

Reference: 2006-038

15 December 2010

Mr. Michael Woodlands
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Mr. Woodlands,

**ADDITIONAL ASSESSMENT OF THE PROPOSED DEVELOPMENT MP08_0046
D'ALBORA MARINAS – THE SPIT**

1.0 Introduction

We refer to the letter from Mosman Council (the Council), dated 23 July 2010, requesting that the proposed development be assessed against the provisions of the *Draft Mosman Local Environmental Plan 2008 (Draft MLEP)*.

As such, the purpose of this document is to provide an assessment of the proposed development at d'Albora Marinas – The Spit, against the relevant provisions of the *Draft MLEP*.

The *Draft MLEP* was placed on public exhibition between 15 October 2009 and 4 December 2009, with the Council resolving at a meeting on 6 July 2010, to submit the *Draft MLEP* to the Department of Planning for gazettal.

2.0 Draft Mosman Local Environmental Plan 2008

Clause 1.2(2) details the particular **Aims** of the *Draft MLEP*. The relevant **Aims** are identical to the relevant **Objectives** stipulated at **Clause 2** of the *Mosman Local Environmental Plan 1998*, which have been appropriately addressed at **Section 7.4.1** of the **Environmental Assessment**.

Part 2 of the *Draft MLEP* deals with **Permitted or Prohibited Development**.

In accordance with **Clause 2.2**, the **Land Zoning Map** identifies the subject site as being zoned **RE2 Private Recreation (Figure 01)**.

Figure 01: Land Zoning Map Extract



Source: <http://mosmanlep.net/lep/>

The **Land Use Table** provided at **Part 2**, provides **Objectives** in relation to the **RE2** zone, which have been reproduced below, along with a response to each.

- *To enable land to be used for private open space or recreational purposes.*

The proposed development includes areas and facilities of recreational purposes, and therefore, is considered to meet this Objective.

- *To provide a range of recreational settings and activities and compatible land uses.*

The proposed development enhances the existing recreational setting at the site, providing improved publically accessible areas and facilities, as well as a complementary range of land uses. In this regard, the proposed development is considered to achieve this Objective.

- *To protect and enhance the natural environment for recreational purposes.*

As demonstrated in the Environmental Assessment, as well as the accompanying consultant studies, environmental impacts have been either avoided through design revisions, or minimised through the implementation of appropriate mitigation measures.

In addition, the amended Draft Statement of Commitments provides the commitments by Ardent Leisure during construction and future operation of the project.

As such, it is considered that the proposed development is suitable in terms of its environmental impacts and will therefore, have no adverse impacts on the natural environment for recreational purposes, consistent with this Objective.

- *To maintain The Spit as a prime recreational boating resource and working marine area with associated business activities.*

This Objective has been adequately addressed at **Section 7.4.1** of the **Environmental Assessment**, where it was concluded that the proposal is consistent with this Objective.

- *To allow development at The Spit which is unlikely to generate additional traffic or demand for additional parking.*

This Objective was addressed at **Section 8.3** of the **Environmental Assessment**.

Overall, it is considered that the proposal is consistent with this Objective.

- *To maintain and improve the scenic quality of The Spit by ensuring that the external appearance of new development in relation to materials, colours and height is compatible with existing buildings.*

As addressed in the **Environmental Assessment**, the external appearance of the proposed development will not adversely affect the scenic qualities of the area, as the proposed materials and finishes will complement the surrounding environment. The materials employed will be recycled from the existing facility, where possible, and will reinforce the marine characteristics of this locality.

In addition, as indicated in the **Environmental Assessment**, the extension of the building height that is proposed at the first floor level will result in a built form outcome that provides for limited visual change in its context. The scale of such will therefore be commensurate with the existing outcome on the site and will not result in any adverse environmental outcomes.

Overall, it is considered that the proposed development meets this Objective.

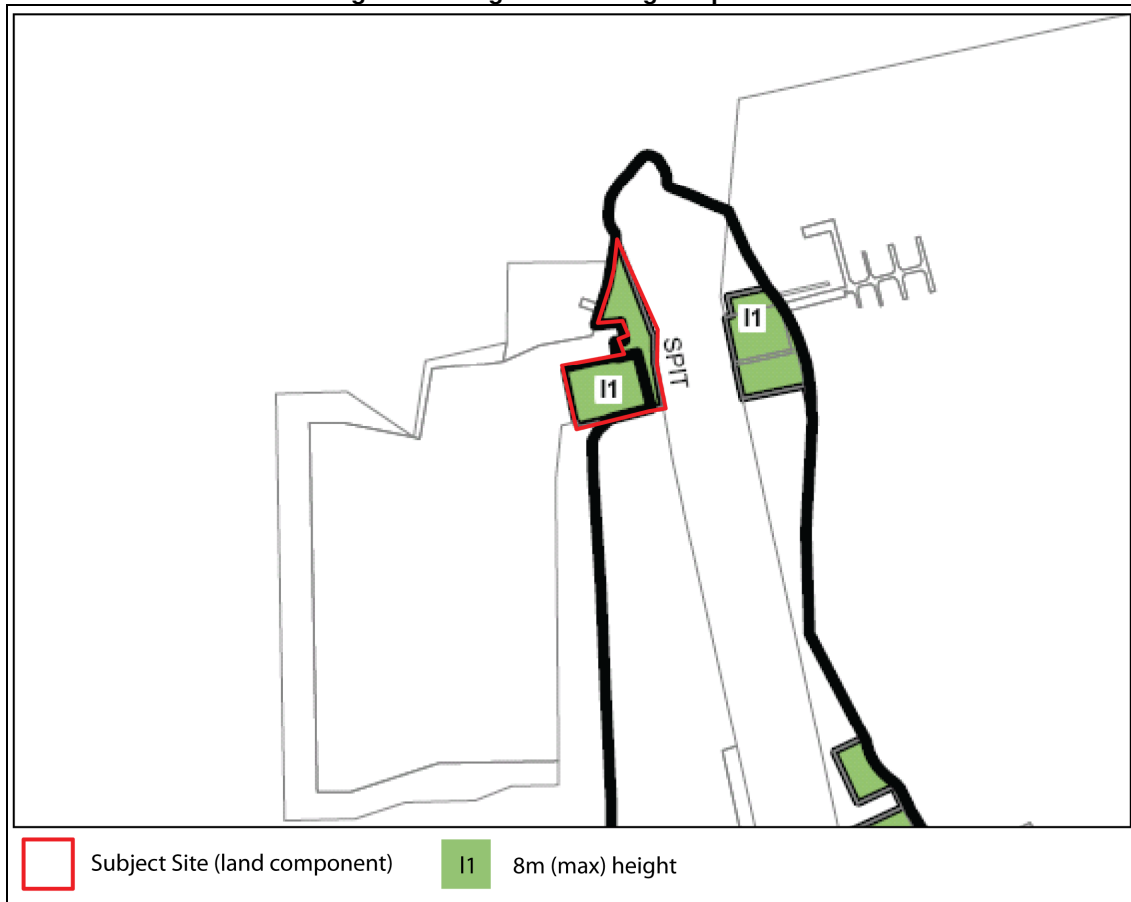
As stipulated in the **Land Use Table** provided at **Part 2**, the proposed development is permissible with development consent, being for the purposes of a 'marina' which is defined by the **Dictionary** to the *Draft MLEP* as follows:

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

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and*
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and*
- (c) any facility for launching or landing boats, such as slipways or hoists, and*
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and*
- (e) any associated single mooring.*

Clause 4.3 deals with **Height of Buildings**, with **Clause 4.3(2)** stipulating that the height of a building is not to exceed the maximum height shown on the **Height of Buildings Map**. As illustrated at **Figure 02**, the maximum building height for the land-component of the subject site is 8.0 metres.

Figure 02: Height of Buildings Map Extract



Source: <http://mosmanlep.net/lep/>

The proposed height of the building will be 9.97 metres, exceeding this maximum height limit. However, as detailed in the **Environmental Assessment**, the height of the structure is generally consistent with the height of the existing building and is seen as like-for-like replacement in this regard.

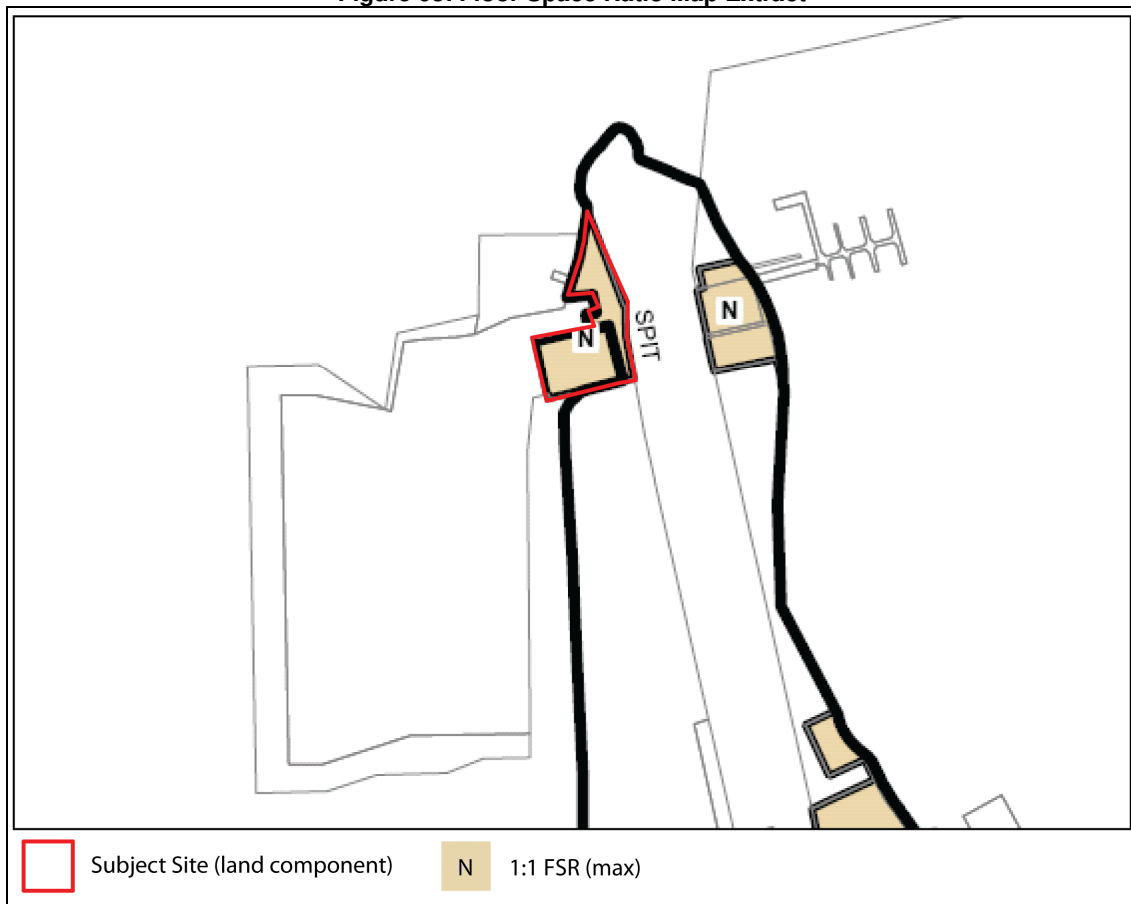
In addition, the design of the roof form on the building has been incorporated to ensure that environmentally sustainable measures are incorporated by way of solar panels. The modulation of the roof form at this level ensures that a positive architectural expression is achieved with the surrounding landscape.

In this regard an appropriate trade-off is achieved by improving the overall architectural expression of the building, without adverse impact.

As such, this minor non-compliance is considered to be justified in this instance.

Clause 4.4 addresses **Floor Space Ratio**, with **Clause 4.4(2)** requiring that the Floor Space Ratio (FSR) of a proposed development is not to exceed the maximum FSR shown on the **Floor Space Ratio Map**. As illustrated at **Figure 03**, the maximum FSR of the subject site is 1:1.

Figure 03: Floor Space Ratio Map Extract



Source: <http://mosmanlep.net/lep/>

As detailed in the **Environmental Assessment**, the portion of the site which is applicable to the FSR limit of 1:1 is approximately 1,870m². Based on this area, the proposed development has a floor space ratio of 0.94:1 and therefore, does not exceed the maximum permitted FSR for the site.

Part 5 provides **Miscellaneous Provisions**.

Clause 5.10 deals with **Heritage Conservation**, with **Clause 5.10(1)** outlining the **Objectives** in relation to this Clause, as follows:

- (a) to conserve the environmental heritage of Mosman local government area, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

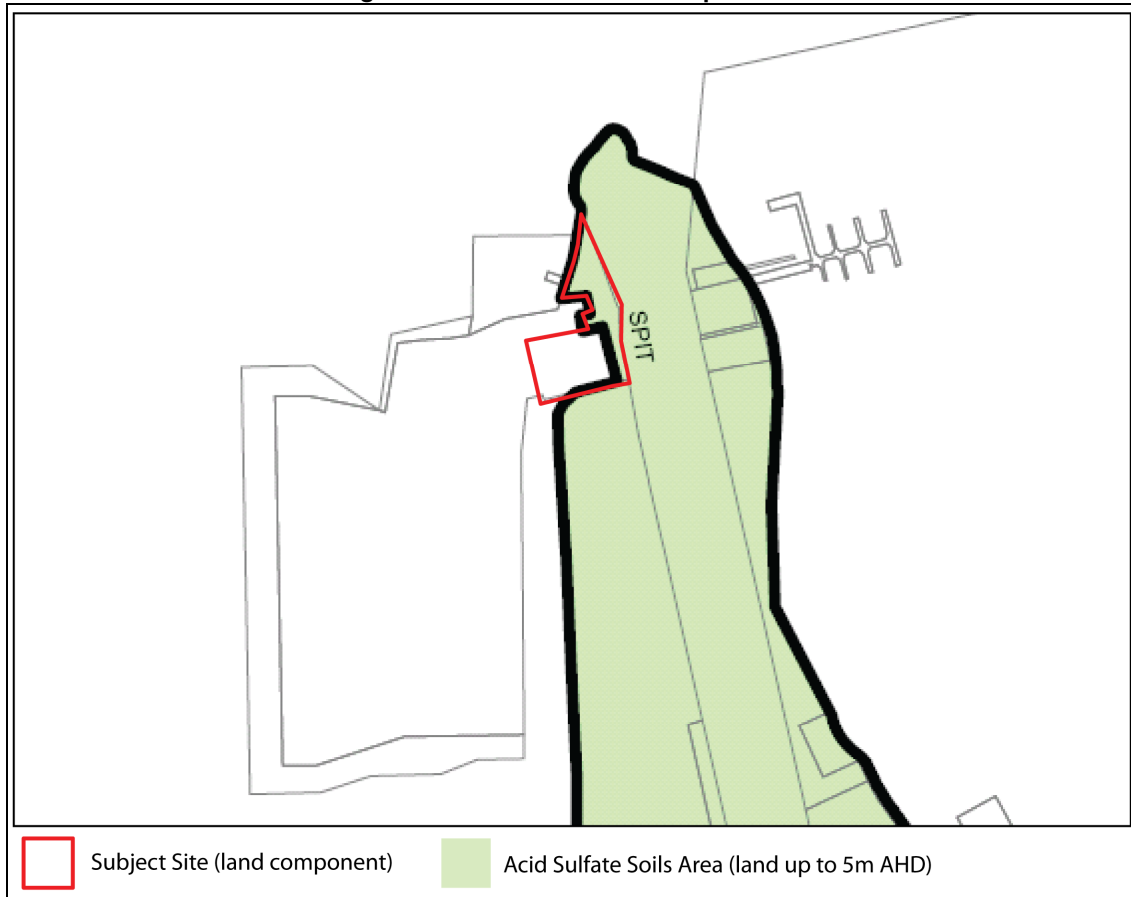
Matters of heritage and archaeology have been dealt with, and appropriately addressed, as part of the **Environmental Assessment**. The two consultants which were engaged to provide an assessment of both the European heritage impacts, as well as the Aboriginal Heritage and archaeology matters, concluded that the proposed development would not have any adverse impacts in this regard.

In addition, the Adequacy Test, provided by the NSW Department of Planning in relation to the **Environmental Assessment**, did not include any comments or matters regarding heritage, and as such, this is considered to have been satisfactorily addressed previously.

Part 6 details **Additional Provisions**.

Clause 6.5 deals with **Acid Sulfate Soils** which, pursuant to **Clause 6.5(2)**, identifies the subject site as being within an **Acid Sulfate Soils Area (land up to 5m AHD)**, as illustrated at **Figure 04**. This matter has been adequately dealt with at **Section 8.2** of the **Environmental Assessment**.

Figure 04: Acid Sulfate Soils Map Extract



Source: <http://mosmanlep.net/lep/>

Overall, it is considered that the proposed development is generally consistent with the relevant provisions of the *Draft MLEP* and where minor non-compliances are evident, these have been satisfactorily justified and addressed.

3.0 Conclusion

We anticipate that this assessment of the proposed development against the *Draft MLEP* adequately responds to the comment raised by Mosman Council and resolves the matter accordingly.

Should any further information be required in this regard, please do not hesitate to contact the undersigned.

Yours sincerely,

Kristy Lee
Director