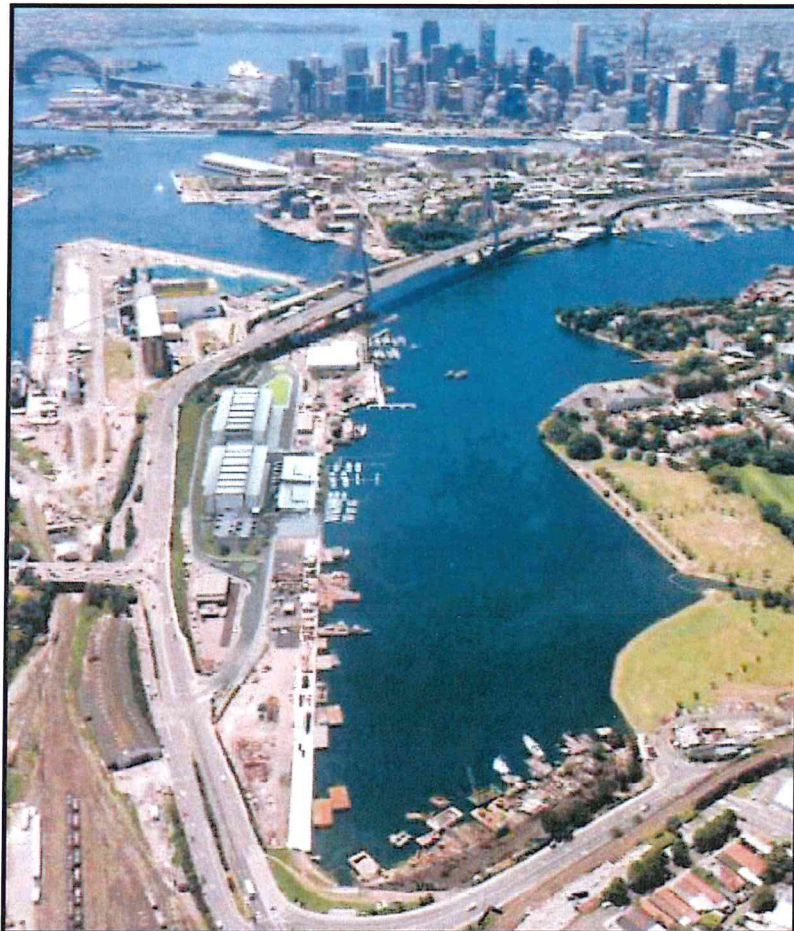


**MODIFICATION REQUEST
DRY BOAT STORAGE AND MARINE
FACILITY, ROZELLE BAY**

***MP 06_0210 MOD 5 – Extended use of Lot 29,
James Craig Road, for temporary car parking
and office uses.***



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

March 2014

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1. BACKGROUND

1.1 The Site

This is a report on a section 75W application seeking to modify the project approval for MP 06_0210 (MOD 5) for the Dry Boat Storage and Marine Facility, James Craig Road, Rozelle Bay to allow the continued use of Lot 29 for temporary car parking and office uses until 16 September 2015.

The subject site is bounded by James Craig Road to the north, the Sydney Super Yacht Marina to the east and Rozelle Bay to the south (see **Figure 1**). The site is 28,240 m² and is located within the Leichhardt local government area.

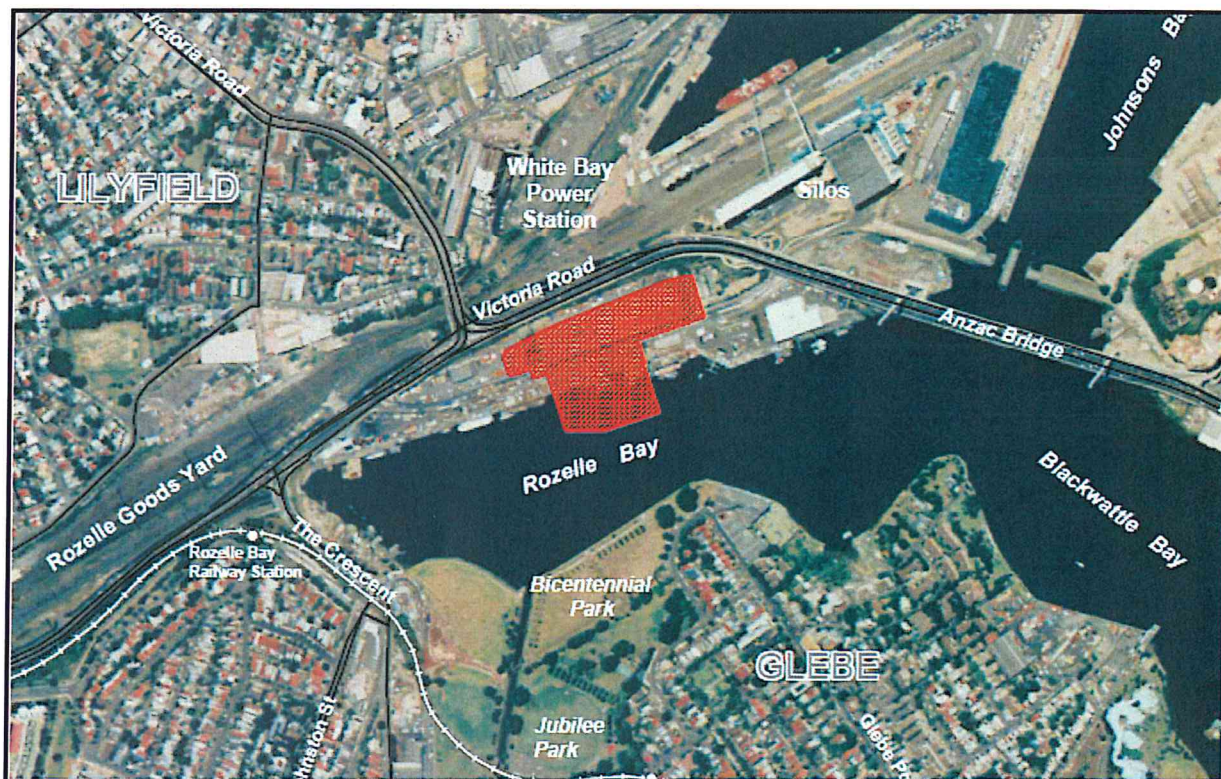


Figure 1: Site location

1.2 Approval History

MP 06_0210

On 21 May 2007, the then Minister for Planning approved MP 06_0210 for a dry boat storage and marine facility. The approved works comprise:

- Two boat storage buildings with a total capacity of 670 boats and 852 m² of commercial maritime and ancillary maritime floor space;
- A commercial maritime building with 3,024 m² of commercial maritime, maritime brokerage, maritime workshop and restaurant/café floor space;
- A multi storey car park and at-grade car parking for 272 vehicles;
- Underground fuel storage tanks;
- A marina comprising 36 layover berths and 24 brokerage berths;
- A boat in/out feed system to move boats between the dry boat stores and the water; and
- Signage, landscaping and rainwater tanks.

MP 06_0210 MOD 1

On 31 March 2010, the Director, Government Lands and Social Projects, approved under delegation, a section 75W application to extend the validity of the approval period from 3 to 4 years.

MP 06_0210 MOD 2

On 16 September 2010, the A/Director, Government Lands and Social Projects, approved under delegation, a section 75W application (MP 06_0210 MOD 2) permitting:

- Amendments to the design of the multi-storey car park including:
 - the deletion of levels 5 and 5.5;
 - a reduction in the footprint of the car park building, and a 474 m² reduction in the gross floor area of the building; and
 - the re-positioning of the at-grade car park.
- Increased construction and operation hours (from 9 am to 6 pm, to 8 am to 9 pm).
- The introduction of new conditions to allow for staged construction of the development (Conditions A6(i), A9(d), A9(e) and A19).

MP 06_0210 MOD 3

On 27 March 2012, the A/Director, Metropolitan and Regional Projects South, approved under delegation, a section 75W application (MP 06_0210 MOD 3) permitting the following changes to the staging of the development:

- The inclusion of the phase 3 works into stage 1;
- Interim dry boat storage of 78 boats during phase 1 and 2 of stage 1 across Lot 29 and 30;
- Interim dry boat storage of 45 boats on Lot 30 during phase 3 of stage 1;
- Interim car parking for 66 private vehicles during phase 1 of stage 1;
- Interim car parking for 135 private vehicles during phase 2 of stage 1;
- Interim car parking for 181 private vehicles during phase 3 of stage 1; and
- Temporary mobile crane usage.

MP 06_0210 MOD 4

On 19 August 2012, the Executive Director, Major Projects Assessment, approved under delegation, a section 75W application (MP 06_0210 MOD 4) permitting changes to:

- The roof form of the eastern and western boat stores;
- The extent of glazing on the eastern and western boat stores;
- The materials used on facades of the eastern and western boat stores; and
- Increase the width of the central aisle of the western boat store by 600 mm to separate the ancillary marine workshop and retail areas from the boat storage racking.

2. PROPOSED MODIFICATION

2.1 Modification Description

On 13 January 2014 Rozelle Bay Pty Limited, submitted a request to modify the Part 3A project approval pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (the Act).

The proponent seeks to re-word conditions A9(d) and A9(e), to extend the use of Lot 29 for temporary car parking and office uses during construction works from three years from the date of approval for MP 06_0210 MOD 2 (16 September 2010), to five years from the date of approval for MP 06_0210 MOD 2. The proposed wording would permit the use of Lot 29 for temporary office and car parking uses to 16 September 2015.

The approved wording of conditions A9(d) and (e) is as follows:

Limits on Approval

A9

- d) *Notwithstanding (a) above, temporary at-grade car parking of 27 spaces on Lot 29 as illustrated on Drawing MP-011-DA is permitted for a period of no more than three years from the date of this modification approval.*

- e) *The use of single storey temporary office buildings on Lot 29, James Craig Road as illustrated in Drawing MP-011-DA and T0-001-DA is permitted for a period of no more than three years from the date of this modification.*

The proposed wording of conditions A9 (d) and (e) as follows:

Limits on Approval

A9

- d) *Notwithstanding (a) above, temporary at-grade car parking of 27 spaces on Lot 29 as illustrated on Drawing MP-011-DA is permitted for a period of no more than **three five** years from the date of this modification approval.*

- e) *The use of single storey temporary office buildings on Lot 29, James Craig Road as illustrated in Drawing MP-011-DA and T0-001-DA is permitted for a period of no more than **three five** years from the date of this modification.*

2.2 Justification for Modification

The proponent has advised that the application has been lodged to permit the use of Lot 29 for temporary car parking and office uses until the construction of the western boat store is complete, as approval for these uses expired on 16 September 2013.

The proponent also advised that this modification is required due to delays in the construction timetable associated with the installation of precinct wide services, which in turn delayed the commencement of the Phase 2, Stage 1 construction works (construction of the western boat store).

3. STATUTORY CONTEXT

3.1 Changes to Part 3A

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (the Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

Section 75W (2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to extend the lapsed approval for the temporary car parking and office buildings on Lot 29, the modification will require the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75(3) of the Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. DGRs were not issued for this modification as the proponent has addressed the key issues related to the modification requests.

3.4 Delegated Authority

On 1 October 2011, the Minister delegated his functions to determine a modification request under section 75W of the Act to Directors in the Major Projects Assessment division in cases where:

- The relevant local council has not made an objection.
- A political disclosure statement has not been made.
- There are less than 10 public submissions in the nature of objections.

The relevant local council (Leichhardt Council) raised no objection to the application, and no public submissions were received. Furthermore, no political donations have been made in relation to this modification or the original project application.

Accordingly, the modification application is able to be determined under delegation by the Director, Industry, Key Sites and Social Projects.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act and clause 8G of the *Environmental Planning & Assessment Regulation 2000*, the modification request was made publicly available on Planning and Infrastructure's website. Planning and Infrastructure also notified Leichhardt Municipal Council (Leichhardt Council) and the City of Sydney Council (City of Sydney).

4.2 Submissions by public agencies

Leichhardt Council and the City of Sydney raised no objection to the proposed modifications.

4.3 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

5.1 Car Parking and Office Uses

Car Parking

The continuation of temporary car parking on Lot 29 will ensure that adequate car parking is provided for employees and visitors whilst the Phase 2, Stage 1 construction works are being undertaken. Planning and Infrastructure is satisfied that this will not negatively impact the surrounding locality as the number of temporary car parking spaces will not exceed the maximum parking spaces approved on-site.

Office Uses

Planning and Infrastructure supports the proponent's request to continue the use of Lot 29 for temporary office uses whilst the commercial space within the western boat store is being constructed. Planning and Infrastructure also notes that no negative impacts will result from the continued use of the temporary office space, on the basis that the location and dimensions of the temporary office will remain the same and will be removed at the completion of the Phase 2, Stage 1 works.

It is also noted that Leichhardt Council and the City of Sydney raised no objection to the continued uses of Lot 29 for temporary car parking and office uses.

5.2 Expiration of Temporary Uses

Planning and Infrastructure notes that the intention of conditions A9 (d) and (e) was to enable the temporary use of Lot 29 for car parking and office uses until the completion of Phase 2, Stage 1 of the project was completed (i.e. 16 September 2013). However, this approval has lapsed and, as a result, these uses are currently operating outside the project approval.

Despite this, Planning and Infrastructure has supported the ongoing temporary uses on site (via letter on 31 January 2014), on the basis that they continue until the determination of the subject section 75W modification application (MOD 5). Planning and Infrastructure has also informed the proponent that if MOD 5 is refused, the use of Lot 29 for temporary car parking and office uses must cease immediately to ensure compliance with the conditions of approval relevant to Phase 2, Stage 1 of the project.

Considering the above, and in the absence of any discernable amenity impacts, Planning and Infrastructure supports the proponent's request to extend the period in which temporary car parking and office uses are permitted. Although, as the original approval for the temporary uses on Lot 29 has expired, Planning and Infrastructure recommends that a specific date is imposed to avoid any doubt about expiration of the approval. Therefore, the temporary use of Lot 29 for car parking and office uses is recommended up until 16 September 2015.

6. CONCLUSION

Planning and Infrastructure has considered the proposed modifications to the project approval for MP 06_0210 (as modified), and the key issues associated with these modifications. Planning and Infrastructure is satisfied that the proposed extension of temporary office and car parking uses on Lot 29 is necessary to support the functionality of the site during the construction of permanent facilities in Phase 2, Stage 1 of the project and will not impact the surrounding locality.

In addition, Planning and Infrastructure considers that the existing conditions of approval will be adequate to ensure the amenity of the adjoining properties will be maintained during the Phase 2, Stage 1 construction works.

It is therefore recommended that the modification application be approved, as outlined in the recommended Instrument of Modification.

7. RECOMMENDATION

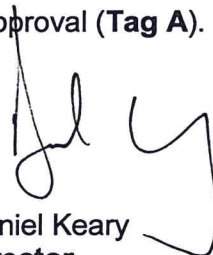
It is recommended that the Director, Industry, Key Sites and Social Projects:

- a) **Consider** the findings and recommendations of this report.
- b) **Approve** the modifications, under section 75W of the *Environmental Planning and Assessment Act, 1979*.
- c) **Sign** the attached Instrument of Modification Approval (**Tag A**).



Cameron Sargent
Team Leader
Industry, Key Sites & Social Projects

11/3/14



Daniel Keary
Director
Industry, Key Sites & Social Projects

19/3/14

APPENDIX A MODIFICATION REQUEST

Available on Planning and Infrastructure's website at:
<http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

Available on Planning and Infrastructure's website at:
<http://majorprojects.planning.nsw.gov.au>

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
