

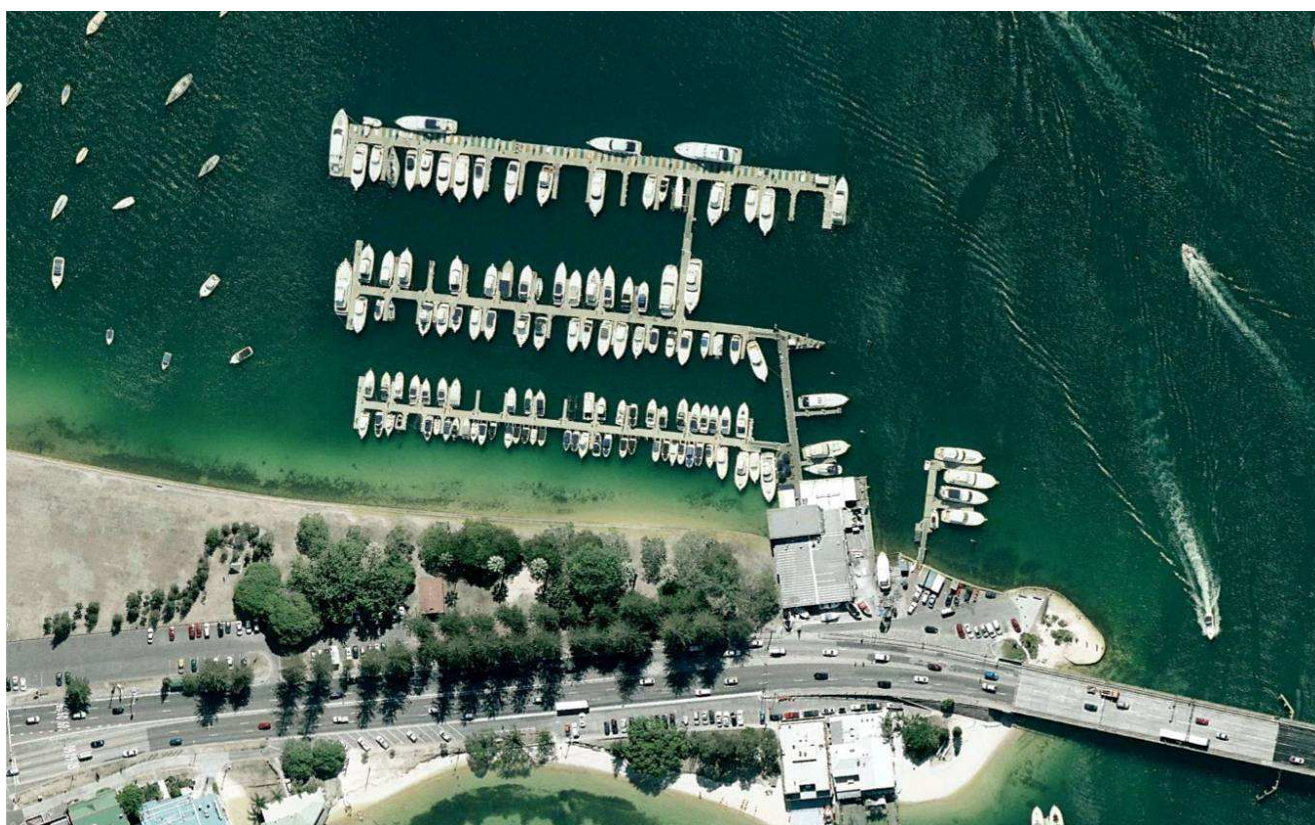
MAJOR PROJECT ASSESSMENT:

Expansion of the existing Marina and Workshop

d’Albora Marina, The Spit, Mosman

Proposed by Hampton Property Services Pty Ltd

MP 08_0046



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

February 2012

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning & Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PPR	Preferred Project Report
Proponent	Hampton Property Services Pty Ltd on behalf of Ardent Leisure Group

Cover Photograph: Aerial of existing d'Albora Marina and adjoining Spit Road, The Spit, Mosman
(Source: Google Maps 2011)

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NSW Government
Department of Planning & Infrastructure

EXECUTIVE SUMMARY

Hamptons Property Services Pty Ltd (the proponent), on behalf of Ardent Leisure Group, is seeking Project Approval for the expansion and upgrade of d'Albora Marina, located in the Mosman Local Government Area on the western side of Spit Road, Mosman.

The application seeks Project Approval for:

- alterations and extension of the existing marina to include:
 - 35 additional berths (increasing the total number of berths from 165 to 200);
 - replacement of the existing slipway with a new hardstand area, to incorporate a new travel lift, nine car parking spaces and a garbage storage area; and
 - relocation of the fuel berth and sewerage pump.
- demolition of the existing building and construction of a new two storey building containing offices, showroom, workshops and restaurant.

The project has a Capital Investment Value of approximately \$9.3 million.

The site is zoned 3(d) The Spit Waterside Business under the Mosman Local Environmental Plan 1998 and W1 Maritime Waters and W5 Water Recreation under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development is permissible with consent.

The Environmental Assessment (EA) was exhibited between 9 March 2011 and 8 April 2011. As a result, the department received 15 submissions, including six submissions from public authorities and nine submissions from the public. Key issues raised during the exhibition include noise impacts from the expansion and relocation of the restaurant, traffic and parking impacts upon the locality, visual impact of the proposed building and increased congestion on the waterway.

On 7 October 2011, the proponent submitted a Preferred Project Report (PPR), which made the following key amendments:

- deletion of the proposed first floor expansion, which results in the retention of the existing restaurant on the ground floor of the building;
- retention of the existing arcade through the building;
- expansion of the existing workshop and storage area to the north of the building;
- modified car parking layout, access arrangements and clarification of service bay use; and
- alterations to berthing arrangements, including relinquishment of six swing moorings.

Mosman and Manly Council made a submission during the exhibition of the EA and to the PPR raising concerns with the proposal. Subject to amendments to the design and relinquishment of six swing moorings, NSW Maritime has given its support to the proposal.

The department's merit assessment concludes that the proposal is generally consistent with the character of the area which ostensibly is a marine precinct, and that the proposed design results in minimal scenic visual impacts from the public domain. The alterations to the marina service area will also provide improved environmentally sensitive boat access and improvements to the environmental performance of the existing facility. The new indented bay off Spit Road will improve traffic safety at the marina.

The department also considers that the proposed expansion of the existing marina caters for the increased demand for berths within the locality, without impacting on the Spit Bridge opening times. Car parking within the area is considered to be sufficient to cater for the additional spaces required as a result of the marina expansion.

The department is satisfied that the project is in the public interest, and recommends that the Project Application be approved, subject to conditions.

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1. BACKGROUND

1.1 Site Description

The site is located on the western side of the Spit Road, Mosman, approximately seven kilometres north-east of the Sydney CBD, within the Mosman LGA. Directly south is the existing Spit West Reserve which accommodates parking and open space (**Figures 1 and 2**).

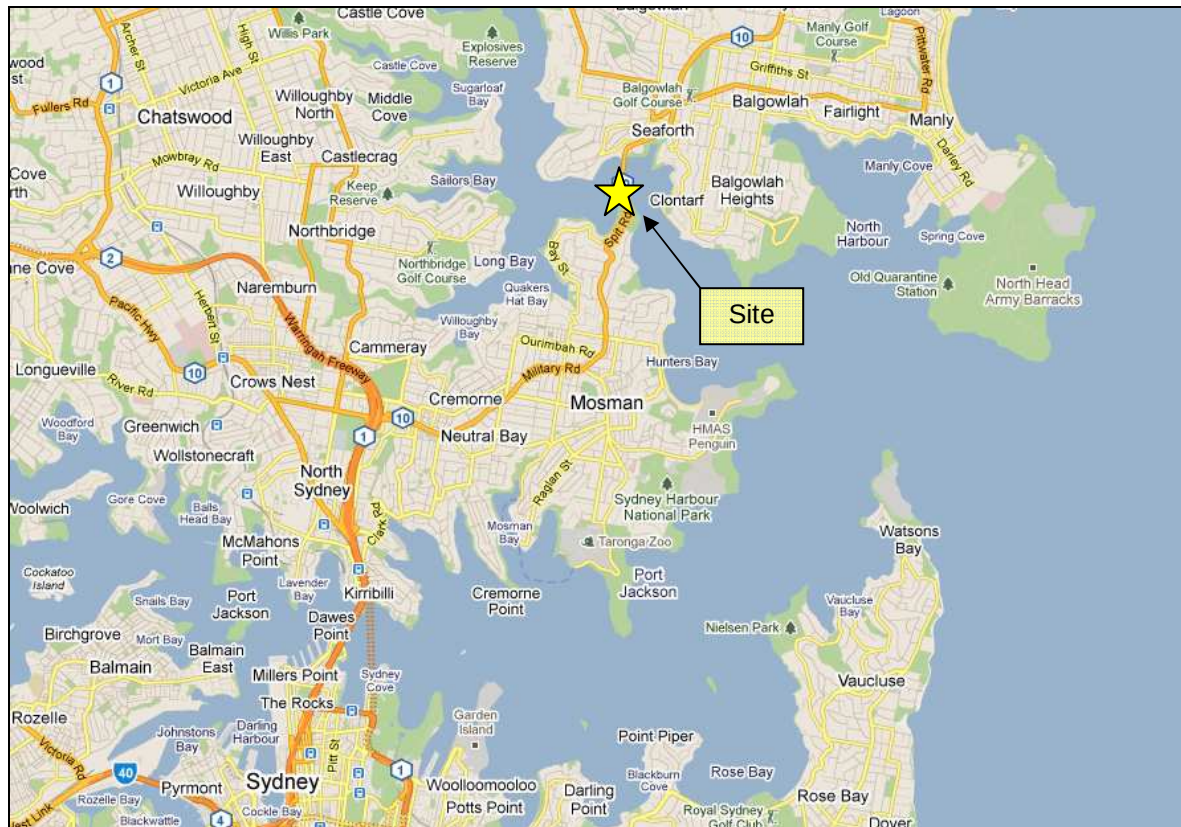


Figure 1: Site Locality – Regional Context (Source: Google Maps 2011)

1.2 Existing Site Features

The site has a total area of 26,603m², comprising three lots (Lot 102, Lot 103 and Lot 104 in DP 1011363) with a 77.6 metre frontage to the adjoining Spit Road and a short unnamed road that provides access to the site (**Figures 2 and 3**). The site comprises of a water based component of 24,733m² and a land based component of 1,870m².

Existing development on the water based component of the site includes a 165 berth marina with berths distributed over five arms, being Arms A to D and Arm N. Arm N is a fixed wooden jetty while Arms A to D are floating structures. Arm N also includes a fuel berth and a sewerage pump out facility. The existing berths cater for vessels, predominantly motor cruisers, ranging between six and 35 metres in length. The water based area is leased from NSW Maritime.

The land based component of the site includes an existing marina complex (predominantly single storey with a small two storey component) which includes a restaurant and café, marina administrative offices and maintenance / storage sheds. A slipway enabling access to boat maintenance operations is provided to the north of the building. Eight car parking spaces are also located to the north of the building.

The marina also provides 60 swing moorings located in the adjacent waters of Quakers Hat and Pearl Bay. The marina operates a tender service seven days a week to access these moorings.



Figure 2: Location of site illustrating existing marina, swing moorings and other marinas on the eastern side of Spit Road (Source: Google Maps 2011)



Figure 3: Existing marina, including car parking area, illustrating existing lot boundary (Source: Proponent's EA)

1.3 Surrounding Development

As shown in **Figures 2 and 3**, the site adjoins Middle Harbour to the north and west. Spit Road, a four to six lane arterial road is located directly to the east. A small area of public open space accessed via a unnamed road, known as Ellery Park, and the southern edge of the Spit Bridge are located immediately to the north-east of the site. Ten public parking spaces (including one accessible parking space) are provided along the unnamed road, with a turning area at the end.

The Spit Bridge links the Mosman and Manly LGAs and is a key transport corridor for the wider Northern Beaches region.

The Spit Bridge opens throughout the day to enable access for vessels that cannot pass underneath the bridge, particularly yachts. Should vessels wish to pass the bridge, mustering of vessels occurs on either side prior to the designated times.

A number of marine and restaurant related activities also exist along the foreshore on the eastern side of Spit Road. The buildings associated with these activities range from one to two storeys in height.

To the south of the site is Spit West Reserve, which is a vegetated public open space including a new foreshore cycleway / footpath and a 200 space public car park. The reserve is owned by State Property Authority (SPA), with Mosman Council undertaking management and maintenance.

South of the Spit Reserve is a rowing club that forms part of Mosman Rowing Club's facilities. Three house boats are moored to the south of the rowing club at the southern end of Pearl Bay.

Ferguson's Boatshed Marina, on the eastern side of Spit Road (approximately 35 metres east of the site) contains residential units on the first floor level above the commercial / marina uses on the ground floor. Aside from these residences, the nearest residential properties are located at Seaforth on the northern side of Middle Harbour with the closest residential property located approximately 180 metres to the north-west of the marina.

The closest residential properties on the southern side of Middle Harbour are located in Pearl Bay Avenue, Pearl Bay with the closest property being located approximately 380 metres from the southern edge of the marina. The site is also visible from residential properties to the west in Northbridge, at a minimum distance of approximately 1.2 kilometres.

2. PROPOSED PROJECT

2.1. Project Description (as exhibited)

The proposal as exhibited in the Environmental Assessment (EA) sought Project Approval for:

- expansion of the existing marina from 165 berths to 200 berths;
- demolition of the existing building and construction of a new two storey building to contain 4 workshops, 3 offices, a showroom, public deck and kiosk on the ground floor and offices and a 150 seat restaurant on the first floor;
- replacement of the existing slipway with a new hardstand area, to incorporate a travel lift;
- car parking and a garbage storage area;
- relocation of the fuel berth and sewerage pump; and
- new signs to replace the existing triangle sign.

The proposed works will require an amendment to the lease boundary of the marina on the northern, southern and western sides of the site. Separate approval will be sought by the proponent following consideration of the subject proposal.

2.2. Preferred Project Report

Following the conclusion of the public exhibition of the EA, the department provided a copy of all submissions that were received to the proponent and advised that a number of issues required further consideration. The proponent responded to the submissions and the department's issues through the submission of a Preferred Project Report (PPR) that was placed on the department's website.

Key changes from the EA to the PPR include:

- retention of the existing building, with the exception of expanding the existing workshop and storage area on the northern facade of the building;
- deletion of the proposed first floor expansion, which results in the retention of the existing restaurant on the ground floor of the building;
- deletion of the proposed walkway on the southern side of the building;
- modification to the car parking layout and access arrangements off Spit Road;
- clarification of the proposed service bay to be provided off Spit Road;
- alterations to berthing arrangements, including relinquishment of six swing moorings as required by NSW Maritime; and
- amended Statement of Commitments to address the modified design and additional information.

The development as proposed within the PPR is detailed in **Table 1** below and as illustrated in **Figures 4, 5, 6 and 7**.

Aspect	Description
<i>Extension to berthing facilities</i>	Alterations and additions to the existing marina arms to accommodate 35 additional berths (net increase of 29 noting 6 swing moorings are to be relinquished) predominantly accommodating vessels ranging in size from 12 and 30 metres in length. The proposed works are as follows: • Arm A – alterations and additions to the existing arm to accommodate vessels with a maximum length of 10 metres, with a 21 metre vessel on the T-head (a reduction of 4 vessels to existing arrangement). • Arm B – alterations and additions to the existing arm to accommodate vessels with a maximum length of 12 metres, with a 21 metre vessel on the T-head (additional 12 vessels to existing arrangement). • Arm C – additions and re-orientation of berths along the western side of the existing arm to accommodate vessels with a maximum length of 25 metres, with a 35 metre vessel on the southern T-head and 30 metre vessel on the northern T-head (additional 14 vessels to existing arrangement). • Arm D – replacement of the existing arm with a new floating berth configuration attached to the new hardstand area to accommodate vessels with a maximum length of 12 metres. Two fuel and sewerage pump out berths to be located on the northern side of the arm (additional 4 vessels to existing arrangement). • Arm N – demolition of the existing arm and construction of a new arm to accommodate vessels with a maximum length of 30 metres (additional 9 vessels to existing arrangement).
<i>New fuel and sewerage pump out system</i>	The fuel berth and sewerage pump out will be relocated from Arm N to Arm D. The existing systems will be decommissioned and new systems installed. The new fuel system will be located underground, below the on-grade car park in the north-eastern corner of the site. New fill points and lines will be installed to facilitate this. The systems will be available for public as well as private use.
<i>Replacement of existing slipway and construction of</i>	The existing slipway will be replaced with a new over-water hardstand area, which will include a garbage storage area and a travel lift to raise vessels

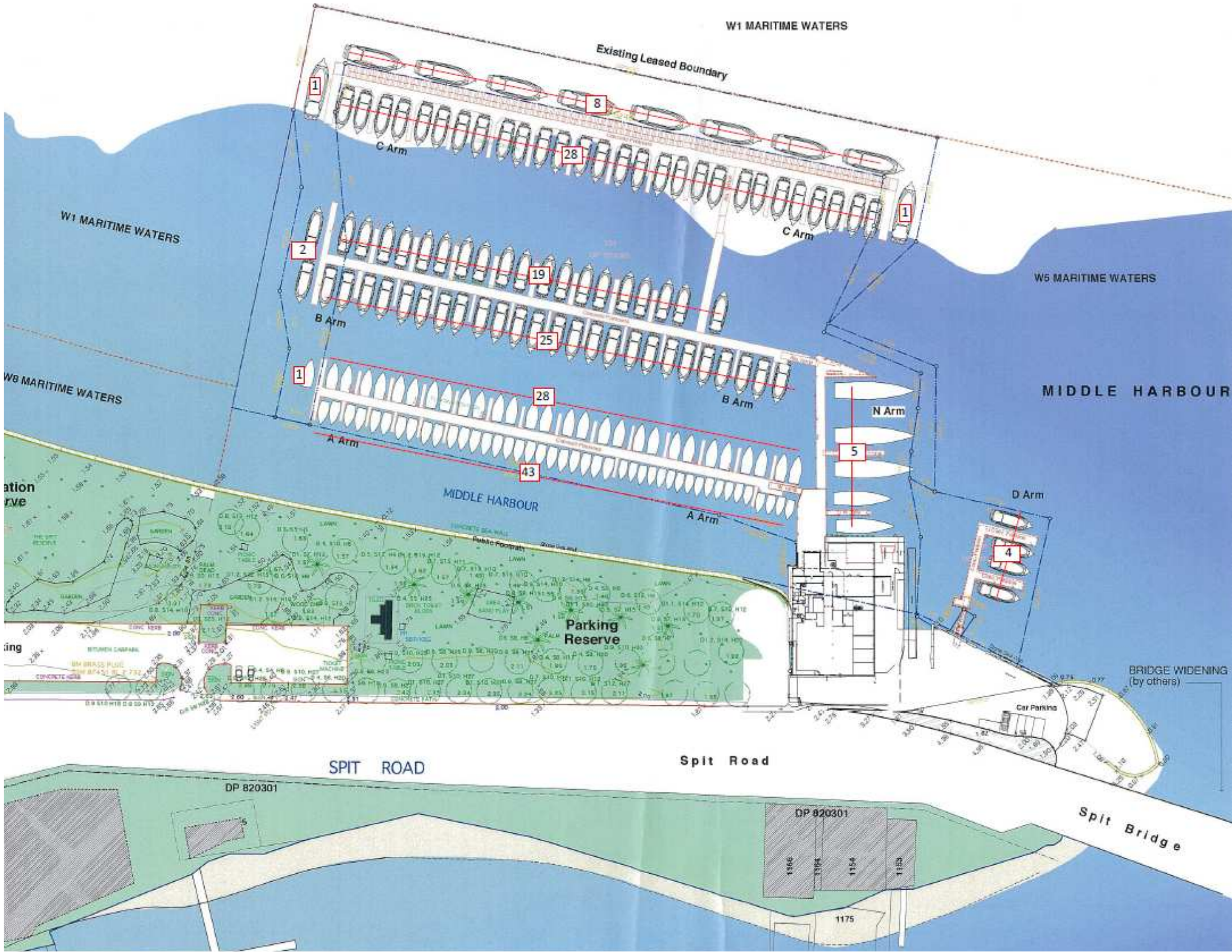


Figure 5: Existing marina illustrating number of berths at each Arm (Source: Proponent in support of PPR)



Figure 6: Plan illustrating proposed amendments to marina (indicated in orange) and land based works including new hardstand area and modified car parking (Source: Proponent's PPR)

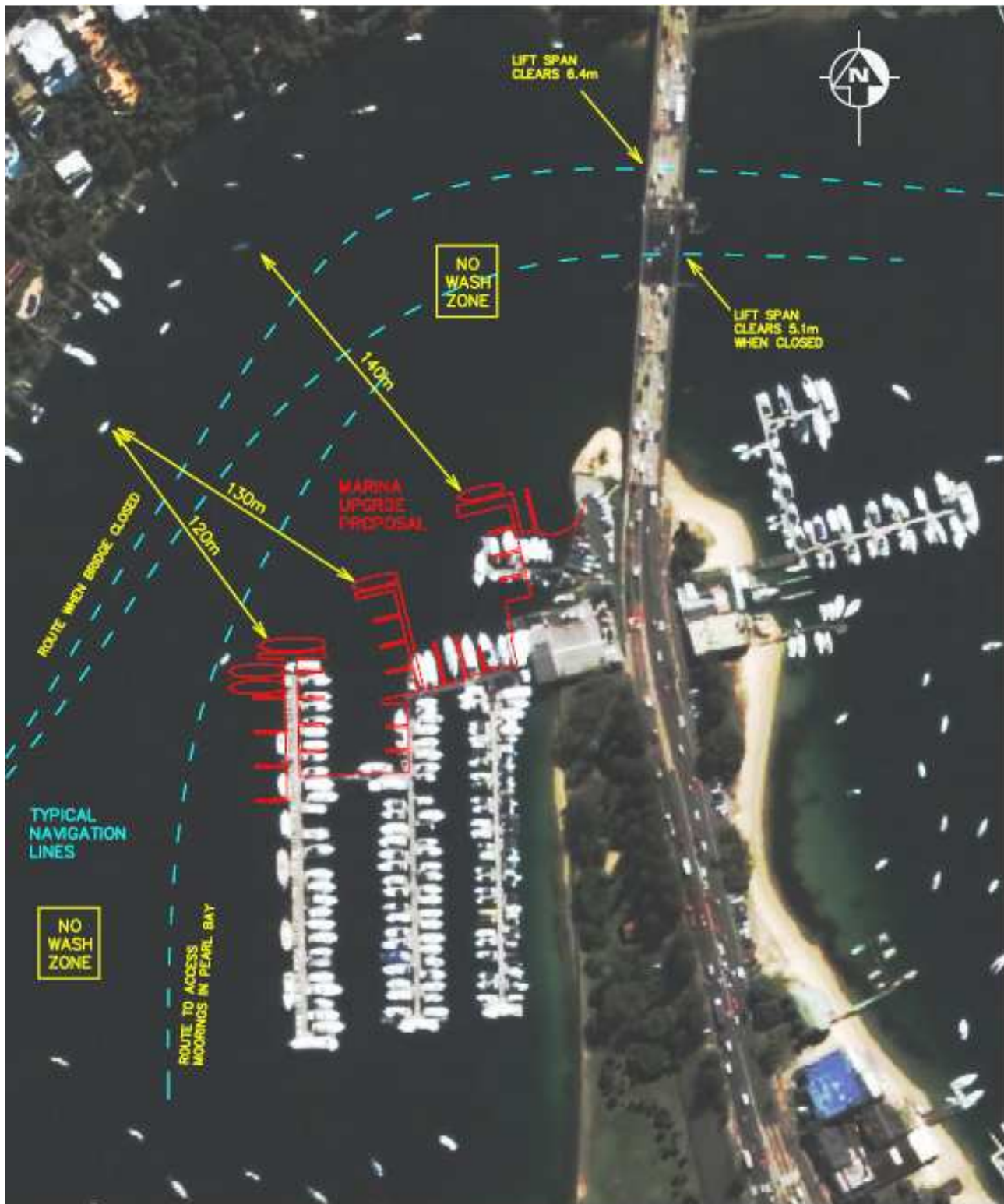


Figure 7: Overlay of existing marina and proposed (northern portion) works illustrating vessel passing arrangements (Source: Proponent's EA)

2.3. Project Need and Justification

Metropolitan Plan for Sydney 2036 and Draft Inner North Subregional Strategy

The site is within the Inner North Subregion of Sydney. The Metropolitan Plan for Sydney 2036 provides a dwelling target of 44,000 additional dwellings within the Inner North Subregion between 2006 and 2036.

There are no specific actions in relation to marinas within the Metropolitan Plan for Sydney 2036 and Draft Subregional Strategy. The expansion of the existing marina to facilitate an increase in the number of berthing facilities will however increase supply of recreational facilities to cater for the targeted growth for the Subregion.

The department supports the proposed measures to improve the environmental management of the marina. In addition, an increase to the size of an existing marina is considered less likely to cause visual impacts than a new marina, therefore minimising impacts upon views from surrounding properties.

NSW Maritime Boat Ownership and Storage: Growth Forecasts to 2026

In July 2010, NSW Maritime published the results of a study projecting boat ownership and storage in NSW to 2026. Records of boat ownership for seven regions of NSW between 1999 and 2009 were used to establish boat ownership trends. The site is within the Sydney Harbour region.

The study found that between 1999 and 2009 recreational vessels within the Sydney Harbour region increased from 15,798 to 18,011 boats (2,213 or 14%) and that 38.4 to 41.5% of the boats in the region are greater than 6 metres in length. There was an increase from 6,065 to 7,468 (1,054 or 35%) in boats over 6 metres in length over the 10 year period.

The study predicts that between 2009 and 2026, the region will experience an overall increase in boats (over 6 metres) from 7,468 to between 8,891 and 10,134 (1,423 to 2,666 or 19 to 36%). The difference in the figures is based on a scenario of continual growth as shown between 1999 and 2009 that concludes 10,134 boats are forecasted over 6 metres in length, while 8,891 is based on population growth forecasts.

The provision of the additional 35 fixed berths will assist in meeting the boat storage requirements for storage of between 1,423 to 2,666 additional boats within the region to 2026.

3. STATUTORY CONTEXT

3.1. Continuing Operation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A of the Act, continues to apply to transitional Part 3A projects. Director-General's environmental assessment requirements (DGRs) have been issued in respect of this project and the environmental assessment report was lodged prior to 1 October 2011. The project is therefore a transitional Part 3A project.

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

3.2. Major Project

The proposal is a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because, at the time of declaration, it was a development for the purpose of 'Marina Facilities' involving the addition of more than 30 berths to an existing facility located in Middle Harbour under the former provisions of Clause 14 of Schedule 1 of *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning and Infrastructure is the approval authority.

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Mosman and Manly Council have both lodged submissions objecting to the proposal.

As the application has been made by a private person, it is therefore able to be determined by the PAC in accordance with the delegation from the Minister.

3.3. Permissibility

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The existing and proposed berths extend over the waters of Middle Harbour. This water based portion of the site is subject to the provisions of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (the 'SREP').

The water based portion of the site is predominantly zoned 'W5 Water Recreation' under the provisions of the SREP. A section of Arm C, at the western edge of the site is zoned 'W1 Maritime Waters'. The existing marina on the site constitutes a 'commercial marina' under the SREP. The proposed expansion of the existing marina operation therefore is a permissible use within the W1 and W5 zones.

Mosman Local Environmental Plan 1998

The land based component of the site located above Mean High Water Mark (MHWM) is zoned '3(d) Spit Waterside Business' under the *Mosman Local Environmental Plan 1998* (LEP 1998). The proposed works are considered to be ancillary to use of the site as a 'marina'. A marina is a permissible land use with consent within the 3(d) zone.

Mosman Local Environmental Plan 2012

Mosman Local Environmental Plan 2012 (LEP 2012) commenced on 1 February 2012. The land based portion of the site is zoned 'RE2 Private Recreation'. A 'marina' is permissible within the zone. The definition of 'marina' in LEP 2012 contains no restriction on the number of berths and is compatible with the existing and proposed extended marina on the subject site.

The department's assessment of the proposal's compliance with the provisions of LEPs 1998 and 2012 is included in **Appendix D**.

3.4. Environmental Planning Instruments

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The department's consideration of relevant SEPPs and EPIs is provided in **Appendix D**.

3.5. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,

- towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment, and*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land, and*
 - (iii) the protection, provision and co-ordination of communication and utility services, and*
 - (iv) the provision of land for public purposes, and*
 - (v) the provision and co-ordination of community services and facilities, and*
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) ecologically sustainable development, and*
 - (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is considered to be consistent with the relevant objects of the Act in that it will facilitate orderly and economic development through the expansion of the existing marina.

With regard to objective 5(c), Mosman and Manly Councils, together with the public, have been consulted in relation to the proposed development, and all submissions have been considered by the department in its assessment.

3.6. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle,*
- (b) inter-generational equity,*
- (c) conservation of biological diversity and ecological integrity,*
- (d) improved valuation, pricing and incentive mechanisms.*

The department's consideration of relevant ESD principles is included at **Appendix D**.

3.7. Statement of Compliance

In accordance with section 75I of the EP&A Act, the department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days. After accepting the EA, the department:

- publicly exhibited it from 9 March 2011 until 8 April 2011 (31 days):
 - on the department's website;
 - at the department's Information Centre;
 - at Mosman Council Civic Centre and Mosman Library; and
 - at Manly Council.
- advertised the public exhibition in the Sydney Morning Herald and Daily Telegraph on 9 March 2011 and the Mosman Daily on 10 March 2011; and
- notified landholders and relevant State and local government authorities in writing.

The department received 15 submissions during the exhibition of the EA - six submissions from public authorities and nine submissions from the general public and special interest groups. A summary of the issues raised in submissions is provided below.

4.2. Public Authority Submissions

Six submissions were received from public authorities, with key issues summarised as follows:

Mosman Council objects to the proposal	
<i>EA</i>	Mosman Council raised the following key issues: • inadequate emphasis placed on the design and extent of the land-based elements, including visual impacts of the new building; • new building has no regard to the waterfront maritime uses; • the site is unable to cater for additional car parking as result of the project; • the proposal has a lack of consideration for pedestrian and cycle safety and connectivity between Spit West Reserve and the Spit Bridge; • the proposal reinforces inadequate public access to the foreshore; and • the submitted noise assessment report is deficient in a number of areas. Council also requested additional information on: • whether the existing sewerage system serving the Spit needs to be upgraded; • the waste management to and from the site; • monetary contributions, commensurate with the Section 94 contribution for open space embellishment, to contribute to the upgrade of Spit West Reserve; and • the ramifications of sea level rise on the construction.
<i>PPR</i>	Mosman Council acknowledges that the visual impact of the land based component of the scheme has been addressed by the amendments to retain the existing building. Council however maintains key issues are as follows: • the project will still generate demand and place additional pressure on the public car park in Spit West Reserve; • there is insufficient detail in relation to the vehicle manoeuvring bay and the impacts on other users when a truck is parked or manoeuvring in this location; • the proposed vehicular manoeuvring bay coincides with cycling and pedestrian paths over Spit Bridge and into Spit West Reserve. Consideration of the Spit Bicycle Infrastructure Project should be undertaken; • sewage disposal remains a concern due to the intensification of the use; and • the application does not address the potential loss of public access to the foreshore and waterways of Middle Harbour. Council also raised concerns in relation to limited manoeuvring between Arm A and the sea wall, impacts from sea level rise and insufficient assessment of accessibility. Requirements of Section 94 contributions were also provided. Discussion and resolution of Council's outstanding objections is provided in Section 5 below.
Manly Council objects to the proposal	
<i>EA</i>	Manly Council raised the following key issues: • the application will result in increased waiting times and frequency of bridge opening therefore inconveniencing residents when the Spit Bridge is raised; • noise impacts upon residential properties in Seaforth to the north of the proposal; • the proposed building is an overdevelopment given it's prominent location that will have a negative impact on views from and to the foreshore; • insufficient parking is provided to cater for the proposal; • parking on public areas and adjacent open space should not be relied upon; • any development should take into account the likely impacts of sea level rise; and • the use of Part 3A instead of Designated Development is strongly objected to.
<i>PPR</i>	Manly Council are satisfied that the changes in the PPR reduce the visual and acoustic impacts of the proposal.

	The significant outstanding issue is maintained in relation to the increase in the number of berths and the potential impact this would have on the requirement for the Spit Bridge to open more frequently or increase the duration of delays to traffic when the bridge is open. Discussion and resolution of Council's outstanding objection is provided in Section 5 below.
Roads and Traffic Authority (now known as Roads and Maritime Services) does not object to the proposal	
EA	Following a review of the EA, the RTA requested: • further details regarding the indented bay and how it fits in with the existing road; • further consideration be given to maintaining pedestrian pathways and allowing a safe point for pedestrians to cross and for cyclists to continue past the marina and under the Spit Bridge; • details on how waste disposal will operate from the site; • the expected number of service vehicles per week and vehicle type; • clarification as to whether boat trailers will be used to transport boats to the marina; and • confirmation whether the proposed indented bay will be constructed by the proponent or by Council. The RTA declared an interest in purchasing a sliver of land fronting the existing marina to formalise the regional cycling route that passes the site and under the Spit Bridge.
PPR	In response to the PPR, the RTA has provided in principle approval to the proposed improvements to the existing entry / exit point. Further detailed designs will need to be provided for approval prior to the issue of a Construction Certificate. RMS also requested that a Loading Dock Management Plan be submitted prior to release of an Occupation Certificate.
NSW Maritime (now known as Roads and Maritime Services) does not object to the proposal	
EA	Following a review of the EA, NSW Maritime raised concerns with the: • depth of water for berths 193 and 194; • fairway widths between Arms N and Arm D; and • fairway width between Arm C and Arm B. NSW Maritime also advised that in order for the development to have a satisfactory navigation impact, the proponent is to relinquish six commercial moorings in Pearl Bay. NSW Maritime recommended a number of conditions should the application be approved, including berths 1 to 35 and 193 be restricted to 8 metre power boats only. NSW Maritime also sought clarification as to whether approval was being sought for the modification to the approved lease areas.
PPR	NSW Maritime provided the following comments in response to the PPR: • the existing piles to be removed are to be completely withdrawn from the bed of the Bay and not cut off; • the previous comment in relation to the fairway widths should have referred to insufficient width between Arm B inner and Arm A outer; and • that the commitment to provide details of the underground storage tanks at the construction certificate stage be maintained.
Office of Environment and Heritage does not object to the proposal	
EA	Following a review of the EA, OEH requested the proponent: • to demonstrate that the construction and operation of the proposed slipway and the excess waste water proposed to be discharged to the waterway comply with Section 120 of the <i>Protection of the Environment Operations Act 1997</i> at all times; and • amend the Air Impact Assessment to take into account the potential for dust, odour or spray painting drift to be emitted to the atmosphere from the repair and maintenance of sea craft on the slip way.
PPR	Following the amendments to the overall design of the application, OEH recommends that conditions be applied in relation to water cycle management; relocation of the

	fuelling facility; contamination; aboriginal cultural heritage; dust and odour; and noise controls.
Department of Trade & Investment, Regional Infrastructure & Services does not object to the proposal	
EA	DTIRIS advised that there are no agriculture or minerals concerns with the proposal and that no objections are raised to the project in general subject to the measures within the draft Statement of Commitments being implemented and included in any approval. DTIRIS recommended measures to be employed during construction to prevent damage to adjacent areas of seagrass.

Table 2: Summary of Issues Raised in Authority Submissions

4.3. Public Submissions

Nine submissions were received from the public (all submissions except one objected to the project), including a submission from the Sydney Harbour Association. All issues raised are listed in **Table 3**.

Issue	Proportion of submissions (%)
Visual impact/ view impact	55
Lack of parking	22
Boat navigation/congestion issues	22
Dangerous vehicular access	22
Increased traffic	11
Increased noise	11
Marina is already overdeveloped	11
Fire hazard from increased number of closely moored power boats	11
The design does not allow for sea level rise	11
Lack of loading dock in the design/ ploy by proponent to use adjoining parkland as future loading dock	11
All other developments for the site should be incorporated into this application	11
Existing unsatisfactory installation of sewer pipes from the marina	11

Table 3: Summary of Issues Raised in Public Submissions

The department has considered the issues raised in submissions in its assessment of the project.

5. ASSESSMENT

The department considers the key environmental issues for the project to be:

- parking and traffic arrangements;
- visual impacts;
- environmental impacts and management; and
- built form.

5.1. Parking and Traffic Arrangements

A number of submissions, including those from Mosman and Manly Councils, raise concern that insufficient parking is available to meet the demand for the current marina and that the proposal will result in increased demand on the public car park in Spit West Reserve. This will then result in an overall loss of off-street parking at The Spit.

The Mosman Transport DCP 2005 does not specify a car parking rate for the proposed use, rather states that car parking for marinas is to be determined on merit and having regard to a Traffic and Parking Impact Study.

Proponent's Assessment

The application includes a Traffic Impact Assessment (TIA), undertaken by Traffix Pty Ltd. The TIA provides two types of parking demand assessments. Firstly, an assessment based on AS 3962 – 2001 (Guidelines for the Design of Marinas) and secondly an assessment based on surveys of the existing marina operations. These provide the following:

- Guidelines for the design of marinas

The Guideline recommends that car parking be provided at the following rates relevant to the application:

- o 0.3 to 0.6 spaces per wet berth (noting that the lower rate of 0.3 spaces should be considered for commercial marinas, such as the existing marina);
- o 0.3 to 0.6 spaces per swing mooring; and
- o one space per 50m² for activities directly related to boat berthing or one space per 30m² for activities primarily related to marina use but not directly related to boat berthing.

On this basis, 15 spaces would be required, including nine spaces for the additional berths and six spaces for the additional workshop / storage area (approximately 190m²).

The proponent has clarified that the additional workshop / storage area is small and is intended to cater for the existing service requirements. In this regard there is no expected increase in car parking demand.

- Survey based assessment

Surveys were carried out on Saturday 23 February and Sunday 24 February 2008 during peak summer parking demand, when boating conditions were considered ideal. Despite the survey being carried out in 2008, the TIA states that no significant change has occurred in terms of land use or in traffic conditions, therefore the conclusions remain valid.

The survey revealed that:

- o the peak parking demand on Saturday was 95 spaces (0.58 spaces per berth); and
- o the peak parking demand on Sunday was 148 spaces (0.9 spaces per berth).

All 341 available public spaces in the locality were utilised at both 1pm and 2pm on the Sunday and that this peak continued until 2.30pm.

Applying the rate of 0.9 spaces per berth, a total of 26 spaces are required.

The application includes the provision of nine car parking spaces located adjacent the new hardstand area, which is an increase of one car parking space to the eight currently provided on the site. The proponent intends to implement measures to reduce the reliance on the need for people to drive to the site, including management issuing taxi vouchers to staff for use on weekends when demand is at its peak and inclusion of a transport coordinator to assist patrons entering / exiting the site.

The proponent's PPR considers that despite the shortfall in parking, there is sufficient car parking to service the proposed increase in berthing facilities associated with the use of the site.

Department's Assessment

The department notes that there is currently 341 public parking spaces available within the vicinity of the site, including a public car park area to the south of the site in Spit West Reserve containing 200 parking spaces and a further 141 car parking spaces located on the eastern side of Spit Road.

The site currently has access to eight on-site parking spaces located to the north of the existing marina building and ten public parking spaces (one designated as an accessible parking space) provided along the unnamed road, with a turning area at the end.

The application seeks to relocate the existing car parking spaces adjacent to the hardstand area and increase the number of spaces by one, to a total of nine spaces. Swept paths diagrams have been submitted in support of the relocation, which confirms that manoeuvrability into and out of the parking spaces conforms to the requirements of AS 2890.1. Condition B15 is therefore recommended to ensure that parking is provided in accordance with AS 2890.1.

Alternative designs to increase the number of car parking spaces on the site have been considered by the proponent, including the use of the hardstand area for parking during peak periods. The department supports increased parking on-site where possible. Condition E8 has been included recommending the preparation of a traffic management plan for the use of the hardstand area during identified peak periods to reduce the impact of parking on the surrounding locality.

The department notes that car parking within the locality is at capacity during peak periods, however based on the operation of the marina the department concludes that:

- during the majority of the year (outside of peak periods) the car parking areas are substantially underutilised, in particular on weekdays;
- peak periods of use occur outside of when the service section of the marina is operating thereby reducing car parking that caters for employees;
- improvements / additions to existing businesses within the locality occur with the knowledge that car parking within the area is finite (as noted in Council's assessment of a recent Development Application for the Middle Harbour Yacht Club); and
- measures proposed by the proponent to reduce the reliance on driving to the site are supported.

Overall, the department considers that having regard to the constraints of the site and the existing parking available within the immediate locality, the impacts from the additional parking required to service the proposal is acceptable and any peak periods of car parking use will not have a negative impact upon the locality.

Traffic Arrangements

Access to the site is only available via a single point, with a left turn entry and left turn exit movement onto Spit Road. The proponent's TIA identifies this as a sub-standard entry / exit point which should be ideally addressed even if the proposed development does not proceed. The

project includes modifications to this entry / exit point, which seeks to improve access to and from the site.

The existing access arrangement currently results in queuing of vehicles along Spit Road as vehicles enter / exit the site. Cars turn left into the site via the kerbside lane, while larger vehicles (up to an 11 metre rigid truck) typically use the middle north bound lane to turn into the site (**Figure 8**).

Currently vehicles exiting the site are required to undertake a 'U' turn manoeuvre that does not enable cars to enter the kerbside lane travelling north, which increases the potential for accidents to occur. Larger vehicles servicing the site, park along the side unnamed road, deliver their goods and then reverse onto Spit Road, generally into the two north bound lanes. An existing traffic management plan is utilised to assist in this movement from the site.

The proponent recognises that improvements to the entry / exit point are required to service the marina. As a result, the project includes the incorporation of an indented vehicle manoeuvring bay off Spit Road that will allow for delivery vehicles exit onto Spit Road in a forward direction, instead of having to reverse out onto Spit Road causing delays (as they currently do). The proposal does not involve any modifications to the access arrangement for cars.

The RMS initially raised concerns with the arrangement, however following the receipt of the PPR and further discussion on site, RMS has given in principle approval for the proposed improvements to this entry / exit point. RMS has recommended that further detailed designs of the indent bay be provided to clearly illustrate the relationship of the proposal with the existing pedestrian / cyclist movements.

The department supports this element of the proposal as it will improve the existing access arrangements which are presently considered to be substandard and are not sustainable in the long term.

Spit Bridge Opening Requirements

Manly Council raised concerns that any increase in berths at d'Albora Marina will affect Spit Bridge opening times. As discussed in Section 1, the Spit Bridge (to the north of the marina) creates an artificial barrier to some vessels accessing the outer harbour due to its height above the water level. To allow access to larger vessels (yachts and power boats), the Spit Bridge opens at given times throughout the day.

In response to Council's concern, the proponent has advised that of the existing 165 berths currently located at the marina, only four motor vessels and four yachts require the bridge to open to gain access to the outer harbour. Based on the small proportion of existing boats utilising the bridge opening to access the harbour, the proposed net increase in 29 berths likely create an additional demand of two boats that would also need to utilise the bridge opening. This demand is not significant and could be accommodated during the existing opening times.

It is also noted that RMS has not raised concerns that the Spit Bridge would need an increase in opening times to cater for the development. In addition, the EA advises that charter motor vessels (Captain Cook Cruises and Majestic Cruises) currently pass upstream of the Spit Bridge without the need for the bridge to open.

The department considers that the proposed increase in vessels moored at the marina, will not have any material effect on the frequency that the Spit Bridge opens as the majority of the existing and proposed vessels currently pass underneath the bridge to gain access to the outer harbour.

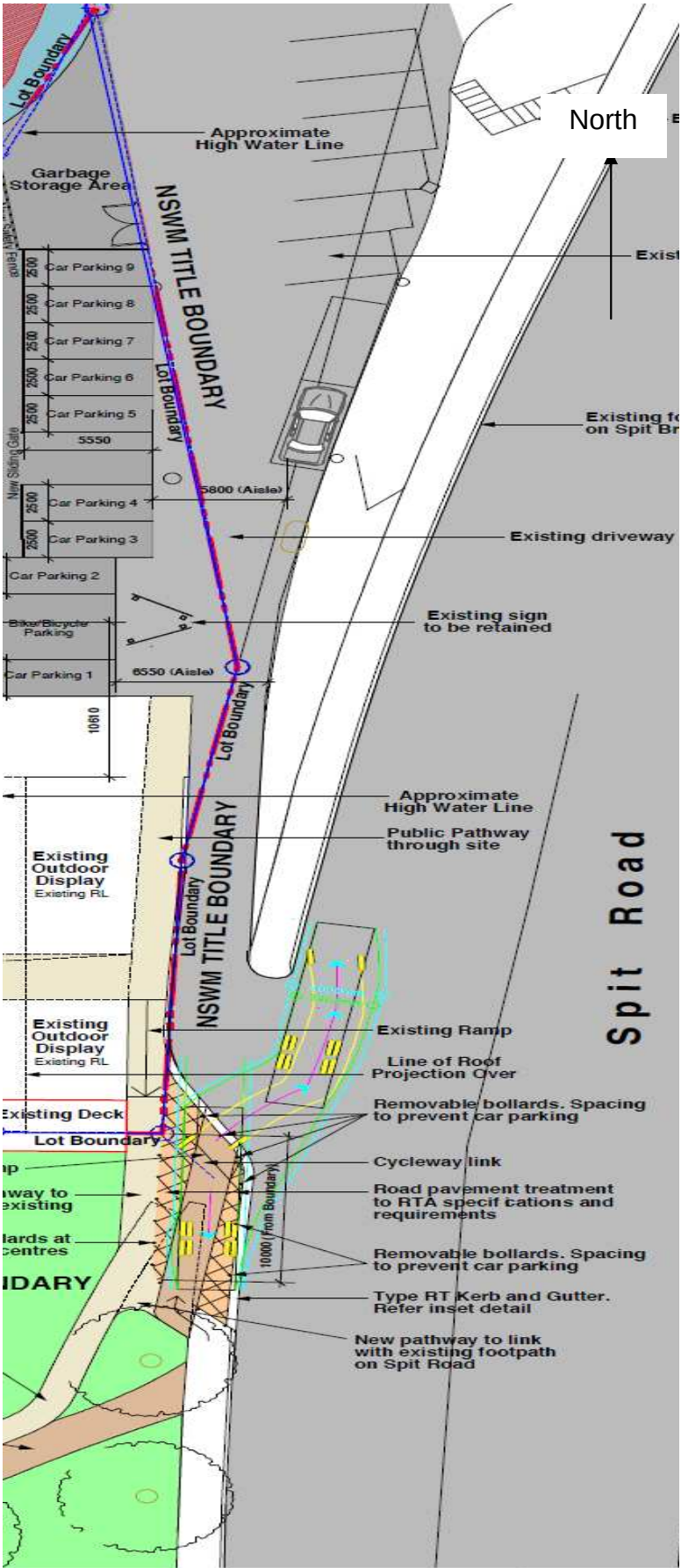
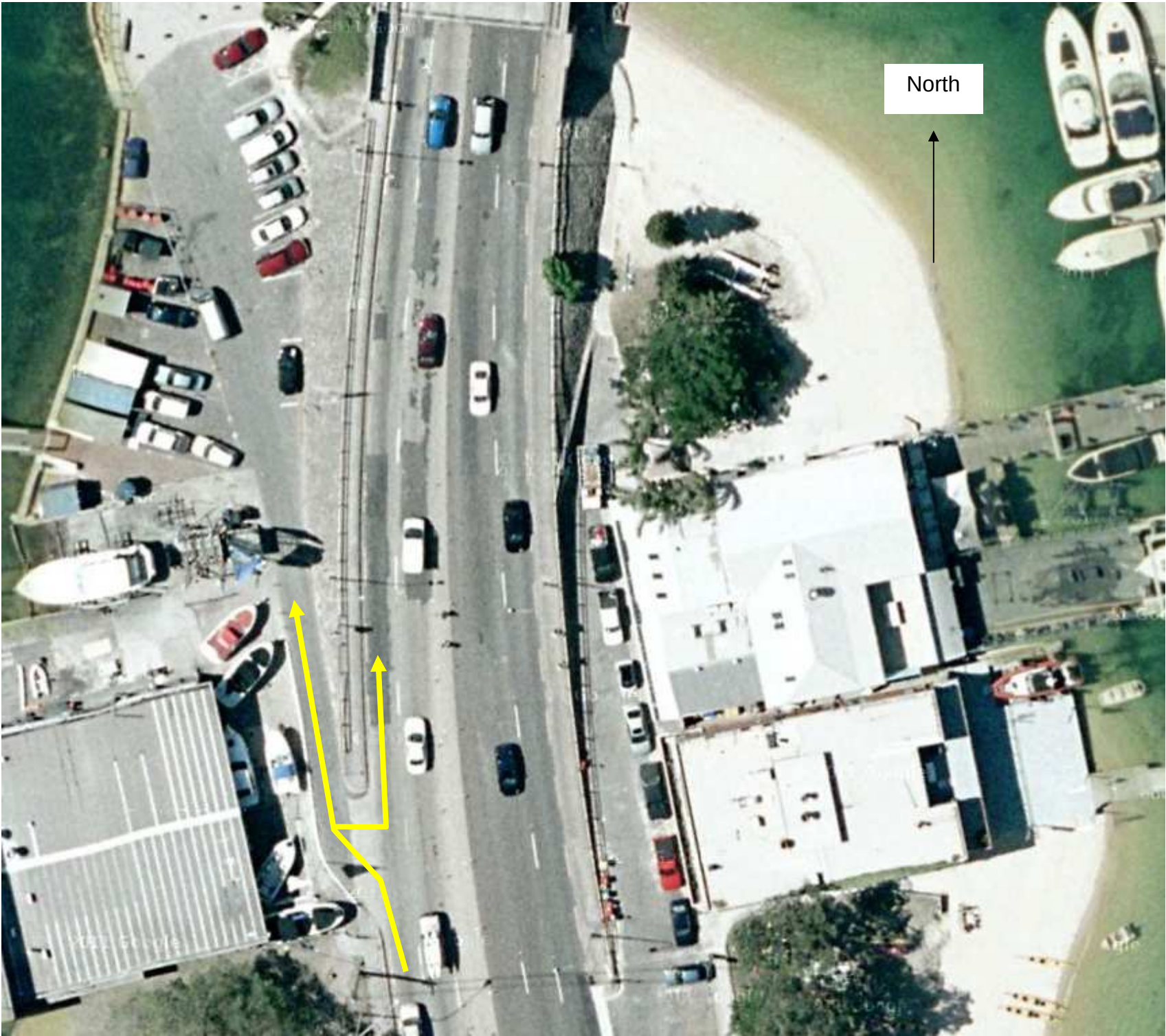


Figure 8: Aerial view of existing access point adjacent the sites frontage off Spit Road (Source: Google Maps 2011) and the proponent's proposed amendments to improve access (Source: Proponent's PPR)

Pedestrian & Bicycle Connectivity

The lack of a safe and useable pedestrian and bicycle connection through the site was raised as an issue by Mosman Council and the department following consideration of the application. Currently pedestrians and cyclists cross the access road to move from the Spit West Reserve and onto Spit Bridge or travel along the access road or adjacent ramp to continue along underneath the Spit Bridge (**Figure 9**).



Figure 9: Access road adjacent the sites frontage looking north (Source: Mosman Council website)

As a consequence of retaining the existing building in its current location, limited opportunities are provided to improve pedestrian and bicycle movements past the site. The proponent has proposed an amendment to the current access arrangement to improve the current situation as discussed above.

Mosman Council has recently exhibited plans prepared in conjunction with RMS for works to upgrade the Spit Road / Parriwi Road intersection that endeavours to improve cyclist access at the Spit. Following recent discussions between the RMS, Mosman Council and the proponent, the inter-relationship of the proposed manoeuvring bay that improves access into the site and plans for new bicycle and pedestrian paths have not been resolved.

The department supports the proposed manoeuvring bay, however is mindful that pedestrian and bicycle access in this section should not be degraded.

Following submission of the PPR (including a modified design for the manoeuvring bay) and a site meeting, RMS has advised that they grant in principle approval to the proposed improvements to the access point / indented bay. Detailed designs are required to be approved by RMA prior to issue of the Construction Certificate (Condition B10).

In addition, RMS has requested that a Loading Dock Management Plan be prepared to the satisfaction of RMS prior to the issue of the Occupation Certificate (Condition E7). Conditions of approval which reflect RMS comments are included as recommended.

5.2. Visual Impact

The visual impact of the proposed increase in the number and size of the boats berthed at the marina was a key issue raised in submissions. The application has the potential to have visual impacts in terms of:

- scenic foreshore impacts; and
- potential view impacts from surrounding residential properties and public accessible foreshore areas.

5.2.1 Scenic foreshore impacts

Proponent's justification

The application includes a Visual Impact Assessment undertaken by Richard Lamb & Associates. The assessment considered the exhibited application that included amendments to the berths / pontoons and construction of a new two storey building, which has since been removed from the application. The assessment concluded that although the proposal would result in some perceivable visual changes, the proposed redevelopment represents a small percentage of the total existing extent of the marina and that the visual effects and impacts of the proposed works are acceptable. Further, the marina occupies a very small proportion of the total bay waters which are wide and open in nature further reducing the visual impact.

Department's Assessment

The Sydney Harbour Foreshores and Waterways DCP provides specific principles for the assessment of visual impacts of marinas. The DCP highlights the following factors to be considered in determining the overall visual impact:

- (a) location of viewer;
- (b) distance of view;
- (c) period of view;
- (d) boat numbers and mix of vessel size and types; and
- (e) special relationships.

The department's consideration of the proposal against the key factors is provided in **Table 4**.

Principle	Consideration
Location of viewer	The visual impact of the proposal from other locations around the bay is considered to be minor. The proposed marina occupies a portion of the overall shoreline in this location. In addition, the degree of landform elevation is sufficient to provide a backdrop to the marina in these locations so that boats or the proposed travel lift are not viewed against the skyline.
Distance of view	Views from waterfront locations around the bay are located between 150 metres and 1 kilometre from the marina. The proposal will have minor visual impacts having regard to the distance and landform in the backdrop.
Approximate period of view	The marina expansion will be within the visual catchment of residential properties around the bay, various publicly accessible foreshore areas and passing traffic. The approximate period of view from these vantage points varies from the majority of the day (residential) to a glimpse only (passing traffic). In the context of the existing marina, the visual impact of the application is not considered likely to alter the character or attractiveness of the waterway.
Scale or relative size (boat numbers and mix of vessel types)	The proposed expansion features fixed berths to cater for vessels between 12 and 30 metres in length. The largest boats to be provided are 30 metres long and are to be stored at the T-Head at the greatest distance from the shoreline. This is consistent with the DCP guidelines for minimising the visual impact at the shoreline. On this basis it is considered that the impact is minor.
Spatial relationship	The marina is located on the western side of The Spit, which is approximately 1km wide at this point (narrows to 400 metres between Seaforth and Beauty Point) and forms part of a cluster of adjoining similar waterfront uses on the east and west side of the Spit. The width and openness of the waterway minimises the overall visual impact of the proposed marina expansion. The photomontages provided demonstrate that the additional visual impacts from the waterway and other vantage points around the bay are minor.

Table 4: Visual Impact Assessment against the principles in the Sydney Harbour Foreshores and Waterways DCP

In the table above the department has considered the scale of the proposed marina expansion, the adjoining land uses, the visibility of the facility and the potential vantage points with view to the marina. It is considered that the existing marina forms part of a larger 'working' part of Middle

Harbour that includes other marinas on the eastern side of The Spit and numerous swing moorings on both sides of The Spit. In this context, the visual impact of the proposed changes (noting that the existing building is to be largely retained) is not considered likely to alter the character or attractiveness of the harbour.

Although the visual impact is greater when viewed from locations such as walking tracks around the harbour and the waterway itself, the department considers that the proposal will not result in an adverse visual impact from these locations nor be detrimental to the general visual amenity of Middle Harbour.

5.2.2 Potential view loss impacts

Proponent's justification

The Visual Impact Assessment provided an assessment of potential view loss impacts which included a photographic assessment and photomontages of the proposed marina expansion from nearby residential properties. The assessment states that there is no significant view loss as a result of the proposal.

Department's Assessment

The Department has also reviewed the potential view loss impacts of the proposed marina expansion in the context of the 'Views Planning Principle' adopted in the Land and Environment Court judgement "*Tenacity Consulting v Warringah Council (2004)*".

The criteria adopted in the decision state as follows:

- (a) assess what views are affected (i.e. whether or not they are iconic views, water views, obscured etc);
- (b) from what part of the property are the views obtained;
- (c) the extent of the impact (negligible, minor, moderate, severe or devastating); and
- (d) the reasonableness of the proposal which is causing the impact.

The department's consideration of the proposal against the above criteria and principles is provided in **Table 5**.

Principle	Consideration
Views which are affected	The existing marina is viewed by residential properties on either side of the bay and neighbouring public reserves, such as Spit West Reserve. The majority of the views are from elevated positions and range from 150 metres (north – northwest in Seaforth) to 400 metres (southwest along Beauty Point). Due to the overall size of the marina and the elevation of residential properties around the locality, all sides of the marina can be viewed. Figure 10 and 11 illustrate views from residential properties, while Figure 12 provides a photomontage of the exhibited EA.
From what part of the property are the views obtained	Within residential properties views are predominantly obtained from balconies, while from public reserves views are enjoyed from ground level.
Extent of impacts	The extensions to the marina are considered to be minor with the greatest change resulting from changing the position of the berths on the western side of Arm C from parallel with the arm to perpendicular. In conjunction with the increased size of the boats at the marina and at Arm C, this change will have the greatest impact on views of the marina. The addition of a travel lift and new hardstand area is not considered to have negative impacts. Overall, view impacts to residential properties are considered to be minimal.
The reasonableness of the proposal which is causing the impact	It is considered that the proposal is appropriate as it does not result in any view loss. Further the proposal can satisfy the requirements of relevant design standards (NSW Maritime has not objected to the proposed increase) and would meet increased demand for boat storage within the region.

Table 5: Visual Impact Assessment against the 'Views Planning Principle'

The department considers that the no material view loss occurs as a result of the application when viewed from the majority of the properties that overlook onto the marina. Some loss of views may be provided at water level and from the Spit West Reserve, however this is considered to be minimal.



Figure 10: View of existing marina from Seaforth to the northwest.



Figure 11: View of existing marina from Pearl Bay Avenue, Beauty Point to the southwest.



Figure 12: Photomontage of exhibited application (Arm C is located on the far right hand side) (Source: Proponent's EA, note: existing marina building is to be retained and not as shown in this original photomontage)

5.4. Environmental Impacts and Management

5.4.1 Potential Impacts on seagrass and aquatic life

The EA documents were accompanied by an Aquatic Ecology Assessment Report prepared by W.S. Rooney & Associates Pty Ltd. This report provided an assessment of the likely aquatic ecological impacts of the project.

The report states that no dredging is proposed as part of the project as adequate water depth naturally occurs under all existing and proposed berthing areas.

The report identified that seagrass beds are located within the area and that runoff from the site would be controlled and treated using catch drains, collection pits and storage tanks that recycle washdown / maintenance water. The report however found that the new hardstand area may impact on seagrass and the aquatic environment in terms of shadowing and disruption during demolition and construction.

Short term impacts were identified during the demolition and construction of the arms and new hardstand area, however impacts can be managed through appropriate conditions of approval.

As shown in Figure 14 below, the hardstand area has largely been designed to generally avoid any encroachment above the existing seagrass bed and to ensure minimal impact in terms of overshadowing.

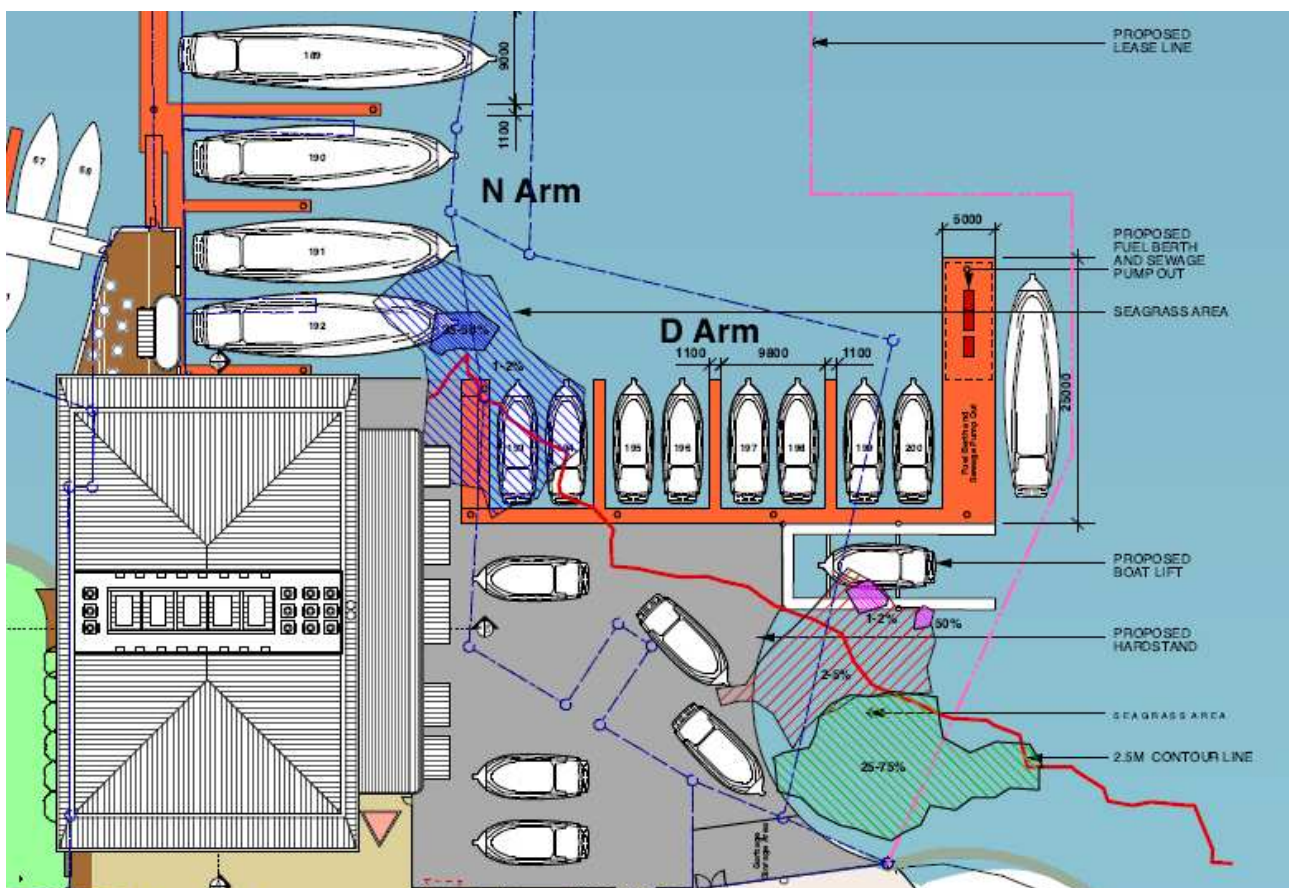


Figure 14: Plan identifying existing sea grass and proposed hardstand area. Seagrass area shown in red hatch. (Source: Proponent's EA)

The application was referred to the Trade and Investment, Regional Infrastructure and Services NSW (DTIRIS) for review. No objections were received from DTIRIS provided that the 'Aquatic Ecology', 'Sediment and Erosion Control', 'Water Cycle', 'Slipway Management' and 'Waste

Management' measures within the draft Statement of Commitments are implemented in full. DTIRIS also recommended conditions to be employed during construction to avoid harm to adjacent seagrasses, which are included at Condition D12 and D13.

The department is satisfied that the proposed marina expansion and additional hardstand area has been designed to avoid, where possible, impacts on seagrass and aquatic species. The project is considered to be acceptable, subject to the implementation of the measures recommended in the report and statement of commitments, in particular that:

- a slow boring technique be applied during the preparation of the pier holes for the new concrete piers; and
- waste from boat maintenance is collected and disposed of properly.

5.4.2 Environmental Protection

The marina currently has an existing Environmental Protection Licence to ensure the marina operates in accordance with the requirements of the *Protection of the Environment Operations Act 1997* (POEO Act).

Comments received from the OEH during the assessment of the application recommend that conditions be included to ensure that measures are incorporated in the design and construction that satisfy the requirements of the *Environmental Action for Marinas, Boatsheds and Slipways* and the POEO Act. These include measures to address water cycle management, relocation of the refuelling facility and dust and odour.

The department is satisfied that subject to compliance with the measures proposed by the proponent and those indicated by the OEH, environmental impacts and risks will be minimised, particularly in relation to water quality and the potential environmental harm which may be caused by waste, fuel, spills and repair and cleaning of boats.

5.4.3 Climate Change and Sea Level Rise

The proponent engaged gbaCOASTAL Pty Ltd to undertake an assessment of the application having regard to the *NSW Sea Level Rise Policy Statement* that specifies sea level planning benchmarks for the NSW coastline. These benchmarks are an increase above the 1990 mean sea levels of 0.4 metres by 2050 and 0.9 metres by 2100.

As a result of the reduced building works proposed in the PPR, the proponent has advised that no new works are proposed to the existing building to take into account sea level rise. The proponent has however advised that the levels shown for the hardstand area are based on compliance with forecast sea level for 2050. Beyond this date and if predictions are realised, there will be substantial inundation of the greater Spit area that will impact upon access to the marina.

The department notes that the design of the marina enables the pontoons to rise and fall depending on the tide and weather conditions, including the impacts of sea level rise. Recommendations are proposed in the supporting assessment and draft Statement of Commitments to ensure the proposed piling for new piers has regard to sea level rise. These recommendations are supported and will form part of the commitments for the construction of the development.

As the existing marina building is being maintained, the department is satisfied that the application has adequately addressed the issues relating to climate change and sea level rise.



Figure 15: Existing Arm C illustrating pontoon and piles (Source: photograph by department)

5.5. Other

Marina Design and Water Depths

The design of marinas must comply with Australian Standard AS 3962-2001. AS 3962-2001 provides minimum and preferred dimensions for fairway widths, water depths, berth sizes, walkway widths and gangway requirements.

The proponent engaged gbaCOASTAL Pty Ltd to undertake an assessment against the requirements of AS 3962-2001. The assessment found that the existing marina contains non-complying berth widths, particularly along Arm A inner, and that the proposed redesign in the application would achieve compliance with AS 3962-2001. Two areas were however required to be addressed following the receipt of comments from authorities:

Water Depth

The gbaCOASTAL Pty Ltd assessment found that the overall site provides adequate depth for the majority of the proposed berths, however berth number 193 located at the southern end of Arm D is recommended to be restricted to power boats due to the limited water depth.

NSW Maritime also recommends that berths 1 to 35 and 193 be restricted to eight metre power boats due to concerns with the depth of water at these locations. The proponent has accepted the recommendations and Condition B1 has been recommended restricting the use of these berths accordingly.

Fairway Width

Mosman Council raised concern that the submitted architectural plans do not appropriately illustrate the constructed sea wall or viewing platform which is regularly used for fishing. It is recommended that Condition B2 be included that requires the submission of an amended plan to ensure that the minimum fairway width of 12 metres between Arm A and the sea wall is provided.

NSW Maritime also raised concern with the fairway width between Arm B and Arm A. The PPR illustrates a fairway width of 16.5 metres between the two Arms, however the T-Head located on the end of Arm B, reduces to 15 metres which is less than required. The proponent has agreed to reduce the size of the T-Head to achieve compliance with AS 3962-2001. Condition B1 is recommended to ensure the required fairway width is obtained.

Arm C Alteration

Public submissions raised concerns with the re-orientation of the western side of Arm C and the impact this will have in terms of views and also potential for increased congestion in this area, particularly as vessels must pass the Spit Bridge. NSW Maritime has requested that six commercial moorings in Pearl Bay be relinquished to ensure that the development has a satisfactory navigation impact. The proponent has agreed with the request and Condition B3 has been recommended as requested by NSW Maritime.

On this basis, the department is satisfied that the marina can be expanded as proposed, subject to the implementation of conditions to address the issues raised above.

Noise

Noise impacts from construction activities and operational noise from the expanded marina, the relocated restaurant, workshop area and during waste disposal were raised by the public and authorities. As a result of the reduced building modifications included in the PPR, the department considers that operational noise will be acceptable given that the existing landuses and restrictions will continue to apply.

Following a review of the PPR, the Office of Environment and Heritage (OEH) has recommended that conditions be incorporated to limit noise impacts during construction and also operating hours to those identified in the Noise and Air Quality Assessment prepared by Wilkinson Murrumbidgee Pty Ltd. The proponent advises that no amendments or alterations are proposed to the current hours of operation of the existing uses of the site.

In terms of construction hours, the proponent's Draft Statement of Commitments advises that construction is to occur between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm Saturday. No works are to be undertaken on Sundays or public holidays. The proposed hours of construction are considered appropriate for the locality and are also in accordance with Mosman Council's standard hours of construction. Condition D3 is included restricting the hours of construction as proposed.

OEH also recommends that a condition be imposed that requires the implementation of respite periods for the impact piling operations, which generate noise impact levels greater than 75dBA at any noise sensitive receiver. Impact piling is proposed to insert the piles into the seabed to support the proposed pontoons. The proponent has concurred with this approach. Conditions B13 and D20 are included as requested by the OEH.

Adequacy of Existing Infrastructure Servicing the Marina

A submission raised concerns with the existing sewerage pipe servicing the site and issues with leaking pipes affecting neighbouring businesses. The PPR advises that the submitter has referred the matter to Sydney Water and Mosman Council and therefore the concern is not applicable to the application.

The department has recommended Condition C6 requiring the proponent to submit documentary evidence to the department, stating that the existing arrangement is capable of servicing the application without affecting nearby businesses.

6. CONCLUSION

The department has assessed the EA, PPR and considered the public and agency submissions in response to the proposal. The key issues raised in submissions relate to the impact upon traffic congestion along Spit Road, lack of parking to cater for the proposal, visual impacts from the additional berths upon the locality and environmental impacts.

The department is satisfied that the impacts of the proposed development have been addressed via the EA, Statement of Commitments, PPR and the department's recommended conditions, and can be suitably mitigated and / or managed to ensure a satisfactory level of environmental performance.

On these grounds, the department is satisfied that the additions to the existing marina and workshop area will improve the use of the marina and ensure that facilities are provided to current standards. The inclusion of the new hard stand area and boat lift will also provide greater access to facilities and improve environmental measures to reduce impacts on the immediate aquatic habitat.

The proposal also includes modifications to pedestrian and bicycle paths that are located between the site and Spit Road to enable improved access into the site. The RMS has given in principle approval to these works, however required further detailed designs to be prepared and submitted to RMS for approval.

The department recommends the Project Application be approved subject to conditions.

7. RECOMMENDATION

Having considered the key issues in relation to the proposal, the department notes the following key findings:

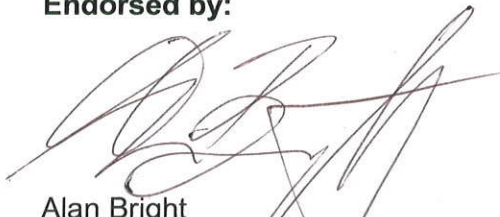
- whilst the site is constrained, there is adequate provision of parking, both on-site and available within the immediate locality to ensure that car parking demand during any peak periods will not have a negative impact upon the locality;
- the existing vehicular access to and from the site is problematic however will be improved by the proposed development which provides safe and convenient access arrangements;
- the proposed additional berths will not have any effect on Spit Bridge opening times;
- the proponent has resolved any issue of visual impact of the building by reducing the extent of proposed works to the marina building;
- no significant view loss or scenic foreshore impact occurs as a result of the marina expansion when viewed from vantage points within the locality and around the harbour foreshore; and
- the proposal has been designed in such a way to mitigate any environmental impacts to an acceptable level (and where appropriate conditions have been recommended to further mitigate environmental impacts).

It is therefore recommended that the Planning Assessment Commission, as delegate for the Minister for Planning and Infrastructure:

- A) **consider** the recommendations of this report;
- B) **approve** the Project Application, subject to conditions, under Section 75J of the *Environmental Planning and Assessment Act 1979*; and
- C) **sign** the attached Instrument of Approval (**Appendix E**).

Prepared by: Mark Brown
Senior Planner, Metropolitan & Regional Projects South

Endorsed by:



Alan Bright
Director
Metropolitan & Regional Projects South



8.2.12
Chris Wilson
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Major Projects Assessment



13/2/12
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Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2446

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2446

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2446

APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

The Department has considered the Objects of the EP&A Act, including the encouragement of ESD in the assessment of the proposal. The balancing of the application in relation to the Objects is provided in Section 5 of this report.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department has considered the proposed development in relation to ESD principles and has made the following conclusions:

Precautionary Principle – The project is supported by technical and environmental reports which conclude that the project's impacts can be appropriately mitigated. Mitigation measures are outlined in the proponent's Statement of Commitments and / or as recommended by the conditions of approval. It is considered that there is no threat of serious or irreversible environmental damage as a result of the project. The site was previously approved for development of this nature, with the proposed expansion to be constructed in accordance with the relevant requirements.

Inter-Generational Principle – Once completed, the proposal will provide up-graded facilities (particularly the deletion of the slipway and inclusion of a hoist onto the hardstand area), which will ensure that environmental management practices are employed on-going operation of the development that will ensure the environment is protected for future generations.

Biodiversity Principle – Following an assessment of the proponent's EA and PPR it is considered that there is no threat of serious or irreversible environmental damage as a result of the project. The project was referred to the Office of Environment and Heritage for review concerning biodiversity impacts, and conditions of approval are recommended as appropriate.

Valuation Principle – The proposal incorporates measures to improve the environmentally sustainable outcomes of the site. It is considered that the project will provide an improved environment to that currently provided.

Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD

SECTION 75I(2) OF THE EP&A ACT / CLAUSE 8B OF REGULATIONS

Section 75I(2) of the EP&A Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director General's Report is to address a number of requirements. These matters and the Department's response are set out below:

Section 75I(2) criteria	Response
Copy of proponent's Environmental Assessment and any Preferred Project Report	The proponent's EA and PPR are located at Appendices A and C to this report.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project is included in Section 4 and Appendix B of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any	Each SEPP that substantially governs the carrying

State Environmental Planning Policy that substantially governs the carrying out of the project	out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The Director General's assessment of the Project Application is this report in its entirety.
A statement relating to compliance with the Director General's Environmental Assessment Requirements under this Division with respect to the project	It is considered that the proposal adequately complies with the DGRs and the Statement of Compliance appears in Section 3.7 of this report.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the key environmental impacts of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Sections 5 of this report.
The suitability of the site for the project	The site is an existing marina located within part of the 'working' section of Middle Harbour. The site is considered to be well suited to the proposed extension and alterations to the marina.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions	A summary of the issues raised in the submissions is provided in Section 4 of this report, with a copy of the submissions located at Appendix B . The proponent's response to submissions appears in Appendix C .

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)

To satisfy the requirements of section 75I(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Projects) 2005;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
- State Environmental Planning Policy 33 – Hazardous and Offensive Development;
- State Environmental Planning Policy 55 – Remediation of Land;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Sydney Harbour Foreshores & Waterways Area Development Control Plan 2005;
- Mosman Local Environmental Plan 1998;
- Draft Mosman Local Environmental Plan 2008;
- Mosman Transport Development Control Policy; and
- Mosman Development Control Plan – Mosman Business Centres 2000.

The provisions of development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R Part 3A of the EP&A Act. Notwithstanding, the objectives of the above EPis, relevant development standards and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment in accordance with the DGRs.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy (Major Development) 2005

As discussed previously in Section 3.1, the proposal is a major project under Part 3A of the EP&A Act because it is development for the purpose of 'Marina Facilities' involving the additional of more than 30 berths to an existing facility located in Middle Harbour, under Clause 14 of Schedule 1 of State Environmental Planning Policy (Major Development) 2005. Therefore the Minister for Planning and Infrastructure is the approval authority.

State Environmental Planning Policy (Infrastructure) 2007

The proposal was not formally referred to the RMS as it falls short of the SEPP thresholds for 'Traffic Generating Development', but was referred to the RMS for comment. The RMS initially refused to grant concurrence for the application under Section 138(2) of the Roads Act 1993 for reasons detailed in **Section 4.2** of this report. Details were requested in relation to modifying the access point off Spit Road and the current operation of the marina.

Following submission of the PPR, further information and a site meeting, the RMS has advised that they grant in principle approval to the proposed improvements to the access point / indented bay. Detailed designs are required to be approved by RMA prior to issue of the Construction Certificate.

In addition, RMS has requested that a Loading Dock Management Plan be prepared to the satisfaction of RMS prior to the issue of the Occupation Certificate.

State Environmental Planning Policy 19 – Bushland in Urban Areas

This SEPP applies to development adjoining land that is reserved for public open space. In this instance, the subject site adjoins the Spit Reserve and Ellery Park to the north and south of the site respectively. Clause 9 identifies a number of matters that the consent authority must take into account prior to granting any approval to such development. These matters are as follows:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

There is no bushland located on the site. Part (d) of clause 9 has been addressed in the Flora & Fauna Assessment submitted with the application. The assessment concludes that no adverse impacts on adjacent bushland will occur subject to a number of general recommendations. The department has reviewed the provisions of clause 9 and is satisfied that no adverse impacts will occur in relation to the matters identified, subject to the inclusion of a condition pertaining to compliance with the recommendations identified in the Flora & Fauna Assessment.

State Environmental Planning Policy 33 – Hazardous and Offensive Development

The proposed development involves the storage of fuel in underground tanks and other potentially dangerous goods. The Engineering Services Report, prepared by Martins & Associates, therefore considers the proposal against the provisions of SEPP 33. The assessment concludes that the quantities of dangerous goods to be kept on site is below screening thresholds and it can therefore be assumed that, in accordance with SEPP 33, there is unlikely to be a significant risk. As such, the proposal does not trigger the SEPP 33 requirement for a Preliminary Hazard Analysis.

State Environmental Planning Policy 55 – Remediation of Land

SEPP 55 requires the approval authority to consider whether the land is contaminated, whether remediation has occurred or is recommended and, if so, if the site is suitable for the development.

The site has been used for the berthing of vessels for many years and is currently used as a marina.

A Stage 1 and Stage 2 Contamination Assessment was submitted by Martens & Associates. The Stage 2 investigation identified no contaminants above NSW DEC (2006) guideline levels for commercial and industrial land use. A Remedial Action Plan is however required to address the removal of the underground storage tanks.

Based on the assessment provided, it is considered that the site can be made suitable for the proposed development, subject to Condition B20 being imposed.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SREP) applies to the site and is required to be considered in the assessment of the application. The water based portion of the site is predominantly zoned 'W5 Water Recreation' under the provisions of the SREP with a section at the western edge of the site, zoned 'W1 Maritime Waters'.

The site is within the 'Foreshores and Waterways Area' defined in the SREP, and in accordance with Clause 20 of the SREP the following matters are required to be considered in the assessment of the application:

- *Clause 21: Biodiversity, ecology and environment protection* – The proposal will have a neutral affect on the quality of water entering the waterway; suitably protects aquatic vegetation and will not hinder the protection of terrestrial or aquatic species; will not compromise ecological connectivity; suitably avoids indirect impacts, will not impact on the intertidal area or the natural landform; will not result in cumulative adverse environmental impacts; and will not disturb sediment adjacent to the site.
- *Clause 22: Public Access to, and use of, foreshores and waterways* - The proposal improve public access facilities along the foreshore without adversely impacting on the watercourse or native vegetation.
- *Clause 23: Maintenance of a working harbour* – The proposal maintains the current marina use and will provide improved facilities and opportunities for maritime related activities. These activities will be compatible with adjoining land uses.
- *Clause 24: Interrelationship of waterway and foreshore uses* – The proposal does not cause any conflict between land uses and use of the waterways.
- *Clause 25: Foreshore and waterways scenic quality* – The proposed development will not adversely impact upon the unique visual qualities of Sydney Harbour.
- *Clause 26: Maintenance, protection and enhancement of views* – The impact of the proposed development on the public view is considered acceptable.
- *Clause 27: Boat Storage Facilities* – The proposal extends an existing permanent boat storage facility in a visually unobtrusive manner. The extended facility will not impact adversely on safe navigation or single moorings.

With regard to clause 33 (*commercial marinas within zone W1*), given the small portion of the site located in the W1 zone which gains access from the portion of the marina located within the W5 zone, the proposal is consistent with the requirements of this clause.

On the basis of the above, the Department considers that the proposal is consistent with the provisions of the SREP.

Sydney Harbour Foreshores & Waterways Area Development Control Plan 2005

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (DCP 2005) is to be considered in the assessment of a proposal within the Foreshores and Waterways Area, it is considered that the proposal is generally acceptable with regard to the performance criteria for this area.

The EA includes a Terrestrial Flora & Fauna Assessment and Aquatic Ecology Assessment. Both reports conclude that the proposal would not result in detrimental impacts on the ecological

communities within the study area of the site. As such, the proposal satisfies Part 3 (Ecological Assessment) of DCP 2005.

Part 4 of DCP 2005 identifies the design guidelines for land/water interface development and applies to commercial marinas. Part 4 also identifies matters for consideration which are intended to reinforce existing controls within other planning instruments with the specific purpose of ensuring development is sympathetic to the natural and cultural qualities of the area covered by SREP 2005. The following objectives and requirements must be considered for all water-based and land/water interface developments:

- *public access to waterways and public land is maintained and enhanced;*
- *congestion of the waterway and foreshore is minimised;*
- *conflicts on the waterway and foreshore are avoided;*
- *the development warrants a foreshore location;*
- *the development does not interfere with navigation, swimming or other recreational activities;*
- *the demand for the development has been established;*
- *the structure does not obstruct or affect the natural flow of tides and currents;*
- *development does not dominate its landscape setting;*
- *the extent of development is kept to the absolute minimum necessary to provide access to the waterway;*
- *shared usage of facilities is encouraged to minimise the number of structures and their cumulative impact on the environment of the Harbour and its tributaries; and*
- *development is setback at least 2.5 metres from the division of the waterway as established by the NSW Maritime Authority.*

The proposal involves the retention of the existing marina building (with the exception of an increase to the workshop / storage area) and expansion / reconfiguration of existing berthing arms. In particular, the development will not result in congestion of the waterway or conflicts on the waterway (as confirmed by NSW Maritime) and the demand for the development has been established.

Where marinas are permissible, section 4.7 of the DCP lists numerous objectives and guiding principles that must be considered. These relate to location, design and layout, facilities and services, visual impact, environmental management, and health and safety.

The proposal generally meets the various objectives and principles. In particular, the proposal will provide improved boating services facilities, a visual impact analysis has been submitted with the application and the visual impact of the proposal is considered by the Department to be acceptable, parking impacts have been addressed, and potential noise impacts can be suitably ameliorated by appropriate conditions of consent.

As such, the proposal is considered consistent with the objectives and provisions of DCP 2005.

Mosman Local Environmental Plan 1998

The land based component of the site located above MHWL is zoned '3(d) Spit Waterside Business' under the *Mosman Local Environmental Plan 1998* (LEP 1998). The proposed works are defined as ancillary to a 'marina' which is a permissible land use with consent within the 3(d) zone.

The objectives for the zone are:

- *Maintain the Spit as a prime recreational boating resource and working marina with associated commercial activities.*
- *Allow development which is unlikely to generate additional traffic and demand for additional parking.*
- *Maintain and improve the scenic quality of The Spit by ensuring the external appearance of buildings is of suitable material and colours and of a height and scale which is unlikely to affect the environment adversely.*

The proposed upgrade and expansion of the existing marina satisfies the first objective, whilst the proposed extension of the workshop is considered acceptable as it does not increase the overall height of the building and will not affect the environment adversely. Traffic and parking impacts upon the locality as a result of the application is considered to have been adequately assessed.

Floorspace ratios in business zones

Clause 17 of LEP 1998 provides an FSR control of 1:1 for the site. The additional 190m² to the workshop / storage area increases the overall floor area on the land based component of the site to 1,113m². At 0.59:1, the development complies with the control.

Height Limits

Clause 18 of LEP 1998 restricts the height of buildings in the 3(d) The Spit Waterside Business zone to 8 metres. The revised building works only proposes an increase to the existing workshop area that does not increase the overall height of the building.

Foreshore Scenic Protection Area

The site adjoins a Foreshore Scenic Protection Area. The proposal is considered to be consistent with the objectives of Clause 27 of LEP 1998 as it will not have any impacts on the natural environment, the visual environment or the environmental heritage of Mosman.

Acid Sulphate Soils

The site adjoins an Acid Sulphate Soil area. Clause 31A(2) requires consent for works beyond 1 metre below the existing ground surface. Limited excavation is required for the works (predominantly for the relocation of the underground storage tanks to beneath the new hard stand area). The proponent submitted a report by Martens & Associates Pty Ltd which found that site sub-surface investigations and testing illustrates that the materials are classified as neither potential nor actual acid sulphate soils.

The EA and PPR confirm that no dredging is proposed as part of the works to install the additional marina berths, therefore seabed disturbance will be minimised. Construction measures to limit siltation disruption on seagrasses and the aquatic environment are proposed and endorsed by conditions requested to be applied by OEH, which have been conditioned accordingly.

Wetlands

Clause 31B of LEP 1998 outlines the objections and considerations pertaining to wetlands. The objectives of the clause are:

- (a) *to protect Mosman's wetlands from inappropriate development by preventing or regulating, or preventing and regulating, development that has the potential to fragment, pollute, disturb or diminish the value of the wetlands, and*
- (b) *to protect, restore and maintain ecological processes, natural systems and biodiversity within the wetlands, and*
- (c) *to improve, maintain and restore the quality of water within the wetlands and water entering the wetlands so as to ensure that wetland values and natural ecological functions are not diminished.*

The site is located in both the Wetlands area and Wetlands buffer area, with the works on the marina and building located in the Wetlands buffer area only.

An Aquatic Ecology Assessment, prepared by WS Rooney & Associates Pty Ltd has been submitted in support of the proposal. The assessment concludes that the proposal is *ecologically sustainable provide all waste from boat maintenance activities is collected within the hardstand area and properly disposed and that failsafe mechanisms are in place in the event of accidental spillage from or damage to the refuelling and sewage pump out facilities.*

The proposal is therefore considered to have a minimal impact upon the existing plant and animal species during construction. Existing measures are in place should spills occur at the site, which are to be updated to take into consideration the new lift and hardstand area.

Heritage

The site is located adjacent to two identified archaeological sites under LEP 1998, which are:

- the site of the former explosives wharf; and
- the remains of the former bridge and seawall.

The site is also in close proximity of an identified built heritage item being the Spit Bridge.

A Heritage Impact Assessment, prepared by Weir Phillips Architects and Heritage Consultants has been submitted in support of the proposal. This assessment has concluded that following searches and discussion with Council's Local Studies Librarian, the position of the former explosives wharf can no longer be determined with any accuracy.

The proposed works are not considered to impact upon the remains of the former bridge and seawall as these remains are located to the north of the site under the existing Spit Bridge.

Mosman Local Environmental Plan 2012

Mosman Local Environmental Plan 2012 (LEP 2012) commenced on 1 February 2012. It zones the land based portion of the site as 'RE2 Private Recreation'.

The proposed works are ancillary to use of the site for a marina and would be permissible with consent pursuant to the land use table of LEP 2012.

Three of the six RE2 zone objectives are the same as for the 3(d) zone objectives in LEP 1998 and these have been addressed above. The following objectives have been added:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational setting and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The proposed development satisfies the above objectives.

The proposal is considered to be consistent with the relevant provisions of LEP 2012 which pertain to heritage conservation (clause 5.10), acid sulphate soils (clause 6.5), and scenic protection (clause 6.8).

Mosman Development Control Plan – Mosman Business Centres 2000

The majority of the proposed works occurs within unzoned land under LEP 2008, therefore the MBCDCP does not apply to this portion. Works to the existing building are to have regard to the requirements of the MBCDCP.

The aims of the MBCDCP are to establish clear guidelines for development in the business zones and to identify the desired character for the business centres. The site is located within The Spit Waterside Business Centre. The stated desired character for the centre include enhancing pedestrian amenity and improving foreshore access, enhancing the visual link of commercial buildings and the harbour location, enhancing the scenic qualities of buildings and landscaping, and preserving the architectural form and detail of traditional waterfront marine uses.

The proposal is considered to generally satisfy the relevant objectives and guidelines of the DCP. Where non-compliances exist, i.e. car parking, these issues have been addressed previously in Section 5 of this report.

The Department considers that the proposed development is consistent with the provisions of the DCP in that it will have a positive impact on the Spit Waterside Business Centre. The Spit is maintained as a prime recreational boating resource, the visual impact is minor, the proposal will complement the waterside location, and pedestrian amenity and foreshore access is improved.

Mosman Transport Development Control Plan

The Transport DCP states that car parking for marinas is to be determined on merit and having regard to a Traffic and Parking Impact Study. A Traffic Impact Assessment, prepared by TRAFFIX, has been submitted with this proposal. Further discussion on the proponent's traffic assessment is provided in **Section 5.1**.

As a result of the submission of the PPR, a reduced amount of car parking is required to be provided. Based on the proposed 29 additional berths and the increase in floor area of the expansion to the existing workshop and storage area (190m²), a total of 15 spaces (nine spaces for the marina and six spaces for the workshop) are required to be provided when calculated against AS 3962 – 2001 (Guidelines for the Design of Marinas).

The department however considers that only nine spaces are considered to be provided as, despite the proposed increase in floor area of the workshop, we are of the opinion that the additional floor area will service the existing businesses operating from the site and does not resolve in the creation of additional traffic / car parking needs. Should however the additional six car parking spaces be included, the impact of these spaces is only felt during Monday to Friday, as the workshops do not operate during weekends. Use of the public parking areas during these times are considered to be at its minimum.

The proposal provides one additional space than previously provided on the site (eight spaces were previously located to the north of the slipway) through amendments to the layout of the car parking area. The remaining eight spaces to cater for the expanded marina are to be absorbed into the existing public car parking areas provided in the locality, particularly the parking area to the south of the site. It is acknowledged that this will however place additional pressure on these available spaces, particularly during peak periods.

The department notes that Council has recently considered a Development Application for the expansion of the Middle Harbour Yacht Club (28 new berths, with 16 swing moorings to be relinquished) located on the eastern side of Spit Road. During the assessment of the application, Council states that:

Following the preparation of the Spit Land Use Management Plan in the late 1980's, it has been recognised by Council that the available public parking at The Spit is finite and there is a shortage at peak times. This is particularly evident when sailing / boating demand coincides with high usage of the dining and recreational facilities. At that time Council took a view the businesses operating or expanding at The Spit did so in the knowledge that their patrons may be inconvenienced. The risk of patron inconvenience arising from parking demand generated from the use of the new marina berths is not assessed to be sufficient as to warrant refusal of the application.

In this regard the department concurs with Council's view and considers that the resulting additional car parking spaces necessary to cater for the additional berths, can be adequately catered for within the existing car parking areas within the immediate locality.

APPENDIX E RECOMMENDED CONDITIONS OF APPROVAL
