



planning consultants

28 March 2018  
Our Ref: 8493C.1KO

Mr Tim Green  
Planning Officer - Modifications  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2000

By Email: Tim.Green@planning.nsw.gov.au

Dear Tim

**RE: SECTION 75W APPLICATION – RESPONSE TO SUBMISSIONS  
MODIFICATION 8 TO MAJOR PROJECT MP06\_0210  
Lots 29 and 30, James Craig Road, Rozelle**

### Introduction

DFP Planning Pty Ltd (DFP) prepared a Section 75W Modification on behalf Rozelle Bay Pty Ltd to modify Project Approval MP06\_0210 under the then transitional arrangements for Part 3A projects, which continued the application of Section 75W (prior to 1 March 2018).

The modification application is seeking:

1. to amend the conditions of consent to extend the timeframe for the use of the single storey temporary building;
2. approval for the use of the temporary building as a café and office;
3. approval for an additional business identification sign on the western façade of the Western Boat Store; and
4. approval for Phase 2b of Stage 1. Phase 2b is for temporary at grade car parking and boat storage on the hardstand area between the foreshore and western boat store.

The modification application was publicly exhibited between 21 January 2018 and Monday 5 February 2018. In response to the public exhibition three public submissions were received. The matters raised in submissions have been reviewed and summarised as follows:

- The hours of operation of the café;
- Use of the site for live entertainment;
- Noise Management;
- Suitability of the temporary building for use as a café and office;
- Foreshore access;
- Use of hardstand for boat storage;
- Ongoing temporary uses; and
- Master Planning for the Bays Precinct.

There were no objections raised in relation to the additional building signage.

A response to the issues raised is provided below.

### **1. Café Hours of Operation**

The Project Approval imposes conditions in relation to the hours of operation of the cafe and it is not proposed to seek any variation to those hours.

The approved hours of operation for the cafe under Condition B1(a) are:

- Sunday to Wednesday 7.00am to 10.30pm
- Thursday to Saturday – 7.00am to 11.00pm

Condition B1(d) requires the use of the outdoor seating to cease by 10.00pm.

Condition B1(f) does provide that the café may operate to 12.00 midnight Thursday- Saturday on a trial basis for a period of 12 months from the date of issue of an Occupation Certificate. A future tenant may seek to operate in accordance with Condition B1(f).

### **2. Live Entertainment**

No amplified live entertainment is proposed by the S75W modification and Condition B1(f) restricts amplified live entertainment being carried out on the site.

DFP has been advised there was no event held on site over weekend 27 and 28 January 2018 (nor are there any facilities on site to support live entertainment events).

### **3. Noise**

Condition B2 sets out the noise limits for the operation of the site. The operation of the café will be required to comply with the noise limits specified in Condition B2(a).

In accordance with Condition C3 an Operational Environmental Management Plan has been prepared and includes a Noise Management Plan. The Operational Environmental Management Plan (OEMP) was prepared in 2011 and has previously been submitted to the DPE. The OEMP was updated in October 2017 and copy of the current version is enclosed at **Attachment 1**.

### **4. Suitability of Building for Use as a Café**

The building is a timber framed building with steel frame base (which was originally constructed off-site and transported to the site). The building was refurbished for use as offices in accordance with the National Construction Codes (NCC). The fit-out and use of the café will be undertaken in accordance with the relevant requirements of the NCC Building Code of Australia, and the relevant Australian Standards for Food Premises, to ensure it is suitable for the proposed use.

### **5. Foreshore Access**

The issue of foreshore access was addressed in the assessment of the Project Application and specifically addressed in the Preferred Project Report (PPR) prepared in January 2007. The development provides access to the foreshore, almost in its entirety, subject to the working

harbour operations of the site. To ensure public safety foreshore access will be intermittently controlled when the fork lifts are operating to lift boats into or out of the water. A foreshore access plan was submitted with the PPR and this is included at **Attachment 2** for information. Whilst the plan shows access arrangements for the fully developed site, the plan indicates accessibility to the foreshore.

The proposed modification does not preclude or remove access to the foreshore. The location of the office/café building does not impede access to the foreshore. Further the temporary café use will provide opportunities to enjoy access to and views of the harbour through the provision of outdoor seating and activation of the foreshore area.

## 6. Use of the hardstand for boat storage

Modification 3 proposed the use of the hardstand areas for the temporary storage of boats during the staged construction of the development and the modification was approved on 27 March 2012. The Project Approval provides for a total boat storage (dry berth and marina berths) of 670 boats. The proposed modification does not seek to change the total approved boat storage limit and any hardstand storage is within the approved limit, now and in the future. For clarification, the proposed number of boats to be stored on the hardstand areas is 47 boats (not 78 boats) and an amended Phase 2b of Stage 1 Plan is included at **Attachment 3**.

The use of the hardstand for the storage of boats and car parking is considered acceptable as:

- The Project Approval provides for the staged construction of the buildings.
- The proposed at grade temporary storage is to occur during the staged construction periods.
- The proposed at grade storage for Phase 2b of Stage 1 is for 47 boats, significantly less than the storage capacity of the eastern boat store and total boat storage capacity of 670 boats.
- The Project Approval (as modified) allows for temporary uses on the site;
- The storage of boats on the site is within the scope and intent of the original application i.e. a boat storage and marine facility.
- The environmental impacts of the proposal are minimal and generally within the scope of impacts considered with the original application.

In approving Modification 3, DPE considered that the use of the hardstand for temporary car parking and boat storage would not negatively impact on the amenity of the locality in terms of noise or visual impact and that the uses are consistent with the use and operation of the site as a boat storage facility with on-site car parking.

The use of the hardstand for boat storage will enable limited additional storage of boats on-site once the Western Boat Store reaches capacity and prior to the construction and completion of the Eastern Boat Store.

Modification 8 does not seek to introduce additional car parking or boat storage on the hard stand areas, but rather is regularising the existing layout/use of the car and boat parking areas on Lot 29. The proposed total boat storage and at grade car parking for Phase 2b of Stage 1 is within the limits of the approved project which provides for the storage of 670 boats and 272 car parking spaces. The proposed interim uses for the hardstand areas will operate at a scale that is significantly smaller than that which has been approved under MP06\_210.

## **7. Ongoing temporary use**

As noted above the development has approval for staged construction of buildings across the site. The construction of the Western Boat Store has been completed and the commercial maritime building is to be constructed at part of Phase 3 of Stage 1, at which time the temporary café and office building would be removed.

Therefore, the use of the building for a café will be temporary. It should also be noted that the building to be used for the café (and office) was constructed off-site and transported to the site by truck and the building can be relocated off-site in the same manner.

The timing of construction of the Eastern Boat store will be subject to market and project conditions and the occupancy of the Western Boat Store. There is no change proposed in relation to the approval of the Eastern Boat Store or future construction of the Eastern Boat Store.

The proposed uses are consistent with the approved Project and considered acceptable.

## **8. Master Planning for the Bays Precinct.**

Planning for the Bays Precinct is an ongoing project, currently being undertaken by UrbanGrowth NSW. Community Consultation is being undertaken as part of The Bays Precinct Urban Transformation Program and the Bays Precinct Reference Group has been established as a forum to share information and provide feedback on the Bays Precinct Urban Transformation Program (it does not have a decision-making function). Details of membership of the Bays Precinct Reference are available from UrbanGrowth NSW.

The site has the benefit of a Project Approval for a permanent Dry Boat Storage and Marine Facility and the applicant is entitled to progressively develop the site in accordance with the conditions of the Project Approval. Significant investment in maritime facilities within the Bays Precinct has been undertaken by Rozelle Bay Pty Ltd and maritime uses are consistent with the current planning framework for the Bays Precinct.

Future plans may propose a mix of others uses, however the nature and location of any future uses is yet to be determined and it is not appropriate to delay the determination of modifications on approved projects, particularly where the use is for a temporary period.

## **9. Conclusion**

The approved Project comprises two dry boat storage buildings, a commercial maritime building and a marina and the proposed modification does not fundamentally change the approved Project. Further, temporary use of the hardstand for at-grade carparking and boat storage has been approved by Modification 3.

There are no changes proposed to the hours of operation of the facility, the approved car parking or gross floor area of the commercial maritime building. The modification seeks to allow the continued use of a temporary building for a café and offices and the provision of additional signage (for which there were no objections).

The matters raised in the objection submissions have been responded to above and no changes are proposed other than the clarification that 47 boats are to be stored on the hardstand area.



We are of the view that the proposed modification is acceptable and can be approved under the Section 75W transitional provisions. Should you have any enquiries please contact Kirk Osborne on 9473 4904 or at [kosborne@dfpplanning.com.au](mailto:kosborne@dfpplanning.com.au).

Yours faithfully

**DFP PLANNING PTY LTD**

A handwritten signature in black ink that reads 'K. Osborne' in a cursive, flowing script.

**KIRK OSBORNE  
PRINCIPAL PLANNER**

**Reviewed:** \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'D. Hall', written over a horizontal line that serves as a signature line.

Encl.      Attachment 1 – Operational Environmental Management Plan  
             Attachment 2 – Foreshore Access Plan  
             Attachment 3 - Phase 2b of Stage 1 Plan