



MP 07_0006 - INNER WEST MARINA

**PROPONENT'S RESPONSE
TO SUBMISSIONS FROM AGENCIES AND THE PUBLIC**

3 MARCH 2011

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Introduction

This report has been prepared on behalf of the proponent, Breakfast Point Pty Ltd, to respond to submissions from Agencies and the public during the public exhibition and public hearings for *MP07_0006 Inner West Marina*. The project team have jointly prepared the responses.

1. Notification and Public Exhibition

The Environmental Assessment for the Inner West Marina project (MP 07_0006) was placed on public exhibition from Thursday 30 September 2010 until Tuesday 30 November 2010.

The Department of Planning placed advertisements in the following publications:-

- The Inner-western Suburbs Courier (Tuesday 5 October 2010 and Tuesday 26 October 2010);
- The Inner-west Weekly (Thursday 30 September 2010 and Thursday 21 October 2010);
- The Northern District Times (Wednesday 29 September 2010 and Wednesday 20 October 2010);
- The Ryde/Gladesville Weekly Times (Wednesday 6 October 2010 and Wednesday 27 October 2010);
- The Sydney Morning Herald (October 2010); and
- The Daily Telegraph (October 2010).

The EA was available to view at the following locations:-

- Department of Planning: Information Centre, 23-33 Bridge Street, Sydney (1300 305 695)
- City of Canada Bay Council: Civic Centre, 1A Marlborough Street, Drummoyne NSW (9911 6555);
- Ryde City Council: Civic Centre, 1 Devlin Street, Ryde NSW 2112 (9952 8222);
- Nature Conservation Council: Level 2, 5 Wilson Street, Newtown NSW (9516 1488); and
- Download a copy of the EA from the Department of Planning's website at www.planning.nsw.gov.au (go to Development Assessments/On Exhibition/Major Projects); or
- Department of Planning (1300 305 695) could send a CD-ROM copy of the EA free of charge.

During this period, the proponent's project team undertook further community consultation. Four workshops were held as follows:-

- Wednesday 20th October (5:30pm to 7:15pm) at Five Dock Library;
- Thursday 21st October (2:00pm to 3:45pm);
- Thursday 21st October (5:30pm to 7:15pm) at Five Dock Library; and
- Saturday 30th October (10:00am to 11:45am) at Concord Library.

A Community Consultation report prepared by Coppice Communications (October 2010) summarising the findings of the four workshops was submitted to the Department of Planning in October 2010.

2. Submissions

2.1 Agencies' Submissions

The following Agencies made submissions to the Department of Planning in relation to MP07_006:

- Canada Bay Council;
- EIS on behalf of Canada Bay Council;
- GSA Planning on behalf of Canada Bay Council;
- Department of Environment, Climate Change and Water (DECCW);
- Department of Industry and Investment (DII);
- NSW Health;
- NSW Maritime;
- Roads and Traffic Authority (RTA);
- Sydney Harbour Association (SHA);
- Sydney Ports;
- Sydney Water; and
- Transport NSW.

A summary of the Agencies' submissions and the proponent's response to each submission is contained in **Attachment 1**.

2.2 Public Submissions

Approximately 340 public submissions were received by the Department of Planning during the public exhibition of MP07_0006.

A summary of the Public's submissions and the proponent's responses are contained in **Attachment 2**.

There were approximately 70 submissions in support and approximately 270 submissions in opposition.

3. Planning Assessment Commission and Public Hearing

The Minister for Planning, pursuant to section 23D(1)(b)(ii) and Schedule 3 of the *Environmental Planning and Assessment Act, 1979* and Part 16(B) of the *Environmental Planning and Assessment Regulation 2000* directed the Planning Assessment Commission to be constituted to assess the Project Application.

The Commission comprises:-

- Dr Neil Shepherd AM, chair
- Mr John Court
- Dr Graeme Batley

The Minister also directed that public hearings be held for the project.

Public hearings were held on Wednesday 23rd February 2011 and Thursday 24th February 2011 at the Concord Community Centre, 1a Gipps Street Concord. The hearings were open to the public.

4. Response to the Key Issues Raised in the Submissions and at the Public Hearing

Section 4 addresses the key issues raised in the submissions and at the public hearings.

4.1 Planning

4.1.1 *A marina of this scale (172 berths) was not considered in the planning for the redevelopment of Breakfast Point.*

Strategic Planning

The strategic planning and redevelopment of the Breakfast Point site for predominantly residential purposes followed the prolonged use of the site as a gas works by the Australian Gaslight Company (AGL). The land at Breakfast Point was rezoned from 4(a) Industrial General to Residential 2(e) in 1998 and was also identified as a site of “strategic significance” pursuant to the provisions of *State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56)*.

Breakfast Point Masterplan 1999

In accordance with the provisions of *SEPP 56*, Concord Council adopted the Breakfast Point Masterplan in 1999 as a guiding document for the ongoing development of the site, which proposed 1,650 residential dwellings and 18,800 m² of commercial uses. The Masterplan was limited to the **land** at Breakfast Point (including the area where car parking is proposed), and did **not** apply to or include provisions or controls for the waterway area (i.e. the area where the marina and ferry wharf are proposed).

Breakfast Point Masterplan 2002

The Breakfast Point Masterplan was amended in 2002 to allow for 1,865 dwellings and 12,300m² of commercial uses on the site. Like the 1999 Masterplan, the Breakfast Point Masterplan 2002 did not cover the waterway area (i.e. the area where the marina and ferry wharf are proposed).

Notwithstanding the above, the Breakfast Point Masterplan 2002 (D191/2002) was approved by the City of Canada Bay Council on 3 September 2002 and included approval of the “Silkstone Precinct”, which proposed to accommodate a built element (of up to 5 storeys) and 100 public offstreet car parking spaces associated with a “future marina (subject to Waterways and Planning NSW Consent).” A summary of the development approved by Canada Bay Council in the Breakfast Point Masterplan 2002 is reproduced in **Figure 1**.

SUMMARY			
	LEP 91	Master Plan 1999	Master Plan 2002
SITE AREA	51.82 Ha	51.82 Ha	51.82 Ha
Gross FSR	0.7:1	0.6:1	0.6:1
Gross FSR _{RA} s/m	362,740	310,920	310,920
Max Dwellings/Ha	40	32	36
Max Dwellings	2073	1650	1865
Dwelling Mix 3B max	2073	1650	1220
Dwelling Mix 2B	0	0	645
Max Bedrooms	6219	4950	4950
Adaptable Housing	0	0	5%
Non Residential Use (Max Schedule 11)	18%	6%	4%
Non Residential FSR _{RA} (Max Schedule 11)	54,411	18,800	12,300
Retail Shops (max s/m)	10,000	4,600	3,000
Other Schedule 11 uses (Commercial/Community etc)	44,411	12,200	9,300
Residents Carparking (@ 2 / 3B, 1.5 / 2B Dwelling)	4146	3300	3408
Visitors Carparking (@ 1 space / 5 dwelling)	830	440	375
Retail Carparking (@ 1 space / 20sm)	500	330	180
Other Schedule 11 Parking (@ 1 space / 40sm ave)	1110	305	233
Provisional allowance Marina Parking on site (subject Waterways, Planning NSW consent)	0	0	100
Total Carparking on site	6586	4595	4573

CITY OF CANADA BAY
DEV. APP No. 154/02
DETERMINED 2/5/02
GENERAL MANAGER

BREAKFAST POINT
master plan 2002
REF: 2002RPP/000010-101/Report/000010.doc

GILES TRIBE ARCHITECTS & URBAN PLANNERS

Figure 1 – Extract from the Breakfast Point Masterplan 2002 – Provisional allowance Marina Parking on site (subject Waterways, Planning NSW consent) for 100 spaces

Figure 2 shows the nominated site access and location for the offstreet car parking associated with a “future marina (subject to Waterways and Planning NSW Consent).”

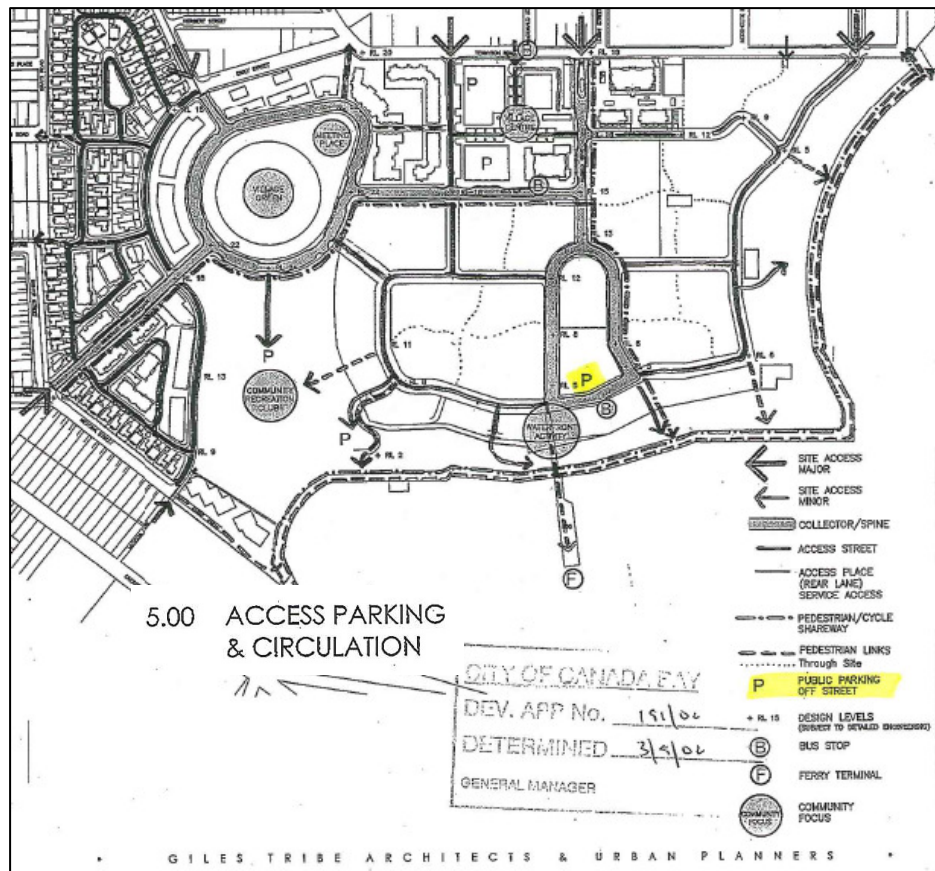


Figure 2 – Extract from the Breakfast Point Masterplan 2002 – Nominated location for Marina Parking on site (subject Waterways, Planning NSW consent) for 100 spaces

The Community Facilities projected in the 2002 plan included:

“Open Space and Recreation

Formal constructed open spaces and meeting places and recreation facilities are projected to be located in the Intensive Waterfront Area eg. Amphitheatre, market square associated with other waterfront activities, cafes, shops, commercial and land-based marina facilities.

Subject to Waterways concurrence, waterfront skiff sailing and/or rowing facility is being considered on the waterfront in association with the Community Recreation Centre and a marina in association with the pier. The water based uses are beyond the master plan area.

The master plan makes provision for the necessary land based support facilities eg parking and access for these facilities.”

Therefore, whilst the water based uses were beyond the Masterplan area and subsequently the size and scale of any future marina was not detailed in the 2002 Masterplan, provision for the necessary land based support facilities was approved in the form of 100 car parking spaces expressly set aside for future marina car parking.

Australian Standards 3962 – 2002 (Guidelines for design of marinas) provides that parking for marinas should be provided as follows:

- 0.3 to 0.6 spaces per wet berth; plus
- 0.5 spaces per employee; plus

- One space per 30m² for ancillary activities not directly related to berthing

AS 3962-2002 indicates that the range of parking provision per wet berth depends on the type of facility. For commercial facilities, the lower number of parking spaces should be considered. For racing clubs, the larger number should be considered.

Taking into account AS 3962-2002, the provision for 100 car parking spaces indicates a marina of which the size and scale could potentially have been between 166- 333 berths. (using 0.3 and 0.6 spaces per wet berth).

The Breakfast Point Masterplan 2002 contains the Land Use Principles for the “Waterfront Activity Precinct” and the “Water Based Activities” precinct. The “Waterfront Activity Precinct” includes the following land uses:

“Waterfront related activities related to the water ‘gateway’, Pier, ferry wharf and boating facilities. Limited shops, restaurants, cafes, an amphitheatre, some offices at upper levels, boutique hotel/conference centre are amongst uses to be considered. Formal landscaped setting. Bus stop and commuter parking. High community access and permeability.”

The “Water Based Activities” precinct includes the following land uses:

“Includes the refurbished pier, ferry terminal, marina and mooring facilities, rowing/skiff club ramps and other uses outside the subject land subject to Waterways consent.”

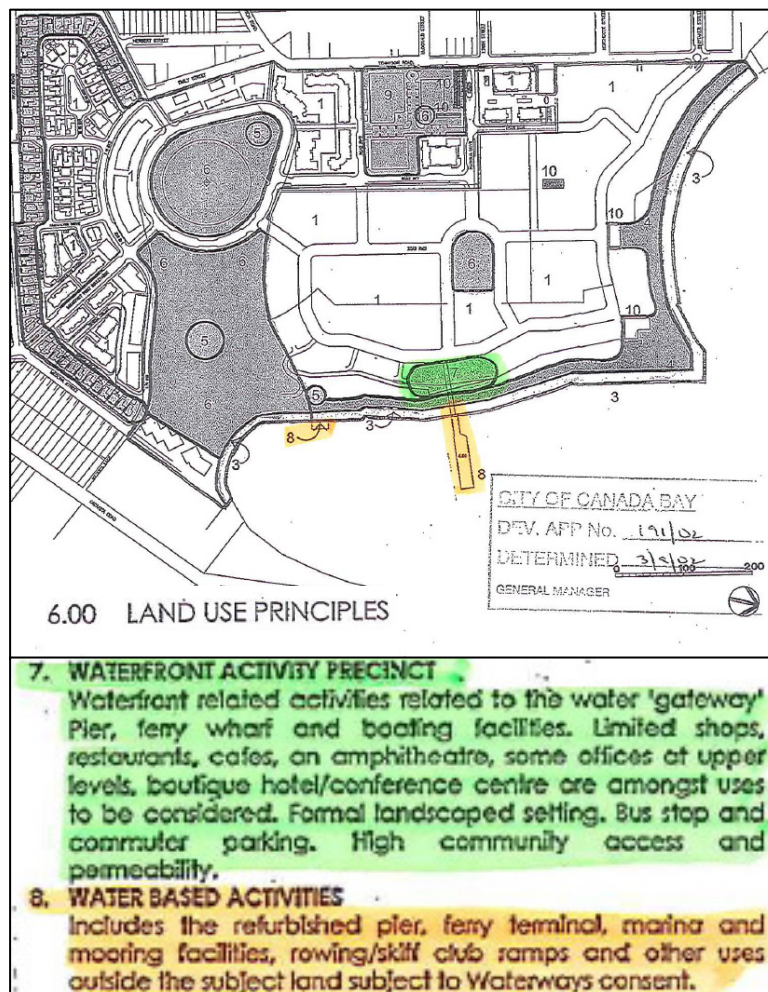


Figure 3 – Extract from the Breakfast Point Masterplan 2002 – Land Use Principles

4.1.2 The marina will alienate public space

The proposal maintains access along the foreshore and public access will also be available to the main marina walkways including access for people with disabilities and the mobility impaired. In relation to the waterways, the proposal does not restrict the navigation channel for other waterway users or impact on the existing and future opportunities for public recreation.

4.1.3 Canada Bay Council is preparing an amendment to Clause 2 in their LEP. The assessment will need to consider this Clause.

Whilst the proponent is not aware of Council's proposed amendment to Clause 2 of the Canada Bay LEP 2008, we make the following comments:-

- Pursuant to **Clause 2.1** of the LEP, the area upon which the marina car parking will be located is zoned **R1 General Residential**. Under the provisions of the Land Use Table "car parking" is permitted with development consent in the R1 General Residential zone.
- The **Objectives** of the **R1 General Residential zone** are:
 - *To provide for the housing needs of the community.*
 - *To provide for a variety of housing types and densities.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- **Clause 2.3(2)** of the LEP requires the consent authority to have regard to the zone objectives when determining a development application in respect of land within the zone. It is noted that the Council specifically included "car parking" as a permissible use in the R1 General Residential zone, in addition to the mandatory permissible uses under the R1 zone under the Standard LEP Instrument. It is understood that this was in recognition of the provisions in both the 2002 Master Plan and the 2005 Concept Plan for Breakfast Point, identifying the subject land specifically for car parking purposes in association with a future marina development. In doing this, Council acknowledged that the provision of parking for a marina in this area would be in the public interest. Under these circumstances, it is submitted that the proposed car park could not be regarded as being inconsistent with the Objectives of the R1 zone.
- Furthermore it is evident that it is necessary for car parking to be provided in association with the proposed marina in order to minimise impacts on residential amenity in the area adjacent to the marina. Again, the provision of such car parking is in the public interest.
- It is considered that the housing needs of the community have been addressed in the 1999 Master Plan, 2002 Master Plan and 2005 Concept Plan. These plans provide details of where housing is to be developed in Breakfast Point. They also provide that, within the "Silkstone Precinct", the subject site be developed for car parking associated with a future marina. Under these circumstances it is submitted that use of the subject land for car parking is not inconsistent with the R1 zone Objectives.
- The area upon which the marina (including kiosk, manager's office and amenities) and ferry wharf will be located is not within the area to which the Canada Bay LEP applies.

4.1.4 It is not clear whether the marina will sell batteries and boat parts from the Marina Manager's office and whether there will be a boat broker at the marina and berths used for selling boats.

Under the provisions of the *Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, a 'commercial marina' means:-

“...a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
 - b) any facility for providing fuelling, sewage pump-out or other services for boats, and
 - c) any facility for launching or landing boats, such as slipways or hoists, and
 - d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
 - e) any associated single mooring,
- but does not include a boat repair facility or a private marina.”

The definition of ‘commercial marina’ does not preclude the sale of batteries and boat parts in association with the marina. Similarly, the definition does not preclude the use of berths for the display and sale of boats.

4.1.5 Remove the ferry wharf -Council, the local residents and Sydney Ferries don't want it

Under the provisions of *Canada Bay Local Environmental Plan 2008*, Schedule 6, Part 1, Clause 2(a)(v) the Planning and Development Objectives for Breakfast Point are:-

- (v) to encourage the establishment of a suitable ferry wharf

The proposal has been designed to incorporate a suture ferry stop and therefore satisfies the requirements of the LEP. However the ‘use’ of the ferry stop will be subject to further application and assessment processes.

4.1.6 No other publicly available marinas are in such close proximity to residential dwellings

There are a number of publicly available marinas in similar proximity to residential dwellings including: Cronulla Marina, Double Bay Marina, Rushcutters Bay Marina and Royal Motor Yacht Club, Broken Bay.

4.1.7 All editions of the Masterplan and Concept Plan leave off any picture of a marina

The water based uses (including skiff, sailing, rowing facility and marina in conjunction with the pier) were noted as being “*beyond the masterplan area*” as they would be located on land below MHWL owned by NSW Maritime, which was land outside of the Canada Bay LGA (**Figure 4**). Notwithstanding this, the Masterplan made provision for the necessary land based support facilities eg parking and access for these facilities (**refer Figure 2**).

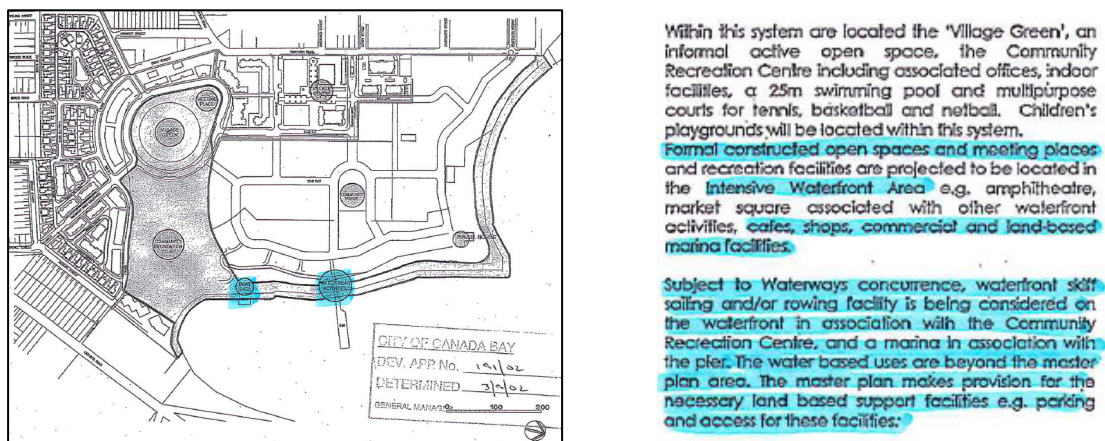


Figure 4 – Extract from the Breakfast Point Masterplan 2002 –Intensive Waterfront Area

4.1.8 *The proposed development does not satisfy the Aims (Clause 2) of the Harbour SREP*

The Project complies with the Aims (Clause 2) of the Harbour REP as follows:

- the development is a positive contribution to the revitalisation of the former industrial site at Kendal Bay within Sydney Harbour;
- the development encourages a culturally rich and vibrant place for residents of Breakfast Point and visitors to the area by providing opportunities to participate in water-based recreational activities; rebuilding the former public ferry wharf; and providing a kiosk and meeting place for social interaction (consistent with the Canada Bay Council approved Breakfast Point Masterplan 2002);
- the increased activation of the waterfront will contribute to the vitality and viability of the locality for existing and future generations;
- whilst the development maintains access along the foreshore, public access will also be available to the main marina walkways including access for people with disabilities and mobility impaired;
- the implementation of the proposed Sediment Protection System will improve the health of the aquatic environment which in turn has the ability to rehabilitate nearby wetlands; and
- the layout of the marina ensures that the operational requirements of Sydney Ferries are not compromised and an effective transport corridor is maintained.

4.2 Traffic, Parking and Access

4.2.1 *The proposed number of car parking spaces (58) does not adequately cater for the likely demand of marina berth holders and kiosk patrons.*

The proposal includes 58 car parking spaces for marina patrons and visitors, the marina manager, service and delivery vehicles and kiosk patrons.

AS 3962 – 2001 *Guidelines for design of marinas* indicates that parking for marinas should be provided as follows:-

- 0.3 to 0.6 spaces per wet berth; plus
- 0.5 spaces per employee; plus
- one space per 30m² for ancillary activities not directly related to boat berthing (ie. the kiosk)

AS 3962 – 2001 indicates that the range of parking provision per wet berth depends on the type of facility as follows:-

- commercial facilities to use 0.3 spaces per wet berth
- racing clubs to use 0.6 spaces per wet berth

A Traffic and Parking Report was prepared by Colston Budd Hunt & Kafes (August 2009). The Report states (page 8):

- 3.6 *“Based on 0.3 spaces per berth, one employee (the manager) and the kiosk of some 76m², the proposed marina would require some 55 parking spaces.*
- 3.7 *58 spaces are proposed, including one disabled space, as shown in Figure 3. The proposed provision therefore satisfies this requirement, and is considered to be appropriate.*
- 3.8 *We note that a proportion of the berths may be used by residents of the Breakfast Point development. This may reduce the parking demands at the proposed marina as some residents are likely to walk to and from the facility and would therefore not require parking.”*

The proposed car parking rate of 58 spaces satisfies the AS 3962 – 2001 Guidelines for car parking. The Report concludes (page 12):-

ii) the proposed parking provision is considered appropriate.

4.2.2 *The RTA Guide to Traffic Generating Development is the relevant guideline to apply to this project and not AS 3926 Guidelines for Design of Marinas*

The RTA Guide to Traffic Generating Development recommends 0.6 spaces per wet berth.

As discussed above AS 3962 - 2001 notes that 0.6 spaces per wet berth should be considered for racing clubs, and 0.3 for commercial facilities such as the proposed development. The RTA's parking requirement is therefore not considered to be appropriate as the proposed development is not a racing club marina.

4.2.3 *The location of the proposed car park is in an inappropriate location, too far from the marina (over 200m)*

The location of the proposed car parking in the Environmental Assessment is the same location approved by Canada Bay Council as part of the Breakfast Point Masterplan 2002 and by the Department of Planning in the Concept Plan 2005.

The Traffic and Parking Report concludes (page 12):-

"i) good pedestrian access will be provided between the marina, the car park and the surrounding area"

4.2.4 *The existing roads are not adequate to accommodate traffic from the proposed development*

In relation to Traffic Generation, the Traffic and Parking Report provides (page 9):

- 3.12 *"Traffic generated by the proposed development will have its greatest effects on weekends when people travel to the marina to use their boats. The majority of vehicles would be inbound in the morning and outbound during the afternoon.*
- 3.13 *The marina would generate up to some 20 vehicles per hour at these times. This is a low generation, equivalent to an average of one vehicle every three minutes during peak hours.*
- 3.14 *Such a low traffic generation would not have significant effects on the operation of surrounding roads within Breakfast Point or the external road network. Intersections would continue to operate at their existing good levels of service A/B, with average delays of less than 15 seconds per vehicle."*

The development is expected to generate a small number of service vehicles. These would primarily be vans, utilities and courier style vehicles which will be able to use the on site parking area.

In relation to construction traffic the Report provides:

- 3.15 *"...Most construction activity is proposed to be undertaken from the water. Piles, floating structure, beams and timber decking would be brought to the site by water.*
- 3.16 *The number of employees during the construction period will vary, but is estimated to be up to some 15 during the various stages of construction. Peak daily traffic flows during construction are estimated to be up to some 50 vehicles two-way.*

- 3.17 *On a typical working day of eight hours, this is equivalent to an average of less than 10 vehicles per hour two-way. The surrounding road network will be able to cater for this low volume of traffic."*

4.2.5 *Increase in volume of traffic using Breakfast Point roads and adverse impact on the local community*

The most recent development approval is the Breakfast Point Concept Plan 2005 S75W MOD1 dated 18 October 2010. Under this approval a total of 2,065 residential dwellings plus 227 Seniors Living units may be constructed within Breakfast Point. These have associated with them an estimated 3,655 off street car parks and 480 on street visitor car spaces.

The proposed 58 additional off-street car spaces associated with the marina will not have a noticeable effect on the operation of surrounding roads within Breakfast Point or the external road network.

4.2.6 *Inadequate assessment of the movement of goods and deliveries between the car park and the marina and kiosk*

The movement of goods and deliveries has been considered and assessed in the Marina Management Plan included in Volume 10, Appendix 15 of the EA.

Section 4 of the Marina Management Plan addresses Parking, Loading and Deliveries to the marina.

Small hand trolleys approximately 1.0m x 0.5m (in plan area) will be provided for the movements of goods and materials between the marina and the car park. These trolleys are common in marinas for the transport of goods.

There will be storage locations for the trolleys in the car park, on the marina and at the kiosk, as shown on attached drawing entitled "Pedestrian Access Plan" (refer **Appendix 3**).

No delivery vehicles will be permitted to access the waterfront walk.

Given the Traffic and Parking Report concluded that "*good pedestrian access will be provided between the marina, the car park and the surrounding area*" it is considered that the movement of goods or deliveries between the marina, kiosk and carpark may successfully be made with hand trolleys as is done for many other marinas and commercial facilities.

4.2.7 *Increased safety risk for children, pedestrian and residents of Breakfast Point*

The additional traffic from the proposed development would not cause capacity or unusual safety issues on roads within Breakfast Point.

The proposed driveway to the car park will have good sight lines and is provided in accordance with the requirements of the Australian Standard for Parking Facilities (Part 1: Off-street car parking), AS 2890.1:2004.

4.2.8 *The seawall will be damaged by vehicles driving along the seawall*

We have taken this statement to refer to the ability of the foreshore path, not the seawall, to accommodate vehicular traffic.

The proponent does not propose that golf buggies or any such motorised vehicles be used to transport goods, materials or persons to and from the marina. Trolleys and pedestrian foot traffic only are proposed.

Notwithstanding the above, it should be noted that the Community Association currently allows utility vehicles to drive on the foreshore path for landscaping or maintenance works.

This is testament to the fact that the foreshore path possesses the integrity to allow it to adequately accommodate such loadings for ambulance or emergency vehicles (further discussion is at Section 4.5.1 where TLB Engineers confirm that the pavement design of the foreshore pathway may accommodate the loading of fire trucks without causing significant damage to the pavement.)

4.2.9 Illegal parking will increase as a result of the proposal

Section 11 of the Marina Management Plan (Volume 10, Appendix 15) outlines Enforcement Criteria including “Marina Rules”, “Breach of Rules” and “Three Strikes and You’re Out”.

The marina rules will set out the obligation that users park only in the designated marina car park area. Should any particular user of the marina be found to be in breach of these rules then the marina operator may terminate their lease.

Car parking spaces for the kiosk patrons will be clearly marked to direct patrons to these parking spaces.

4.2.10 Vehicular removal of waste has not been addressed.

Waste Management is addressed in Volume 1, Section 11.1 of the EA.

A waste removal plan has been prepared in conjunction with Veolia, an experienced waste removal contractor. This plan is shown on the drawing entitled “Waste Collection Plan” (refer **Appendix 4**).

Seven 660 litre man-handleable bins will be located on the jetty at the gangways and at the kiosk. These bins will be wheeled to the car park where the contents will be placed in two 3m3 bins. The frequency of movement of the bins to the car park will vary according to the season. It is estimated that in summer the bins will be moved five times per week, and in winter four times per week. Three or four times each week, waste will be collected from the bins in the car park using typical suburban waste removal trucks.

4.2.11 The car park does not functionally work. Where do kiosk patrons, delivery vehicles and waste vehicles park if access is only via swipe card for berth holders? The EA fails to address serious operational issues in relation to the car park.

Drawing AM-01 prepared by Giles Tribe Architects, included in Volume 2, Appendix1 of the EA provides a general layout for the proposed carpark.

Access to the carpark area for marina users and deliveries will be controlled by a boom gate which may be activated by a swipe card or remotely by the marina manager. Kiosk users will be able to park inside the carpark area, but outside of the boom gates.

Drawing AM-01 has been amended to reflect the above proposal in particular, the location of the boom gates and areas for marina patrons, kiosk patrons and service vehicles.

4.2.12 Foreshore access for the public will be comprised with competing activities along the 3m wide foreshore walkway.

Colston Budd Hunt & Kafes advise that the foreshore path is sufficiently wide to allow the safe passing of pedestrian traffic and marina patrons including those with trolleys.

4.2.13 The Colston Budd Hunt & Kafes Traffic and Parking Report is flawed as it relies on the Breakfast Point Masterplan traffic details and not current traffic and parking situations.

As discussed at Section 4.2.5, the most recent development approval is the Breakfast Point Concept Plan 2005 S75W MOD1 dated 18 October 2010. Under this approval a total of 2,065

residential dwellings plus 227 Seniors Living units may be constructed within Breakfast Point. These have associated with them an estimated 3,655 off street car parks and 480 on street visitor car spaces. The 58 additional off-street car spaces associated with the marina will not have a noticeable effect on the operation of surrounding roads within Breakfast Point or the external road network.

4.2.14 The proposed marina is way behind in providing the required parking requirements (refer to the parking spaces provided at West Port, Berry's Bay and proposed at Homebush). The Traffic consultant has grossly underestimated the requirements of a marina of this scale.

The 58 spaces satisfy Australian Standard AS 3962 – 2001 on the basis that carparking is calculated at 0.3 spaces per wet berth and 0.5 spaces per employee, plus one space per 30m² for ancillary activities not related to boat berthing.

AS 3962 - 2001 notes that 0.6 spaces per wet berth should be considered for racing clubs, and 0.3 for commercial facilities such as the proposed development. Council's parking requirement is therefore not considered to be appropriate as the proposed development is not a racing club marina.

In addition, a proportion of berths may be used by residents of Breakfast Point. This may reduce the parking demands at the proposed marina as some residents are likely to walk to and from the facility and would therefore not require parking.

4.3 Remediation

4.3.1 All of the contaminated sediments in Kendall Bay should be remediated

The Department of Environment, Climate Change and Water (DECCW) directed Jemena Pty Ltd to remediate contaminated areas causing significant risk of harm (ie intertidal shallows).

The remediation of any other areas of the bay subject to the Remediation Order is a matter for DECCW and any proposal for activities associated with those areas.

4.3.2 The proposed SPS does not meet the requirements of the Remediation Order, SEPP 55 or the DGRs

Remediation Order

The proposal is addressing the requirements of the Remediation Order, in that it seeks to reduce and manage disturbance of sediments on the site, by methods for which DECCW approval is sought.

State Environmental Planning Policy No. 55

Clause 7 of SEPP 55 requires "contamination and remediation to be considered in determining a development application".

Clause 7 also states

"A consent authority must not consent to the carrying out of any development on land unless:

- a) it has considered whether the land is contaminated, and*
- b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

SEPP 55 defines remediation as:

- a) *removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or*
- b) *eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).*

Clause 8 of SEPP 55 states that remediation work is permissible with the consent of the consent authority.

AECOM have advised that the SPS meets the definition of remediation, the bed of the bay will be made suitable for the proposed development, and the development is permissible with approval of the Minister and therefore the proposal meets the requirements of SEPP 55.

Director General's Requirements (DGRs)

Given that the SPS meets the definition of remediation in SEPP 55, it also meets the DGRs, in that it constitutes remediation works considered to be necessary for the purpose of the development.

4.3.3 The SPS is unproven technology and could increase the impacts of the contaminated sediments.

Capping of sediments is widely used in various forms to reduce impact of contaminants, based on the physical and chemical characteristics of those particular contaminants.

The SPS is designed to mitigate impacts potentially generated by marina vessels, based on the physical and chemical nature of the contaminants found in this area of Kendal Bay.

4.3.4 The proposed marina over a contaminated site will increase the likelihood of contaminated sediments being mobilised. The proponent admits that 35% of the contaminated material will pass through the SPS- this therefore fails the retention test.

The construction of the SPS has been conservatively considered to affect the upper 100 mm of very soft sediments.

Hydrodynamic sieve and static submersion tests were carried out by Geosynthetic Testing Services, a NATA accredited laboratory, on the proposed geotextile, Elcomax 1200R. The proportion passing through, 32% (not 35%) represents the maximum loss of sediments through the Elcomax 1200R during the hydrodynamic sieve tests. The average loss during the hydrodynamic tests was 19%. The average loss during the static submersion tests was 0.7%.

While neither the hydrodynamic test nor the static test are directly representative of the disturbance of the bed during construction of the SPS, given the method of construction of the apron it is reasonable to expect that this disturbance, across the extent of the SPS, is better reflected by the static test (a single emersion) than the hydrodynamic test (2,300 cycles of emersion and drainage). In other words, the average of 19% and 0.7% (or 10%) x 100 mm would reasonably represent a conservative measure of the depth of surface sediment that might pass up through the geotextile during construction, ie 10mm. This is the basis of the 10 mm of sediment assumed to pass up through the geotextile during construction of the SPS as described in GBAC's Conceptual Model of Bed Disturbance and Protection at Inner West Marina (GBAC Figure 8, Stages 3 and 4). It is calculated that this 10mm of disturbed sediment will contain 35kg of PAH's (as compared to the 2,200kg of PAH's being disturbed under current conditions).

Once the SPS is installed, the 300 to 450 thick rock apron and its underlying Elcomax 1200R geotextile is predicted to reduce propeller wash velocities down through the SPS to within 0.1 to 0.2 m/s below the geotextile, that is to a current speed which is insufficient to mobilise the underlying sediments.

On this basis, the SPS will successfully retain bay sediments underlying it during operation of the marina.

It should be noted that even if 35% of disturbed sediment were to pass through the geotextile during construction this could result in an estimated upper mass of about 55kg of contaminants being dispersed into the surrounding environment over 12 months. As an estimated 2200kg of contaminants are currently being disturbed/year indefinitely, even at a 35% pass through, as a result of disturbance during construction, the SPS constitutes a significant improvement to the current environmental condition of the area.

4.3.5 Abrasion will take place.

Elcomax 1200R commonly receives direct placement of rocks, dropped in air, with rock unit masses exceeding hundreds of kilograms. The proposed rock armour weights comprising the SPS are less than 20 kg (Table 5.12), placed under water.

Elcomax 1200R will readily withstand the abrasion that may occur during construction of the SPS. No abrasion will occur during operation of the SPS since the rocks within the SPS are designed not to move.

4.3.6 In a different assessment, the proponent calculates that only 10% of fines will get through. What is the impact?

GBAC assess that up to 10% of the upper 100 mm of sediment will pass through the Elcomax 1200R geotextile during construction of the SPS only, and not during marina operation. It is calculated that this 10mm of disturbed sediment will contain 35kg of PAH's (as compared to the 2,200kg of PAH's being released under current conditions). This material will initially mostly come to rest within the rock apron. It will then be full remobilised after commencement of the marina operation phase (GBAC Figure 8, Stages 5 and 6). The remobilised material will disperse elsewhere in Kendall Bay and beyond, under the action of ambient translational currents, as is currently the case with unprotected sediments in the area.

To provide context to the matter of bed sediment disturbance during construction, 10% of the upper 100 mm within the SPS footprint amounts to some 560 m³ of sediment disturbed. This material would be remobilised and lost from the SPS following commencement of marina operations. It is well understood that long waves from fast ferries penetrate to relatively large depths potentially disturbing the bed at these depths. The annual disturbance from Cabarita Wharf fast ferries alone amounts to an estimated 15,500m³, or 30 x the disturbance associated with the marina proposal (construction and first 12 months of operation).

It should be noted that if 10% of disturbed sediment were to pass through the geotextile during construction this could result in an estimated upper bound mass of about 560 m³ of contaminated sediments being dispersed into the surrounding environment over 12 months. Since an estimated 15,500m³ of contaminated sediment is currently being disturbed/year indefinitely, this temporary impact attributed to the proposed marina is negligible when compared to current conditions.

Sieve testing results show that the ELCOMAX will have a passage of sediments. Testing was based on 2 samples- this is not enough. 90% error- test is not a standard test and was not undertaken by a NATA laboratory.

4.3.7 Sieve testing results show that the ELCOMAX will have a passage of sediments. Testing was based on 2 samples- this is not enough. 90% error- test is not a standard test and was not undertaken by a NATA laboratory.

Testing was based on 4 samples (Appendix B of the GBAC Report *Estuary Hydrodynamics and Physical Sedimentary Environment*).

A NATA accredited testing facility was used, however the test methods used were not NATA accredited as there is no NATA approved test for the determination of sediment migration through geotextiles.

Geosynthetic Testing Services applied modified standard test NFG 38-017 for the hydrodynamic sieve test, and an in house test for the static submersion test.

It is noted that the hydrodynamic sieve test provides results assuming the worst case scenario where the rock cover is providing no support and the subgrade soil is subjected to constant dynamic pulses of water.

4.3.8 The proponent states that the SPS has a 100 year life expectancy. Who will replace the blanket when required?

The supplier of the geotextile blanket has stated the lifespan of the blanket to be 100 years when submerged in saline water below rock cover (refer letter from Geofabrics Australia Pty Ltd Volume 8, Appendix 12). Further to this the durability of the geofabric will not be affected by the TPH's and PAH's present in the sediments in Kendall Bay, nor will it be affected by hydrolysis as the water temperatures are below 35 degrees Celsius. Previous investigations in general did not detect phenol concentrations above laboratory detection limits. The RO (parts b and c) also reflects this as the 'contaminants' of concern were identified to be TPHs and PAHs, and not phenols. Therefore, phenols if present are in low concentration and are not considered to be a factor in the durability of the geotextile at this particular site. Refer to Attachment 4 to the Response to Agencies' submissions (22/02/11) for further detail.

A condition of approval could include the requirement for preparation of a Maintenance Plan for the marina. The maintenance plan would include allowances for any unexpected damage to the geotextile and any unexpected replenishment required to the basalt rock.

A Business Plan will be prepared for the marina and will include allowances for the maintenance. The levies charged in relation to the marina would include allowances for maintenance.

4.3.9 The quantity of contaminated sediments to be disturbed during the construction phase is not quantified and its impact is not assessed

The quantity of bed sediments disturbed during the construction phase is quantified on p48, GBAC report: "The 10mm of disturbance to the surface bed sediments which occurs over the construction, post-construction and marina operation phases would amount to some 560 m3 of material. This material would disperse elsewhere in Kendall Bay and beyond, under the action of ambient translational currents."

It should be noted that if 10% of disturbed sediment were to pass through the geotextile during construction this could result in an estimated upper bound mass of about 560 m3 of contaminated sediments being dispersed into the surrounding environment over 12 months. It is calculated that this 10mm of disturbed sediment will contain 35kg of PAH's.

Since an estimated 15,500 m3 of contaminated sediment is currently being disturbed/year indefinitely and releasing 2,200kg of PAH's released into the water column per year, this temporary impact attributed to the proposed marina is negligible when compared to current conditions.

4.3.10 There is inconsistency in the EA report and plans – does the SPS extend to the MHWL?

The SPS does not extend to the MHWL. The inshore extent of the SPS is shown in Figure 2 of GBAC *Estuary Hydrodynamics and Physical Sedimentary Environment* report and in the DA drawings prepared by TLB reference EA Volume 2, Appendix 1, drawings DA 01 rev03, DA03 rev03, DA06 rev03, DA07 rev03, DA10 rev03

4.3.11 There is also no discussion of impacts from anaerobic conditions (generation of methane and gas is not addressed in the EA)

This scenario (anaerobic conditions) is already naturally occurring in the Kendall Bay environment, typically below the top 0.1m of sediment. The placement of the SPS will have comparable impact to natural sediment movement and deposition (e.g following storm events) covering existing sediment in turn creating an anaerobic environment only few centimetres below the new surface sediments. It is noted that the most significantly contaminated sediments occur at depths below 0.1 m and are already under anaerobic conditions. The SPS would not have any additional impact to the natural processes already occurring.

4.3.12 The proposal compromises the Jemena remediation project and cannot be undertaken until Jemena remediates Kendall Bay. Jemena advise they are unlikely to begin remediation until at least 2012.

The construction of the marina and SPS is able to be undertaken prior to the remediation by Jemena.

The SPS and jetty will be designed such that Jemena will have access to the bed of Kendall Bay between the SPS and the seawall in the area of the proposed Jemena remediation. This area will be free of piles and the SPS in this area will be designed such that the work by Jemena will not destabilise the SPS.

4.3.13 The proposed SPS has not adequately addressed the impacts of mobilised sediments and the additional impact of prop wash

Mobilised sediments can be transported in to or onto the SPS in 3 ways:

- (i) Up to 10mm migration of bed sediments expected to pass up through the geotextile into the rock apron during construction.
- (ii) Disturbance of bed sediments by fast ferry wave action within the corridor between the SPS and the seawall, and relocated onto the SPS (Deposit averaged over SPS estimated at 6 mm per year).
- (iii) Suspended fine sediments manifest as ambient turbidity advected into the marina from the host waterway (Deposit averaged over SPS estimated at 3 mm per year).

It is noted that delivery of sediments by (ii) and (iii) is not affected by the proposal.

The remobilised material will disperse elsewhere in Kendall Bay and beyond, under the action of ambient translational currents.

In terms of sediments delivered as a results of (i), 10% of sediment disturbed during construction is expected to pass through the geotextile, this could result in an estimated upper mass of about 560 m³ of contaminated sediments being dispersed into the surrounding environment over 12 months. It is calculated that this 10mm of disturbed sediment will contain 35kg of PAH's.

Since an estimated 15,500 m³ of contaminated sediment is currently being disturbed/year indefinitely and releasing 2,200kg of PAH's released into the water column per year, this temporary impact attributed to the proposed marina is negligible when compared to current conditions.

4.3.14 The Remediation Report for Jemena advises that the Cap Placement over Existing Sediment is not suitable for further consideration

The *Preliminary Environmental Assessment - Remediation of Sediments in Kendall Bay, Mortlake* undertaken by URS for Jemena Pty Ltd concluded that capping was inappropriate for the Jemena project which is addressing exposure risks from shallow and intertidal

sediments only. Sub-tidal sediments in Kendall Bay (similar to the area of the proposed marina) are not being remediated by Jemena.

4.3.15 Lack of assessment and consideration in the EA of the two remediation projects (Breakfast Point Pty Ltd and Jemena Pty Ltd) and how they will impact on each other

Should the Jemena remediation not have been undertaken before the marina is ready to be constructed then modifications can be made to the jetty design to span over the 'hot spot' area to be remediated by Jemena and enable access to the remediation area for Jemena. The modified design could involve the western end of the jetty (5m wideX20m long) being removed in two sections, each 2,5m wide, with no piles in the area to be remediated by Jemena and Jemena may still have access to undertake their remediation works.

4.3.16 The slope of the bed of Kendall Bay and the irregular spacing of piles for the marina will mean that the SPS will be subject to downslope migration and will stretch and tear and the horizontal movement will distort the SPS

The bed slopes in Kendall Bay are generally 1:15 (vertical:horizontal) or flatter. In the vicinity of the proposed jetty (location of original wharf) there are bed slopes of 1:5. Douglas Partners have commented on the bed slopes (letter dated 21st February 2011) and reviewed the overall geotechnical aspects of the design of the SPS. In their opinion with refined design and careful placement of the rock, it will be possible to install the SPS with negligible disturbance of the underlying sediments.

A hydrographic survey was undertaken by Harvey Hydrographic Surveys. The bed contours of the bay taken from this hydrographic survey are shown on drawings DA01, DA03 and DA06.

The geotextile has sufficient tensile strength to carry any tension forces which may develop as a result of the bed slopes in Kendall Bay. The weight of the rock armour is sufficient to develop frictional forces at the interface between the underside of the geotextile, and the bed, and, the rock armour and the geotextile, which are greater than the gravitational force effects on the sloped surfaces which act to move the rock armour and the geotextile down the slope.

4.3.17 The proponent has not considered river traffic disturbing sediment and it landing back on the blanket and being disturbed by prop wash.

Suspended fine sediments manifest today as ambient turbidity in Kendall Bay would be advected into the marina from the host waterway. The main source of these sediments would be expected to include sediment-laden runoff into the river from tributary creeks and stormwater drains and erosion of the bed and banks due to wind and boat wave action (Estimated deposit averaged over SPS 3 mm per year).

4.3.18 No bathymetry data is provided. Where has the survey on the plans come from? The slope of the bed varies between 1:5 and 1:100 (northern end) 50% of the site exceeds 1:60. US Army Corp of Engineers Guidelines state that slopes greater than 1:60 should be avoided. The proposed SPS will not work.

GBAC has used bathymetric information from TLB understood to be based on Harvey Hydrographic Surveys 2001 and NSW Maritime 2006. These data are acceptable for SPS concept design.

The comment is made that bottom slopes steeper than 1v:60h to 1v:100h are too steep for the SPS. The reviewer quotes from Palermo et al (2000) and adds his interpretation as follows:

"....LBC projects....have been executed at sites with slopes up to 1 to 60....". Placement of material on steep bottom slopes (steeper than 1v on 100h) should generally be avoided for a capping project....because of the potential for slope

adjustment....". Using these criteria it can be concluded that the bottom slope at Kendall Bay is far too steep for the proposed ISC.

The following document appears to be the source reference:

Multiuser Disposal Sites (MUDS) for Contaminated Sediments from Puget Sound - Subaqueous Capping and Confined Disposal Alternatives
Michael R. Palermo, James E. Clausner, Michael G. Channell, and Daniel E. Averett, July 2000

1. Extract from Palermo et al (2000) pdf p 84:

"Level bottom capping (LBC) is defined as the placement of contaminated material in a mounded configuration and the subsequent covering of the mound with clean sediment" (pdf p84).

2. Extract from Palermo et al (2000) pdf p90:

"The bathymetry of the site has an influence on the degree of spread during placement of both contaminated and capping material. The flatter the bottom slope the more desirable it is for LBC projects, especially if material is to be placed by hopper dredge. If the bottom in a disposal area is not horizontal, a component of the gravity force influences the energy balance of the bottom surge (lateral movement of the disposed material as it impacts sea bottom) and density flows because of the slope following impact of the discharge with the bottom. It is difficult to estimate the effects of slope alone, since bottom roughness plays an equally important role in the mechanics of the spreading process. To date, LBC projects in which the material was mechanically dredged and released from a barge have been executed at sites with slopes up to 1:60 (Clausner et al. 1998); and in which material was placed by hopper dredge at sites with slopes up to 1:225 (i.e., New York Mud Dump site). Placement of material on steep bottom slopes (steeper than 1v on 100h) should generally be avoided for a capping project (Truitt 1987a) because of the potential for a slope adjustment in the contaminated sediment mound. Bathymetry forming a natural depression tends to confine the material, resulting in a CAD project. This is the most desirable type of site bathymetry for a capping project".

The SPS proposal at Inner West marina differs fundamentally from an LBC project in that the contaminated material is not being dredged and disposed subaqueously. It resides within the bed of the bay, the morphology of which has developed in response to ambient processes. The existing bed is essentially stable. It is not appropriate to be applying the 1v:60h or 1v:100h LBC slope criteria to Kendall Bay. It is GBAC's submission that the quote by the reviewer is out of context and the conclusion invalid.

The procedure for assessing down slope migration in PIANC (1987) is independent of slope. This makes no sense if the substrate is flat. GBAC can only presume that the procedure pertains to "revetments" in line with the title of the text which typically are sloped at 1:1.5 to 1:3 (v:h). The steepest bed slopes under the SPS are 1:5 (v:h). The typical bed slopes are flatter than 1:15. GBAC would not expect down slope migration of the SPS to be an issue.

In addition, a Geotechnical Assessment of the behaviour of the subsurface material near and under the SPS has been undertaken by Douglas Partners (refer attached letter 1st March 2011).

This assessment has been based on the large number of bed samples taken by URS (formerly Dames and Moore) for their extensive assessment of the contaminants.

Douglas Partners have found that with refined design of the edge detail, the proposed SPS will be able to perform its function while accommodating the long-term settlement behaviour of the subsurface material.

Douglas Partners have commented on the bed slopes (letter dated 21st February 2011) and reviewed the overall geotechnical aspects of the design of the SPS. In their opinion with refined design and careful placement of the rock, it will be possible to install the SPS with negligible disturbance of the underlying sediments.

The geotextile has sufficient tensile strength to carry any tension forces which may develop as a result of the bed slopes in Kendall Bay.

The weight of the rock armour is sufficient to develop frictional forces at the interface between the underside of the geotextile, and the bed, and, the rock armour and the geotextile, which are greater than the gravitational force effects on the sloped surfaces which act to move the rock armour and the geotextile down the slope.

*4.3.19 No discussion on pore water compression (short term burst of contaminants).
Further data required and must be representative across entire marina footprint.*

There will be negligible impact on water quality as a result of pore water expulsion.

The overall rate of pore water discharge as calculated by Douglas Partners is anticipated to be about 3L/m² over a 5 month period.

In relation to movement of contaminants associated with pore water, the contaminants of concern for Kendal Bay tend to preferentially adsorb onto sediment particles or are hydrophobic and concentrations are relatively low in shallow (less than 0.5m) sediments. However, conservative calculations of PAH and TPH concentrations in pore water were undertaken using published partitioning data and organic carbon content data of bay sediments, where PAH and TPH were typically found to be elevated during the AECOM sediment investigation. It is noted that partitioning data used for PAH related to naphthalene, which is more water soluble than the bulk of the PAHs detected. For TPH, partitioning data relating to the C16-C21 fraction (assuming aromatics only) were conservatively used to represent the C15-C28 fraction, the dominating TPH fraction in the sediments.

The concentrations of contaminants used were those found in sediments below the top 0.1 m (i.e those sediments that will be compressed as noted in the Douglas Partners report). Based on these calculations, changes in the concentrations of contaminants in the water column within 1 m of the top of the sediments (the section of the water column least influenced by tidal flushing) would be less than 0.05 ug/L for PAH and 2 ug/L for TPH on a given day over the 5 month settlement period noted by Douglas Partners.

Therefore, these changes would be below the limits of detection typically achieved by commercial laboratories using NATA accredited methods, and would have a negligible impact on water quality. Pore water expulsion will equilibrate to current conditions after the 5 month compression period.

4.3.20 The EPA nominated environmental site auditor admitted at a Community Workshop that he did not have the geotechnical expertise to comment on the overall effectiveness of the proposed remediation.

Although the nominated site auditor is not a geotechnical engineer, in his audit team he has a number of geotechnical engineers that the EPA has accepted, as approved experts for assessment of geotechnical issues in relation to contaminated land and contaminated land remediation. The auditor therefore refers any geotechnical assessments of remediation/contaminated land management proposals to the geotechnical experts in his team.

4.3.21 The EA lacks a Geotechnical Assessment to comment on the background conditions and support the proposed SPS. The sediments in the bay are soft. Geotechnical matters have not been adequately addressed including edge effects and bed stability.

GBAC has addressed stability of the bed of Kendall Bay in relation to propeller wash, wave induced currents, tidal currents, wind-induced currents and freshwater flows.

A Geotechnical Assessment of the behaviour of the subsurface material near and under the SPS has been undertaken by Douglas Partners (refer attached letters 21st February 2011 and 1st March 2011).

This assessment has been based on the large number of bed samples taken by URS (formerly Dames and Moore) for their extensive assessment of the contaminants.

Douglas Partners have found that:

- 1) With refined design of the edge detail, the proposed SPS will be able to perform its function while accommodating the long-term settlement behaviour of the subsurface material.
- 2) With refined placement techniques for the rock armour, the disturbance of the upper 100mm could be reduced. The assessment of the top 100mm being disturbed during construction most likely an overestimate.

4.3.22 No indication of quality of basalt rock- it needs to be NATA accredited.

The characteristics for basalt submerged in salt water to last in excess of 100 years, are well known. Basalt of the required quality is available from quarries on the south and north coasts of New South Wales.

The basalt will be specified to contain less than 10% olivine. The material characteristics of the basalt will be tested before it leaves the quarry to ensure the basalt with the required characteristics is placed to form the SPS. Testing will be carried out by NATA registered laboratories.

4.3.23 A thicker blanket should be considered to address the accidental use of anchors.

The SPS extends over the whole area of the berths, access fairways and up to 31 metres beyond. There is no reason for any vessel master to drop anchor in the marina or within 31 metres of the marina. Hence any dropping of an anchor will be rare and because of an accidental release from a stationary vessel or vessel travelling at low speed or an extreme OHS emergency.

Nonetheless, an assessment has been made by TLB Engineers (TLB) of the sufficiency of geofabric to withstand the forces arising from such events.

TLB has found that the tensile strength and rupture resistance of the geotextile are at least 4 times greater than the forces which arise from the dropping of an anchor directly onto the geotextile, neglecting the beneficial effect of the 300mm to 500mm of rock armour over the geotextile.

Also TLB assessed the sufficiency of the geotextile to withstand the forces arising from an anchor dragging across the geotextile, again neglecting the beneficial effect of the rock armour.

TLB found that the geotextile Elcomax1200R has at least twice the tensile strength and tear resistance compared with the forces which would arise if an anchor is dragged across and becomes caught on the geotextile.

Nonetheless, should an anchor be dropped in the unlikely event of an accidental release or extreme OHS emergency then the procedure outlined in item 3.13 of the OEMP will be

implemented. It is considered most unlikely that significant damage would occur to the SPS arising from anchors associated with marina craft.

4.3.24 Comparative US Case Studies all have a thickness far greater than the proposal (between 0.8-1.5m)

The concept design in GBAC report comprises a cap which is 300 thick except for an area just north of the jetty where it is 450 thick achievable with a specified construction tolerance on crest level of -0/+150. Thus the actual thickness of the apron once placed could vary between 300 and 600 mm.

Guidance for In-Situ Subaqueous capping (ISC) of contaminated sediments is provided by the USEPA based on a number of sediment remediation and management projects throughout the United States and around the world including in riverine, nearshore, and estuarine settings.

The design of a cap is site-specific and is tailored to the nature, concentration and mobility of the contaminants, and the erosive powers of the environment (e.g. some sites have to deal with high wave energy, flood flow and even ice floes in winter).

The composition of the caps included in the USEPA "Summary of selected In-Situ capping projects" range from single layers of plastic liner, or simple, relatively thin layers of sand or fill, through to multi-layered engineered caps comprising geotextiles, sand gravel and rock armour up to 6m thick. Examples of cap installations of thinner or comparable thickness to the Kendall Bay proposal include:

- At Manistique, Michigan, an interim cap of 0.75m thick plastic liner was placed over a small (0.5 acre) deposit of PCB-contaminated sediments in order to prevent the resuspension and transport of sediments.
- At Kihama Inner Lake, and Akanoi Bay, Japan, nutrient contaminated sediments were capped with fine sand up to 200mm thick.
- Residual PCB-contaminated sediments at the General Motors Superfund site in Massena, New York An feet was capped with a three-layer ISC composed of 6 inches of sand, 6 inches of gravel and 6 inches of armour stone (total about 460 mm thick).
- At Hamilton Harbor, in Burlington, Ontario, a 0.5 m thick sand cap was placed over a 10,000 m² area of PAH-contaminated sediments as a technology demonstration conducted by Environment Canada.

The design of the cap in Kendall Bay (a layer of geotextile and 300-600mm of basalt rock armour) has been optimised to achieve the Remediation Order requirement of stabilising the surface sediment against disturbance by wave action, propeller wash and anchor drag etc. without compromising navigation depths under the marina in an area of limited water depth.

Where a project has used a sand cap, it has typically been to provide an absorption layer for mobile or vertically migrating contaminants. Contaminants at Kendall bay are not sufficiently soluble or at high enough concentrations to be able to migrate through the existing surface sediments and the proposed cap layer.

A thicker cap is not necessary to achieve the Remediation Order objective for Kendall bay.

To illustrate this even under initial compression effects immediately after SPS construction, quantities of pore water discharge are estimated to be only up to a total of about 3L/m² for a 5 month period at Kendall Bay.

Conservative calculations of PAH and TPH concentrations in this pore water were undertaken using published partitioning data and organic carbon content data of bay sediments, where PAH and TPH were typically found to be elevated during the AECOM sediment investigation.

It is noted that partitioning data used for PAH related to naphthalene, which is more water soluble than the bulk of the PAHs detected. For TPH, partitioning data relating to the C16-C21 fraction (assuming aromatics only) were conservatively used to represent the C15-C28 fraction, the dominating TPH fraction in the sediments. The concentrations of contaminants used were those found in sediments below the top 0.1 m (i.e those sediments that will be compressed as noted in the Douglas Partners report). Based on these calculations, changes in the concentrations of contaminants in the water column within 1 m of the top of the sediments (the section of the water column least influenced by tidal flushing) would be less than 0.05 ug/L for PAH and 2 ug/L for TPH on a given day over the 5 month settlement period.

Therefore, these changes would be below the limits of detection typically achieved by commercial laboratories using NATA accredited methods, and would have a negligible impact on water quality. Pore water expulsion will equilibrate to current conditions after the 5 month compression period.

4.4 Construction Environmental Management Plan

4.4.1 During construction - The silt curtain is incapable of preventing the escape of contaminants. What is the % of success? There are no sections or depth showing the extent of silt curtains. Silt curtain would need to extend to the sea floor. Sharp basalt rocks will not enable a floor seal. A 70m wide gate will be left open during construction allowing the mobilised contaminated sediments to escape. AECOM propose to monitor the surface water and not the water column

The primary silt curtain will be placed outside the perimeter of the SPS and the secondary silt curtain will be used before and during placement of basal ballast ontop of the geotextile, the presence of which will mitigate sediment disturbance at this stage of construction.

The silt curtains will be constructed to follow successful designs used for major contaminated sediment remediation projects eg Homebush Bay and the Hunter River Remediation Project. It is noted that no sediment dredging is proposed for this project, therefore such design is very conservative in the context of the placement of the SPS.

The openable section ("70 m gate") of the silt curtain is east of the area which is the subject of the Remediation Order. The opening of the access could be timed to occur on a rising tide. Turbidity will be monitored inside and outside of the silt curtain and the silt curtain will only be opened when turbidity levels are acceptable, so that escape of contaminated sediments is prevented.

The CEMP allows for water sampling near river bed, rather than just the water surface. The CEMP will be updated to include wording that is more specific to sampling above basalt layer. The CEMP will also include "Stop" and "Hold" points if no- compliant results are detected. All analytical testing will be undertaken by a NATA accredited laboratory and the CEMP will be amended to reflect this.

4.4.2 There is no consideration of temporary piling and the impacts they will have on stirring up sediment.

On driving the temporary piles the quantity of sediment disturbed will be minimal because of the downward action of driving piles and any sediment displaced into the water column will be contained by the silt curtains (refer to AECOM Construction Environmental Management Plan (CEMP)).

For withdrawing of the temporary piles, the approach will be same as that used during demolition of the former coal wharf. It is noted that during the pile removal works, no free phase contamination or exceedence of background water quality was identified. More than 100 piles were removed when the original wharf was removed. The construction procedures used were approved by the DECC and environmental controls used successfully to prevent the dispersion of contaminants.

4.4.3 There is no 'stop' or 'hold' criteria in any management plan. AECOM have not documented a thorough EMP.

The CEMP will be amended to include "Stop and "hold" points for non compliance to suit the final construction methodology.

4.4.4 During construction, fortnightly inspections are not adequate. What happens if the silt curtain fails on day 2?

The CEMP (Section 4.1) stipulates that *"the boom and silt curtain below the water will be inspected fortnightly by a diver, or more often if the condition of the boom and/or curtain is considered to have deteriorated, and in particular after an extreme storm event or extreme wave event....the underwater inspection will include a visual assessment of the drape of the curtain on the bed"*.

The silt curtains will be observed from the surface on a daily basis, and potential issues will be easily identified.

We consider the above inspection regime, together with the daily observations are considered adequate, as sediment disturbance from this construction method is small compared to dredging and excavation projects where similar sediment retention systems are used.

4.4.5 After installation of the SPS, yearly inspections are totally inadequate.

The OEMP will be amended to show an increase in the frequency of inspections to quarterly basis for the first 12 months of operation followed by annual inspections for the following 5 years. After 6 years of operation a review of the performance of the SPS will be undertaken and a revised monitoring regime proposed if require. This will be done in consultation with the Site Auditor.

4.4.6 No warranty or guarantee has been put forward. A security of at least \$10M should be required.

The relevant environment assessments support the proposed SPS. We are not aware of this requirement for an unqualified guarantee for any other Major Project Application. A condition of approval could include the requirement for preparation of a Maintenance Plan for the marina. The maintenance plan would include allowances for any unexpected damage to the geotextile and any unexpected replenishment required to the basalt rock.

A Business Plan will be prepared for the marina and will include allowances for the maintenance. The levies charged in relation to the marina would include allowances for maintenance.

4.5 Design of the Marina

4.5.1 The proponent has not provided any verification that the seawall can take the loading of the jetty

At the interface between the jetty and the seawall, the seawall construction consists of a wide concrete wall founded on rock.

The jetty will be supported off the seawall with bearings placed under the jetty beams, such that no significant horizontal loads will be applied to the seawall. The jetty will be designed so that it does not rely on the seawall for lateral stability.

The seawall and founding bed rock have sufficient strength to safely withstand the forces arising from the jetty.

4.5.2 The original concept included a boatshed. This longer appears to be proposed.

Whilst the current proposal does not include plans for a boatshed the proposal does not preclude this being proposed in the future.

4.6 Navigation

4.6.1 The proposal results in significant interference with Sydney Ferries timetable. The proposal should not be allowed to impact significantly on the efficiency of any public transport schedule. The proposal could result in a potential reduction of 14 services to Cabarita Ferry Wharf each week

These following notes should be read with reference to drawings N05 and N06 prepared by TLB Engineers (refer **Attachment 1 in Appendix 1**).

Ferries Travelling Downstream (to Circular Quay)

- 1 At the Mortlake Car Ferry, Sydney Ferries vessels must turn and head on a path which keeps them 30m clear of the channel marker pile of Breakfast Point.
- 2 At the channel marker pile they turn (to starboard) and head either to Cabarita Wharf or down to the southern side of the main channel.
- 3 At no time does the path of the ferry cross the centre line of the channel and there is 120 metres of clear navigable water on the southern side of the main channel for the ferry to manoeuvre southward to avoid a vessel travelling upstream which is in the centre of the channel or on the southern side (wrong side) of the channel.
- 4 If there is a vessel in the centre of the main channel the ferry is able to pass on the southern side of the vessel with at least 58m clear water to the marina.

Ferries Travelling Upstream

- 1 Ferries not stopping at Cabarita Wharf remain on the northern side of the main channel as at present, and will not be affected by the proposed marina.
- 2 Ferries stopping at Cabarita Wharf cross the downstream vessel traffic east of Cabarita Wharf at present, and will not be affected by the marina in this part of their path of travel.
- 3 At present ferries departing Cabarita wharf travel northwest and cross the downstream vessel traffic east and well clear of the Breakfast Point channel marker pile. As these ferries approach the southern side of the channel they should have a good view of vessels travelling upstream and downstream in the main channel. The optimum location for vessels to get a good view of all vessel traffic in the main channel when the ferry is approaching the southern side of the main channel, is 280m from the channel marker pile as shown on the drawing N06.
- 4 At the location identified in '3', with the marina in place, the ferry would be 80m away from the marina and the marina would not be impeding the view upstream.

Conclusion

With the marina in place ferries travelling downstream would not cross the centre line of the channel and there is ample clear navigable waterway on the southern side of the channel at the marina for the ferries to deviate to the south to avoid any vessel travelling in the centre or on the southern side of the channel.

4.6.2 Sydney Rowing Club is concerned about the impacts of the proposal on the river and river traffic. In particular:-

- *the removal of rights for public access to Kendall Bay;*
 - *the area for rowers to row safely has been greatly reduced;*
 - *the proposal (which includes most motor cruisers) will result in short, steep waves and will present a major issue for rowers;*
- If the marina is approved Sydney Rowing Club request the following:-*
- *knot limit over 6m in length between Gladesville and Silverwater;*
 - *School zone areas should be enforced.*

TLB have reviewed the comments of the Sydney Rowing Club and advise the following:-

Rowers use the Parramatta River for training and events. Both types of activity are undertaken in daylight.

Training is undertaken on week days and possibly Saturdays when no events are being undertaken. The training hours are generally 5.30 – 9.30 a.m., and 2.30 – 5.30 p.m. in summer, and a later start in winter until 9.30 a.m., and 2.30 – 5.30 p.m.

Events take place on weekends up to 3 p.m.

The rowers use:

- 1 The northern side of the main channel along the Parramatta River, where there is 75m width of clear navigable water between the northern side of the channel and the northern shore of the Parramatta River.
- 2 The main channel along the Parramatta River.
- 3 Occasionally Kendall Bay as a resting location.

Navigation Rules

It is a requirement for all vessels using the Parramatta River that they comply with the Navigation Safety Act which requires that powered vessels maintain a clear distance of 60m from non-powered vessels such as rowers.

There is ample clear navigable width of the Parramatta River for powered vessels to pass rowers while complying with the Navigation Safety Act. This has been demonstrated over many years as rowers and powered vessels have been sharing the River.

Effect of Marina

Based on the usage of recreational boats in marinas, very few vessels depart before 9.30 a.m. The number of boats which may depart the marina during weekdays in summer, during rowers' training times, has been determined to be no more than three vessels. There may be up to six vessels returning to the marina during summer afternoon training times.

There are a total of nine daily movements of vessels to and from the marina which could pass rowers, during peak training times in summer, and only up to five vessel movements in winter. During this same period there will have been 27 ferry movements, plus 30 other recreational vessel movements.

The vessels from the marina contribute fewer than 15% of the vessel movements past rowers in summer, and fewer than 10% of the vessel movements in winter.

There is ample clear waterway area at the head of Morrisons Bay and Glades Bay on the northern side of the Parramatta River for rowers to use as resting places.

When events are to take place an aquatic licence must be sought from NSW Maritime. When assessing the navigation safety for those events, NSW Maritime will set out conditions.

Should it be considered necessary to apply speed restrictions along the river in the vicinity of the event, then this is up to NSW Maritime, and "marshal" vessels should be deployed to warn all users of the Parramatta River that special speed restrictions are in force.

Conclusion

It is the responsibility of all vessel masters to comply with the Navigation Safety Act and drive their vessels in a way which considers other users of the Parramatta River.

There is ample clear waterway space in the Parramatta River in the vicinity of the marina for vessels to comply with the safe distance requirements specified in the Navigation Safety Act.

The enforcement of the Navigation Safety Act and the implementation of vessel speed restrictions on the Parramatta River are a matter for NSW Maritime.

The overall effect of the marina on rowers will be minimal.

4.6.3 The navigation channels are greatly reduced for passive recreation and craft will now have to compete with main navigation channel river traffic. Increase in congestion will contribute to an increase risk of accidents in the bay between rowing, speed boats, ferries. Increase in congestion will contribute to an increase risk of accidents in the bay between rowing, speed boats, ferries

As stated in the responses to item 4.6.1 and 4.6.2, there is ample clear navigable water for all vessels to safely use the main channel along the Parramatta River.

The marina will contribute less than 10% of the vessel traffic in this section of the river. There is no significant increase in risk of accident

4.6.4 The proposal requires all traffic leaving the marina to cross into the ferry path.

There are many other areas of Sydney Harbour and the Parramatta River where vessels cross ferry paths. There is ample clear water space around the marina for the safe navigation of all vessels (ferries and recreational craft) in accordance with the Navigation Safety Act.

4.7 Consultation

4.7.1 Consultation undertaken during the preparation of the EA was grossly inadequate. It is offensive and wholly unacceptable that no consultation took place with Breakfast Point residents prior to the submission of the EA.

Representatives of Breakfast Point Pty Ltd attended a number of public meetings to present to stakeholders and interested members of the community, including Breakfast Point residents, details of the marina proposal and encourage them to put forward their views and/or ask questions in relation to the proposed marina. These meetings included but were not limited to the following:

- Kendall Bay Remediation – Hosted by Angel D'Amore, 2008, Breakfast Point Community Hall;
- Kendall Bay Marina Forum – Hosted by Angela D'Amore, 18 November 2008 Sydney Rowing Club, Great North Rd, Abbotsford; and
- Kendall Bay Marina Community Meeting – Hosted by City of Canada Bay Council, 1 November 2010, Massy Park Golf Club.

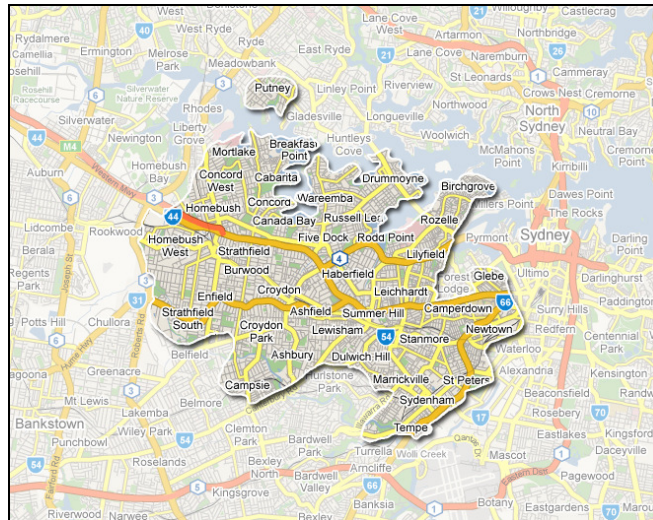
In addition to the above public meetings Breakfast Point Pty Ltd undertook community consultation during the preparation of the EA and again during the public exhibition of the EA.

On behalf of Breakfast Point Pty Ltd, Ford Comm undertook online community consultation from 17 June 2009 – 10 July 2009, during the preparation of the EA. The Community Consultation Report is included in Volume 10, Appendix 16 of the EA and reproduced in part below:-

Introduction

The proponent undertook a consultation program with community groups and affected landowners in the areas of:

Abbotsford, Annandale, Ashbury, Ashfield, Balmain, Birchgrove, Birkenhead Point, Breakfast Point, Burwood, Burwood Heights, Cabarita, Camperdown, Campsie, Canada Bay, Chiswick, Concord, Concord West, Croydon, Croydon Park, Dobroyd Point, Drummoyne, Dulwich Hill, Enfield, Enfield South, Enmore, Erskineville, Five Dock, Glebe, Haberfield, Homebush, Homebush West, Leichhardt, Lewisham, Lilyfield, Marrickville, Mortlake, Newtown, North Strathfield, Petersham, Putney, Rhodes, Rodd Point, Rozelle, Russell Lea, Stanmore, Strathfield, Strathfield South, Strathfield West, St Peters, Summer Hill, Sydenham, Tempe, Tennyson Point and Wareemba.



Consultation Methodology

An online community consultation website was the key communication channel employed for the community consultation process. Online consultation is an effective tool because it reaches many more people than most other methods of engagement and is accessible to the community at any time. It's easy, safe, respectful and well-liked by the community.

The aim of this pre-application consultation process was to make information about the proposal available to as many people as possible, inviting interested members of not only Breakfast Point community but the wider the community of the Inner West to have their say on the issues that should be considered in the Environmental Assessment.

The community consultation website was set up at www.innerwestmarinasydne.com.au opening on Wednesday 17 June 2009 and ending on Friday 10 July 2009.

This website provided information on the proposal and a forum through which the community and affected landowners could submit topics that they believe should be addressed in the Environmental Assessment and participate in the discussion with fellow community members and landowners, effectively giving those individuals and organisations likely to have an interest in the proposal ample opportunity to express their views surrounding the proposal.

The site was independently moderated by Dr Crispin Butteris, Co-director of Bang the Table Pty Ltd, a specialist provider of online stakeholder engagement services. All moderation was carried out according to Bang the Table rules outlined in its 'Community Contract' and was done so to ensure that the site remained a safe and relevant environment to discuss the issues surrounding the proposal.

Notification

Notification of the consultation process to Breakfast Point residents, the Inner West community and affected landowners was given by unaddressed mail delivery, advertising in local press, and publicity. Notification was given by various methods to a total more than 339,250 residents (ABS 2006).

Unaddressed Mail Delivery

An unaddressed mass DL flyer letterbox drop was commissioned through Australia Post to all private delivery points in areas surrounding Kendall Bay, including: Breakfast Point, Cabarita, Canada Bay, Concord, Five Dock, Mortlake, Putney and Tennyson Point, totalling 12,835 delivery points and a total reach of approximately 30,973 residents (ABS 2006). The double-sided flyer notified the community that an Environmental Assessment was being prepared for the marina proposal and their input was valued. They were directed to the website and given the opening and closing dates of the forum.

Advertising

The website forum was also advertised in the Inner West Weekly, Inner West Courier and Village Voice Drummoyne newspapers, again directing interested members of the public to 'have their say' on the website.

Publicity

News and editorial coverage was proactively sought in local media, including radio and local press The Inner West Weekly, Inner West Courier and Village Voice Drummoyne. A spokesperson was made available around the clock to answer any questions posed by the media.

The detailed Community Consultation Report is included in Volume 10, Appendix 16 of the EA.

During the public exhibition of the EA, the proponent's project team undertook further community consultation. Four workshops were held as follows:-

- Wednesday 20th October (5:30pm to 7:15pm) at Five Dock Library;
- Thursday 21st October (2:00pm to 3:45pm);
- Thursday 21st October (5:30pm to 7:15pm) at Five Dock Library; and
- Saturday 30th October (10:00am to 11:45am) at Concord Library.

The purpose of the workshops was to:-

- Present details of the Environmental Assessment and planning for the Inner West Marina
- Provide opportunities to answer questions
- Encourage community members to make a submission to the Department of Planning as part of the process
- Compile a report of the main questions and issues raised.

Each of the four workshops provided the opportunity for participants to discuss questions afterwards with panel members and consultants or to write questions and have them answered by email. The meetings gained the perspectives of participants. The issues, questions and suggestions raised below are those of participants only.

Notification

Notification of the community consultation workshops to the community and affected landowners was given by unaddressed mail delivery and advertising in local press. Notification was given by various methods to a total of more than 360,267 residents (ABS 2006).

Unaddressed Mail Delivery

An unaddressed mass DL flyer letterbox drop was commissioned through Australia Post to all private delivery points in areas surrounding Kendall Bay, including: Abbotsford, Breakfast Point, Cabarita, Canada Bay, Chiswick, Concord, Concord West, Five Dock, Gladesville, Henley, Mortlake, North Strathfield, Putney, Tennyson Point and Wareemba, totalling 23,658 delivery points and a total reach of approximately 59,800 residents (ABS 2006). The double-sided flyer notified the community that the workshops were taking place for the marina proposal and their input was valued. They were directed to register via a dedicated 1800 number or the website www.innerwestmarinasydney.com.au and provided with information on the workshops.

Advertising

The workshops were also advertised in the Inner West Courier (Tuesday gloss edition and Thursday Inner West edition), The Northern District Times and The Weekly Times newspapers; again directing interested members of the public to register via the 1800 number or on the website.

A Community Consultation report prepared by Coppice Communications (October 2010) summarising the findings of the four workshops was submitted to the Department of Planning in October 2010.

It is the proponent's view that community consultation was comprehensive and that residents of Breakfast Point and the Inner West community were encouraged to participate in the process.

4.7.2 Breakfast Point residents did not get the notification and advertising material for the marina as Inner West Courier does not delivery to Breakfast Point. In addition the notification did not reference Kendall Bay but Inner West Marina (that could be anywhere)

For the Pre Application Community Consultation between 17 June 2009 – 10 July 2009 an unaddressed mass DL flyer letterbox drop was commissioned through Australia Post to all private delivery points in areas surrounding Kendall Bay, including: Breakfast Point, Cabarita, Canada Bay, Concord, Five Dock, Mortlake, Putney and Tennyson Point, totalling 12,835 delivery points and a total reach of approximately 30,973 residents (ABS 2006).

The double-sided flyer titled “*Inner West Marina Sydney*” notified the community that “*an Environmental Assessment was being prepared for a new marina at Kendall Bay on the Parramatta River in Sydney*”.

For the Community Information and Consultation Workshops from 20 October 2010 – 30 October 2010 an unaddressed DL flyer letterbox was dropped by Australia Post to all private delivery points in areas surrounding Kendall Bay, including: Breakfast Point, Cabarita, Canada Bay, Concord, Five Dock, Mortlake, Putney and Tennyson Point. The October 2010 flyer referenced Inner West Marina Sydney but did not specifically reference Kendall Bay.

It is acknowledged that the DL flyer for the 20 October 2010 – 30 October 2010 Community Information and Consultation Workshops did not contain the words “*Kendall Bay*”, however given the consultation done 17 June 2009 – 10 July 2009 and the subsequent generated public interest and media publicity, it is fair to assume that a resident of Breakfast Point would be aware of the location of the Inner West Marina Sydney being within Kendall Bay.

4.7.3 The Consultation Workshops were inadequate and cannot be deemed to have met the DGRs

The purpose of the Community Information and Consultation Workshops was to:

- Present details of the Environmental Assessment and planning process for the Inner West Marina
- Provide opportunities to answer questions
- Encourage community members to make a submission to the Department of Planning as part of the process
- Compile a report of the main questions and issues raised.

The information presented in relation to the EA was very detailed and all attendees were encouraged to ask questions of the three project team panel members and make comment.

A Community Consultation report prepared by Coppice Communications (October 2010) summarising the findings of the four workshops was submitted to the Department of Planning in October 2010.

In summary the following matters were raised by the attendees and discussed with the three project team panel members.

1. GENERAL PLANNING AND DESIGN FOR THE MARINA

- What area/s will be included in (affected by) the marina?
- Evaluating marina development in the context of the best usage of Kendall Bay community land
- What other marinas are available around here - Cabarita? Homebush Bay?
- How was the size of the marina determined?
- What about the option of 'No marina'?
- This represents a change from the original Masterplan
- What's the necessity for the marina in the first place?
- Who is the Minister?

2. PUBLIC VS. PRIVATE SPACE

- Alienating public space for commercial gain
- Public facilities accessed through private property is an issue unique to Breakfast Point
- Privacy for residents- no marina has been put in front of residences before.

3. REMEDIATION WORKS AND THE GEOTEXTILE BLANKET

- Are there examples of the geotextile blanket being used in similar environments/circumstances?
- Adequacy of the geotextile blanket
- What's happening with the contamination containment / abatement / remediation across the entire bay?
- How will the geotextile blanket be designed and installed?
- Dealing with the pollution in the bay
- Details (including longevity) of geotextile blanket
- Sequencing of remedial works
- Claim that the blanket is designed to let particles through
- Do you have a contour plan of the existing bay to see what depths are involved?

4. CONSTRUCTION

- How will construction be managed?
- Control of noise generated through construction
- There were few questions about the construction process itself and this was not discussed in detail in any of the groups.

5. NOISE DURING OPERATION

- How will noise be controlled during operation?

6. ROAD TRAFFIC MANAGEMENT

- Access to marina via public roads

- Pedestrian safety
- Impact on public transport

7. CARPARKING

- Australian standard for marina car parking per berth (0.3 to 0.6) is too low
- Details on car parking planning, rules and provision for different uses

8. PUBLIC INFRASTRUCTURE

- What provision will be made for public toilets?
- Lighting along pathway
- Road maintenance

9. MARINA MANAGEMENT

- Who is (will be) the manager?
- Who will own the marina in the short term and beyond?
- Does Breakfast Point Pty Ltd intend to sell on the marina?
- Options for ferries using the marina
- How will trolleys for marina be managed?
- Will there be a boat ramp?
- When/where will a kayak ramp be built? It was on plans
- How will the five public berths be managed? What restrictions will be applied to their usage? Will boats have 24-hour access to these berths or will there be a security gate after hours?
- How will access to the marina be managed?
- What rights can the marina owner ascribe for individual berth owners / renters to community facilities e.g. The Country Club?
- Dealing with pollution caused by the marina and its boats
- What are the social amenities of the marina?
- We were told when we purchased that the marina would be down further and would not affect us.
- Why the change from a private marina of 77 berths which was in the original contract?

10. IMPACT ON THE COMMUNITY AT BREAKFAST POINT

- Levy contribution for marina from UEs (\$10,248 per year) is too low
- Has there been a social impact assessment?
- The existing infrastructure doesn't support recreational infrastructure
- Impact on privacy and security of local residents
- How have residents been told about this project?
- Why not more communication with residents of Breakfast Point?
- Some people at Breakfast Point were not notified by a letterbox drop about the community consultations
- What are you telling us the advantages of this development will be to the residents of Breakfast Point?

11. VISUAL IMPACT

- Visual impact not made clear on images
- What will be the impact on the ground floor apartments?
- More photomontages are needed from closer to the marina site
- Needs to take into account the impact on nearby dwellings.

12. IMPACT ON RIVER TRAFFIC AND AMENITY OF KENDALL BAY

- What is the cumulative impact of marinas on the bay?
- Scenic protection and amenity
- Impact of existing river traffic on marina
- Impact of extra traffic generated by the marina on the river and the bay
- What will be the impact on other recreational water users?
- Other marina applications
- Boating traffic

13. ROLES OF PRESENTERS AND CONSULTANTS, AND CONCERN WITH ETHICAL PRACTICE

- Relationship between FordComm, Rose Corp and Coppice Communication?
- How are FordComm and Coppice related to Breakfast Point? Do they pay you?
- Please email me the details of all parties involved in this workshop; Coppice, FordComm, GHD, Worley Parsons, Breakfast Point Pty Ltd.
- This is a highly complicated application and to ask us to respond in eight weeks is outrageous - will you support our request for an extension of time?
- What were the feelings of the other consultations you have had so far?
- The presentations have been excellent

4.7.4 The consultation process failed to mention any negative impacts associated with the marina

During the consultation process, all participants were encouraged to ask questions, make comment and put forward their views for discussion. Both perceived positive and negative impacts were recorded in the Fordcomm Community Consultation Report dated 24 July 2009 (Volume 10, Appendix 16 of the EA) and the Coppice Communications Report dated October 2010.

4.8 Operational Environmental Management Plan

4.8.1 The management of noise from charter boats, party boats and people returning to the marina late at night remains unresolved. The Marina Manager is only onsite until 6pm- what happens after 6pm? Noise and access issues from Charter vessels party boats, fishermen. The OEMP will not control noise impacts. The OEMP does not contain an adequate complaint, action and response register and NSW Maritime and Police can be relied on to police and manage incidents

Management Plans

The Marina Management Plan and the Operational Environmental Management Plan will be the basis for informing berth users, their guests and the public of the behaviour expected and activities which may be undertaken on and around the marina. These are “living documents” and will be updated based on experiences at the marina. The initial documents were included in the EA.

Each berth user will be required to sign the Charter of Marina Rules which will be issued with their lease. These rules will include a “three strikes and you are out” policy, which will be enforced by the marina manager.

Also a complaint procedure will be set up in order that complaints are addressed efficiently and effectively. This will be agreed with the relevant authorities.

The marina rules and the management plans will address, amongst other matters; noise, no fishing from the marina, no use of anchors, waste disposal, emergency situations and spills of sewage, oils and bilge water.

4.8.2 Waste is not addressed: the volume of waste, the required storage areas and how waste will be removed.

A waste removal plan has been prepared in conjunction with Veolia, an experienced waste removal contractor. This plan is shown on the drawing entitled “Waste Collection Plan”.

Seven 660 litre man-handleable bins will be located on the jetty at the gangways and at the kiosk. These bins will be wheeled to the car park where the contents will be placed in two 3m³ bins. The frequency of movement of the bins to the car park will vary according to the season. It is estimated that in summer the bus bins will be moved five times per week, and in

winter four times per week. Three or four times each week, waste will be collected from the bins in the car park using typical suburban waste removal trucks.

All waste water and sewage will be pumped into a holding tank under the jetty then directly into the Sydney Water Sewage System as it usual with all marinas and cafes and the like.

4.8.3 No assessment has been undertaken on the number of trolleys required by the marina, their size, where they will be stored, how their storage will be managed. Trolleys will be left all over the 200m access-way of Community Association property.

Based on the experienced at other marinas, it has been determined that no more than 20 man-handleable trolleys will be required.

These trolleys will be stored in the car park and on the marina at locations shown on the attached drawing entitled "Pedestrian Access Plan".

4.8.4 The OEMP does not adequately discuss emergency matters and how they will be managed. Oils spills, fuel spills, paint form vessels

Further detailed information can be provided in the OEMP during the construction certificate stage.

4.8.5 Copper based anti-foul paints will provide further impact on the bay. Aquatic Ecology report recommends input into the OEMP yet the OEMP does not address the recommendations of the Aquatic Ecology report. Question if any management can be effective?

Local to all marinas there are elevated levels of copper in the water above background levels. This fact is well known. Nonetheless, licenses are issued for marinas by Environmental Protection Authority (EPA). This is a demonstration that this is accepted by the EPA.

4.8.6 The EA, OEMP, CEMP are inconsistent as to whether anchors will be allowed and if not, how they will be managed.

The restriction on anchor usage is provided in Section 3.13 of the OEMP. However, the OEMP will be amended to introduce the risk of anchor usage and potential damage to SPS earlier in the OEMP.

4.8.7 Management of grey water has been totally ignored (dishwashing and clothes washing water will not go into holding tanks)

The activities which will be permitted at the marina are set out in the marina management plan. Only small on board maintenance will be permitted. This will be controlled through the Marina Management Plan and enforced by the Marina Manager. The dumping of bilge water and sewage into the Parramatta River and Sydney Harbour is not permitted by any vessel using the River.

4.9 Amenity

4.9.1 The proposed marina is out of character with the existing Kendall Bay setting.

The zoning of the waterway under SREP (Sydney Harbour Catchment) is 'W1 Maritime Waters' and the proposal is permissible with consent. The permissibility indicates that marinas are not intrinsically incompatible with the present or the desired character of the locality. A former ferry wharf of substantial structure existed at part of the proposed location of the marina. It was an intrinsic part of the character of Kendall Bay for many years.

Given the zoning, the existence of a former ferry wharf, presence of marinas in the wider context (River Quays Marina and Cabarita Westport Marina), it is considered that the proposed marina to be in line with the established and desired future character of Kendall Bay.

In addition, access to the harbour has been an integral part of the proponent's vision for Breakfast Point which included a waterfront activities precinct to allow residents of Breakfast Point and people of the Inner West greater access to the harbour via a proposed jetty and marina. This is reflected in the approved Breakfast Point Masterplans 1999 and 2002 and Concept Plan 2005. Breakfast Point' intention to lodge an application for the approval of the construction of a marina in Kendall Bay has been disclosed to all purchasers within Breakfast Point by way of the disclosures in the Community Management Statement (which was disclosed in each contract for sale) and special conditions in each of the contracts of sale.

There have been over 1,200 properties sold at Breakfast Point, with the marina disclosure clauses in the contracts. Many residents of Breakfast Point have bought into the development in anticipation that the marina may be built and that they may be able to enhance their lifestyle by being able to moor or use a boat in Kendall Bay and have direct access to Sydney Harbour

4.9.2 172 berths operating 24/7 with car and pedestrian access through private residential areas will significantly impact on the amenity of Breakfast Point residents. The proposal will bring in people from outside of Breakfast Point who don't have the same desire to enjoy the amenity as Breakfast Point residents. Crime will increase as a result of the proposed marina

The use of the marina will be managed through a Management Plan and a Charter of Marina Rules which will be included in every berth lease.

The Management Plan is a "living" document as is usual, which will be updated from time to time. The initial Management Plan was included in the EA.

The Management Plan addresses, amongst other matters, noise and general amenity for the residents of Breakfast Point.

The Management Plan includes a "three strikes and you are out" policy for vessel owners who do not comply with the marina rules.

Also the marina will be required to have a licence to operate issued by the Environment Protection Authority. This license sets out requirements for waste management and noise management amongst other matters. The marina manager must comply with the conditions of the licence.

Accordingly there are several mechanisms for ensuring that the public amenity and behaviour expected of people using the marina, are enforced.

4.9.3 The proposal is inconsistent with the Aims and Objectives of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and will significantly impact the amenity of Breakfast Point residents

This matter has been addressed at 4.1.8.

4.10 Noise

4.10.1 The proposal exceeds sleep disturbance environmental standards by 9DBA (page 26 of EA submission). The Heggies report recommends asking boat owner's "not to shout" – this is unacceptable.

Heggies SLR advise that there are no 'environmental standards' for sleep disturbance, however the DECCW recommends the 'Background +15 dBA' level be used 'to identify the likelihood of sleep disturbance. This means that where the criterion is met, sleep disturbance

is not likely, but where it is not met, a more detailed analysis is required'. This Background +15 dBA level has been used as a screening level in the assessment.

Normally patrons using the marina will be talking 'normally'. They may also be in talking in a 'raised' voice, 'loudly' or 'shouting'. The assessment indicated the screening level would be only exceeded during 'shouting'. It is noted that shouting is not normally expected from marina patrons, however to eliminate potential exceedance of the screening criteria the Marina Code of Conduct within the Marina Management Plan should require patrons not to shout at night. It is noteworthy that 'shouting' may also occur from non marina activities, such as from members of the public walking with dogs or residential activities.

4.10.2 6am kiosk start is unreasonable and will impact on amenity.

The proposed kiosk hours are 7.00 am to 6.00 pm seven days per week. These hours are outside the sleep disturbance hours.

4.10.3 Noise associated with waste removal has not been addressed

The operational noise assessment included the noise of patrons talking with a raised voice as they travelled to and from the carpark to the marina. As such the noise associated with waste removal by patrons has been addressed, noting the noise from trolleys is assumed to be lower than that of the patrons talking.

To eliminate the potential for sleep disturbance as a result of waste removal it is recommended the removal of waste be restricted to daytime hours i.e. 7 am to 10 pm.

4.10.4 The proposed noise abatement strategies are voluntary in nature and as such are inadequate and will not be enforced

The Marina Management Plan and the Operational Environmental Management Plan will be the basis for informing berth users, their guests and the public of the behaviour expected and activities which may be undertaken on and around the marina. These are "living documents" and will be updated based on experiences at the marina. The initial documents were included in the EA.

Each berth user will be required to sign the Charter of Marina Rules which will be issued with their lease. These rules will include a "three strikes and you are out" policy, which will be enforced by the marina manager.

Also a complaint procedure will be set up in order that complaints are addressed efficiently and effectively. This will be agreed with the relevant authorities.

4.10.5 Noise during construction will exceed permissible levels and no effective management processes are included to address this issue

The noise assessment undertaken by Heggies SLR contained a construction noise assessment in accordance with DECCW's Environmental Noise Control Manual (ENCM).

The ENCM has been replaced by the DECCW's Interim Construction Guideline. The guideline contains 'Noise Management Levels' and recognises high levels may occur during construction and at levels above 75dBA receivers are classified 'Highly Noise Affected'. Heggies SLR report contains construction noise mitigation strategies consistent with the DECCW Interim Construction Guideline. These include Operational Strategies, such as restrictions on hours and respite periods, and noise monitoring, Source Noise Control Strategies and Community Consultation.

4.11 Fire

4.11.1 Flammable substances at the marina and the impacts of fire have not been considered at all in the EA

The Marina Management Plan (Appendix 15 of the EA) sets out at Section 5, the actions which are to be taken in the event of a fire or emergency.

As part of the marina, fire hydrants and fire hose reels will be included on the fixed jetty and floating structures as shown on drawing DA05 included in the EA.

The hydrants and hose reels have been shown and will be provided in accordance with the requirements of AS 3962 – Guidelines for Design of Marinas.

An evacuation plan (drawing number MMP02) was included in the EA, which set out meeting points in case of fire and emergencies. This drawing has been updated (copy attached) to show the access path for NSW Fire Brigades emergency vehicles.

4.11.2 The EA does not assess if there is adequate space for emergency vehicles to access the foreshore and marina

TLB Engineers have reviewed the design of the pavement and seawall along the foreshore on the western side of Kendall Bay for the loads imposed by vehicles used by NSW Fire Brigades; namely 9 tonne single axle loads and 16.5 tonne tandem axle loads.

The pavement is sufficient to support these loads in the event of a fire or other emergency.

4.11.3 Can the seawall take the weight of emergency vehicular traffic?

The seawall is structurally sufficient to withstand the loads arising from the fire and emergency vehicles standing on the foreshore pavement.

The fire services on the marina satisfy the requirements of Section 6 of AS 3962.

The layout of the marina satisfies the requirements of AS 3962.

4.11.4 AS3962 Sections 5 and 6 Fire Emergency Requirements – has this been addressed?

The construction of the marina (materials selection and details) will satisfy the requirements of Sections 5 and 6 of AS 3962.

4.12 Ecology

4.12.1 The proposed SPS will kill all benthic habitats.

The assessment of impact on marine life acknowledged that bottom-dwelling organisms would be destroyed in the process of installing the geotextile fabric and armouring, and indicated that as cleaner, fine sediments accumulated over time in the spaces between the gravel armour, and new community would gradually develop on the sea bed (Section 4.3.1).

The assessment of impacts on marine habitats and biota specifically acknowledges that the provision of novel habitat will not offset the loss of soft-bottom assemblages (Section 4.4.2.2). New marina structures will provide habitat for sedentary marine plants and animals and fish that feed on them.

4.12.2 The marina will adversely impact on bird life

The Aim of the Aquenal Report (desktop review) was to determine whether a more detailed assessment of the potential impact to birds was required. Given that the desktop review revealed that the proposed development's location was not in an important site for birds, that there were no significant populations of priority species (those that are listed under relevant legislation) and that the area had undergone substantial modification from its natural state, significant impacts to avian species were unlikely and further assessments not warranted. As

also stated in the report, all relevant databases were accessed and published bird survey data used to make this determination.

The database searches found that 13 Commonwealth listed and two State listed species could occur at or near the proposed development site. A further review of the Birds Australia survey location data determined that none were recorded within 1 km of the proposed development.

4.13 Views

4.13.1 Unreasonable impact on public and private views and amenity (reference to Court Cases (Addenbrooke v Woollahra Council and Double Bay v Woollahra Council). The public good comes before the private good.

The proposed development would be located close to the constructed shoreline and foreshore of Kendall Bay in the context of a medium density residential development. The principle here is that this leads to lower impacts than that on a natural shoreline. This principle is to be found in the methodology recommended for assessing the impacts of marinas in Appendix D to the DCP to SREP Sydney Harbour Catchment. The marina is located at a distance from the southern shoreline of Kendall Bay which has a relatively greater intrinsic scenic value due to the presence of inter tidal beaches, mangroves and Cabarita Park. The proposed development would not have any significant negative impact on the scenic quality of this context and would also maintain views to these scenic components from most of its potential visual catchment, including the public and private views. In essence it will not significantly affect the visual amenity.

With regard to the weight to be given to public or private good, on 12 March 2009, the Chief Judge Justice Preston declared, *"The judgment in Double Bay Marina Pty Ltd v Woollahra Municipal Council [2009] NSWLEC 1001 at [47]-[52] which proposed a planning principle, concerning discerning the public interest in development applications, has not been adopted by the Court and will not be published on the Court's website as a planning principle of the Court."*

With regards to the public interest issue overall and specifically relevant to visual impacts, Richard Lamb and Associates is of the opinion that given the zoning, the visual context of the site and the merits assessment presented in the RLA VIA Report submitted with the EA that the proposed development is acceptable.

4.13.2 Complete views to Kendall Bay will be lost from the private domain

RLA advise that no total views will be lost. It is acknowledged that the view loss effects will be higher for ground floors of residences located directly west of the site for the proposed marina. However, the effect will more be of change in the foreground to middleground of the view and change in the character of the view than the loss of view. Most of the views of the far shoreline, Parramatta River channel and land water interfaces will still be available over the marina and through the proposed fairways. There would not be any significant view blocking for upper levels of residences.

4.13.3 Many of the boats will be over 4m in height from the waterline (and yachts even higher) significantly impacting on view corridors.

We refer to the DA drawings and in particular, the vessel/berth size schedule. It is also given at Table 1.1 on Page 8 of the VIA Report. There are only two vessels proposed in the range of 20 to 25m. The motor cruisers within the predominant range of less than 20m lengths are unlikely to be 4m tall.

Photomontages 3 and 6 on Pages 124 and 127 of the VIA Report show that there will not be an unreasonable view loss impact on the Views caused by the height of vessels and that the wide gaps (fairways) between the various Arms of the proposed marina act as view corridors. There will be low yacht occupation of the marina although it is inevitable that masts will be

visible in front of background elements in some residential views. There will be no significant view loss from this effect. The view loss effect will be higher for the ground floors of residences; however, the views will be maintained through the fairways (view corridors). Photographic Plate 33 on Page 86 and the corresponding assessment sheet on page 120 of the VIA report adequately assess the potential visual impact on views from typical ground floor units.

4.13.4 How does RLA make the quantum leap from “med, med-high- high” visual impacts to the statement that proposal “does not impact enough for it to be refused.”

With regard to the merits of the proposed development, RLA have assessed that overall it has acceptable levels of visual impacts on its whole visual catchment. The viewing locations assessed and the montages prepared are to represent the kinds of views from the whole visual catchment.

The visual impact ratings in the VIA Report are assigned for each distance range (sensitivity range) separately. The overall rating for close range locations is High. This does not lead to the conclusion that the proposal is unacceptable. Some individual close range viewing places will inevitably have a high rating even if the only reason is the distance from which the proposal will be seen. For example, the rating would be high even if the view from a residence was of only one vessel. The visual effects and impacts of the proposal on surrounding suburbs of Tennyson Point, Putney, Gladesville and Cabarita are assessed to be overall medium or high depending on the distance from the proposed site as one of the criteria of assessment only.

The High impact of the proposed development on some close range locations is similar to that caused by any land-water interface development which is permissible when considered in relation to a single or a small number of viewing locations. For example, the rating would be the same for one vessel on one berth located close to one residence. Obviously, the overall impact on all of the viewing places possible needs to be assessed to arrive at a final assessment of the visual impacts. If this was not done, any individual view could prevent any development from occurring, regardless of the waterway zoning. The overall effect is not considered unacceptable considering the zoning of the development site, the development potential of the site and the overall level of environmental impacts it causes on its whole visual catchment.

4.13.5 Lighting at night will significantly impact on local residents

The luminance of the proposed lighting will not be capable of causing prominent or visible nuisance levels in any of the views, be it from close range or medium range, private views or public views. The luminance sources will not be capable of illuminating the interior of any residences.

The existing lighting sources present in the view compositions in which the proposal will be seen are relatively brighter and more closely spaced. The effect of the proposed marina lighting will be significantly subdued, widely spaced and intended only to illuminate horizontal surfaces to the extent necessary only for safety. The lighting on the marina will be in the context of closer and higher luminance existing lighting sources. The present major lighting sources within the immediate context of the site are;

- 1) The bollard lighting all along the foreshore walkway adjacent to the western and southern shoreline of Kendall Bay which is significantly closer to the viewer. By comparison, this general lighting is substantially brighter than the proposed marina lighting,
- 2) The lighting within the background residential context of Breakfast Point and Kendall inlet,
- 3) The lighting at Cabarita Rivercat Ferry Wharf.

Plates 1, 2 and 3 at Appendix D at Page 137 represent the night time photographs from the foreshore walkway and from the Cabarita Rivercat Ferry Wharf.

4.14 Legal

4.14.1 Lot 53, Lot 55 are Community Association property and the relevant consent has not been obtained

In respect to access, it is intended that marina users will access the marina via:

- open access ways on community property (lot 1 DP270347) that connect the land within the Community Scheme to public roads, including Tennyson Road, Emily Road and Medora Street. These open access ways are detailed in by-law 29 and Part 7 of the Community Management Statement and are community property;
- the strip of land owned by City of Canada Bay Council (being lot 501 DP1052824) which is leased by Council to the Community Association and which requires the Community Association to allow members of the public unrestricted access to the foreshore land (Foreshore Lease). The Foreshore Lease is disclosed in by-law 91 of the Community Management Statement and the contract for sale special conditions; and
- either directly onto lot 55 owned by the marina operator, or if required, over part of the community property that is the subject of the easement for public access registered on DP270347 and permits pedestrian access for City of Canada Bay Council and its "Authorised Users" including Council's invitees and other persons authorized by Council, including members of the public.
- Access for emergency vehicles is the same as for the rest of the community. The legislative regime that applies to emergency vehicles, police etc applies to an open access way as if the open access ways were public roads.

Under the terms of the Community Management Statement, the Community Association has the obligation to, amongst other things, manage and maintain in good condition and repair the open access ways. Under the terms of the lease, the Community Association must maintain the leased area and ensure public access over the leased area is safely exercised at all times. Both the lease and the Community Management Statement require the Community Association to maintain appropriate insurance for the community property and leased area respectively.

4.14.2 The Marina Manager's Office extends over the seawall (Lot 55). The land ownership of Lot 55 is unclear. Land owner's consent from the Community Association is needed for encroachment over the seawall. Once the developer is no longer associated with Breakfast Point the Community Association will remove the access rights for the developer.

Under the Community Management Statement, Owners (being owners and occupiers of a lot), Occupiers (being lessees, licensees or other occupiers of a lot) and Permitted Persons (being a person on the community parcel with the express or implied consent of an Owner, Occupier, the Community Association or a subsidiary body) are entitled to use the open access ways.

The proponent, as developer, is entitled to use the open access ways and other community property pursuant to the rights granted to it under the Community Management Statement.

Accordingly, the proponent, the marina owner, marina users and visitors have the right to use the open access ways to reach the general area of the marina.

The proponent understands that the intent of section 17 of the Community Land Management Act is to empower a community association to protect the essence or theme of the development and to restrict access to certain parts of community property for defined purposes. For example, to restrict community members from entering dangerous areas such as plant rooms. The intent is not to allow an association to restrict the movement of members

of the association across lot 1 DP270347 (Community Property) simply because one group of people does not like what another group of people is lawfully doing.

4.14.3 The incorrect address is stated in the EA (19-21 Tennyson Road, Breakfast Point). Query whether land owner's consent has been given for the correct land/water area.

Since the lodgement of the original 1999 Master Plan all development and project applications at Breakfast Point have been lodged and assessed using the site address being 19 – 21 Tennyson Road as this was the original address of the land now known as Breakfast Point.

4.14.4 It is illegal for vehicles to access the foreshore. The EA is inconsistent as to whether golf buggies will/won't be used to transport goods to/from the marina.

No vehicles will be permitted to access the foreshore walkway..

4.14.5 The seawall will have temporary piles attached to it- this contravenes the Conveyancing Act.

The construction drawings will be amended to show the silt curtain and boom connected to temporary piles and anchor blocks at the seawall which do not apply load to the seawall and community land. The Construction Management Plan will be amended to reflect this amendment.

4.15 Community Association

4.15.1 Breakfast Point residents will have to pay for the upkeep or roads used by the marina patrons. For the calendar year 2010-2011, the annual contribution for Lot 55 is \$207.70 and for Lot 53 is \$8,273.00. This rate is half of what a residential lot would be required to pay.

The marina car park lot (lot 53) was assessed for residential land use of 6 townhouses at an average UE of 7. In comparison, the Savannah Strata Scheme has a UE of 174 for 40 apartments (being an average UE of 4.35 per apartment). On this basis it can be demonstrated that the UE for the car park lot (lot 53) is almost double that of a strata scheme on a lot by lot basis.

4.15.2 There will be an increased cost to the Community Association in regards to repair and maintenance of community property including roads, seawall and liabilities

It is uncertain if the operation of the marina may result in increased costs to the Community Association. However, it is the inherent nature of a community scheme that lots in the community scheme may be used for various purposes, including residential, retail and commercial purposes. It is always anticipated that the different uses of the community lots will require different access to and use of the community property. All members in the community scheme are required to contribute to the costs of the community scheme, regardless of whether those members actually use the various community property facilities or infrastructure.

The marina operator will be the owner of lots in the community scheme (being lot 53 (car park lot) and lot 55 (sea wall lot)) and as such the marina operator will contribute to the costs of the Community Association through its levies. Those levies are used to contribute to the cost of maintaining community property that will be used by the public accessing the marina. However, the marina operator is also contributing to the cost of maintaining the Country Club and other recreational facilities which the marina operator will not use.

The amount of levies payable by the marina operator, particularly in respect of the car park lot, is proportionately high given the proposed land use. That is the levies for the car park lot

have been calculated using unit entitlements assessed on a high value land use (being residential townhouses). However, the proposed land use is a lower value land use (being a car park).

To date the levies have been paid by the owner of lot 53 and lot 55, being Breakfast Point Pty Limited, since 2003 with no actual use by Breakfast Point Pty Limited of those community property facilities and infrastructure. That is, these two lots have effectively paid full levies for infrastructure and services not used for 7 years.

Separately, it is also arguable that a marina with 172 berths which are used intermittently by marina users will cause less wear and tear to community property than a residential strata scheme which would use community property multiple times each day.

4.16 Social and Economic

4.16.1 There has been no demonstrated need for such a large proposal. The berth demand assessment is misleading and incorrect. NSW numbers are used to extrapolate demand instead of numbers for Sydney Harbour (and especially west of the Sydney Harbour Bridge). The actual latent demand is 2 berths.

On-water boat storage is just not available in Sydney Harbour to meet demand and as such is acting as a constraint to boat ownership. NSW Maritime is not issuing any new swing mooring licences. Additionally, there was little or no increase in marina berths in Sydney Harbour during the period of the Carr Government when a moratorium was imposed on marina development in Sydney Harbour.

When commenting upon Sydney Harbour, the 2010 NSW Maritime report “NSW Boat Ownership and Storage: Growth Forecasts to 2026” states that “Sydney Harbour has the highest demand for on-water storage of any region in the state and very few avenues of expansion”.

The constraint to boat ownership in the Sydney Harbour Area is clearly due to lack of on-water storage for vessels and means that there is most likely to be a latent demand for boat ownership.

To estimate what this “latent demand” might be, it is reasonable to use a comparison of known demand. In the case of the demand study for Inner West Sydney Marina, the average rate of growth in boat ownership for NSW as a whole over the 5 years (2004 to 2009) of 13.33% was adopted as a conservative growth rate.

Reasonably the Newcastle and Hunter Region 5-year rate of growth of over 25% could have been adopted for the comparison. This would have resulted in a higher estimate of latent demand.

4.16.2 The EA fails to address other current proposed marina applications including Berry's Bay, Rozelle, Blackwattle Bay, Birchgrove and Homebush. This marina is not needed and will not be fully utilised for 20 years.

Extracts from the NSW Maritime's Homebush Bay West Master Plan document read:

“Floating pontoons will be provided adjacent to the wet well and will provide berthing for a maximum of 50 boats. Berthing is provided only for short term use involved in operation of the dry stack facility, maintenance, refuelling and servicing activities and use associated with a boat brokerage.

A day berthing structure will be provided within the Wentworth Point Parklands, within Homebush Bay. This facility will provide casual berthing for vessels utilising Wentworth Point Parkland and the maritime precinct”.

Consequently the 50 berths proposed for Homebush Bay are restricted to boat sales, repairs and servicing activities and for holding berths for the proposed dry-stack facility.

The successful tenderer for the NSW Maritime site at Berrys Bay has not yet lodged any development application. The existing site, formerly operated as Woodleys Marina, has 40 fixed wharf type berths. The proposal by Meridien Marinas is to replace the old marina with a new floating marina with a capacity for 92 vessels.

According to NSW Maritime's web-site, It is anticipated that Meridien will lodge its development application sometime in 2011 and that the new development will be operational by 2014.

In the period 2010 to 2014 the 4-year growth in boat ownership and demand for berthing in Sydney Harbour will readily absorb the proposed increase of 52 berths at Berry Bay and thus will have little impact upon the demand for Inner West Sydney Marina.

It is also noted that Woolwich Marina has recently increased its berths from 20 to 32 vessels. This was done by relinquishing some swing moorings and therefore has no impact upon the demand for on-water mooring.

The road networks around Sydney Olympic Park were designed to accommodate transport of thousands of persons to major events at the Sydney Olympic Park and adjoining Sydney Showground.

The marina at Kendall Bay will generate considerably less traffic movements per day than does the Breakfast Point IGA store in the Breakfast Point Market Place for which no upgrades to the road networks around Breakfast Point were required.

The traffic in and around Breakfast Point has been discussed in the EA.

The question of the proposed NSW Maritime development of a marine precinct at Homebush Bay has been discussed at item 9 above. This is to be a marine service precinct in which the 50 proposed marina berths will not be available to meet general berthing demand from the community.

4.16.3 The EA fails to demonstrate that the marina is in the public interest.

The former use of the site for industrial activity prevented public access to the harbour. The redevelopment of the Breakfast Point site predominately for residential purposes has brought great opportunity to change this allowing access to the foreshore and the harbour. Access to the harbour has been an integral part of the Breakfast Point vision. The Masterplan 1999 and 2002 include waterfront activity areas, including boating facilities, marina, waterfront walk etc.

Other commercial marinas in the vicinity (River Quays and Cabarita Marina) are at 100% and 94% occupancy (refer to the demand study in the EA, Volume 8, Appendix 11). Other commercial marinas near the Sydney CBD are between 88% and 100% occupancy. Having the regard for the demand for berths and the current occupancy levels the proposed marina at Kendall Bay will help satisfy the current and future demand for marina berths in Sydney Harbour.

The marina will create employment in the area, not just by creating jobs for marina management and kiosk staff but also for other local businesses. As no major maintenance works will be allowed within the proposed marina you may expect local shipwright, sailmaking and maintenance businesses may benefit from the increased demand. Also local supermarkets, cafes and the like may benefit from the development.

4.16.4 No Social Impact Assessment has been undertaken.

The Director General's Requirements (DGRs) did not specify a requirement for a Social Impact Statement to be prepared. The proposal is consistent with the Council approved

Breakfast Point Masterplan 2002 which nominated an “Intensive Waterfront Activity” area including a marina, cafes and patron car parking. It is considered that the social impacts of a marina were considered by the Council in their approval of the Breakfast Point Masterplan.

The requirement for a Social Impact Assessment is a matter for the Department of Planning.

4.16.5 Community Survey (Taverner Research December 2010) of 200 people in 29 buildings found:-

- *97% of people surveyed were aware of the proposal*
- *50% of people had been to meetings on the proposal*
- *70% of people strongly opposed the proposal*
- *14% of people opposed the proposal*
- *Overall 84% of people oppose the proposal.*

The proponent has not been provided with a copy of the survey to review and provide a response.