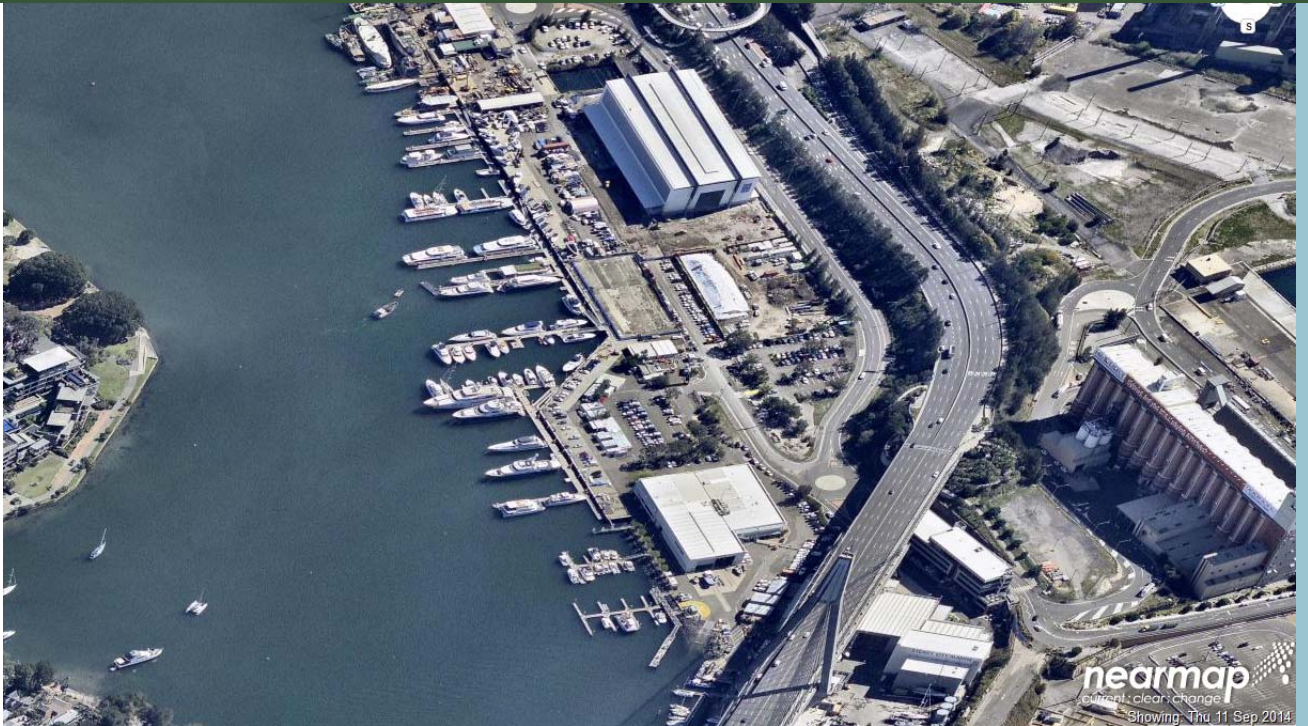


Environmental  
Assessment - S75W  
Eastern Sector

# SYDNEY SUPERYACHT MARINA MP09\_0165



26/03/2015

Environmental Assessment S75W modification to consent MP09\_0165 under the former Part 3A of EP & A Act

In respect of:

Land-based redevelopment of Super Yacht Marina comprising:

- Construction of two commercial maritime buildings with ancillary uses
- Construction of a multi-level car parking building
- Off-street car parking and associated landscaping

At 2 Maritime Court, or Lot 2 James Craig Road, Rozelle NSW 2039

Applicant Name:

Sydney Superyacht Marina Pty Ltd

Applicant Address:

C/o Urban Perspectives GPO Box 4507  
Sydney NSW 2001

Land on which activity to be carried out:

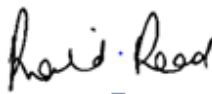
Part Lot 32 and Part Lot 33 DP 1151746  
known as Lot 2 James Craig Road or 2  
Maritime Court, Rozelle NSW 2039

**Declaration**

I declare that I have prepared this s75W Modification application and to the best of my knowledge:

- It has been prepared in accordance with Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*;
- It contains all available information that is relevant to the environmental assessment of the activity to which this statement relates; and
- The information which it contains is neither false nor misleading

Signature:



Name:

Rosalind Read

Date:

26 March 2015

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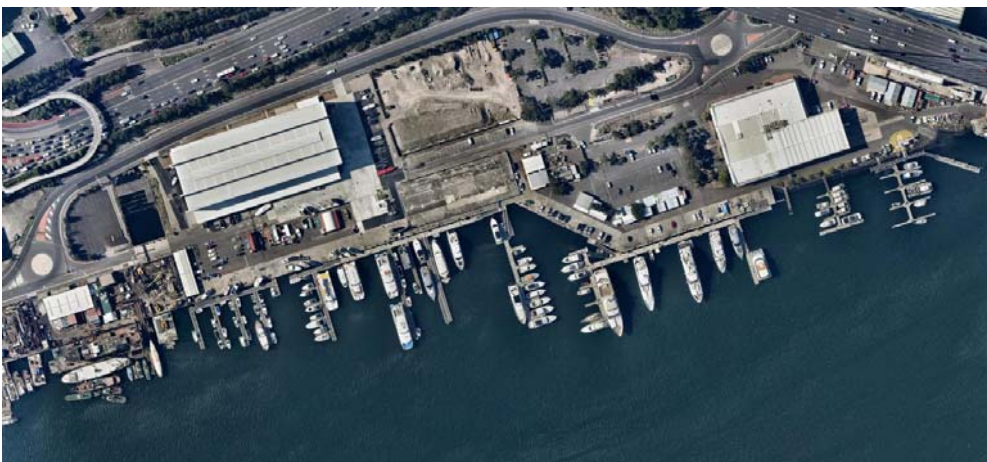
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- Appendix B1: Marked up requested changes to conditions
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- Appendix C: Compliance Table for SREP (Sydney Harbour Catchment) 2005
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- Appendix G: Montages of approved and proposed development and Sydney Boathouse
- Appendix H: Traffic Report of Transport and Traffic Planning Associates
- Appendix I: Calculation of car parking requirements under Leichhardt DCP 2013
- Appendix J: Marine Ecology Report of Marine Pollution Research Pty Ltd
- Appendix K: Acoustic Assessment of Acoustic Logic



Source Nearmap

## Definitions

2008 Consent	Part 4 of the Environmental Planning & Assessment Act 1979 Consent 088-05-08 dated 29 August 2008 in relation to Lots 32 and 33 James Craig Road Rozelle
Amended DGRs	The amended Director General's Requirements issued on 23 December 2013 to the original Director General's Requirements issued for the original Part 3A application
Conditions of Approval	The Minister's Conditions of Approval for the Project
Department, the	Department of Planning & Environment, formerly the Department of Planning and Infrastructure
Director-General, the	Director-General of the Department of Planning and Infrastructure or delegate
Master Plan	Rozelle and Blackwattle Bays Maritime Precincts Master Plan dated 6 September 2002 made pursuant to Sydney Regional Environmental Plan No. 26 – City West.
Minister, the	Minister for Planning & Environment (formerly the Minister for Planning and Infrastructure).
NSW Maritime	Maritime Authority of NSW trading as NSW Maritime
Part 3A Consent	The consent under the former Part 3A of the EP & A Act dated 26 November 2012 to MP09_0165
Proponent, the	Sydney Superyacht Marina Pty Ltd ABN 94 127 177 904
Secretary	The Secretary of the Department
Site	Part Lot 32 and Part Lot 33 DP 1151746 known as Lot 2 James Craig Road or 2 Maritime Court, Rozelle NSW 2039 formerly being 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, being the subject of this application.

## Acronyms

dB(A)	Decibel, 'A' weighted scale
DCP	Development Control Plan
DoPE	Department of Planning and Environment
EA	Environmental Assessment by Urban Perspectives dated 8 December 2010 on behalf of the Proponent for development at the Site
EP&A Act	Environmental Planning and Assessment Act 1979
GFA	Gross Floor Area
LGA	Local Government Area
PPR	Preferred Project Report
PPR Addendum	The addendum to the Preferred Project Report dated 1 August 2012
RMS	Roads and Maritime Services
RTA	Roads and Traffic Authority now comprised within the RMS
SEPP	State Environmental Planning Policy
SHFA	Sydney Harbour Foreshore Authority
SREP	Sydney Regional Environmental Plan
SSYM	Sydney Superyacht Marina Pty Ltd ABN 94 127 177 904.



Source Nearmap

## Executive Summary

This modification application under the former s75W of the Environmental Planning and Assessment Act 1979 (EP & A Act), seeks a number of amendments to the approved consent MP09\_0165 dated 26 November 2012 in respect of Sydney Superyacht Marina at 2 Maritime Court Rozelle (the Part 3A Consent). The modifications seek:

- to consolidate the existing Part 4 consent relating to the water facilities into the Part 3A Consent for the land
- to upgrade the berthing arrangements, reconfigure the pontoons and increase the approved number of vessels from 24 superyachts of varying sizes to 43 vessels of not less than 15 metres in length, together with the right to store a tender for each berthed vessel (limited to a maximum of 36 tenders on water). The berthing will allow for at least 24 vessels of at least 24 metres each to be berthed at any one time
- to increase the number of car parks on the Site – to be achieved by lengthening the car park building and adding another level on the car park building
- remove the car park car lifts and replace with a two way ramp, and include a passenger lift
- remove the 13 car spaces on the northern side of the western building
- to add a small area of a gross floor area (GFA) of 540m<sup>2</sup> as an additional second level on the eastern building which will include approximately 270m<sup>2</sup> of GFA lost due to the car park extension
- to seek consent for outdoor seating areas as specified in condition A11(d) of the Part 3A Consent
- to allow for tender and recreational watercraft storage on land
- to allow for marine storage facilities within the car park building
- to include the ability to enclose part of the ground floor of the car park building for use by marine commercial facilities which are more suited to a less formal commercial environment to that provided by the eastern building.

The report includes assessment of the additional matters raised by the amended Director General's Requirements dated 23 December 2013 ("Amended DGRs") and reconsiders other aspects in the Amended DGRs which are affected by the proposed modifications.

The assessment finds that:

- the modifications are permissible by the relevant zoning instruments SREP26 and SREP (Sydney Harbour Catchment)
- The modifications are consistent with the principles and aims of the Master Plan except for some inconsistencies with the Master plan controls for height, one setback and the focal point
- The modifications do not trigger the controlled activity provisions of the Water Management Act
- The modifications do not require an Environment Protection Licence under the Protection of the Environment Operations Act 1997
- Navigational aspects have been considered and are manageable. A vessel traffic management plan is proposed.
- The visual impact of the modifications is small and demonstrated by montages.
- Public access along the foreshore is maintained and provision for wider access than is required by the Masterplan has been incorporated
- Traffic circulation around the Site is improved by deletion of car lifts and incorporation of a two way ramp. Additional car parks and motor bike parks are incorporated. No negative impacts are envisaged from the extension of the car park.
- Acoustic impacts of outdoor seating were incorporated into the original assessment. The modifications including incorporation of the water facilities and increase in approved vessels will not cause unacceptable acoustic impacts
- The impacts on the marine ecology will be minimal and temporary disturbances from construction will quickly settle.
- Whilst there is contamination of the sea bed, this is standard in the Port Jackson area. The modification will not create any undue disturbance of those sediments and the Site is suitable for use as a marina pursuant to SEPP55.

Conditions of consent and the statement of commitments have been recommended to be altered to reflect the modifications and regulation of use. The proposed modifications are acceptable from an environmental perspective and are recommended for approval.

# 1. Introduction

## 1.1 General

This statement supports an application for a s75W modification application to the approved redevelopment at Sydney Superyacht Marina, 2 Maritime Court Rozelle.

Sydney Superyacht Marina Pty Ltd has received consent under Part 3A of the Environmental Planning and Assessment Act 1979 (EP & A Act) for the construction of two commercial buildings and a car park on the land at the Marina, including ancillary uses, car parking and landscaping – being consent MP09\_0165 dated 26 November 2012 (the “Part 3A Consent”). That application did not cover any of the water activities associated with the marina which currently operate under a different Part 4 consent, being 088-05-08. Works have commenced under the Part 3A Consent.

The land included in the Part 3A Consent is situated at Part Lot 32 DP 1151746, approximately 3 kilometres from Sydney CBD. The modification application seeks to add the water part of the Site to the Part 3A Consent which is comprised in Part Lot 33 DP 1151746.

The Site is owned by the Maritime Authority of NSW now part of the Roads and Maritime Services (RMS) from whom the applicant leases the land and water parts of the marina.

## 1.2 Objectives of the Modifications

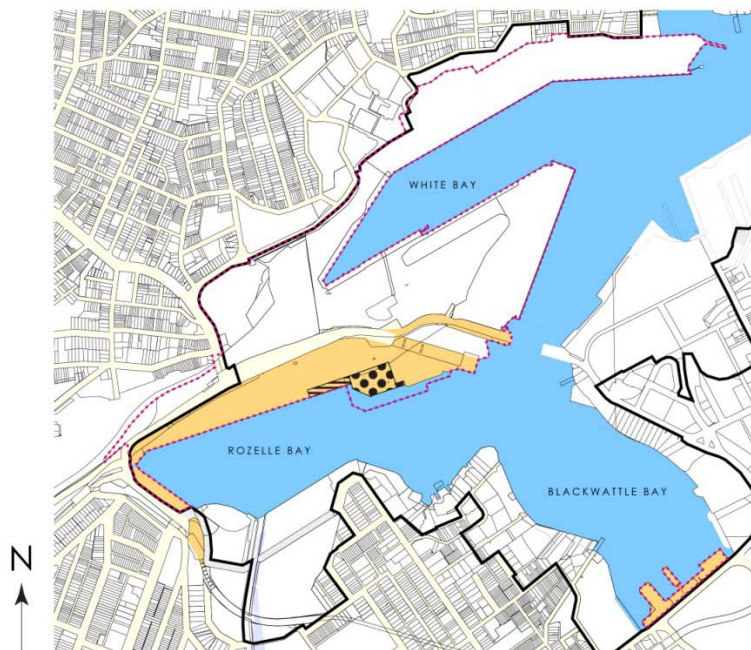
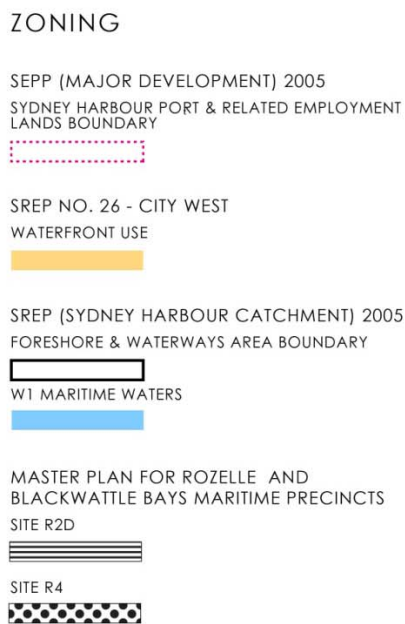
There are a number of objectives of the modification application:

- to consolidate the existing Part 4 consent relating to the water facilities into the Part 3A Consent for the land
- to upgrade the berthing arrangements, reconfigure the pontoons and increase the approved number of vessels from 24 superyachts of varying sizes to 43 vessels not less than 15 metres in length, together with the right to store a tender for each berthed vessel (limited to a maximum of 36 tenders on water). The berthing will allow for at least 24 vessels of at least 24 metres each to be berthed at any one time
- to increase the number of car parks on the Site – to be achieved by lengthening the car park building and adding another level on the car park building
- remove the car park car lifts and replace with a two way ramp, and include a passenger lift

- remove the 13 car spaces on the northern side of the western building
- to add a small area of a gross floor area (GFA) of 540m<sup>2</sup> as an additional second level on the eastern building which will include approximately 270m<sup>2</sup> of GFA lost due to the car park extension
- to seek consent for outdoor seating areas as specified in condition A11(d) of the Part 3A Consent
- to allow for tender and recreational watercraft storage on land
- to allow for marine storage facilities within the car park building
- to include the ability to enclose part of the ground floor of the car park building for use by marine commercial facilities which are more suited to a less formal commercial environment to that provided by the eastern building.

**1.3 Site Context**

The Site is a waterfront site on the northern side of Rozelle Bay between the existing NSW Maritime (RMS) building to the east and Sydney Boathouse to the west. Figure 1 shows the location and zoning provisions relevant to the Site. The majority of the land part of the Site (excluding the water frontage on the concrete apron) is within Leichhardt Local Government Area, although the waterfront area comprising a concrete apron over the water varying generally from approximately 8 metres to 12 metres in width, is not within the Leichhardt LGA.



*Figure 1 Site Zoning map*

The Site is within the Foreshores and Waterways area identified in SREP (Sydney Harbour Catchment) 2005 and is therefore covered by the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005. The water part of the Site is zoned W1 maritime waters by SREP (Sydney Harbour Catchment) 2005. The land is zoned Waterfront Use by SREP 26 – City West and is considered in the provisions of the Rozelle and Blackwattle Bay Master Plan 2002, promulgated pursuant to SREP 26 – City West.

Significant nearby land uses and zoning include:

- NSW Maritime Offices to the east
- Sydney Boathouse (partially constructed) to the west
- Sydney City Marine to the east under Anzac Bridge
- Glebe Island (zoned Port and Employment lands under SREP 26) on which the temporary exhibition centre is constructed
- The new White Bay overseas passenger terminal on the north side of White Bay
- Residential housing and parklands on the south side of Rozelle Bay in Glebe, the closest being approximately 250 metres from the Site.
- Various other maritime industrial uses are further to the west fronting Rozelle Bay.

#### 1.4 Site Description

The Site currently includes the following improvements and uses:

- Land
  - Various demountable buildings, including the marina offices and attendant's rooms from which the marina operations are run
  - Various containers
  - At grade car parking
  - Services provisions for the marina, including sewage pumpout, electricity provision, and waste collection area
  - The "Liquidity" restaurant building has been removed
- Water
  - Pontoons, gangways, piles and finger wharfs.
  - Mediterranean style mooring provisions
  - Superyachts, their tenders, marina operations boats and other smaller boats are moored at the marina

There are various easements which affect the Site, most notably:

- An easement for services along the waterfront edge (L on the deposited plan)
- A Telstra easement running along the northern part of the Site (K)

- An electricity substation and electricity easement benefitting Ausgrid along the eastern edge of the Site (BB).
- An easement in favour of Ausgrid for electricity purposes in the north east corner of the Site (E in DP 1183214).
- Along the northern boundary on Site are easements for services, and rights of access KK, Q and S in DP 1151746 benefitting Telstra, Sydney Water and the RMS
- It is proposed that an electricity kiosk will be placed on the western edge of the land adjacent to the western building. Provision for this has been allowed for in the modification application (MOD2) already lodged with the Department. Easements benefitting Ausgrid are proposed between Ausgrid and the RMS.

The land is presently largely covered by asphalt. The seawall is approximately 10 metres to the north of the wharf edge. The water depth of the marina ranges from 4.6m to 7.6m with most of the area between 6-7m below the Zero Fort Denison Tide Gauge (ZFDTG) level seabed (See the levels as set out in the Statement of Environmental Effects which accompanied the 2008 Consent which is included in the Marine Ecologist's report in Appendix J).

### 1.5 Previous development consents for the Site

A number of development consents and modifications have been issued over the Site, summarised as follows:

- 1999 Part 5 Operational Works and Millennium Berths including berths for 10 visiting vessels and 10 tenders. This was refined by DA 088-05-08 in 2008
- 1999 Part 4 temporary land based facility for visiting vessels and part 5 for an additional 17 vessels and 19 tenders to total 27 visiting vessels from 30-70m length and 29 tenders. The part 4 was amended in 2001 to include the Liquidity restaurant and a temporary marquee
- 2002 consent under DA 084-04-2002 for a temporary facility for visiting vessels for 12 months. This was extended 7 times and lapsed on 12 March 2012. It provided principally for the operation of the Liquidity Restaurant
- 2008 consent 088-05-08 under Part 4 of the EP & A Act which covered all of the water part of the Site and all of the land excluding that part on which the Liquidity Restaurant building stood (the 2008 Consent). Its main approvals included the operation of the marina and:
  - On the land:
    - Retention of services, offices and amenities, landscaping and signs

- refined the car park layout for 50 cars, the remainder for NSW Maritime use, and removal of 52 car spaces along the waterfront
- refined the 24 hour public access to the foreshore
- On the water
  - amended the layout of the berths, and allowed for Mediterranean style moorings and reduced the mooring area
  - reduced the number of berths to 24 vessels between a 20 metre and 70 metre maximum length, with various numbers of boats of separate lengths, but no provision for tenders
  - demolish the fuel facility and a section of the wharf apron.
- 2012 Part 3A major project consent MP09\_0165 in relation to the land only. Works relating to the western building have already commenced:
  - 2 buildings of two storeys each, including the uses of marine offices, a yacht club, ancillary restaurants and bars and cafes and a provedore
  - A 4 level car park with parking for 219 cars on the Site (including some at ground parking)
  - 24 hour public access to the waterfront
- 2014 Part 3A modification under s75W (MOD2) has been made (but not determined) for minor alterations to the western building, generally being:
  - Clarification of balcony setbacks
  - Minor location issues
  - Relocation of uses in the ground floor
  - Removal of air lock requirement
  - Consequential and typographical amendments to the conditions of consent.
  - Two external staircases

The 2008 Consent includes conditions regarding noise during operations, a vessel management plan, a complaints procedure and waste management, the effect of which is to provide consent to the marina operations on Site. The marina has operated pursuant to this consent since 2008, including the use of the retained buildings labelled "O", "S" and "W", the use of the demountable office and marina attendant's amenities and the retention of landscaping. The majority of the pontoon reconfigurations approved under the 2008 Consent have not been undertaken.

The Liquidity building has been removed from the western part of the Site and a construction certificate has been issued in respect stage 4 and 5 under the Part 3A Consent for the piling for the western building. The piling works have been undertaken under that construction certificate.

## 1.6 Amendment to Director General's Requirements

On 23 December 2013 the Department issued amended Director General's Requirements (Amended DGRs) in respect of the project. The principal changes arising under the Amended DGRs included:

- the general requirements;
- identification and assessment of the visual impacts of the amendments, including on Rozelle Bay;
- provisions regarding marina development and navigational safety;
- a Traffic and Transport Assessment report to assess the cumulative impact of the proposal associated with other construction and operational activities on the Site and the surrounding area;
- a staging of the development table, listing different land uses, a floor by floor breakdown of GFA, total GFA, and site coverage as relevant to each stage and with reference to the overall development;
- details of plans and documents to accompany the application

A copy of the Amended DGR's and a compliance table is attached as **Appendix A**.

## 2. Proposed Modifications

### 2.1 Increase in the Area covered by the Part 3A Consent

The modification application seeks to extend the area covered by the Part 3A Consent so as to include the water aspects of the marina in addition to the land based activities, being an area of approximately 17,544m<sup>2</sup>. The Part 3A Consent currently covers the land area comprising approximately 11,640m<sup>2</sup>.

### 2.2 Pontoon Arrangements and Approved numbers of vessels

The applicant has a number of objectives for the new berthing arrangements to increase flexibility of use of the area.

Firstly the RMS requires the applicant to demonstrate that 24 boats of 24 metres or longer can be berthed in the marina at any one time. This is demonstrated by plan DA04R RevE dated 7/2/2014 with the 24 metre boats outlined in red.

Secondly the applicant seeks to increase the number of allowable vessels using the marina to 43 vessels of not less than 15 metres in length, plus a maximum of 36 tenders on water. This application seeks the flexibility of berthing arrangements to allow maximum usage of the marina. The boats would continue to be restrained in length by needing to moor within the limit of moorings line established in the 2008 Consent. The Limit of Moorings is proposed to be retained under this application.

Plan DA04E illustrates a proposed configuration of pontoons. Gangways are to be relocated and reused, and sections of existing pontoons and finger wharfs and piles will be relocated and reused. New piles and pontoon arms will be installed.

Some of the area between the two arms in the western portion may be used for the display of vessels for sale by one of the tenants occupying some of the commercial office space at the marina. This use is permissible in W1 Maritime Waters under SREP (Sydney Harbour Catchment) 2005. There would likely be relocatable pontoons within this area. Some traditional mooring of boats may also occur within this area, depending upon demand.

### 2.3 Use of the Marina

The marina berths currently operate under the 2008 Consent. The applicant desires to have the whole of the marina operation governed by a single consent. Use of this area as a marina is permissible in the relevant W1 Maritime Waters zoning. Consent is sought to operate the superyacht marina from part of Lot 33 DP 1151746 in the area outlined in the plans for 24 hour operation.

### 2.4 Modifications to the car park building

The application seeks to increase the car park numbers from 219 to 237 dedicated car parks. Additionally the following uses are proposed for 70 additional spaces on the Site:

- Thirty three (33) spaces are to be flexibly available for car parking or enclosed storage within the car park building – being 11 spaces at the western end of each of levels 1, 2 and 3. This avoids a solid structure on the roof of the car park building, hence minimising any visual incursion by the enclosed storage units.
- An area of 17 car spaces on the northern side of the ground floor of the car park building will be flexibly used (depending upon demand) for marine commercial facilities. These units will be glass fronted on the northern façade and likely have roller door access into the car park. Construction material at the sides will likely be by steel and gyprock. The units do not extend over the location of the Telstra and Ausgrid easements beneath the building.
- The 20 approved car spaces along the foreshore will be flexibly used either as car parks or tender boat/recreational watercraft storage.

The proposed modifications include:

- The addition of another level (increasing from 4 levels of car parking to 5)
- The extension of the area covered by the car park building.
- The increase in height of the car park building top level from RL11.4 to RL13.6 – an overall height increase of 2.2 metres.
- The reduction in the car park level heights between the surface of each level from 3.1m to 3.0m on the ground floor and to 2.75m on the other levels. The ground floor clearance is therefore 2.5 metres and clearance is 2.25m on the upper levels. The ground level car park RL is increased to RL 2.35 from RL 2.1 due to a review of the existing ground level over the Telstra Easement under the car park.
- Reduction in the northern setback from 3.83m to zero to allow for the wider car park ramp for two way traffic

- The approved car park includes 3 car park lifts for the vehicles, and a down ramp with two staircases for pedestrian access. This modification seeks to:
  - remove the 3 car park lifts
  - amend the location of the access ramp
  - make the access ramp two way
  - add a pedestrian access lift; and
  - add another pedestrian access stairwell
- The application will also improve traffic circulation
- A toilet and washbasin are included in the ground floor of the car park building to provide facilities for those using the maritime commercial facilities in the car park building and for users of the facility who do not wish to enter the main two buildings for these amenities.
- Relocation of the identification tower to the north-west corner of the car park over the proposed pedestrian access lift. The tower would have a height of RL18.6 – being 1.7 metres higher than the approved RL16.9.
- A summary of the proposed car parking arrangements is:
  - The total increase in car spaces is 88, however the total increase in dedicated car spaces is 18
  - The number of spaces within the car park building increases from 140 to 245, but with the flexible use of 50 (33 for storage and 17 for commercial use), there will be 195 dedicated car spaces in the car park building
  - 13 car spaces have been removed from the northern side of the western building
  - The number of parks outside the car park building decreases from 79 to 62, but with the flexible use of 20 for tender boat and passive recreational craft storage, there will be 42 dedicated car spaces at ground level
  - The reduction in tandem affected car parks on the Site from 46, to 8 on the roof
  - Provision for 9 motor bikes has been made at ground level
  - Includes 3 accessible car parks
  - Includes 54 bike spaces

It is proposed that there will be access restrictions such as a boom gate at the car park entrance to enable monitoring of car park use and to restrict access to those entitled to use the parking on Site.

Despite the increase in the car park building, site coverage will remain below the Master Plan site coverage requirement of 0.5:1. Site coverage will be 0.38:1.

The difference between the approved and proposed car parking is summarised in table 1 below:

**Table 1 Comparison of Car parks**

Car Parks	Approved	Proposed	Proposed other flexible uses	
<b>Car Park Building</b>	140	245		
Car park flexible use:			33 17	marine storage units commercial marine facilities
<b>At Grade (external)</b>	79	62		
Car park /tender/ watercraft flexible use:			20	tender and watercraft
Total	219	307	70	
<b>Total less other uses</b>	<b>219</b>	<b>237</b>		

## 2.5 Modifications to eastern building

The application seeks the following amendments to the eastern building:

- The removal of the north western corner to facilitate the increase in the car park building. This totals about 270m<sup>2</sup> – being 135m<sup>2</sup> on each level.
- The addition of a roof level to a height of RL 15.250, set back from the waterfront on the middle northern section of the building, comprising approximately:
  - 540m<sup>2</sup> additional gross floor area for commercial maritime uses, and
  - A roof terrace area of approximately 545m<sup>2</sup> with 40m<sup>2</sup> of landscaping, to be used in association with marine uses
- Use of the roof level will be for commercial maritime use.
- A relocation of the stairs, lifts and toilets from the approved scheme.
- Screening for the plant on the top level for visual and acoustic protection

## 2.6 Use of the Gross Floor Area of the Site

In a separate s75W modification application (MOD2), approval has been sought for the redistribution of uses in the western building, taking into account a recalculation of GFA in the western building. The tables below include figures incorporating the changes requested in that modification.

The major amendment to uses in this application arises because enclosed car park storage and car park maritime facilities add 450m<sup>2</sup> and 220m<sup>2</sup> respectively to the maritime uses on Site. The storage in the car park is ancillary to the marine uses. The maritime facilities in the car park ground floor are those which are more suitably placed outside the main marina buildings due to their more workshop style use rather than office use.

Recalculation of the GFA over both approved main buildings suggests the GFA will slightly increase from 6200 to 6210m<sup>2</sup>, however the addition of GFA from the enclosed storage and car park commercial maritime facilities will potentially increase the GFA to 6880m<sup>2</sup> – an 11% increase in site GFA.

This increases the marine uses on Site from the approved 45.9% to 54% of the Site. The conditioned restriction on 1417m<sup>2</sup> of combined providedore and ancillary uses remains (reducing that percentage from 22.9% to 20.6%). The yacht club is reduced in percentage from 31.2% to 25.4%. This remains consistent with the requirements of the Part 3A Consent and the zoning instrument SREP 26. Plan DA13 reflects the requested revised uses. **Table 2** below sets out a comparison of approved and proposed use areas.

**Table 2 Approved and proposed GFA**

Building	Approved		Proposed	
	m <sup>2</sup>	m <sup>2</sup>	m <sup>2</sup>	m <sup>2</sup>
<b>Western building</b>				
Ground	1335		1265	
First Floor	1565		1375	
<i>Subtotal West Bldg</i>		<i>2900</i>		<i>2640</i>
<b>Eastern Building</b>				
Ground	1650		1515	
First Floor	1650		1515	
Second Floor			540	
<i>Subtotal East Bldg</i>		<i>3300</i>		<i>3570</i>
<b>Subtotal east &amp; west building:</b>		<b>6200</b>		<b>6210</b>
<b>Car Park Building</b>				
Ground	0	0	220	
Level 1,2 & 3			450	
<i>Subtotal Car Park Building</i>		<i>0</i>		<i>670</i>
<b>TOTAL</b>		<b>6200</b>		<b>6880</b>

It is intended to retain the Part 3A Consent condition requiring the ancillary functions of restaurant and providedore not to exceed both 1417m<sup>2</sup> and 22.9% of GFA. Taking into consideration the request made to amend the location and areas in the s75W modification application relating to the western building, **Table 3** sets out the proposed uses of the whole of the Site. As demonstrated in **Table 4** this ensures that the % of ancillary and providedore uses is less than currently approved, reduces the area and percentage of the yacht club, and increases the area assigned to marine commercial uses.

**Table 3 Proposed Distribution of uses**

Building	Level	m <sup>2</sup> GFA	Land Use	m <sup>2</sup>	% GFA of Site	m <sup>2</sup>	%
Western	Ground	1265	A Marine	430	6.3		
			B Yacht Club	370	5.4		
			D Provedore	465	6.8		
	First Floor	1375	B Yacht Club	1375	20.0		
<i>Subtotal</i>						2640	38.4
Eastern	Ground	1550	A Marine	1039	15.1		
			C Restaurant/bar	476	6.9		
	First Floor	1550	A Marine	1039	15.1		
			C Restaurant/bar	476	6.9		
	Roof level	540	A Marine	540	7.8		
<i>Subtotal</i>						3570	51.9%
Car Park	Ground	220	A Marine	220	3.2		
	1, 2, & 3	450	A Marine	450	6.5		
<i>Subtotal</i>						670	9.7
<b>TOTAL</b>		<b>6880</b>		<b>6880</b>	<b>100.0</b>	<b>6880</b>	<b>100.0%</b>

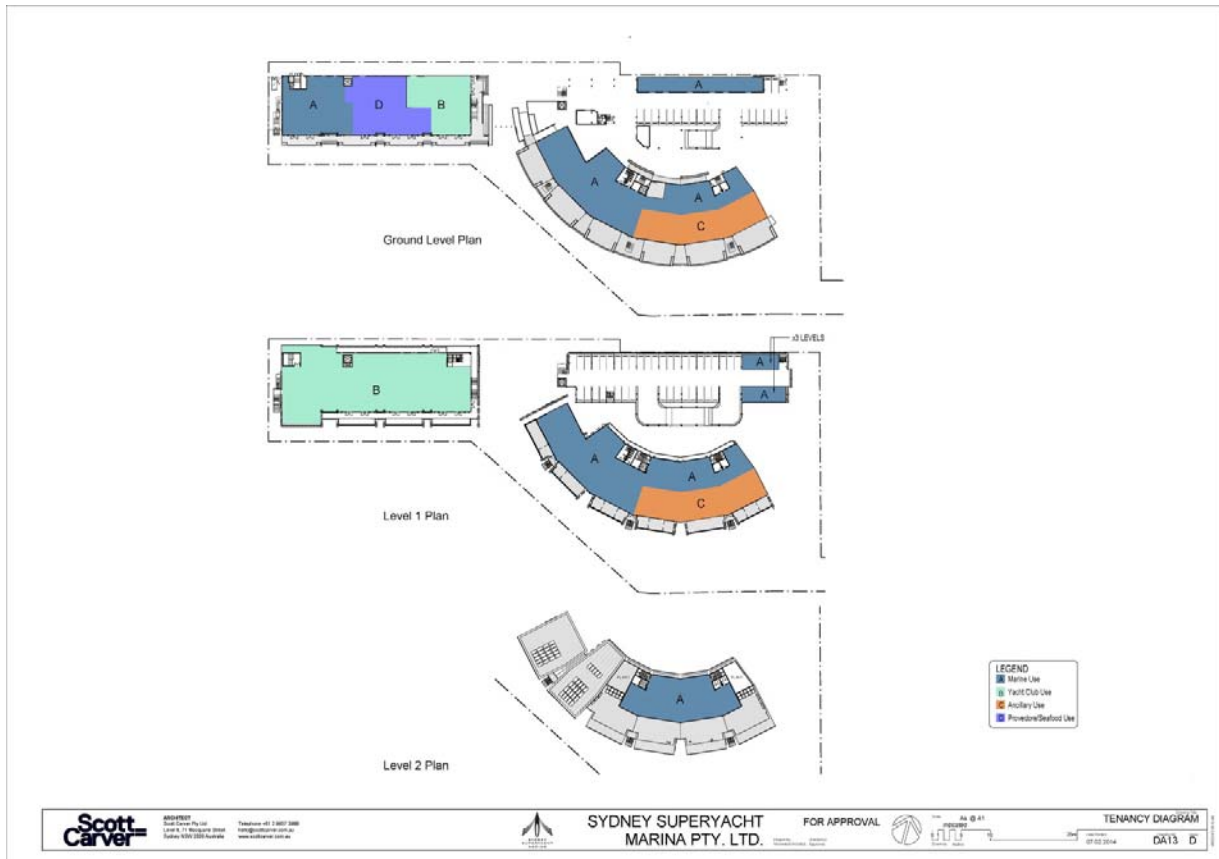
**Table 4 Approved and proposed GFA and % uses**

Building	Approved		Proposed	
	m <sup>2</sup>	% use	m <sup>2</sup>	% use
A Marine	2851	45.9	3718	54.0
B Yacht Club	1932	31.2	1745	25.4
C Ancillary/ Restaurants	966	15.6	952	13.8
D Provedore	451	7.3	465	6.8
<b>TOTAL:</b>	6200	100	6880	100.0%

The Part 3A Consent contains two specific instructions which the above distribution has taken into account:

- The provedore and ancillary uses shall not exceed 1417m<sup>2</sup>
- The provedore and ancillary uses shall not exceed 22.9% of total GFA

**Table 4** shows that the proposed combined totals are 1417m<sup>2</sup> (952+465) and 20.6% of the Site uses (13.8+6.8%). Taking into account the proposed redistribution of uses in the western building s75W the proposed location of uses is as set out in Figure 2 and in plan DA13D.



**Figure 2 Proposed use areas**

Discussions with the land owner RMS, has indicated support for the increase in potential GFA to 6880 m<sup>2</sup> from the approved 6200m<sup>2</sup>.

**2.7 Outdoor seating rearrangements**

The Part 3A Consent includes condition A11(d) which requires separate development consent for outdoor seating areas. It is proposed to seek consent to use all of the decks and balconies for outdoor seating, and part of the wharf level forecourt, whilst maintaining the area set aside for the public access walkway along the foreshore. Consent is sought for seating to allow for maximum flexibility of usage over time to the operators of the Site. It is not envisaged that all of the areas will be used simultaneously for restaurant seating and other uses.

Plan DA19 illustrates the areas for outdoor seating for restaurant/bar/ancillary uses or the yacht club, being approximately 2172m<sup>2</sup> comprising:

- 295m<sup>2</sup> for use by the yacht club on the western building balconies and part of the western deck
- 152m<sup>2</sup> for the western building decks (excluding the yacht club)
- 573m<sup>2</sup> for the eastern building decks
- 302m<sup>2</sup> for the eastern building balconies
- 850m<sup>2</sup> for the wharf level seating in front of the eastern building

Additionally an area of 545m<sup>2</sup> on level 2 of the eastern building is sought for uses associated with the adjacent marine uses. This area would not be utilised for restaurant seating. It is proposed that the hours for which noise modelling was conducted under the original assessment for outdoor seating be retained. The draft amendments to the statement of commitments and conditions reflect use of outdoor seating areas between 7.00am and 10.00pm Monday to Sunday.

Consequent amendments to the Statement of Commitments are sought to remove the restriction that the outdoor seating areas must be adjacent to the indoor tenancy and be limited to 465m<sup>2</sup>. Those restrictions were imposed because the number of car parks specified by the then current Leichhardt DCP proposed a higher level of car parks than those being applied by the Council as from 3 February 2014. Calculations set out in **Appendix I** indicate that this level of outdoor seating can be supported by the car parking available.

## 2.8 Alteration to entrance area and services

To allow for an improved visual impact on arrival the access from the car park has been opened up by relocation of the services between the car park building and the western building. This also enables an entrance forecourt for the western building in the middle of the Site, improving the wayfinding and visual impact for users.

## 2.9 Storage of tenders and passive recreation craft on the land

It is proposed that the 20 car spaces approved on the foreshore be used flexibly as either car spaces, for storage of tender boats associated with the marina, or for storage of other watercraft. The mix of uses will depend on demand from time to time. This is ancillary to, and supports, the marina and marine commercial uses.

## 2.10 Amendment to Conditions and Statement of Commitments

Consequential and minor amendments to the Conditions are sought. Some amendments have been sought pursuant to another modification application relating

solely to the western building (MOD2). Requested changes are set out in **Appendix B1** but are summarised below:

- Schedule 1 description of the Land and the Project
- Definitions – “Project” to include amendment to vessel numbers and changes to pontoons
- Schedule 2, A1 – amendments to parapet heights and GFA and the levels of buildings and car parks
- Condition A2 – add in a Stage 7 to allow for the relocation of pontoons and berths at any time
- Condition A3 – add in the plan numbers showing amendments
- Condition A6 – altered GFA and percentages allowing for flexible GFA provision in the car park building
- Condition A7 – amend numbers of car parks provided and number allocated to the marina berths and outline flexible uses
- Condition A14 - provides for the surrender of the 2008 Consent upon receipt of the final occupation certificate
- Condition B1 – delete as this has already been satisfied
- Condition B8 – amend the GFA
- Condition E8 – amend GFA and parapet heights accordingly
- Condition F1 include storage and provided in the hours of operation

Note that it is proposed to surrender the 2008 Consent upon receipt of the final occupation certificate. This is intended to prevent the potential for conflict between the two consents which currently apply to the land and water.

Consequential amendments to the Statement of Commitments set out in **Appendix B2** include:

- Deletion of reference to underground storage tanks on page 25. These were unable to be removed due to the proximity to in-ground services. They have been filled with concrete by the RMS.
- Deletion of Use of the buildings (page 25-26) as this is covered by proposed revised condition A6.
- Deletion of the Operating Hours (page 27) as this is covered by proposed revised condition F1.
- Removal of requirement for use of outdoor decks to be used only in association with adjoining or adjacent tenancies (page 26)
- Reword “public easement” to “public access route” on page 33 and page 36 to be more legally correct.

- Remove reference to car park lifts on page 28 and in the Traffic Management Plan on page 35 and 36
- Review of car parking restrictions on page 36. This adopts the number of car spaces for restaurants etc required under the 2013 DCP – at a rate of 1/80m<sup>2</sup>. If the provided use is converted to restaurant use (at 1417m<sup>2</sup> total), the number of car parks required under the DCP for restaurant use will be 18 (1417/80 = 18).
- Delete the requirement to seek a modification to the 2008 Consent on page 36.

### 2.11 Staging

The approved stages divide the eastern building as stages 1, 2 and 3 (east to west), the western building as stage 4 and 5 and the car park as stage 6. Condition A2 indicates that these can be conducted in one or two scenarios:

1. Stage 4 and 5 in any order followed by 6, then stages 1, 2 and 3 in any order
2. Stage 1, 2 and 3 in any order, following by 6, then 4 and 5 in any order.

This application seeks a 7<sup>th</sup> stage for the relocation of the pontoons and berths. If consent to this modification application is granted, it is likely that this will be done shortly after that date. Construction of the western building (4 and 5) has commenced and a separate s75W modification application relating specifically to the western building has been lodged to facilitate the continued construction of that building. If approved in the form generally set out in this application, it is most likely that the car park (stage 6) will be constructed at the same time as the stage 4 and 5. This would ensure adequate parking for the yacht club and other uses of the western building from approximately the date on which the western building obtains its occupation certificate. It is likely that stage 1, 2 and 3 would be constructed at the same time as this is most cost effective.

The amended DGRs require a table setting out the floor by floor breakdown of uses with GFA and site coverage relevant to each stage. The most likely reason for this request is to ensure that the condition restricting ancillary/provedore uses to at no time exceed 50% of the GFA then on Site, is complied with (condition A6(c)).

**Table 5** sets out the most likely manner in which the project would be staged. The marina berths would be reconfigured on a staged basis during the low seasons, prior to the completion of stages 1, 2 and 3.

For site coverage calculations, the water site has been discounted. The proposed GFA figures requested under this and the MOD2 western building s75W application have been used.

**Table 5 Staged Provision of GFA and Site Coverage**

Stage	Building	Level	m <sup>2</sup> GFA	Land Use	m <sup>2</sup>	% GFA of Site	% GFA of constructed development	Site cover-age	Car parks	
4&5	Western	Ground	1265	A Marine	430	6.3	16.3			
				B Yacht Club	370	5.4	14.0			
				D Provedore	465	6.8	17.6			
		First Floor	1375	B Yacht Club	1375	20.0	52.1 (total; 66.1% of west bldg.)	1348/11640= 11.6%		
	<i>Subtotal</i>				<i>2640</i>	<i>38.4</i>	<i>100%</i>	<i>16.7% (1)</i>	<i>141</i>	
6	Car Park	Ground	220	A Marine	220	3.2	6.6			
									1535/11640= 13.1%	
				1, 2, & 3	450	A Marine	450	6.5	13.6	
	<i>Subtotal stage 4, 5 and 6</i>				<i>3310</i>	<i>48.1</i>	<i>A Marine 33% B Club 53% D Prov 14% Total 100%</i>	<i>27.3% (2)</i>	<i>125-195</i>	
7	Marina berths								125-195	
	<i>Subtotal 4,5,6,7</i>						<i>As above</i>			
1,2,3	Eastern	Ground	1550	A Marine	1039	15.1	15.1			
				C Rest /bar	476	6.9	6.9			
		First Floor	1550	A Marine	1039	15.1	15.1			
		Roof level	540	A Marine	540	7.8	7.8	1562/11640= 13.4%		
	<i>Subtotal all stages</i>		<i>6880</i>		<i>6880</i>	<i>100.0%</i>	<i>A Marine 54% B Club 25.4% C Ancil 13.8% D Prov 6.8% Total 100%</i>	<i>38.2% (3)</i>	<i>237</i>	

(1) 1348 + say 600m<sup>2</sup> existing demountables = 1948/11,640m<sup>2</sup> = site coverage

(2) 1348+1535+say 300 demountables =3183/11640

(3) 1348+1535+1562 = 4445/11640

Construction of the western building has already commenced. To ensure suitable car parking for the yacht club from the commencement of operations, it is desirable that the car park building be constructed to complete at about the same time.

Table 5 clearly indicates that at all stages, the number of car parks available for use will always be between 141 and 195, more than sufficient capacity under the 2013 DCP provisions.

## 2.12 Reasons for the Changes

### Increase in area of Part 3A Consent

The land based and water based marina facilities are interlinked and the effective operation of the marina relies upon having access, facilities and management from the land. For ease of management it would be advantageous for both the land and the water parts to be operating under the same consent, particularly as much of the 2008 Consent will not be relied upon once the Part 3A development is constructed.

The 2008 Consent provides for “Upgrade of Superyacht Marina including, reconfiguration of pontoon layout and rearrangement of existing berths, demolition of fuel facility and conversion to a waste management area, refine car parking, improvements to public access and landscaping”. This clearly reflects the interconnection between the facilities and operations conducted on the land to those on the water. The interrelationship can be demonstrated (both currently and following the completion of the Part 3A approved development) by:

- Marina berth customers access the marina from the land area
- Car parking is provided for marina berth customers on the land (as demonstrated by the 2008 Consent and condition A7 of the Part 3A Consent)
- The numbers of car parks approved in the Part 3A Consent reflects the number of berths approved at the marina by providing one car park for each berth
- Marina customers use the power, water, electricity services, waste collection and sewerage pumpout facilities that are supplied from the land at the marina
- Management of the berthing of customers’ vessels, including provision of marina attendants, is provided through the marina office facilities on the land
- Ancillary yachting support services and provisioning are provided by other commercial services on the Site (both existing and proposed)
- Following construction of the Part 3A development, additional services for the vessel customers will be provided, such as ancillary food outlets, a provedore and a yacht club.
- The lease of the land area and the water area are held by the same entity, and operation of the berths would not be possible without access over and operational services provided from, the adjoining land.
- The land and water based activities have always operated in conjunction with each other since the marina’s establishment in 1999.
- Marina berths already exist at the Site, and the proposed extension of the area covered by the Part 3A Consent will not involve a new or different use. It will however involve increased berthing for smaller boats.

Given the very clear nexus between the water based and land based operations of the superyacht marina, it is reasonable to have both sections operating under the same consent. The existing water consent for operations arises under the 2008 Consent. Once the buildings are constructed under the Part 3A Consent, the 2008 Consent will only be operative with respect to the water component (although of course it will remain applicable to the land as with any current development consent).

For the ongoing cohesiveness of the management of the whole Site, to have the water facilities included in the same consent as the land based facilities will overcome confusion and unnecessary duplication.

### **Number of Vessels and Reconfiguration of Marina Pontoons**

The 2008 Consent provides for 24 vessels with no provision for any tender boats. This is impractical as the size of the superyachts necessitates the use of tenders to access locations around the Harbour for pick up and drop off. There is sufficient space at the marina for more than 24 vessels and it is a more efficient use of Harbour resources for the marina to be fully occupied rather than to expand other marinas in the Harbour.

The pontoon arrangement approved in the 2008 Consent includes a number of finger wharfs which are too small to provide the more efficient and marketable “alongside berthing” which is sought by boat owners and operators, and which is provided for in the proposed amendments.

The modification to increase the number of vessels permitted to berth is requested to maintain the financial viability and efficient use of the marina and associated land development facilities. The 2008 Consent was based on the marina being financially viable with provision being made for 24 berths for superyachts (defined as vessels over 24 metres in length). These market and financial estimates were based on a pre Global Financial Crisis (GFC) trend of increasing superyacht visitations. After the GFC the forecast upward trend in superyacht visitations has not continued. The land based development has up to 54% of its GFA dedicated to marine related uses, where the tenants are largely reliant on servicing the marina clients. The inclusion of more vessels of 15 metres or more is required to provide a sustainable level of business activity for these marine tenants as well as the marina itself.

There is nothing apparent from the 2008 Statement of Environmental Effects indicating that the reduction to 24 boats in 2008 was prompted by any environmental impact resulting from the number of berths or vessels at the marina.

Increasing the number of vessels able to be berthed at the marina is consistent with the *Transport for NSW Draft Sydney Harbour Boat Storage Strategy* issued in April 2013. Section 4.1.3.7 considers this document at length.

Greater flexibility of vessel sizing and pontoon arrangements will enable better utilisation of the marina space to best accommodate fluctuating demand and assist the financial viability for the marina as a whole.

### **Car Parking and Storage**

The increased car park size allows for the provision of car parking for the proposed additional marina berths, as well as providing flexibility for use of the car parking facilities at the Site to provide storage.

The requested inclusion of storage facilities on land in storage compartments reflects the marine nature of the Site and will accommodate ancillary equipment required by marina customers. Some tenders for the superyachts do not need to be stored in the water, and some owners prefer the opportunity to store them close to their yacht but on dry land – avoiding the additional wear and tear and costs associated with on water storage. This is the reason the modification seeks consent for the storage on land of tenders.

Other watercraft users have also indicated a desire to store their craft on the Site, and to be able to utilise the services proposed on the Site. Provision for such storage is proposed in the 20 waterfront car spaces subject to demand.

### **Additional level (Eastern Building)**

The partial additional rooftop level will be used for commercial maritime uses. The additional GFA partly compensates for the loss in GFA arising from the increase in the size of the car park as well as providing a small increase in total development GFA.

## **2.13 Alternatives Considered**

### **Make no modifications**

The ongoing development of the marina and the land based activities could have been continued under the existing consents, however the interrelationship of the two elements identified that a single consent would minimise impacts on the operations of the Site.

In addition, to ensure the commercial viability of the marina, modifications to the 2008 Consent pontoons and the number of vessels needed to be made. With the interlinking of car parking spaces and service provisions to the Part 3A Consent it did not appear sensible to maintain operations of part of the site under the 2008 Consent.

### **Storage Facilities**

Marina clients require storage for associated equipment and insufficient space was allowed for this in the Part 3A Consent. Currently containers are used, however, it was considered that the development would be visually improved by integrating the storage within the car park building, rather than maintaining a less ordered use of containers.

### **Car Parking**

The RMS requested that the 13 car spaces along the northern edge of the western building be removed from the Part 3A Consent and SSYM wished to increase the number of vessel mooring positions on the Site. By increasing the car park size it enabled the capacity to accommodate these car parks, plus facilitate the marina storage as required.

SSYM has been approached by other water craft groups keen to make use of the facilities of the yacht club and other proposed uses and services at the Site. Such users require storage of their watercraft on the Site, hence the expansion of the watercraft (and tender boat) storage to potentially cover all of the 20 car spaces along the foreshore. This will enhance the activation and utilisation of the waterfront, a key aim of the planning regime.

### **Alternative Marine Facilities**

The request for marine commercial uses within the ground floor of the car park building arose from the small marine contractors and marine related business operators working in the area. These workers currently operate from minimal local facilities and the type of accommodation provided by the eastern building was not suited to the non-office style businesses which they operate. A toilet has been included in the car park ground floor to accommodate these tenancies.

### **Eastern Building additional level**

The changes to the car parking building necessitated changes to the Eastern Building. To reduce the visual impact of the additional level, it was proposed to step the building back from the water's edge rather than have the same floor plate as level 1. It also internalises the rooftop plant, shielded by landscaping and screening.

### **Outdoor Seating**

It was felt that along the forecourt area to the eastern part of the Site, a wider walking area (to 8 metres) would provide an improved public space. The outdoor seating will again provide a vibrancy, enhanced amenity and activation to the Harbour Foreshore.

## 3. Planning Instruments

Approval is required for the development under the transitional provisions relating to the repealed Part 3A of the Environmental Planning & Assessment Act. The Minister is the consent authority for the development.

As indicated above the land is zoned Waterfront Use under SREP 26 – City West and the water is zoned W1 Maritime Waters under SREP (Sydney Harbour Catchment) 2005. Generally the assessment provided by the EA, PPR and PPR Addendum regarding planning instruments is not altered by the proposed modification, however where there are differences, these are highlighted in this section.

### 3.1 Modification Application

This modification application is made pursuant to s75W of the former Part 3A of the EP & A Act. Section 75W allows for the modification of an approval and also enables the Director General to notify environmental assessment requirements with respect to the proposed modification with which the proponent must comply. On 23 December 2013 the Department issued modified DGRs.

The project is a transitional Part 3A project pursuant to the Schedule 6A provisions of the Act. Section 75R of the former Part 3A (generally) removed the provisions of Part 4 of the Act as relevant to an approved project. Part 4 includes provisions with respect to designated development and integrated development.

### 3.2 Zoning over the Land

The land is zoned under SREP no 26 – City West. The proposal is within the Bays Precinct created under SREP26 City West and is subject to planning principles for the City West as a whole (of which only some apply) and also the planning principles for the Bays Precinct specifically.

Under SREP 26 the land part of the Site is zoned Waterfront Use Zone, the objectives of which are:

- (a) To provide for development of water-based commercial and recreational activities, including facilities for the servicing, mooring, launching and storage of boats*

- (b) *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*
- (c) *To provide public access within and across the zone and to facilitate the extension of the Ultimo-Pyrmont foreshore promenade from Blackwattle Bay to Rozelle Bay and link with public access networks surrounding the precinct; and...*

Only uses which the consent authority is satisfied are generally consistent with one or more of the zone objectives are permissible within this zone. The approved uses within the Site which will not alter by this application are:

- Commercial maritime
- Yacht Club
- Restaurants, bar and café premises (ancillary uses)
- Provedore
- Public access along the foreshore
- Car parking areas

The Rozelle and Blackwattle Bays Maritime Precincts Master Plan ("the Master Plan") has preferred uses. The additional floorspace will be used for commercial marine uses which is one of the preferred land uses. Car parking is ancillary to the approved uses on the Site. Tender storage and marine storage is ancillary to the adjacent marina berths in the water. Hence the modification is permissible in the zoning.

### 3.3 Zoning over the Water

SREP (Sydney Harbour Catchment) 2005 also applies to the Site and to the water section which is proposed to be included in the development area. The land and water are also within the Foreshores and Waterways Area defined by that SREP. The SREP zones the water area W1 – Maritime Waters. The objectives within that zoning are:

- (a) *to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,*
- (b) *to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,*

- (c) *to promote equitable use of the waterway, including use by passive recreation craft.*

Under clause 17 of the SREP, the consent authority must not grant development consent to any development unless satisfied that it is consistent with the aims of the SREP and the objectives of the zone.

The aims of the SREP with respect to the Sydney Harbour Catchment are set out in clause 2:

- (a) *to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:*
- (i) *as an outstanding natural asset, and*
- (ii) *as a public asset of national and heritage significance, for existing and future generations,*
- (b) *to ensure a healthy, sustainable environment on land and water,*
- (c) *to achieve a high quality and ecologically sustainable urban environment,*
- (d) *to ensure a prosperous working harbour and an effective transport corridor,*
- (e) *to encourage a culturally rich and vibrant place for people,*
- (f) *to ensure accessibility to and along Sydney Harbour and its foreshores,*
- (g) *to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
- (h) *to provide a consolidated, simplified and updated legislative framework for future planning.*

The use of the water part of the Site is consistent with the objectives and aims because:

- The area for berthing is not proposed to be altered from the existing approved limit of moorings, hence there will be limited impact on effective and efficient shipping in the area
- Whilst an increase in the number of vessels using the marina will have some impact on the use of the Bay, the area in which they are berthed will not alter and hence impact on passive recreation craft will be minimal. Industry figures indicate only a relatively small percentage of boats are used on any day
- Assessment of the environmental impacts on the aquatic ecosystem has been undertaken and mitigation measures proposed.
- The revised pontoon arrangement will reuse the majority of the pontoons and some piles already on Site,

- The marina updates the existing berthing arrangements for superyachts, improving the continued viability of the Site as working harbour. Increased vessel numbers adds to the economic activity and prosperity of the immediate area
- Amendments to the pontoons and an increase in the number of vessels using the marina will not reduce the public accessibility to the foreshore provided for under the Part 3A Consent.

### 3.4 State Environmental Planning Policies

#### 3.4.1 SEPP (Major Development) 2005

This SEPP has been amended since the lodgement of the EA and is no longer relevant to the Site, given that the capital investment value is over \$10 million and is otherwise subject to the transitional provisions of Schedule 6A of the EP & A Act.

#### 3.4.2 SEPP (Infrastructure) 2007

This SEPP continues to be relevant regarding the provisions of clause 104 and Schedule 3. Notice of the proposal should be provided to the RMS.

#### 3.4.3 SEPP 55 Remediation of Land

This modification application adds another dimension to consideration of this SEPP by the proposed inclusion of the water into the Site. Marine Pollution Research undertook sampling and testing of the sea bed and this is discussed in **section 4.6**. That report indicates that the contamination within the waters reflects the historic use of the area for historic shipping, shore industry and industry related stormwater sources and that the Site is suitable for the proposed use as a marina notwithstanding the contamination.

#### 3.4.4 SREP (Sydney Harbour Catchment) 2005

By the proposed inclusion of the water part into the Part 3A Consent it draws this SEPP into relevance for zoning purposes. . The water part of the Site is zoned W1 Maritime Waters by SREP (Sydney Harbour Catchment) 2005. The objectives of that zone are:

- (a) *to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,*

- (b) *to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,*
- (c) *to promote equitable use of the waterway, including use by passive recreation craft.*

Section 4.1 of this assessment, regarding navigation illustrates that these objectives have been met.

Clause 18 includes a table identifying permissible with or without consent and prohibited development in zones, including the W1 Maritime Waters zone. Relevantly that table identifies:

- Permissible without consent: aids to navigation, demolition
- Permissible with consent: commercial marinas

The requested modification is therefore permissible in the zone.

Part 3 Division 2 sets out matters for consideration before granting consent, however Clause 20 indicates this is only in respect of matters under Part 4 and Part 5 of the EP & A Act – hence it is technically irrelevant to this application. Despite this, a compliance table regarding these matters is included in **Appendix C** which indicates compliance with the SREP.

The matter is required to go to the Foreshores and Waterways Planning and Development Advisory Committee pursuant to clause 29. Clause 33 prevents approval for a commercial marina in land zoned W1 if access is required over particular zoned lands. Those lands are irrelevant to this application.

### 3.4.5 SREP 26 City West

The land is zoned Waterfront Use by SREP 26 – City West and permissibility of uses was considered extensively assessment of the Part 3A Consent. The actual uses proposed under the modification will not alter, although some amendments to the areas are proposed. The percentage of uses over the Site will remain relatively similar to those approved but with a general increase in the percentage use of commercial maritime.

A compliance table is found in **Appendix D** and indicates compliance with the SREP.

### 3.5 Development Control Plans

#### 3.5.1 Sydney Harbour Foreshores and Waterways Area DCP 2005

This DCP remains pertinent and a compliance table considers those aspects of the DCP which are impacted by the proposed modification is found in **Appendix E**. These mostly relate to the impacts and provisions surrounding the use of and structures in the water. The only matter with which the modifications do not comply is signage being below the parapet and not visible from the waterway. SSYM will work with the RMS to develop a signage protocol for the Site.

#### 3.5.2 Rozelle and Blackwattle Bays Maritime Precincts Master Plan

The Master Plan is only relevant to the land portion of the Site and was considered at length in the Part 3A Consent. The proposed uses and percentages of the Site will not change but a compliance table illustrating those aspects changed by the proposed modification is set out in **Appendix F**.

#### Controls

**Table 6** sets out the controls, the approved and the proposed changes to the project in the Master Plan by way of comparison.

**Table 6 Master Plan height, setback and coverage controls and compliances**

Design Requirement	Control	Approved	Proposed Modification	Comments
<b>Site R2d Eastern Lot</b>				
Site Coverage	0.5:1			See combined site coverage
Building Height	RL11 8m	RL11.3 (8.8m) car park RL11.9 (9.3m) building	RL 13.6 (car park) (11.25m) RL 15.250 building (12.65m)	Does not comply
<b>Setbacks</b>				
Northern boundary	4m	3.83m to car park 18.17m to building	0m to car park About 16m to building	Does not comply
Western boundary	Unidentified - at least 20m	22.33m to east building ground 15.88m level 1 13.48m roof	22.15m to east building ground 15.48m level 1 13.24m roof	Possible compliance but difficult to tell due to there being no

Design Requirement	Control	Approved	Proposed Modification	Comments
				defined boundary
Southern boundary	20m	Between 14.34m and 23.9m	Same. Between 14.34m and 23.9m	Not affected by modification
Eastern boundary	20m to building R2a (NSW Maritime)	17.95m to boundary from east building and 11.41 from car park. Plus approximately 14.5m from boundary to NSW Maritime building	17.95m to boundary from east building and 11.335 from car park. Plus approximately 14.5m from boundary to NSW Maritime building	Complies
<b>Site R4 Western lot – Note: not affected by this application</b>				
<b>Total Site</b>				
Site Coverage	0.5:1	0.37:1	0.38:1	Complies
Focal Point	5m high. (RL16) 20m2 max	5.6 above car park (RL16.9)	5m above car park (RL 18.6)	Partial compliance being 5m above, however start height does not comply

The proposed modifications will extend the non-compliance of the height for the eastern building and the car park. The Master Plan suggests a maximum of RL11. The approved RL for the car park is RL11.3 and the proposed modification increases that height by 2.3m to RL13.6. The Eastern Building approved height to parapet is RL11.9 and the requested modification over an area of approximately 540m<sup>2</sup> is to RL15.25 – an increase of 3.35m.

This height remains at least 2.25m lower than the Masterplan development height to the rear of the car park and about 10m lower than the adjacent approved development behind the western building. The visual analysis in section 4.2 and in **Appendix G** illustrates the minimal impact this height non-compliance will make.

The proposed buildings continue to comply with the site coverage requirements with a total of 0.38:1, well below the allowable 0.5:1.

The main impact on the setbacks by the proposed modification is the reduction in the northern setback to the car park from 3.83m to zero. This provides for much improved circulation around the Site by having a two way ramp system in the car park rather

than car park lifts. The northern boundary is onto a private road with its sole purpose to provide access to car parking for this Site and Sydney Boathouse.

There is a minor reduction in the setback of the car park building to the eastern boundary from 11.41 to 11.335m but this still complies with the Master Plan controls.

There are minor alterations to the setbacks between the buildings caused by a slight relocation of the western building (subject to a separate modification application). The setbacks to the foreshore for the eastern building remain as approved.

### **Focal Point**

The proposed modifications relocate the focal point as a result of the redesign of the car park. With the removal of the car park car lifts on the south east corner, and the inclusion of the pedestrian lift on the western side of the car park, the focal point has likewise relocated towards the middle of the Site over the pedestrian lift. It extends 5 metres above the top level of the car park. Although starting from a greater height than set out in the Master Plan (RL13.6 rather than the Master Plan RL11), it does retain the Master Plan 5 metre height extension. The focal point is proposed to be slightly smaller in area than approved.

### **Foreshore Access**

The Master Plan calls for 24 hour access to the foreshore along both sides of the eastern building of 4 metres along the waterfront with 3 metres between the buildings for through access. A separate modification application (MOD 2) seeks to clarify the setbacks for the western building to ensure the building at ground floor is 10 metres from the wharf edge, with the roofline being 4 metres from the wharf edge.

The proposed outdoor seating areas in front of the eastern building retain approximately half of the area between the wharf edge and the decks as open for pedestrian traffic, exceeding the 4 metre Master Plan public access route. On the eastern most section, the outdoor seating area retains an 8 metre width for pedestrian activity. The proposed outdoor seating areas also retain the 4 metre wide through-access either side of the eastern building.

### **Compliance**

A compliance table with the Master Plan is included at **Appendix F**. As noted above and in the compliance table, the areas of non-compliance arising from the modification application are:

- Height
- The northern setback of the car park

- Focal point height on car park.

Despite the above non-compliances, the proposed modifications generally continue to meet the principles outlined in the Master Plan in respect of land use; views, built form and urban design; design guidelines and building form and character. A visual assessment of the proposed development is provided in **Section 4.2**.

### 3.6 Other Planning Documents

#### 3.6.1 Sydney Metropolitan Strategy and Draft Inner West sub-regional strategy

There is nothing in these documents which requires further consideration beyond that in the original environmental assessment by virtue of the proposed modifications.

#### 3.6.2 Bays Precinct Taskforce

In August 2012 the Bays Precinct Taskforce authored the “Bays Precinct Strategic Framework Report to the NSW Government” which was publicly released on 26 March 2013. The relevant recommendations and Strategic Planning Principles set out in section 6 of the report, and how the proposed development responds, is shown in **Table 7**.

**Table 7 Bays Precinct Taskforce Recommendations**

Recommendations & Planning Principles	Response re Proposal
<b>Recommendations</b>	
1. Publicly owned foreshore lands and harbour waters to be retained in public ownership.	Retained
2. Retain SREP (Sydney Harbour), SREP 26, Sydney LEP and the master plans as the key planning instruments	Noted. These instruments have been considered in the assessment
3. Adopt the strategic planning principles of the Taskforce and apply them in decision making	Noted and considered below
4. If SREP (Sydney Harbour) and SREP 26 are repealed as part of the wider planning review, the aims and objectives and land use controls should be retained.	Noted.
14. Rozelle Bay continue development for recreational, commercial and industrial boating, tourism, and maritime operational purposes.	The proposed marina reconfiguration continues the development of the recreational and commercial maritime uses. It provides a better utilisation of the waterways of Sydney Harbour
18. Investigate opportunities to increase public	Greater public access is provided under

Recommendations & Planning Principles	Response re Proposal
access to port and maritime sites within the Bays.	the proposal
<b>Planning Principles</b>	
<u>Waterway</u> 1. Recognise, protect, enhance and maintain the waterways as an outstanding natural asset of Sydney and a focal point of the public domain of the Bays Precinct.	The waterway will remain principally the same as currently operating. The pontoons will remain within the limit of pontoons and the yachts will still be required to be berthed within the limit of moorings line
2. Maintain deep water berths for commercial port, shipping and maritime uses and operations to meet existing and future demands for Sydney and NSW.	NA
3. Preserve and manage use of the waterways for active and passive recreational boating users.	See Navigation consideration in section 4.1
<u>Land Use</u> 1. Encourage new development that: <ul style="list-style-type: none"> <li>• balance regional and local economic, social, recreational and environmental needs;</li> <li>• provide a distinctiveness and character consistent with the Bays Precinct's Sydney harbour location and that reflects the Precinct's history;</li> <li>• activate the foreshores day and night; and</li> <li>• are dependent upon foreshore location and access to waterway.</li> </ul>	The foreshores will be open 24 hours, and the presence of the restaurants will activate the foreshores outside normal working hours but in accordance with the existing operating hours consent conditions. The berthing of superyachts necessitates a foreshore location
2. Commercial port and maritime uses operate in a way that recognises their location in a city environment and mitigates impacts on the amenity of existing residents and businesses in the adjoining communities.	NA
3. Ensure non-working harbour uses are compatible with ongoing working harbour functions and do not alienate the foreshores from public ownership and active use.	The berthing of superyachts and the ancillary activities and commercial marine uses at the Site are compatible with the continuance of the working harbour uses along the Rozelle Bay foreshore. The Site remains in public ownership and will be opened up to the public.
<u>Economic Sustainability</u> 1. Encourage new development that contributes to maintaining and enhancing Sydney as a Global City by providing for economic growth, economic productivity, job opportunities and tourism.	The presence of a first class superyacht facility in Sydney Harbour has marked financial benefits for the NSW economy Details are set out in the original environmental assessment.
2. Provide for commercial port and maritime uses within the Bays Precinct to ensure prosperous	Commercial office space for marine uses is provided; this continues the superyacht

Recommendations & Planning Principles	Response re Proposal
working harbour.	berthing business in NSW
<p><u>Traffic and Transport</u></p> <p>1. Ensure consideration is given to transport impacts and how they can be managed in assessing new major activities or developments.</p> <ul style="list-style-type: none"> <li>• Integrate traffic, transport and access as part of any future development and land use considerations focussing on:</li> <li>• promoting public transport usage including opportunities for new public transport including ferries, light rail and car share;</li> <li>• enhancing pedestrian and cycle networks linking key activity areas with transport over the broader region;</li> <li>• catering for demand and ensuring that traffic impacts on surrounding residential streets and intersections are appropriately managed; and</li> <li>• considering access for disabled persons in new transport initiatives on the site.</li> </ul>	<p>See traffic assessment report which has considered the Overseas Cruise Passenger Terminal, the temporary Glebe Island Exhibition Centre and the Harold Park Paceway/Mirvac development. Previous reports have included the potential from the Sydney Boathouse to the immediate west of the Site.</p> <p>Other points have been considered previously</p>
<p><u>Public Domain, Open Space and Foreshores</u></p> <p>1. Maintain and extend public access to and along the foreshore, including access to open space corridors for pedestrian and cyclists except where health and safety, security, regulatory provisions and public liability restrict access.</p>	This is already approved
<p>2. Public access within the Precinct be linked with public transport and existing public access points in the surrounding precincts.</p>	The light rail is nearby.
<p>3. Encourage addition of high quality public domain, open space and a range of recreational opportunities for both local community and visitors.</p>	Attained – see approved landscape plan
<p><u>Built Form and Design</u></p> <p>1. Ensure development reflects the industrial and maritime nature of the built form of the Precinct and manifests design excellence by:</p> <ul style="list-style-type: none"> <li>• developing/redeveloping at a compatible scale at interfaces with adjacent existing neighbourhoods;</li> <li>• ensuring bulk, scale and location of buildings considers local views into, over, through and from within the Precinct, and conserves and where possible extends significant views;</li> <li>• developing diverse architectural responses, with buildings having a diverse design, fine grain pattern, with active frontages and articulated elevations; and</li> </ul>	<p>The built form has largely been approved. The modifications will have a screening effect for the plant and equipment on the eastern building from the northern and southern aspects. The buildings remain considerably lower than the approved boathouse development behind and to the west of the Site. The modifications do not impact to any significant effect on the significant views in the area from the principal vistas of Glebe Point, and Bicentennial Park.</p> <p>Consideration of view is in section 4.2</p>

Recommendations & Planning Principles	Response re Proposal
2. Implementing principles of 'view sharing' where relevant.	See section 4.2 on views
3. Ensure new development within the port and maritime precincts recognises the foreshore location and city environment in which is located, in terms of built form and design.	The buildings accommodate the view corridor to Maritime Court. They are set back from the wharf edge as approved allowing for public access.
4. Ensure new buildings are appropriately setback from the waterfront	As approved and as subject to a separate modification application to clarify the western building front setback.
<u>Heritage</u>	
1. Recognise the significance of the Bays Precinct as part of Sydney's maritime, port and industrial history.	There is no heritage aspect existing currently on the Site
2. Conserve, interpret and adaptively re-use existing and potential key heritage items	See above
<u>Environment</u>	
1. Encourage ecologically sustainable development of the Precinct, in particular: <ul style="list-style-type: none"> <li>• climate positive</li> <li>• water cycle management</li> <li>• Decentralised power</li> <li>• Low carbon precinct</li> <li>• minimise waste</li> <li>• green roofing</li> </ul>	Dealt with under current approval.
2. Demonstrate the sustainable sourcing and use of resources and materials in the design, construction, maintenance servicing and environmental performance of new development	Under current approval
<u>Community Consultation</u>	
1. Ensure that local community, Precinct stakeholders and local government are involved in future planning decisions	<p>Consultation has been undertaken in respect of this proposal with the dragon boat users and rowing clubs using the Bay. The plans have also been discussed at the Community Liaison Group meeting.</p> <p>Discussions have been held with the RMS as to the proposals</p>

Section 7 of the Report provides sub-precinct reports. The Taskforce recommendations relevantly include:

- The continued use of Rozelle Bay for maritime, commercial and recreational boating.

- Continuous foreshore access from Rozelle Bay to Glebe Island with Sydney Superyacht Marina as an integral part of this access
- Additional recreational boating facilities be provided at the western head of Rozelle Bay with a public boat ramp
- Protection of the use of the waterways for recreational activities such as dragon boat racing, rowing and sailing.
- Extending Boating Safety Guidelines to a water management plan to provide safe and equitable access to the waterway for passive users such as rowing and sailing and minimise the mobilisation of contaminated sediments by vessel movements.

Nothing in the proposed modifications is counter to these recommendations.

### **3.6.3 Urban Growth Bays Precinct Urban Transformation Program**

An International Summit was held in November 2014 to consider the future development of the Bays Precinct. A Statement of Principles was drafted by the Urban Growth Bays Precinct Urban Transformation Program, most relevantly including:

- Unlock public access to the Harbour's edge
- Prioritise major projects and define the staging for integrated development and land use
- Ensure the land use and associated development is diverse, beautifully designed and creates 'great places and great spaces'.
- Build the capacity for The Bays Precinct to be a place that contributes to healthy, prosperous and resilient lifestyles
- Support economic development and growth
- Support the economic activities of maritime industries and celebrate the authenticity of the working harbour
- Provide the platform for investment from Australia and abroad, and from public and private sectors

There is nothing in the proposed modifications which is counter to these principles.

### **3.6.4 Water Management Act 2000**

This Act relevantly includes a requirement for approvals for water use, water management works (including water supply works) and controlled activities in, on or under waterfront land.

The Water Management Act 2000 prescribes that the carrying out of works on waterfront land (as defined and which includes the bed of the bay to within 40m from

the top of a river, estuary or coastal water) is a controlled activity and requires a controlled activity approval.

Clause 39 of the Regulations identifies that a person is exempt from prosecution under s91E of the Act for failure to have a controlled activity licence when conducting a controlled activity on waterfront land if those activities are set out in Part 2, Schedule 5 of the Regulations. Clause 5 of Part 2 of Schedule 5 exempts controlled activities carried out in accordance with a licence, lease, permit or other right in force in respect of land under the ownership or control of the Maritime Authority of NSW. Therefore, provided the works on the Site are carried out in accordance with a development consent it will not be required to obtain a controlled activity approval for the works done on waterfront land pursuant to s91 of the Water Management Act.

### **3.6.5 Protection of the Environment Operations Act 1997**

The proposal to include the marina water section into the Part 3A Consent requires a further consideration of the Protection of the Environment Operations Act to see if there are any scheduled activities requiring a licence. Clause 25 of Schedule 1 makes boat moorings and storage (by pontoons, jetties, piers or other structures), a scheduled activity if there is the capacity to store more than 80 vessels (excluding rowing boats, dinghies and other small craft), at any time.

The requested proposal is for 43 vessels with a maximum of 36 tenders on water at any time. Hence the marina is not a controlled activity, nor does it require an Environmental Protection Licence under the Act.

## 4. Site Analysis and Impact Assessment

### 4.1 Marina Development and Navigational Safety

#### 4.1.1 Policy/Legal Requirements

The Director General's requirements require this assessment to provide a review of existing boating activities, including recreational rowers in the area and the potential impact of the proposal on these activities. Navigational and safety issues must be addressed together with the suitability of the Site for the purposes of moored vessel safety. The operation and management of berthing must be assessed.

*Sydney Harbour Superyacht Guidelines – Guidelines for Masters Operating Superyachts in Sydney Harbour* (May 2011)<sup>1</sup> is authored by NSW Maritime and Sydney Ports Corporation and are to be read in conjunction with, but subordinate to, NSW and Commonwealth legislation. If the superyachts are conducting commercial activity or chartering they are subject to the Marine Safety Act 1998 and the National Marine Safety Committee Superyacht Policy. The "Rules of the Road" are set out in the Marine Safety (General) Regulation 2009. The guidelines include pilotage requirements, Harbour control, arrival procedures, includes speed restrictions with maps, sets out conduct rules within the Harbour, prohibited area, pollution, bridge information and communications.

#### 4.1.2 Methodology

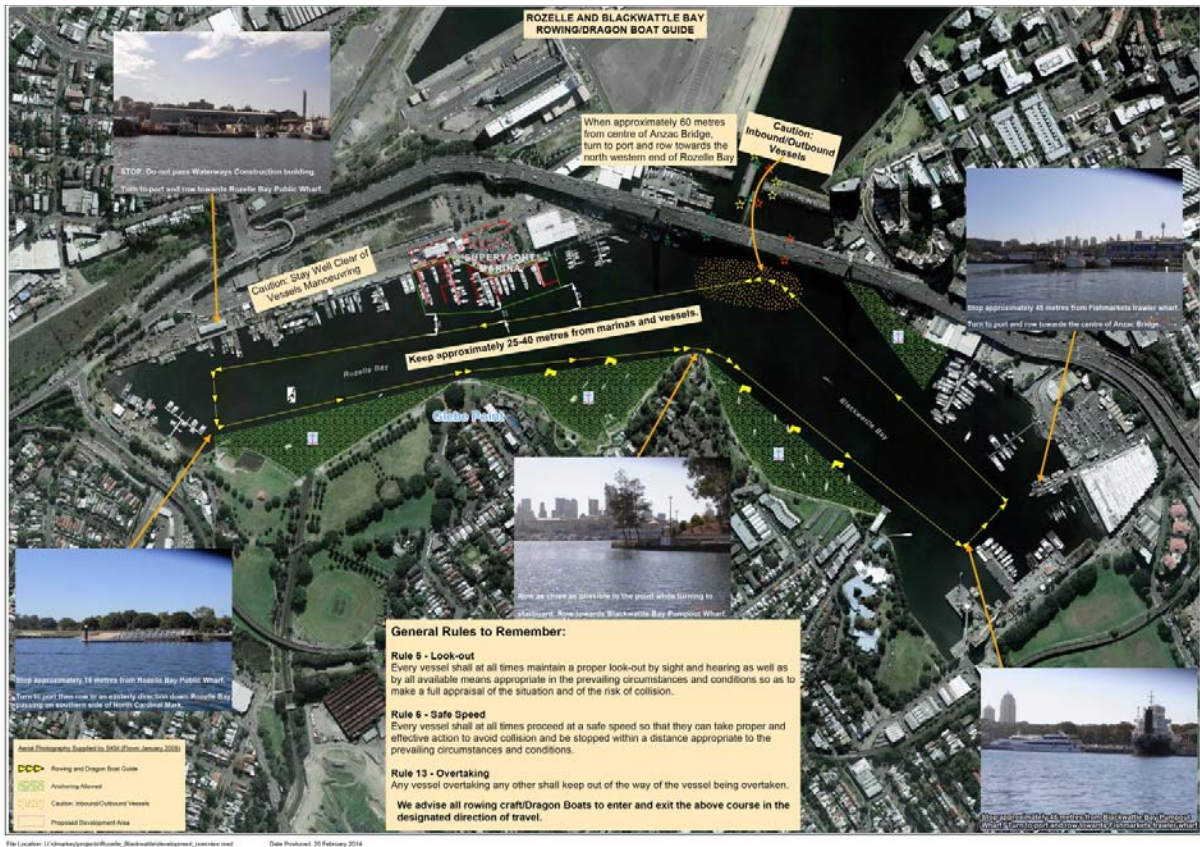
Assessment of vessel movements and navigation within Rozelle Bay is based on a desktop review of past vessel movement and surveys within Blackwattle Bay and Rozelle Bay.

Contact was made with each of the 2 rowing clubs and 16 dragon boat clubs training in the Bays and a survey sent out to gauge the concerns and problems which the rowers have. Both Sydney University Women's Rowing Club and Glebe Rowing Club and 5 of the dragon boat clubs responded. SSYM met with Dragon Boats NSW to discuss issues of concern arising from the proposal.

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<sup>1</sup> [http://www.maritime.nsw.gov.au/docs/recboat/SY\\_guidelines.pdf](http://www.maritime.nsw.gov.au/docs/recboat/SY_guidelines.pdf)

The RMS provided a map showing the rowing circuit around the Bays essentially operating anticlockwise around the Bays from under the eastern end of Anzac Bridge. This is set out in **Figure 3**.



**Figure 3** Rowers and Dragon Boat path in Rozelle and Blackwattle Bay

The future impact of the Sydney Boathouse water traffic has also been taken into consideration, using information from the environmental assessment documentation.

The assessment also considers the questions raised in clause 2.2 of the RMS Fact Sheet dated June 2012: " *Obtaining Permission to Lodge from the Maritime Division of RMS*".

**4.1.3 Assessment of Impacts**

Rozelle Bay is currently used by commercial, pleasure and recreational vessels. The main users can be categorised as:

- recreational power boat and superyacht users,
- the Heritage Fleet to the west of the Site,

- commercial vessels associated with the various marine industries and business on the northern and western sides of Rozelle Bay
- rowers using the Glebe Rowing Club and Sydney University Rowing Club located at the end of Ferry Road, Glebe
- rowers using the dragon boat clubs located at the end of Bank Street Pyrmont.

**4.1.3.1 Vessel Movements**

As part of the assessment for the Sydney Boathouse Dry Boat Storage Facility at Rozelle Bay (September 2005) Patterson Britton prepared a photographic survey of boat movements within Rozelle Bay and Blackwattle Bay from Friday 24<sup>th</sup> September 2004 to Thursday 14<sup>th</sup> October 2004. The photographic footage was from two cameras located at NSW Maritime Authority’s office at Rozelle Bay filming Rozelle Bay and Blackwattle Bay. A summary of daily vessel movements (including rowing/dragon boats and power vessels) in Rozelle Bay during that period is provided in **Table 8**.

**Table 8 Summary of Daily Vessel Movement in Rozelle Bay 2004**

Date (2004)	Time	General Statistic	Weekday	Weekend Day
24/9 to 8/10	7am to 6pm	Maximum	139	139
24/9 to 8/10	7am to 6pm	Minimum	27	37
<b>24/9 to 8/10</b>	<b>7am to 6pm</b>	<b>Average</b>	<b>70</b>	<b>70</b>
9/10 to 14/10	5am to 6pm	Maximum	111	123
9/10 to 14/10	5am to 6pm	Minimum	67	76
<b>9/10 to 14/10</b>	<b>5am to 6pm</b>	<b>Average</b>	<b>91</b>	<b>100</b>

The weekday movements ranged from 27 to 139 in Rozelle Bay with the average ranging between 70 and 91. Actual maximum weekday usage in Rozelle Bay was 139 movements. These figures were less than the estimate of commercial vessels from the Rozelle Bay business which estimated a maximum of 148 movements per day at a maximum, plus recreational users estimated to be 15-40 vessels.

Since 2004, there have been a number of developments within Rozelle Bay that may increase boat movements in Rozelle Bay and through the Glebe Island Bridge, such as construction and operation of the Sydney City Marine Boat Repair Facility at the entrance to the Bay and approval and partial construction of, the Sydney Boathouse. The environmental assessment for the Sydney Boathouse indicated that the maximum number of movements in the busiest summer months was as set out in **Table 9**.

The number of approved boat storage, and layover and brokerage boats remained the same between the assessment and approval at 670 dry boats, 32 layover boats and 24 brokerage boats.

**Table 9 Sydney Boathouse summer predicted boat movements**

	Daily movements	Frequency days/year	Frequency occurrence %
Weekday (average)	114	127	35%
Weekend day (average)	206	52	14%
Weekend day (peak)	284	52	14%
Special event peak (Xmas, Boxing Day, New Years, Australia Day)	342	4	1%

Adding the figures from the above two tables provides the totals set out in **Table 10**.

**Table 10 Daily Vessel Movements – (Average) Observed and Anticipated.**

	Daily movements
Weekday (average)	$114 + (70+91)/2 = 195$
Weekend day (average)	$206 + (70+100)/2 = 291$
Weekend day (peak)	$284 + (139+123)/2 = 415$

The 2004 figures would have included the superyacht vessels which were moored at the Superyacht Marina at the time. At that time the marina was larger than the current allowance of 24 superyachts.

The applicant has provided estimates of marina vessel movements (including arrivals and departures) as follows:

- 60 Busiest days (eg Boxing Day, New Year’s Eve)
- 30 Summer weekends
- 10 Summer weekday
- 10 Winter weekend
- 4 Winter weekday

It is not anticipated that the addition of this small number of vessels will have a marked impact on daily vessel movements. Further, the rowers and dragon boat recreational vessels are unlikely to train on the busiest days of Boxing Day and New Year’s Eve.

**4.1.3.2 Recreational Rowers and Dragon Boats**

Training for the dragon boats generally uses 2 boats with trainings generally being two evenings Monday to Thursday between about 6pm and 8.30pm, and each club generally having a training session for 2 hours on either Saturday or Sunday morning between 8.00am to noon. The main dragon boat season is September to March/April.

The rowing clubs train each morning between 5am-9am and one trains between 5pm-7pm Monday to Friday as well. Each club has between 1-10 boats training at any time.

From the answers to the survey, there did not appear to be any significant issues from current superyacht vessels, although smaller craft driven by non-professionals from Jubilee Park and jet cat ferries appear to cause the most difficulty due to speed and non-observance of the maritime rules. Generally the recreational craft try to avoid the larger vessels including superyachts. There was some feeling that the superyachts ignore the small craft and one responder indicated that that mooring lines and unlit buoys are a problem.

Most requested was that all boats using the Bays:

- observe the no wash zone and speed limits,
- are conscious of the maritime rules of keeping to the right
- are knowledgeable of the rowing course set by RMS

The comments about superyachts mostly included:

- Ample warning by horn sound when the yacht manoeuvres
- Alerting superyacht traffic to be mindful of smaller craft
- A brighter light on the buoy near the marina which does not glare
- The majority had no concerns arising from interaction with superyachts
- Only one respondent group was concerned about an increase in the number of berths at the Site,
- One other respondent had general concerns about increased rubbish after rain and oil on the surface arising from increased numbers of boats generally.

A meeting was held between Dragon Boats NSW and the proponent during which it was agreed that to improve visibility after sunset and before sunrise the dragon boat sweeps (steerers) will wear high visibility vests and lights will be placed on the fore and aft of each dragon boat (as required by RMS regulations). Dragon Boats NSW has a comprehensive education program for sweeps including familiarity with NSW Maritime sound signals and other movement regulations and they are made aware of the requirement to keep a specific watch out when passing the Superyacht Marina.

#### 4.1.3.3 Current Navigation and Marina Management

The marina has operated since 1999 and the current management took over in 2009. The marina operations operate from two demountable buildings on the Site which will be removed following or during the construction of the eastern building. Marina assistance staff comprises a Dock Master, 2 full time marina attendants and 2 casual attendants, whose duties include:

- Daily maintenance, cleaning and waste removal
- Assist vessel docking and departing
- Prepare and monitor daily reports
- Schedule boat slip reservations
- Respond to VHF radio calls
- Enforce rules and regulations around the marina and ensure marina operates within the RMS Operation Plan and nautical laws
- Answer and resolve problems, queries and complaints
- Maintain security and public and staff safety
- Train seasonal staff

Marina attendants are notified by vessels prior to their departure or arrival to arrange safe passage, including that there are no vessels anchored in the channel. If there are unattended vessels anchored in the channel impeding the safe passage of another vessel the Boating Safety Officers from NSW Maritime are notified. All vessels are required to communicate to other vessels when manoeuvring within the marina by use of horn signals. There are no set times when vessel movements occur or do not occur.

The marina vessels are provided with a copy of the *Sydney Harbour Superyacht Guidelines – Guidelines for Masters Operating Superyachts in Sydney Harbour* (May 2011), containing pertinent marine regulations and a marina map with berth numbers. They are advised of the following matters in particular:

- The no wash zone and 4 knot speed limits in the Bay
- The route of the rowing and dragon boat courses in the Bay and the necessity to keep a lookout for them when manoeuvring.

From records held at the Superyacht Marina a summary of vessel berthing enquiries at the Marina between 14 December 2012-14 January 2014 indicates that 75% of the enquiries were for berths of vessels under 30m in length. Of the 41 vessels in the 20-30 metre range, 24 were for vessels of 24 metres (78.7ft) or more. Hence only 41.4% of enquiries were for vessels defined by the RMS as “Superyachts” of 24 metres. This demonstrates the predominance of smaller vessels seeking to use the marina, and underlines why the request to allow smaller boats can be justified for efficient use of the facility and for financial viability of the marina. This is set out in **Table 11** below:

**Table 11: Summary of berthing enquiries at SSYM 14.12.12 – 14.1.14**

	<b>A</b> 12-<15m 40-48ft	<b>B</b> 15-<20m 50-65ft	<b>C</b> 20-<30m 66-98ft	<b>D</b> 30<40m 98-131ft	<b>E</b> 40-<50m 131-164ft	<b>F</b> 50-<60m 164-197ft	<b>G</b> 60-<70m 197-230ft
# Enquiries	39	26	41 (24>24m)	18	10	5	1
% enquiries of 140	27.9	18.6	29.3 (17.1%>24m)	12.9	7.1	3.6	0.7

#### 4.1.3.4 Potential Navigational and Safety impacts

The potential navigational and safety impacts are principally:

- Conflict with recreational craft (particularly in the early mornings and evenings)
- Failure of superyacht skippers to adhere to (or be aware of) the “road rules” of the Bay, including the speed limit and requirement to sound a noise before manoeuvring
- Reduced visibility due to a greater concentration of vessels at the marina
- The temporary incursion into navigation areas during construction and piling
- Some comments from the recreational boat users have indicated that the buoys in the area are difficult to see.

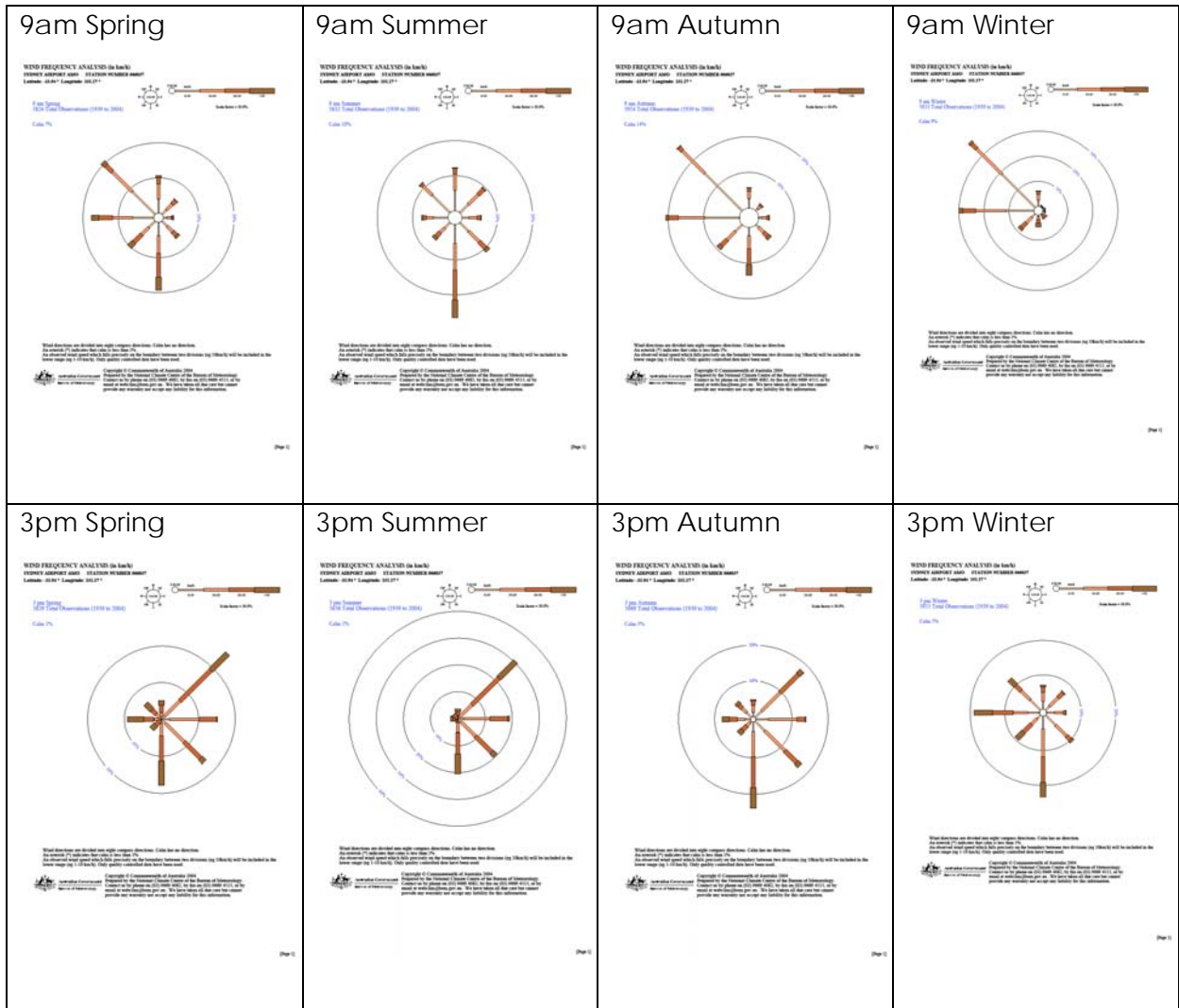
The RMS requested that the pontoons be arranged so as to avoid berthing of large vessels parallel to the limit of moorings line on the southern water boundary. The pontoons have been arranged to remove any potential visual impediment from such berthing. In order to ensure navigational safety the applicant will prohibit any mooring other than small tender boats on the bayside or southern edge of the limit of moorings.

The applicant proposes to include a Vessel Traffic Management Plan in the Operational Environmental Management Plan setting out various requirements (set out in more detail in **section 4.1.4** below).

#### 4.1.3.5 Wind, wave and water depth suitability

##### Wind

The winds in the Bay have a relatively short fetch from the south, west and north due to the raised land to the north, and the relatively short distance across the water from the south and west. From the east the fetch is longer. Wind assessment from Sydney Airport indicates the strongest summer prevailing winds are north-easterly with strong “southerly busters” from the south. Autumn frequently has easterly winds. During winter the predominant winds are from the west. This is demonstrated by the wind roses shown in **Figure 4**. It is noted that the wind at Sydney Airport is considerably stronger than in the sheltered Rozelle Bay.



**Figure 4 Wind Rose analysis Sydney Airport**

**Waves**

The fetch across the water from all but the east is relatively short and wave action is not considered an issue. The Bay is a sheltered and enclosed part of Sydney Harbour with water flows and wave movements relatively low compared to the majority of the Harbour (see the Marine Ecology Report in **Appendix J**).

**Water Depth**

The water depth of the existing marina ranges from 4.6m to 7.6m with most of the area being 6-7m below zero Fort Denison Tide Gauge providing a draft of nearly 5 metres at all times. The Report of the Marine Ecologist includes this seabed hydrograph on page 20 of the report in **Appendix J**.

#### 4.1.3.6 Geotechnical and contamination issues

These matters are considered in section 4.5 and 4.6 by the Marine Ecologist.

#### 4.1.3.7 Suitability of the Site for berthing facility alterations

The marina previously extended over a greater area and included consent for 56 vessels – 27 superyachts and 29 tenders/service boats. The current water site provides an area which can accommodate more vessels than the current allowance of 24 superyachts. The existing condition is restrictive and fails to take into account the necessity of tender boats which are integral to each superyacht on Site. It also fails to provide suitable flexibility to accommodate smaller vessels at the marina when there are insufficient superyachts to fill the marina, thereby impacting on the financial viability of the marina.

The *Transport for NSW – Draft Sydney Harbour Boat Storage Strategy* (April 2013) clearly sets out the increasing demand for boat storage in Sydney Harbour and the estimated number of storage numbers in Sydney Harbour currently. Between 2013 and 2021 the report estimates an increase of 5000 boats in Sydney Harbour (page 4) around 2200-2300 of which will be over 6 metres, therefore requiring on water or dry stack storage (page 13). On page 7 of the report it incorrectly identifies Sydney Superyacht Marina as capable of storing 45 vessels of over 24 metres. It notes “Industry suggests that demand for longer berths continues to rise.”

The report concludes that about 600-800 of the required 1000-1200 wet berths required in 2021 can be provided from commercial marinas and clubs, 150-250 from private moorings, leaving a shortfall of about 300. One method of achieving the goals is to promote “changes in mooring styles and systems to create greater efficiency and capacity...” (page 13). Most notably the report concludes:

*“There are several major strategic sites around the Harbour including in the Bays Precinct (Rozelle Bay, Blackwattle Bay, White Bay and Glebe Island), Berry’s Bay and Wentworth Point, which have significant potential to deliver the facilities and infrastructure required to meet Sydney Harbour’s boat storage challenge. Working with RMS, Transport for NSW will ensure that development at these sites is shaped by the boat storage targets identified in this Strategy.”*

The application to amend the pontoons and berths can be supported because:

- boundaries of the water site are not proposed to increase,
- the number of vessels permitted is not such a great increase that it is likely to cause a significant increase in Rozelle Bay vessel movements,
- the more efficient use of marina space promotes the objectives outlined by Transport NSW in their Draft Sydney Harbour Boat Storage Strategy,

- it will take into account the size of the vessels which make enquiries at the marina for berths
- navigational safety will not be impaired by the application
- Assessment of contamination status of the sediments and the likely impact for disturbance has been considered by Marine Pollution Research Pty Limited as set out in section 4.7 which concludes that the contamination present in the sediments is historical and reflects a similar pattern in Port Jackson and there is unlikely to be mobilisation of those sediments from the proposal.
- The matters raised in the RMS Clauses 2.2 for Obtaining Permission to Lodge can be satisfactorily answered, namely:
  - The proposal will not present a danger or obstruction to the safe navigation of vessels
  - The proposal will not present a significant risk of a marine accident, as sight lines are preserved
  - The proposal will not constitute a potential hazard to navigation in terms of obstruction and/or visibility and/or lighting, because of the proposals to restrict an long term mooring on the southern side of the pontoon closest to the limit of moorings
  - The wind, wave and current regime and depth of water will not impact on the safety of a person using the marina
  - The wind, wave and current regime and depth of water will not impact on the safety of a moored vessel using the marina
  - Access to the proposed structures below mean high water mark will be provided in a safe manner from the adjoining land by use of gangways which are security locked for marina customers and marina staff.

#### 4.1.3.8 Construction

During construction piles will be driven and not screwed within the water. Pile driving activity would occur from a barge and within an area cordoned off with a silt curtain.

The pile driving area is within the limit of moorings and lease area, hence, save for the interruption caused by the temporary barge, the installation of the piles will not have any impact on navigation.

#### 4.1.4 Mitigation

To mitigate the potential impacts of construction and operational activities on navigation within Rozelle Bay SSYM would implement the following mitigation measures:

- To manage navigational issues during pile driving SSYM intends to avoid piling after 6pm and before 8am weekdays and on Saturday and Sunday mornings so as to avoid any conflict with the recreational craft using the Bay.
- In order to ensure navigational safety the applicant will prohibit any mooring other than pick up/set down to occur on the southern side of any east/west pontoon on the bayside or southern edge of the limit of moorings
- A Vessel Traffic Management Plan will be prepared and implemented in consultation with NSW Maritime and the RMS that provides details regarding the management of vessels registered and/or stored on the Site and include provisions relating to the following matters:
  - Compliance with relevant conditions of consent
  - A requirement to navigate around the Bay in accordance with the requirements of NSW Maritime
  - Details of mitigation measures to ensure a minimal impact on the passive recreational vessels in Rozelle Bay
  - Details of a compulsory induction and education program for all uses of the facility on navigational procedures
  - Details of contractual arrangements requiring the required boat licence and compliance with the provisions of the plan
  - Details of a complaints hotline open to the public 24 hours a day
  - Signage
  - Details of the booking system to manage berths and timing of vessels leaving and returning
  - Contingency measures if vessel incidents occur

## **4.2 Visual Impact**

### **4.2.1 Policy/Legal Requirements**

The Director General's requirements require this assessment to identify and assess the visual impacts of the amendments, including on Rozelle Bay. It also requires a view analysis including visual aids such as a photomontage.

### **4.2.2 Methodology**

Photo montages were provided as part of the original application and updated for the PPR Addendum. The architect has provided updated photomontages showing the proposal from the three main vista points across Rozelle Bay. These are set out for

comparison in **Appendix G**. It is to be noted that the approved montages included the focal point/ identification sign at RL 19.6 rather than the approved RL 16.9. Since the montages were drafted, the western boatstore of Sydney Boathouse has been constructed. Photos from similar vantage points have been included to assist analysis.

### 4.2.3 Assessment of Impacts

#### 4.2.3.1 Photomontages

Since the approval of the Part 3A Consent, the RMS has installed fencing along the southern side of Anzac Bridge which has reduced the visibility of the Site from the Bridge. There are limited opportunities to view the Site from Anzac Bridge/Victoria Road given the existing vegetation hence the only real assessment is that from across Rozelle Bay or on the water. The photomontages in **Appendix G** illustrate that the impacts from the proposed modifications are relatively minor.

The view from Bicentennial Park is distant. The upper level of the eastern building remains below the Anzac Bridge road pavement but almost indiscernibly lessens the amount of the Sydney Harbour Bridge pylons visible. The upper level of the car park is almost invisible, retaining the vista beneath the Anzac Bridge to the Sydney Harbour Bridge. However what is clear from the photograph taken on 25 March 2015 is that the two buildings from Sydney City Marine have a greater shielding effect on the view to the Harbour Bridge than is apparent from the montages. Additionally the three white tanks to the left of the silos have been removed from White Bay. The requested modifications have no impact on the view to the silos from this point, although when the eastern boatstore is constructed it appears that the view to the silos will be impacted.

From Glebe Point (the vista from the nearest residences), a little less vegetation between the silos and the eastern building will be visible, however the profile of Anzac Bridge /Victoria Road is maintained as is the vegetation separating the silos from the building. The recent photograph illustrates that the vegetation is thickening over the years. Whilst the 2<sup>nd</sup> level of the eastern building is visible, the additional level of the car park is barely discernible and of little further intrusion than the roof top plant shown on the approved montage. The relocated focal point/ identification sign is less obtrusive, as it is set further to the north of the Site and is smaller in footprint as it now sits over a passenger lift rather than car lifts. With thickening vegetation on the Victoria Road embankment, it is unlikely that the focal point will break the horizon. When the eastern boatstore building is constructed, the horizon behind the western building will be blocked

The view from Blackwattle Bay Park shows part of the Balmain Power Station as being obscured by the proposed second level, which is below the treed horizon. As is clear from the recent photograph and the montages from the Boathouse application, the view of the Power Station will be blocked almost entirely when the eastern boatstore is constructed behind the Site. The additional car park level remains below the horizon and the relocated focal point is almost wholly obscured by the second level of the eastern building.

Given the above, the visual impact of the modifications from vantage points is so relatively small that they are not considered an issue.

From within the Site, it is proposed that the storage areas within the car park will be enclosed, but placed on levels 1, 2 and 3 of the car park building. This will prevent any solid structure impacting the view on the top level of the car park. The proposed marine units on the ground floor of the car park will be glazed on the northern side.

#### 4.2.3.2 Built Form and Urban Design

The review of the Masterplan requirements illustrate that there are a number of aspects with which the proposed amendments do not comply. However the amendments are suitable within the context of the locality and the Bay. The second level of the eastern building is glazed and set back from the southern (Bay) façade - approximately 20-28 metres from the waterfront at all times. Its glazed and set back southern façade will not present as an imposing front to the Bay and it enhances the stepped approach to development away from the Bay shoreline.

From the foreshore public access route the eastern building will present principally as a two storey building as already approved (see Plan DA03C). The raised level of the car park is largely invisible from the foreshore as demonstrated by DA03C and the Title Sheet DA00E and the south elevation on DA08F. As is demonstrated in the elevations and sections in DA08F, DA09E and DA10E the approved development of the Sydney Boathouse beyond the Site overwhelms the scale of the proposed amendments which will continue to scale down to the waterfront – an objective of the Masterplan.

The car park and placement of the eastern building plant within the upper level, presents to Maritime Court as a more streamlined façade than currently approved.

**Appendix G** also includes some montages from the Sydney Boathouse application. The proposed eastern boatstore is of similar scale to the recently constructed western boatstore. This in turn reflects the mass of the previous Conaust Building on that site. By contrast, the requested modifications to the Eastern Building are lightly framed, and minimise impact on the built form of the approved buildings. They are of a small scale compared to the structures surrounding and proposed in the immediate area.

**Figure 5** is a photograph taken on 11 March 2015 showing the recently constructed Sydney Boathouse western boatstore Building B from Bicentennial Park. The eastern boatstore will essentially fill the gap between the now existing western boatstore and the silos. These buildings at a height of RL25.2 are approximately 10 metres higher than the requested height of the proposed modified eastern building of the Superyacht Marina, and 6.6 metres higher than the height of the relocated identification tower. It is clear that the eastern boatstore, when constructed, will dominate the Superyacht Marina site.



**Figure 5** Photo taken from Bicentennial Park 11 March 2015

#### 4.2.3.3 Public Domain

The public access route is proposed to alter slightly reflecting changes in the design process, but this will not affect the ability of the public to walk between the west and east building, along the eastern side of the Site and along the foreshore 24 hours a day.

To allow for an improved visual impact on arrival at the Site the access from the car park has been opened up by relocation of the services between the car park building and the western building. This improves access for pedestrians and provides a more attractive entrance to the yacht club and development as a whole.

The Part 3A Consent gives no permission for outdoor seating on decks, balconies or on the terraces and requires separate consent for use of these areas (Condition A11). The buildings are designed for occupants and their guests/customers to utilise the balconies and decks, to take advantage of the pleasant vistas afforded by the location on the Bay and to activate the foreshore. It is not proposed to have any outdoor seating between the western building decks and the wharf edge – thereby retaining the 4 metre Masterplan public access which is extended to 6.5 metres from the edge of the western building decks.

The proposed outdoor seating areas will include the placement of chairs and tables onto these areas each day – it is not envisaged that furniture will be permanently affixed in these areas. The outdoor seating includes seating on the terrace areas, which, if they were not in place, the public would possibly utilise for walking, although generally the tendency for the public is to remain as close to the water as possible. A depth of walkway of 8 metres is retained on the eastern portion of the Site in front of the eastern building, the section from which views toward Anzac Bridge and the entrance to Rozelle and Blackwattle Bays is best afforded. This divides the area between the eastern building and the foreshore in that area into relatively equal thirds of deck, outdoor seating on terraces and open walkway.

Possible linkages along the foreshore through the Sydney Boathouse site and RMS land remain open when the opportunity arises.

#### **4.2.4 Mitigation**

No mitigation is required in respect of the visual impact. The relocation of the focal point and increase in height has not made any dramatic impact in the views to and from the Site. The increased car park height and 2<sup>nd</sup> level on the eastern building retain the existing horizon. The principal impact is the partial coverage of the power station from Blackwattle Bay Park, however this vista will disappear completely when the Sydney Boathouse building A is constructed.

The enclosed storage areas have been included within the car park building to avoid visual impact on the roof.

The approved green wall planting on the façade of the car park will be generally extended across the northern façade of the car park building.

The tables and chairs on the terraced outdoor seating areas (but not on the decks and balconies) will be taken inside the tenancies, providing an increased open public domain area out of hours.

### **4.3 Transport and Accessibility Impacts**

#### **4.3.1 Policy/Legal Requirements**

The Amended DGRs require a Traffic and Transport Assessment in accordance with the RTA's Guide to Traffic Generating Developments and it must demonstrate the provision

of sufficient on-site car parking and bicycle facilities. In particular the amendments to the DGRs require assessment of the cumulative impact of the proposal associated with other construction and operational activities on the Site and the surrounding area.

Although not an environmental planning instrument, nor legislatively relevant to this application (as the Site is not assessable against the Leichhardt LEP and DCP), the DCP provisions regarding car parking were applied in the original assessment. On 3 February 2014 a new Leichhardt DCP commenced operation. The car parking calculations are considerably different to those operating under the previous 2000 DCP, generally requiring about half the number of car parks previously required.

#### 4.3.2 Methodology

A report from Transport and Traffic Planning Associates (TTPA) was obtained and is found in **Appendix H**. That report takes into consideration the increased outdoor seating, the increased car parking spaces and the cumulative assessment arising from the now operating Overseas Passenger Terminal (OPT) and Glebe Island Expo Interim Facility (GIE). It also considers the impact from the Mirvac Harold Park redevelopment. Assessment included updated traffic surveys conducted during the construction of both the GIE and Mirvac developments.

Reassessment of the minimum and maximum car parks under the 2013 DCP was made and can be found in the excel spreadsheet in **Appendix I**. This takes into account the proposed amended GFA and uses (including those requested under the lodged MOD 2 for the western building), the outdoor seating areas and the flexible use of some of the car parking areas for tender and watercraft storage, marine storage and marine uses in the car park building.

#### 4.3.3 Assessment of Impacts

##### 4.3.3.1 Traffic

The traffic surveys were conducted during a period of intense construction works for both the Glebe Island Expo and the Mirvac redevelopment. The level of service (LOS) for the intersection of The Crescent and James Craig Road was unaffected by whether the OPT was in operation or not – maintaining a B LOS in the morning and afternoon peaks and an A LOS on Saturday midday.

Assessment of the impact of the Glebe Island Expo was forecast using the potential figures applied by AECOM in its assessment for approval, which considered the cumulative impacts of the OPT, marine activities on James Craig Road and the Glebe Island Expo. It indicated a satisfactory outcome based on projections at that time.

When combined with the projected impact of the Mirvac development at Harold Park and the projected vehicles arising from the proposal, the resultant intersection performance of The Crescent and James Craig Road when a ship is at the OPT is a C LOS weekday mornings and afternoons and an A LOS on weekend midday. SIDRA analysis denotes a Level C LOS as satisfactory.

#### 4.3.3.2 Circulation around the Site

Circulation has been improved for the car park building by the proposed deletion of the upwards only car lifts and downwards only ramp. A two way ramp system is proposed in the modification and a passenger lift has been included in the car park to improve accessibility.

The 13 car spaces along the northern boundary of the western building are proposed to be deleted at the request of the RMS. This will allow suitable width of roadway when combined with the access route on the adjacent Sydney Boathouse leased property.

Public entry to the Site will be limited to a single entrance on the eastern side of the car park with set down/ pick up facilities at the rear of the eastern building. Exit will be through the ground floor of the car park building. With the removal of the car park lifts, the requirement to provide queuing room on Site is negated.

It is proposed that boom entry gates or some other method of controlling access to the car park will be included to prevent unauthorised use of parking on the Site by other workers in the vicinity.

The ability for service trucks to pass along the foreshore out of hours is maintained and access is possible for service vehicles along the roadway to the north of the western building, although access for the general public to that area will be restricted.

Turning paths have been provided in Appendix E of the Traffic report (**Appendix H**) indicating sufficient room for a 12.5m rigid vehicle to reverse into the area between the buildings to enable access to the Ausgrid kiosk which is to be constructed on the western boundary of the Site. They also demonstrate that a 19 metre articulated vehicle can adequately negotiate movement around the perimeter of the eastern building.

#### 4.3.3.3 Car parking on Site

Utilising the parking provisions of the 2013 Leichhardt DCP and estimating staffing levels the minimum number of car parks required (as calculated by TTPA and backed up by the excel spreadsheet in **Appendix I**) is 176 and the maximum is 297. The modification provides for 237 dedicated car spaces (comfortably within the DCP range) and a maximum of 307 if all of the areas proposed for flexible uses are used for car parking.

Included within the 237 dedicated car spaces are 1 car share space, and 3 accessible spaces in close proximity to the eastern building. Between 3 and 5 accessible car spaces are required under the 2013 DCP provisions.

A summary of the proposed car parking arrangements is:

- There will be a total of 237 dedicated car spaces (increased by 18 from the approved 219).
- Additionally, a further 70 spaces will be flexibly used:
  - 20 for tender boat and watercraft
  - 33 for commercial marine storage in the car park building
  - 17 for commercial use in the car park building
- The number of spaces within the car park building increases from 140 to 245, but with the flexible use of 50 (33 for storage and 17 for commercial use), there will be 195 dedicated car spaces in the car park building
- 13 car spaces have been removed from the northern side of the western building
- The number of parks outside the car park building decreases from 79 to 62, but with the flexible use of 20 for tender boat and passive recreational craft storage, there will be 42 dedicated car spaces at ground level
- The reduction in tandem affected car parks on the site from 46, to 8 on the roof
- Includes 3 accessible car parks

The reduction in tandem affected car spaces greatly improves car park management on Site.

#### **4.3.3.4 Bicycle parking and Motor Bike Parking**

Under the 2013 DCP provisions 58 bicycle spaces are required. The proposal includes 54 bicycle spaces, however with staggered use times between the commercial and club/restaurant, it is envisaged that this will be a sufficient provision.

The 2013 DCP provisions require a minimum of 9 and maximum of 15 motor bike spaces. Nine motor bike spaces are provided at ground level in the modification. None are provided for in the approved plans.

#### **4.3.4 Mitigation**

A Car Park Management Plan is already required under Condition E2 prior to the issue of the occupation certificate. The Statement of Commitments includes an obligation to prepare a Traffic Management Plan and a strategy for managing traffic on Site.

Because of the reduction in car parking requirements under the DCP, the increase in car parks and the significant reduction in the tandem car parks on Site, car park management will be easier. It is also assisted by the improved circulation by deleting the use of car lifts and including a two way ramp.

#### 4.4 Acoustic Impacts

##### 4.4.1 Policy/Legal Requirements

The Amended Director General's Requirements make no additional requirements for consideration of acoustic impacts that previously applied. Assessment has been made under the Industrial Noise Policy (INP), and for licensed premises using the Office of Liquor Gaming and Racing (OLGR) criteria.

DECCW has construction noise criteria using the rating background level + 10dB and sets standard construction hours.

##### 4.4.2 Methodology

Many acoustic reports have already been submitted in respect of the approved proposal, summarised as:

- Benbow Environmental Oct 2010 "Environmental Noise impact Assessment, included in Environmental Assessment Appendix L. It reviewed noise under the INP, sleep disturbance criteria DECCW Construction noise criteria, the NSW EPA Environmental criteria for road traffic c noise, established project specific noise levels by comparing the intrusiveness with the amenity criteria, modelled the projected noise from the project. It assessed noise with no outdoor bands, two bands and nine bands, finding that compliance could generally be met with 2 outdoor bands.
- Benbow Environmental May 2011 Results of Music Simulations (in Preferred Project Report (PPR) Appendix E) provided results of 2 live bands played at the existing facility as heard from 501 Glebe Point Road and other locations
- Benbow Environmental (May 2011) Responses to Public Submissions in PPR Appendix G responded to the public criticisms regarding the noise assessment from the Environmental Assessment which included matters able to be controlled by conditions, and other queries regarding the method of assessment

- Benbow Environmental (Nov 2011) Project Specific Noise Limits was included in the PPR Appendix F. It outlined unattended noise logging for 15 minute intervals and operator attended noise monitoring, at various apartments in 501 Glebe Point Road. It suggested the establishment of a noise management plan. The report established project specific noise limits under the INP using this new data at:
  - Day time: 60dB(A)
  - Evening: 50dB(A)
  - Night time 45dB(A)
- Benbow Environmental (April 2012) Noise Impact Assessment in PPR Addendum Appendix A considered the OLGR criteria using octave band frequencies at the request of the Department of Planning and Infrastructure. Further long and short term noise monitoring was undertaken at Glebe Point Road residences. Project Specific Noise Limits in frequencies were set, the marina modelled and as a result, the report included specific recommendations to limit noise impacts, which were incorporated into the approval conditions.

The modification includes the extension to include the water area, an increase in the number of car parks and an additional area on the 2<sup>nd</sup> level of the eastern building.

#### 4.4.3 Assessment of Impacts

Acoustic Logic undertook as assessment of potential additional noise impacts arising from the modification as set out in **Appendix K**.

##### 4.4.3.1 Marina

The assessment finds that given that only 5 or 6 boats can enter or exit the facility during any given 15 minute period, the proposed change in numbers of vessels will not result in an increase in noise levels above those levels currently experienced. The speed limit within the marina is 4 knots, considerably less than their normal cruising speed and no negative acoustic impacts on surrounding residential receivers is anticipated.

##### 4.4.3.2 Outdoor Seating Area

The Benbow Environmental Assessments incorporated outdoor seating for restaurant use within their assessment. The April 2012 report model (applied for the approval) included 581 users of outdoor seating areas at a moderate level:

- 141 customers from the provedore at ground level
- 130 people from yacht club uses on the level 1 balcony
- 210 restaurant customers on the ground level terraces
- 100 restaurant customers on the level 1 balconies

This was in addition to those inside the buildings. As a result of that modelling recommendations were made, including limiting the use of balconies, terraces and outdoor areas between 7am to 10pm, closure of external doors and windows after 10pm. These are incorporated within the statement of commitments and in condition F1. The recommended restrictions on bands are also in the statement of commitments and are made subject to a trial period in Condition F2.

The focus of potential noise impacts at the development assessment centred on noise from outdoor bands and amplified music to which conditions F2, F3, F6 and F7 attest. However the Planning Assessment Commission noted in their report that there was community concern about noise from outdoor seating areas, and on that basis required a further consent to be required for any outdoor seating, including within any lease areas, noting that the appropriate operating hours for the outdoor seating areas would need also to be subject to a further application.

Modelling including people sitting outside has already taken place and been incorporated within the assessment. The Proponent proposes that the outdoor seating areas will be limited to use by the tenancies between 7am to 10pm, 7 days a week. There is no proposal to amend the requirement for doors and windows to be closed after 10pm each night. These are the criteria under which the outdoor seating was modelled in April 2012.

The Proponent is seeking approval for use of the outdoor areas as set out in Plan DA19C and **Table 12**, comprising:

**Table 12 Proposed outdoor seating areas**

Area	m2	Total m2
<i>West Building</i>		
Ground floor yacht club deck	21	
Ground floor decks	63	
Level 1 Yacht club balconies	180	264
<i>East Building</i>		
Ground floor decks	475	
Ground level terraces	850	
Level 1 balconies	302	1627
<b>TOTAL</b>		<b>1891</b>
Yacht Club		201
Restaurants/ancillary uses balconies & decks		840
Restaurants/ancillary uses terraces		850
<b>TOTAL</b>		<b>1891</b>

The draft amendments to conditions and statement of commitments in Appendices B1 and B2 reflect these requested changes.

#### 4.4.3.3 Additional Uses

The assessment finds that the additional marine use facilities in the ground floor of the car park building will be glazed on the northern side and open during operation. Whilst some noise is anticipated from the uses as is normal for mixed marine businesses the generated noise sources will be acoustically screened from the sensitive receivers by the eastern building such that noise from the proposed uses will generally be inaudible.

#### 4.4.3.4 Additional Traffic

The assessment finds that the additional traffic will be located between the eastern building and the City West Link, the latter of which carries large numbers of traffic movements including heavy vehicles at up to 70 km/h. The additional traffic movements from the proposed modification will not generate an additional noise level to any surrounding residential receivers and will be acoustically acceptable.

#### 4.4.4 Mitigation

The outdoor seating areas are proposed to be vacated after 10pm at night in accordance with the previous acoustic assessment by Benbows. This has been included in the requested amendments to the conditions.

### 4.5 Flora and Fauna

#### 4.5.1 Policy/Legal Requirements

The principal legislative documents remain the same as applicable in the Environmental Assessment, including most relevantly:

- The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)
- Section 5A of the *EP&A Act* requires specific consideration of whether a development or activity is likely to have a significant effect upon any threatened species, population or endangered ecological community listed pursuant to the *Threatened Species Conservation Act 1995* (TSC Act).
- *NSW Fisheries Management Act 1994*
- *NSW DPI Fisheries' guidelines (NSW Fisheries 1999)*

As there is no dredging or reclamation involved and no net loss of marine vegetation, there is no requirement for a permit under the FMA.

SREP (Sydney Harbour Catchment) 2005 outlines 9 criteria for biodiversity, ecology and environmental protection in clause 21.

#### 4.5.2 Methodology

There is nothing occurring on the land as a result of the modification which requires further consideration regarding flora and fauna.

Paul Anink of Marine Pollution Research Pty Limited conducted survey of the water area which is proposed to be added to the Part 3A Consent. A dive survey was conducted on 6 March 2008 and on 7 November 2013, including inshore areas, marina support piles. His report is attached in **Appendix J**.

#### 4.5.3 Assessment of Impacts

There are no designated wetlands under SREP (Sydney Harbour Catchment) 2005 on the northern side of Rozelle Bay, but there are some on the southern side of Rozelle Bay and on the western shore near the Old Glebe Island Bridge. These are rock rubble revetments (rip rap) supporting macroalgae (kelp) habitats. There is a small mangrove patch on the southern side of Rozelle Bay and a small *Zostera* seagrass patch in Blackwattle Bay was found in 2012. There are no mangroves or saltmarsh along the existing facility foreshore or within their vicinity.

Four main areas of aquatic habitat are in the marina locality: inshore rock rubble, seabed sediments, pile and pontoon wetted surfaces. The survey includes the following observations:

- The intertidal to shallow sub-tidal rock rubble embankment is effectively in permanent shade and has no marine vegetation
- There is no marine vegetation in the subtidal mud habitat
- Two epibiotic taxa were observed on wharf support piles and inshore rock rubble
- Mooring lines support a few *Herdmania* ascidians
- No biota on mooring blocks due to excessive siltation
- Piles support bands of barnacles in the upper intertidal, Sydney rock oysters and tube worms in the intertidal and shallow subtidal, and blue mussels in the shallow to mid subtidal. Piles exposed to sunlight support two algae species
- Other epibenthic assemblages of sponges and ascidians and mussels were on the lower to deep subtidal portions of the piles

- The wetted surface of floating pontoons supported a range of epibiota similar to the piles
- Oysters and horned blennies, silver bream, striped catfish, cardinal fish, smooth toadfish, luderick and yellowtail were observed around the piles and pontoons.

The marine report considers the most likely protected species and ecological communities under the EPBC Act, Threatened Species Act and Fisheries Management Act, concluding:

- the likelihood of the grey nurse and great white shark using the Site was low and none were observed
- The Black Rock Cod *Epinephelus daemelli* was not observed despite searches nor was there suitable habitat
- Syngnathiformes fish (seahorses, pipe fish etc) were not found in searches and there is no suitable habitat
- *Posidonia australis* seagrass beds or shoots were not found
- *There is no suitable habitat for the Little Penguins*
- Listed cetaceans (whales and dolphins), marine mammals (sea lions and seals) and marine reptiles have not been observed in Rozelle Bay
- There are no listed species which would use the area due to no significant habitat features to support them

The marine assessment acknowledges that generally the existing piles, mooring blocks and floating pontoons will be reused maintaining the wetted surface for colonisation by biota. The new piles and pontoons will increase that surface area, with a net increase in pile and pontoon wetted surfaces, allowing for a net increase in epibiota habitat.

During construction the piles and blocks to be removed and replaced are all located in deep unvegetated sediment and there will be no sediment impact on the sediment benthic communities due to the highly localised disturbance and rapid resettlement of sediments.

Consideration by Mr Anink of the matters for consideration under SREP (Sydney Harbour Catchment) 2005 in clause 21, indicates that there is no impact from the proposal which arises under those considerations which would prevent approval.

#### 4.5.4 Mitigation

The low risk of persistent surface turbidity associated with the construction works can be further mitigated by the use of silt curtains around active piling works to contain and promote resettlement of surface plumes.

## 4.6 Water Quality and Contamination

### 4.6.1 Policy/Legal Requirements

The amended DGRs inserted a requirement to undertake an assessment of the potential impacts on the water quality of Rozelle Bay, including on the surface and groundwater quality as relevant.

The National Water Quality Management Strategy is a joint initiative between the Australian and New Zealand waterways. Its main policy objective is to achieve sustainable use of water resources, by protecting and enhancing their quality, while maintaining economic and social development.

The Australian Guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ) (2000) are the water quality guidelines prepared as part of the abovementioned National Water Quality Management Strategy, providing an authoritative guide for setting water quality objectives required to sustain current, or likely future, environmental values [uses] for natural and semi-natural water resources in Australia and New Zealand. Although the guidelines are not mandatory, they are highly respected. Relevantly for this application the guidelines provide guidelines for biological and physico-chemical indicators of water and sediment quality that will protect the ecological health of aquatic ecosystems, both freshwater and marine.

*Using the ANZECC Guideline and Water Quality Objectives in NSW* (OEH) is a document explaining the principles behind the ANZECC guidelines and establishing the water quality objectives for NSW's waters. The environmental values expressed as the water quality objectives provide goals that help in the selection of the most appropriate management options. The guiding principles are that:

- where the environmental values are being achieved in a waterway, they should be protected, and
- where the environmental values are not being achieved in a waterway, all activities should work towards their achievement over time

### 4.6.2 Methodology

No further assessment is required with respect to contamination on the land as this is not impacted by the proposed modification.

Paul Anink of Marine Pollution Research Pty Limited undertook sampling of the waters and bed of the Bay in order to determine the water quality and contamination present on the water Site which is proposed to be added to the Part 3A Consent, and is set out in **Appendix J**. Four seabed samples were collected and analysed by an analytical laboratory. Metals were assessed against maximum plus mean values for all Port Jackson sites using data from 199 and compared against the ANZECC/ARMCANZ (2000) range of contamination values. Organics were analysed for Organophosphorus and Organochloride pesticides (OPPs and ACOPs), Polychlorinated Biphenyls (PCBs), Polynuclear Aromatic Hydrocarbons (PAH), BTEXN and Total Petroleum Hydrocarbons (TPH).

#### 4.6.3 Assessment of Impacts

For metals:

- Cadmium and chromium were lower than Port Jackson mean concentrations and below the ANZECC Low Range Value
- Cobalt was below the Port Jackson mean concentrations
- Manganese and Nickel were similar to Port Jackson mean values
- Copper, zinc and lead concentrations are about double the Port Jackson mean and up to three times the ANZECC high range guideline values, but none were close to the Port Jackson maximum levels
- Mercury concentration were 2-3 times the ANZECC high range values

For organic contamination:

- OPPs and individual PCBs are all below detection
- Total PCBs were well below the Port Jackson mean and the ANZECC 2000 low range values
- Individual OCP compounds were below detection, below the ANZECC (2000) low guideline values and below the Port Jackson mean
- PAH compounds are generally between the ANZECC (2000) low and high guideline values, but are in the low range of Port Jackson mean concentrations
- The relative abundance of individual PAH compounds match other research from the central section of Sydney Harbour, attributed to high temperature combustion processes rather than fossil fuel spillages.
- The most volatile TPH fractions (C6-C9) were below detection and C10-C14 were relatively low compared to the heavier fractions. This indicates more weathered hydrocarbon products in the sediments

- The remaining TPH fractions were high, however BTEXN results were below detection. This indicates that the TPH residues are likely to be a legacy from past activities, reflecting the long industrial and motorised vessel use of the bay.

Mr Anink concludes that the sediment contamination studies confirm the conclusion that the Rozelle Bay sediments are generally similar to other central Port Jackson embayments that supported similar historic shipping, shore industrial and industry related stormwater sources of contamination, particularly the gas works related contamination by PAH compounds. There is no evidence that any significant contamination can be attributed to recent marina usage in Rozelle Bay. Contamination arises from historic uses rather than contemporary ones.

Mr Anink assesses the contamination with regard to the provisions of SEPP 55 Remediation of Land, concluding that the seabed does not require active remediation and the waters are suitable for use in their existing state for marina activities.

#### 4.6.4 Mitigation

Mr Anink advises the primary aquatic operational impacts will arise from a risk of water quality deterioration from either:

- fuel and waste contamination from vessel bilge and waste-water discharges or accidents, or
- mobilisation of bottom sediments from propeller or vessel wash.

Mr Anink suggests the implementation of a comprehensive Marina Operational Management Plan (OMP) to include:

- measures to prevent and manage vessel and marina bilge and waste water discharges
- vessel fuelling activities
- in-water vessel maintenance activities
- fire and risk management
- accidental vessel submergence
- solid waste collection and disposal
- monitoring of surface water condition and waste

The water depth of the marina and fairways leading out to Darling Harbour are generally greater than 7m below the lowest astronomical tide which should prevent propeller induced sediment mobilisation. Additionally the probable use of bow and stern thrusters for close quarter manoeuvring which displaces water just under the surface, will reduce the possibility of sediment mobilisation.

#### **4.7 Heritage**

As detailed in the original application whilst there are heritage items in the vicinity – being the Glebe Island Bridge, the old Glebe Island Bridge is quite some distance from the marina. The additional vessel movements will be insignificant and in any event all vessels must comply with the RMS requirements around the Glebe Island Bridge for navigational purposes. The modification will not have any impact on the curtilage or the heritage interpretation of the old Glebe Island Bridge.

#### **4.8 Drainage and Flooding**

There is nothing in the proposed modification which will impact on the drainage and flooding of the Site.

#### **4.9 Waste Management**

There is nothing in the proposed modification which will impact on the waste management which has not previously been addressed in the original Part 3A Consent. Condition D4 requires a waste management plan within the construction management plan. Condition E1 requires a waste management plan in the operational management plan. This is also covered in the Statement of Commitments.

#### **4.10 Infrastructure Provision**

Due to construction of the approved Sydney Boathouse on the adjoining Lot 29 Ausgrid will be constructing a new kiosk to the immediate west of the western building but on Lot 32. Provision has been made for this by the small variations in location of the western building which have been requested in the MOD2 already lodged with the Department. An easement is proposed between the RMS and Ausgrid enabling access over the Maritime Court to the rear of the Site and also to give a right for use of the area for the kiosk. The kiosk contained in easement BB registered in DP 1151746 will remain on the Site. The right of access will extend to allow a hammerhead turning area on the western boundary of Lot 32.

#### 4.11 Social Impacts

The modification will have little impact on the community. The marina is already operating, and whilst an increased number of vessels is requested, the impact on increased navigation in the Bay will be slight or almost indiscernible given the usual pattern of boat movements from the marina. The proposed second level on the eastern building is proposed for marine uses and the outdoor area adjacent to it is not proposed for use associated with the ancillary restaurants, cafes or bars.

The principal likely social impact arising from the proposed modifications is noise from use of the outdoor seating areas. Use of this area was included in the noise assessment which was taken into consideration with the original Part 3A Consent and the noise levels which have been included in the conditions. Those noise levels are not proposed to be amended. Nor is there any request that condition F1 with restrictions on use of balconies after 10pm be altered. It is suggested that the use of the outdoor seating areas is also subject to a restriction between 10pm and 7am.

#### 4.12 Public Interest

Incorporation of the whole of the marina within the single Part 3A Consent will enhance management of the marina and will make the consent process more comprehensible and accessible by the public. By allowing a greater vessel usage of the marina to accommodate vessels which are of varying lengths and girths, the rearrangement of the pontoons and increased vessel numbers will make efficient use of the limited on-water boat storage within Sydney Harbour, in accordance with the recommendations of *Transport for NSW Draft Sydney Harbour Boat Storage Strategy* issued in April 2013.

Extension of the car park building increases car parking at the Site, but also enables a greater floor space for marine uses on the Site. The additional floor space on the second level of the eastern building also increases marine commercial space on Site. These are factors which are promoted in both the Masterplan and in the recent Urban Growth Bays Precinct Urban Transformation Program and the Bays Precinct Taskforce.

The outdoor seating helps to achieve the Urban Growth aims of creating 'great places and great spaces' and of promoting economic growth.

The environmental impacts are small, including the visual impact. It is therefore in the public interest that the requested modifications be approved.

## 5. Conclusion

The Applicant seeks the permission of the Department of Planning and Environment to the s75W modification application for the proposal outlined in this Environmental Assessment and in the attached plans.

The proposed modifications seek to integrate the land and water based parts of Sydney Superyacht Marina into the one consent to reflect the interdependence of each on the other. This will improve management of the approvals for the marina. The proposed modifications are consistent with the zoning requirements and with the relevant environmental planning instruments. The Site is suitable for use as required by SEPP55. Some non-compliances are found to the Masterplan, however in general the objectives of the Masterplan are met.

The requested pontoon rearrangements and increase in vessel numbers have been assessed not to create any significant impacts or disturbances and a Vessel Traffic Management Plan and Marina Operational Management Plan are proposed.

Visual, traffic and acoustic impacts have been assessed and the impacts upon the community from these are found to be slight. Draft amended conditions include restricting use of the outdoor seating areas to between 7.00am and 10.00pm Monday to Sunday to avoid undue noise to sensitive residential receivers.

The Site is suitable for the requested modifications which are in the public interest by making a more efficient use of Sydney Harbour marina mooring facilities and increasing the amount of marine uses in the precinct, whilst not creating impacts which cannot be managed by appropriate conditions of consent.