

9 May 2018

218171
AC

Carolyn McNally
Secretary
Department of Planning and Environment
Level 22, 320 Pitt Street
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Ms McNally,

**SECTION 4.55(1A) MODIFICATION APPLICATION (MOD 4) MP09_0165
SYDNEY SUPERYACHT MARINA, ROZELLE BAY**

This application has been prepared by Ethos Urban on behalf of Sydney Superyacht Holdings Pty Ltd as trustee for the Sydney Superyacht Trust, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Project Approval (09-0165) for the Sydney Superyacht Marina, Rozelle Bay (the site).

The modification relates to minor design changes in order to improve amenity to existing maritime tenants and improve the leasing prospects/commercial appeal of the western maritime building. More specifically the modification relates to swapping the approved Provedore use within the western building with an ancillary use (cafe) from the eastern building.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by Architectural Plans prepared by Scott Carver (**Attachment A**).

1.0 Consent proposed to be modified

MP09_0165 was approved under Part 3A of the EP&A Act (now repealed) by the then Planning Assessment Commission on 26 November 2012 for the land based redevelopment of the Sydney Superyacht Marina at Rozelle Bay, comprising construction of two commercial maritime buildings with ancillary uses, construction of a multi-level car park building, and associated landscaping.

The consent has since been modified three (3) times as follows:

- MP09_0165 MOD 1:
 - Inclusion of the water based component of the marina within the consent, including upgrade and reconfirmation of the berthing arrangements and associated works;
 - Amend the building design and internal layout of the Eastern and Western Buildings, including the addition of a new Level 2 to the Eastern Building and subsequent increase in building height from RL11.90m to RL15.250m;
 - To modify the design of the multi-level car parking including new level 4 and 88 additional parking spaces;
 - Increase in GFA from 5,945sqm to 6,886sqm and changes to land use distribution; and
 - Definition of outdoor seating areas.
- MP09_0165 MOD 2:
 - Modification to western building only, including amendments to building design and siting;
 - Reduction in GFA by 255sqm to 2,645sqm;

- Amendments to location of ground floor uses;
- Addition of two external fire stairs; and
- Deletion of 13 car parking spaces.
- MP09_0165 MOD 3:
 - Relocation of approved uses between the eastern and western buildings;
 - Reallocation of GFA between the eastern and western buildings;
 - Relocation of outdoor seating areas; and
 - Relocation of commercial maritime storage areas in the car park.

Changes to the EP&A Act (effective 1 March 2018) repealed the provisions under Schedule 6A of the EP&A Act relating to provisional Part 3A projects. Accordingly, MP09_0165 (being a Project Application) is now taken to be a State Significant Development consent, and is required to be modified pursuant to section 4.55 of the EP&A Act.

The consent has been activated, with the Western building and carpark building constructed and operating.



Figure 1 Aerial image of Sydney Superyacht Marina (April 2018)

Source: Nearmap

2.0 Proposed modifications to the consent

2.1 Modifications to the Approved Development

The proposed modification to the development consent comprises the swapping of ground floor land uses and associated outdoor seating between the eastern building (café) and western building (provedore). The driver for the change is to provide:

- Improved activation to the existing maritime precinct;
- adding greater amenity and services to existing maritime tenants; and
- improve leasing prospects within the western building.

The proposed modifications, illustrated in **Figure 2** below, relate to swapping the currently approved provedore use at the eastern end of the western building with the ancillary (café) use at the eastern end of the eastern building. There is no resulting change in the currently approved GFA, likewise the same ratio of land uses is maintained. The associated approved outdoor seating is also proposed to be relocated, ensuring the same area of seating remains associated with the land use.

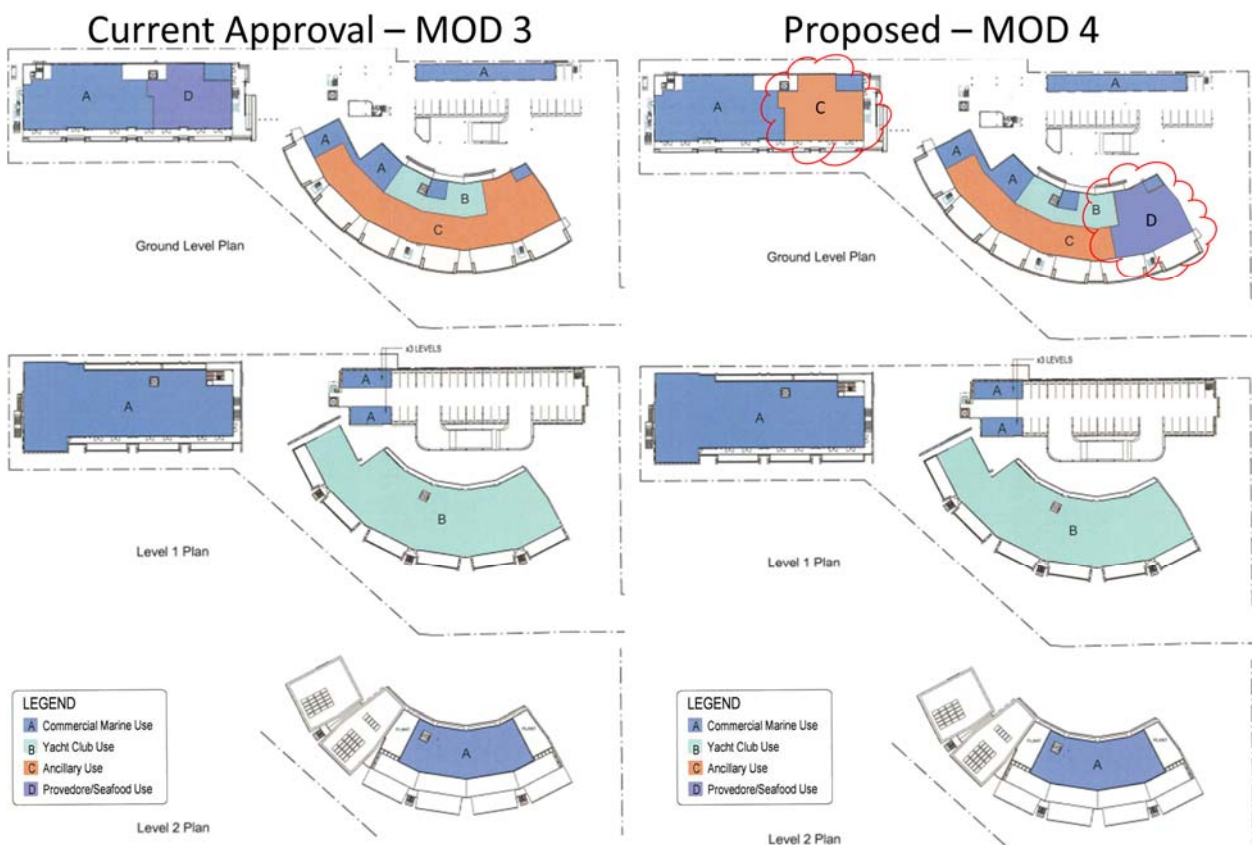


Figure 2 Comparison of current approval and proposed modification

Source: Scott Carver

2.2 Modifications to conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

A3 Development in Accordance with Plans and Documentation

The development shall be undertaken in accordance with MP09_0165 and the Environmental Assessment dated December 2010, prepared by Urban Perspectives Pty Ltd, except where amended by the PPR dated November 2011, and PPR Addendum dated August 2012, and the following architectural and landscape drawings except as amended by:

- the Environmental Assessment Report for MP09_0165 MOD 2 titled "Environmental Assessment s75W- Western Building, Sydney Superyacht Marina, MP09_0165" prepared by Urban Perspectives dated 15/07/2014 and as amended by email submissions from Urban Perspectives dated 22/7/2014 and 14/4/2015 and the plans referenced in the table below,'*
- the Environmental Assessment Report for MP 09_0165 MOD 1 titled "Environmental Assessment s.75W- Eastern Sector, Sydney Superyacht Marina, MP09_0165", prepared by Urban Perspectives dated 26/03/2015 and as amended by Response to Submission titled "MOD 1 s75W Eastern Sector, Sydney Superyacht Marina MOD 1 MP09_0165" prepared by Urban Perspectives dated 4/11/2015 and the supplementary submissions title "Sydney Superyacht Marina' Pty Ltd (MP09_0165 MOD 1) s75W Modification Application Addendum to Response to Submissions, Sydney Superyacht Marina Development, Rozelle Bay" prepared by Urban Perspectives dated 21 January 2016 and "Sydney Superyacht Marina, Rozelle Bay (MP09_0165 MOD 1) s75W Modification Application- Car Parks" prepared by Urban Perspectives dated 11 February 2016; and*
- the Environmental Assessment Report for MP 09_0165 MOD 3 titled "Environmental Assessment s.75W MOD 3 - Sydney Super Yacht Marina MP 09_0165" prepared by Urban Perspectives dated 21/07/2016 and as amended by Response to Submissions titled "Response to Submissions MOD 3 – Sydney Superyacht Marina MP 09_0165" prepared by Urban Perspectives dated 26/08/2016, the letter prepared by Benbow Environmental dated 02/10/2016 and the plans referenced in the table below.*
- Environmental Assessment Report for MP 09 0165 MOD 4 prepared by Ethos Urban dated 9/05/2018 and the plans referenced in the below table.***

Drawing No.	Rev.	Name of Plan	Date
Architectural drawings			
DA00	F	Title Sheet	29.09.2015
DA01	A	Site Analysis	21.06.2010
DA02	F	Location Plan	27.04.2016
DA03	E	Perspectives - Sheet 1	27.04.2016
DA04	I	Site Plan	27.04.2016
DA05	I	Ground Floor Plan	16.12.2015
DA06	F	First Floor Plan	29.09.2015
DA06.1	D	Second Floor Plan	27.04.2016
DA07	G	Roof Plan	27.04.2016
DA08	H	Elevations – Sheet 1	27.04.2016
DA09	G	Elevations - Sheet 2	27.04.2016
DA10	G	Sections	27.04.2016
DA11	D	Shadow Diagrams	27.04.2016
DA12	D	Perspectives - Sheet 2	07.08.2015

Drawing No.	Rev.	Name of Plan	Date
DA13	F G	Tenancy Diagram	16.06.2016 09.05.2018
DA19	G H	Outdoor Seating Diagram	16.06.2016 09.05.2018
DA30	A	West Building- Ground Floor	07.08.2015
DA31	A	West Building- First Floor/Roof	07.08.2015
DA32	A	West Building- Elevation	07.08.2015
DA33	A	West Building- Elevations/ Section	07.08.2015
DA34	A	East Building- Ground Floor	07.08.2015
DA35	A	East Building- First Floor	07.08.2015
DA36	C	East Building- Second Floor	07.08.2015
DA37	B	East Building- Roof Plan	27.04.2016
DA38	B	East Building- Elevations	27.04.2016
DA39	B	East Building- Elevations	27.04.2016
DA40	B	East Building- Section	27.04.2016
DA41	A	East Building- Section	07.08.2015
DA42	B	Carpark- Ground Floor	07.08.2015
DA43	B	Carpark- First/Second Floors	22.06.2016
DA44	A	Carpark- Elevations	07.08.2015
DA45	A	Carpark- Elevations/Section	
Landscape plans			
LP DA01	F	Landscape Masterplan	20.07.2016
LP DA02	D	Landscape Plan Levels 1 & 2ms Photomontage 2/2	20.07.2016
LP DA03	A	Carpark Façade Elevations/Section	16.09.2015

A6 Approved land uses and GFA

(a) Approval is granted for the following land uses and GFA

Building	Land use	Maximum GFA (m2)	Maximum % of total GFA
WESTERN BUILDING	Commercial maritime	2209m2	32.1%
	<i>Providore</i>	436m2	6.3%
	Restaurants, cafes, bars (ancillary uses)	436m2	6.3%
Sub total		2,645m2	38.4%
EASTERN BUILDING	Commercial maritime	810	11.8%
	Yacht club (maritime)	1779m2	25.8%
	Restaurants, cafes, bars (ancillary uses)	981m2 545m2	14.3% 7.9%
	<i>Providore</i>	436m2	6.3%
Sub total		3,570m2	51.9%
TOTAL		6,215m2	90.3%

Building	Land use	Maximum GFA (m2)	Maximum % of total GFA
Car park	Commercial maritime (ground floor)	220,2	3.2%
	Commercial maritime (Levels 1, 2 & 3)	450m2	6.5%
TOTAL MAXIMUM GFA		6,885m2	100%

A11 Separate consents

Separate development consent must be obtained from the relevant consent authority for the following works and uses.

- the internal fit-out works for the Yacht Club.
- the internal fit-out works for the eastern and western buildings and the ground floor level of the carpark where the commercial maritime areas will be housed.
- the internal fitout works for the restaurants, cafes and bars.
- The layout of the outdoor seating/dining areas, including number of seats/tables associated with the Yacht Club, provedore and ancillary uses (restaurant, cafes and bars), whether within or outside of lease areas. Any such future application shall be supported by a Noise Impact Assessment which demonstrates compliance with Part F of this project approval.

The outdoor seating areas are to be generally consistent with those areas allocated to each tenancy as detailed on approved plan DA19 ~~Rev. G~~ **Rev. H**, as read in conjunction with approved Plans LP DA 01 Rev. F and LP DA 02 Rev D. The southern extent of the outdoor seating associated with the ancillary use of the ground floor level of the Eastern Building is to be defined by the landscape planters as illustrated on approved plan LP DA 01 Rev. F.

- signage.

3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed modifications do not alter the built form or maximum height of the approved development;
- The mix of land uses as approved remains the same;
- There is no increase in GFA;
- There is no change to the approved parking numbers; and
- There is no change to the fundamental operational parameters of the marina.

4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Acoustic Impacts

There is no change to the fundamental operational aspects and intensity of approved land uses on the site. From an acoustic impact perspective, both the provedore and ancillary uses (café) are considered to have equal impacts, so the swapping of locations across the western and eastern buildings is not considered to give rise to any change in acoustic impacts. Existing measures also remain in place to ensure the effective mitigation of any potential noise generated through the operation of the provedore and ancillary (café etc) uses, e.g. restrictions on hours of use, operational management plan, noise management plan, adoption of acoustic performance glazing and materials etc.

Further approvals will be sought for the detailed use and operation of the ancillary uses and provedore.

4.2 Traffic and Parking

The proposed changes do not alter the currently approved mix of land uses, maximum GFA, car parking numbers or access arrangements. There will therefore be no increase in traffic generation or requirement for additional parking as a result of the proposed modified development.

5.0 Conclusion

The proposed modifications relate to minor design refinements that retain the same fundamentals of the approved development. The changes are considered to deliver an improved outcome for the precinct as it currently operates, emphasising a need to create and support activity and amenity for users of the maritime facility and visitors.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- The proposed modification is of minimal environmental impact; and
- The development, as proposed to be modified, is substantially the same development as development for which the consent, MP09_0165 was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



Alexis Cella
Director