

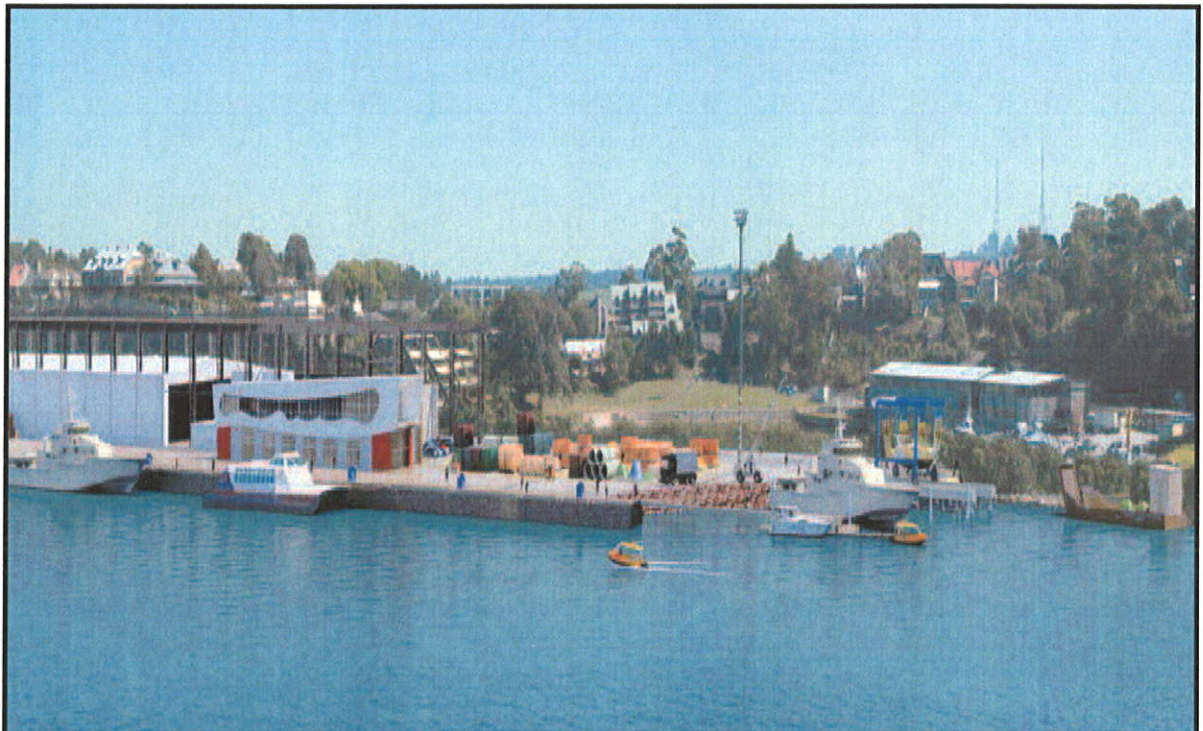


NSW GOVERNMENT
Department of Planning

**MAJOR PROJECT ASSESSMENT
BAILEY'S MARINE REFUELLING AND
SUPPLY FACILITY
WHITE BAY, BALMAIN
MP06_0037**

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

February 2009



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1 EXECUTIVE SUMMARY

Bailey's Marine Fuels Pty Ltd have lodged a Project Application which seeks approval for the construction and operation of a marine refuelling and supply facility (MRSF) at Berth 6, White Bay, Balmain (Lots 1 & 3).

The site is owned by Sydney Ports Corporation and comprises a total area of approximately 15,880m².

Proposal

The project application seeks approval for:

- **Development** of the site for a 2 storey marine office building and single storey bulk storage building. Total approximate GFA 2500m²
- **Piling** for boardwalk, floating pontoons, roll on roll off ramp and travel lift ramp
- **Demolition** of existing concrete slabs and minor excavation
- **Excavation** for four underground fuel tanks with a storage capacity of 110,000 litres each (385,000 litres of diesel and 55,000 litres of unleaded petrol)
- **Installation** of 5 refuelling dispensers along southern wharf and 3 on floating pontoon
- **Construction** of roll on roll off ramp, travel lift ramp, wooden jetty, boardwalk and 3 temporary moorings
- **Mooring** of steel pontoon attached to existing concrete dolphin
- **Car parking** for 30 vehicles

The Capital Investment Value of the proposal is **\$8 million** and the proposal will create **35** full time equivalent construction jobs and **30** full time equivalent operational jobs.

Permissibility

Sydney Regional Environmental Plan No 26 – City West (SREP 26) is the principal planning instrument applicable to the site. SREP 26 permits a range of maritime and port type uses. The proposed development meets the requirements of the SREP 26 and the proposed use is permissible.

Public Exhibition / Key Issues

The proposal was exhibited for a 30 day period from 8 November to 8 December 2006. The Department received 7 submissions from public authorities, and 783 public submissions. Key issues included:

- Noise and 24 hour operations
- Hazards, health and safety
- Air and odour impacts
- Increase in road traffic
- Water quality impacts
- Visual impacts
- Inappropriate use and out of date Master Plan

Preferred Project Report

On 9 July 2007, the Proponent submitted a response to submissions and Preferred Project Report (PPR) to address issues raised by the public authorities and the public. The PPR revised operational activities and provided further information to address issues raised.

Panel of Experts / Independent Hearing and Assessment Panel

A Panel of Experts was established on 6 November 2007 consisting of Dr Andrew Refshauge (Chair), Matthew Taylor (former CEO of NSW Maritime Authority) and John Wasserman (Noise Consultant, Wilkinson Murray). The Panel was established to consider a number of key issues relating to the proposal, namely justification of the MRSF, implications on existing facilities, capacity of White Bay to accommodate the facility, adequacy of operational and management measures, and 24 hour operational need and noise impacts.

Public hearings were held at Leichhardt Council Chambers on 4 and 5 February 2008. The Panel requested additional noise monitoring be undertaken to address issues raised prior to finalising its report. The additional

noise analysis was undertaken and findings were submitted on 8 April 2008. The Panel concluded that the proposal was acceptable subject to a number of recommendations to minimise the impacts of the proposal on the amenity of surrounding residential receivers.

Key recommended conditions/modifications

The Department has closely considered the Panel's report and recommendations and public and agency submissions.

The proposal is consistent with the current zoning and Master Plan applying to the site. The Department however notes that the long term strategic vision for the Bays Precinct may be subject to future review. The proposed MRSF can be considered as an interim facility as all buildings and associated infrastructure can be readily removed from the site with minimal costs. Furthermore the Department notes that the Proponent would only have a lease on the site until 2020. Accordingly, the Department recommends the use of the site be given a time limited approval consistent with the lease up until 2020.

Key recommendations made to the proposal include restricting the hours of certain operational activities, imposing noise limits and limiting the duration of the approval.

The Department is satisfied that the impacts of the proposed development have been addressed via the Proponent's PPR, additional noise information provided to the Panel, Statement of Commitments and the Department's recommended conditions. The proposal adequately addresses the Director General's environmental assessment requirements for the proposal and issues raised by the Panel. The proposed development facilities which support the continuation of a working harbour is therefore considered to be in the public interest.

For these reasons, it is recommended that the project be approved, subject to mitigation measures, recommended modifications and conditions of approval.

Public benefits

The public benefits resulting from the proposal include:

- The development benefits from its proximity to the city and Harbour foreshore, and will revitalise a currently underutilised site and contribute to White Bay's regeneration.
- Increased employment opportunities through the additional 30 operational jobs generated through the development.
- Reinforce port and maritime uses and contribute to the continued use of the area for working harbour activities.
- Increased efficiencies and introduction of safe and environmentally friendly refuelling practices,
- Provision of a new commercial refuelling facility servicing recreational and commercial users of the Harbour.

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2 BACKGROUND

2.1 THE SITE

2.1.1 Site context and location

The site, known as Berth 6, White Bay (Lots 1 and 3) is located in Balmain, within the local government area of the Leichhardt Council (Council). The site is owned by Sydney Ports Corporation and comprises a total land area of approximately 15,880m². The water area comprises approximately 5,000m².

The site is located on the most north-eastern berth of the White Bay, and bounded by the waters of Camerons Cove to the north, White Bay to the south and Johnstons Bay to the east. Grafton Street runs parallel to the site and sits above its north-western boundary (see Figure 1 – Site Location).

The NSW Water Police site is located 100m to the north in Camerons Cove. The site is within walking distance to local shops, bars and restaurants located in Rozelle and Balmain.

2.1.2 Existing site features

The site is currently occupied by large scale port infrastructure as follows:

- Storage shed over 100m long and 10m high
- Two steel gantries over 100m long and 15m high
- Two steel holding tanks over 15m high
- Brick toilet block
- One 30m light tower
- Concrete mooring dolphin
- Rock revetment wall at the site's north-eastern end that extends eastwards into the Harbour

The site is rectangular in shaped, flat and is capped in concrete and asphalt. No native vegetation exists on site. The only vehicular access to the site is via a private port road from Roberts Street at the western end of the site. As the site is a restricted port zone there is no pedestrian access through the site. The site does not have a direct street frontage, however Grafton Street sits 20m above the site due to existing topography. This is attributed to the cutting and excavating of the natural sandstone topography.

The site's northern boundary is approximately 200m in length. Grafton Street is at its western end and the waters of Camerons Cove at its eastern end. The site's southern boundary extends approximately 185m and has direct water frontage to White Bay along its entire length.

The site is within the Glebe Island/White Bay port area. Berths 1-5 lie to the west of the site and are used for bulk liquid storage as well as the storage of motor vehicles. The site is within close proximity to the residential areas of Rozelle and Balmain, and port and maritime precinct of White Bay. The site is surrounded by a mix of land uses including port and maritime uses, residential and light industrial uses. Residential development to the north of the site is characterised by medium density residential development and terraces.

2.1.3 Zoning / Statutory controls

The site is located in the 'Bays Precinct' under SREP 26. The land based component of the site is zoned 'Port and Employment' under SREP 26 which permits a range of port and maritime types uses. The proposal is consistent with the objectives of the zone and is a permissible use.

The water based component of the site is zoned W1 'Maritime Waters' under Sydney Regional Plan (Sydney Harbour Catchment) 2005. The use of the water for the MRSF is permissible with consent in the zone.

2.2 SITE HISTORY

The site, which forms part of the White Bay port area, was used historically as a major industrial and shipping goods handling precinct comprising wharfs, warehouses and train tracks.

In the early 1900s land was reclaimed to make way for additional berths and stores. The waters of the Bay were made deeper to accommodate the shipping berths. The wharves were extended further to support a growing timber industry but by the late 1940s the timber industry began to relocate out of White Bay.

By the 1960s the site was used for maritime industrial purposes. The site was used by P&O as a shipping container terminal up until 2003. Since that time, Berths 1-6 have been used at various times for bulk liquid cargo storage, bunkering, ship repairs and car storage.

In January 2006, Bailey's Marine Fuels Pty Ltd was selected by Sydney Ports Corporation to redevelop the site for a marine refuelling and supply facility. The site is currently used for the storage of motor vehicles.

2.2.1 Previous applications

Since the initial reclamation of the site in the 1970s, there is no relevant development history recorded for the site.

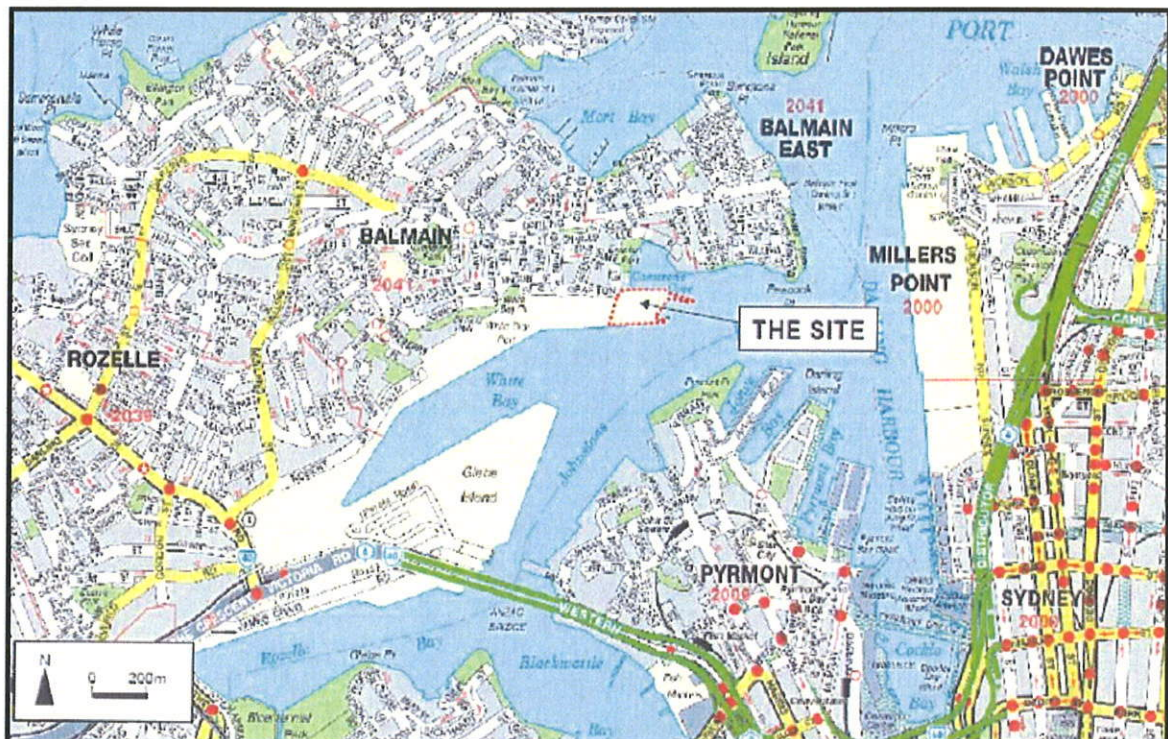


Figure 1 – Site location

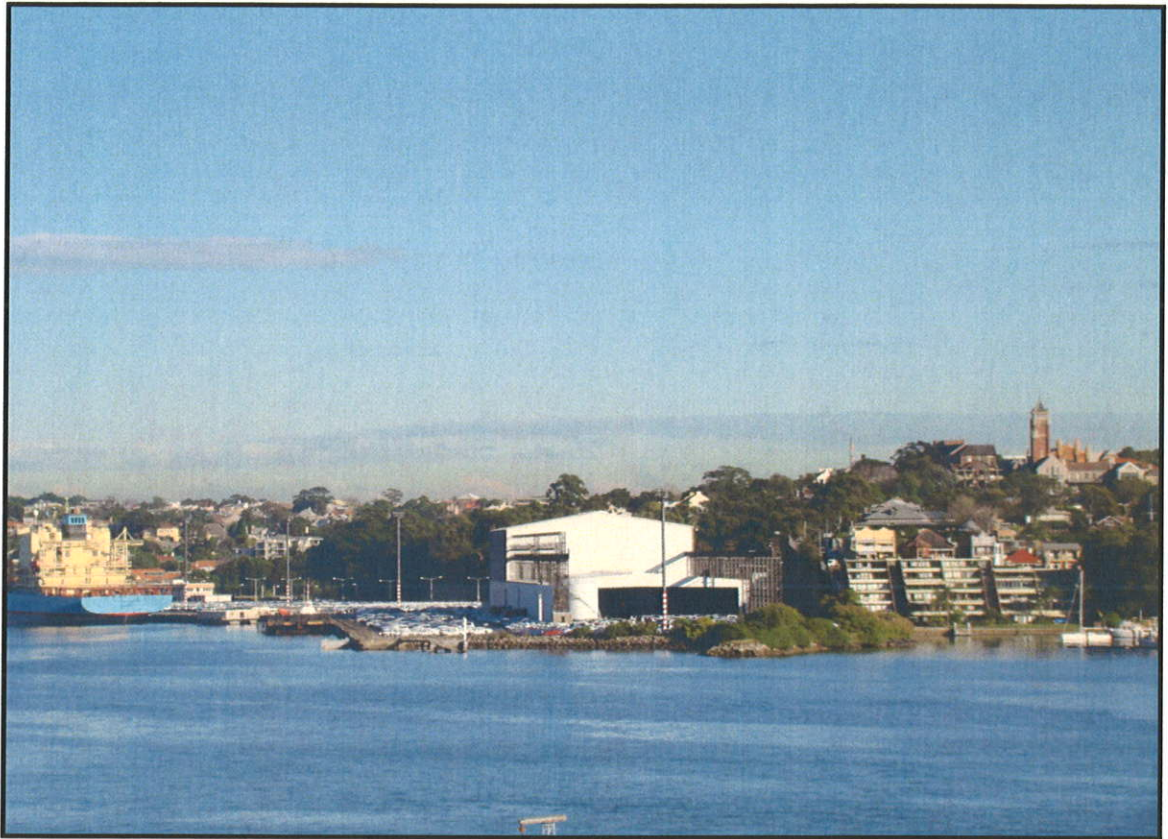


Figure 2 – View of the site looking west from Millers Point



Figure 3 – Photomontage of the proposal looking west

3 PROPOSED DEVELOPMENT

3.1 THE PROPOSED DEVELOPMENT

Approval is sought for a Project Application for the development of the Berth 6, White Bay. The proposal, as outlined by the Environmental Assessment (EA), consists of the following:

- Construction of a new 2 storey marine office and storage building (see Figure 4);
 - Approximately 10m in height and 45m long (RL 12.05) with a total Gross Floor Area (GFA) of approximately 1510m² incorporating 788m² of office space at first floor level and 722m² of storage/warehouse space at ground floor level;
- Construction of a new single storey bulk storage building;
 - Approximately 11m in height and 48m long (RL 13.05) with a total Gross Floor Area (GFA) of 990m²;
- 4 underground storage tanks storing 385,000 litres of diesel and 55,000 litres of unleaded petrol;
- 5 fuel dispensers on the wharf apron and 3 on the steel pontoon;
- Grey water and sullage pump facilities;
- Roll on roll off ramp;
- Travel lift ramp;
- Wooden jetty and wharf;
- Steel pontoon attached to existing mooring dolphin;
- 3 temporary vessel moorings;
- 30 car parking spaces (including staff and visitors);
- Hard stand area for lay down of vessels and goods;
- The total FSR for the site will be 0.16:1.

Land Use and Marine Operations

The Project Application seeks consent for the use of the site as a marine refuelling and supply facility (MRSF). The MRSF will operate a number of services including, refuelling, grey water and sullage, bulk storage, provision of supplies, water transport, commercial ship mooring, boat pre-commissioning and launching. The facility will also provide office accommodation for a range of marine businesses.

All persons wishing to use the services offered by the MRSF must be registered with Bailey's Marine Fuels Pty Ltd and undergo induction training. The facility will not be able to be used by members of the general public who are not registered.

The Proponent has detailed the following proposed uses:

- **Refuelling**
 - *A wide range of marine vessels including, recreational, commercial fishing, commercial marine, government, charter and marine transport vessels will be refuelled. The facility will be able to refuel commercial vessels up to approximately 70m in length.*
 - *Commercial operators will refuel their vessels using 5 refuelling dispensers that will be positioned along the Berth 6 wharf apron. Smaller commercial vessel operators and recreational vessels will use the 3 dispensers on the floating steel pontoon. All dispensers will operate through a swipe card system.*
 - *Commercial refuelling is proposed 24 hours a day, 7 days a week.*
 - *Recreational refuelling is proposed between 5.00 am and 10.00 pm, 7 days a week.*

- Road tankers will refuel the underground storage tanks and are proposed to operate 24 hours a day, 7 days a week.
- **Grey Water and Sullage**
 - Grey water and sullage facilities will manage waste from vessels. A Sanivax pump out system will remove effluent and sewerage from vessels, discharging directly into the closest sewer lines.
- **Marine Tenancies and Office Space**
 - The bulk storage building will house up to 5 commercial and recreational vessels and store pollution control and emergency equipment.
 - The office building will provide office accommodation for marine businesses including marine electronics, life raft servicing, marine surveyors and marine engineers. The building will also house Bailey's site office.
- **Hardstand/Laydown Area**
 - Used for the transport and storage of goods and materials.
 - Goods and materials will be transported to and from the site via trucks and water barges.
 - The area will also house vessels that have been either transported to the site via truck or hauled out of the water using the travel lift ramp.
 - Activities undertaken on the hardstand area will include boat pre-commissioning and launching, haul out and set down of boats (via travel lift), detailing and polishing, interior fitout, rigging and detailing vessels for export and dry dock.
 - Equipment used on the hardstand area includes, travel lift, trucks and delivery vehicles, forklifts, pallet jacks, high pressure water cleaners, electric power tools and cranes.
- **Roll on Roll off Ramp**
 - The principle purpose of the roll on roll off ramp is to transport goods and materials that arrive on site via trucks and barges. Trucks either roll onto the ramp and into the barge or out of the barge and onto the hardstand area. The ramp enables goods and materials to be transported throughout the Harbour to sites that have limited road access or Harbour islands which can only be accessed by vessels and barges.
 - The ramp is proposed to operate between 7.00 am and 6.00 pm Monday to Saturday, and 8.00 am to 6.00 pm Sunday.
- **Travel lift ramp**
 - The dual ramp will used by the travel lift to haul out vessels from the water and deposit vessels into the water. The travel lift is able to transport vessels around the site and has a 75 tonne capacity.

Development Data Table

| Building/Site | Height | Gross Floor Area (m²) | Proposed Floor Space Ratio (FSR) |
|--|----------------------------|--|---|
| Existing site | Gantries 15m | Total Area 15,580m ² | n/a |
| Proposed marine office building | 2 storeys 10m (RL 12.5) | 788m ² + 722m ² * Total GFA= 1510m ² | 0.16:1 |
| Proposed boat storage and equipment building | 1 storey 11m (RL 13.5) | Total GFA= 990m ² | |

Table 1 – Marine Refuelling & Supply Facility development figures

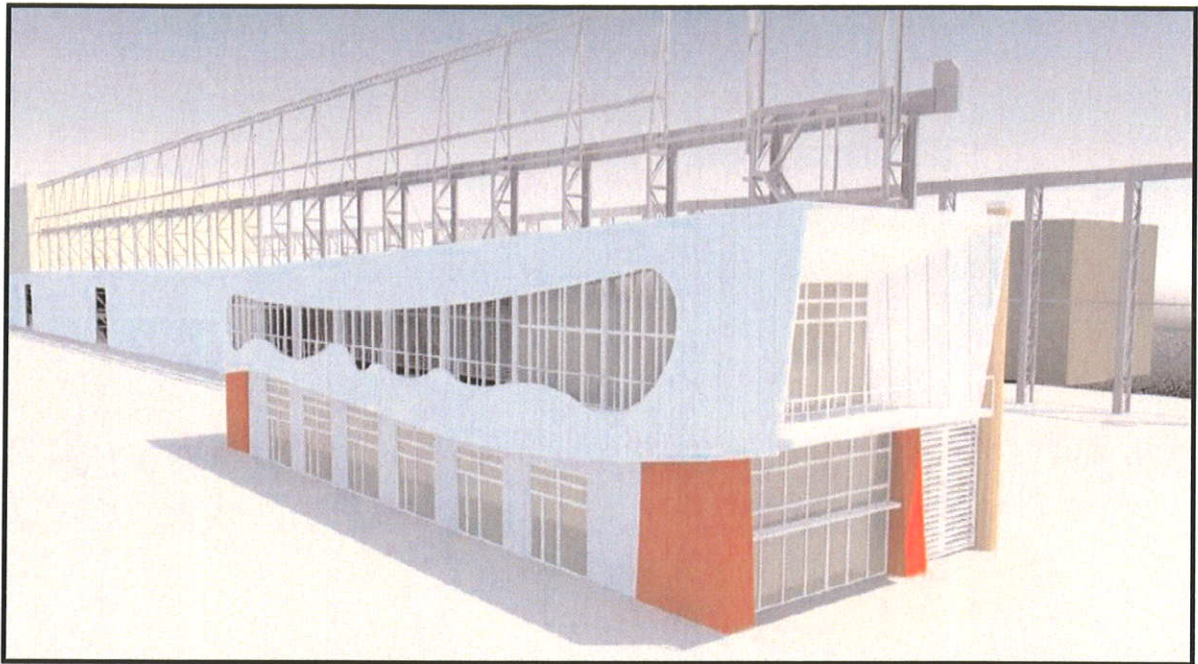


Figure 4 – Proposed two storey marine office building

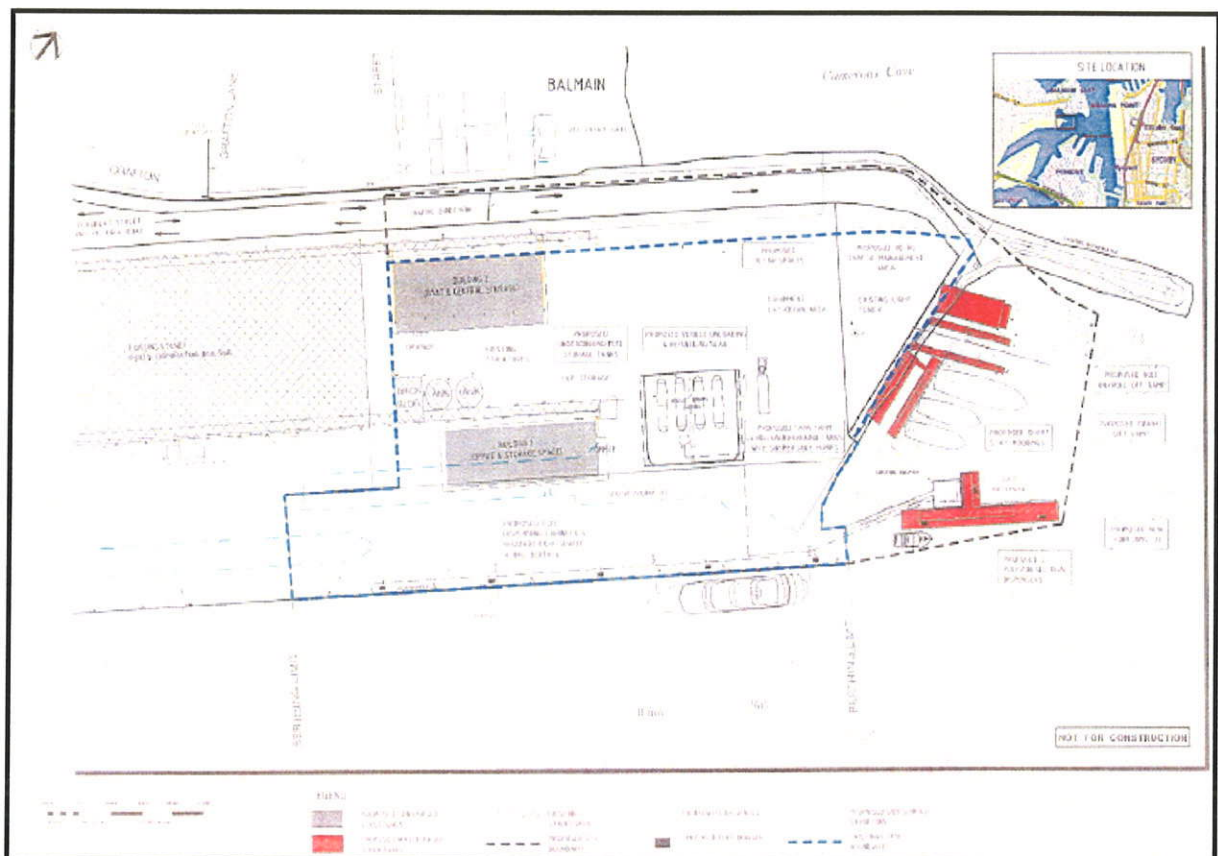


Figure 5 – Site layout plan

3.2 PROJECT AMENDMENTS (PREFERRED PROJECT REPORT)

A Preferred Project Report (PPR) was submitted on 8 July 2007. No major changes to the proposal were proposed as a result of the issues raised in submissions. However, a number of minor modifications were made and additional information provided including:

- Recreational vessel refuelling limited to start at 5.00 am instead of 4.00 am.
- Corrections to stated fuel tank capacity.
- Additional traffic impact assessment.
- Boating traffic assessment.
- Additional details of operational activities.
- Commitment to preparation of Fire Safety Study and Traffic Management Plan.
- Modified mitigation measures.
- Site visit and consultation with Metropolitan Local Aboriginal Lands Council.
- Revised Statement of Commitments.

3.3 PROJECT CHRONOLOGY

- 20 January 2006 – request for clause 6 opinion lodged with the Department.
- 22 February 2006 – The Minister formed the opinion that the proposal is a Project to which Part 3A of the EP&A Act applies and authorised the submission of a Major Project Application.
- 8 March 2006 – Director General's Environmental Assessment Requirements issued to proponent. Advice was provided at this time that the Sydney Harbour Foreshore Authority would assess the application under delegation from the Minister.
- 30 June 2006 – Presentation to Sydney Harbour Design Review Panel.
- 31 July 2006 – Proponent seeks re-issue of Director General's Environmental Assessment Requirements due to proposed additional activities.
- 24 August 2006 – Proponent provides further information on activities.
- 8 September 2006 – Re-issue of Director General's Environmental Assessment Requirements to Proponent.
- 30 October 2006 – EA lodged with the Sydney Harbour Foreshore Authority.
- 6 November 2006 – EA deemed adequate for exhibition.
- 8 November – 8 December 2006 – EA placed on public exhibition.
- 15 December 2006 – EA referred to Foreshores and Waterways Planning and Development Advisory Committee.
- 9 July 2007 – response to submissions and PPR submitted.
- 6 November 2007 – Minister appoints Panel of Experts to consider various aspects of the Project Application.
- 4 & 5 February 2008 – Panel of Experts conduct public hearings.
- 8 April 2008 – Proponent provides further noise assessment information.
- 8 July 2008 – Panel of Experts finalised their report.

4 STATUTORY CONTEXT

4.1 MAJOR PROJECT DECLARATION

The project has a Capital Investment Value of more than \$5 million and is of a kind described in Schedule 2, being development within the area identified as White Bay on Map 6B of Schedule 2 of the State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP). The proposal is therefore a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) applies. The opinion was formed by the Minister on 22 February 2006 and authorisation was granted for the submission of a Project Application.

4.2 PERMISSIBILITY

The land based component of the site is located in the 'Bays Precinct' under SREP 26. The site is zoned 'Port and Employment' which permits a range of port and maritime uses. The water based component is zoned W1 Maritime Waters under SREP (Sydney Harbour Catchment) 2005.

The proposal is consistent with the objectives of SREP 26 and SREP (Sydney Harbour Catchment) 2005 and is permissible subject to the Minister's approval.

4.3 DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

The Director General's Environmental Assessment Requirements (DGRs) issued on 8 September 2006 required the following key issues to be addressed:

- Air Quality
- Noise and Vibration
- Water Quality
- Traffic and Parking
- Visual impacts
- General risk analysis

The DGRs are in **Appendix A**

The EA lodged by the Proponent on 30 October 2008 satisfactorily addressed the DGRs and was deemed adequate for exhibition. The Department is satisfied that the DGRs have been adequately addressed by the Proponent's EA, PPR and supplementary noise studies.

4.4 PANEL OF EXPERTS / INDEPENDENT HEARING AND ASSESSMENT PANEL (IHAP)

Section 75G of the EP&A Act provides that the Minister may constitute a panel of experts (an 'IHAP') to assess any aspects of a project.

On 6 November 2007, the Minister appointed a panel of experts to provide independent and technical expertise on key issues in the terms of reference. The panel members were Dr Andrew Refshauge (Chair), Matthew Taylor (former CEO of NSW Maritime Authority) and John Wasserman (noise expert).

The terms of reference for the Panel were to consider and advise on:

1. Justification for a refuelling facility within the inner harbour of the scope proposed, having regard for other facilities that might serve the same market;
2. Implications the proposal will have on existing refuelling facilities;
3. Capacity of White Bay to accommodate the facility;
4. Adequacy of operational and management measures proposed, including noise mitigation, environmental performance and resultant benefits; and
5. Basis of operational need for the facility and its likely noise impacts, whether the operation of a 24 hour facility is required and justified in this location.

Public hearings were conducted on 4 and 5 February 2008, at Leichhardt Council Chambers to listen to persons who made or wished to make comments on the proposal. A total of 34 written submissions were received, and 27 individuals and organisations presented their views to the Panel.

On 28 February 2008, the Panel requested additional information from the Proponent on issues relating to background noise monitoring, operations and their times, noise levels at closest residential receivers and operational noise mitigation measures. These issues were addressed in the Environmental Noise Survey Report and draft Operational Noise Management Plan submitted to the Panel on 8 April 2008 for consideration.

The Panel's report was submitted on 8 July 2008 and included a number of recommendations including restricting the times of certain operational activities, imposing noise limits, requiring site supervision at all times, preparing of noise monitoring program and implementation of community information program. A copy of the report is at Appendix D. Section 5 of this report contains a detailed consideration of the Panel's recommendations.

4.5 OBJECTS OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the EP&A Act, consistent with the backdrops of the objects of the EP&A Act.

The objects of the EP&A Act in section 5 are as follows:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities, and*
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) ecologically sustainable development, and*
- (viii) the provision and maintenance of affordable housing, and*

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The Department has considered the objects of the EP&A Act, including the encouragement of ESD in the assessment of the Project Application. The Department considers the proposal will encourage the proper management and economic development of the site without adverse consequences to the environment. The project does not raise significant issues with regards to the objects under the EP&A Act.

4.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES

The EP&A Act adopts the definition of ESD from the Protection of Environment Operations Act 1991 including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

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

- a) **Integration Principle** – The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities, and the proposal as recommended for approval will not compromise a particular stakeholder or hinder the opportunities of others.
- b) **Precautionary Principle** – The proposal presents no threat of serious or irreversible environmental damage to the site or the wider locality.
- c) **Inter-Generational Principle** – The proposal represents a sustainable redevelopment of the site. The development will activate the site with a viable economic use. The use and infrastructure is such that it does not compromise the potential future redevelopment of the land for future generations.
- d) **Biodiversity Principle** – Following an assessment of the proponent's EA it is concluded that there is no threat of serious or irreversible environmental damage as a result of the proposal. There are no threatened or vulnerable species or significant vegetation on the site.
- e) **Valuation Principle** – An assessment of the environmental costs and benefits of the proposal has been undertaken. This has identified appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

The ground RL for the site varies from 2.2m AHD to 4m AHD, which is consistent with the levels of other wharf areas in the surrounding bay and port area. There is no known record of flooding. In considering possible sea level rise, king tide and storm surge occurrences it is important to recognise that the site does not support human habitation; adequate environmental measures have been proposed; and any consent will be a time limited consent.

The proponent is committed to ESD principles and has proposed a number of design elements (see section 5.7 of this report) which provide for ESD opportunities. ESD is considered in the wider context of the public benefits of the proposal, and these are documented throughout the report.

4.7 SECTION 75I(2) OF THE EP&A ACT

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

| Section 75I(2) criteria | Response |
|--|---|
| Copy of the proponent's environmental assessment and any preferred project report | The Proponent's EA is located at Appendix B and the PPR including addendum is located at Appendix C . |
| Any advice provided by public authorities on the project | All advice provided by public authorities on the project application for the Minister's consideration is set out in Section 6 of this report. |
| Copy of any report of a panel constituted under Section 75G in respect of the project | A copy of the report as attached at Appendix D . |
| Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project | Each relevant SEPP that substantially governs the carrying out of the project application is identified immediately below. |
| Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division | An assessment of the development relative to the prevailing environmental planning instruments is provided in Section 4.8 of this report. |
| Any environmental assessment undertaken by the | The environmental assessment of the project application |

| | |
|---|--|
| Director General or other matter the Director General considers appropriate. | is this report in its entirety. |
| A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project. | The environmental assessment of the project application is this report in its entirety. The EA has adequately addressed the DGRs. |
| Clause 8B criteria | Response |
| An assessment of the environmental impact of the project | An assessment of the environmental impact of the proposal is discussed in Sections 4 and 5 of this report. |
| Any aspect of the public interest that the Director General considers relevant to the project | The public interest is discussed in Section 5 of this report. |
| The suitability of the site for the project | The site has been used historically for port and maritime related uses and it is considered that existing site conditions are favourable for a MRSF to be established on site. SREP 26 permits development of this type. |
| Copies of submissions received by the Director General in connection with public consultation under section 75H or a summary of the issues raised in those submissions. | A summary of the issues raised in the submissions is provided in Section 6 of this report and copies of the submissions have been provided at Appendix F. |

Table 2 - Section 75(2) requirements for Director General's Report

4.8 ENVIRONMENTAL PLANNING INSTRUMENTS

4.8.1 Application of Environmental Planning Instruments to Part 3A projects

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

The primary controls guiding the assessment of the proposal are:

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

In addition to the environmental planning instruments above, consideration was given to:

- Glebe Island and White Bay Master Plan
- Sydney Harbour Foreshores and Waterways Development Control Plan 2005

4.8.2 State Environmental Planning Policy (Major Projects) 2005

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* being a development of a kind listed in Schedule 2 of the Major Projects SEPP, namely clause 10 (1) "Development (with a capital investment value of more than \$5 million) within the area identified on Map 6B to this Schedule and is thus a project to which part 3A of the EP&A Act applies. The Minister is the consent authority.

4.8.3 State Environmental Planning Policy No 55 Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. In accordance with SEPP 55, a preliminary investigation (Stage 1 Contamination Assessment) was undertaken by Coffey Environments Pty Ltd.

The assessment found that the site contains a few potential areas of environmental concern related to leaking of oils, importation of contaminated fill and spillage/leakage of chemicals. Further analysis of the level of contaminants prior to the commencement of works will be required as a Condition of Approval to determine whether remediation of the site is required. Subject to further analysis, as the site has been used historically for port and maritime industrial uses, it is considered the site is suitable for its use as a MRSF.

4.8.4 State Environmental Planning Policy (Infrastructure) 2007

The proposed development meets the aims of the Infrastructure SEPP as it allows for the efficient development of government owned land. Schedule 3 of the SEPP requires traffic generating development to be referred to the RTA. The RTA was referred a copy of the proposal but did not make a formal submission on the EA. The proponent adequately addressed construction and operational traffic within the traffic and transport assessment within the EA and additional traffic analysis provided within the PPR. The proponent has also committed to scheduling any heavy vehicles trips to and from the site outside of peak where feasible and preparing Construction Traffic Management Plan and a Traffic Management Plan.

4.8.5 Sydney Regional Environmental Plan No 26 – City West

The site is within the area to which SREP 26 applies. Port and maritime uses including the MRSF are permissible in the area. The proposal is consistent with the objects of the Plan which aims to encourage the development of port and maritime uses.

The Glebe Island White Bay Master Plan made under SREP 26 also applies to the site. The Master Plan has the status of a Development Control Plan and under Part 3A of the EP&A Act is not required to be considered in the assessment of this application. However the Master Plan does prescribe development controls for the site and is therefore useful for consideration.

The development controls have been imposed to maintain existing views to landmarks and reinforce the visual quality of the area. The controls require:

- A maximum 12m height limit across the site;
- Setback buildings a minimum of 20m off the water's edge.

The proposed buildings on the site comply with the height limit and setback controls.

The Master Plan also seek to exclude dangerous goods in bulk liquid storage terminals, and although the storage of diesel is not considered a dangerous goods, as some unleaded petrol is also to be stored, the total volume of fuel is classified as a dangerous goods storage.

The departure from this provision should not preclude the development proceeding for the following reasons:

- the Master Plan is not a statutory environmental planning instrument and cannot prohibit the use of the site for the storage of dangerous goods;
- the storage of unleaded petrol is not the principal use of the site;
- a Preliminary Hazard Analysis undertaken for the site reveals the storage of unleaded petrol will not represent a risk to health and safety to the surrounding environment;
- A time limited consent is recommended; and
- Strict licensing requirements will be imposed by DECC.

4.8.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

- *Clause 21 - Biodiversity, ecology and environmental protection:* The proposal is not considered to have any adverse impacts on the biodiversity or ecology of the area.

- *Clause 22 - Public access to, and use of, foreshores and waterways:* The site is a restricted port zone therefore public access is not permitted.
- *Clause 23 - Maintenance of a working harbour:* The proposal is a maritime refuelling and supply facility and as such will contribute to the maintenance of a working harbour.
- *Clause 24 - Interrelationship of waterway and foreshore uses:* The maritime industrial nature of the facility and its waterfront location provides opportunities to enhance the interrelationship of waterway and foreshore uses.
- *Clause 25 - Foreshore and waterways scenic quality:* The proposed development is considered to be of an appropriate bulk and scale in the context of the locality and will not have a negative impact on the scenic quality of the foreshore and waterway.
- *Clause 26 - Maintenance, protection and enhancement of views:* The proposal will not have a detrimental impact on the surrounding views.
- *Clause 27 - Boat storage facilities:* The proposal does not include provisions for permanent boat storage. While temporary storage of boats will occur on site due to maintenance works, the primary purpose and use of the facility is not for the storage of vessels.

Foreshores and Waterways Planning and Development Advisory Committee

The proposal was of a type referred to in Schedule 2 of the SREP and was therefore required to be referred to the Foreshores and Waterways Planning and Development Advisory Committee. The Committee raised no objection to the facility on the basis that it reinforces the role of the Bays precinct as a major inner Harbour port and maritime location, and is a critical need on Sydney Harbour.

Heritage provisions

The site is not the subject of any Heritage Items listed under the SREP, and is not located within the vicinity of any Heritage Items under the SREP.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS / REVIEW OF IHAP REPORT

The DGRs and following key issues were considered in the Department's assessment of the EA:

- Noise impacts and 24 hour operations
- Hazards and safety impacts
- Air and odour impacts
- Traffic and transport
- Water quality impacts
- Visual impacts
- Inappropriate use and out of date Master Plan

The Panel finalised its report on 8 July 2008, based on the Terms of Reference and considered a number of key issues including noise and 24 operations. While the Panel's consideration of noise and the capacity of White Bay to accommodate the facility were relevant to the DGRs and key issues raised in submissions, a number of the Panel's Terms of Reference were not directly relevant to environmental impacts including, justification of the project and its implications for existing facilities.

The panel of experts report concluded that:

- There is a need for a refuelling facility that undertakes the range of activities and offers the variety of services within Sydney Harbour as proposed by the application.
- The refuelling facility will increase competition between existing commercial and recreational refuelling facilities in Sydney Harbour. There is increased demand for refuelling services that cater to a wide range of vessel types, and the market is able to accommodate an additional supplier.
- The existing and surrounding land use, site characteristics and strategic location contribute to the site's capacity to be developed for the proposed facility.

- The proposed noise management measures proposed are adequate and adequate environmental performance can be achieved. This would be achieved by conditions on any approval and through the required licensing by the Department of Environment and Climate Change (DECC).
- The site is considered to be an acceptable location for the facility. A number of services including commercial vessel refuelling and pumping sewage need to operate on a 24 hour basis as there are limited opportunities currently in Sydney Harbour. However, for other site activities, specific operational times are recommended.

The panel of experts recommended that:

- a) Operational times for the proposed activities should be restricted as follows:

| Activity | Hours of operation |
|--|--|
| Refuelling and sewerage pump out for commercial vessels | 7 days – 24 hours per day |
| Commercial boat arrivals & departure & mooring | |
| Office building mechanical services, e.g. A/C plant, compressors for chiller room etc | |
| Refuelling & sewerage pump out for recreational vessels | 7 days – 5.00 am to 10.00 pm |
| Recreational boat arrivals & departures & mooring | |
| Trucks movements to and from the site | |
| All activities on the hardstand/laydown area e.g. power tools, forklift, pallet jacks, cranes, travel lift & roll on roll off ramp | Monday- Saturday 7.00am to 6.00 pm Sunday 8.00am to 6.00 pm |
| Mixed marine tenancies, commercial storage/work shed | |

- b) Facility staff are to be on site at all times of operation, and should be responsible for safety and noise management.
- c) Commercial vessels should be encouraged to refuel during the day and evening. Reasons for all night time refuelling should be logged as part of the operational noise management plan.
- d) The Proponent is required to implement an Operational Noise Management Plan and commission noise monitoring reports.

Where relevant, the issues discussed in the report, and the response by the Department, are provided below.

5.1 NOISE AND 24 HOUR OPERATIONS

The Panel considered the adequacy of operational noise assessment and noise management measures, and basis of operational need and its likely noise impacts. An assessment of the noise and vibration impacts of the proposed MRSF was undertaken for the operational stage of the proposal consistent with the Minister's request.

The Panel noted the two main noise issues raised in submissions were inadequate and inaccurate noise impact assessment, and noise impacts associated with 24 hour operations particularly during evening and night time periods. The Panel cited a report prepared by Challis Consulting Pty Ltd (the Challis Report) prepared on behalf of several objectors, which provided a commentary and many opposing opinions on the noise impact assessment. The report challenged the findings and adequacy of the noise impact assessment undertaken on behalf of the Proponent by Bridges Acoustics Pty Ltd (the Bridges Report).

As a result of the Panel's review and information provided by the challis Report, the Panel recommended the Proponent provide additional information as follows:

- Conduct additional attended and unattended noise monitoring around Camerons Cove to verify the background noise levels presented in the Bridges Report in the EA and PPR.
- Summarise what operations are proposed for day, evening and night.
- Confirmation the noise limits presented in the DECC letter ($L_{Aeq(15\text{ min})}$ and $(L_{A1(1\text{ min})})$ can be achieved at the closest residential receivers in each relevant area.
- Confirmation the activity durations used in the noise assessment is consistent with the actual business operations and practices proposed by the MRSF, and that these can be effectively managed in a way using operational management tools and practices.
- Preparation of a draft Operational Noise Management Plan.

On 8 April 2008, the Proponent provided the Panel with the requested information. The Panel considered that with the additional noise information provided by the Proponent, that the operational noise assessment and considered noise mitigation was adequate and conforms to DECC's *Industrial Noise Policy*.

Department comment

On 7 July 2008, a further report was lodged by Mr Challis questioning the validity of the additional noise impact assessment, on the basis that background noise levels were incorrectly measured. The Department has considered the report dated 7 July 2008, prepared by Challis Consulting Pty Ltd and believes the issues raised in the report do not warrant a reconsideration of recommendations previously expressed by the Panel and DECC. DECC have confirmed that the measurement of background level noise are in accordance with the NSW Government Industrial Noise Policy. The Department has considered the views of the Panel and DECC and is satisfied that the information provided is satisfactory, accurately represented and adequate, while impacts can be monitored and regulated through the recommended conditions.

Background noise levels

Panel comment

The Panel considered the new measurements to be generally consistent with background noise data obtained by Renzo Tonin & Associates, and these measurements confirmed the older monitoring results to be reasonable.

Department comment

The Department agrees with the Panel's and DECC's assessment and is satisfied that the background noise data is dependable and accurate.

Noise criteria

Panel comment

The Panel stated the two forms of noise criteria are known as 'intrusiveness' and 'amenity' criteria. The intrusive criteria should not exceed the background level by more than 5dB. The Panel were satisfied that operational noise levels from the site can comply with the noise criteria (i.e. background and 5dB) apart from a 4dB exceedance over the daytime noise criterion at Grafton Street (which is from 7 am to 6 pm Monday to Saturday; or 8 am to 6 pm on Sundays and public holidays). This exceedance would be as a result of all activities occurring on the site at the same time. The Panel stated that an exceedance of intrusive noise criterion between 2-5 dB(A) is considered marginal and can be managed through an operational management plan and continual improvement processes.

Department comment

The Department agrees with the Panel's assessment and is satisfied that a 4dB exceedance over daytime noise criterion at Grafton Street is minor and will not result in detrimental amenity impacts on surrounding sensitive residential receivers.

Noise modelling

Panel comment

The Panel considered the noise predictions presented in the EA and PPR including addendum, were generally conservative as additional losses such as air absorption were not considered. The Panel were satisfied that operational noise levels from the site can comply with the relevant noise criteria apart from a 4dB exceedance over daytime noise criterion at Grafton Street (which is from 7 am to 6 pm Monday to Saturday; or 8 am to 6 pm on Sundays and public holidays).

The Panel noted that noise modelling showed that predicted noise levels from activities on site would be within *intrusive* and *amenity* noise limits proposed by DECC. The Panel noted the only exception was noise levels attributed to truck movements in the evening and night time periods. To resolve this issue, the Panel