)}$	$L_{Aeq(9\ hour)}$	$L_{A1(1min)}$	$L_{Aeq(15min)}$	$L_{Aeq(15min)}$ / $L_{Aeq(9\ hour)}$ / $L_{A1(1min)}$
1 Grafton St, Balmain	48	48	45	59	49	49	≤ 45	≤ 59	Yes (marginal 1 dB exceedance)[2]	Yes/Yes/Yes
24 Datchett St, Balmain East	44	44	41	54	≤ 43	≤ 43	≤ 41	≤ 54	Yes	Yes/Yes/Yes
33 Adolphus St, Balmain	35	35	35	60	≤ 35	≤ 35	≤ 35	≤ 60	Yes	Yes/Yes/Yes
2 Point St, Pyrmont	35	35	35	61	≤ 33	≤ 33	≤ 35	≤ 61	Yes	Yes/Yes/Yes

Notes: 1. Results for 33 Adolphus St and Point St have been calculated by interpolating near field measurements of onsite activity.

2. Not considered a non-compliance as per Section 11.1.3 of the INP.

Since submission, the EPA in late 2017 released the NPI, which supersedes the INP. The NPI was accompanied with the *Implementation and transitional arrangements for the Noise Policy for Industry* (EPA 2017) which, among other things, sets out transitional arrangements for projects existing at the time of release. Of most relevant to this project, this document states:

> *3. In situations where SEARs are not issued (that is, development consent that is not State Significant Development or Infrastructure), however, a proponent can demonstrate that environmental assessment substantially commenced before release of the new policy, planning and regulatory authorities may choose to determine the application based on the NSW Industrial Noise Policy (2000) for a period of up to one (1) year from the date of release of the Noise Policy for Industry (2017).*

The proposed modification is significantly progressed, and therefore in accordance with the EPA's transitional arrangements, it remains appropriate to maintain the current INP assessment approach. Notwithstanding this, application of the NPI would unlikely result in any material changes to the conclusions of the assessment.

- provide justification for why the maximum noise levels (Table 2, Appendix J) show data for night time for the LA 1, 1 min noise level instead of the 9 hour criteria.

Section 5.4.2.iii.b and Section 5.2.2.i.b of Appendix J of the EA provides an assessment of sleep disturbance. The INP requires that sleep disturbance is assessed using the L_{max} or $L_{A1,1minute}$ descriptor which typically represents intermittent and transient noise from site which is most likely to cause sleep disturbance. The $L_{Aeq,9\ hour}$ parameter is used to assess noise impacts from continuous noise and is representative of a nine hour energy average. This parameter is not typically used to assess sleep disturbance in NSW nor is it a requirement of the INP or NPI.

3.6.6 Traffic

The following matters were raised in the RTS Request under the Traffic heading:

- The Traffic Impact Assessment (TIA) is to provide further documentation/clarification to address the following:
  - parking generated from the wet berths and built structures located in the car park and the parking requirements of the site in the event of the alternate plan (as currently approved) being activated as a result of the Ports Authority resuming part of the site for its operations.

An addendum TIA has been provided at Appendix F, with a discussion of the proposed site plan (alternative) parking requirements at Section 3.3. It is noted that the proposed site plan (alternative) has been updated to provide more detail on car parking locations, as well as reducing the size of the central boat maintenance zone to establish a car park aisle. The updated alternative car park arrangement includes a total of 74 car parking spaces.

As noted at Appendix F, the alternative layout removes 20 proposed berths, for a reduced 105 additional berths. These berths are removed from the ground level of the southern boat storage zone (this arrangement is discussed further in the next section). As such, the new car parking requirement would be 72 car parks, as per the breakdown below:

- 41 car parks from the current proposed site plan (alternative);
- 10 car parks for workshops, warehouses and office premises; and

- 21 car parks for 105 additional berths.

Therefore, the revised proposed site plan (alternative) provides sufficient parking to meet DCP and RMS requirements.

With regard to the need to address parking generated from wet berths, the facility's wet berth area, being the existing wharf and the proposed finger wharf, will not be used for long term storage of vessels. Vessels using this area would primarily be used for very short term tasks (eg refuelling, passenger movements and waiting to be taken out of the water) and ad hoc short term storage (eg overnight mooring for late arrivals).

The requirements articulated in the RTA's *Guide to Traffic Generating Development* are more applicable to long term vessel storage, with a wet berth storage rate reflecting a higher likelihood of use than a dry storage berth. As such, the requirement does not apply to the facility's wet berth area.

- explain how the shared space between the car parking spaces and boat storage zone will function. As the boat storage zone will have racks, it is unclear how this space will be used for both purposes.

The proposed site plan included in the EA includes six car parks at the first level of boat storage at the south-eastern corner of the site. This is a common method of safely and efficiently providing car parking for similar facilities. Examples of this practice at other facilities are provided at Photograph 3.1 and Photograph 3.2.

Photograph 3.1 Ground floor car parking under outdoor boat racks

Photograph 3.2 Ground floor car parking under indoor boat racks

As shown in these photographs, boat racks provide ample space to incorporate ground level car parking for a variety of types of vehicles. Inclusion of pedestrian path ground markings help ensure that pedestrians move safely in the area. All pedestrian and vehicle movements under boat racks would be supervised by site staff to further ensure safe circulation. Given the medium to long term nature of car parking at the site and low daily turnover of car parks, these mitigation measures are considered appropriate.

- include a traffic survey between "Cruise Ship Visiting" and "No Cruise Ship Visiting" at the relevant terminal access points within White Bay with no (or minimal) external traffic flows.

This matter is discussed in Section 3.5.

3.6.7 Navigation and Safety

The following matters were raised in the RTS Request under the Navigation and Safety heading:

- Provide a Navigation and Safety Impact Assessment, which outlines all potential maritime impacts and safety issues and measures to minimise and mitigate identified impacts on users of White Bay, Rozelle Bay, Johnsons Bay and Blackwattle Bay. Particular regard shall be given to commercial shipping, ferries, recreational vessel users and the maritime constraints (vessel visibility, manoeuvrability, travel paths etc.) associated with the site's location. The assessment should address all navigation and safety issues raised in submissions.

- In the preparation of the Navigation and Safety Impact Assessment consultation is required with RMS and the Ports Authority. The outcomes of this consultation shall be included in the RTS.

The approach to address this matter has been development in consultation with Port Authority and RMS. The Port Authority and RMS have both confirmed that a detailed navigation and safety impact assessment is not considered mandatory, nor would it provide further benefit with assessing the proposal and its impacts to navigation. Based on this advice from the agencies noted in the RTS request, a navigational and safety impact assessment has not been undertaken.

However, the draft MTMP (Appendix J), as discussed in Section 3.6.2 has been reviewed by the Harbour Master. It provides adequate information to show how the site will operate safely, for reasons discussed in Section 5.3.

3.6.8 Environment Protection License

The following matter was raised in the RTS Request under the Environment Protection Licence heading:

- Demonstrate the proposed uses (particularly the expanded anti-fouling activities) are consistent with the existing environment protection licence (EPL) as issued by the Environment Protection Authority (EPA).

As discussed in Section 3.3, the EPA has confirmed that the uses proposed in the EA do not require variation to the EPL.

Potential air quality impacts and water quality impacts of anti-foul are discussed at Section 3.6.3 and 0, respectively. As discussed in those sections, use of airless spray anti-foul is an efficient application method that minimises the opportunity for overspray and overall application of anti-foul. This application method is currently undertaken on a limited basis on the site, with extensive mitigation measures and procedures detailed in the existing and draft OEMP (Appendix H).

Expansion of airless spray to the remainder of the hull would continue to be subject to the mitigations and processes detailed in the draft and future final OEMP, reflecting the current regulations and requirements set forth by the EPA.

3.6.9 Additional information

The following matters were raised in the RTS Request under the Additional Information heading:

- Provide justification for the location of workshop 5 within the 20 m setback from the foreshore as required by the Glebe Island and White Bay Master Plan.

The *Glebe Island and White Bay Master Plan* provides a number of principles and provision in relation to controls related to views, building heights and building zones. These are supported by both numerical controls and sections demonstrating the intent of the controls. Relevant principles and provisions are extracted below.

Principles

- Maintain the general view of the Pyrmont skyline and Anzac Bridge as seen from the Balmain residential area (Figure 9);
- Maintain existing views to landmarks (Figure 8) to reinforce the diverse visual quality of the area;
- Maintain and protect vistas where practicable along street which terminate at the water (Figure 7); and
- Provide flexibility for locating port facilities including buildings and silos.

Provisions

- Maximum building heights are shown in Figure 10. Heights of buildings are measured from ground level to the uppermost point of the building;
- Limit container stacks to a maximum of 5 high (ie between 12-13.5m high (note that container stacks generally average 2-3 containers high); and
- Setback buildings a minimum of 20m off the water's edge as shown in Figure 10, Figure 12 and Section A-A and Section B-B.

Relevant Figures are extracted in Figure 3.3 and Figure 3.4. For reference, Building 5 is proposed to be a 3.2 m tall structure with a 70 m^2 footprint.

As shown in the master plan figures 7 and 18, the intent of the setback is to ensure that view corridors and street vistas are preserved. Larger buildings commonly associated with area (eg buildings similar to Building 1, Building 2 and the cruise terminal) are envisioned to be set back to allow for the elevated areas of Balmain to limit the obstruction of views to the water. This is best demonstrated by Section A-A of figure 18 that show how a 12 m tall building would allow for a view to the water from a raised perspective. Smaller buildings, such as Building 5, do not appear to be considered in the same way.

The master plan allows for obstructions within the setback area in the form of containers, generally 5 m tall (three containers). As such, the master plan envisions that the setback area would have small obstructions behind the larger buildings set further away from the foreshore. It is noted that a standard container has a height of approximately 2.6 m and a footprint of approximately 30 m^2, meaning Building 5's scale is approximately the same as two containers, side by side. This impact is substantially less than that permitted by the master plan.

The master plan figure 7 also appears to acknowledge that buildings could be permitted within the setback area. This is evidenced by the dark grey area extending eastward from point 8, being the Grafton Street viewpoint. The shading denotes an area 'where no buildings should occur where practicable and bound treatment should be generally transparent'. Building 5 is to the south of this view corridor, and as such, is in an area that is not envisioned to have no buildings. It is also noted that Building 5 would have no impacts on the landmarks shown in master plan figure 8 or vista panoramas in master plan figure 9.

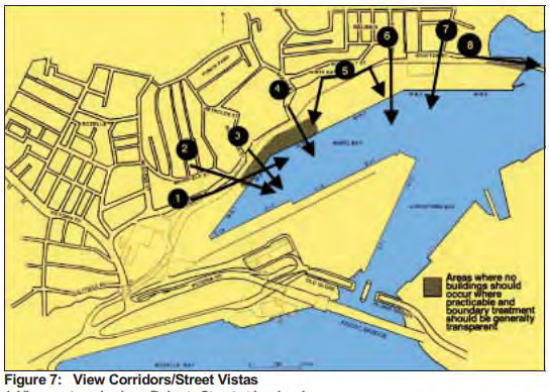


Figure 7: View Corridors/Street Vistas

1. View eastwards along Roberts Street at low level.
2. View along Mansfield Street of Port with water beyond. Distant view of City and Pyrmont.
3. View down Buchanan Street terminating at the Silo. Distant skyline of Pyrmont and Anzac Bridge.
4. View down Booth Street towards Glebe Island Bridge and full view of Anzac Bridge.
5. View from White Bay Park at high level towards Anzac Bridge and Pyrmont.
6. View down Stephen Street at high level toward Anzac Bridge with water glimpses.
7. View down Ewenton Street at high level towards the Anzac Bridge.
8. View east along Grafton Street towards the harbour with distant city views.

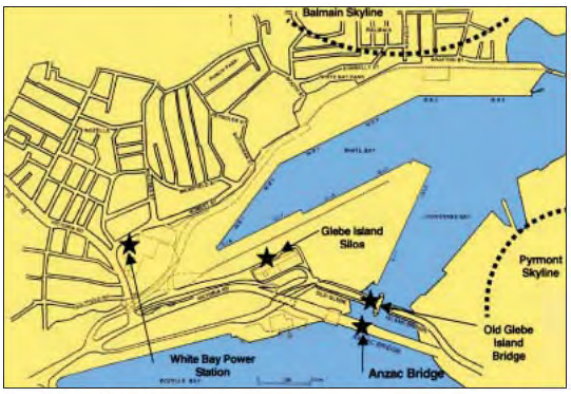


Figure 8: Landmarks

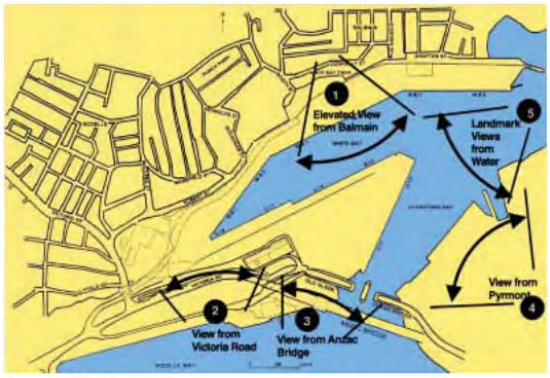


Figure 9: View Panoramas

1. Views over White Bay to Pyrmont, city skyline and Anzac Bridge.
2. Views from Victoria Road to the Heritage Silos and White Bay Power Station.
3. Views from Anzac Bridge across Glebe Island to Balmain skyline.
4. Views from Pyrmont across the water and the Port to the Balmain skyline.
5. Views from the water to landmarks including the Anzac Bridge, the White Bay Power Station and the Heritage Silos

Figure 10: Maximum Building Heights

Figure 11: Maximum Cargo Stack Heights

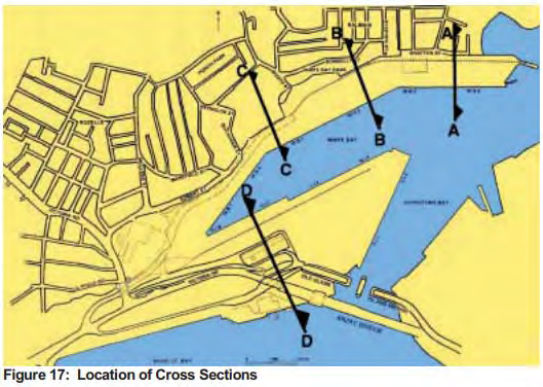


Figure 17: Location of Cross Sections

Figure 3.3 Extract of Glebe Island and White Bay Master Plan figures

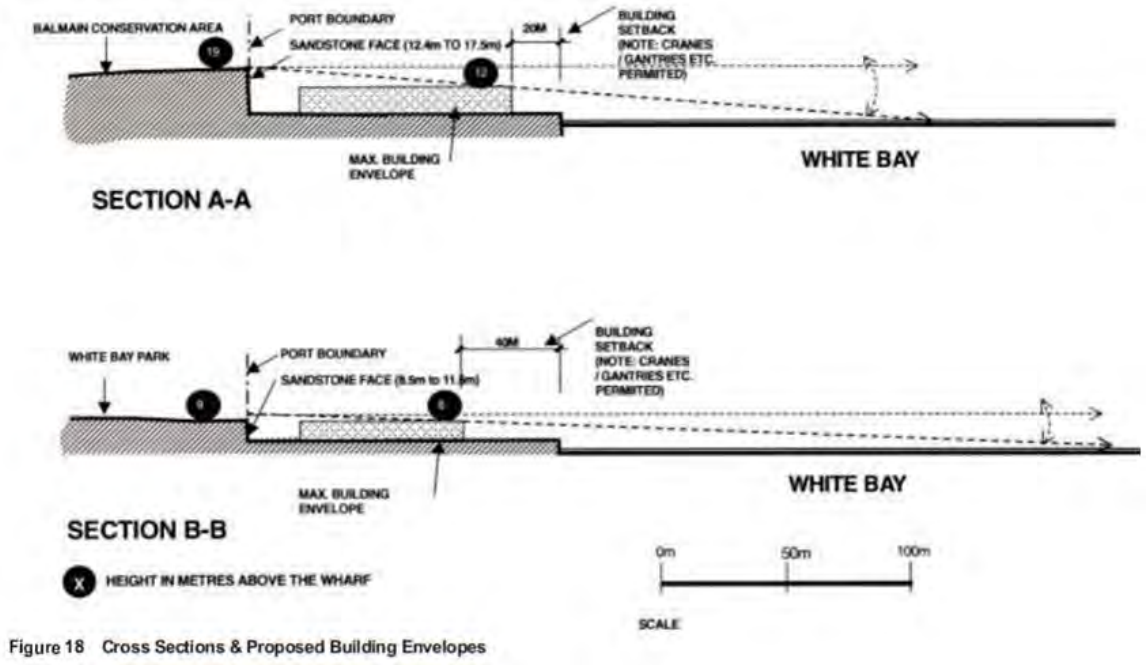


Figure 3.4 Extract of Glebe Island and White Bay Master Plan view sections

The location of Building 5 also serves several practical purposes. It will allow for easy access to maintenance facilities near the established mooring area. This will result in shorter travel distances, few opportunities for interaction with traffic within the site and increasing the distance between potential noise generating activities and residential areas. Further, Building 5 will enclose maintenance activities currently allowed outdoors, which would have additional visual and noise impact benefits based on the current approval.

- Provide an updated Visual Impact Assessment to include a clear comparison between the proposal, MOD 4 and original Project Approval.

This is addressed in Section 5.9.

- Provide a signage plan for the proposed pylon sign to the south-east corner of the site. The plan is to show the proposed location, design, height and dimensions.

A signage plan has been provided at Appendix K. The plan is a template, with possible heights of 7 m, 9 m, and 11 m. As discussed in EA Section 2.4.2, the sign would be 9 m high. As such, the 'post' section of the sign would be 3.885 m.

The location of the sign is at the south-eastern corner of the site, as shown in EA Appendix A. The sign is also shown in the photomontages provided at EA Appendix G.

- Provide details of any proposed excavations.

This is addressed in Section 3.2.

- The consideration of heritage registers must include a search of the NSW Maritime Heritage Database to ensure the water-based works will not impact potential marine archaeology.

This is addressed in Section 3.4.

4 Public submissions of support

Three of the four submissions received from special interest groups were in support of the proposed modification. The special interest group submissions were businesses of varying scales which included water craft builders, tourism operators, marine mechanics, boating equipment and spare parts dealers.

All businesses referenced the importance of WB6 to their ongoing operations and noted some or all of the below with regard to support of the proposed modification.

- Utilisation of spray painting anti-foul to meet the expectations of customers and improved environmental outcomes.
- New purpose-built workshops which allow for work undercover in unfavourable weather conditions, increasing workable hours, which in turn will provide economic benefits.
- New floating finger pontoon which will increase the wet berthing space allowing for more vessel movements for boat maintenance and servicing.
- New office and employee amenity area providing a modern, clean and comfortable break room which will improve the current facility.

The overarching theme of the submissions was the importance of the services provided by WB6 to the marine industry. This included provision of refuelling, storage and maintenance activities with WB6 being readily accessible, reliable, modern and efficient. The proposed modification was seen as necessary to the ongoing provision of these services.

As noted in Section 2.2, 41% of the community submissions were in support of the proposed modification. Several of these referenced the matters above. Other matters raised include the below.

- Opportunities provided to the community and their families to easily access the harbour for recreational boating.
- Economic stimulus to the local region through continuing employment.
- WB6's status as a major stakeholder and supplier of waterbased community transport.
- The proposed modification being fit for purpose to support the original site usage approval.
- The promotion of long term security and stability of employment for WB6 employees and businesses associated with WB6.

One submission was received from a WB6 employee referenced strong links to Sydney Harbour and Balmain in particular, with the supporter's family's professions being from the 'working harbour' for generations.

An East Balmain resident stated that existing approvals had not caused offense nor impacted negatively on local residents and is the preferred use of the site when compared with alternate uses of the Bays Precinct.

5 Public submissions of objection

Objections to the project were raised in 11 submissions from the general public, nine of whom reside with the apartment block immediately to the north of the site, and a single submission from Hones Lawyers (SP1), representing Rozelle Bay Pty Ltd ATF Rozelle Bay Trust, the owners of Sydney Boat House (SBH). Submissions are attached at Appendix D, with each submission given an identification number.

Matters raised in the submissions discussed below. Matters raised are summarised or quoted based on the number, structure and similarity of matters raised.

5.1 Statutory context

Submission SP1 raised the following matter:

- In our view, the Modification Request is beyond the scope of the Minister's power under s75W. Our reasons for this view follows.

The subject of the scope of the Minister's power under S75W was addressed extensively as part of the Response to Submissions for the previous modification, MP06_0037 (Mod 4). The legal advice provided as part of the RTS for Mod 4, as well as updated legal advice is provided at Appendix L.

The legal advice concludes that the proposed modification is not unreasonable for the Minister to assess under S75W.

5.2 Demand

Submission SP1 raised the following matter:

- The reports justifying the need are out of date and do not reflect the actual demand as evidenced by Sydney Boathouse now in year 4 of trade and having only reached 60% occupancy of the first of 2 dry stores;

The demand for the proposed modification, the ability for the proposed modification to meet that demand is discussed in the EA at Section 1.5.

As noted in those sections, multiple NSW Government studies and policies have been released that support the addition of boat storage in the vicinity of Sydney Harbour. These include:

- *NSW Boat Ownership and Storage: Growth Forecasts to 2026* (NSW Maritime, 2010);
- *Maritime Policy Agenda* (Transport for NSW, 2012); and
- *Sydney Harbour Boat Storage Strategy* (Transport for NSW, April 2013).

These documents identify a shortfall in boat storage in the area, with a need for 1,000 to 1,200 additional dry stake spaces by 2021. The proposed provision of 126 additional berths, as proposed by the proposed modification, would help meet this demand. Contrary to the submissions, these reports are relatively recent, with no events or policy variations in intervening years that would suggest that the findings are out of date or incorrect.

While it is noted that SBH may have issues attracting customers to its facilities, it is noted that WB6 and SBH provide different services and facilities to customers.

5.3 Navigational safety

Submission SP1 raised the following matters:

- The site has been operating unlawfully as a dry boat storage in close proximity to the cruise ship terminal without the imposition of the appropriate regulatory controls or safeguards relating to navigation and in particular the Roads and Maritime Services "Big Ships" policy. We are instructed that, in the absence of the implementation of appropriate controls and safeguards, it is reasonable to expect that there has been boating safety/navigational issues arising from the unregulated use of the site for dry boat storage on the land. In our submission, these boating safety/navigational issues arising from the past unlawful use should be fully investigated and assessed consistently with the Big Ships policy and in a manner consistent with the assessment requirements for our client's dry boat storage facility (as outlined at paragraph 13 above).

- Any safety and navigational incidences arising from the past unlawful use of the site in our submission are relevant and highlight that the environmental consequences from the proposed change of use of the Approved Project for dry boat storage are not limited and substantial assessment is required.

- The increase in the number of vessels stored to from 50 to 176 will cause a substantial increase in vessel numbers entering and exiting the facility. The EA states that the number leaving will be staggered due to the capacity constraints of the fork lift truck. It remains silent on the fact that this capacity constraint will limit the ability of the facility to lift returning boats from the water as they arrive back at the facility. The nature of boating, and the weather on Sydney Harbour, is such that on a summer weekend most of the boats return at the end of a day. If a southerly buster arrives as, is often the case, the facility will see all the boats return, mostly at the same time.

- When this occurs up to 40 boats will arrive at the facility. The lifting constraints of the fork lift trucks, and the limitation on water berth numbers, will see boats waiting in open water for berths to become available.

- This scenario will be occurring in an extremely busy part of the harbour that is occupied by cruise ships, ferries, commercial and recreational water craft, all of which have to negotiate a bottle neck in the waterway.

- The proposed facility does not have the capacity to safely manage the risks associated with this situation and the EA is deficient in its lack of detail and expert advice around vessel management.

- The EA suggests that vessel movements will be the subject of an updated VMP incorporated into an updated MTMP (even though no maritime assessment concerning the increased number of vessels has been carried out). As the matter stands, neither the VMP or the MTMP are included in the EA or Modification Request. Leaving such essential and important matters for later determination will render the proposal uncertain (and defective in a legal case

Contrary to the above points, WB6 has operated as per the provisions of an MTMP that has been prepared in consultation with Port Authority and the RMS. Further, the site operates under the oversight of the Port Authority Harbour Master, which has powers under the *Marine Safety Act 1998*. Characterisation of the site as operating without appropriate safeguards or in an unregulated capacity is unsubstantiated.

As noted at Section 3.6.2, a draft revised MTMP is provided at Appendix J, which has been adapted from the current approved MTMP to reflect the proposed modification. The following is noted in response to the above points:

- Vessels are required to book ahead of time in 15 minute intervals for entering and exiting the water (Appendix J, Section 4 and Section 5.3), reflecting the operational constraints of site equipment. This allows the facility to enforce safe logistical arrangement for vessel movements of vessels to reduce the likelihood of queuing in the water.

- In the event of numerous vessels requiring to leave the water at the same time (eg due to a weather event), mitigation measures are in place to ensure that vessels can leave the water more quickly. This includes use of 'cradles' that can provide temporary storage (Appendix J, Section 4 and Section 5.3).

- The site currently uses two on-water areas for vessel movements (Appendix J, Section 5.3). These provide safe areas for manoeuvring outside of the shipping channel. Further, all movements are supervised by the Harbour Master.

- Previous modifications to the site have been followed by MTMPs to incorporate conditions of consent in consultation with Port Authority and RMS. It is not uncommon for development applications (or similar applications) to include conditions for plans to be provided in the future, prior to development or operations commencing. However, a draft revised MTMP has been provided in order to address concerns about vessel movements. The draft revised MTMP has been reviewed by Port Authority with comment provided and approval for inclusion in this RTS. The final MTMP will be updated to include measures consistent with future conditions of consent.

- The EA has been reviewed by RMS, with a PTL provided at Appendix C.

5.4 Air quality

5.4.1 Air pollution

Air pollution was raised as a general concern in four submissions (I1, I3, I11 and SP1), and are summarised below:

- additional vehicle movements leading to pollution (I1)

Air quality was addressed in Table 5.6 of the EA and discussed in Section 3.6.3. As noted in Table 3.3, the proposed modification has the potential to result in an additional 200 to 210 light vehicle movements per day, or approximately one vehicle every two to three minutes during operational hours. Any air quality impacts from this level of light vehicle movements would be negligible.

- additional refuelling leading to air pollution (I3).

While the proposed modification seeks to extend hours for refuelling vessels, this is proposed in order to shift refuelling activities to less busy times. As discussed in EA Table 5.3, no additional fuel deliveries are expected as part of the proposed modification.

Further, as discussed in Section 3.6.3, mitigation measures (ie vapour check valves and locking caps) have been assessed and committed to as part of the original application. As refuelling activities are not expected to increase as part of the proposed modification, additional air pollution impacts in relation to refuelling are not expected.

Submission SP1 raised the following concern:

- The EA provides that the rise in number of boats stored to 176 will have no further impact. On any assessment, this could not be the case as a rise to this capacity will increase vessel movements and the need for car parking. Both these factors will have consequential impacts on traffic, noise, air pollution and most importantly vessel management.

Potential air quality impacts relating to vessel movements and car parking are addressed in Section 3.6.3.

5.4.2 Odour

Odour was raised as a concern in submission I3 with respect to additional refuelling.

As noted above, the proposed modification is not expected to result in an increase in vessel refuelling or additional fuel deliveries. Mitigation measures (ie vapour check valves and locking caps) have been assessed and committed to as part of the original application. As refuelling activities are not expected to increase as part of the proposed modification, additional odour impacts in relation to refuelling are not expected.

5.5 Traffic and parking

5.5.1 Traffic generation

Three submissions raised concerns regarding to increased traffic associated with the proposed modification (I2, I5 and SP1).

Potential traffic generation was addressed in EA Section 5.2 and TIA Sections 3.2 and 3.3. As discussed in those sections, traffic generation associated with the proposed modification is minor in nature and can be accommodated by local roads and intersections. This is supported by addendum TIA Section 2.3, which includes a measurement of current traffic generation and Section 2.4 that confirms the intersection capacity of the local intersection.

It is also noted that TfNSW has raised no objections to the proposed modification, with its submission being limited to a question of methodology, which has been addressed at Section 3.5. As such, traffic generation impacts associated with the proposed modification are minimal and well within the capacity of existing infrastructure.

5.5.2 Parking demand

Two submissions raised concerns increased parking demand associated with the proposed modification (I5 and SP1).

Parking demand was addressed in EA Section 5.2.1 and TIA Section 3.4. As discussed in those sections, car parking has been provided based on RMS and Leichardt Development Control Plan (as administered by IWC) requirements. It is noted that the car parking requirement has conservatively assumed that the entirety of the existing car parking will be used by existing operations. This excludes the approved, but not built, Building 1.

Submission SP1 raised a concern with the 0.2 car parks per berth guideline being used to forecast the proposed modification's car parking requirement. It is noted that the 0.2 value is provided by RMS, the relevant agency for both expert advice on NSW car parking demand generally and NSW maritime demand specifically. Further, the 0.2 value has been used to forecast car parking demand associated with Mod 4.

It is the proponent's experience that the site operates with ample car parking. This is evidenced by the traffic monitoring discussed in Addendum TIA Appendix C, which shows that a maximum of 36 cars were on site at any one time. As such, the 0.2 value is a suitable to forecasting car parking demand for the proposed modification.

5.6 Potential conflicts with residential character

Concerns regarding potential conflicts with residential character were raised in five submissions (I2, I3, I6, I8 and I9).

Concerns were generally in relation to potential noise impacts (discussed in Section 3.6.5) and focused on how noise and the facility would impinge on the residential nature of the area. As discussed in EA Section 5.4 and Section 3.6.5 of this RTS, the proposed modification is expected to have minimal and manageable noise impacts.

As discussed in Section 3.6.1, past and current NSW Government policy and planning controls identify the site and area as a working harbour that is important to the economic future of NSW. Further, the proposed modification is in line with activities already approved on the site, namely maintenance, marine services and dry storage. As such, the proposed modification would not change the existing character of the area.

5.7 Extended hours of operation

Concerns regarding potential impacts from extended hours were raised in eight submissions (I2, I3, I4, I5, I7, I8 I9 and I10). These concerns generally were due to potential impacts from activities proposed to be extended during peak periods and the definition of peak periods.

As discussed in Section 3.6.2 and 3.6.5, the proposed modification has been amended to reduce on-land activities allowed during the peak period. Those activities are now constrained to essential activities relating to moving boats in and out of the water. The proposed extension would allow these activities from 6 pm to 7 pm, Monday to Saturday and between 7 am and 8 am and 6pm to 7 pm on Sundays and public holidays. As detailed in Section 3.6.5, the noise impacts from these activities are minimal and within accepted guidelines.

Other activities, such as maintenance activities and garbage collection and are no longer proposed during extended hours, reducing potential impacts on the surrounding area.

On-water activities, namely servicing and fuelling of recreational vessels is proposed to be allowed 24 hours a day, from 1 October to 31 January. This is to align with the already permitted refuelling of commercial vessels at any time, which is permitted under the original consent.

5.8 Consultation and time limited lease

Concerns regarding consultation and confusion regarding the time-limited nature of the current approval were raised in six submissions (I3, I4, I7, I8, I9, I10 and I11).

Consultation undertaken in relation to this project is discussed in Chapter 4 of the EA. Consultation was undertaken both with public agencies and the local community. Public agencies consultation included Port Authority, DPE, UrbanGrowth NSW and the then Leichardt Council.

Community consultation included a presentation to the relevant community liaison group and a community information session was held on site. The session was advertised in the local newspaper, with notices placed in the lobby of the neighbouring apartment building. The session was held from 6 pm to 8 pm on Wednesday 16 March 2016 to maximise the possibility of residents attending. One attendee came to the session and raised no objections.

It is also noted that WB6 publishes the contact details of relevant personnel who can be reached at any time to raise a concern. This is noted in submission I4, where a complaint was made regarding after-hours site noise (a subsequent investigation found that the noise was not coming from the site).

Regarding the leasing of the site, leases are, in their nature, temporary. The NSW Government and its agencies routinely lease or license land to private entities for commercial purposes. The subject of time limits to the existing consent is addressed in Section 3.6.1. As discussed in that section, the original condition did not seek to limit the duration of the approval due to the lease or the time-limited nature of the lease, but due to a concern regarding the long term NSW Government policy objectives for the area. As noted in that section, the existing approval and proposed modification of the approval continue to align with NSW Government policy and planning controls.

As such, the subject of the lease is a relevant consideration for the leasee and the owners of the site, both of which have provided permission to lodge the proposed modification.

5.9 Visual impacts

Concerns regarding visual impacts were raised in three submissions (I2, I10 and SP1), relating to potential overlooking/loss of privacy due to the size and orientation of the buildings, the blocking of views to the water and a technical requirement to compare the proposed modification to the original approval.

5.9.1 View loss and overlooking

An assessment of visual impacts between Mod 4 and the proposed modification has been provided at EA Section 5.6. A further assessment of visual impacts between the original approval and the proposed modification is at Section 3.6.9.

As shown in the plans at Appendix A, no windows are proposed at the Building 2 or Building 3. Northward facing windows of Building would be blocked by the existing gantry and Building 2, with no views to the apartment block to the north. As such, no overlooking would result from the proposed modification.

As discussed in Section 3.6.9 and EA Section 5.6, visual impacts resulting from the proposed modification would be negligible to minimal. Further, the moving of maintenance activities into low-profile worksheds is considered a positive visual impact.

5.9.2 Comparison of the visual elements of original approval and proposed modification

The site is located on the northern foreshore of White Bay in Balmain (as shown on Figure 1.1). The immediate locality is predominantly characterised by a mix of port and marine related uses and a number of large built elements dominate the visual landscape in adjoining berths.

Plans and elevations provided with the original MP06_0037 application are provided at Appendix M. Key elements of the proposed modification (Appendix A) have been compared against those plans, with the results described below.

i. Reorientation of Building 1

Under the original approval, Building 1 sits below the shadow of the gantry. The proposed modification will result in the reorientation of Building 1 to an L-shape. The building will be shifted towards the east and wrap around the existing gantry. It involves a minor increase to the overall footprint; however the height of the building of approximately 11 m will remain the same.

It is also noted that the approved Building 2 obstructs views to Building 1 from the north, including public areas along Grafton Street and the neighbouring residential block. The lowest residential apartments, which are set further to the east and could see a portion of the easternmost section of Building 1, have views to the site hindered by vegetation. Further, the apartments are orientated with views to the east and screened to the south, mitigating potential view impacts.

The change in views from the water to Building 1 would remain the same as discussed in the EA.

In view of the above, it is considered that the visual impacts will not significantly alter. The building continues to be consistent the existing built form of the area and with other existing and approved structures on the site, reducing its visual impact. Accordingly, views from Grafton Street to the north, Pyrmont Park to the south, Anzac Bridge to the west and from the city to the east will not be adversely affected.

ii. Extension of Building 2

Under the original approval, Building 2 was approved as a shed roughly 11 m tall with a footprint of 40 m by 20 m, or 800 m^2. Under the proposed modification, Building 2 would be roughly 11 m tall with a footprint of 56 m by 14 m, or 784 m^2.

Under Mod 5 Building 2 is shifted towards the east by approximately 5 m. The building footprint from east to west has slightly increased in length when compared to the original approval. Whilst the proposed modification only seeks an extension of approximately 9 m to the east, the cumulative effect is approximately 15 m.

The building, when viewed from the south, would be substantially screened by the approved Building 1 to the south, the existing gantry, the existing tanks at the west of the site and the then existing cladding at the base of the gantry. When viewing the site from the west, Building 2 would have been obstructed by the then existing ports corporation building (since redeveloped as the domestic cruise ship terminal).

Due to the minor changes proposed, the views from Grafton Street will substantially remain the same. Due to the building being made slimmer than approved, views from Grafton Street would be less obstructed to the south, whilst views from private property would be more obstructed. However, these views are also generally obstructed by fencing and limited in impact by the increase in height between James Craig Road and Grafton Street, with views from the neighbouring residential block generally orientated to the east.

The shift in the building towards the east has also resulted in a larger separation distance between the cruise ship terminal structure to the west and the western elevation of Building 2 which may allow additional opportunities for harbour views from the public areas of Grafton Street.

Given that the modifications to Building 2 are minor and its positioning within the site, the visual impacts under the proposed modification are both positive and negative, with changes generally negligible or minimal.

iii. Workshops (Building 3 and Building 5)

The proposed modification seeks to include workshops at Building 3 and Building 5 which are not present in the original approval.

Building 3 is proposed to be at the western edge of the site, between Building 2 and the then existing Port Corporation building to the west. Building 3 is proposed to be 5 m high, with two 4.2 m high roller doors providing access to the workshop area for vessels. The doors will be visible at the end of the corridor between Building 2 and the boat storage zone adjacent to the gantry. The northern aspect of the workshop will be visible from James Craig Road, consisting of an 8.5 m wide wall.

The primary public views to Building 3 are from the internal port road leading to the White Bay Cruise Terminal (noted as James Craig Road on Google Maps), and are similar to those associated with Building 2. Views from Grafton Street to the north are generally obstructed by fencing and limited by the increase in height between James Craig Road and Grafton Street. As noted above, Building 2 was originally sited closer to the western boundary, overlapping a portion of the area proposed for Building 3. Building 3 is only 5 m tall, meaning that views would be no more obstructed than the original Building 2 from the north. Further, the then existing cladding would have screened views to Building 3 from the south.

Visual impacts between the proposed modification and original approval associated with Building 5 are the same as those between the proposed modification and Mod 4.

Building 5 is proposed to be towards the eastern portion of the site, and proposed to be 3.2 m high, with a footprint of 70 m^2. The primary public views to Building 5 are from the water. Due to the low profile of the building, the views are limited and will minimally impact views to the residential and natural areas to the north-west of the site. Due to height differences in neighbouring residential areas, views to the water will also be minimally impacted have minimal impacts.

iv. Office 1 extension (Building 4)

The proposed modification seeks to include an extension to the existing office at Building 4. Building 4 will have a maximum height of 2.8 m, with a long and narrow footprint of approximately 80 m^2. Doors and windows on Building 4 are on the eastern aspect, towards the water, with a closed aspect to the west. It is noted that the office that is being extended was not part of the original approval.

The visual impacts associated with Building 4 are similar to that as Building 5. The primary public views to Building 4 are from the water. Due to the low profile of the building and the setback from the water, the views are limited and will have negligible impact on views to the residential and natural areas to the north-west of the site. Due to height differences in neighbouring residential areas and the setback from the water, views to the water will also be negligibly impacted.

v. Outdoor boat storage, maintenance and repairs

The proposed modification seeks approval for up to 126 boats to be stored on portable racks on the site's hardstand area within a boat storage zone identified on the proposed site plan (Appendix A).

The proposed racks are approximately 15.5 m wide by 4.5 m deep with the two tier racks approximately 4.5 m high and the three tier racks approximately 8 m high. These racks and any additional racks required will be confined to the boat storage zone.

The racks are not permanent and appear more like skeletal structures than solid buildings. They may not be fully utilised at all times which makes them visually permeable. They are compatible both structurally and aesthetically with the existing steel gantry on the site. Overall, they will be consistent with the working harbour character of the area and reflective of the port and maritime waterfront uses in the locality.

A portion of the boat storage zone is within the approved footprint of approved Building 1. As noted above, given the skeletal nature of the racks, they would have a reduced visual impact when compared to the solid structure of Building 1. The proposed boat storage zone to the south of the approved Building 2 would have also been obstructed by Building 2 from views from the north, with remaining views obstructed by the approved Building 1 behind them. It is also noted that the original approval included gantry cladding over 11 m tall, which has since been removed. That cladding would have obstructed views through the centre of the site, screening and obstructing views from the north and south.

The southern boat storage area is alongside an area approved for fuel dispensing, with five cabinets along the southern area of the site servicing larger commercial vessels. As such, views from the north would be obstructed both by the approved buildings/gantry claddings as well as by commercial vessels beyond. Views from the south would also be obstructed by these vessels. As noted above, when vessels were not present, the boat racks would be visually permeable allowing views to and from the water.

vi. Floating 'finger' pontoon

The original approval included a number of short stay moorings and pontoons on the on-water portion of the site, as well as a travel lift ramp and roll on/roll off ramp. The proposed modification includes an additional floating 'finger' pontoon (approximately 30 m by 3 m) and pile attached to the existing marina. While the marina is now larger what was originally approved, the general footprint is similar. As the 'finger' pontoon not extend past the approved refuelling pontoon, and is generally within the footprint of the original proved short stay moorings, it will not significantly alter the visual appearance or bulk of these facilities.

vii. Signage

The proposed modification includes business identification signage, including a 'Caltex' sign (Appendix K) and three building identification signs (Appendix A). The proposed signage is consistent with the commercial identity of the premises and compatible with existing signage in the locality.

The buildings that the proposed building identification signs are proposed for (Building 1 and Building 2) are part of the original approval and will not add to the bulk or scale of the buildings on the site. These signs will be placed on the facades of the eastern and southern elevation of the structures. The Caltex sign is compatible in size and height with other free standing business signs within the Sydney Harbour Foreshore area.

viii. Car parking

The proposed modifications seek to include 36 car parking spaces with the site. The original approval included 30 car parking spaces within the site. Fourteen of the proposed car parking spaces are within the same generally area of the approved car parking area, with the remainder within the site.

The car parking within the site will not noticeably increase the visual appearance of the site. These parking areas will be used for overflow parking once the main parking area reaches capacity.