



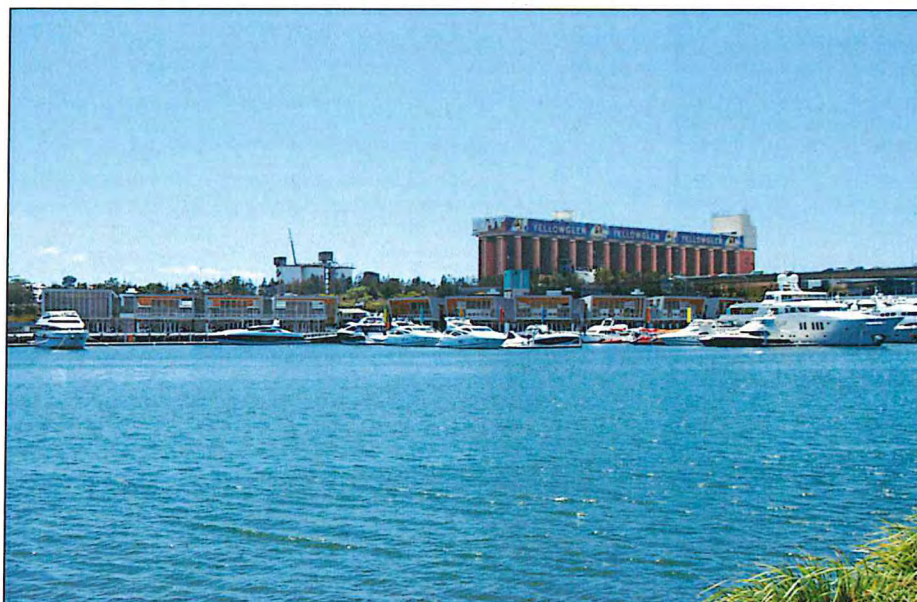
**Planning &
Infrastructure**

MAJOR PROJECT ASSESSMENT:

**SYDNEY SUPER YACHT MARINA
LAND-BASED DEVELOPMENT
(MP09_0165)**

**JAMES CRAIG ROAD, ROZELLE BAY
SYDNEY**

***Proposed by
Sydney Super Yacht Marina Pty Ltd***



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

October 2012

Cover Photograph: Photomontage of proposed land based buildings when viewed from Bicentennial Park, Glebe.

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NSW Department of Planning and Infrastructure

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ABBREVIATIONS

CIV	Capital Investment Value
CPT	Cruise Passenger Terminal, White Bay
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EA	Environmental Assessment dated December 2010
Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
INP	NSW Industrial Noise Policy 1999
LEP	Local Environmental Plan
Master Plan	Rozelle and Blackwattle Bays Maritime Precincts Master Plan 2004
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
OEH	Office of Environment and Heritage
OLGR	Office of Liquor, Gaming and Racing
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report dated November 2011
PPR Addendum	Preferred Project Report Addendum dated August 2012
Proponent	Sydney Super Yacht Marina Pty Ltd
RMS	Roads and Maritime Services
SREP	Sydney Regional Environmental Plan

EXECUTIVE SUMMARY

This is a report on a project application lodged on behalf of Sydney Super Yacht Marina Pty Ltd (the proponent), which seeks approval for the upgrade of land-based facilities at the Sydney Super Yacht Marina, Rozelle Bay, Sydney. The application was lodged pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act).

The Sydney Super Yacht Marina is located on James Craig Road, Rozelle Bay. The site is located in Leichhardt local government area.

The proposal involves the upgrade of the land-based operations of the marina, which currently consists of a series of demountable buildings comprising offices and the 'Liquidity' building housing a café/restaurant. Ancillary storage and servicing provisions are also available on site.

The Environmental Assessment (EA) dated December 2010 proposed the construction of two buildings, a car park building and associated landscaping. Proposed land uses include maritime related uses including brokerage, chandlery, provisioning, operations, logistics and dormitory style accommodation. Ancillary uses included a function centre, retail and commercial offices, restaurant and café uses, a hotel (tavern) use, liquor package outlets and general bar licences.

The EA was exhibited for 30 days from 2 February 2011 to 4 March 2011. During this period, the department received 72 submissions. This included 8 submissions from public authorities, 64 submissions from the general public. Fifty-five public submissions were in objection and eight were in support of the project development. One late public submission was received in objection to the proposal.

A Preferred Project Report (PPR) was submitted by the proponent in November 2011 and a PPR Addendum in August 2012 in response to the department's concerns relating primarily to a lack of maritime uses, inadequate noise impact assessment, inadequate car parking and the excessive height of the lift overrun. Key changes to the proposal included the removal of the function centre and hotel (tavern) and introduction of a yacht club, while further noise assessment was provided. On-site car parking was also increased and the lift overrun was reduced in height.

The proposal is consistent with the objectives of *Sydney Regional Environmental Plan No.26 – City West, Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* and the *Rozelle and Blackwattle Bay Maritime Precincts Master Plan*. The proposal is therefore permissible.

The Capital Investment Value (CIV) of the proposal is \$25,152,632. The development has the potential to provide approximately 100 full time jobs during construction and 50 full time operational jobs.

Key issues in the department's assessment include proposed land uses, noise impacts, traffic impacts and the visual impact of the development. Other issues relate to the planning policy framework that applies to the site, public access to the foreshore, environmental impacts and social impacts.

The department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been adequately addressed by the EA, PPR, PPR Addendum and the proponent's Statement of Commitments. The department's recommended conditions will further ensure a satisfactory level of environmental performance.

The proposal is in the public interest as it will upgrade and preserve the Sydney Harbour waterfront for public benefit, retain and protect Rozelle Bay as a commercial maritime precinct and strengthen Sydney's maritime economy in accordance with the aims of the *Metropolitan Plan for Sydney 2036* and the *Draft Inner West Subregional Strategy*.

On these grounds, the department recommends that the Planning Assessment Commission, as delegate of the Minister for Planning and Infrastructure, **approve** the project application, subject to recommended conditions.

1 BACKGROUND

1.1 SITE LOCATION AND SURROUNDS

The Sydney Super Yacht Marina is located in Rozelle Bay, Sydney, within the local government area of Leichhardt. The site is located on James Craig Road, Rozelle Bay, approximately 3km west of Sydney's CBD (see Figure 1).

The site is bounded by Maritime Close (the old James Craig Road) to the north, the NSW Maritime building to the east, the Dry Boat Store to the west and Rozelle Bay to the south (see Figure 2). Vehicular access to the site is via James Craig Road, which meets The Crescent at a signalised junction at the City West Link. The Anzac Bridge/Western Distributor passes overhead 150m to the north of the site. Much of Rozelle Bay is reclaimed land and a piled wharf extends along the entire waterfront.

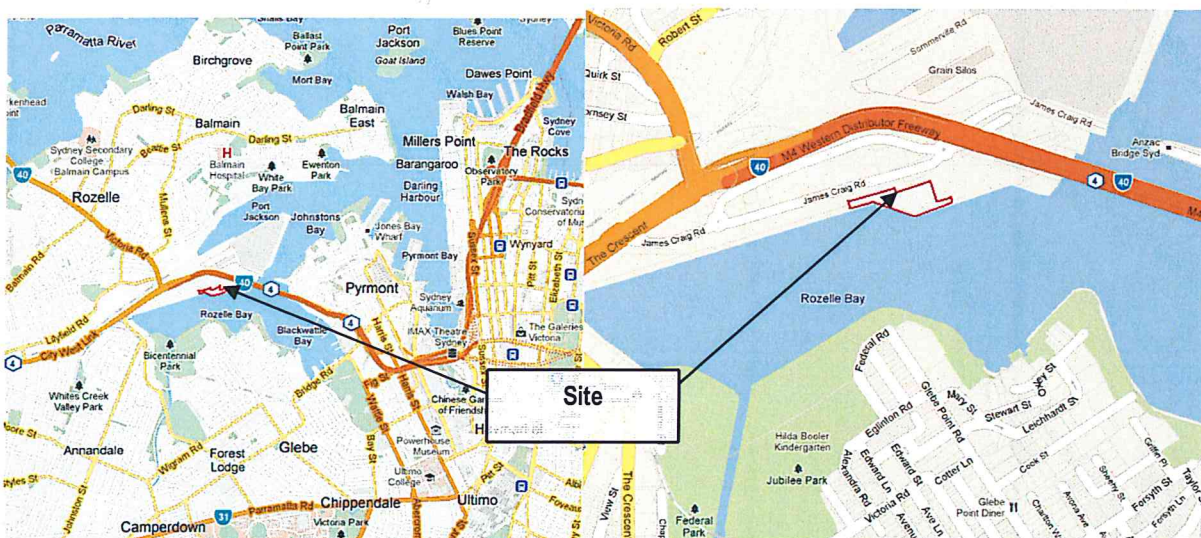


Figure 1: Site location (Source: Google Maps)

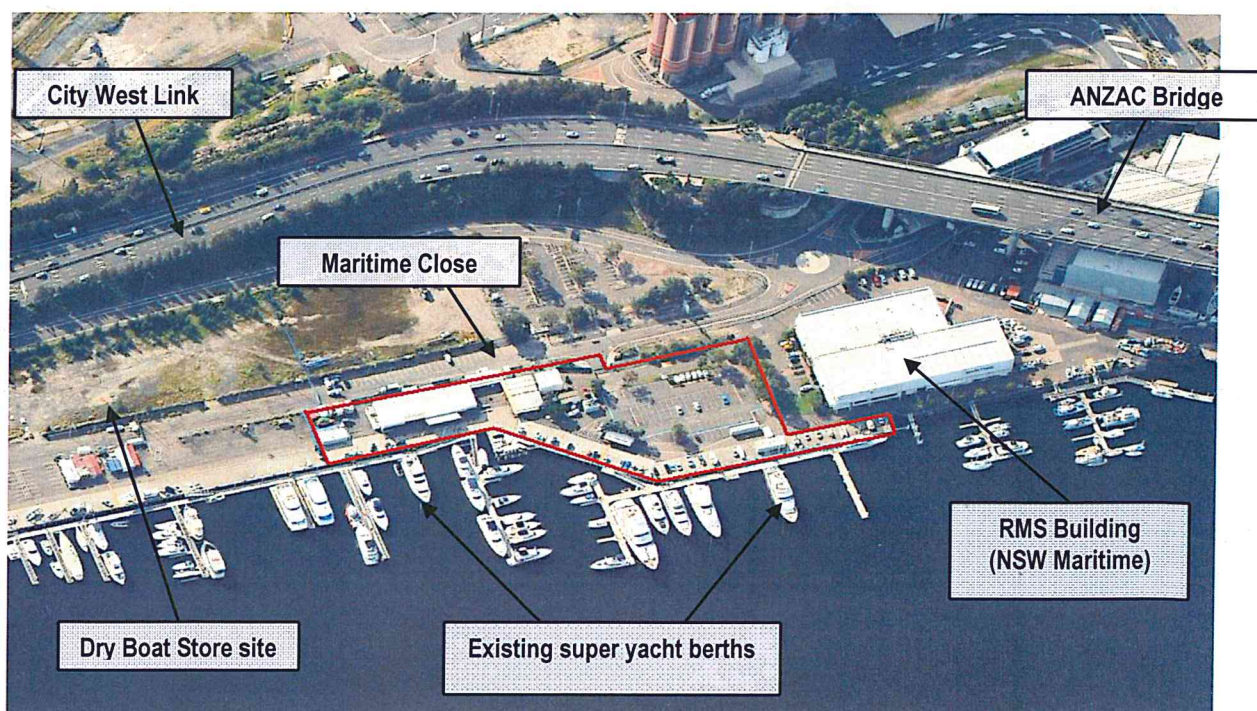


Figure 2: Aerial photo of site at April 2012 (Source: Nearmap)

The site is owned by RMS (NSW Maritime) from whom the proponent leases the existing Super Yacht Marina, which has a capacity of 24 super yacht berths for visiting vessels and associated service/tender berths. The dry-land part of the site is currently being used as the servicing area for the marina, currently housing two demountable buildings to facilitate berthing for vessels. A café/restaurant named 'Liquidity' is located on the western portion of the site, but is no longer in operation.

Only the dry land component of the marina is subject to this project application. The water-based area of the marina does not form part of the project application and is therefore not subject to environmental assessment.

1.2 SITE BOUNDARY

The site is described as Part Lot 32 in the Rozelle Bay Draft Plan of Subdivisions of Lots 2, 3 and 4 of DP 873379, Lot 100 DP 1017367 and Lot 1 DP 1049334. Part Lot 32 is illustrated in Figure 3. A survey drawing illustrating the site boundary is provided in Figure 4.

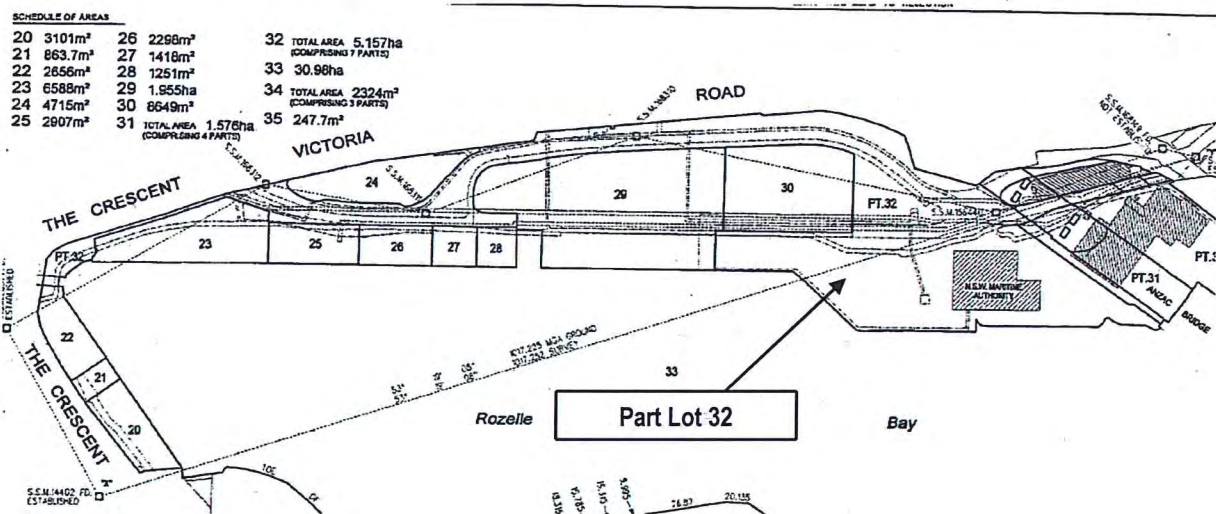


Figure 3: Lot Plan (Source: Environmental Assessment)

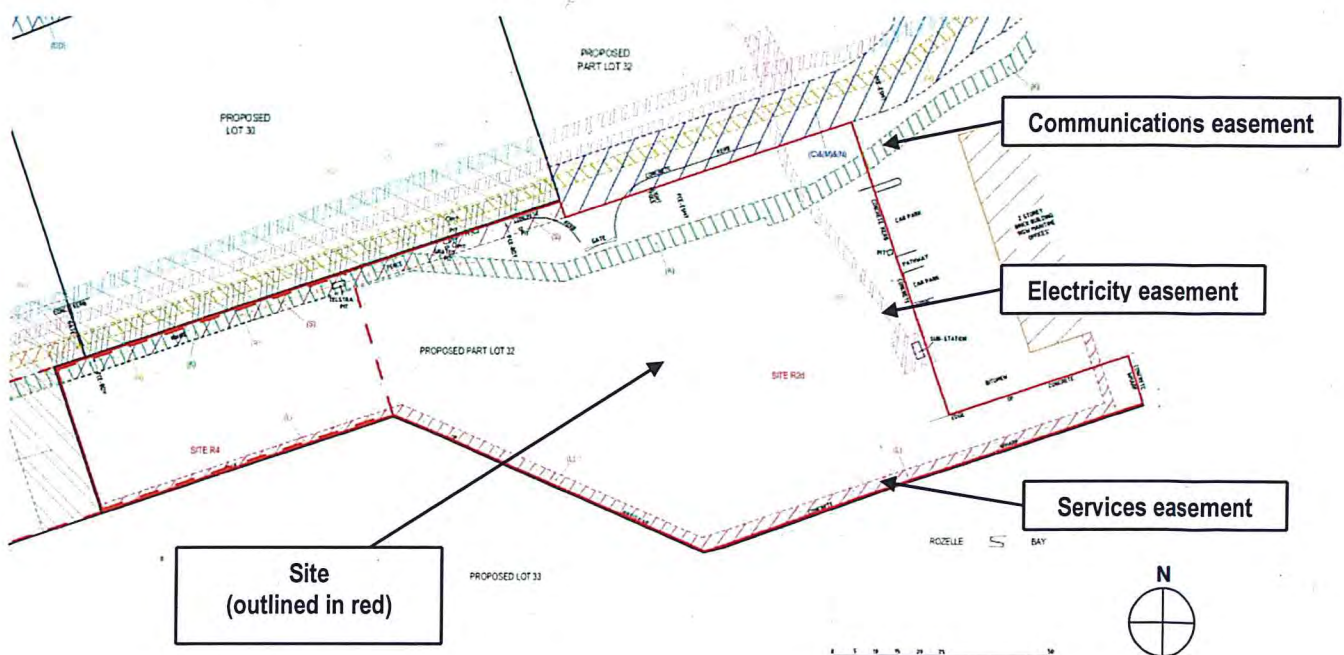


Figure 4: Site Survey Plan (Source: Environmental Assessment)

1.3 ZONING

The site is zoned 'Waterfront Use' within the 'Bays Precinct' under the *Sydney Regional Environmental Plan No. 26* (SREP 26) (as amended). The proposed uses are permissible in the Waterfront Use zone.

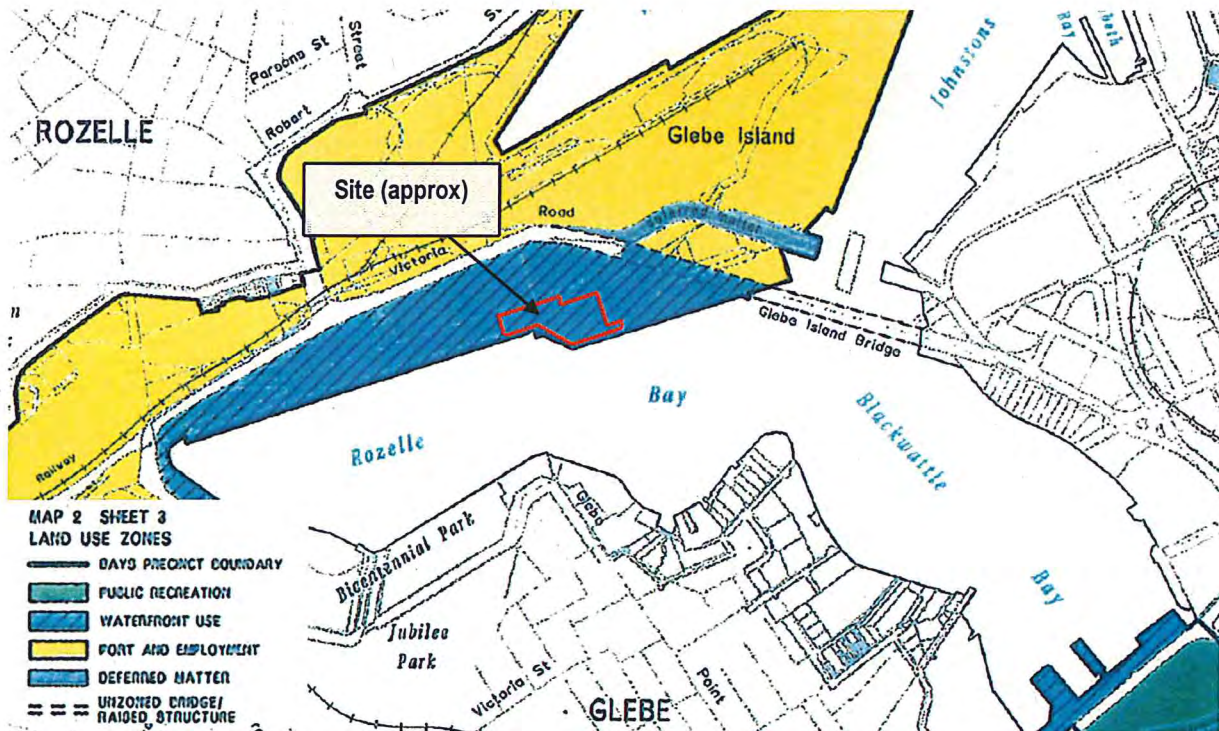


Figure 5: Zoning Plan (Source: SREP 26 – Map 2 Sheet 3)

1.4 PLANNING HISTORY

Approval for the use of the site as a Super Yacht Marina was first granted in connection with the Sydney Olympic Games and the 2000 millennium celebrations (DA 166-08-99). In May 1999, temporary consent was granted for a marina with a capacity of 10 super yacht berths (30m to 70m in length) and 10 smaller vessels. Temporary approval was granted for an additional 17 super yacht berths in 2000. Meanwhile, on the dry land component of the site, temporary approval was granted for the use of the site as a 24-hour administration/service/reception centre.

Since 2001, various section 96 modification application approvals were granted which extended the temporary use of the site as a super yacht marina, for sail expos and motor boat displays and for the temporary use of the administration/service/reception centre as a restaurant, the 'Liquidity' restaurant.

In August 2008, consent was granted under DA 088-05-08 to upgrade the Super Yacht Marina and provide for 24 permanent super yacht berths. The water based works and berths which reconfigured the marina's layout have been completed. The land-based temporary use of the site (Liquidity restaurant) ceased operating on 30 April 2012.

2 THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION (ORIGINAL EA)

The original application proposed the redevelopment of the dry land component of the marina to provide the following servicing facilities:

- an eastern building measuring RL11.9 in height, approximately 80m long and 28.6m wide, with a total floor area of 4,492m²
- a western building measuring RL12.9 in height, approximately 68.5m long and 28.6m wide, with a total floor area of 3,496m²
- a 122-space four-level car parking building measuring RL11.4 in height, approximately 52.5m long and 21.9m wide, with an identification beacon at RL16.9 in height
- a pennant crane measuring 5.1m above ground level
- a waterfront pedestrian promenade and public domain landscaping.

Proposed Uses

The original application proposed a flexible approach to land use for the eastern and western buildings to accommodate a variety of marina related uses including:

- brokerage
- chandlery
- provisioning
- operations and logistics
- dormitory style accommodation.

Other proposed uses included:

- retail and commercial offices
- cafes and restaurants
- function facilities
- hotel (tavern) and liquor package outlets
- general bar licences
- a marine based club
- outdoor music (associated with restaurant/bar uses).

Layout

The eastern and western buildings overlook the waterfront and super yacht berths. The multi-level car park building is proposed behind the eastern building and fronts Maritime Close. A pedestrian promenade is proposed along the waterfront and connects the Dry Boat Store to the NSW Maritime building. The proposed vehicular access is off Maritime Close at a junction adjacent to the NSW Maritime Building. The proposed EA layout is illustrated in Figure 6.

Built Form

The eastern and western buildings are both two-storey buildings. The eastern building is curved, fans out in a semi-circular arc across the waterfront, and recesses to follow the shape of the waterfront. The western building is rectangular in shape. The buildings are architecturally related and share a common building line but are separated by a 15m wide pedestrian pathway. The buildings are heavily articulated and feature generous outdoor balconies at the second storey. Deep overhangs provide solar and weather protection for outdoor areas (refer Figures 7 and 8). Both buildings feature decks on the ground floor which engage the waterfront and promenade. The rear elevations of both buildings are plain and overlook servicing areas for the land based operations.

The car park building is located away from the waterfront promenade. It is a four-level car park and provides a total of 122 car spaces. The upper levels are serviced by two car lifts rather than ramps. The car park lift overrun rises above the car park building to provide an identification logo for the site. A signage logo does not form part of the application.

A pennant crane is proposed on the waterfront edge outside the NSW Maritime building. This will enable boats to be hoisted in and out of the water.

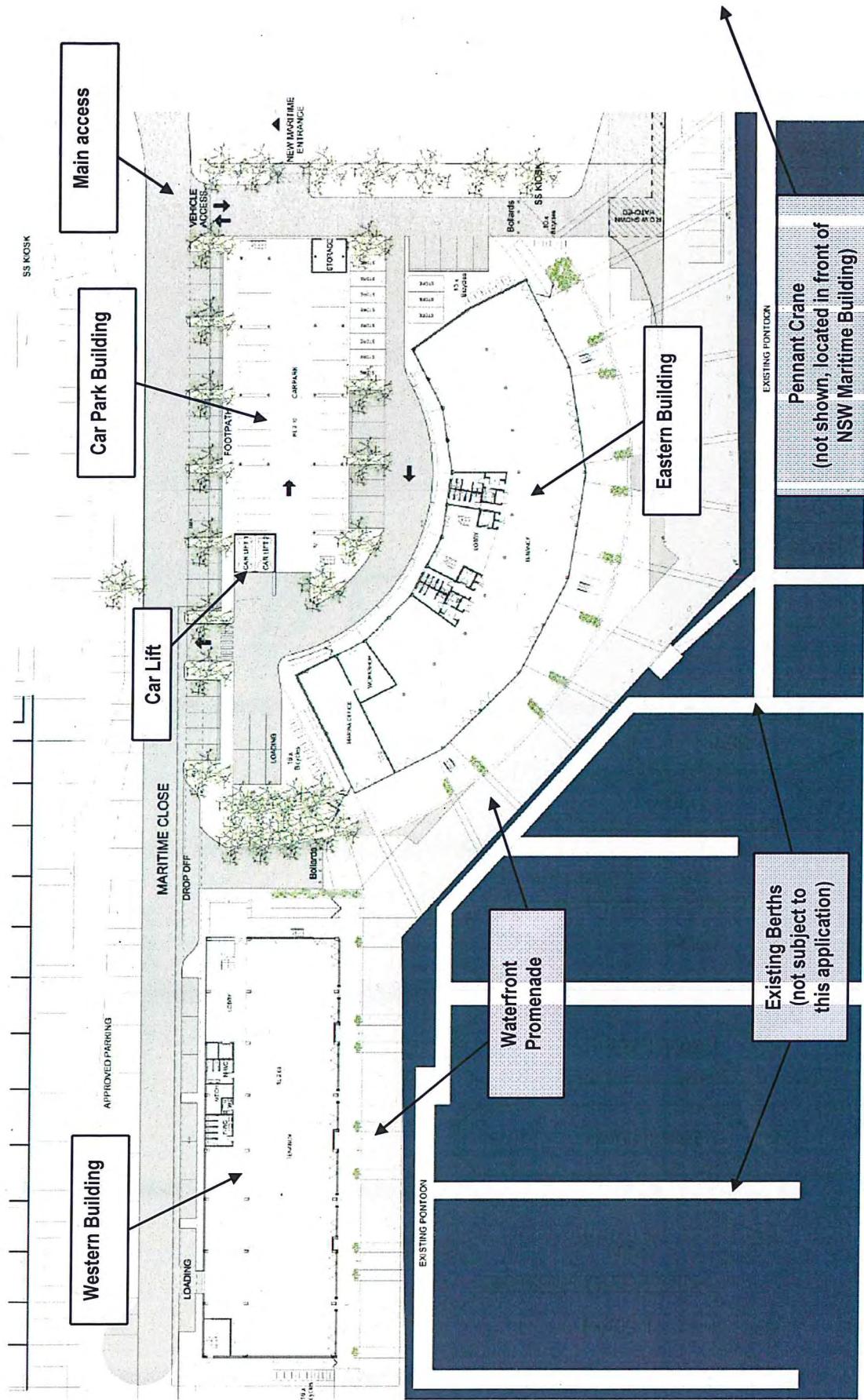


Figure 6: Proposed Layout (Source: Environmental Assessment)

Height

The height of the eastern building is 9.3m (RL11.9). The western building matches this 9.3m height for the majority of the building, but rises to 10.3m (RL12.9) for approximately 25% of the building. The car park building stands lower at 8.8m (RL11.4), however the car lift overrun and identification logo rises to 17m (RL19.6). The pennant crane is proposed at 5.1m above ground level.

Floor Space

The eastern building has a total proposed floor space of 4,492m², including 1,146m² of outdoor deck and balcony space. The western building has a total floor space of 3,496m², including 697m² of deck and balcony space. The car park has a proposed floor space of 3,692m².

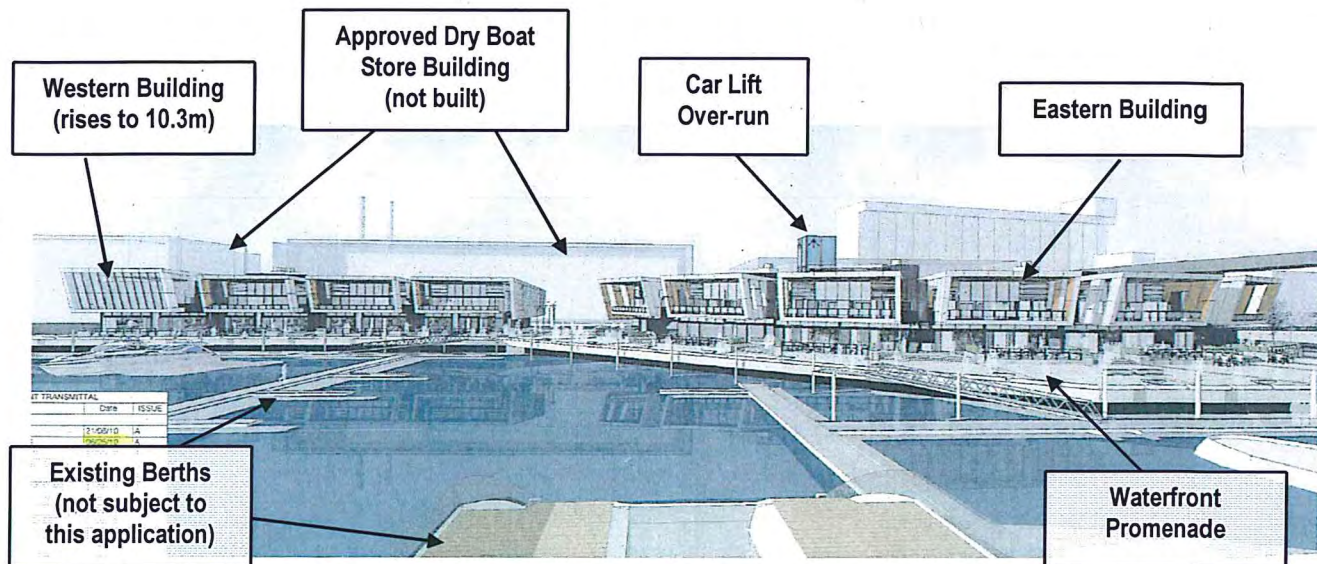


Figure 7: Perspective from South (Source: Environmental Assessment)

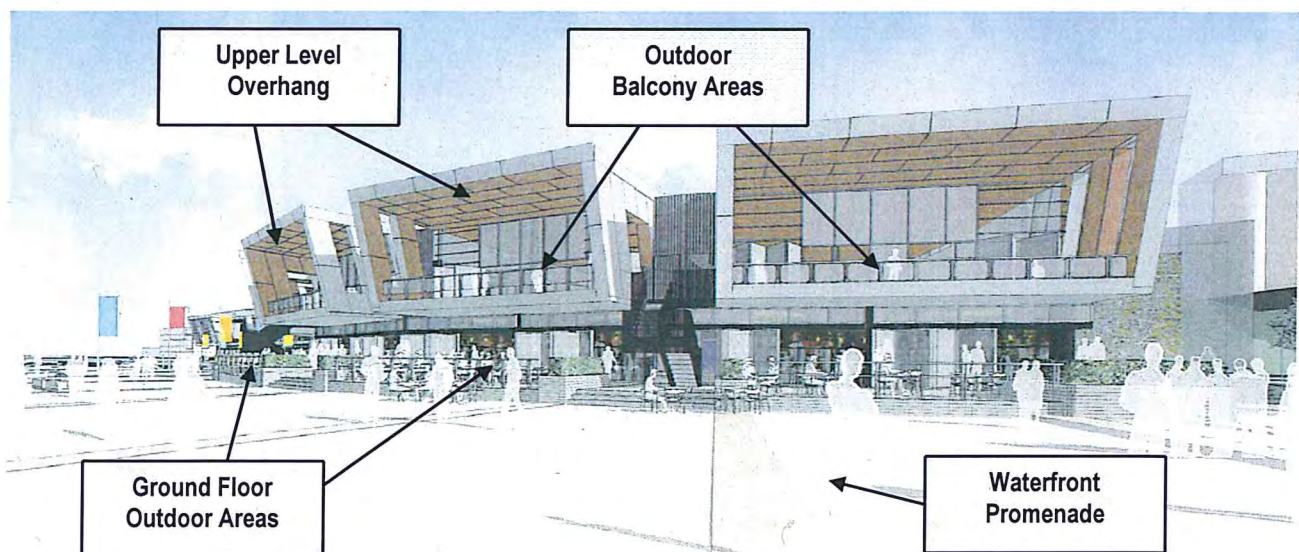


Figure 8: Balcony and Second Storey Detail, Eastern Building (Source: Environmental Assessment)

2.2 PROJECT AMENDMENTS (PPR and PPR Addendum)

Following public exhibition, amendments were made to the proposal. These amendments were included in the PPR dated November 2011, and in the PPR Addendum dated August 2012. Amendments to the proposal are detailed below and are illustrated in Figures 9 & 10. The final proposed layout is illustrated in Figure 11.

Land Use

- a) removal of the function centre as a use
- b) removal of the hotel (tavern) as a use
- c) reduction in the proposed number of dormitories to no more than three (3).

Built form

- d) an enlargement of the floor plate of the car park building from 932m² to 1,115m²
- e) the inclusion of an additional car park lift (totalling 3 lifts)
- f) the relocation of car park lifts
- g) reduction in height of lift overrun/advertising logo by 2m to 17.0m (RL19.6)
- h) revisions to the internal vehicle circulation
- i) relocation of main vehicular access.

Gross Floor Area

The PPR presented the proposal in accordance with the 'gross floor area' definition contained within SREP 26. The original EA presented the proposal using 'total floor space' figures. Accordingly, all floor areas for the project are now quoted using the SREP gross floor area definition. This results in an amended project description which is amended further below.

Land use mix

The PPR clarified details of land use mix not previously provided in the EA. Forty-six per cent (46%) of GFA is proposed for marine related offices (including any dormitory accommodation), retail and workshops (notated as 'A' below); 31.2% of GFA is proposed for a yacht club (notated as 'B' below); 15.6% of GFA is proposed for ancillary restaurants, takeaways or cafes (notated as 'C' below); while 7.3% of GFA is proposed for marine provedores, seafood retail or a seafood restaurant (notated as 'D' below). The predominant land use is therefore maritime uses in accordance with the objectives of the SREP. The proposed land use mix is summarised below in Table 1.

Table 1: Proposed land use mix (Source: PPR Addendum)

Building	Level	m2 GFA	Total Bldg m2	Land Use	m2	% GFA of Site
Western	Ground	1335		A Marine	517	8.3%
				B Yacht Club	367	5.9%
				D Provedore	451	7.3%
	First Floor	1565	2990	B Yacht Club	1565	25.3%
Eastern	Ground	1650		A Marine	1167	18.8%
				C Ancillary restaurants/bars	483	7.8%
	First Floor	1650	3300	A Marine	1167	18.8%
				C Ancillary restaurants/bars	483	7.8%
TOTAL m²		6200	6200		6200	100%

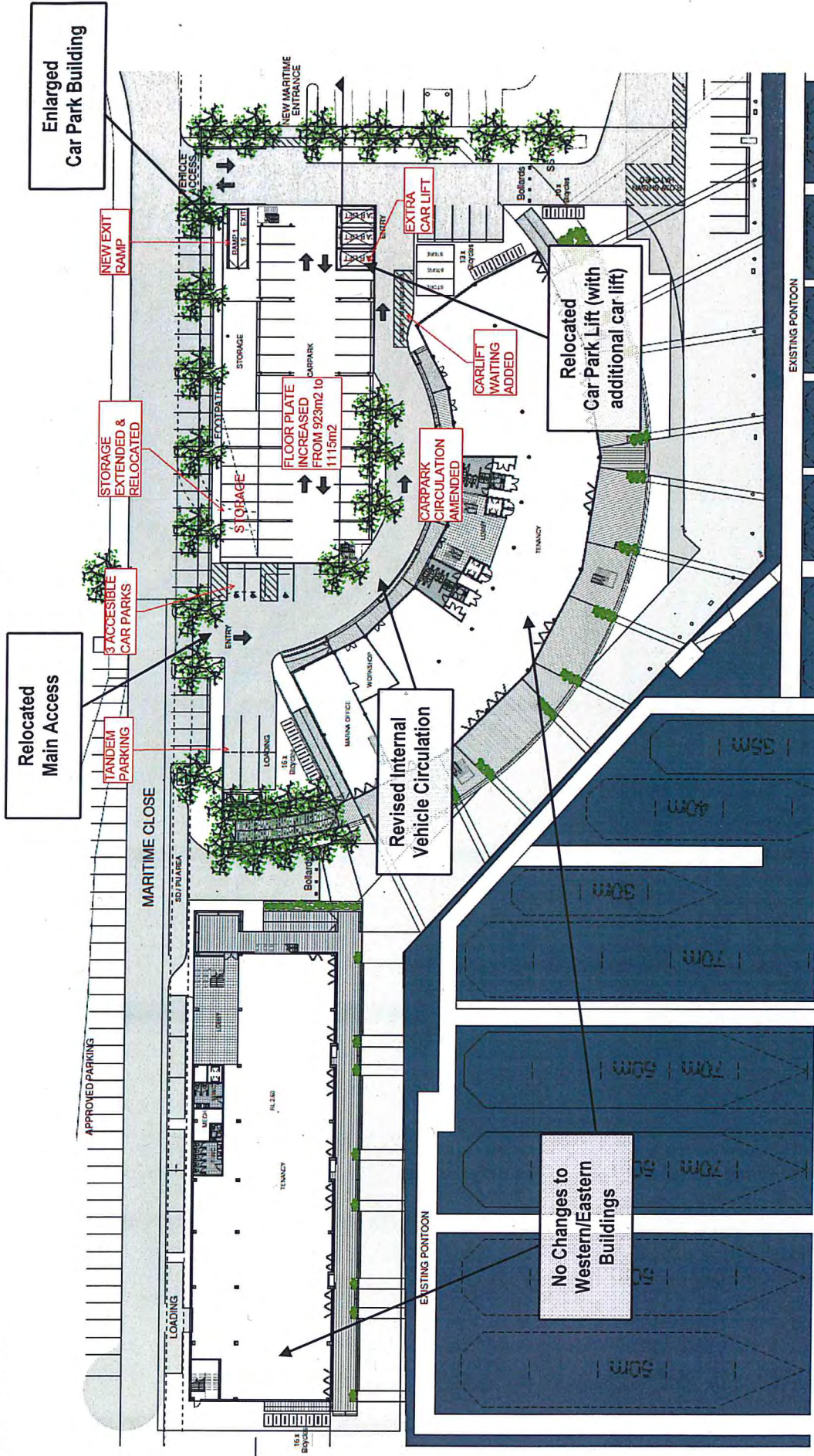


Figure 9: Key Changes to EA layout (Source: Preferred Project Report)

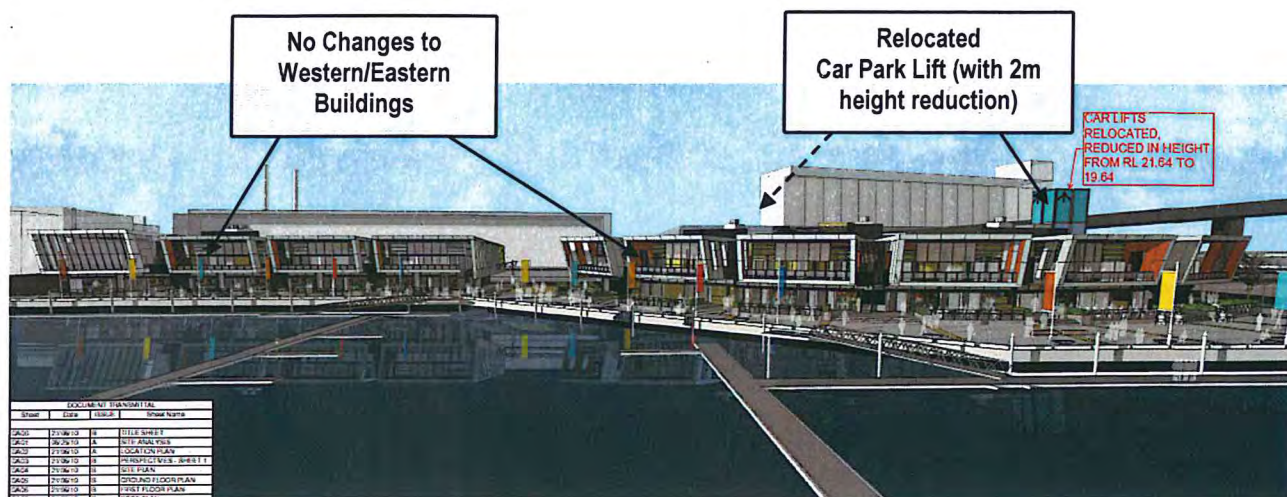


Figure 10: Revised Perspective from South (Source: Preferred Project Report)

Hours of Operation

The PPR also clarified the proposed hours of operation for the site for respective land uses (refer to Table 2).

Table 2: Proposed Hours of Operation (Source: Preferred Project Report)

Activity	Day	Time
Marine chandlery & retail outlets	Monday – Friday	7:00am to 7:00pm
	Saturday -Sunday	7:00am to 8:00pm
Café / restaurant / takeaway/ bars	Sunday – Wednesday	7:00am to 11:00pm
	Thursday – Saturday	7:00am to 12:00am
Yacht Club	Monday - Sunday (7 days)	7:00am to 12:00am
Marina facilities, commercial	Monday to Sunday	24 hours

Notwithstanding the proposed hours of operation above, the proponent has committed to restricting the use of decks, balconies and seating areas of the yacht club, restaurants, cafes or bars after 10.00pm every night. Licensed activities are not proposed to extend beyond midnight on any day.

Live Music

The proposal seeks approval for the playing of live music in association with restaurant/bar/café uses. Bands would perform outdoors facing the waterfront and would be limited to the ground floor outside the buildings. To minimise noise disturbance, the proponent has sought approval for the playing of live music outside until 8pm, after which time commitments have been made to restrict any music including amplified music to indoors with closed doors and windows. The proponent has also committed to the preparation of a Noise Management Plan for the site which would restrict the playing of one live band at any given time. Parameters for noise compliance and monitoring will be included within the noise management plan. These matters are addressed further in Section 5.2).

Car Parking

The PPR Addendum included additional car parking than that proposed in the EA. Total car parking provision has now increased by 63 spaces to 219 spaces, comprising 140 spaces within the multi-storey car parking building and 79 at-grade parking spaces. This includes 23 tandem spaces. Car parking will be discussed in greater detail in Section 5.3 of this report.



Amended Project Description

Consolidating the above changes contained within the PPR and PPR Addendum, the amended project description is as follows:

- a commercial maritime building with ancillary uses (restaurants, bars etc) known as the 'eastern building' measuring RL11.9 in height, approximately 80m long and 28.6m wide, with a gross floor area (GFA) of 3,300m²
- a commercial maritime building known as the 'western building' measuring RL12.9 in height, approximately 68.5m long and 28.6m wide, with a GFA of 2,990m²
- a 122-space four-level car park building measuring RL11.4 in height, approximately 52.5m long and 21.9m wide, with an identification beacon at RL16.9 in height
- a pennant crane measuring 5.1m above ground level
- 79 at-grade car parking spaces and public domain landscaping.

2.3 PROJECT STAGING

It is proposed that the development is constructed in 6 stages identified in the staging plan in Figure 12 below. Both the eastern and western buildings are made up of smaller building modules which will allow for incremental construction of the proposal which may be implemented according to market demand.

To ensure there is adequate car parking for each stage, the car park building will need to be built as the middle stage. Accordingly, the project will be staged in one of two construction scenarios:

Scenario 1: Stages 4 & 5 (Western Building), followed by Stage 6 (car park building), then Stages 1, 2 & 3 (Eastern Building)

Scenario 2: Stages 1, 2 & 3 (Eastern Building), followed by Stage 6 (car park building), then Stages 4 & 5 (Western Building)

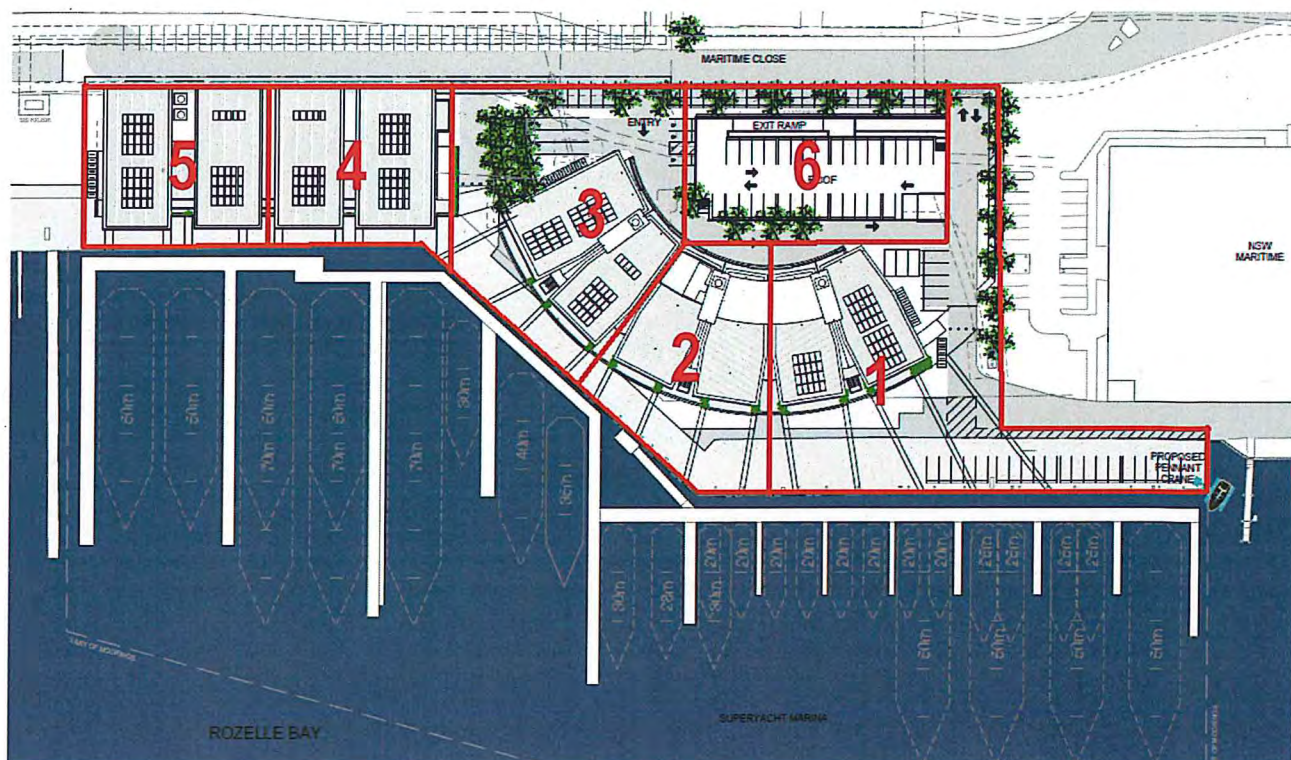


Figure 12: Staging Plan

2.4 PROJECT NEED AND JUSTIFICATION

The redevelopment of the dry-land component of the Super Yacht Marina is consistent with the aims of the *Metropolitan Plan for Sydney 2036* and *Draft Inner West Subregional Strategy* because it promotes Sydney's regional competitiveness by encouraging economic activity in the right locations, supports its industrial lands and working harbour, and protects Sydney's natural assets and resources.

The project preserves the waterfront site for maritime purposes and ensures the continued use of Rozelle Bay as a commercial maritime precinct. In advance of a new master plan for the Bays Precinct being prepared, the proposal will safeguard Rozelle Bay as one of few remaining working waterfronts in Sydney Harbour and is respectful of the historical working origins of the precinct. The upgrade of the Super Yacht Marina will provide benefits to Sydney's maritime and regional economy and will ensure that the needs of international super yacht users can be accommodated.

The proposal will enhance public access along the waterfront and provide additional opportunities for social activities and interaction which currently do not exist within Rozelle Bay. The proposal will service the approved super yacht berths and will replace the existing collection of temporary buildings and demountables which do not complement or align with the desired character of the foreshore area.

The proposal is of high architectural merit and will provide greater amenity to maritime users of Sydney Harbour and to the wider public. The approved super yacht berths will be provided with modern facilities which will be open and accessible to the wider public.

On these grounds, the department considers that the proposal is justified and is in the public interest.

3 STATUTORY CONTEXT

3.1 MAJOR PROJECT

The proposal is a major project under *State Environmental Planning Policy (Major Projects) 2005* (as in force at the time) being development of a kind described in Schedule 2, Part 1, Clause 7(2) – being a development within the area identified as 'Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay' – with a capital investment value of more than \$5 million. The opinion was formed on 29 September 2009 by the Deputy Director-General, as delegate of the then Minister for Planning, under delegation executed 4 March 2009. The proposal was thus declared to be a project to which Part 3A of the Act applies.

Despite its repeal on 1 October 2011, Part 3A of the Act continues to apply to certain projects, described as transitional Part 3A projects, pursuant to Schedule 6A of the Act. The subject project application is such a project as the DGRs were issued before 8 April 2011, on 5 November 2009.

On 14 September 2011, the Minister for Planning and Infrastructure delegated to the Planning Assessment Commission (PAC) his functions as an approval authority to determine project applications under section 75P of the Act if there are more than 25 objections to the application or where the local council has objected. There were 55 submissions in objection to the proposal. Leichhardt Council also raises objection to the proposal. The PAC will therefore be the determining authority for this major project.

3.2 PERMISSIBILITY

Sydney Regional Environmental Plan No.26 – City West (SREP 26) provides the land use zoning for the site. Under the SREP, the subject site is zoned 'Waterfront Use' (refer Figure 5). The objective of the 'Waterfront Use' zoning under the SREP is to provide for:

"a range of commercial maritime facilities (such as boating industry facilities, marinas, waterfront service operations, waterfront commercial and tourism facilities and uses associated with the servicing, temporary mooring, launching and storage of boats and uses ancillary to these), which will take advantage of the harbour location"

Marinas are included as a permissible land use under the SREP. The subject proposal for land-based operations at the Super Yacht Marina site is therefore permissible with development approval.

3.3 ENVIRONMENTAL PLANNING INSTRUMENTS

Under sections 75I(2)(d) and 75I(2)(e) of the 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 primary environmental planning instruments guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Sydney Regional Environmental Plan No. 26 – City West.

Other policies considered are:

- Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005
- Draft Inner West Subregional Strategy
- Rozelle and Blackwattle Bays Maritime Precincts Master Plan

The department has considered the proposal against the relevant objectives and aims of these instruments and policies, and is satisfied that the proposal, subject to the implementation of the recommended conditions of approval, is generally consistent with the provisions of these instruments.

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

3.4 OBJECTS OF THE ACT

Decisions made under the 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*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land*
 - (iv) *the provision of land for public purposes*
 - (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*
 - (vii) *ecologically sustainable development.*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The assessment of this application has had regard to the objects of the Act. The proposal ensures the proper management, development and conservation of the Sydney Harbour foreshore in accordance with the master plan zoning which seeks to retain Rozelle Bay as a commercial maritime precinct within Sydney Harbour. The harbour foreshore is a finite resource and the proposal will ensure the continued use of Rozelle Bay as a commercial district whilst preserving the waterfront for maritime uses. The proposal will provide benefits to Sydney's maritime economy and ensure wider regional and international super yacht interests can be accommodated. The proposal will ensure public access to and along the foreshore is maintained at all times. The proposal will ensure the protection of the environment and habitat through sensitive construction management practices and the department is satisfied that principles of ecologically sustainable development have been adopted for all stages of development. A significant level of public involvement and participation has occurred during the assessment process and the issues raised by the community have been addressed in the assessment of the proposal.

3.5 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

The 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 - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
 - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment*
 - (ii) *an assessment of the risk-weighted consequences of various options.*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
 - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement.*

- (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.*
- (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

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

Precautionary Principle

The EA submitted has identified and assessed the range of environmental impacts of the project. The proponent has proposed appropriate measures in its Statement of Commitments that will manage the potential environmental impacts of the development during the detailed design and construction stages of development.

Inter-Generational Principle

The project will contribute to the maritime economy and provide economic opportunities for various commercial and maritime ventures now and into the future. The project will secure the rehabilitation and preservation of Sydney Harbour foreshore for future generations.

Biodiversity Principle

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site.

Valuation Principle

The cost of infrastructure and measures to ensure an appropriate level of environmental performance of development on the site will be incorporated into the cost of development on the site.

The proponent has addressed in detail ESD principles as they relate to the project development and the DGRs. The proposed buildings will incorporate such principles in the design, construction and ongoing operation phases of the development. The department has fully considered the objects of the Act, including the encouragement of ESD in its assessment of the application. On the basis of this assessment, the department is satisfied that the proposal encourages ESD, in accordance with the objects of the Act.

3.6 STATEMENT OF COMPLIANCE

In accordance with section 75I of the Act, the department is satisfied that the Director-General's Environmental Assessment Requirements (DGRs) have been complied with.

4 CONSULTATION AND ISSUES RAISED

4.1 EXHIBITION

Under section 75H(3) of the Act, the Director-General is required to make the EA publicly available for at least 30 days. The department exhibited the EA from 2 February 2011 to 4 March 2011 (30 days) at the following exhibition locations:

- Department of Planning and Infrastructure, 23-33 Bridge Street, Sydney
- Leichhardt Municipal Council, 7-15 Wetherill Street, Leichhardt
- Glebe Library (24 days), 186 Glebe Point Road, Glebe.

The department advertised the public exhibition in the *Sydney Morning Herald* and *The Daily Telegraph* on Wednesday, 2 February 2011. The EA was also displayed on the department's website.

The PPR was received by the department on 24 November 2011 and subsequently displayed on the department's website on 30 November 2011.

4.2 PUBLIC AUTHORITY SUBMISSIONS

Eight submissions were received from public authorities following public exhibition of the EA. Due to the nature of responses received from Leichhardt Council, City of Sydney Council and the Roads and Traffic Authority (now RMS), the PPR was forwarded to these three public authorities for further comment. The issues raised by all public authorities are summarised below.

Leichhardt Council expressed the following concerns regarding the EA proposal:

- Master Planning
 - Council does not concur with the *Rozelle and Blackwattle Bays Maritime Precincts Master Plan* as a strategic planning or urban design document for the Bays Precinct
 - Council considers that no new development should be considered until the Bays Precinct Master Plan has been completed
 - Considering the retail, commercial and entertainment facilities proposed, the proposal being in an 'out of town' location may have a significant detrimental impact upon other local centres.

Comment: The Government is currently considering the Bays Precinct Taskforce report and recommendations received in August 2012. In the meantime, the department does not consider it reasonable that all development proposals in the Bays Precinct be delayed until the preparation of a new master plan. Rather, assessment of development proposals should be based on merit.

- Traffic Impact
 - The traffic assessment should include the Cruise Passenger Terminal, Harold Park Paceway and Balmain Leagues Club redevelopments, including an 'event mode' for the Cruise Passenger Terminal
 - Progress on the development should be suspended until these traffic impacts can be modelled
 - Floor areas for entertainment uses should be confirmed. A large entertainment or function venue would generate significantly different travel demands to those considered in the EA.

Comment: The RMS is satisfied with the additional traffic assessment contained within the PPR. The proposed 'flexible floor plan' was deleted in the PPR proposal and conditions have been imposed to restrict the GFA of ancillary uses.

- Parking
 - A taxi demand study be conducted to determine the likely demand for taxis and sufficient pick-up/set-down facilities
 - Design of the multi-storey car parking building should be carefully considered to minimise visual impact.

Comment: Parking provision was significantly altered in the PPR and is discussed in detail in Section 5.3. Taxi demand is not considered a key consideration for the site.

- Foreshore Access

- Pedestrian access to the foreshore must be retained at all times
- Permanent car parking should not restrict access or restrict public enjoyment of the location

Comment: 24-hour public access to the foreshore is provided in accordance with the public easement requirements of the master plan. Parking will not encumber public access to the foreshore. The proposed restriction of foreshore access for purposes of asset security was deleted in the PPR proposal.

- Visual Impact

- Architectural form must be consistent with the *Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005* and with nearby harbour-side areas
- The car park lift shaft tower will have a visual impact
- Exposure to sun, wind and rain have not been translated into the design of the building or landscaping.

Comment: The architectural form is considered appropriate for the site. Awnings and balconies provide sun relief to outdoor areas of the site.

- Social Impact

- A comprehensive social impact assessment (SIA) is required and should look at ways to assess and determine the impacts of the proposal at a local level, as well as the broader impacts for neighbouring LGAs
- A security management plan associated with the operation of the licensed premises is required to address alcohol related incidences of crime
- The cumulative impacts of the proposal will markedly change the character of the site from a working waterfront to an entertainment and privileged leisure precinct.

Comment: Only 1,417m² or 22.9% of total GFA of the site is allocated to ancillary uses including bars/cafes/restaurants. The department does not consider that the proposal for ancillary land uses (permissible under the master plan) warrants a full social impact assessment. Alcohol related incidences of crime may be considered with future applications to the OLGR for liquor licences for separate tenancies.

- Noise

- The noise assessment must consider noise measured at the nearest residential properties
- Current background noise levels should be used rather than from the 2003 study
- Noise levels from patrons consuming alcohol on site and then leaving the site must be addressed
- Noise generated by services, such as garbage collection, both during and outside the hours of operation must also be included in any assessment of noise.

Comment: An amended noise assessment was provided in the PPR and included the above requested information.

- Environmental Impacts

- The long-term sustainability of marine life within the waterway shall be assessed
- The impacts to dragon-boat rowers, kayakers and rowers should be addressed in the EA.

Comment: The land-based proposal does not impact on the maritime berths or the water-based use of the site.

Upon review of the PPR and PPR Addendum, Leichhardt Council reiterated its original comments and objected to many elements of the proposal.

City of Sydney Council expressed the following concerns regarding the EA proposal:

- Master Planning

- The existing master planning framework is obsolete and does not provide a contemporary, integrated and strategic planning framework for the Bays Precinct
- Approvals granted by the department such as the Cruise Passenger Terminal, Sydney Fish Markets, the Sydney Heritage Fleet [not approved], the Jones Bay marina expansion render a new planning framework superfluous and undermines any master planning outcome.

Comment: Development proposals in the Bays Precinct should be considered on merit in accordance with the master plan and should not be delayed until the preparation of a new strategic master plan.

- **Foreshore Access** – any proposals that limit public access to the foreshore should be strongly resisted.
Comment: The PPR proposal provides for 24-hour waterfront access consistent with the master plan document.
- **Land Use**
 - Only those uses directly related to the marina should be granted
 - Cafes, restaurants, function facilities, hotel (tavern), marine based club (licensed facilities) etc. should not be approved with this application and should be subject to a separate development application
 - Council raises concerns that the ancillary uses may become dominant uses over time and produce a range of environmental effects.Comment: Proposals for a hotel (tavern) use and function facilities were deleted from the proposal. The PPR seeks approval for a maximum of 22.9% of total GFA for ancillary uses including cafes/bars/restaurants.
- **Traffic Impact**
 - The proposal will have a cumulative impact on the Victoria Road/ANZAC Bridge corridor. The cumulative impacts of this and other proposals in the locality should be included in the traffic assessment
 - Issues are raised with car parking, the modelled traffic flows, the number of service vehicles required for the proposal, cycle parking provision, green travel planning, visitor parking and cycle path provision.Comment: The RMS is satisfied with the additional traffic assessment contained within the PPR.
- **Noise** – City of Sydney Council noted comments received from The Glebe Society who raised concerns regarding land use and noise impacts to residents.

Upon review of the PPR, City of Sydney Council reiterated its original comments regarding the Bays Precinct Master Plan and stated that approval of the proposal would compromise any future strategic vision for the precinct. No further comments were received regarding foreshore access, traffic, land use or noise impacts.

The **Roads and Maritime Services (RMS)** (formerly the Roads and Traffic Authority or RTA) initially raised the following concerns regarding the EA:

- The development may have a detrimental impact on The Crescent/James Craig Road junction
- A cumulative traffic assessment of all future developments in the area should be undertaken
- The two car lifts proposed will be insufficient to service the multi-storey car park
- Off-street car parking and loading facilities should be to the satisfaction of Council
- Proposed car parking areas, loading docks and driveway including grades, turn paths, sight distance requirements, aisle lengths, loading and parking bay dimensions should be in accordance with Australian Standards.

Upon review of the PPR and PPR Addendum, the RMS confirmed that all traffic related matters were satisfactorily addressed.

Transport NSW raised the following points in relation to the EA proposal:

- Transport impacts must not be considered in isolation to other developments within the Bays Precinct and the project should demonstrate that a minimal approach to car parking provision has been adopted for the site
- Pedestrian and cyclist activity shall be considered and enhanced
- The proposal should be consistent with the aims and objectives of the *NSW State Plan*, the *Metropolitan Transport Plan: Connecting the City of Cities*, *Integrating Land Use and Transport* policy package, *Planning Guidelines for Walking and Cycling* and the *Healthy Urban Development Checklist*.

Comment: A minimal approach to car parking was adopted. The remaining issues were addressed in the PPR.

The **Office of Environment and Heritage (OEH)** raised no concerns and confirmed that the proposal will not require an environment protection licence (EPL).

The **Department of Primary Industries (DPI)**, formerly the Dept of Industry and Investment) raised no concerns relating to aquatic impacts.

Sydney Water raised no objections and provided relevant requirements relating to waste water systems, trade waste and Sydney Water servicing.

NSW Maritime (as landowner – now RMS) confirmed support for the proposal and raised the following issues:

- Internal traffic circulation should not generate off-site traffic impacts
- Loading and unloading of vehicles associated with the ancillary operations should be restricted to the rear of all buildings. Out-of-hours deliveries using the promenade should be minimised and operational noise managed through the adoption of a suitable operation management plan
- The maximum size of the pennant crane should be 5.1m above ground level with a maximum hoisting capacity of 5,000 kilograms.

Comment: These issues were addressed by the PPR and in the proponent's Statement of Commitments.

4.3 PUBLIC SUBMISSIONS

A total of 64 public submissions were received. Fifty-five submissions were in objection to the proposal (including one late submission) and eight were in support of the proposal. One submission was received from the then Office of Verity Firth MP which raised concerns regarding the proposal. The key issues raised in public submissions are listed in Table 3.

Table 3: Summary of Key Issues raised in Public Submissions

Issue	Number of submissions	Proportion of submissions (%)
Noise impact, including playing of live/amplified music	53	96%
Inappropriate land use/mix	33	59%
Inadequate community consultation	30	54%
Traffic impact	15	27%
Proposal will create an entertainment precinct	14	25%
Non-compliance with the master plan	9	16%
Hours of operation	8	14%
Land uses not defined	8	14%
Inadequate Environmental Assessment	6	10%
Visual Impact	5	9%
Overdevelopment	4	6%
Does not consider Cruise Passenger Terminal	2	4%
Environmental impacts	1	2%
Accessibility to foreshore	1	2%
Inadequate open space provision	1	2%
Impact to water based recreation	1	2%
Marina Berths too long	1	2%

The department has considered the issues raised in public submissions in its assessment of the project. This is discussed in **Section 5**.

4.4 PROPONENT'S RESPONSE TO SUBMISSIONS

The proponent provided a formal response to each of the issues raised above in the PPR dated November 2011. The proponent's full response to the issues is attached in Appendix E.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

The department considers the key environmental issues to be:

- Land use & hours of operation
- Noise Impacts
- Traffic & car parking
- Built form
- Visual impact.

Other issues include:

- Master planning
- Public access to foreshore
- Environmental impacts
- Social impacts.

5.1 LAND USE

The land uses servicing the water-based component of the approved marina was a key issue raised during public exhibition. Concerns were raised by the department, Leichhardt Council, City of Sydney Council and by local residents regarding the quantum of maritime land uses compared to proposed ancillary uses such as restaurant/café/bars. The PPR and PPR Addendum clarified that maritime commercial uses proposed for the eastern and western buildings would be the dominant land use (marine 44.9%; yacht club 31.2% : totalling 77.1% of total GFA) and the department is now satisfied that the proposal is fundamentally maritime in character. The proposal is thus consistent with the 'Waterfront Use' zone's objectives under the SREP.

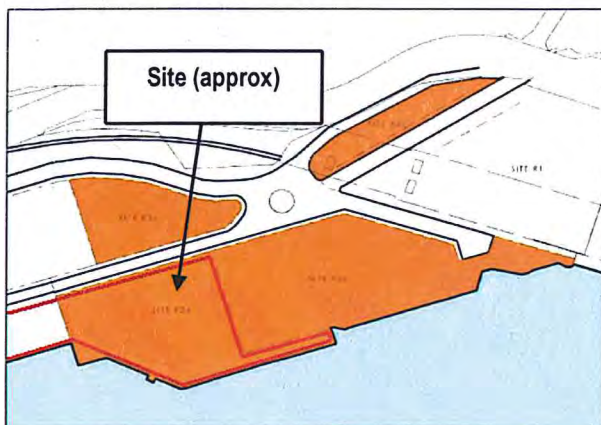
The *Rozelle and Blackwattle Bays Maritime Precincts Master Plan* (Master Plan) provides further land use policy guidance. Under the Master Plan, the subject site is located in 'Site R2' (Maritime Operations Precinct) and 'Site R4' (Commercial and Recreational Boating Precinct) where commercial marine offices, general mixed marine and ancillary food and retail outlets are identified as preferred land uses. The preferred land uses for Site R2 and Site R4 are listed below in Figure 11. Accordingly, the proposed commercial maritime land uses such as offices, brokerage, chandlery/workshop, operations, logistics, concierge services and maritime retail are considered acceptable, as well as the proposed ancillary uses (restaurants etc).

Yacht club

Turning to the yacht club, this is considered acceptable by the department. A yacht club is consistent with the objectives of the SREP as it relates to 'marinas, tourist facilities and ancillary uses associated with the mooring, storage and launching of boats'. It is intended that the yacht club, which comprises 31.2% of total GFA, would provide lounge and relaxation facilities for super yacht users which may include a bar area, restaurant and/or function facilities.

The presence of a licensed club associated with a harbourside marina is not uncommon in Sydney and similar yacht and rowers' clubs can be found elsewhere on the harbour foreshore. While a yacht club is not essential for the commercial functioning of the site, it is a use closely tied with the operations of a super yacht marina, and which brings economic benefits to Sydney's regional and maritime economy. Provided any environmental impacts such as noise may be appropriately controlled, the use is considered maritime in nature and acceptable.

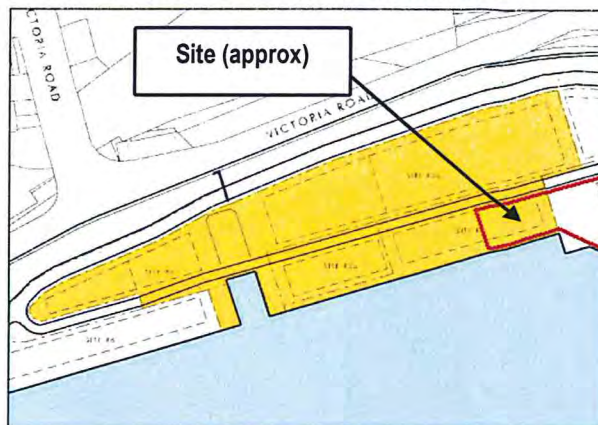
Preferred Land Uses – Site R2



Maritime Operations Precinct (Sites R2)

- Charter vessels
- General mixed marine
- Commercial marine offices
- Layover berths
- Food & retail outlet ancillary to the main use
- Waterways operations

Preferred Land Uses – Sites R3, R4 and R5



Commercial & Recreational Boating Precinct (Sites R3, R4, R5)

- Charter vessels
- Heritage fleet
- Dry boat storage
- Layover berths
- General mixed marine
- Marine contractors
- Heavy marine repairs
- Marine repairs

Figure 11: Preferred Land Uses (Source: Rozelle and Blackwattle Bay Precincts Master Plan)

Ancillary uses

The PPR proposal seeks approval for 1,419m² or 22.9% of total GFA for ancillary uses (see Table 1 on p12). Ancillary uses are proposed on the waterfront side of the eastern and western buildings for uses such as cafes, bars, restaurants, takeaways, provedores and seafood retail (see Figure 12). While the PPR differs slightly to the original EA in its land use proposals (i.e. increased marine related uses and reduced ancillary uses), concerns raised by the two councils remain. Leichhardt Council is concerned that the proposal would change the character of the working harbour to a leisure precinct and City of Sydney Council raised concerns that the ancillary land uses would become dominant over time. Fourteen (14) public submissions raised concerns that the proposal would create an entertainment precinct.

As ancillary uses are permissible under the SREP, the department's key requirement is to ensure that maritime related land uses remain the dominant use on the site. This is to ensure that the maritime objectives of the site are achieved in accordance with the SREP. Provided that the ancillary uses do not exceed the proposed 1,419m² or 22.9% of total GFA, the department does not consider that the character of the working harbour will be affected, nor is the site likely to become a leisure or entertainment precinct. Accordingly, a planning condition restricting ancillary uses to the proposed 1,419m² or 22.9% of total GFA is recommended by the department.

The department has also considered various scenarios over the lifetime of the proposal, including its staging, to ensure that maritime uses remain the dominant land use in perpetuity. Recommended conditions are therefore proposed so that ancillary uses will occupy no more than 50% of floor space at any given time. This applies whether the eastern or western building is built first. This prevents a situation where only one building is built (or one half of the approval is implemented) which primarily comprises bar/restaurant uses.

For the post-construction scenario, the department recommends a condition for the restriction of the floor space allocated for the yacht club to be used for commercial/maritime related uses only. This ensures that, in the event that a tenant for the yacht club does not come forward, that this floor area is used for commercial/maritime purposes only, not ancillary uses such as bars/cafes/restaurants.

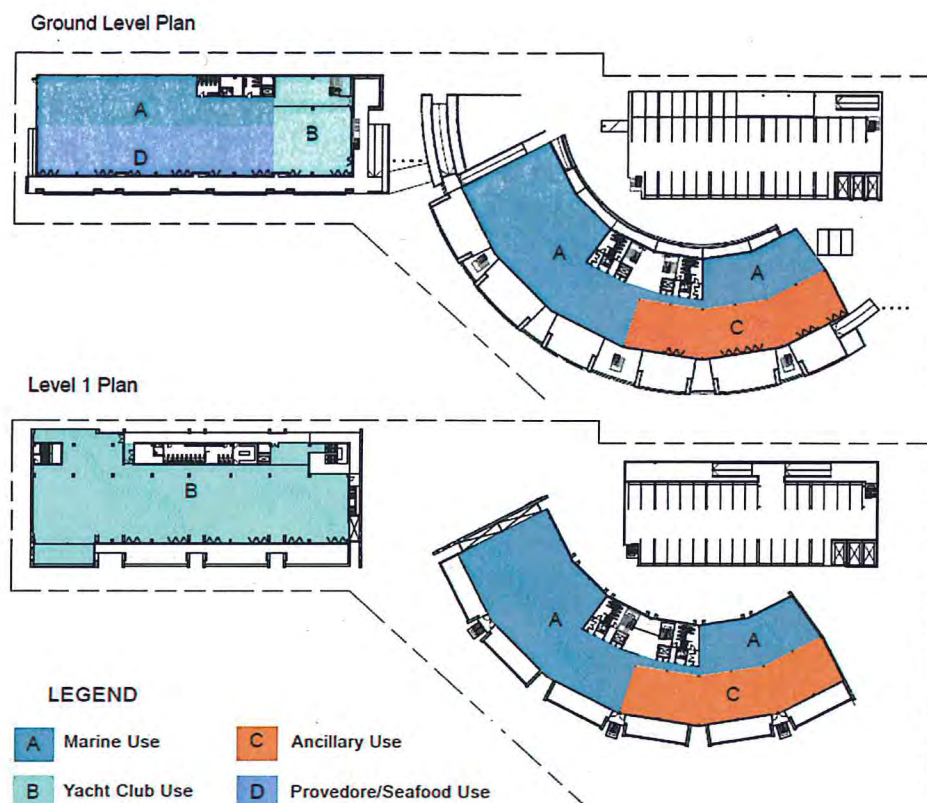


Figure 12: Land Use and Tenancy Distribution (Source: PPR Addendum)

Another scenario considered by the department is one in which the approved commercial uses are varied under the SEPP (Exempt and Complying Development Codes) 2008 (the Codes SEPP) to retail uses, which include restaurants/cafes/bar uses, leading to a proliferation of ancillary uses. In this case, the development standard in clause 5.5(g) of the Codes SEPP ensures that any change to the land use (to restaurant/bar/cafe uses in this event) cannot 'cause a contravention of any planning condition that applies to the premises relating to hours of operation, car parking and landscaping'.

Accordingly, the department recommends a condition that connects the approved commercial land uses to car parking such that a change of use to restaurant/bar/café uses under the Codes SEPP is not permissible.

Subject to the inclusion of the above conditions, the department is satisfied that ancillary uses will not become a dominant land use on site and considers that the desired maritime character of the site will be preserved. Provided that the environmental impacts of the ancillary uses can be adequately managed, the proposed land uses are considered acceptable.

Dormitory accommodation

Dormitory style accommodation is proposed in connection with the maritime offices to service the Super Yacht Marina operations. While residential uses are not permissible on site, the department acknowledges that provisions for basic overnight accommodation may be required on an occasional basis to cater for staff who work on the super yachts but cannot reside on them when they are berthed at the marina. Accordingly, the department supports the provision of 3 dormitory accommodation rooms but only for staff employed on the super yachts or working in the maritime offices. A condition is recommended to restrict dormitory accommodation in this manner accordingly.

Hours of operation

The department confirms that the 24-hour operation for the land-based commercial marina uses (except the yacht club) at the site is acceptable as the use will primarily service the super yachts which arrive on site 24-hours-a-day. However, the hours of operation of individual commercial tenancies and ancillary uses will be limited to mitigate potential noise impacts as discussed in the following section.

5.2 NOISE IMPACTS

A key issue raised during the public exhibition was operational noise and its potential impact upon local residents across Rozelle Bay in Glebe. Noise concerns were raised in 53 public submissions and featured in 96% of all public objections received. The impact of noise from live bands was the key resident concern.

Noise sources

The potential noise impact of the proposal varies according to the particular noise source and at what time each day the noise is audible. Operational noise will generally emanate from one of three sources:

- noise associated with the daytime operation of the land based marina buildings, including noise from workshops, maintenance and servicing operations, and truck deliveries to commercial/office/retail uses
- noise associated with the daytime/evening operation of licensed premises, including the proposed live/amplified music
- evening and overnight noise associated with the 24-hour operation of the marina.

A distinction is made between these noise sources and noise associated with the water-based operations of the marina, such as the berthing, launching, refuelling and servicing of boats. These noise impacts are not subject to assessment as these relate to the approved super yacht marina consent DA 088-05-08. Nonetheless, a reasonable degree of operational noise is expected to emanate from the Super Yacht Marina whether this relates to land or water based activities. Accordingly, the key issue is the noise from live bands and licensed premises associated with the proposed ancillary uses.

Noise from ancillary uses

In assessing the noise impacts from live bands and licensed premises, regard was made to the NSW Office of Liquor, Gaming and Racing (OLGR) noise criteria. Noise criteria for licensed premises differs to noise criteria designed for construction, traffic and industrial noise sources, chiefly as it considers sound frequencies generated by conversations and music during social gatherings. The EA noise assessment used the NSW Industrial Noise Policy (INP) noise criteria, which is generally associated with industrial noise sources scheduled under the *Protection of Environment Operations Act 1997*. Hence, additional noise assessment against OLGR noise criteria was requested by the department which was subsequently included in the PPR Addendum.

The revised noise assessment included noise modelling to predict the noise impact at the nearest receptor points. The most sensitive receptor points are those apartments located at 501 Glebe Point Road (see Figure 13), located 250m away across Rozelle Bay (see Receptor point R5). Access was granted by occupiers of two apartments, being Unit 28/501 Glebe Point Road on the 1st floor and Unit 8/501 Glebe Point Road on the 5th floor (see Location B) for noise monitoring purposes. Noise modelling included a simulated performance of live music on the afternoon of 9 April 2011, with the sound of two live bands performing on the marina forecourt captured by noise monitoring equipment at 501 Glebe Point Road. Various scenarios were modelled factoring in noise from jazz and rock bands, the impact of wind and rain, and background noise readings, which varied according to the time of day and day of the week.



Figure 13: Location of Residential Receiver Points (Source: Environmental Assessment)

The noise report contained within the PPR Addendum concluded the following:

- during neutral weather, noise from a rock band playing indoors and people conversing on the outdoor terraces will **comply** with OLGR criteria
- during neutral weather, noise from a jazz band playing outdoors and people conversing on the outdoor terraces will generally **comply** with OLGR criteria
- during neutral weather, noise from a rock band playing outdoors and people conversing on the outdoor terraces will **exceed** the OLGR criteria in 6 octave bands, during the day and night at Receptor 5
- during adverse weather, noise from a rock band playing indoors and people conversing on the outdoor terraces will **exceed** OLGR criteria in 4 octave bands, during the day and evening at Receptor R5
- during adverse weather, noise from a jazz band playing outdoors and people conversing on the outdoor terraces will **exceed** OLGR criteria – but only in 2 octave bands by between 1dB and 5dB – during the day and evening at Receptor R5
- during neutral and adverse weather, noise from a rock band playing outdoors and people conversing on the outdoor terraces will **exceed** OLGR criteria in several octave bands by up to 10dB, during the day and evening at Receptor R5 & R6.

In short, compliance with the OLGR noise criteria was dependent on the weather conditions and the type of instruments and music played. In all weather conditions, noise from a jazz band generally complied with the noise criteria, however noise from a rock band did not comply. Only in neutral weather would noise from a rock band approach reasonable compliance, exceeding the criteria in two octave band frequencies. Therefore, the noise modelling suggests only partial compliance with OLGR noise criteria.

To ensure adequate neighbour amenity, the department's key requirement is to ensure that all noise emanating from licensed premises complies with the OLGR noise criteria. This includes any cumulative noise impacts that may result from separate tenancies on the site. Accordingly, the department recommends that the standard OLGR noise criteria is applied to the whole site via a planning condition, which would otherwise be imposed by the OLGR for separate tenancies for separate liquor licences. This condition is worded as follows:

Noise from licensed premises when measured at the boundary of the nearest residential premises will be limited as follows:

Between 7am – 12am (midnight):	that L_{A10} noise shall not exceed the background noise level in any octave band centre frequency (31.5Hz – 8kHz inclusive) by more than 5dB
Between 12am – 7am:	that L_{A10} noise shall not exceed the background noise level in any octave band centre frequency (31.5Hz – 8kHz inclusive)

Notwithstanding the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between 12am – 7am.

The imposition of this condition ensures that all noise from licensed premises is subject to compliance with OLGR noise criteria. This includes noise from live music performances, amplified music or from people conversing. Therefore, the department raises no objection to the specific proposals for live music, as its noise impacts remain subject to standard noise criteria for licensed premises.

However, as only partial compliance with OLGR criteria was demonstrated by the music simulation, the department recommends approval for live music performances on a trial basis only. The department recommends a trial period of no more than 8 live music performances or 12 months from the date of first performance, whichever occurs first, during which time noise monitoring during live music performances and complaints reporting shall be carried out. Should the trial prove successful, further approval could be sought by the proponent to extend the performance of live music on site. This would ensure the modelled noise impacts are further tested prior to permanent approval. Conversely, if the trial is not successful, the performance of live bands would no longer be permitted.

The proponent has also included a number of commitments to further manage noise emanating from the site. These are supported by the department. These include:

- limiting the use of balconies, terraces and outdoor areas until 10pm, 7 days a week
- closing all external doors and the windows of the eastern and western buildings after 10pm

- limiting the performance of outdoor music until 8pm, 7 days a week (but until 10pm on public holidays and up to 5 'special event days' per calendar year)
- restricting the performance of outdoor bands to the ground floor only.

In addition to the above commitments, the following conditions are recommended by the department:

- the preparation of a noise management plan, including a noise complaints reporting procedure
- a trial period for the performance of live music
- noise monitoring and reporting of live music events.

By way of reference, the former restaurant 'Liquidity' held a Place of Public Entertainment licence which allowed for the playing of music on the premises until 10pm Sunday to Thursday, and until 11pm on Fridays and Saturdays. Accordingly, the department considers the PPR proposal to be acceptable and reasonable subject to the recommended conditions.

It should be also noted that concerns were raised during the public exhibition period regarding the content and adequacy of the EA noise assessment. Issues raised included the use of background noise data from 2003, the use of INP noise criteria, the omission of noise readings at receptor point R5 and the use of wind data at Fort Denison rather than Rozelle Bay. The department considers that the noise report contained in the PPR Addendum satisfactorily addresses these concerns and that no outstanding noise assessment is required.

Noise from marina related uses

In assessing noise emanating from the maritime related uses of the marina, the department has had regard to the requirements of the *NSW Industrial Noise Policy* prepared by the Environmental Protection Agency (EPA) in 1999. The INP sets two criterion for noise assessment: the first being the intrusiveness criteria, where an acceptable noise impact is measured relative to the existing ambient levels i.e. existing background noise (L_{A90}) + 5dB(A); and secondly, the amenity criteria, where an acceptable noise impact is measured according to sensitivity of the receiver i.e. a residential receiver in an urban setting. By taking the more stringent criteria, the INP can be used to formulate 'project-specific' noise limits for the development to ensure acoustic amenity is preserved.

The proponent determined the project-specific noise limits for the site illustrated in Table 4 below. It is not anticipated that noise associated from the general operations of the marina will exceed these limits. The noise limits would apply to noise associated with the land-based operations of the marina during the daytime, evening and overnight as heard from the closest residential receiver point at 501 Glebe Point Road. The department has thus recommended conditions limiting noise from the general operations of the marina to these specified limits.

Table 4: Project Specific Noise Limits (Source: PPR)

Project Specific Noise Limits – L_{Amax}	
Day	60
Evening	55
Night	45

Construction Noise

The amenity impacts upon neighbouring residents from construction noise were outlined in the EA and these will be addressed in the Construction Environmental Management Plan to be prepared prior to the issue of construction certificate. Construction noise is subject to industry standards, is temporary, and is not considered to raise unacceptable noise impacts.

5.3 CAR PARKING & TRAFFIC IMPACTS

Car Parking

Car parking is a key issue as the proposed car parking provision is less than the minimum Leichhardt DCP requirement. The proposal provides for 219 car parking spaces across the site, 24 car spaces less than the 243 space DCP requirement (see Table 5). To address this car parking shortfall, the proponent has committed to the preparation of a car parking management plan which outlines the sharing of car spaces between land uses at different times of the day and week. The implementation of this car space sharing arrangement provides sufficient car parking during the week and would result in a shortfall of only 8 car spaces against the DCP requirement on weekends. The department considers that this approach to car parking is reasonable and is consistent with the RMS' initiatives to promote alternative modes or active transport such as walking, cycling and public transport. It is also unlikely to lead to unacceptable on-street parking problems.

The proposed car space sharing arrangement seeks to demonstrate that demand for car parking spaces between different land uses e.g. offices, yacht club, restaurants etc. differs according to the time of day and according to the day of the week. It is assumed by the proponent that commercial office uses will require car parking during the working day (until 6pm), but are unlikely to require car parking from 6pm to 11pm at night. Similarly, it is assumed that car parking demand generated by the yacht club and restaurants is more likely to be at capacity on weekends, rather than during the working week.

On this basis, the proponent prepared a car parking demand schedule (in accordance with Leichhardt DCP car parking rates), separating car parking demand for each land use, at various times during the day and week. Assuming that 60% of weekday car parking for commercial and retail uses is required during the weekend, and assuming 60% of evening car parking for the yacht club and restaurants is required during the day, the demand for car parking was calculated to be less than 243 spaces. Indicatively, 178, 194 and 227 car spaces would be required during the daytime, evening/night time and weekends respectively (see Table 5).

Table 5: Car parking demand schedule for super yacht marina

Land use	DCP minimum requirement	Daytime	Evening/night time	Weekends
Yacht Club	90	54	90	90
Commercial	43	43	0	26
Restaurants/bars/cafes	80	50	80	80
Provedore	7	7	0	7
Marina* (super yacht berths)	24	24	24	24
Total	243	178	194	227

Car parking proposed

219 spaces

*Note – car parking provision associated with super yacht berths is based on existing demand. Applying Australian standards to the super yacht marina requires car parking for 18 spaces.

The proponent has demonstrated that this car space sharing arrangement can be practically managed on site. Car spaces would be allocated to specific land uses and due regard has been made to the requirements of longer stay staff parking and casual customer parking. It is important to note that the proposed car parking layout includes 23 tandem spaces, therefore affectively providing 46 car spaces. Particular attention was therefore given to the allocation of tandem car spaces as these spaces require allocation to the same tenancy. The proponent sufficiently demonstrated that the allocation of tandem spaces could be successfully managed.

The department supports the car space sharing and car park management proposal. While the 219 proposed car spaces falls 24 spaces short of the overall DCP requirement, the department is in agreement with a further analysis of car parking demand to account for the varied land uses on site. The department supports the suggestion that the proposed land uses generate varying levels of car parking at different times of the day and week and considers that the

day time (178 spaces) and evening demand (194 spaces) for car parking during the week can be sufficiently accommodated by the proposed 219 spaces.

Only on the weekend does car parking demand exceed the proposed provision, and this is exceeded by only 8 car spaces. This is considered acceptable given the site's location in Rozelle Bay and the department does not anticipate any off-site traffic impacts as a result of proposed car parking provision.

In implementing the proposed car space sharing scheme, the key issue is the management of car parking between separate tenancies. The practicalities of this scheme were sufficiently demonstrated in the PPR Addendum. However, the department recommends that a car park management scheme is submitted to and approved by the department prior to the issue of the occupation certificate for the last stage of development to ensure this matter is adequately dealt with.

Traffic Impact

The RMS, Leichhardt Council, City of Sydney Council and 15 public submissions raised traffic related concerns regarding the EA proposal. Upon review of the PPR and PPR Addendum, the RMS subsequently confirmed that its original concerns had been satisfactorily addressed. Leichhardt Council remains opposed to the proposal on traffic grounds. City of Sydney Council did not provide further traffic comments.

The key issue relates to the traffic impact on the intersection at The Crescent/James Craig Road (see Figure 14). This intersection currently operates at a Level of Service 'C' (LoS C) during commuter periods. Post-development, it is anticipated that the subject development would remain at LoS C. However, Leichhardt Council noted that the cumulative traffic impact from other significant developments were not considered in the traffic assessment, namely the Cruise Passenger Terminal in White Bay (including in 'event' mode), the Harold Park Paceway redevelopment and Balmain Leagues Club redevelopment.



Figure 14: Key Intersections adjacent site (Source: Nearmap)

In response, the proponent argued that the approval of the Super Yacht Marina under DA 088-05-08 well preceded the Cruise Passenger Terminal (CPT), Harold Park and Balmain Leagues Club redevelopment proposals and that it was incumbent upon these recent proposals to include traffic movements from the Super Yacht Marina. Notwithstanding, the PPR provided the projected traffic impacts from these developments (excluding the Balmain Leagues Club which has not been granted approval) and illustrated that the traffic from the super yacht marina would contribute 4.3% of traffic

movements in the morning peak hour period and 4.2% of traffic movements in the evening peak hour period. Additional traffic movements from the Dry Boat Storage were included for the purposes of assessment and the Super Yacht Marina would contribute 3.8% of movements in the morning peak hour and 3.7% of movements in the evening peak hour. The RMS reviewed the PPR and raised no further issues with respect to traffic.

Taxi demand study

Leichhardt Council considered that a further traffic related assessment was required in the form of a taxi demand study given the limited public transport options for the site. Given the close proximity of the site to the highly trafficked Victoria Road and the Sydney CBD this is not considered essential by the department.

5.4 BUILT FORM

A development control compliance table is provided in Table 6 below to indicate areas of compliance and non-compliance with respect to with the *Rozelle and Blackwattle Bay Master Plan* (as amended). The proposal is partially consistent with the Master Plan with partial and full compliance shown in only 8 of 13 development control standards. However, the department considers this to be acceptable as the areas of non-compliance are relatively minor and do not result in unacceptable built form outcomes. The reasons why these non-compliances are acceptable are discussed separately below.

Table 6: Development Control Compliance Table

Development Control Compliance Table			
Rozelle and Blackwattle Bays Precinct Master Plan 2002			
	Control	Proposal	Compliance
Building Height	8m	10.3m	No
Building Structure Focal Point	14.3m	17m	No
Setback from Waterfront (Western Building)	10m	10m at ground level 3.6 at roof level	Partial
Setback from Waterfront (Eastern Building)	20m	9-20m	Partial
Side Setback	Minimum 3m, 5m across the majority of the site	6m	Yes
Rear Setback	4m	5-6m	Yes
Building Layouts	Buildings must be located within specified envelopes	Buildings located outside specified envelopes	No
Maximum Site Coverage	50%	44%	Yes
Building Line	Buildings to be aligned along the waterfront boundary	Both western and eastern buildings front the waterfront	Yes
Public Footpath/Cycleway	To be adjacent Maritime Close and continued through whole site	Footpath not provided behind western building	No
24 hour Public Access Easements	To be aligned in a U-shape configuration from Maritime Close	24 hour easement provided	Yes
Street Furniture	Public access easement along waterfront to contain seating and lighting	Details of seating and lighting not provided in public domain	No
Street Tree Planting	Street planting required along Maritime Close and connecting to waterfront	Street planting provided	Yes

Building Height

The proposal exceeds the maximum heights set by the Master Plan by 1.3m for the eastern building and by 2.3m for the western building. The car park building also exceeds the height controls by 0.8m, while the building structure focal point exceeds its respective height control by 6.7m. The proposal therefore exceeds the height limits for all its building elements across the site.

The department acknowledges non-compliance with the Master Plan, however considers that the degree of non-compliance is not significant such that the proposal would compromise the urban design principles of the Master Plan. The Master Plan requires that building heights step down to the waterfront from the north to the south and the proposal clearly achieves this objective. The allowable height of the building to the rear of the eastern building is RL19.6 some 7.7m higher than the eastern building, while the approved Dry Boat Store building is RL25.2 some 13m higher than the western building. This is illustrated in Figure 15. Accordingly, the department considers the buildings to be acceptable overall given the prevailing building heights surrounding the site and as envisaged by the Master Plan far exceed that of the proposed building. It is also considered that the additional building height will not impact upon the waterfront setting of the site and will respect existing waterfront buildings already approved.

Regarding the lift tower, it is considered that the proposed height is excessive and that insufficient justification has been provided by the proponent to support a future advertising structure some 6.7m beyond the existing Master Plan controls. While the overall visual impact of such a structure within an urban setting is considered minimal, there appears little need for such a tower in this location. The proponent's intention of providing an identification tower visible from the ANZAC bridge is not supported and a design modification is therefore recommended to reduce the height of this structure to 14.3m (RL16.9) to ensure Master Plan compliance.

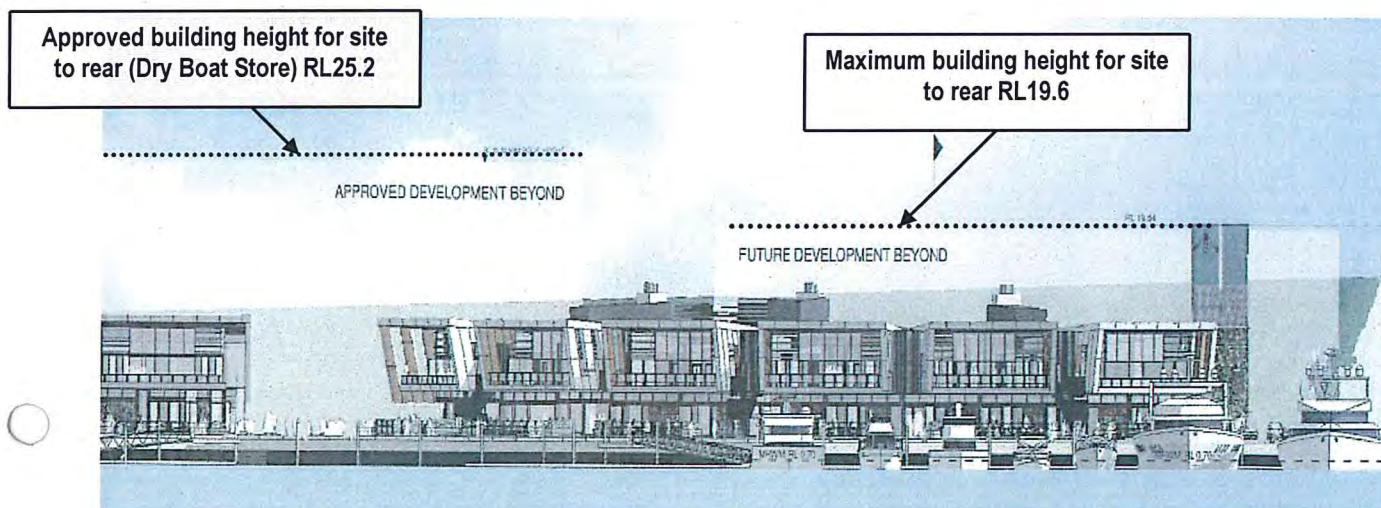


Figure 15: Proposed building heights against Master Plan requirements (Source: PPR)

Building Envelope

The buildings are sited outside the specified building envelopes outlined in the Master Plan, which generally prescribes rectangular shaped buildings to follow the linear shape of the foreshore. The proposed eastern building is a curved building and extends outside the Master Plan building envelope to the west by approximately 20m. The western building and car park building are wholly contained within the building envelopes, however the proposal does not replicate the large waterfront space or gap between the western and eastern buildings. The Master Plan building envelopes are illustrated in Figure 16.

The department considers that the departure from the Master Plan building envelopes is acceptable given the quality of the overall design outcome presented by the proposal. The proposed continuous frontage along the waterfront replaces the large space between the two buildings promoted by the Master Plan and this serves to address the waterfront along .

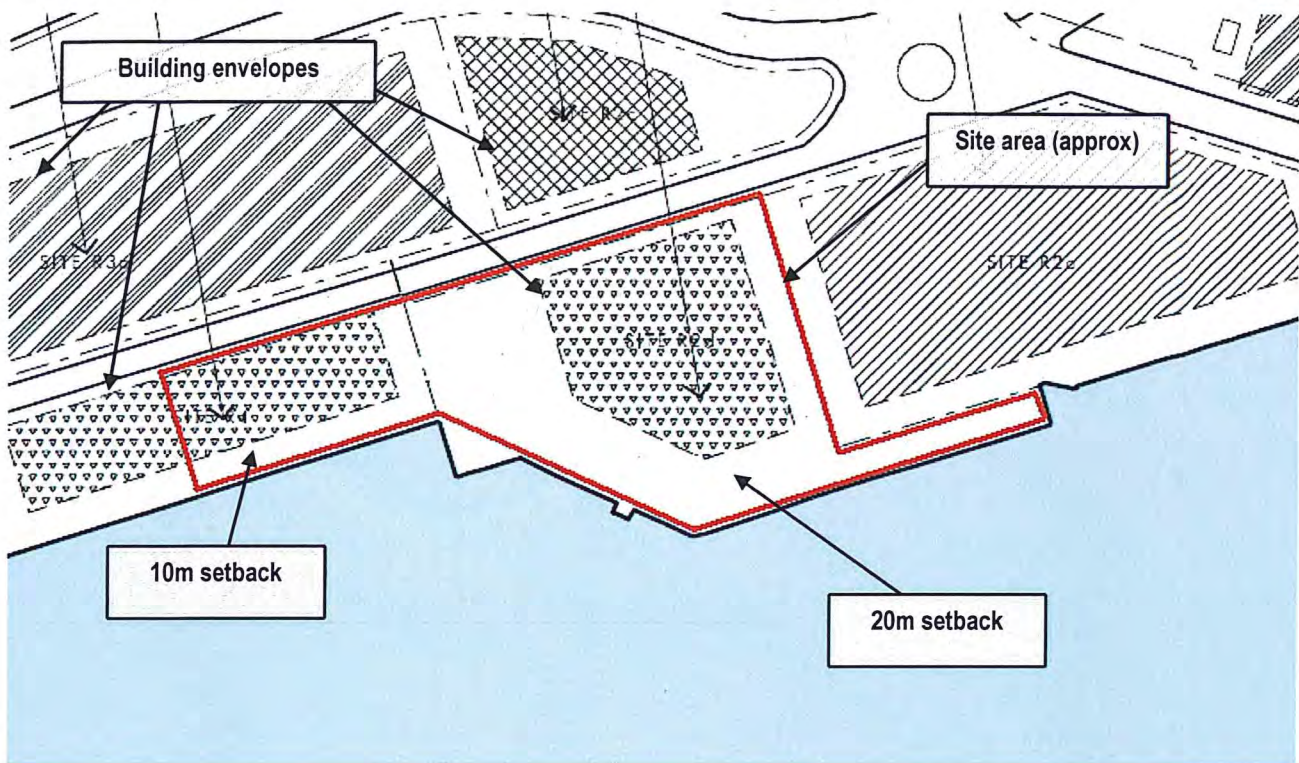


Figure 16: Building envelopes in Master Plan (Source: Rozelle and Blackwattle Bays Precinct Master Plan 2004)

the full length of the site. The proposal complies with the 50% maximum site coverage requirement and the use of the multi-level car park serves to reduce the footprint for ground level parking across the site. The Master Plan does not reserve the large space between buildings for public or landscape use, and as such the department supports the development of this commercial waterfront space in favour of what was probably envisaged as ground level parking.

Waterfront Setbacks

The proposal is compliant with the stipulated rear, side and road setbacks. For front setback controls, the buildings are compliant at ground level, but not at roof level (see Figure 17). For the western building, the roof structure extends 6.4m towards the waterfront beyond the 10m setback control. For the eastern building, a roof structure extends 5.5m beyond the 20m setback control.

This is considered acceptable by the department as the setbacks do not affect the overall appearance of the waterfront. The protruding roof structures appear as light weight elements and these provide solar shading for the ground floor terraces below. Whilst the roof structures of both buildings do overhang the building line, the proposal is consistent with the overhangs approved in the adjacent Dry Boat Store approval, which in some cases extend 9.8m beyond the building line. The waterfront elevations are also highly articulated and the buildings will not impact on the visual amenity of the harbour.

The department considers that the key issue is to ensure that public access along the waterfront is not affected and that the 4m wide 24-hour public easement is maintained. Notably, the 10m setback is maintained at ground level and a minor non-compliance with the Master Plan setback controls in this regard (i.e. due to the roof form) is considered acceptable.

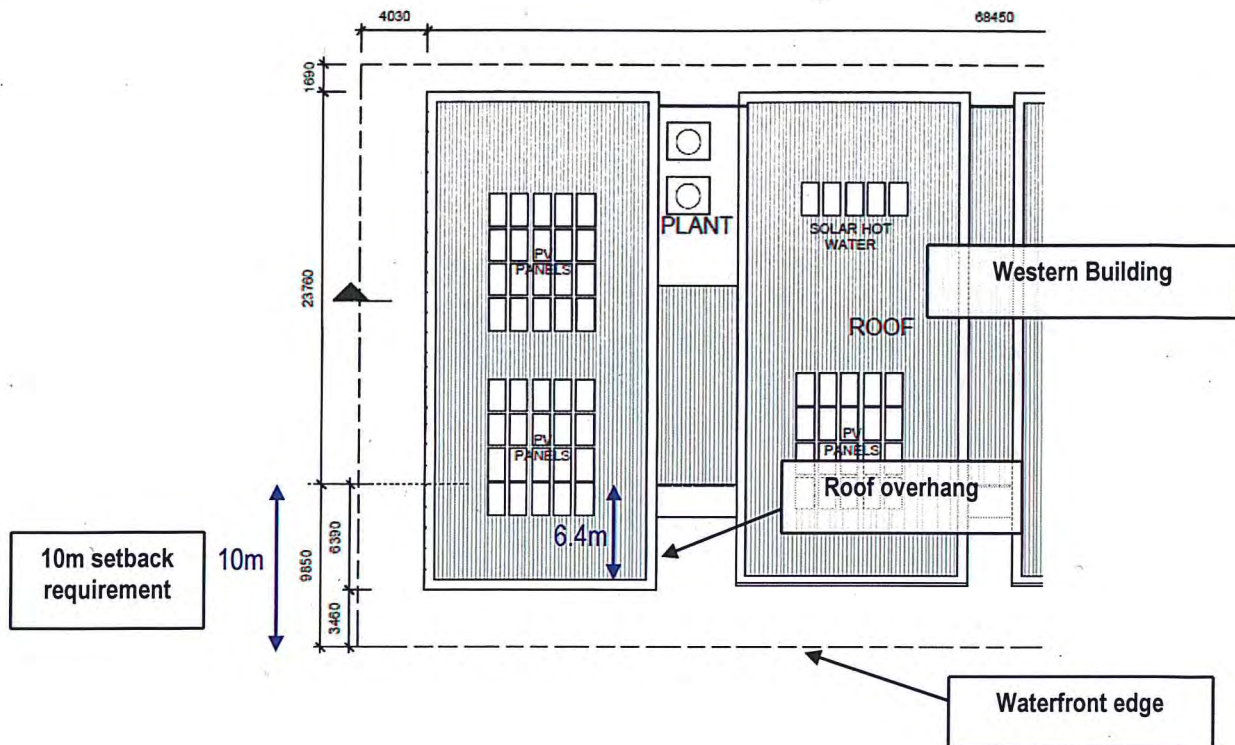


Figure 17: Non-compliance with waterfront setback controls, western building (Source: PPR Addendum)

Pedestrian and cycleway access

The Master Plan seeks a formalised pedestrian and cycleway route that is to be continued for the length of the site in concert with wider pedestrian and cycle routes in Rozelle Bay as a whole. The proposal provides pedestrian access along the waterfront for the entire length of the site, however does not provide separate cycleway access through the site. Dedicated cycle lanes are not provided by the proposal, however this is not considered to be essential given that Maritime Close, identified as a 'minor road' in the Master Plan, should provide sufficient access for safe cycle movement away from heavy vehicular traffic. Pedestrian access is provided along the waterfront in accordance with the Master Plan and it is important that this is separated from cycling activity. It is considered that this non-compliance with the Master Plan is not significant, and accordingly no design modifications are recommended by the department.

Street Furniture

The proposal does not include a landscaping scheme that includes the provision of street furniture or details of tree planting envisaged in the Master Plan. Landscaping works to the public domain are required to contribute to amenity and as such further details of a landscaping scheme will be required by the department for further approval. Accordingly the department has recommended a condition to address this.

5.5 VISUAL IMPACT

The department considered the visual impact of the proposal when viewed from surrounding public places taking into consideration its potential impact on existing local landmarks. The department also assessed the proposal against the provisions of SREP (Sydney Harbour Catchment) 2005, SREP No. 26 (City West), Rozelle and Blackwattle Bay Master Plan and the Sydney Harbour Foreshores and Waterways DCP.

The key strategic views are those from Bicentennial Park and Jubilee Park, from Blackwattle Bay and from Glebe Point Road. This includes views from public and private spaces. The key landmarks visible from these locations include White Bay Power Station, Glebe Island Silos, the ANZAC Bridge and the Sydney Harbour Bridge.

It is considered that the proposal would not have a detrimental visual impact when viewed from these perspectives. The scale of the buildings are appropriate to the foreshore site and do not impact upon the carriageway of the ANZAC Bridge when viewed from the southern banks of Rozelle Bay. The proposed buildings are appropriately scaled compared to the adjacent Dry Boat Store and the articulation of the buildings' facades ensures a recessed appearance at the waterfront. The visual impacts to local landmarks are seen in Figures 18 - 20 and are summarised below:

- north-easterly views of the ANZAC Bridge and the Sydney Harbour Bridge from Bicentennial/Jubilee Park would not be affected
- north-westerly views of White Bay Power Station and Glebe Island Silos from Blackwattle Bay would not be affected
- northerly views of the Glebe Island Silos from Glebe Point Road would not be affected.

The department notes the comments raised by Leichhardt Council regarding urban design, however considers that the visual quality of the harbour foreshore will not be adversely impacted. It is considered that the maritime character of Rozelle Bay is enhanced by the contemporary building design and that it will not detract from the distinctive built form heritage of nearby places such as Balmain, Snails Bay and Mort Bay. The proposal contributes to a high quality public domain and will assist in the rejuvenation of the Rozelle Bay waterfront.

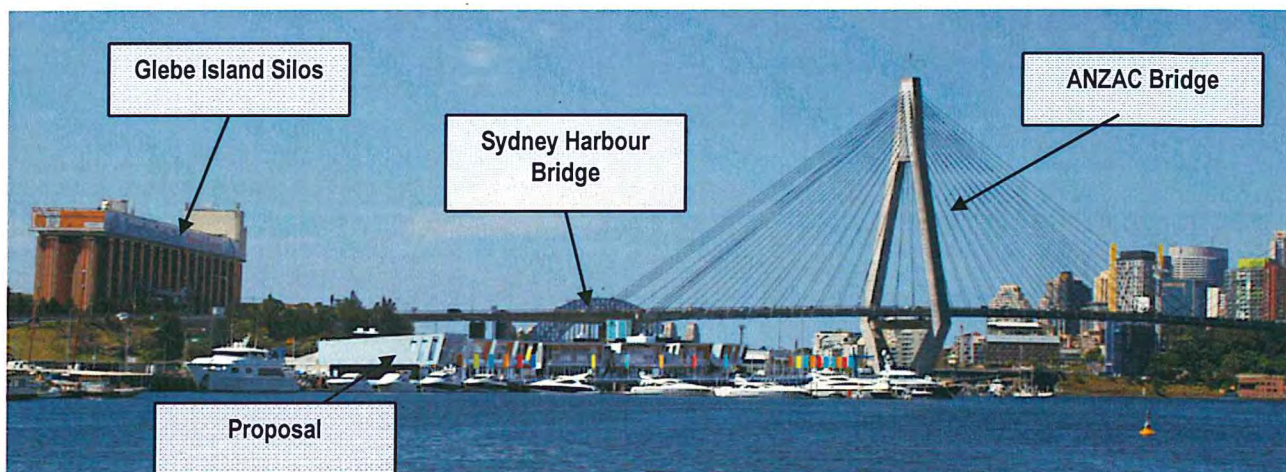


Figure 18: North-easterly perspective/photomontage as seen from Bicentennial Park

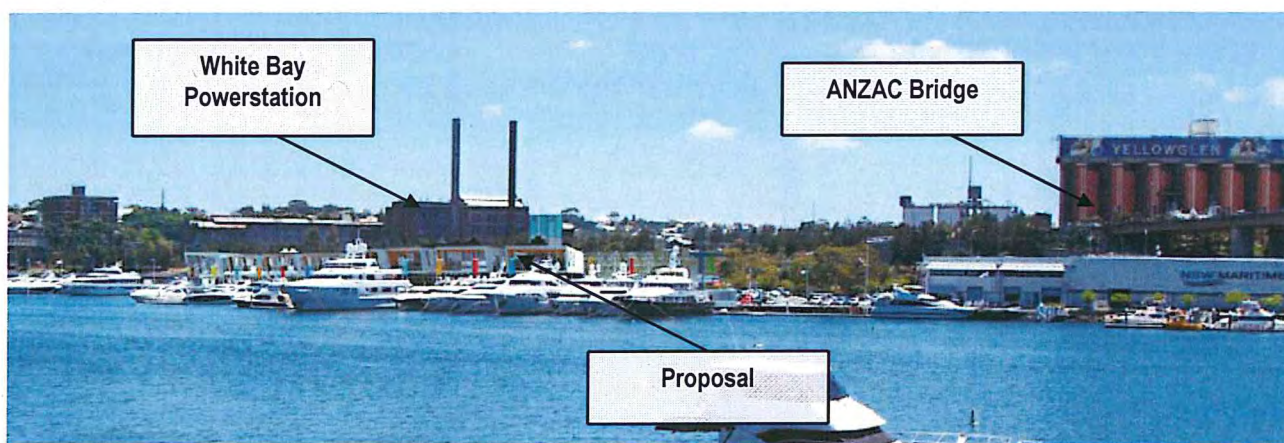


Figure 19: North-westerly perspective/photomontage as seen from Blackwattle Bay



Figure 20: Northerly perspective/photomontage as seen from Glebe Point Road

The greatest visual impact of the proposal is the car lift overrun/advertising sign or 'focal point' of the marina. It is proposed that this protrude some 8.2m above the car park building at a height of 17m. The Master Plan control is 5m above the car park building, or 14.3m above ground level. While the tower would not impede views of any landmarks or exceed the height of the Dry Boat Store building, the department does not support the proponent's justification to exceed the master plan controls which is essentially for identification purposes. A condition is therefore recommended to ensure compliance with the master plan with regards to the lift tower height.

5.6 OTHER ISSUES

A) Master Planning

Leichhardt Council and City of Sydney Council expressed concern regarding the status of the *Rozelle and Blackwattle Bays Maritime Precincts Master Plan*. Leichhardt Council stated that it does not concur with the Master Plan and that no new development should be considered until a new strategic plan is prepared. City of Sydney considers that the Master Plan is obsolete and stated that any approval granted by the department would undermine any future master planning process for the Bays Precinct. The councils' submissions relate to the need for a new 'Bays Precinct' Master Plan, which covers an 80 hectare area comprising Rozelle Bay, Blackwattle Bay, Glebe Island, White Bay, White Bay Power Station and Rozelle Railyards. At the time of writing this report, the newly created Bays Precinct Taskforce had just finalised its report and recommendations to the Minister (in August 2012) for a strategic planning framework for the precinct. To date, no response has been made by the NSW Government in relation to its findings.

The department notes that while there may be a need for a comprehensive Bays Precinct Master Plan, its absence should not preclude the current proposal from being determined. Furthermore, it is highly unlikely that any approval granted for the proposal would prejudice the future uses of the wider area nor undermine any future master planning exercise for the Bays Precinct.

B) Public Access to Harbour Foreshore

Concerns were raised regarding public access to the harbour foreshore. The proponent has since revised the proposal to ensure that 24-hour public pedestrian access along the harbour foreshore is provided through the site and will provide alternative security arrangements for super yachts through the use of pontoon gates. The provision of 24-hour public access to the foreshore is consistent with the aims of *Sharing Sydney Harbour Access Plan 2003* and the *Rozelle and Blackwattle Bays Maritime Precincts Master Plan* and any permanent privatisation of the foreshore along Rozelle Bay is not supported by the department.

In addition, during the construction phase of development, the department will ensure that public access along the waterfront is provided. A condition is recommended to ensure that public access along the waterfront is maintained over the course of the construction phase of development. This will ensure that public access to the waterfront is provided in accordance with the relevant guidance mentioned above.

C) Environmental Impacts

Leichhardt Council initially raised concerns regarding the potential environmental impact on the seabed and upon marine life as a result of increased movements from large recreational vessels. The subject proposal relates only to the dry-land component of the marina. Any potential environmental impacts resulting from marine vessels were previously assessed in DA 088-05-08.

The proposal includes an assessment of environmental impact with respect to soil and groundwater contamination, stormwater, air quality, waste management, flora and fauna, and Aboriginal and European heritage. The department considers the proposal is acceptable with regard to potential impacts associated with these matters. Nevertheless, planning conditions are recommended to ensure any potential impacts are appropriately managed during construction.

Contamination

State Environmental Planning Policy No.55 (SEPP 55) requires that the department consider the suitability of the land with regards to land contamination in the granting of a project approval. The site is located on reclaimed land, has previously been used for a variety of purposes including ship building, maintenance, container storage and transportation and contains three underground storage tanks for unleaded and diesel fuel. Recently the site has also been used as a restaurant and function centre (Liquidity).

The EA included a Stage 1 Preliminary Investigation and concluded that the site has low potential for contamination impacts and contaminants were all found to be within site acceptable criteria for commercial/industrial land uses. Consequently, it was confirmed that no remediation is required for the site.

Accordingly, it is considered that the site is suitable for the proposed uses.

D) Social Impacts

Leichhardt Council considered that the proposal will have social impacts as the cumulative activities of licensed premises will change the perceived character of the neighbourhood from a low impact, working waterfront to an entertainment and privileged leisure precinct.

The department considers that the social impact of the proposal will be minimal and will not result in an unacceptable impact to the local community. The site is isolated from established residential areas of Glebe Point, north Annandale and south-east Rozelle, being separated from these suburbs by the main arterial roads of Victoria Road and the City West Link. As such, the proposed land uses will not have direct impact on the existing character of the closest residential areas.

The department considers that it is unlikely that the proposal would result in social change or conflict that would adversely impact upon community identity. Indeed, it is considered that the local area and community will benefit from the development by activating the foreshore and providing opportunities for social interaction and activities which currently do not exist on site.

6 CONCLUSION

The proposal is located within Rozelle Bay, on a parcel of land identified by SREP 26 for 'Waterfront Uses'. The objective of the SREP is to support commercial maritime facilities to take advantage of the harbour location.

The proposal is for land-based works to service the approved Super Yacht Marina berths approved under a separate consent. The proposal includes two commercial buildings, a car parking building and associated parking and landscaping. The proposal will include ancillary facilities, including restaurant/café/bar uses to support maritime uses.

The department has assessed the EA and PPR and has considered the submissions received in response to the proposal. The key issues raised by the proposal related to land use, noise impacts, car parking provision and visual impact. Other issues include master planning, public foreshore access and social impact. The proposal demonstrated general compliance with the relevant environmental planning instruments.

The project is considered to provide the following public benefits:

- protection of Rozelle Bay for maritime purposes
- contribution to Sydney's regional and maritime economy
- enhancement of the Sydney Harbour waterfront
- improvements to public access to the foreshore.

The department has also recommended the following key conditions to ensure a satisfactory level of environmental performance.

- restriction of ancillary uses to 22.9% of total GFA
- the trialling of live music performances
- reduction in height of car park building tower/lift overrun to 16.9RL

On these grounds, the department considers the proposal is acceptable and in the public interest. Consequently, the department recommends that the Planning Assessment Commission **approve** the project, subject to the recommended conditions contained within the project approval.

7 RECOMMENDATION

It is recommended that the Planning Assessment Commission:

- (A) consider the findings and recommendations of this report;
- (B) **approve** the project application, under section 75J *Environmental Planning and Assessment Act 1979*, subject to recommended planning conditions; and
- (C) **sign** the attached project approval (TAG A).

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Endorsed by:

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Chris Wilson

A/Deputy Director-General

Development Assessment and Systems Performance

4.10.12

APPENDIX A. INSTRUMENT OF APPROVAL

APPENDIX B. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Provided on the attached compact disk.

APPENDIX C. COMPLIANCE WITH ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes reference to the provisions of the environmental planning instruments that substantially govern the carrying out of the proposal that have been taken into consideration in the environmental assessment of the proposal. The provisions, including development standards of local environmental plans and development control plans, are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the Proponent to address such standards and provisions. In summary, the relevant EPIs for the proposal include:

State Environmental Planning Policy (Major Development) 2005

The proposal is a major project under *State Environmental Planning Policy (Major Projects) 2005* (as in force at the time) being development of a kind described in Schedule 2, Part 1, Clause 7(2) – being a development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay with a capital investment value of more than \$5 million. The opinion was formed on 29 September 2009 by the Deputy Director-General, as delegate of the Minister of Planning, under delegation executed 4 March 2009.

State Environmental Planning Policy (State & Regional Development) 2011

The proposal is a transitional Part 3A application and is not State Significant Development.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP aims to assist in the effective infrastructure delivery. The proposed development is subject to the provisions of Clause 104 being listed as traffic generating development in Schedule 3 of the SEPP. In accordance with the SEPP, commercial developments with a floor space over 2,500m² shall be referred to the Roads and Maritime Services (the development proposes over 11,500m²) and the consent authority shall also consider any submissions received from the RMS prior to determination. The project application was referred to the RMS and their comments were duly considered.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore whether it is suitable for the use for which development is proposed. If the land is unsuitable, remediation must take place before land is developed. The EA includes a baseline contamination assessment on the site and has confirmed that the site is suitable in its current state for commercial development. The department has considered the contamination assessment in accordance with the SEPP and discussion is contained within Section 5.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour SREP) aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are protected, enhanced and maintained for future generations. The Sydney Harbour SREP is a deemed SEPP and aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways. The Sydney Harbour SREP identifies the site as being located within Zone W1 'Maritime Waters', which permits a wide range of waterway activities and facilities including public transport, port and maritime activities of the Harbour. The site is also located within the 'Foreshores and Waterways Area', being land between the foreshore and an area generally 'one-street back' from the foreshore. Development controls and matters of considerations apply to the Foreshores and Waterways Area and these have been considered in the assessment of the proposal.

Sydney Regional Environmental Plan No.26 – City West

Sydney Regional Environmental Plan No.26 – City West (SREP 26) establishes planning principles and development controls of regional significance within City West and seeks to promote the orderly and economic use and development of land within City West. SREP 26 is a deemed SEPP and provides the zoning instrument for the site and accordingly repeals all other environmental planning instruments including the *Leichhardt Local Environmental Plan 2000* and the

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 with respect to land-based development proposals at the subject site.

SREP 26 identifies the site within the 'Bays Precinct' which includes Rozelle Bay, Blackwattle Bay, White Bay and Johnston's Bay. The SREP states that development in the Bays Precinct should reinforce and complement the role of the Precinct as a major inner-harbour port and maritime location. Development should recognise that the port operates for 24 hours of the day and that the generation of noise, lighting and traffic movement is necessarily associated with its operation, and development should provide for a mixture of commercial port, port-related, employment, waterfront and recreational uses, but is not to include residential development. The existing diversity and maritime character of the Precinct, particularly the mixed use of waterfront areas, should be retained.

SREP 26 zones the subject site as a Waterfront Use and only uses that are generally consistent with one or more of the zone objectives are permissible within this zone. The objectives of the zone include:

- to provide for development of water-based commercial and recreational activities, including facilities for the servicing, mooring, launching and storage of boats
- to allow a range of commercial maritime facilities (such as boating industry facilities, marinas, waterfront service operations, waterfront commercial and tourism facilities and uses associated with the servicing, temporary mooring, launching and storage of boats and uses ancillary to these), which will take advantage of the harbour location
- to provide public access within and across the zone and to facilitate the extension of the Ultimo-Pymont foreshore promenade from Blackwattle Bay to Rozelle Bay and link with public access networks surrounding the precinct.

In the assessment of the proposal, the department has considered the compliance tables contained within the EA relating to SREP 26 against the aims, objectives and planning principles contained within SREP 26. Discussion on land use is contained within Section 5.

APPENDIX D. COMPLIANCE WITH OTHER PLANS AND POLICIES

Other plans and policies considered in the assessment of the Project:

Rozelle and Blackwattle Bays Maritime Precincts Master Plan 2004

SREP 26 identifies the Bays Precinct as a working waterfront for port and other maritime purposes and requires the preparation of a master plan for the precinct. The *Rozelle and Blackwattle Bays Maritime Precincts Master Plan* (Master Plan) was prepared by the department on behalf of RMS (then the Waterways Authority) and sets the program and principles for the rejuvenation of the maritime precinct. The Master Plan provides land use guidelines and urban design principles within the Bays Precinct and includes site specific urban design controls encompassing building heights, setbacks, site coverage, access, landscaping and public domain requirements. The department has considered the requirements of the Master Plan in the assessment of the proposal. Discussion on built form and urban design is contained within Section 5.

Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005

The *Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005* (Foreshore and Waterways DCP) accompanies the Sydney Harbour SREP and applies to all development proposals within the 'Foreshores and Waterways Area' identified in the Sydney Harbour SREP. The Foreshore and Waterways DCP provides performance based criteria and guidelines for new development along the foreshore and aims to protect ecological communities, protect or enhance the scenic quality of the foreshore, provide siting and design principles for new buildings and ensure public foreshore access. The department has considered the requirements of the DCP in the assessment of the proposal. Discussion on built form in the foreshore and waterway area is contained within Section 5.

Metropolitan Plan for Sydney 2036 and Draft Inner West Subregional Strategy

The *Metropolitan Plan for Sydney 2036* (Metropolitan Plan) establishes the Department's broad strategy for Sydney's growth and development for the next 25 years. The Metropolitan Plan strengthens the City of Cities approach to development introduced in *Sydney Metropolitan Strategy 2005* and outlines ten broad aims to achieve sustainable growth and global competitiveness while accommodating Sydney's current and future demands for housing, employment, infrastructure, and environmental protection. Relevant aims of the Metropolitan Plan include ensuring adequate land for economic activity, investment and jobs in the right locations and the protection and enhancement of the natural environment for current and future generations.

The *Draft Inner West Subregional Strategy* (Subregional Strategy) forms part of the Metropolitan Plan and identifies the growth and development strategy for the Inner West covering the Ashfield, Burwood, Canada Bay, Leichhardt and Strathfield local government areas. Relevant aims of the Subregional Strategy includes the strengthening the Inner West's economic role within Sydney, improving its range of job prospects, protecting and supporting its industrial lands and working harbour, while protecting its distinct cultural, natural and built assets. In assessing the proposal the department has considered the aims of both the Metropolitan Plan and the Subregional Strategy.

Sharing Sydney Harbour Access Plan 2003

The *Sharing Sydney Harbour Access Plan 2003* (Access Plan) takes an integrated approach to land and water-based access requirements for Sydney Harbour. It contains the vision for improving access to the foreshores and waterways to be enjoyed by the public. For land-based waterfront development the Access Plan seeks to ensure the provision of walking tracks, on and off-road cycle ways and improved access within public domain areas including parks, reserves, promenades and intertidal zones. The aims of the Access Plan are considered to be supported by the proposal.

APPENDIX E. ENVIRONMENTAL ASSESSMENT

Provided on the attached compact disk.

APPENDIX F. SUBMISSIONS

Provided on the attached compact disk.

APPENDIX G. PREFERRED PROJECT REPORT

Provided on the attached compact disk.