

Request for Secretary's Environmental Assessment Requirements

**Stage 2 Development Application
Walsh Bay Arts Precinct**

Prepared by Infrastructure NSW on behalf of ArtsNSW

1 June 2016

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1 Introduction

This report supports a request for the Secretary's Environmental Assessment Requirements (SEARs) for the Walsh Bay Arts Precinct (WBAP) Stage 2 State Significant Development Application (SSDA).

The scope of this application includes the approved WBAP project plus the remaining external fabric of Wharf 4/5 housing the tenancy of the Sydney Theatre Company (STC). This portion was not included in the Stage 1 application, however, a whole of building consolidation will ensure compliance with current structural and fire engineering requirements, as well as, minimise disruption to the precinct occupants, visitors and stakeholders. This extension of the scope enables a coordinated upgrade of the external fabric of Wharf 4/5. It is noted that all conditions of consent of the Stage 1 approval apply to all works proposed herein.

The WBAP project is State Significant Development under Schedule 1 of State Environmental Planning Policy (State and Regional Development) 2011 ("State and Regional Development SEPP") as it is a cultural facility with a capital investment value (CIV) of over \$30 million. Evidence confirming that the total value of the project exceeds \$30 million was provided with the Stage 1 SSDA for the WBAP. A Quantity Surveyor's Report will be submitted with the SSDA.

To support the request for the SEARs, this report provides an overview of the WBAP project, sets out the statutory planning context and identifies the key environmental and planning issues likely to be associated with the development. The report is accompanied by architectural concept plans prepared by architectural firms Bates Smart and Hassell Pty Ltd (see **Appendix A**).

2 Background

On 21 May 2015, development consent (SSD 6069) was granted by a delegate of the Minister for Planning to a Stage 1 SSDA for the WBAP. The Stage 1 SSDA sought "in principle" approval for the WBAP but did not include the STC's facilities at Wharf 4/5.

The development consent for the Stage 1 SSDA approved the following:

- The adaptive re-use of Pier 2/3 providing new arts facilities including performance venues for the Australian Chamber Orchestra, Bell Shakespeare and Australian Theatre for Young People;
- Retaining a large heritage commercial events/art space for Sydney Writers Festival, Biennale of Sydney and a wide range of commercial and artistic events;
- Refurbishment of the ground floor arts facilities of Wharf 4/5 and its associated shore sheds for Bangarra Dance Theatre, Sydney Dance Company, Sydney Philharmonia, Gondwana and Song Company;
- New commercial retail opportunities; and
- Creation of a major waterfront public square to become an innovative external platform for collaborative performances, festivals, public art, cafés, restaurants, commercial and community activities.

Condition A3(a) of the Stage 1 Consent states that future stages of the concept proposal are to be the subject of future development applications. Condition A3(b) requires that the determination of future applications for development of the WBAP are to be generally consistent with the terms of the development consent, including those modifications and future conditions as set out in Part B and Part C of Schedule 2, respectively. A summary of these requirements is provided at **Appendix B**.

Along with the NSW Government's intention to create an enhanced arts and cultural precinct at Walsh Bay, the Sydney Theatre Company (STC) is intending to improve its facilities at Wharf 4/5. The project, known as STC50, is intended to create better theatre and rehearsal facilities as well as

improved workspaces. The improvements are also focussed on creating enhanced visitor experiences and improving STC's revenue earning capacity.

In March 2016, the STC sought SEARs for the preparation of a SSDA for the proposed upgrade of its facilities at Wharf 4/5. The SEARs were issued by the Department of Planning and Environment on 15 April 2016.

The STC is an integral part of the WBAP and it is recognised that the upgrade of its facilities at Wharf 4/5 needs to be coordinated within the broader WBAP project. In particular, there is a need for a coordinated construction program to minimise impacts on neighbours and tenants and to maximise efficiencies in the delivery of both projects.

To assist in the coordination of both projects, it is now proposed that the Stage 2 SSDA for the WBAP be submitted seeking approval not only for the WBAP but also for the STC's proposed external alterations and additions to its facilities at Wharf 4/5. The internal changes proposed to the STC's facilities at Wharf 4/5 will, however, remain the subject of a separate SSDA. The STC will be amending its Request for SEARs to coincide with these amendments.

3 The Site

The site generally comprises Pier 2/3, Wharf 4/5, and associated shoredocks and the adjoining waterway. The site has a street frontage to Hickson Road. The site is shown in **Figures 1 and 2**. The site is part of the Walsh Bay area which is located adjacent to Sydney Harbour within the suburb of Dawes Point. Walsh Bay is strategically located to the north of Sydney's CBD in the vicinity of major tourist destinations including the Sydney Harbour Bridge, the historic areas of Millers Point and The Rocks, Circular Quay and the Sydney Opera House. The Barangaroo redevelopment precinct is located immediately to the south-west. The site is located within the City of Sydney Local Government Area.

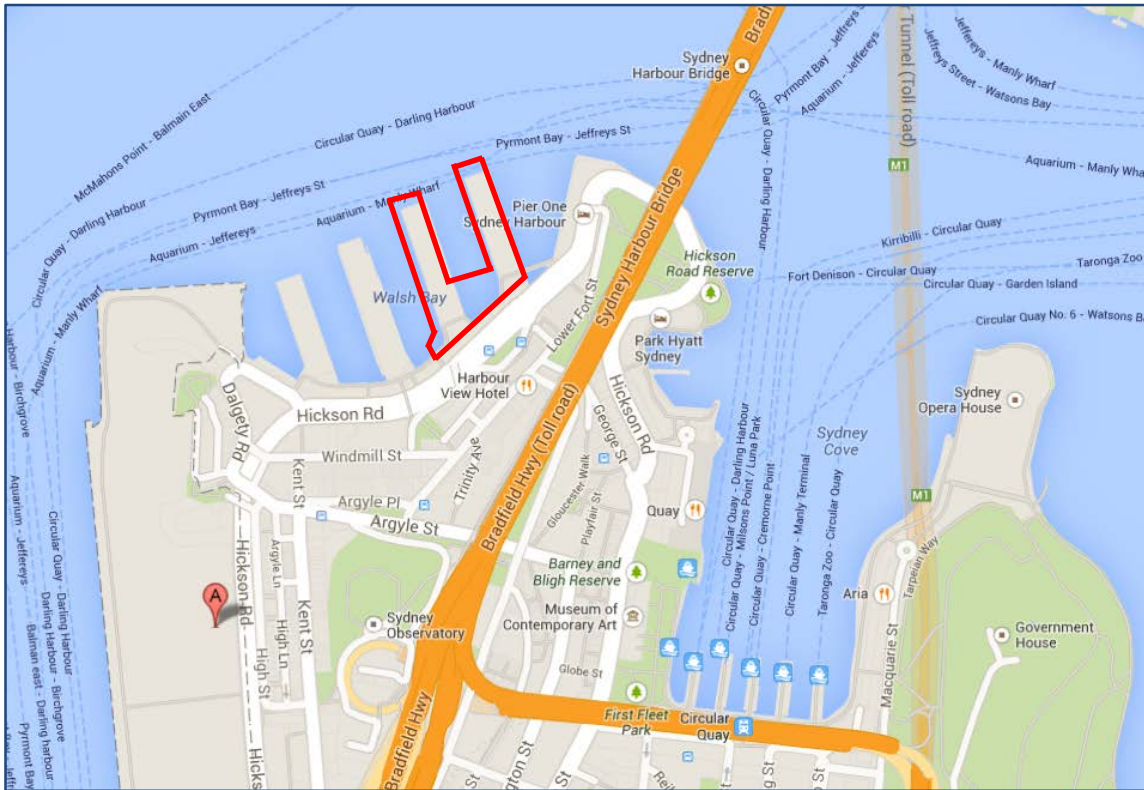


Figure 1: Site Location (Source: Google Maps)



Figure 2: Site Location (Source: www.nearmap.com)

Pier 2/3 is legally described as Lot 11 in DP 1138931 and Wharf 4/5 is legally described as Lot 65 in DP 1048377. The total area for these lots is 18,090sqm.

The land owner of the WBAP site is the Roads and Maritime Services (RMS). Both Pier 2/3 (excluding that part of the pier used for commercial uses) and Wharf 4/5 are occupied under various lease arrangements with Arts NSW, Department of Justice, primarily for arts and cultural uses.

The area of water that the project proposes to build over is also owned by RMS. Its land title description is Lot 12 in DP 1138931.

Walsh Bay comprises ten berths constructed between 1908 and 1922 for international and inter-state shipping. These are collectively known as the Walsh Bay Wharves. The Walsh Bay Wharves Precinct is listed as an item on the State Heritage Register.

The Walsh Bay Wharves comprise the following:

- Pier One which contains the Sebel Pier One Sydney Hotel;
- Pier 2/3 is the last remaining undeveloped pier (has previously received approval for cultural uses, temporary arts events and some commercial events);
- Wharf 4/5 which is occupied by the STC, Australian Theatre for Youth Program (ATYP), Bangarra Dance Theatre and other arts organisations;
- Pier 6/7 which has been redeveloped for residential apartments and associated boat marina;
- Pier 8/9 which has been redeveloped for office uses; and,
- Shoresheds aligning Hickson Road which contain a range of commercial activities, including restaurants, bars, shops and offices.

4 Project Overview

Address	Walsh Bay Arts Precinct
Site Description	Lot 11 DP1138931 (Pier 2/3), Lot 24 DP1071597 (Pier 2/3 shore sheds), Lot 65 DP1048377 (Wharf 4/5) and Lot 12 DP1138931 (part waters Sydney Harbour)
Area	Approximately 22,000sqm including the new public domain over the water
Ownership	Roads and Maritime Service under lease to ArtsNSW
LGA	Sydney City Council
Zoning	Sydney Regional Environmental Plan No. 16 Walsh Bay – Zones 1 and 2
Permissibility	A wide range of uses are permissible with consent

Project	Stage 2 <ul style="list-style-type: none"> • The construction of new public domain, comprising a public square between Pier 2/3 and Wharf 4/5 for multipurpose use as well as steps down to the waterway • A series of stairs, external lifts and balconies designed as a contemporary interpretation of the original gantries reflecting the precinct's former industrial heritage • The inclusion of flexible and adaptable spaces in Pier 2/3 and Wharf 4/5 for a large range of arts and cultural activities • Modification to the roofs of Pier 2/3 and Wharf 4/5 • Use of the precinct for arts festivals, events and pop ups as well as a range of activating uses such as restaurants, cafes and bars.
Capital Investment Value	The Treasury approved budget for the planning, design and construction of WBAP is \$139.6million. The estimated cost of the external fabric work to Wharf 4/5 is an additional \$15million.
Employment [estimates]	An additional 72 operational jobs and 600 construction jobs

Table 1: Project overview

5 Description of the Proposed Development

The approved Stage 1 development application comprised:

- A new waterfront public square between Pier 2/3 and Wharf 4/5;
- A series of new stairs and balconies on Pier 2/3 and Wharf 4/5 and modification to the roof of Pier 2/3;
- The inclusion of flexible and adaptive spaces in Pier 2/3 and Wharf 4/5 for arts and cultural activities; and,
- The use of the precinct for arts festivals, events and pop-ups and associated uses, including restaurants, cafes and bars.

The WBAP Stage 2 SSDA will seek consent for **construction works** for the above to realise the WBAP project, as well as, the proposed external alterations and additions to all of Wharf 4/5. It will also seek consent for new commercial and event uses in the precinct. Key aspects of the proposed development are outlined below:

Early works

- Early construction works comprising infrastructure upgrades, demolition, hazmat removal and sub structure works.

Pier 2/3

- Internal alterations and reconfiguration to provide for the following:
 - Performance venues;
 - Rehearsal rooms, production workshops, back of house facilities and offices;
 - Function spaces, bars, cafes and foyer spaces extending onto external gantry platforms (balconies) providing breakout space for internal foyers and allowing views of outdoor performances;
 - Mezzanine spaces for offices and back of house facilities;
 - Upgrades to meet compliance with current BCA, DDA and fire codes;

- Creation of new commercial tenancies and public toilets;
- Removal of some storey posts and beams to facilitate internal reconfiguration and new uses; and
- Retention of a large proportion of the ground floor in its existing 'raw' heritage state for events and festivals including Sydney Writers' Festival and Biennale including venue and commercial hire.
- External alterations and additions comprising:
 - New balconies and external stairs for fire egress;
 - Installation of glazing in existing cargo sliding doors and other solid panels on the eastern, western and northern elevations to allow for views into and out of the building;
 - Roof penetration within the central valley at the northern end to accommodate an auditorium;
 - Installation of ESD elements, such as photovoltaic panels and seawater heat exchange systems;
 - Raising of the external floor level on the eastern side by introducing a new raised deck and continuous set of stairs beyond the existing column line; and

Wharf 4/5

- Internal alterations and reconfiguration to the Bangarra Dance Theatre (BDT) tenancy to provide for the following:
 - Upgrade of the main rehearsal and performance space to provide improved daylight and natural ventilation;
 - Upgraded foyer and exhibition space along the eastern frontage;
 - Improved office space at mezzanine level including a new lift;
 - Provision of function space at ground level of northern end of wharf; and,
 - New entrance to BDT and new glazing in bays of sliding cargo doors, opening up the foyer and main studio to Wharf 4 apron.
- Minor internal alterations to the SDC tenancy including:
 - Reducing the existing workshop space to create a fifth dance studio; and,
 - Upgrading office and reception areas.
- External alterations and additions to SDC comprising:
 - Raising of timber wharf deck adjoining the SDC café and opening of facade with new glazing to activate the waterfront square.
- Creation of new commercial tenancies and public toilets;
- External fabric alterations around the STC tenancy comprising:
 - Improved street entry at Hickson Road involving relocation of the stairs to allow for an improved landing and point of arrival to the STC;
 - New 'gantry' balconies, stairs and lifts mid-wharf and at the end of the wharf to provide for improved accessibility and compliance with fire engineering solutions;
 - Minor amendments to the existing façade to accommodate new entries and exits along the wharf; and
 - Roof penetrations and reinstallation of existing photovoltaic panels where applicable.

Shore Sheds

- Internal alterations to reconfigure choir spaces, including provision of mezzanine for choir administration;
- Creation of new commercial tenancies at ground and mezzanine levels; and
- Provision of office space at ground level.

Public Domain

- Construction of a new waterfront square comprising a deck on piled structure;
- Shaded informal performance space on piled structure; and
- Changes to existing levels and steps down to facilitate access between existing apron and new waterfront square.

New Uses

- Use of the precinct for arts festivals, events and pop ups as well as a range of activating uses such as retail, restaurants, cafes and bars.

Architectural drawings prepared by architectural firms Bates Smart and Hassell have been provided for information purposes (see **Appendix A**).

6 Planning Context

The following legislation and environmental planning instruments will apply to the proposed development:

- Environmental Planning and Assessment Act 1979 ("EP&A Act")
- Heritage Act 1977
- State Environmental Planning Policy (State and Regional Development) 2011 ("State and Regional Development SEPP")
- State Regional Environmental Plan No 16 – Walsh Bay ("Walsh Bay REP")
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 ("Sydney Harbour Catchment REP")
- State Environmental Planning Policy No 55 – Remediation of Land ("SEPP 55")
- Walsh Bay Master Plan

6.1 Environmental Planning and Assessment Act 1979

The EP&A Act establishes the assessment framework for State significant development and under section 89D provides that the Minister for Planning is the consent authority for SSD. Section 78(8A) requires that a development application for SSD is to be accompanied by an environmental impact statement (EIS).

The proposal relates to a staged DA under Section 83B of the EP&A Act and seeks consent for a detailed proposal that is generally consistent with the Stage 1 Consent previously granted by the Minister.

6.2 Heritage Act 1977

The Walsh Bay Wharves are listed on the State Heritage Register under the Heritage Act 1977. Under section 89J of the EP&A Act, an approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977 are not required for approved SSD.

While separate approval to the project from the Heritage Council is not required, InfrastructureNSW and Arts NSW are very aware of the heritage significance of the site and have been liaising closely with the Heritage Council during the design development phase. The heritage impact of the proposed development will be addressed in detail in the EIS including any requirements identified by the Heritage Council for the SEARs.

6.3 State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1 of State and Regional Development SEPP identifies development which is declared to be SSD. Clause 13 of Schedule 1 provides that the following development is SSD:

13 Cultural, recreation and tourist facilities

(1) Development that has a capital investment value of more than \$30 million for any of the following purposes:

- (a) film production, the television industry or digital or recorded media,*
- (b) convention centres and exhibition centres,*
- (c) entertainment facilities,*
- (d) information and education facilities, including museums and art galleries,*
- (e) recreation facilities (major),*
- (f) zoos, including animal enclosures, administration and maintenance buildings, and associated facilities.*

The WBAP development is a cultural facility with a value over \$30 million and is therefore considered to be SSD.

A Stage 2 SSDA is to be accompanied by an EIS that has been prepared in accordance with requirements issued by the Secretary of the Department of Planning and Environment. This report therefore seeks the SEARs to enable preparation of an EIS for the project.

6.4 Walsh Bay Regional Environmental Plan

The Walsh Bay Regional Environmental Plan (REP) is a “deemed SEPP” and is the principal environmental planning instrument applying to the site. In general, the REP is a flexible instrument allowing for a wide range of uses within the precinct, including commercial, retail, residential and entertainment/recreation uses.

There are two zones under the REP:

- Zone 1 - Walsh Bay Conservation Zone
- Zone 2 - Walsh Bay Waterway Zone.

As shown in **Figure 3**, Zone 1 applies to the wharves and surrounding precinct on land. Zone 2 applies to the harbour area between the wharves.

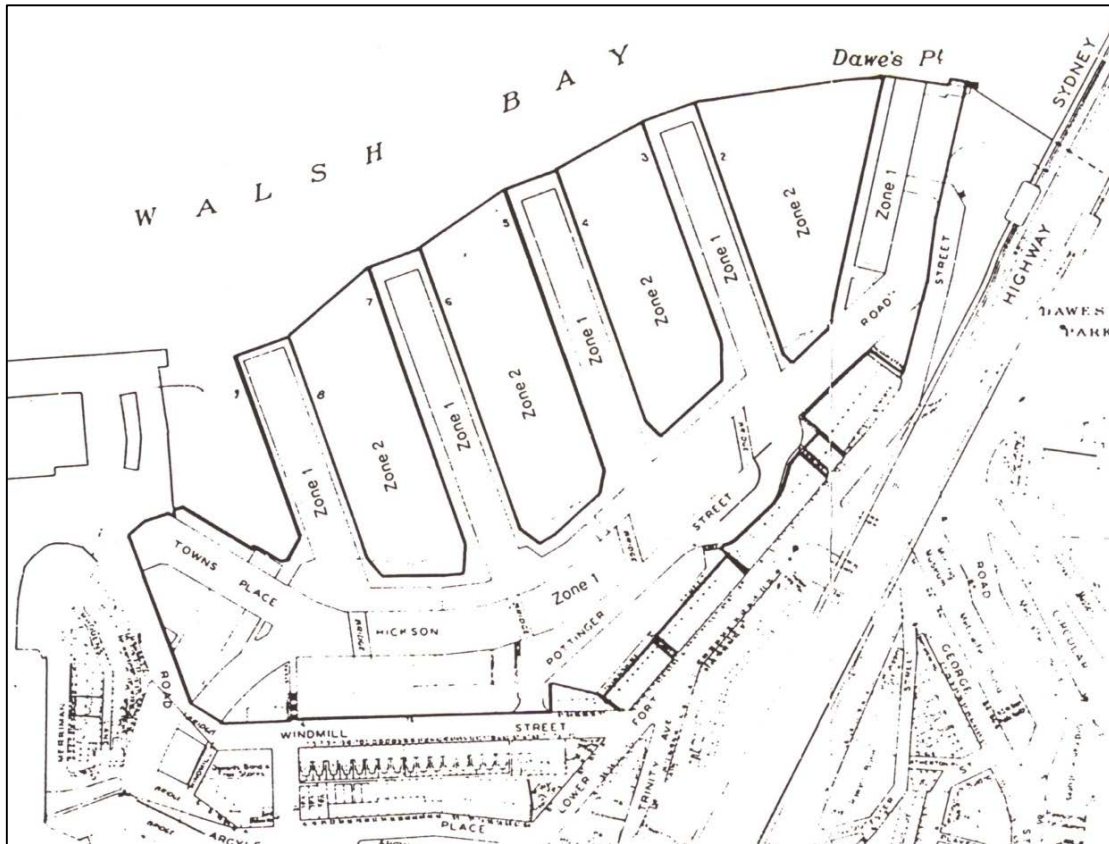


Figure 3: Zoning under the Walsh Bay REP

A wide range of uses are permissible with consent within Zone 1, subject to consistency with the zone objectives which provide as follows:

- to allow an appropriate range of uses to encourage the adaptive re-use of existing structures while not required for commercial port uses,
- to ensure that development is consistent with the heritage significance, the scale, the built form and the materials of existing structures in the zone and adjoining areas,
- to ensure that development is compatible with and does not detract from the financial, commercial and retail functions of the existing city central business district and the Sydney Cove Redevelopment Area, and
- to ensure that development is compatible with and does not adversely impact on the residential amenity and function of the adjoining areas.

The proposed development is consistent with the zone objectives.

Uses allowed in Zone 2 with development consent include entertainment facilities, waterway access stairs, pontoons and public walkways. The proposed public square and stage are therefore permissible in Zone 2.

6.5 Sydney Harbour Catchment REP

The site is within the Sydney Harbour Catchment as identified under the Sydney Harbour Catchment REP. This REP is also a deemed SEPP.

Clause 20 of the Sydney Harbour Catchment REP requires that the consent authority take into account a range of matters before granting consent to development under Part 4 of the EP&A Act. These relate to:

- Biodiversity, ecology and environmental protection;
- Public access to, and use of, foreshores and waterways;
- Maintenance of a working harbour;
- Interrelationship of waterway and foreshore uses;
- Foreshore and waterway scenic quality;
- Maintenance protection and enhancement of views; and
- Boat storage facilities.

6.6 State Environmental Planning Policy 55 – Remediation of Land

SEPP 55 provides controls and guidance for the remediation of contaminated land. It requires that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. If a site is contaminated, the consent authority must be satisfied that the site is suitable (or will be suitable, after remediation) for the proposed use.

If the proposal involves works that will impact on soils (whether on land or on the seabed), a contamination assessment will be undertaken in accordance with the requirements of SEPP 55 and the Managing Land Contamination Planning Guidelines (Department of Urban Affairs and Planning, 1998).

7 Stage 1 SSDA Consent Conditions

The Stage 1 SSDA consent includes a number of conditions that must be met prior to the lodgement of the Stage 2 SSDA for the development. In particular, these include:

- **Walsh Bay Arts Precinct Working Group** (Condition A8) - Establishment of a Walsh Bay Arts Precinct Working Group (WBWG) comprising representatives from key agencies to discuss issues associated with design development and environmental impact resolution;
- **Urban Design Guidelines** (Condition A10) - Preparation of Urban Design Guidelines, to be prepared in consultation with the WBWG;
- **Interpretation Plan** (Condition A11) - Preparation of an Interpretation Plan for moveable heritage, to be prepared in consultation with RMS and the Heritage Council;
- **Operational Management** (Conditions A12 and A13) - Finalisation of the draft Operational Plan of Management and draft Operational Event Noise Management Plan;
- **Community Consultation Strategy** (Condition A14) - Preparation of a detailed community consultation strategy for the future construction and operation of the WBAP; and,
- **Complaints Management System** (Condition A15) - Preparation of a detailed Complaints Management System for the future construction and operation of the WBAP.

The Stage 1 consent also stipulates specific matters that are to be assessed in future applications. These include requirements to:

- Undertake marine sediment testing, update the Phase 1 Environmental Site Assessment prepared for the Stage 1 SSDA and obtain a Site Audit Statement certifying that the site is suitable for the proposed use (Condition B1);
- Undertake comprehensive heritage assessments, including preparation of an archaeological assessment and management plan, a comprehensive archival recording of the WBAP, and heritage impact assessment (Conditions B2, B4 and B5);

- Demonstrate how the design of the performance space and roof penetrations satisfies the design guidelines set out in the Stage 1 SSDA Heritage Impact Assessment prepared by Design 5 (Conditions B6 and B7);
- Undertake a wave impact assessment (Condition B8);
- Address design, construction and public safety issues associated with the construction of the waterfront square and water steps (Condition B9);
- Assess the potential impacts on the marine and groundwater environment during construction and operation (Conditions B10 and B11);
- Undertake a survey to determine whether the existing buildings provide habitat for the Southern Myotis and, if relevant, identify mitigation measures to minimise its potential spread (Condition B12);
- Demonstrate compliance with the WBAP Sustainability Framework submitted with the Stage 1 SSDA (Condition B13);
- Prepare an Accessibility Report (Condition B14);
- Prepare a Public Domain Plan for works/use of the public domain which complies with Urban Design Guidelines referred to in Condition A10 (Condition B15);
- Undertake a Noise Impact Assessment (Condition B16);
- Prepare a Traffic Impact Assessment and Green Travel Plan including a Transport Access Plan (Conditions B17 and B19);
- Prepare a Transport Management Plan for all future Category 1 to 4 events (Condition B18);
- Prepare an Event Management Plan for future event development applications (Condition B20); and,
- For applications which include the installation of a harbour heat rejection system, prepare an environmental impact assessment of any seawater abstraction involved and water pollution (Condition B21).

8 Other Environmental Assessment Issues

The Stage 1 SSDA development consent is comprehensive in those matters that require further environmental assessment in subsequent development applications. These matters will be addressed in the Stage 2 SSDA EIS.

In addition, the following issues will need to be assessed in the EIS:

- Construction management - the EIS will detail the proposed construction methodology and timetable for the development. In particular, the following construction issues will be addressed:
 - Impacts of construction activity, noise and vibration on surrounding commercial and residential development;
 - The ongoing operation of activities within the WBAP;
 - Construction waste management;
 - Impacts on the operation of Hickson Road and the broader CBD network, particularly having regard to other concurrent construction (e.g. Barangaroo, CBD Light Rail); and,
 - Maintenance of pedestrian and vehicular access.
- BCA and fire safety;
- Utilities and services; and,
- Structural integrity.

9 Consultation

As part of the preparation of the EIS, consultation will be undertaken with the following stakeholders:

- Walsh Bay Arts Precinct Working Group including City of Sydney, Office of Environment and Heritage, Transport for NSW, Roads and Maritime Services and the Environment Protection Authority;
- Barangaroo Delivery Authority;
- Sydney Harbour Foreshore Authority;
- Walsh Bay Precinct Association;
- NSW Police;
- Utility providers; and,
- Surrounding residents and businesses.

All consultation will be undertaken in accordance with the Department of Planning and Environment's consultation guidelines.

10 Conclusion

InfrastructureNSW on behalf of Arts NSW is proposing to develop a new arts precinct at Walsh Bay as identified in the NSW Government's State Infrastructure Strategy. This precinct will expand and strengthen the existing cluster of cultural institutions and attractions within the Sydney CBD and harbour. The precinct will provide an integrated performing arts and cultural precinct with an enhanced public domain at Walsh Bay. The arts and cultural program will complement the other cultural initiatives in the surrounding areas, including those proposed at nearby Barangaroo.

In May 2015, the Minister for Planning under delegation granted concept approval to the Stage 1 SSDA for the WBAP. The development consent required that subsequent stages of the concept proposal be the subject of future development applications. The consent also identified a number of conditions with which future development applications must be generally consistent.

InfrastructureNSW is now proposing to proceed with the project as approved, as well as, the inclusion of Wharf 4/5 external fabric works and to prepare the detailed SSDA (Stage 2 SSDA) for the WBAP seeking full approval for the design and construction of the development. As with the concept Stage 1 SSDA, the detailed Stage 2 SSDA will need to be accompanied by an EIS, as set out in Section 78A(8A) of the EP&A Act.

The information contained in this report is provided to assist the Secretary in determining the level and scope of an EIS to accompany the Stage 2 SSD application in accordance with the provisions set out under the EP&A Act and Regulation.

Appendix A

Concept Plans

Walsh Bay Arts Precinct

CONCEPT PLANS FOR ISSUE WITH REQUEST FOR
SEARS JUNE 2016

Walsh Bay Arts Precinct – General Layout



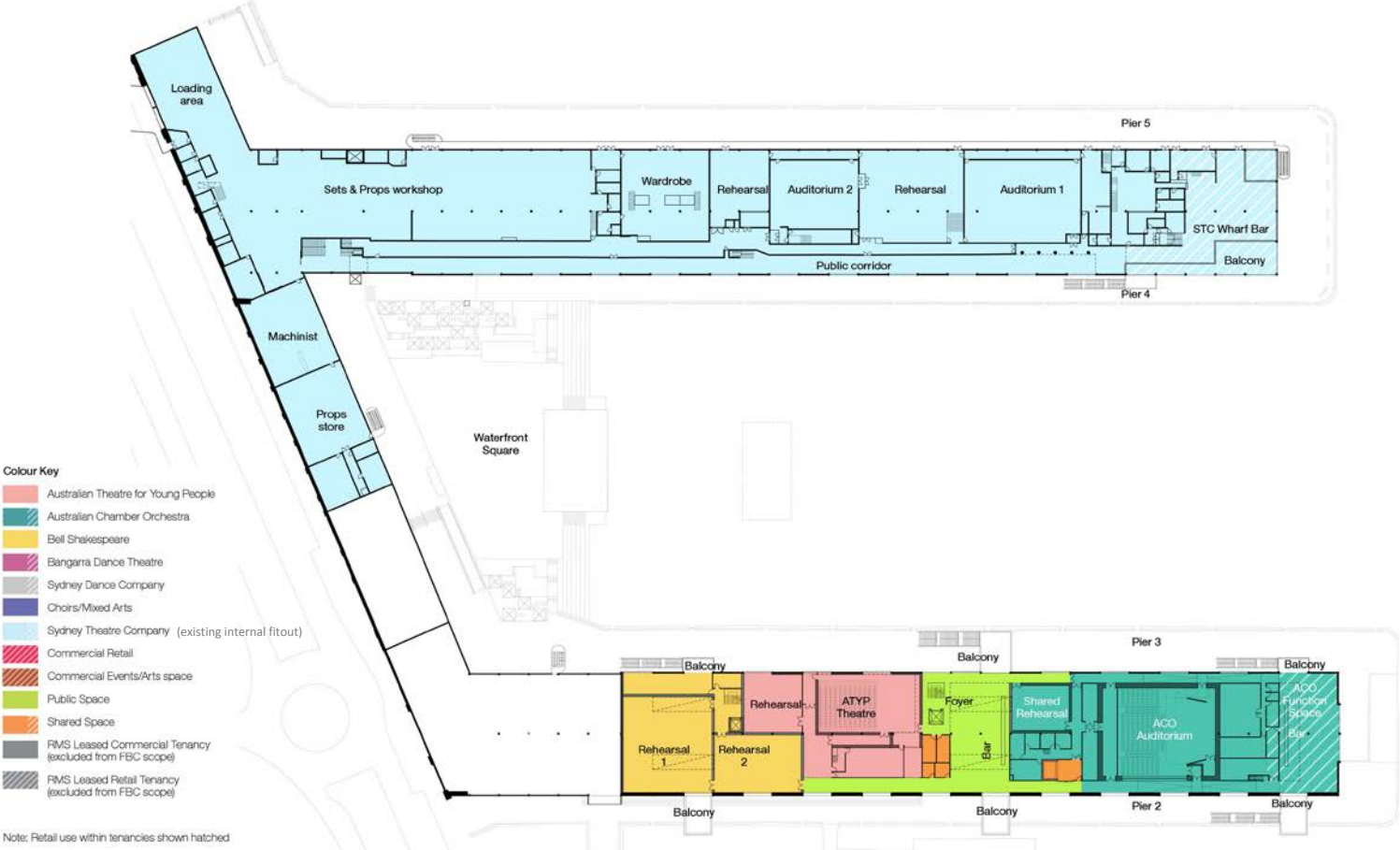
Ground Floor Arrangement



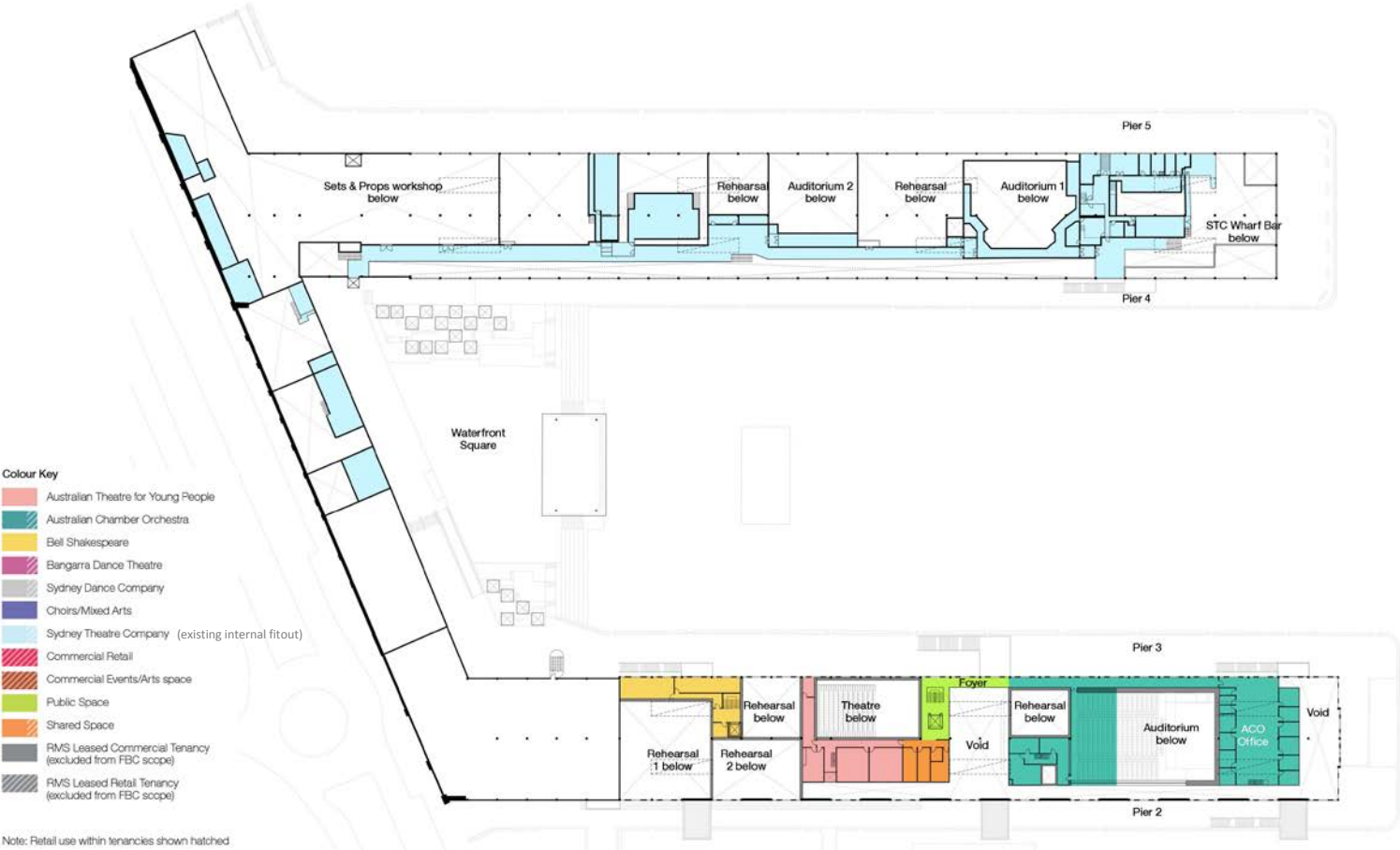
Level 1 Arrangement



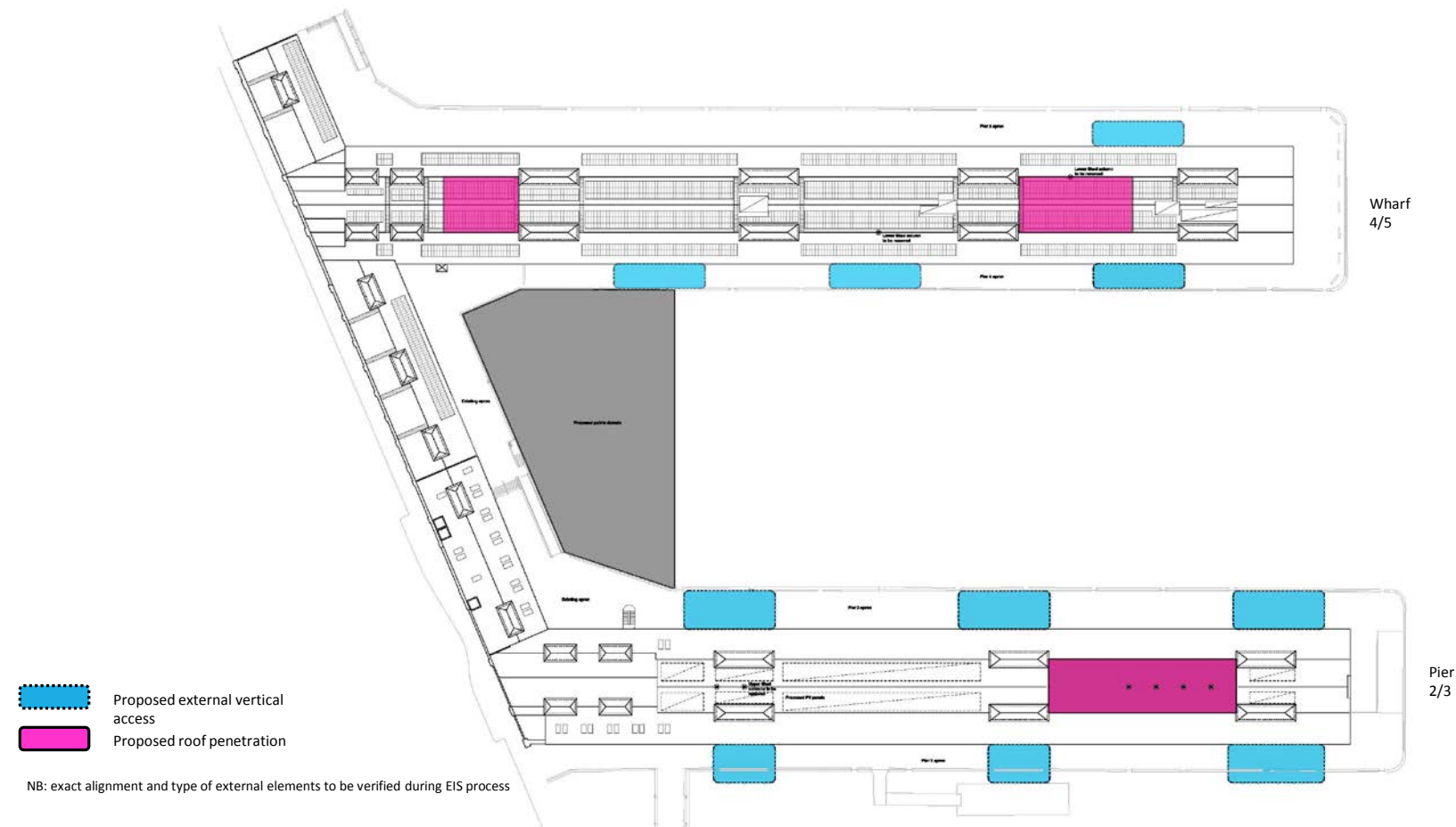
Level 2 Arrangement



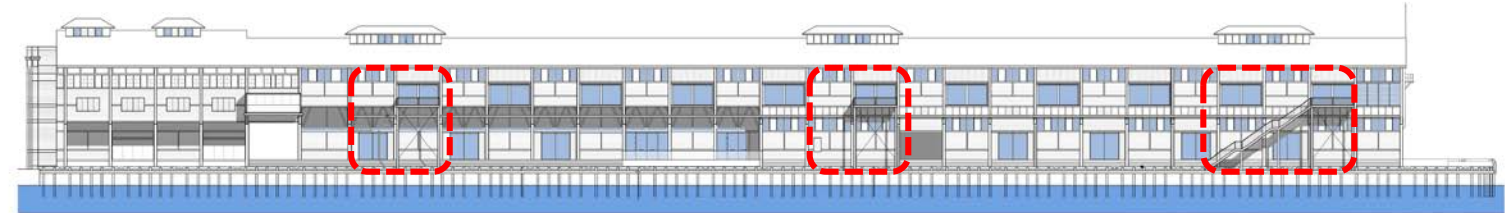
Level 3 Arrangement



External Fabric Works



Pier 2/3 Elevation



Proposed East Elevation

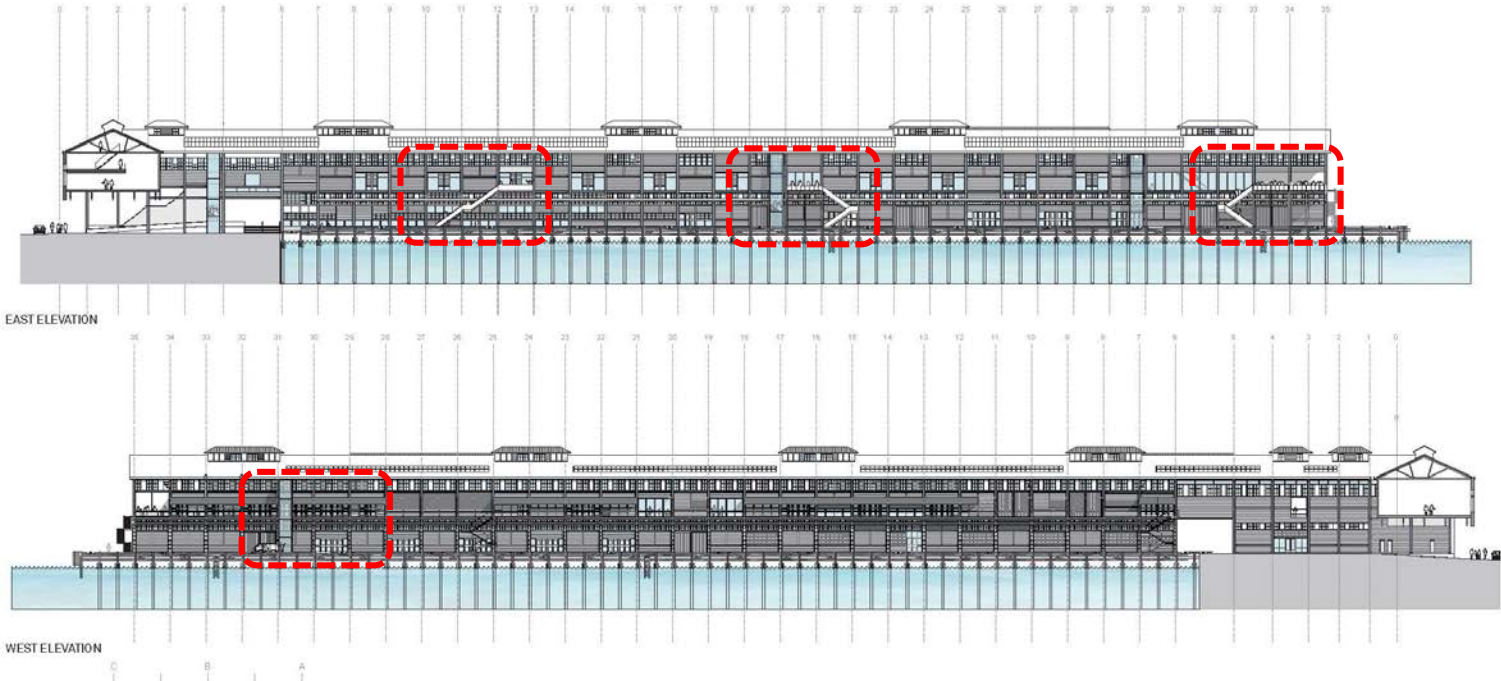


Proposed West Elevation



Proposed external vertical access and/or balcony locations NB: exact alignment and type to be verified during EIS process

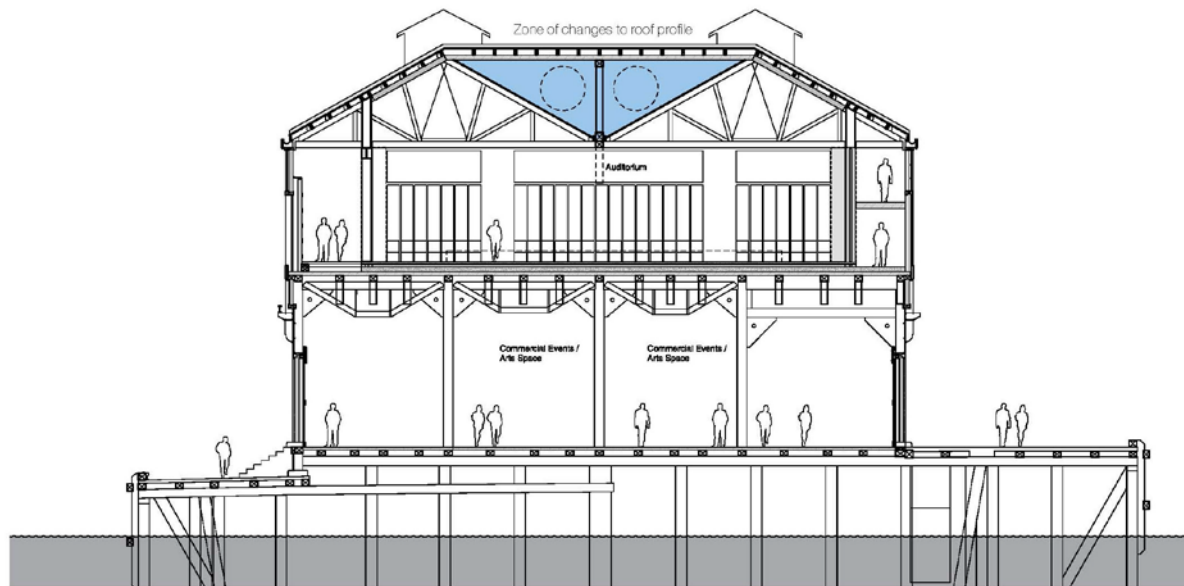
Wharf 4/5 Elevation



Proposed external vertical access and/or balcony locations
NB: exact alignment and type to be verified during EIS process

Typical Roof Penetration Section

NB: All roof penetrations to be done in accordance with Stage 1 development consent Condition B7.



Appendix B

Stage 1 Conditions of Consent

Development Consent

Section 89E of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister of Planning, under delegation dated 16 February 2015, I grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

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.

Under section 89D(2) of the *Environmental Planning and Assessment Act 1979*, I determine that any subsequent stage of the development determined to be State significant development remains State significant development and is to be determined by the Minister.

Chris Wilson
Executive Director
Infrastructure and Industry Assessments

Sydney

21 May

2015

SCHEDULE 1

Application No.:	SSD 6069
Applicant:	Arts NSW
Consent Authority:	Minister for Planning
Land:	Lot 11 and 12 in DP1138931 and Lot 65 in DP1048377 Pier 2/3, Wharf 4/5 and Sydney Harbour, Walsh Bay.
Application:	Staged development (concept proposal) for the Walsh Bay Arts Precinct comprising and integrated performing arts and cultural precinct including: <ul style="list-style-type: none">• a new waterfront public square between Pier 2/3 and Wharf 4/5, with a stage and shade structure;• the adaptive reuse of Pier 2/3;• the refurbishment of Wharf 4/5; and• the use of the precinct for arts festivals, events and pop-up and associated uses.

DEFINITIONS

Advisory Notes	Advisory information relating to the approved project but do not form a part of this approval.
Applicant	Arts NSW
Application	The development described in Schedule 2, Part A, Condition A1 and the accompanying plans and documentation described in Schedule 2, Part A, and Condition A2.
BCA	Building Code of Australia
Certifying Authority	Has the same meaning as Part 4A of the EP& A Act.
Construction	Any works, including earth and building works
Council	City of Sydney
CPI	Consumer Price Index
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 3 pm on Sundays and Public Holidays
OEH	Office of Environment and Heritage or its successors
Department	Department of Planning and Environment or its successors
EIS	Environmental Impact Statement titled " <i>Walsh Bay Arts Precinct – State Significant Development Application- SSD 6069</i> " prepared by MG Planning on behalf of Arts NSW and dated 7 July 2014.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
Evening	The period from 6 pm to 10 pm
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval
Minister	Minister for Planning, or nominee
Night	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Principal Certifying Authority/PCA	Has the same meaning as Part 4A of the EP& A Act.
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build.
RTS	Response to Submissions titled " <i>Walsh Bay Arts Precinct- State Significant Development Application- SSD 6069</i> " prepared by MG Planning on behalf of Arts NSW and dated January 2015 and the submission titled "Proposed Walsh Bay Arts Precinct" prepared by JBS&G dated 28 April 2015
Secretary	Secretary of the Department of Planning and Environment, or nominee
Subject Site	Lot 11 and 12 in DP1138931 and Lot 65 in DP1048377 Pier 2/3, Wharf 4/5 and Sydney Harbour, Walsh Bay.

SCHEDULE 2

PART A - ADMINISTRATIVE CONDITIONS

A1 DEVELOPMENT DESCRIPTION

a. Except as amended by this approval, concept approval is granted for the Walsh Bay Arts Precinct, an integrated performing arts and cultural precinct, which includes the following key elements:

- a new waterfront public square between Pier 2/3 and Wharfs 4/5;
- a series of new stairs and balconies on Pier 2/3 and Wharf 4/5 and modification to the roof of Pier 2/3;
- the inclusion of flexible and adaptive spaces in Pier 2/3 and Wharf 4/5 for arts and cultural activities; and
- the use of the precinct for arts festivals, events and pop-ups and associated uses, including restaurants, cafes and bars

subject to compliance with the modification in **Part B** of this approval.

A2 DEVELOPMENT IN ACCORDANCE WITH PLANS AND DOCUMENTATION

The development will be fully undertaken in accordance the following documents and plans:

Environmental Impact Statement titled "Walsh Bay Arts Precinct- State Significant Development Application- SSD 6069" prepared by MG Planning and dated 7 July 2014, as amended by the Response to Submissions titled "Walsh Bay Arts Precinct- State Significant Development Application- SSD 6069" prepared by MG Planning and dated January 2015.		
The following Concept Design Drawings prepared by Bates Smart titled "Walsh Bay Arts Precinct"		
<i>Name of Plan:</i>	<i>Drawing Number:</i>	<i>Date:</i>
Site Plan- showing works for approval	A01.001[A]	2.06.2014
Elevations- showing Works for approval	A01.002[A]	2.04.2014
The following Reports appended to the Environmental Impact Statement and the Response to Submissions:		
<i>Name of Report:</i>	<i>Prepared by:</i>	<i>Date:</i>
Accessibility Report- Walsh Bay Arts Precinct	Morris Goding Accessibility Consulting	1 March 2014
Walsh Bay Arts Precinct- BCA Assessment	Steve Watson & Partners	April 2014
Fire Safety Report- Walsh Bay Arts Precinct (2013/226 R1.2)	Stephen Grubits & Associates	24 February 2014
Phase 1 Environmental Site Assessment- Proposed Walsh Bay Arts Precinct Redevelopment	JBS&G	23 June 2014
Walsh Bay Arts Precinct-Heritage Impact Assessment (Rev.4)	Design 5 Architects	23 June 2014
Marine and Ground Water Assessment for the WBAP Redevelopment	Jacobs SKM	23 June 2014
Noise and Vibration Assessment	WSP	24 June 2014
Walsh Bay Arts Precinct Maritime Facilities Waterfront Square	Royal Haskoning DHV	3 April 2014
Arts NSW Walsh Bay Arts Precinct Sustainability Framework	ARUP	24 June 2014
Drainage Concept	ARUP	16 June 2014
Public Domain Concept Design Report	ASPECT Studios	March 2014
External Lighting, Signage/ Wayfinding, Public Amenities and Waste Management Report	Bates Smart Pty Ltd	14 January 2015
Draft Event Operational Noise Management Plan	WSP	10 December 2014
Draft Operational Plan of Management	Arts NSW	January 2015
Traffic Management and Accessibility Plan	GTA Consultants	14 January 2015
Remediation Strategy titled "Proposed Walsh Bay Arts Precinct"	JBS&G	28 April 2015

except for as modified by the following pursuant to Section 89E(1) of the Act.

A3 DETERMINATION OF FUTURE APPLICATIONS

- (a) In accordance with section 83B(3)(b) of the EP&A Act, future stages of the concept proposal are to be the subject of future development applications.
- (b) The determination of future applications for development of the Walsh Bay Arts Precinct are to be generally consistent with the terms of this development consent as described in Part A of Schedule 2, and subject to the modifications of the proposed development set out in Part B of Schedule 2, and future conditions in Part C of Schedule 2.

A4 LAPSING OF CONSENT

Approval of the Concept Proposal shall lapse 5 years after the determination date in Part A of Schedule 1, unless a development application has been approved and the development has commenced.

A5 INCONSISTENCY BETWEEN DOCUMENTS

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

A6 LIMITATIONS OF THIS CONSENT

This consent is limited to the approval of the concept for the Walsh Bay Arts Precinct only and does not give consent for any construction works. Such works shall be the subject of separate development applications.

A7 RESTRICTIONS ON USE

The future use of the Waterfront Square and associated outdoor spaces for events is to be generally consistent with the scope and frequency provided in the Table below.

Category	Scope of Events
Major Events	<ul style="list-style-type: none"> up to 10,000 people max 4 times per year must not occur over more than one day use must not occur before 7 am or after midnight on any day, except New Year's Eve (when the use may occur until 2 am the following day) music to be ceased by 11 pm in all cases (with the exception of New Year's Eve) set-up/dismantle time for the use must not start earlier than 6 am, or end later than 1am, on any day, except New Year's Eve when dismantle may occur until 2 am the following day clean up time for the use must end no later than 2 hours after the use was to stop occurring or may be undertaken the following day
Arts and Cultural Festivals	<ul style="list-style-type: none"> up to 7,500 people moving through the site at any one time can occur over consecutive days max 6 times per year use must not occur before 7 am or after 12 midnight on any day (including set up/dismantle and clean up time) music to be ceased by 11 pm in all cases
Community Events	<ul style="list-style-type: none"> up to 5,000 people no limit on number of community events held in a year can occur over consecutive days use must not occur before 7 am or after midnight on any day, including set up/ dismantle time and clean up music to be ceased by 11 pm in all cases use of localised low output amplified sound system for announcements or for live intimate entertainment only
Private Events	<ul style="list-style-type: none"> up to 1,000 people no limit on number of private events use must not occur before 7 am or after midnight, including set up/dismantle and clean up time music to be ceased by 11 pm in all cases private event should not restrict or impede public access to public outdoor areas use of localised low output amplified sound system for live intimate entertainment only

End of Section

A8 WALSH BAY ARTS PRECINCT WORKING GROUP (WBWG)

A Working Group is to be established prior to the lodgement of the first development application. The WBWG is to meet on a regular basis to discuss issues associated with design development and environmental impact resolution. The WBWG is to be convened by Arts NSW and is to include representative from the City of Sydney, Office of Environment and Heritage, Transport for NSW, Roads & Maritime Services and Environment Protection Authority.

Each future development application is to document the involvement of the WBWG in the design and environmental impact resolution of the proposal.

A9 VIEW CORRIDOR BETWEEN BUILDINGS

The view corridor between Hickson Road and the harbour through the shoresheds is to remain unobstructed by any installation.

A10 URBAN DESIGN GUIDELINES

Prior to the lodgement of the first development application, the applicant is to prepare a detailed set of Urban Design Guidelines for the Walsh Bay Arts Precinct. The Guidelines must be prepared in consultation with the Walsh Bay Arts Precinct Working Group. The Guidelines shall include but not be limited to the following:

- (a) measures to ensure that:
 - a. public spaces are maintained for public use;
 - b. privately leased areas do not intrude not the new public space; and
 - c. to minimise the potential for the proliferation of furniture and structures in the new public space and adjacent aprons.
- (b) design details in relation to the following:
 - a. wayfinding signage (including integration with Harbour Village North Public Domain Strategy and Sydney City Centre Access Strategy)
 - b. café, restaurant and bar furniture;
 - c. advertising/branding;
 - d. umbrellas and awnings;
 - e. lighting;
 - f. public seating; and
 - g. bike racks (the provision is to satisfy Council requirements).
- (c) the activation of Hickson Road to assist in the City's delivery of the Harbour Village North Public Domain Master Plan;
- (d) views and sightlines to the WBAP and Sydney Harbour are not unduly obstructed; and
- (e) measures to preclude the addition of marquees, shade structures or enclosures on the balconies in the future.

A11 INTERPRETATION PLAN- MOVEABLE HERITAGE

Prior to the lodgement of the first development application, an Interpretation Plan for the moveable heritage currently housed at Pier 2/3 (upper and lower decks and pier apron) shall be prepared in consultation with the Roads & Maritime Service and the Heritage Council of NSW. The Interpretation Plan shall take into consideration the recommendations in section 7.7 of the Heritage Impact Assessment prepared by Design 5 and dated June 2014.

A copy of the final Interpretation Plan shall be submitted to the Secretary, Council and the Heritage Council.

A12 OPERATIONAL PLAN OF MANAGEMENT

The applicant is to review and finalise the draft Operational Plan of Management (OPM) for WBAP in consultation with the Walsh Bay Arts Precinct Working Group. A copy of the final OPM is to be submitted to the Secretary and Council prior to the lodgement of the first development application.

A13 OPERATIONAL EVENT NOISE MANAGEMENT PLAN

The applicant is to finalise the draft Operational Event Noise Management Plan (OENMP) for WBAP in consultation with the EPA and Council. Specifically, the EPA and Council are to be consulted in relation to the following:

- (a) relevant event noise control targets for each specific category of event;
- (b) the methodology for noise monitoring;
- (c) reasonable and feasible noise mitigation techniques specific to each category of event; and

(d) required community consultation techniques specific to each category of event.

The Plan is to include the management strategies and mitigation measures included in Sections 7 and 8 of the Noise and Vibration Management Plan prepared by WSP dated June 2014.

A copy of the final OENMP is to be submitted to the Secretary and Council prior to the lodgement of the first development application.

A14 COMMUNITY CONSULTATION STRATEGY

Prior to the lodgement of the first development application, the applicant is to prepare a detailed community consultation strategy for the future construction and operation of the WBAP. The Strategy is to include details for the communication between the Applicant (and its contractors), government agencies, Council and community stakeholders (particularly, adjoining landowners). The Strategy shall include, but not be limited to:

- (a) Procedures and mechanisms for regular dissemination of information on construction management, the operation of the facility and matters associated with environmental management.
- (b) Procedures and mechanisms to be implemented to resolve any issues/disputes that arise.
- (c) The establishment of a website for the provision of information associated with the development. The website is to include contact point(s) to which community complaints and inquiries may be directed, including a telephone number, a postal address and an email address.

Details demonstrating compliance with the terms of this condition are to be submitted to the Secretary prior to the lodgement of the first development application.

A15 COMPLAINTS MANAGEMENT SYSTEM

Prior to the lodgement of the first development application, the applicant is to prepare a detailed Complaints Management Systems:

- (a) Complaints Management System for Construction- The System shall include the following:
 - a. A direct telephone number on which complaints and enquiries about the project may be registered.
 - b. A postal address to which written complaints and enquiries may be sent.
 - c. An email address to which electronic complaints and enquiries may be transmitted.
 - d. Details of how reports complaints received will be recorded and responded for the duration of construction.
- (b) Complaints Management System for Operation- The System shall establish a 24-hour event complaint hotline. The hotline must be operational for the full duration of each event, inclusive of the construction, bump-in/out and demolition works associated with each event. The System shall detail how complaints will be recorded and managed in accordance with the sections 4.6 and 4.7 of the *Operational Noise Management Plan* prepared by WSP dated 10 December 2014.

Details demonstrating compliance with the terms of this condition are to be submitted to the Secretary prior to the lodgement of the first development application.

End of Section

PART B – CONDITIONS TO BE MET IN FUTURE STAGES

B1 MARINE SEDIMENT TESTING

Prior to the lodgement of the first development application, the applicant is to:

- (a) complete the soil and preliminary sediment sampling program outlined in the advice from JBS&G dated 28 April 2015 and prepare a detailed environmental monitoring program for the duration of the construction works;
- (b) incorporate the environmental monitoring program into the Construction Framework Environmental Management Plan;
- (c) update the Phase 1 Environmental Site Assessment prepared by JBS&G dated 23 June 2014 to include the results of the marine sediment testing; and
- (d) obtain a Site Audit Statement from a NSW EPA accredited Site Auditor certifying that the site is suitable for the proposed use.

B2 HERITAGE REQUIREMENTS FOR ALL FUTURE APPLICATIONS

- (a) All future development applications shall be accompanied by a Heritage Impact Assessment.
- (b) All future applications shall demonstrate compliance with the following:
 - (i) The conclusions and recommendations in Section 8.0 of the Heritage Impact Assessment prepared by Design 5 dated 23 June 2014;
 - (ii) The requirements of Conditions B4 to B7 below (as relevant);
 - (iii) An experienced heritage practitioner is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage practitioner is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition; and
 - (iv) The Interpretation Plan for the Moveable Heritage prepared in accordance with Condition A12.

B3 OPERATIONAL MANAGEMENT PLANS

All future applications for the fitout and adaptive reuse of the WBAP are to demonstrate compliance with the following:

- a) The final Operational Plan of Management prepared in accordance with Condition A12; and
- b) The final Operational Event Noise Management Plan in accordance with Condition A13.

Where future application/s require amendments to these Plans they are to be endorsed by the respective agencies/groups referred to in the respective Condition.

B4 ARCHIVAL RECORDING

Prior to the lodgement of the first development application, a complete and comprehensive archival recording of the WBAP is to be undertaken in accordance with the NSW Heritage Division Guidelines for Photographic Recording of Heritage Items Using Film or Digital Capture (Heritage Office 2001, revised 2006).

A copy of the Archival documentation is to be submitted to the City of Sydney Archives, the Heritage Council and the State Library of NSW.

B5 HERITAGE AND ARCHAEOLOGY- Waterfront Square

An Archaeological Assessment and Management Plan is to be prepared and submitted with the future application for the construction of the waterfront square. The assessment is to be completed in accordance with the recommendations of the Tropman and Tropman CMP Policy 9.2.1.2 to 9.2.1.5. Specifically, the assessment shall include an underwater visual survey within the area between Pier 2/3 and Wharf 4/5 to locate and record any structural remains and/or cultural deposits associated with the previous wharves.

Any new piles associated with construction of the waterfront square shall be informed by the Archaeological Assessment and Management Plan and shall demonstrate minimal disturbance to any archaeological fabric.

B6 DESIGN OF THE PERFORMANCE SPACE

Any future application for the construction of the performance space and public domain, shall demonstrate how the design has satisfied the design guidelines contained in Section 7.3.2 of the Heritage Impact Assessment prepared by Design 5 dated June 2014 including the following:

- (a) the structure is to be of exceptional design merit and quality;

- (b) the design should be entirely modern and should not copy or confuse itself with the surrounding heritage buildings;
- (c) the structure should respect the significance of the Walsh Bay Arts Precinct;
- (d) the structure should be visually separate from the surrounding heritage buildings and be self-supporting; and
- (e) the structure respects significant views and vistas to and from the site and not impede other significant views that pass through the site. In this regard, it should be open on all sides but can have the ability to be temporarily screened when required for special performances or events;
- (f) ensures that the structure does not detract from the form, sense of exterior space and reading of the pier aprons; and
- (g) the materials and finishes appropriately respect the industrial character of Walsh Bay.

Any future application/s is to be supported by a visual impact assessment of the waterfront square (including the shelter) when viewed from the Harbour and Dawes Point. The assessment is to demonstrate that the visual impact of the structure is minimised through its design, and furthermore, that it does not overwhelm and dominate its setting.

B7 ROOF PENETRATIONS- Pier 2/3: ACO Auditorium

Any future proposal for new penetrations into the roof form of Pier 2/3 shall comply with the design criteria established by Design 5 and included in section 5.4.7 of the Heritage Impact Assessment dated 23 June 2014, including the following:

- (a) a single breach in the roof in one location only;
- (b) it should only occur within the central valley and not impact or alter the outer roof slopes;
- (c) it must not alter any existing roof lanterns and should respect the prominence of the roof lanterns;
- (d) any alterations to the roof should be setback from the roof lanterns and preferably centred between them; and
- (e) the roof material and colour should match the existing adjacent roofs.

B8 WAVE IMPACT ASSESSMENT

Any future development application for the construction of the overwater decking and associated public domain works is to be supported by an assessment undertaken by a suitably qualified person to demonstrate that the design is capable of withstanding the impact of tidal and wave action including as a result of wave-wash from boats, ferries etc.

B9 WATERFRONT SQUARE AND WATER STEPS

Any future application which proposes the construction of the waterfront square is to demonstrate that the design and construction issues identified in Section 3.0 of the Maritime Facilities Report prepared by Royal Haskoning DHV dated 3 April 2014 have been suitably addressed.

In addition to the above, the applicant is to demonstrate that the design of the project has adequately addressed the public liability and safety issues identified in Section 3.1 and Section 4.2 of the Maritime Facilities Report prepared by Royal Haskoning DHV dated 3 April 2014, including to address the following:

- to remove/treat hazardous slippery surfaces;
- minimise or mitigate potential impacts from vessel wash;
- the requirement for a seaward safety barrier; and
- the anticipated impacts of sea level rise.

B10 MARINE ASSESSMENT

Where relevant, future applications are to be supported by a report which addresses the potential impacts on the marine and groundwater environment during construction and operation, including the following matters as identified in Sections 7 and 8 of the WBAP Redevelopment: Marine Assessment prepared by Jacobs SKM:

- (a) the potential impact/s from construction and operation on the water quality. Mitigation measures should be recommended to minimise the impact of resuspended sediment, gross pollutants and spills and contamination from construction materials;
- (b) Mitigation measures to minimise the likely colonisation or spread of the *Caulerpa taxifolia* in accordance with the NSW Control Plan for Noxious Marine Alga *Caulerpa taxifolia* (NSW DPI 2009);
- (c) any potential impacts on aquatic biota and terrestrial biota; and
- (d) any potential ground water impacts.

B11 GROUND WATER

Any future application/s which has the potential to impact on the groundwater is to be accompanied by a detailed site assessment and sampling regime of the local groundwater resource. The Office of Water is to be consulted in relation to the results of the site assessment and if required, a Groundwater Environmental Management Plan is to be prepared and submitted with the application.

Note: If groundwater is intercepted or taken, then authorisation may be required from the Office of Water under Part 5 of the *Water Act 1912*.

B12 SURVEY- SOUTHERN MYOTIS

Prior to the lodgement of the first development application, a survey is to be undertaken by an appropriately qualified environmental consultant to determine whether the existing buildings currently provide habitat for the Southern Myotis. If relevant, the mitigation measures are to be recommended to minimise the potential spread of the Southern Myotis. The results of the survey are to be submitted with the first application and are to inform the design development.

B13 SUSTAINABILITY FRAMEWORK

All future applications are to demonstrate compliance with the Walsh Bay Arts Precinct Sustainability Framework prepared by ARUPS dated 24 June 2014.

B14 DISABLED ACCESS

All future applications shall be accompanied by an Accessibility Report. As relevant, each application is to demonstrate that the recommendations in Section 6.0 of the Access Report prepared by Morris Goding dated 1 March 2014 have been suitably resolved through the design development.

B15 PUBLIC DOMAIN PLAN

All future applications which seek approval for works to or the use of the public domain are to include a public domain plan. The plan is to demonstrate compliance with the Urban Design Guidelines prepared in accordance with Condition A10 of this consent.

B16 NOISE IMPACT ASSESSMENT

Where relevant, future applications are to include a Noise Impact Assessment (NIA) which includes performance based modelling. The NIA is to demonstrate how the recommendations in sections 7.0 and 8.0 of the Noise and Vibration Plan prepared by WSP dated June 2014 have been addressed, as relevant. The NIA is also to demonstrate how compliance can be achieved with the Operational Event Noise Management Plan prepared in accordance with Condition A13 of this consent.

B17 TRAFFIC IMPACT ASSESSMENT

The future development application for the adaptive re-use of Pier 2/3 shall be accompanied by a Traffic Impact Assessment.

The mode share targets and recommendations included in Sections 5 and 10 of the Traffic Management and Accessibility Report prepared by GTA Consultants are to be addressed in the TIA.

B18 TRANSPORT MANAGEMENT PLAN (TMP)

All future Category 1 to 4 events at the WBAP are to be undertaken in accordance with a Transport Management Plan. The TMP is to be prepared in consultation with the WBWG, NSW Police, Council, TfNSW and the Transport Management Centre.

B19 GREEN TRAVEL PLAN AND TRANSPORT ACCESS GUIDE

The first development application for the adaptive re-use of Pier 2/3 or 4/5 shall be accompanied by a Green Travel Plan and a Transport Access Guide prepared by a suitably qualified consultant which can be applied to the entire WBAP and which encourages sustainable transport options.

B20 EVENT MANAGEMENT PLAN

All future event development applications are to be accompanied by a detailed event management plan prepared in accordance with approved Operational Plan of Management required under Condition A12. The Plan is to be prepared in consultation with the NSW Police, the RMS, Transport for NSW and the City of Sydney and is to comprehensively address the following matters:

- (a) Operational transport and traffic management including the use of integrated ticketing and shuttle bus systems when events are being held at the site

- (b) Pedestrian access management, including provision for unimpeded access along the wharf aprons
- (c) Noise management, including reactive noise management measures and noise monitoring
- (d) Security and staff management
- (e) Lighting management
- (f) Emergency management and incident response protocols
- (g) Alcohol and food management
- (h) Occupational health and safety
- (i) Infrastructure and Services management
- (j) Operational waste management
- (k) Water Management
- (l) Community consultation and complaints management

B21 SEAWATER BASED AIR CONDITIONING PLANT

Any future application which includes the installation of a harbour heat rejection system is to be accompanied by an environmental impact assessment report which includes an assessment of the following:

- a) seawater abstraction (if any); and
- b) associated water pollution (including thermal pollution) and use of antifoulants.

Note: it is recommended that the applicant consult with the NSW EPA prior to the lodgement of any future application which includes a harbour heat rejection system.

End of Section

ADVISORY NOTES

Nil