

# Project Approval

## Section 75J of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission) approve the Project Application referred to in schedule 1, subject to the conditions in schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

**Member of the Commission      Member of the Commission      Member of the Commission**

Sydney

2012

### SCHEDULE 1

<b>Application No.:</b>	MP 08_0046
<b>Proponent:</b>	Hampton Property Services Pty Ltd
<b>Approval Authority:</b>	Minister for Planning and Infrastructure
<b>Land:</b>	Lot 102, 103 and 104 DP 1011363, d'Albora Marina, Spit Road, The Spit, Mosman
<b>Project:</b>	<p>Alterations and extension of the existing marina and building to include:</p> <ul style="list-style-type: none"><li>• 35 additional berths (increasing the total number of berths from 165 to 200);</li><li>• replacement of the existing slipway with a new hardstand area, to incorporate a new travel lift;</li><li>• car parking and a garbage storage area;</li><li>• relocation of the underground storage tanks;</li><li>• relocation of the fuel berth and sewerage pump; and</li><li>• extension to the existing service workshop / storage area.</li></ul>

## **PART B - NOTES RELATING TO THE DETERMINATION OF MP No. 08\_0046**

### **Responsibility for other consents / agreements**

The proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### **Appeals**

The proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

### **Appeals—Third Party**

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

### **Legal notices**

Any advice or notice to the approval authority shall be served on the Director-General.

## **PART C - DEFINITIONS**

<b>Act</b>	<i>Environmental Planning and Assessment Act, 1979</i> (as amended).
<b>Advisory Notes</b>	Advisory information relating to the approved development but do not form a part of this approval.
<b>BCA</b>	The Building Code of Australia.
<b>Certifying Authority</b>	Has the same meaning as Part 4A of the Act.
<b>Council</b>	Mosman Council
<b>Department</b>	The Department of Planning & Infrastructure or its successors.
<b>Director-General</b>	The Director-General of the Department or his nominee.
<b>Environmental Assessment (EA)</b>	The Environmental Assessment prepared by Hampton Property Services Pty Ltd
<b>Minister</b>	The Minister for Planning & Infrastructure
<b>MP No. 08_0046</b>	The Major Project described in the Proponent's Preferred Project Report.
<b>Preferred Project Report</b>	The Preferred Project Report prepared by Hampton Property Services Pty Ltd
<b>Proponent</b>	Hampton Property Services Pty Ltd on behalf of Ardent Leisure Group or any party acting upon this approval
<b>Regulation</b>	The <i>Environmental Planning and Assessment Regulation, 2000</i> (as amended).
<b>Subject Site</b>	Has the same meaning as the land identified in Part A of this schedule.

**End of Schedule 1**

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## SCHEDULE 2

### PART A - ADMINISTRATIVE CONDITIONS

#### **A1 Project Description**

Except as amended by this approval, project approval is granted for the following:

- (a) 35 additional berths (increasing the total number of berths from 165 to 200);
- (b) replacement of the existing slipway with a new hardstand area, to incorporate a new travel lift;
- (c) car parking and a garbage storage area;
- (d) relocation of the underground storage tanks;
- (e) relocation of the fuel berth and sewerage pump; and
- (f) extension to the existing service workshop / storage area.

#### **A2 Development in Accordance with Plans and Documentation**

The development will be undertaken in accordance with MP No. 08\_0046 and the Environmental Assessment and associated documentation dated 23 June 2010, prepared by Hampton Property Services Pty Ltd, except where amended by the Preferred Project Report and associated documentation dated October 2011 (as amended on 12 December 2011), prepared by Hampton Property Services Pty Ltd and the following drawings:

<b>Architectural Drawings</b>				
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Drawn By</b>	<b>Date</b>
DA 01	R	Master Plan	Corben Architects	21/09/11
DA 02	T	Floor Plan L1	Corben Architects	01/12/11
DA 03	L	Floor Plan L2	Corben Architects	21/09/11
DA 04	K	Roof Plan	Corben Architects	21/09/11
DA 05	G	Elevations	Corben Architects	21/09/11
DA 06	G	Sections A-A	Corben Architects	21/09/11

except for:

- any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- otherwise provided by the conditions of this approval.

#### **A3 Inconsistency Between Documents**

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail.

#### **A4 Prescribed Conditions**

The Applicant shall comply with the prescribed conditions of approval under clause 98 of the Regulation.

#### **A5 Construction Certificate**

This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.

**A5      *Detailed Drawings***

Detailed construction drawings, specifications, and other supporting documentation required for a Construction Certificate shall be in accordance with the terms of this approval and comply with the requirements of the Building Code of Australia.

**A6      *Additional Details and Information***

Any requirements outlined by conditions of this approval requiring changes and/or other information to be noted on plans are to be incorporated within the Construction Certificate(s) plans and documentation.

**A7      *No Dredging Permitted***

This approval does not permit any dredging of the seabed and/or modifications to the underlying sediment, on the basis on the information provided on available water depths at the location of the approved marina arm and additional berths. A separate application will be required should dredging be required in the future.

**A8      *Use of Hardstand***

The hardstand area is to be used only during Monday to Friday with no work permitted on Saturday, Sunday and Public Holidays. The hardstand is to be used for car parking outside of these times, in particular during peak car parking periods.

**A9      *Existing Approvals and Operational Procedures***

The existing marina and associated uses (restaurant and workshop areas) on the site are to continue to operate under the existing approvals issued by Mosman Council.

The operational procedures currently in place are to be amended accordingly.

**A10    *Responsibility for other approvals / agreements***

The proponent is responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant, including modifying the lease area.

**A11    *Lapsing of Approval***

Approval of the Project Application shall lapse 5 years after the determination date shown above in this Instrument of Approval, unless the development has been physically commenced.

**End of Part A**

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## **PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### ***B1 Design Modifications***

The design of the marina shall be amended as follows:

- (a) The T-Head located at the southern end of Arm B is to be reduced in length to a maximum of 26 metres to comply with the requirements of AS 3962-2001; and
- (b) Berths 1 to 35 and berth 193 are to contain power boats up to a maximum of eight metres.

Details are to be submitted to the satisfaction of the Certifying Authority, and a copy provided to the Department.

### ***B2 Additional Details***

Additional details are to be submitted to the satisfaction of the Private Certifying Authority that:

- (a) identifies the existing piles and piers to be removed (not cut off at below water level) and how this process is to be undertaken;
- (b) identifies the fairway width between the seawall / viewing platform and Arm A. Should the fairway width not comply with the requirements of AS 3962-2001, the proposed T-Head at the southern end of the marina is to be amended accordingly;
- (c) demonstrates the maximum length and draft of vessels to be moored shall be in accordance with Australian Standard 3962 for the available water depth at that location; and
- (d) the proposed travel lift is designed and detailed in accordance with relevant Australian Codes, Rules and Standards.

### ***B3 Relinquishment of Swing Moorings***

In order to ensure that the proposed extension of the marina does not contribute to unnecessary obstruction of the waterway, plans identifying the six swing moorings that are to be relinquished as required by NSW Maritime are to be submitted to the satisfaction of the Certifying Authority with a copy forwarded to Council and the department.

### ***B4 Construction Certificate Application Plans***

Architectural and Structural Engineer's plans must be submitted to the satisfaction of the Certifying Authority with the Construction Certificate application. The structural engineering plans must be signed by a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field.

The plans are to incorporate and note any changes from the approved plans as required by conditions of this approval.

For applications involving alterations and additions, the plans should be coloured to indicate the extent of new works.

### ***B5 Dilapidation Report – Council Assets***

To assist with an assessment of claims for the refund of the security deposit over Council's property, a dilapidation report must be submitted. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the project. Any damage not shown in this manner will be assumed to have been caused as a result of the site works undertaken and must either be rectified at the applicant's expense or compensated by deduction from the security deposit.

### ***B6 Long Service Levy***

In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant shall pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Mosman Municipal Council for

any work costing \$25,000 or more. To pay the levy online go to <https://levy.lspc.nsw.gov.au/>. To pay the levy in person at either the Long Service Payments Corporation or Mosman Municipal Council you will need to complete the Levy Payment Form available from Council or online at <https://levy.lspc.nsw.gov.au/>.

#### **B7 Security Deposit**

A cash deposit or bank guarantee to the value of \$5,000 in favour of Council shall be provided for the making good of any damage caused to Council property and to ensure the satisfactory completion of any works required to be undertaken outside the property boundary. A request for a refund of unused funds (less an inspection fee) may be made following the completion of all works, both inside and outside the property boundary, and an inspection of the site by Council.

#### **B8 Water Cycle Management**

Management and discharge of water at the site is to comply with the existing Environment Protection Licence No. 11211 and designed and operated in accordance with *Environmental Action for Marinas, Boatsheds and Slipways* (Office of Environment and Heritage 2007) and the requirements of the *Protection of the Environment Operations Act 1997*.

Details are to be submitted to the Certifying Authority for approval prior to construction of the specified works.

#### **B9 Relocation of Fuelling Facility**

Storage and dispensing of fuel undertaken at the site is to comply with the existing Environment Protection Licence No. 11211 and be designed and operated in accordance with *Environmental Action for Marinas, Boatsheds and Slipways* (Office of Environment and Heritage 2007) and the requirements of the *Protection of the Environment Operations Act 1997*.

Details are to be submitted to the Certifying Authority for approval prior to construction of the specified works.

#### **B10 Roads and Maritime Services Requirements**

Prior to the issue of a Construction Certificate, detailed designs of the indented / manoeuvring bay are to be submitted for the approval of the Roads and Maritime Service. A copy of the approved plan is to be forwarded to the Department and Mosman Council for information.

#### **B11 Structural Adequacy**

The proponent shall ensure that all structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA, and Australian Standard AS 3962 - *Guidelines for Design of Marinas*.

##### *Notes:*

- Under Part 4A of the EP&A Act, the proponent is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.

#### **B12 Disabled Access**

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

#### **B13 Construction Environmental Management Plan**

Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall

be submitted to Council and the Department. The Plan shall address the following matters where relevant:

- (a) hours of work;
- (b) contact details of site manager;
- (c) traffic and pedestrian management;
- (d) construction methodology, including measures to minimise disturbance of the seabed, turbidity, control of sediment contamination and impacts on vegetated areas;
- (e) noise and vibration management, in accordance with the Interim Construction Noise Guidelines (DECC, 2009) and Environmental Noise Management – Assessing Vibration: A Technical Guide (DEC, 2006), including measures to minimise impacts, inclusion of respite periods during piling operations and a complaints handling procedure with a 24 hour contact telephone number;
- (f) construction waste management; and
- (g) erosion and sediment control.

#### ***B14 Traffic & Pedestrian Management Plan***

Prior to the issue of a Construction Certificate, a Construction Traffic Management Plan in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site,
- (b) loading and unloading, including construction zones,
- (c) predicted traffic volumes, types and routes, and
- (d) pedestrian and traffic management methods.

The proponent shall submit a copy of the approved plan to Council and the Department. The Construction Traffic Management Plan is to be complied with throughout the construction process.

#### ***B15 Car Park and Service Vehicle Layout***

Details demonstrating compliance with the following requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate:

- (a) The layout of the car park shall comply with Australian Standard AS2890.1: 1993 Parking Facilities Part 1: Off Street Parking. All parking spaces are to be linemarked.
- (b) The swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.

#### ***B16 Soil and Water Management***

A Soil and Water Management Control Plan, incorporating contour levels and prepared in accordance with Environmental Site Management Policy shall be submitted to the Certifying Authority detailing all measures to control soil erosion and sedimentation runoff from the site during excavation and construction activities.

Skip bins provided during construction are to be appropriately located and secured to prevent waste material being blown into the waterway or illegal dumping.

#### ***B17 Underground Storage Tanks***

Details demonstrating compliance with the requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 are to be provided in relation to the construction of the underground storage tanks prior to the issue of a Construction Certificate.

#### ***B18 Air Quality Management Plan***

Prior to the issue of Construction Certificate, an Air Quality Management Plan is to be prepared and submitted to the Environment Protection Authority detailing how airborne impurities including dust and odour will be minimised during operations and activities undertaken at the premises. The

Air Quality Management Plan is to be prepared having regard to the Environmental Action for Marinas, Boatsheds and Slipways (OEH 2007) and the requirements of the *Protection of the Environment Operations Act 1997*.

#### **B19 Mosman Section 94A Development Contributions Plan 2006**

Development Contributions are payable in accordance with the *Mosman Section 94A Contributions Plan 2006*, which has been prepared under Section 94A of the *Environmental Planning and Assessment Act, 1979*, as amended.

The amounts payable will be adjusted in accordance with the section titled Review of Contribution rates and are generally indexed on a quarterly basis by the Consumer Price Index CPI (all Groups Sydney) unless otherwise stated in the plan.

Contributions will be adjusted at the payment date in accordance with the plan and payment is to be made prior to the issue of a Construction Certificate for each stage.

Based on the construction cost of the project being \$4,846,267.00, as defined in *Mosman Section 94A Development Contributions Plan 2006*, a total sum of **\$48,462.67** is to be paid to Council for the purpose of the provision of additional services and public facilities that is likely to be generated from development with the Mosman LGA.

The total contribution for each stage is as follows:

- 1) Stage 1 – \$16,935.37
- 2) Stage 2 – \$6,774.15
- 3) Stage 3 – \$6,774.15
- 4) Stage 4 – \$14,591.93
- 5) Stage 5 – \$3,387.08

#### **B20 Remediation Action Plan**

Prior to the issue of Construction Certificate, a Remediation Action Plan is to be prepared to address the removal of the underground storage tanks.

**End of Part B**

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## **PART C – PRIOR TO CONSTRUCTION**

### **C1 NSW Maritime**

Work on NSW Maritime's land must not commence unless:

- (a) there is a land tenure arrangement in place which is suitable to NSW Maritime; and if required,
- (b) a Construction Certificate has been issued pursuant to Part 4A of the *Environmental Planning and Assessment Act 1979*; and
- (c) NSW Maritime has issued Construction Approval or an applicable exemption pursuant to clause 6A of the *Management of Waters and Waterside Lands Regulation – NSW* and/or section 13T of the *Maritime Services Act, 1939*; and
- (d) you have complied with all other requirements of the law.

### **C2 Notice of Intent to Commence Site Works**

In accordance with Section 81A(2) of the *Environmental Planning and Assessment Act 1979*, no site works (including building works, demolition, excavation or the removal of vegetation) are to commence until:

- (a) the Construction Certificate has been issued;
- (b) the person benefiting from the approval has appointed a Principal Certifying Authority (PCA);
- (c) in instances where Council is not the PCA, the PCA has, no later than 2 days before the building work commences, notified Council of his or her appointment and notified the person benefiting from the approval of any critical stage inspections and other inspections that are to be carried out in respect of the building work;
- (d) the person benefiting from the approval, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved; and
  - (ii) notified the PCA of any such appointment; and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
- (e) the person benefiting from the approval has given Council at least 2 days' notice of the person's intention to commence the erection of the building.

### **C3 Construction Hoarding or Fencing**

If site or building works will:

- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
- have the potential to damage adjoining private land by way of falling objects,

then the site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

The hoarding/fence must be removed when the work has been completed.

Where construction requirements or site constraints necessitate the hoarding or fencing being located on Council land, a Footpath/Nature Strip/Roadway Occupation form is to be lodged with Council and all fees paid prior to the hoarding/fencing being erected (a copy of the form is available on Council's website).

Hoarding or fencing on Council land must maintain a minimum of 1500 clear footpath width at all times (lesser distances may be considered in exceptional circumstances).

### **C4 Public Liability Insurance**

Public liability insurance to the value of \$5,000,000 must be taken out by the builder or owner to protect any person, firm or company from injury, loss or damage sustained as a consequence of

the carrying out of site works, including all excavation, demolition and construction works. A copy of the policy must be provided to Council or the Accredited Certifier.

#### **C5      *Structural Details***

Prior to the commencement of construction, the proponent shall submit to the satisfaction of the Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (a) the relevant clauses of the BCA,
- (b) the relevant project approval,
- (c) drawings and specifications comprising the Construction Certificate, and
- (d) the relevant Australian Standards listed in the BCA (Specification A1.3).

#### **C6      *Existing Services***

The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and advise the Certifying Authority of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed project and existing infrastructure prior to start of any works.

Details are also to be submitted to the Certifying Authority that the existing sewerage arrangement is suitable to cater increase in sewerage from the project.

#### **C7      *Contact Telephone Number***

Prior to the commencement of the works for each stage of the project, the proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

#### **C8      *Protection of Site – Hoarding***

A hoarding or fence must be erected between the work site and the public place if:

- (a) the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- (b) if it involves the enclosure of a public place.

If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public place. Any such hoarding, fence or awning is to be removed when the work has been completed. If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

#### **C9      *Soil Erosion Controls***

Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Environmental Site Management Policy and any approved Soil & Water Management Plan and shall incorporate:

- (a) Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
- (b) Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.

#### **C10     *Fabric Silt Curtains***

Fabric silt curtains are to be installed to contain any suspended solids generated during the construction of the proposed marina and are to be designed to accommodate tidal fluctuations. The silt curtains are to be inspected following every rainfall event and daily inspections must be undertaken during dry weather periods to ensure that they are operating effectively.

**End of Part C**

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## **PART D – DURING CONSTRUCTION**

### **D1 Compliance with the Building Code of Australia**

All works are to be carried out in accordance with the requirements of the Building Code of Australia.

### **D2 Signs for Building and Demolition Sites**

A sign must be erected in a prominent position on any work site on which building work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work; and
- (b) showing the name of the person in charge of the work and a telephone number at which that person may be contacted outside work hours; and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Where Council is the nominated PCA, these signs may be purchased from Council's offices for a fee of \$35.

This condition does not apply in relation to building work or demolition work that is carried out inside, and does not affect the external walls of, an existing building.

### **D3 Site Work Hours**

In order to maintain the amenity of adjoining properties, audible site works shall be restricted to between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm Saturday. Inaudible site works may also take place between 7.00am and 8.00am on Saturdays. No site works shall be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials shall not be delivered to the site outside the approved hours of site works.

### **D4 Construction Hoarding or Fencing**

Any construction hoarding or fencing is to be maintained in good order throughout the life of the fence.

### **D5 Council Property**

The land and adjoining areas shall be kept in a clean and tidy condition at all times. No construction vehicles, building materials, waste, machinery or related matter shall be stored on the road or footpath for the duration of works unless separate approval has been obtained from Council's Traffic Committee for the establishment of a Construction Zone. Under no circumstances will any person be allowed to mix or dispose of concrete, mortar or slurry within Council property.

### **D6 Site Facilities**

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

### **D7 Local Government Act 1993**

This approval does not authorise the carrying out of any of the following activities which require the separate approval of Council under Section 68 of the Local Government Act 1993:

- Place a waste storage container in a public place
- Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

Note: A person who fails to obtain an approval or who carries out an activity otherwise than in accordance with an approval is guilty of an offence under Sections 626 and 627 of the *Local Government Act 1993*.

#### **D8 Approved Plans**

A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority, the Department or an officer of the Council.

#### **D9 Critical Stage Inspections**

To ensure building works are carried out properly and in accordance with the conditions of this approval, with the Building Code of Australia and/or with relevant Australian Standards, the following critical stage inspections are to be carried out:

- after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

The critical stage inspections must be carried out by the Principal Certifying Authority (PCA), or if the PCA agrees, by another certifying authority excepting the final inspection which must be carried out by the PCA.

Notes: Records of the above critical stage inspections will be required to be submitted prior to the release of the Occupation Certificate – see later conditions of approval.

If you intend engaging Council to undertake the inspections, please telephone the area Building Surveyor to arrange a suitable time.

#### **D10 Removal of Underground Storage Tanks**

The underground storage tank removal is to be undertaken in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.

#### **D11 Remediation**

The site is to be remediated in accordance with the Remediation Action Plan, Condition B20. Any unanticipated contaminated soil uncovered should be managed in accordance with the Contaminated Land Management Act 1997 and the Environment Protection Authority notified immediately.

No contaminated soil will be disposed of on site, with all waste disposed of at an appropriately licensed waste management facility.

#### **D12 Fabric Silt Curtains**

Fabric silt curtains are to be installed to exclude adjacent seagrasses from turbidity impacts. The silt curtains are to be inspected following every rainfall event and daily inspections must be undertaken during dry weather periods to ensure that they are operating effectively.

#### **D13 Barge Operations**

Any barge operations over seagrasses are conducted during times when there is sufficient depth of water over seagrasses to avoid harm from barge operations, including propeller action. There is to be no anchoring with seagrass beds during construction.

#### **D14 Roads and Maritime Requirements**

- (a) The proponent shall comply with the direction of NSW Maritime in relation to painting, lighting or use or alteration of any structure as may be required in the interest of safe navigation equitable use of the waterway or the prevention of pollution.
- (b) All piles shall be equal in height, a minimum of 1.0 metres above the local mean high water level, and the top painted white.

#### **D15 Aboriginal Objects**

Should any Aboriginal objects be unexpectedly discovered than all excavations or disturbance to the area is to stop immediately and the Environment Protection Authority shall be informed.

#### **D16 Protection of Trees (Street Trees)**

No street trees are to be removed as part of this approval. All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

#### **D17 Setting Out of Structures**

All structures shall be set out by a registered surveyor to verify the correct position of each structure in relation to property/lease area boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Certifying Authority certifying that works are in accordance with the approved project application.

#### **D18 Erosion and Sediment Control**

- (a) All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- (b) During construction, the proponent shall implement and maintain all erosion and sediment control measures in accordance with the requirements of Managing Urban Stormwater: Soils and Construction Volume 1, 4<sup>th</sup> Edition (Landcom).

#### **D19 Disposal of Seepage and Stormwater**

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

#### **D20 Disruptions during construction**

- (a) The proponent shall construct the project in a manner that minimises disruptions to surrounding properties and members and guests to the site. In this regard, construction should generally be planned to avoid good boating weekends and any special events.
- (b) Information shall be distributed to members and guests to the site and displayed throughout the site/premises outlining the nature and duration of disruptions during construction.

#### **D21 Impact of Noise**

Construction works shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations. Respite periods for impact piling operations are to be incorporated into construction.

#### **D22 Construction Noise Notification**

Prior to the commencement of construction, the proponent shall:

- (a) Notify the owner/occupier of all properties that are predicted to be affected by construction noise levels. The notification shall:
  - (i) indicate that the property may be subjected to noise nuisance;
  - (ii) state the reason for the noise nuisance; and

- (iii) provide the 24 hour telephone number of a contact authorised to respond to complaints and to take appropriate steps to address residents' concerns; and
- (b) Provide evidence to the Certifying Authority that such notification has occurred.

#### **D23      *Vibration Criteria***

For all stages of the project, vibration resulting from construction must not exceed the evaluation criteria presented in Environmental Noise Management – Assessing Vibration: A Technical Guide (DEC, 2006).

#### **D24      *Construction Site Safety Fencing***

Construction site safety fencing must be provided around the construction area to prevent unauthorised access to the construction site.

#### **D25      *Provision of Amenities***

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by WorkCover requirements.

Each toilet provided must be a standard flushing toilet and must be connected:

- (a) to a public sewer; or
- (b) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- (c) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

#### **D26      *Incident Reporting***

- (a) Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the proponent shall notify the Council and other relevant agencies of the exceedance/incident.
- (b) Within 6 days of notifying the Council and other relevant agencies of an exceedance/incident, the proponent shall provide Council and those agencies with a written report which:
  - describes the date, time, and nature of the exceedance/incident;
  - identifies the cause (or likely cause ) of the exceedance/incident;
  - describes what action has been taken to date; and
  - describes the proposed measures to address the exceedance/incident.

#### **D27      *Health and Public Nuisance***

The use of the site shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment.

There are to be no emissions or discharges from the site, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.

The use of the site and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

#### **D28      *Storage of materials on Public Road***

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

**D29      Use of Crane on Public Road**

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath.

This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:

- (a) Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- (b) A copy of current public liability insurance indemnifying Council in the event of an incident;
- (c) A copy of an RTA accredited traffic control plan;
- (d) Proof that the local area command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

**D30      Avoid Annoyance from lighting**

Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse affects on the amenity of the area.

**D31      Waste Collection**

The waste storage requirements for the proposal shall be increased in line with the increase in berths. Additional waste collection bins shall be provided and stored within the existing garbage room which shall be secured to prevent waste material being blown into the waterway or illegal dumping.

**End of Part D**

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## **PART E – PRIOR TO ISSUE OF OCCUPATION CERTIFICATE / PRIOR TO OPERATIONS**

### ***E1 Structural Inspection Certificate***

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (a) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (b) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

### ***E2 Record of Inspections Carried Out***

In accordance with clause 162B of the Environmental Planning and Assessment Regulation 2000, the certifying authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. Where Council is not the PCA, the PCA is to forward a copy of all records to Council.

The record must include details of:

- The project application and construction certificate number;
- The address of the property at which the inspection was carried out;
- The type of inspection;
- The date on which it was carried out;
- The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

### ***E3 Adjustment to mooring area and relinquishment of swing moorings***

In order to ensure that the proposed extension of the d'Albora Marina has a satisfactory navigation impact, the marina extension shall not operate until the applicant submits evidence of the following:

- (a) The relinquishment of the six commercial moorings in Pearl Bay in accordance with NSW Maritime Authority requirements.

Upon written notification from NSW Maritime that the above have been satisfied, an occupation certificate may be issued.

### ***E4 Compliance Certificates and Inspection Records***

Where Council is not the Principal Certifying Authority, a copy of any compliance certificates received by the PCA shall be forwarded to Council prior to occupation or commencement of the use.

### ***E5 Occupation Certificate***

Occupation or use, either in part or full, shall not take place until an Occupation Certificate has been issued. The Occupation Certificate must not be issued unless the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia and until all preceding conditions of this approval have been complied with.

Where Council is not the Principal Certifying Authority, a copy of the Occupation Certificate together with registration fee must be provided to Council.



## **E6      *Travel Lifts***

Prior to the commencement of operation of the travel lift, the proponent must submit to the Certifying Authority, a signed statement from the designer / manufacturer or from a practising Mechanical Engineer qualified for corporate membership of the Institute of Engineers Australia certifying that the travel lift comply with AS 1418 – Cranes, hoist and winches or equivalent.

## **E7      *Roads and Maritime Services Requirements***

The proponent shall prepare and implement a Loading Dock Management Plan, which shall be prepared to the satisfaction of Roads and Maritime Services prior to release of the Occupation Certificate.

## **E8      *Traffic Management Plan***

The proponent shall prepare a Traffic Management Plan, which shall address the use of the hardstand area for car parking during peak periods. The Plan is to be submitted to the satisfaction of the Certifying Authority.

## **E9      *Dilapidation Report***

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of works to ascertain whether any structural damage has occurred to adjoining infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs (at full cost to the proponent) if required. The report is to be submitted to the satisfaction of the Certifying Authority.

## **E10     *Pre-Operation Compliance Audit***

- (a) Prior to the commencement of operations, the proponent shall submit work-as-executed plans to the Department for all development associated with the project. The plans must be prepared by a suitably qualified and experienced expert, and include plans showing the work-as-executed plans laid over the approved plans to demonstrate that the project has been carried out in accordance with the approved plans.
- (b) The Director-General may require an update on compliance with all, or any part, of the conditions of this approval. Any such update shall meet the reasonable requirements of the Director-General and be submitted within such period as the Director-General may agree.

## **E11     *Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the Certifying Authority for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the Certifying Authority.

## **E12     *Annual Fire Safety Statement***

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

## **E13     *Road Damage***

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved project, is to be met in full by the proponent prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

**E14 External lighting**

The proponent must ensure that all external lighting associated with the project:

- (a) complies with Australian Standard AS4282 1997– Control of Obtrusive Effects of Outdoor Lighting, and
- (b) is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding properties or roadways.

**E15 Marina Noise Management Plan**

The proponent shall prepare and implement a Marina Noise Management Plan, which shall include, but not be limited to:

- (a) measures to achieve best practice noise control throughout all aspects of the operation of the marina;
- (b) procedures for notifying residents in advance of any events at the marina that are likely to affect their amenity; and
- (c) procedures for handling and dealing with complaints.

**End of Part E**

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## **PART F – POST OCCUPATION**

### **F1      *Annual Fire Safety Certification***

The proponent shall certify to Council every year that the essential services installed for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

### **F2      *Loading and Unloading***

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

### **F3      *Prevention of scouring of the seabed***

Vessels shall be moored in accordance with the plans/details submitted and approved by the Certifying Authority.

### **F4      *Unobstructed Driveways and Parking Areas***

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

### **F5      *Noise Control – Plant and Machinery***

Noise associated with the use of the marina and activities on site, including the operation of any plant, machinery or other equipment, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

### **F6      *Noise Monitoring***

The proponent shall undertake a noise monitoring program for a minimum period of twelve months following the commencement of operations on the site. The monitoring program shall be undertaken by an appropriately qualified person and monitoring reports shall be submitted to the Council at six monthly intervals.

### **F7      *Operation of Plant and Equipment***

The proponent shall ensure that all plant and equipment use on site is:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

### **F8      *Air Quality***

The proponent shall carry out all reasonable and feasible measures during the operation of the project to prevent air pollution (including odour) in accordance with the requirements of the Protection of the Environment Operations Act 1997 (NSW).

### **F9      *Storage of Hazardous or Toxic Material***

- (a) Any hazardous or toxic materials must be stored in accordance with WorkCover NSW requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area. The bund(s) shall be designed and installed in accordance with the:
  - (i) requirements of all relevant Australian Standards; and

- (ii) Environment Protection Authority's Storing and Handling Liquids: Environmental Protection manual.
- (b) The proponent shall ensure that spillage control equipment, such as absorbent pads and absorbent booms, are available at all times, and stored in a location where they can be employed quickly if spills occur.
- (c) Whilst private vessels are being worked on within the wet berth area, temporary spill containment pallets shall be used to store chemicals being used on the vessel. Each pallet should be capable of capturing the contents of the largest container plus 10% if there is a leak.
- (d) If the spill containment pallets are to be used, the drums must be stored in a level area (to ensure full spill storage capacity), and they must be covered so that the pallets do not fill with rainwater.
- (e) Spill clean-up kits are to be placed on each arm of the marina.

#### **F10      *Annual Report***

Within 12 months of the commencement of operations, and annually thereafter, the proponent shall submit an annual environmental management/monitoring report to the Council and relevant agencies.

The report must:

- (a) identify the standards and performance measures that apply to the project;
- (b) describe the works carried out in the previous 12 months and the works that will be carried out in the following 12 months;
- (c) include a summary of all complaints received during the previous year, and compare this with the complaints received in previous years;
- (d) identify any non-compliance during the previous year; and
- (e) describe what actions were, or are being, taken to ensure compliance.

#### **F11      *Waste Management***

- (a) The proponent shall ensure that any waste generated on the site during operation of the project is classified in accordance with the Environment Protection Authority's Waste Classification Guidelines and disposed of to a facility that can lawfully accept the waste.
- (b) The proponent shall ensure that the design of waste management infrastructure on the site is in accordance with Council's and Environment Protection Authority's relevant requirements.

#### **F12      *Public Way to be Unobstructed***

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

#### **F13      *Seagrass education***

To assist in minimising general boating related impacts on seagrasses adjoining the site the proponent is to obtain information on seagrasses and seagrass friendly boating practices and distribute this educational material to all mooring holders within the marina complex.

**End of Part F**

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## ADVISORY NOTES

### **AN1    *Disability Discrimination Act***

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

### **AN2    *Requirements of Public Authorities***

The proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

### **AN3    *Compliance with Building Code of Australia***

The proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

### **AN4    *Use of Mobile Cranes***

The proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the Certifying Authority:

- (a) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
  - (i) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
  - (ii) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (b) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

### **AN5    *Sydney Water***

An application will need to be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the Sydney Water Act, 1994 (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) will need to be produced to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate. The Section 73 Certificate will need to be submitted to the Certifying Authority prior to the occupation of the project.

### **AN6    *Structural Capability for Existing Structures***

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

### **AN7    *Stormwater drainage works or effluent systems***

A Construction Certificate for works that involve any of the following:

- (a) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (b) management of waste.

as defined by section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under section 68 of that Act. Applications for these works must be submitted on Council's standard section 68 application form accompanied by the required attachments and the prescribed fees.

#### **AN8 Construction Certificate**

A Construction Certificate is obtained by completing and submitting the approved form to Council or an accredited Certifying Authority for approval. If the application form is approved by a Certifying Authority other than Council, the proponent is required to lodge the Construction Certificate and other approved documents with Council a minimum two days prior to the commencement of work.

#### **AN9 Occupation Certificate**

- (a) Prior to the occupation and/or use of a new or altered building, an Occupation Certificate must be issued by the accredited certifier. Where Council is the accredited certifier, an Occupation Certificate will be produced after a satisfactory completion inspection using the information:
  - (i) contained in the application for Construction Certificate; and
  - (ii) required in accordance with clause 149 of the *Environmental Planning & Assessment Regulation 2000* (NSW).
- (b) Where the Occupation Certificate has been issued by a Certifying Authority other than Council, a copy of the Occupation Certificate and supporting documentation is to be submitted to Council within 2 days after the date of determination of the Occupation Certificate together with the document registration fee (in Council's pricing policy).

#### **AN10 Temporary Structures**

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

#### **AN11 Commonwealth Environment Protection and Biodiversity Conservation Act 1999**

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

#### **AN12 Work within Road Reserve**

An approval or any related Construction Certificate does not allow for any form of road or footpath opening to be made external to the subject property boundary. Should such an opening be required a separate application under the Roads Act shall be submitted and approved by Council prior to the commencement of any works within the road reserve.

#### **AN13 Roads Act 1993**

A separate application shall be made to the roads authority (RTA or Council) for approval under Section 138 of the Roads Act 1993 to undertake any of the following:

- (a) erect a structure or carry out a work in on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road.

#### **AN14 Dial Before You Dig**

Dial Before You Dig is a free referral service for information on underground pipes and cables anywhere in Australia. Using Dial Before You Dig can prevent damage, disruption, injury and even death. Lodge your enquiry online at <http://www.1100.com.au/default.aspx> or call 1100 during business hours.

#### **AN15 Noise**

The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2008 are the primary legislative means of controlling noise on NSW waterways. The principal factor under noise legislation is the concept of offensive noise. Offensive noise is defined in the Protection of the Environment Operations Act 1997 as noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed.

**SCHEDULE 3**

**STATEMENT OF COMMITMENTS**

**MP 08\_0046**

**PROJECT APPLICATION FOR THE EXPANSION OF THE EXISTING D'ALBORA  
MARINA, SPIT ROAD, THE SPIT, MOSMAN**

**(Source: Preferred Project Report)**



## 4 THE REVISED DRAFT STATEMENT OF COMMITMENTS

In accordance with **Part 3A** of the Act, the proponent is required to prepare a **Statement of Commitments** pertaining to the development proposal. **Section 75F(6)** states as follows:

*The Director-General may require the proponent to include in an environmental assessment a statement of the commitments the proponent is prepared to make for environmental management and mitigation measures on the site.*

The Director-General's requirements for the project state the following requirements in this regard:

*A Statement of Commitments outlining environmental management, mitigation and monitoring measures.*

The Statement of Commitments relates to the site known as d'Ai'bora Marina, located at The Spit, Mosman which is legally described as Lot 102, Lot 103 and Lot 104 in Deposited Plan 1011363.

This Draft Statement of Commitments provides commitments by Ardent Leisure during construction and future operation of the project.

The finalisation of the Statement of Commitments will need to incorporate any relevant conditions of consent and therefore, will be subject to finalisation once these have been received.

### 4.1 Overall Construction Matters

Construction of the site will occur in accordance with a staging plan which will be subject to the approval of NSW Maritime. The overall construction period from commencement to completion is approximately three years.

Construction, regardless of the stage, will occur between the following hours:

- **Monday to Friday:** 7:00am – 6:00pm
- **Saturday:** 8:00am – 1:00pm
- **Sunday & Public Holiday:** No Work

All construction works will take place on the site; any reliance on adjacent lands would be subject to separate agreements with relevant authorities.

In addition, construction will be undertaken in accordance with all conditions of consent imposed.

## 4.2 Noise Management

In accordance with the requirements nominated by Wilkinson Murray Pty Ltd, the management noise goals are as follows:

Table 01: Construction Noise Criteria

Receiver Area	Management Noise Goals -dBA	
	Recommended	Maximum
Seaforth	60	75
Clontarf	59	75
Beauty Point	59	75

Source: Wilkinson Murray, 2010

On this basis, these will be maintained throughout the course of the project.

The following Commitments are provided with respect to Noise Management:

- Machines used on site will be maintained in good condition, particularly considering the exhaust system on diesel powered machines, to minimise noise emissions;
- Excessively loud machines will be repaired, modified or removed from the site;
- Sound pressure level measurements will be conducted on all plant prior to works commencing on-site;
- The appointed project manager will be available to respond to questions and complaints from the community in a professional, considerate and timely manner; and
- Reversing alarms will be controlled to the minimum sound level consistent with safety by replacing, shielding or relocating the alarm unit on noisy machines.

## 4.3 Sediment & Erosion Control Management

The Proponent will maintain the quality of surrounding roads, footpaths, waterways and natural environments, during the construction period. The following Commitments are provided with respect to on-site management in this regard:

- **Mooring facilities;** it is understood that the likely foundation solution will be suspended concrete on driven piles. Construction by driven piles into the seabed will prevent dredging and suspension of marine sediments and the oxidation of any Potential Acid Sulphate Soils present.
- **Containment booms;** All construction works within Middle Harbour shall be done with a containment boom and silt net surrounding the works area. This will reduce sedimentation impacts during berth construction and reduce the impacts of an accidental spill in the works area by containing any potential pollutants.

- **Sediment fences and straw bales;** Sediment fencing and straw bales will be installed above the high water mark in the areas where works to upgrade the existing marina are to take place.
- **Stormwater flows** are to be redirected around the construction site to prevent the transportation of sediments into the waterway. This shall also ensure construction materials and waste do not discharge into Middle Harbour during periods of rainfall.
- All sediment fencing and straw bales shall be maintained and monitored on a regular basis and after periods of extended rainfall. Any damaged fencing shall be replaced immediately to prevent sedimentation of surrounding waterways.
- Sediment fencing and straw bales locations and typical specifications are provided in the Engineering Services Report, prepared by Martens and Associates, which accompanies this application.

#### **4.4 Traffic Management**

A Construction Traffic Management Plan will be prepared as part of any Construction Certificate process.

However, the following traffic management commitments are detailed below.

##### **4.4.1 Pedestrian Management Method**

Pedestrian movement management during the construction period of the development will include the following aspects:

- Pedestrian movement and pathways during the construction period will not be adversely affected by the development, through the implementation of appropriate and safe mechanisms;
- Pedestrian movement mechanisms will include the use of accredited traffic controllers when construction vehicles enter and exit the site and, where required, the use of temporary pedestrian pathways;
- Protection for pedestrians will be provided in accordance with all the relevant statutory requirements and will involve the use of perimeter fencing; and
- The provision of night-lighting, protective barriers, and when required, traffic barriers, will be provided.

#### **4.4.2 Vehicular Management Method**

Vehicular traffic management during the construction period of the development will include the following:

- All construction vehicles will enter and exit the site *via* Spit Road. This will be coordinated to ensure that disruption to traffic flow along the Spit Road is minimised;
- All crane operation and delivery areas will be located directly opposite the existing building on the site, within the northerly adjoining area;
- Waste bin delivery access and removal to and from the site will be the same as the construction vehicles, being entry from the south and depart to the north;
- All traffic control devices and personnel shall be set-up and controlled in accordance with the relevant *Australian Standards* and Workcover authority practices;
- Workers will be encouraged to utilise public transport to and from the site.

The Construction Management Plan will also detail the following:

- Vehicular access routes to and from the site during construction;
- The number of vehicle movements to and from the site; and
- Wash down requirements prior to exiting the site.

#### **4.5 Water Cycle Management**

The Water Cycle Management Strategy has been prepared by Martens & Associates. The following Commitments are provided in this regard:

- The total treatment capacity will be a first flush system, as required by the Department of Environment & Climate Change;
- The hardstand area will be designed such that drainage falls to the centre, where a catch drain is located. This will enable waste water from the maintenance activities to be entered into the collection pit.
- Water will be pumped through a grease arrestor to a water recycle system that has no less than the following:

- A suitable oil-water separator to treat captured waste water by removing sediments, oils and grease;
  - A 10KL reuse water storage water tank to supply water for maintenance and wash down activities.
- Treated water will be suitable for reuse for slipway activities. Waste water from these activities is caught by the collection pit and passes back through the treatment system;
  - Any overflow of treated stormwater will discharge into Middle Harbour, but will not impact on water quality;
  - A swale system shall be designed around the car park area to direct clean stormwater flows directly into Middle Harbour; and
  - The stormwater system shall be inspected every three months by a qualified contractor, to ensure operation at full capacity.

In addition to the above:

- a 20KL tank will be installed for the capture of stormwater from the roof.

On this basis, the commitment is for the capture of 30KL of rainwater to be harvested from the site and available for reuse.

#### **4.6 Slipway Management**

The Proponent provides the following commitments with respect to management of the slipway:

- Appropriate signage shall be employed to encourage the use of the slipway and maintenance area;
- Boat owners will be assisted by marina staff on the correct methods for boat washing and maintenance to prevent pollution of the waterways;
- The slipway and work areas shall be kept clean at all times;
- Paint chips and gross pollutants shall be removed immediately by sweeping, and not hosed; and
- Adequate machinery and work practices are to be employed to control dust and pollution sources. To avoid accidental spill, including glues, resins and paints should be used with care.

#### **4.7 Waste Management**

The Proponent's commitment to waste management on the site is in accordance with the Waste Avoidance and Resource Recovery Act 2001. The Waste Hierarchy is as follows:

- Prevention and avoidance of waste.
- Recovery of resources.
- Disposal of resources.

The principle aim is to avoid the production of waste.

Where this is not possible, recycling and correct disposal methods are to be implemented.

The following waste sources are identified and to be disposed of as follows:

- **Sewage:** as the proposal involves a new sewage pump-out facility, all waste shall be removed through the town water connection.
- **Oily Bilge Disposal:** visitors and users of the site will be reminded to dispose of such correctly, through specialist contractors who dispose of materials off site.
- **Solid Waste:** separate bins will be made available on site for recyclable materials; organic waste and other waste materials. Boas users will be encouraged to dispose of waste accordingly and will be reminded through both verbal communication and signage.

Self-closing lids will be provided on such facilities.

Waste will be collected regularly and taken off site.

- **Chemical Waste:** This will be collected regularly and taken off site on a regular basis.

This will not be disposed of in the catch drain.

An adequate supply of spill kits shall be maintained on site at all times and easily accessible in the event of an accidental chemical spill.

#### **4.8 Aquatic Ecology**

An Environmental Management Plan (EMP) will be prepared in order to address aquatic ecology management matters during the construction period.

The EMP will be prepared in accordance with the requirements of the NSW Department of Environment and Climate Change, as well as the NSW Department of Planning. These requirements will be established through additional liaison and consultation and will include, at a minimum, the following aspects:

- Details on the bulk fuel storage, vessel refuelling, fuel/sewage pump out berths, and the protection measures to be adopted during the construction and operation of the facilities;
- Description of the piling techniques and the impact on the sea floor; and
- Details of the wharf demolition methods as well as the management of demolition waste.

An EMP will be provided at the Construction Certificate stage.

#### **4.9 Coastal & Maritime Engineering**

This section provides the commitments pertaining to selected hydrological issues, namely:

- Estuarine morphology and evolution;
- Water depths and sediments;
- Water levels; and
- Waves and wave loading.

Overall, the environmental assessment found that the proposed development to be sustainable in respect of coastal and maritime engineering. The environmental impacts associated with the proposal are generally small and acceptable.

##### **4.9.1 Estuarine morphology and evolution**

All new waterside structures would be designed to accommodate the water depths, water flows and bed materials, with no impacts to the estuarine morphology within the area.

##### **4.9.2 Water depths and sediments**

The reconfigured berths are to be restrained by piles. These would comprise the existing piles, and any new piles to be determined as part of the detailed design. The piling design would have regard to existing water depths and bed materials.

#### **4.9.3 Water levels**

In relation to extreme high water levels, the impact on the floating berths of tide, weather influence on water level and SLR would be fully accounted for on the condition that:

- Pile cut off levels are suitably elevated, and that the bending capacity of the piles can accommodate the increased bending moments due to larger lever arms. Pile lengths should cater for a 1% AEP SWL of RL 2.4, plus a nominal wave amplitude of say 400 mm; and
- Ramps are operable for a SWL range between RL -0.3 and RL 2.8.

#### **4.9.4 Waves and wave loading**

The upgraded facility will incorporate the same width walkway pontoons as the existing facility, 5 m wide at C-Arm and 2.5 m wide elsewhere. Fingers are 1.1 m wide throughout. Standard 400 mm pontoon drafts are adopted, provided by concrete encased polystyrene pontoon units.