

"C"

This page and the following 4 pages forms the annexure "C" referred to in the affidavit of **MACE NATIVAN SAKU** affirmed before me this 17th day of August 2012

R. Mani

~~A Justice of the Peace~~ Solicitor of the Supreme Court of New South Wales who holds a current practising certificate under the Legal Profession Act 2004.



Hippocampus whitai

SYDNEY HARBOUR ASSOCIATION

PO Box 265 ROSE BAY NSW 2029

The General Manager
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Dear Sir,

DA0136/12, Rose Bay Marina, Rose Bay

Sydney Harbour Association is an unincorporated body of individuals interested in Sydney Harbour, having as its primary Object:

"[T]he promotion of the following principles in relation to development and change affecting Sydney Harbour:

- (a) protection and preservation of the natural heritage, assets and ecology of Sydney Harbour and its foreshores;
- (b) primacy of the public good over private benefit in development;
- (c) facilitation of public access to the waters and foreshores of Sydney Harbour;
- (d) protection and enhancement of the visual and recreational amenity of the waterways and foreshores of Sydney Harbour".

In the course of several consultations and discussions with the applicant, we have identified a number of modifications to the present application which we consider to be highly desirable in the public interest.

They are incorporated in the attached drawings. They re-arrange the proposed marina layout and vessel sizes to improve the outcome for land-based harbour-viewers looking from the Rose Bay Promenade towards North Harbour.

Our approach was based on the Judgment of Biscoe J. in *Addenbrooke Pty Ltd v Woollahra MC & Ors, 10004 of 2009 and 10005 of 2009*. In particular, we sought to avoid the adverse impact identified by the Judge in that earlier proposal, thus:

89. ... *What is important, in my opinion, is the expansive view of the Harbour and its headlands as far as Manly, rather than a view specifically of particular features of Manly, however Manly is precisely defined.*

90. *In my opinion, the loss of these important views to the large extent proposed, is unreasonable. Consequently, consent should not be granted to the proposal in the current form.*

The EIS for this DA fails to acknowledge the full extent to which vessels moored on the new arm would block Harbour views from the Promenade.

Attachment A sets out our understanding of the situation proposed in the DA. It shows that for approximately 10 per cent of the time, the views towards Manly (and the Rose Bay+ eastward shores) would be blocked by 15-metre vessels berthed at or about the outer limit of the new arm and riding on a tide of 1.6 metres. However higher tides would block views for a lesser proportion of time, because the upper levels are shorter in duration.

Accordingly, our recommended modifications include restriction of the 15-metre vessels to the western berths of Arm C and re-positioning of Arm C to align with the views to North Harbour.

Attachment B shows our proposals for the layout of 10- and 15- metre vessels.

We have proposed to change the vessel lengths on Arm C from the proposed 37x15 metre berths to 42x10 metre berths. The five extra berths that we show are commercial berths intended to replace five existing commercial swing moorings, in order to widen the *clearwater* corridor.

If our modifications are adopted, people using the Rose Bay Promenade will have *clearwater* views to North Harbour for some 30 per cent of the 290 metres of the relevant Promenade length that provides views to North Harbour.

Presently, those views are impeded by moored craft. A similar situation would prevail if the DA proposal were adopted; that is, there are and would be no such *clearwater* views at all - the outlook is and would remain interspersed with the superstructures of vessels moored at and near the Marina. We note that such interspersed views are not only acceptable and usual about the foreshores; in particular, when the intrusions comprise masts and pennants of sailing vessels, they are certainly and properly treasured. Our intent is not to denigrate them, but to provide and protect a different viewing experience of a kind that is steadily becoming less available around Sydney Harbour.

The DA proposal incorporates the transfer of a number of what are presently swing moorings into marina berths. The public benefits from that approach should be maximised.

Attachment C shows the extent of the *clearwater* views from the Rose Bay Promenade that could be available to the public if our modifications were adopted.

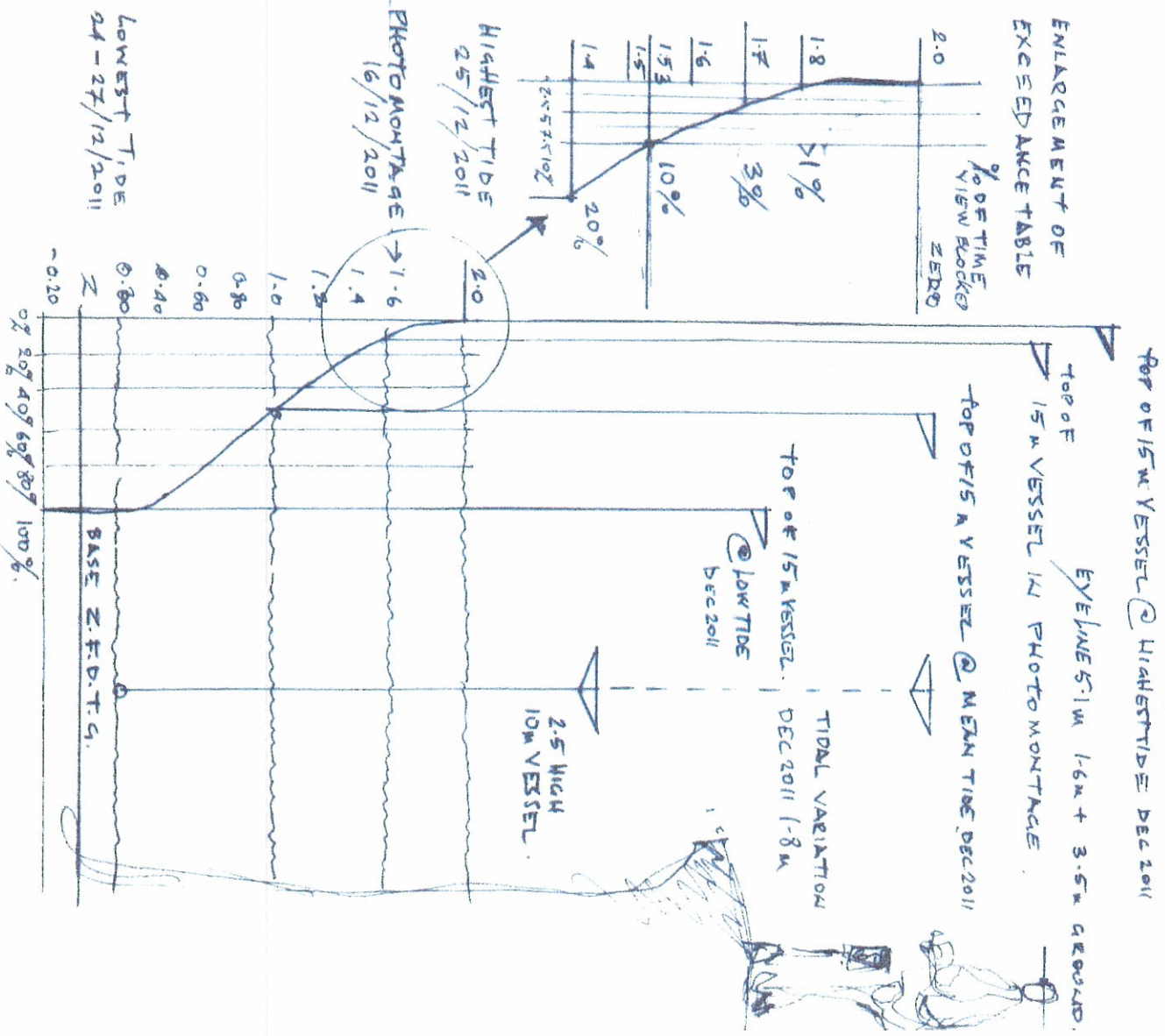
On behalf of the Association, I have explored and discussed issues of practicality with the applicant (without commitment). Our Committee strongly commends these modifications.

Yours sincerely,

Michael Rolfe, President
(Home: 41 Cove Street Watsons Bay NSW 2030
T: 02 9337 5058; E: michael.rolfe2@bigpond.com)

31 May 2012

ROSE BAY MARINA GEN C. P.A. PROPOSED 2012.
 IMPACT OF TIDAL VARIATION ON VIEWS OVER
 THE PROPOSED, SUGGESTED MODIFICATIONS,



TIDAL EXCEEDANCE TABLE @ FORT DENISON TIDAL.
 GAUGE DURING DECEMBER 2011.
 ATTACHMENT A.

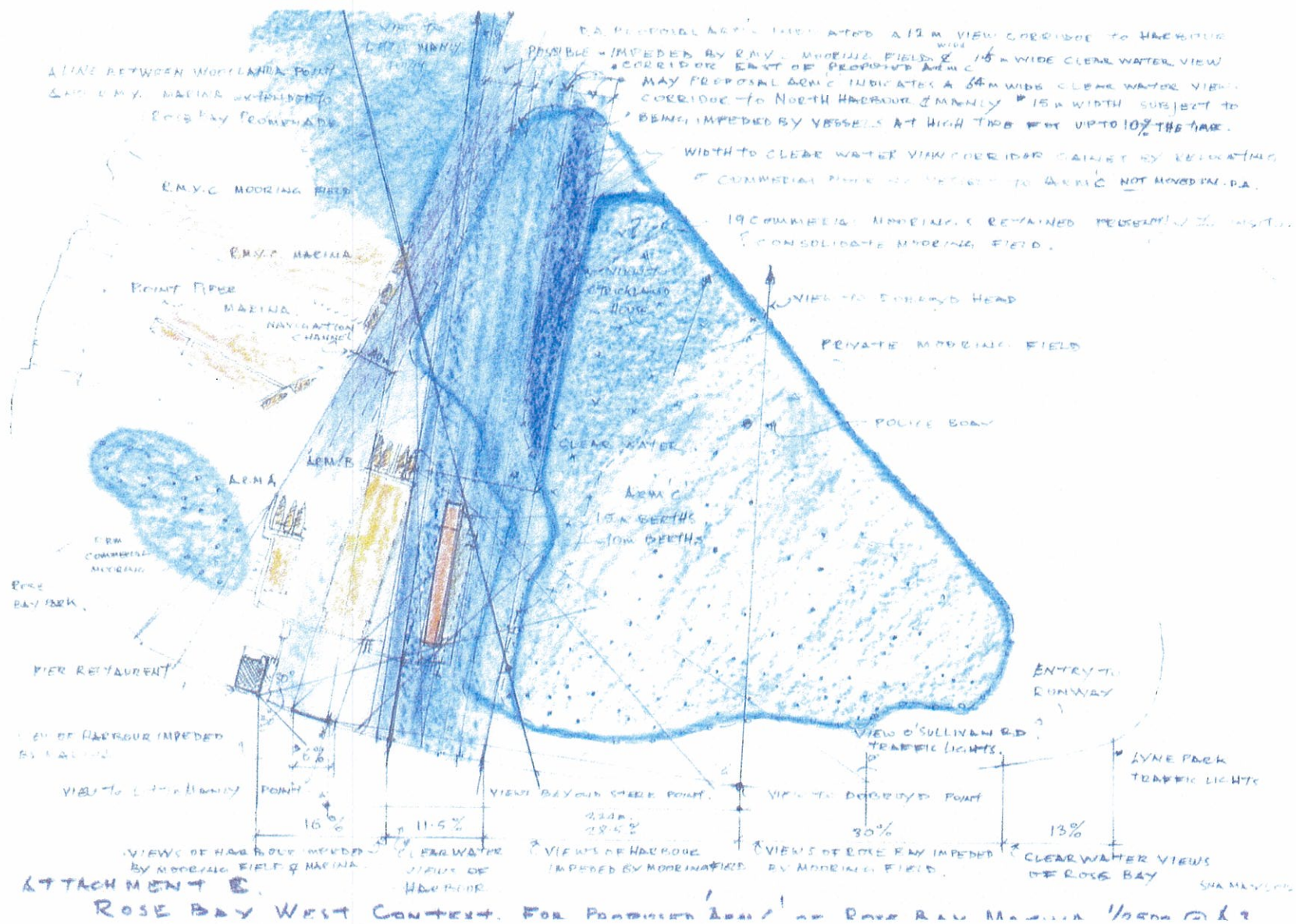
S.H.A. MAY 2012.

[illegible]

TO BE CARE OF ALL NEW ARRIVAL IN PRIMARY
VISION CODE 43 = FORM PINK BEHOLD, 30 SEX
FOR WALKER ON ROBERTA PROMENADE.
VIEW TOWARD THE BOX SHAW MAY 2002

Approximately

TO BE USED ONLY AS A NEW MACHINE IN VIEW OF THE FACT THAT THE



100

100

100