

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No:	R1	
DETAILS:	DA Reference No.	282/2014
	JRPP Reference No.	2014SYE092
	Address:	5 Wunulla Road POINT PIPER (Point Piper Marina)
	Lot & DP No:	10 & 1021479
	Side of Street:	East
	Site Area (m²):	1620
	Zoning:	Part 2(a); Part Uncoloured; and, W5 Water Recreation (SHREP)
PROPOSAL:	Alterations and extensions to the existing Point Piper marina including the installation of a new access deck, kayak storage and ramp, replacement of 24 existing swing moorings to the north of Rose Bay Park and beach with 22 berths on Arm A (4 x 8m berths, 13 x 10m berths, 2 x 13.5m berths and 3 x 15m berths) and 2 berths on Arm B (1 x 10m berth and 1 x 15m berth); new casual berthing area to Arm A	
TYPE OF CONSENT:	Designated and Integrated Development	
APPLICANT:	Point Piper Marina NSW Pty Ltd	
OWNER:	Blue Water Corporate Pty Ltd	
DATE LODGED:	10/07/2014	
COST OF WORKS:	\$442,250.00	
AUTHOR:	Mr Dimitri Lukas (Senior Assessment Officer)	
TEAM LEADER:	MR David Waghorn	
CONSENT AUTHORITY:	Sydney East Joint Regional Planning Panel ("JRPP")	

EXECUTIVE SUMMARY

1. DELEGATIONS SUMMARY

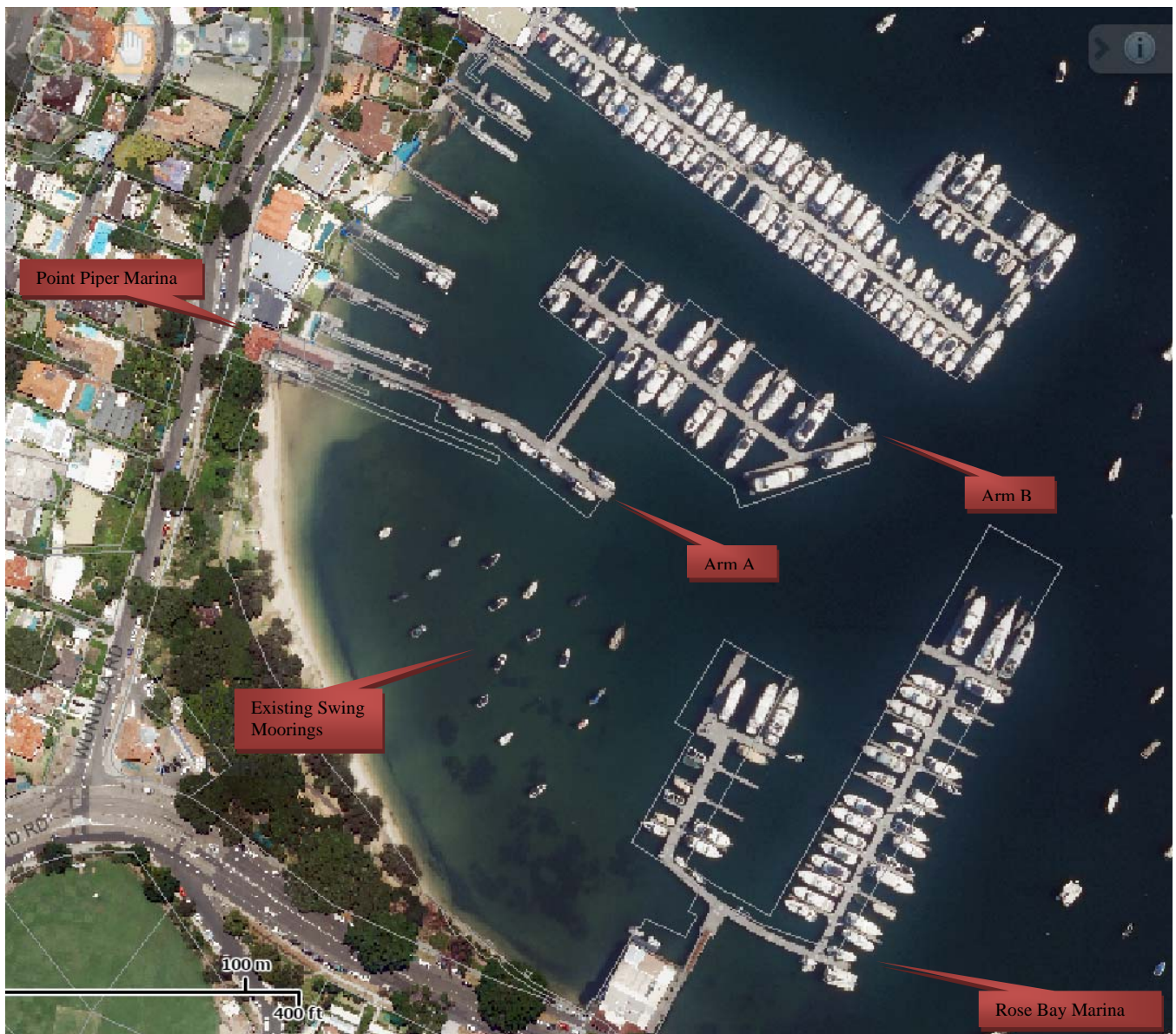
The classes of regional development are set out in Schedule 4A of the Environmental Planning and Assessment Act 1979 (the Act).

In accordance with the Act, the JRPP is the consent authority for this development application which is for alterations and additions to a marina that is a Designated and Integrated Development.

This Development Application is referred to Council so that it may form a view as to whether it wishes to make a submission to the consent authority which is the JRPP.

The JRPP will consider the application on 19 November 2014 from 3pm in the Thornton (Committee) room of Council.

2. LOCALITY



Aerial Photograph of south western end of Rose Bay 2014

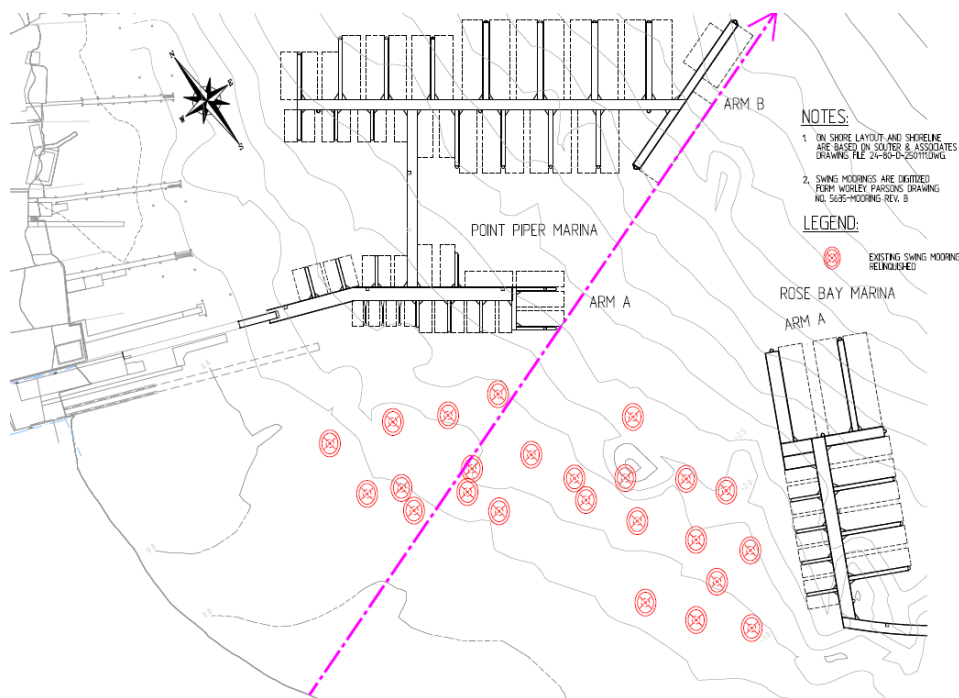
3. PROPOSAL SUMMARY

The proposal is for alterations and additions to the Point Piper Marina. The proposal involves the removal of 24 commercial swing moorings and the addition of 22 new floating berths on the existing southern arm (Arm A) and 2 new berths on the northern arm (Arm B) of the marina.

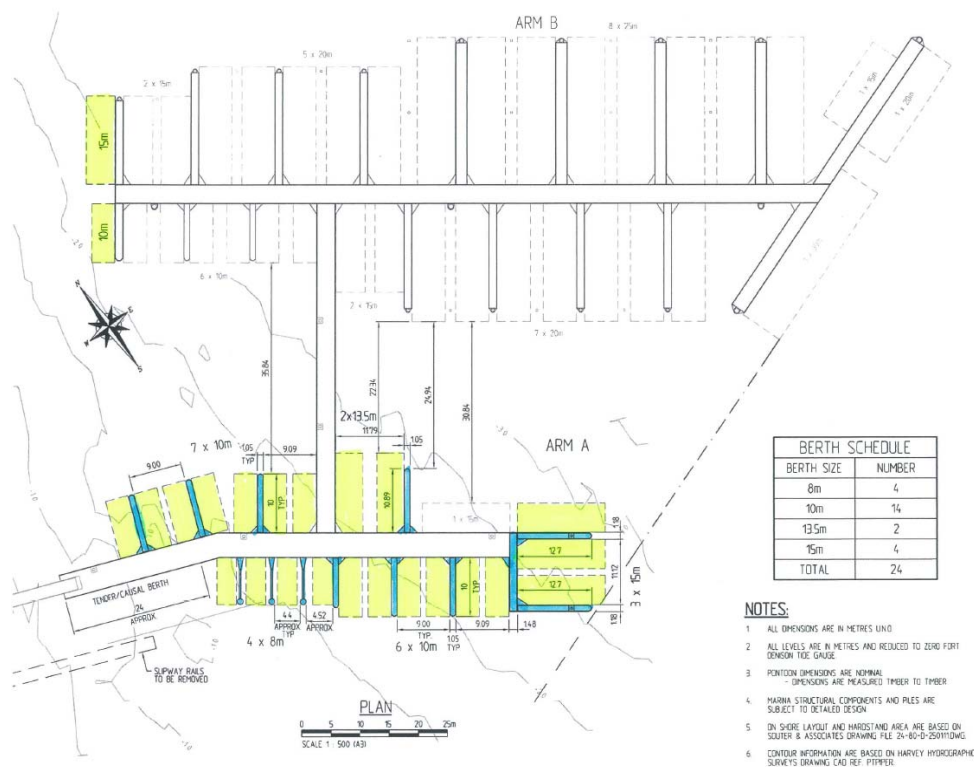
The proposal includes new kayak storage with associated decking and new kayak launch ramp. These works are proposed to coincide with the development consent to Development Application No.293/2012 for works to the dwelling house at No.5 Wunulla Road, Point Piper approved by Council on 4 July 2013.

The application does not propose any dredging and the existing stair and inclinor access to the marina will be maintained.

The 24 commercial swing moorings which are to be removed are depicted in the following drawing:

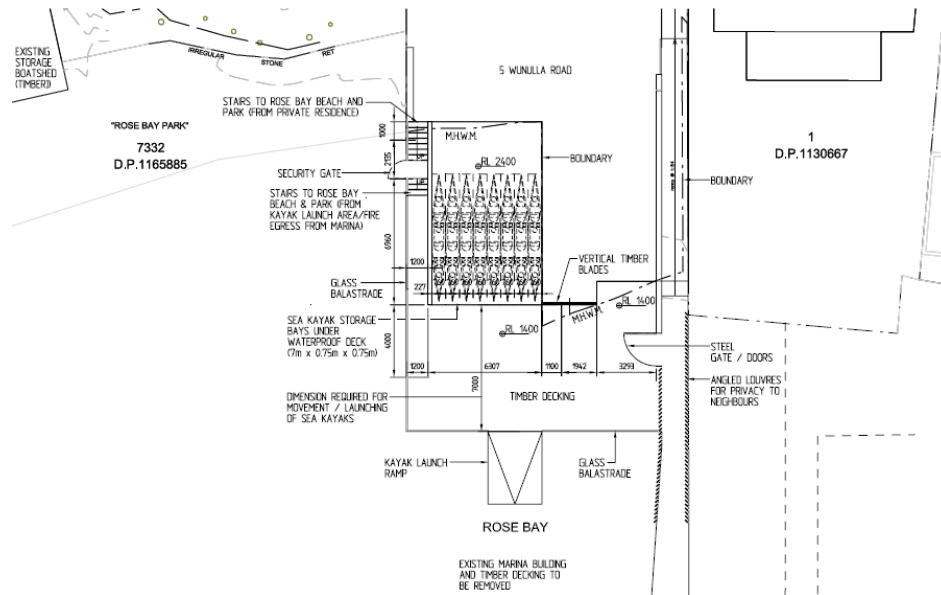


The breakdown of the 22 new berths on Arm A is 4 x 8m berths, 13 x 10m berths, 2 x 13.5m berths and 3 x 15m berths. The 2 new berths proposed on Arm B are 1 x 10m and 1 x 15m berth. To facilitate these new berths requires the installation of 13 finger pontoons to the existing southern arm (Arm A) and 2 telescopic piles. The approved fuel berth at the eastern end of Arm A has not been installed and will be deleted under this scheme. These works and the new berths are depicted in colour in the following drawing:



The marina will have a total of 58 berths, being 22 berths on Arm A and 36 berths on Arm B.

The proposal includes the removal of the existing slipway holding berth and work berth. In its place is a new timber deck with kayak storage and new launch ramp. A new stair that also functions as emergency egress provides access to Rose Bay Park. These works are depicted in the following drawing:



The existing hours of use of the marina are:

- a) Summer (daylight saving): seven (7) days a week, 7am to 6pm
- b) Winter (non-daylight saving): seven (7) days a week, 7am to 5pm

These existing hours of operation of the Marina include the dispensing of fuel, sewage pump and tender service. Marina berth holders may gain access to their vessels 24 hours a day, 7 days a week.

This application does not propose any change to the existing approved hours of use or security access to the Marina.

4. RECOMMENDATION SUMMARY

The application is recommended for **Approval** subject to the following modifications imposed as conditions:

- Deletion of the 6 berths nearest to the Wunulla Road residential properties
- A maximum vessel height of 3metres to all new berths
- Compliance with the Environmental Management Plan

5. ADVERTISING AND NOTIFICATION

5.1 Submissions

The application was notified and advertised for 30 days from 13 August to 11 September 2014 in accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP.

The application was also advertised in the Wentworth Courier in accordance with the provisions of Division 5 – Sections 77, 78, 79 and 80 of the Environmental Planning and Assessment Regulation 2000.

In response, there were 137 submissions received against the proposal from a vast area in Woollahra (refer to **Annexure 2** for details of submissions). The issues raised in the submissions are summarised immediately below in Section 6 of this report.

5.2 Statutory Declaration

Pursuant to Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration that the site notice was erected and maintained during the notification period.

6. ISSUES SUMMARY

The issues applicable to this development and those raised in the submissions received are summarised below. A brief response is provided to each issue with further comment and assessment provided where necessary under the relevant heads of consideration in the report.

Issue	Response
Detrimental impact on sea grass, marine life and organisms	The Seagrass Distribution Survey submitted with the application indicates that subject to recommended mitigation measures contained in the survey, the proposal would not result in any net direct or indirect loss of aquatic habitat and organisms. Furthermore, the proposal satisfies the aquatic ecological conservation requirements prescribed by the SREP (Sydney Harbour Catchment) 2005, the aquatic and fish habitat conservation requirements of Fisheries Management Act 1994 and updated Fisheries NSW Habitat Protection Guidelines (Fisheries NSW 2013), being the relevant applicable controls.
Loss of Views	<p>The proposed removal of the existing swing moorings will open up views of the bay from the public domain.</p> <p>From the public domain, the existing Marina is buried visually in the shadow of the other existing marinas in this locality and by the Point Piper peninsula. The proposed new berths attached to the existing arms of the Marina will have a relatively minor impact on existing views from the public domain.</p> <p>The new berths will have a minor impact on existing views from the private domain, being residential property on the eastern side of Wunulla Road. To minimise the impact on these existing views, the 6 closest berths to property along Wunulla Road are recommended to be deleted. In addition, the applicant proposes a maximum 3metre height limit of all vessels within the new berths. Based on these measures, the proposal is unlikely to have a detrimental impact on views from both the public and private domain.</p>
Increased traffic and parking	<p>The existing swing moorings and the Marina are in close proximity to each other. The removal of the 24 swing moorings and the addition of 24 new berths to the Marina will retain the status quo with regard to parking and traffic congestion in this locality based on car parking generation rates considered in a previous and relevant court judgment.</p> <p>However, for reasons discussed, the 6 closest berths to property along Wunulla Road are recommended to be deleted. The recommended removal of 6 berths will reduce demand for parking in this locality, resulting in a net improvement in parking demand and traffic congestion based on the accepted car parking generation rates.</p>
Non-compliance with relevant planning controls/over-development of the site	The Marina is an existing use. Any alteration or addition to the existing Marina is not prohibited by the relevant planning controls. The proposal is required to satisfy the relevant planning controls which will be discussed below. The conclusion reached is that subject to modification of the submitted scheme, the proposal satisfies the relevant planning controls and their objectives and is not an overdevelopment of the site.

Issue	Response
Noise	<p>The hours of use of the existing Marina are not proposed to be altered.</p> <p>Outside the approved commercial hours of use of the Marina, access is secured and is currently available 24hours a day, 7 days a week to private boat owners.</p> <p>Given the existing hours of use of the Marina, the additional level of noise associated with the proposal is unlikely to cause a detrimental impact to the amenity of residents in the immediate locality.</p> <p>Any reckless use of private vessels that causes noise that disturbs the residential amenity of the locality is covered under Noise Pollution Laws.</p>
Loss of amenity	For reasons already discussed, the 6 closest berths to property along Wunulla Road are recommended to be deleted. This recommendation will reduce the likely impacts resulting from the proposal and will not detrimentally impact on the amenity of local residents or the public.
Loss of public area	<p>No change is proposed to the land based public area.</p> <p>In terms of the water based development, the removal of the existing swing moorings will provide useable open water to benefit swimmers and small craft.</p>
Impede access to Rose Bay beach	There is no change to the existing access arrangements to the Marina or Rose Bay Park/Beach immediately adjoining
Safety issues	The removal of the swing moorings improves sight lines for smaller water craft and swimmers in the Rose Bay Park Beach. Documentation submitted with the application indicates there is unlikely to be any safety issues associated with this proposal.
Restriction in safe and easy access to nearby private jetties	<p>The proposed new berths may cause greater impediment to access to the private jetties of Wunulla Road residents immediately adjoining. For this and other reasons listed above, the 6 closest berths to property along Wunulla Road are recommended to be deleted.</p> <p>Subject to this recommendation, the proposal will not detrimentally impact access to nearby private jetties.</p>
Non-compliance with previous judgements and approvals	<p>The <i>Addenbrooke Pty Ltd v Woollahra Municipal Council</i> judgements refer to previous development proposals, one for a joint proposal for both the Rose Bay and Point Piper Marina and a proposal for the Point Piper Marina in isolation.</p> <p>The proposed development is for a variation to the approved scheme to the Point Piper Marina only. This proposal introduces new issues that are isolated to the subject Marina only. Notwithstanding, this assessment makes reference to the previous judgements where necessary.</p>
Increase in rubbish and waste	<p>The removal of the existing swing moorings and their replacement with a similar number of berths attached to the existing Marina is a relatively minor change that maintains the status quo with regard to vessels in this locality.</p> <p>There is an existing approved Management Plan for the Marina and its terms continue to apply. In this regard, the proposal is unlikely to result in an increase in rubbish or waste in this locality.</p> <p>A neighbour has raised concern regarding waste in Wunulla Road, Rose Bay Park and its beach. This issue is not relevant to the subject matter.</p>
Loss of navigation and safety for smaller craft	<p>The proposal does not expand the amount of vessels in this locality. The proposal replaces the swing moorings with a similar number of berths attached to the existing arms of the Marina.</p> <p>For reasons already discussed, the 6 closest berths to property along Wunulla Road are recommended to be deleted. The reduction of and the relocation of vessels in this locality are unlikely to cause a detrimental impact on the navigation or safe passage of smaller craft.</p>

Issue	Response
Documentation outdated	<p>The Council requested the applicant to address the issue. Suitably qualified experts have reviewed the submitted documentation and conclude that the submitted documentation remains valid and adequately addresses the issues associated with the proposal.</p> <p>The information submitted is adequate to enable a determination to be made pursuant to Section 79 of the Environmental Planning and Assessment Act 1979.</p>
Increase in light spill	The proposal is required to comply with the relevant Australian Standard for lighting which will minimise any likely impacts from light spill.
Public vs Private benefit	The proposal provides improved facilities for boat users and kayakers and caters for people with varying mobility. The removal of the swing moorings is ecologically beneficial. The removal of the swing moorings to this section of the Bay provides a larger area for use by smaller vessels and swimmers. There will be a net reduction in car parking demand. The proposal provides both a public and private benefit.
Financial benefit to Council	Should development consent be granted, the Council can and generally imposes a levy pursuant to Section 94A of the EPA Act 1979 based on the cost of works. This levy has a broader application including community facilities, environmental works, Council property, public infrastructure works, public open space and business centres and harbourside works. This levy is imposed by a condition of consent.
Navigation difficulty through channel	The separation between marinas is sufficient for craft and vessels of various sizes to navigate through the channels. Based on the submitted documentation by relevant experts, the proposal is unlikely to cause a detrimental impact for navigation of vessels and craft in this locality.
Detrimental impact on character of the Rose Bay	<p>Rose Bay is large in area and has a varied character pending on a viewing point. The south western end of Rose Bay is predominately characterised as a small sheltered cove with a vegetated park and beach. The existing marinas form part of this character.</p> <p>The removal of the existing swing moorings and their replacement with a similar number of berths attached to the existing Marina is a relatively minor change to the character of this locality.</p>
Detrimental impact on the setting of the Heritage Items in the vicinity	For the reason mentioned immediately above, the proposal is unlikely to detrimentally impact on the setting and the curtilage of Heritage Items in this locality. Council's Heritage Officer has reviewed the proposal and raised no issue with the proposal.
Non-compliance with existing Conditions	<p>It is a criminal offence to breach conditions of a development consent and environmental law. Where there is any breach, Council may without any further warning:</p> <ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching a consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. <p>The breach of existing conditions is not a relevant consideration under Section 79 of the Environmental Planning and Assessment Act 1979 for the assessment of this proposal.</p>
Negative impact on property value	This is not a relevant consideration under Section 79 of the Environmental Planning and Assessment Act 1979.
Swing Moorings will be reintroduced	This proposal includes the removal of existing swing moorings. Any variation to this scheme post determination to reintroduce swing moorings is a matter that requires development consent and requires a new development application or s.96 Application.
Legislation needed to cease continual lodgement of DA's and associated expenditure of the process	This is not a relevant consideration under Section 79 of the Environmental Planning and Assessment Act 1979.
Negative impact on tourism	The replacement of the existing swing moorings with a similar number of fixed berths to the existing Marina will have not have a detrimental impact on tourism in this locality.
Development should be limited to commercial precinct only	The Marina is an existing and permissible use in this locality.

Issue	Response
Vessel Height restriction needed	The previous judgement by the Court determined that a height limit on berthed vessels should apply having regard to the likely visual impacts. The applicant is proposing a more stringent height limit than currently exists to all new berths to a maximum vessel height of 3m.

7. ESTIMATED COST OF WORKS

The applicant submitted a report by a Quantity Surveyor based on the scope of works proposed from Bellingham Marine with an estimated cost of work of \$442,250.00.

PROPERTY DETAILS AND REFERRALS

8. DESCRIPTION OF SITE OF LOCALITY

Physical features
<p>Point Piper Marina is located at the western end of Rose Bay.</p> <p>Rose Bay is a wide, open bay on the southern foreshore of Sydney Harbour. The main sweep of the bay extends from Dumeresq Reserve in the east to Rose Bay Park in the west. The wider bay extends from Neilson Park in the east to Point Piper in the west. The main sweep of the bay is broken by Lyne Park which forms a physical division between east and west Rose Bay.</p> <p>Rose Bay Park is located in the south west corner of the bay. The park is bounded by New South Head Road to the south, Wunulla Road to the west and the waters of the Harbour.</p> <p>Point Piper Marina is at the northern end of Rose Bay Park.</p>
Topography
<p>The land adjoining Rose Bay to the south is generally low lying. To the west of the bay, in the vicinity of the Marina, the land rises to form the Point Piper peninsula.</p> <p>New South Head Road at the intersection of Wunulla Road is RL13 AHD above the MHWL (approx.). Wunulla Road remains at a fairly consistent level to the point of entry to the Marina.</p>
Existing buildings and structures
<p>Point Piper Marina consists of a 3 and part single storey building. The upper levels accommodate a dwelling and the Marina facilities are located on the lower floor and within the single storey section. The majority of the building is on land above the MHWL but the eastern section of the single storey building is located over the water and supported on piers.</p> <p>The building is set below Wunulla Road (adjacent to the property frontage the road is RL12 AHD approx. with the lower floor being RL3.25). The front setback is approximately 8m from the street alignment. Within the setback are stairs and an inclinator which provide pedestrian access to the dwelling and marina. There is also a retaining wall which supports the roadway and is the subject of an easement for support in favour of the Council.</p> <p>There is a slipway located on the southern side of the single storey portion of the building. There is a 5,100 litre petrol storage tank located adjacent to the Marina in Rose Bay Park which services the Marina and which is to remain.</p> <p>Point Piper Marina occupies land both above and below the MHWL. The land below the MHWL occupies an area of 1,620m² (lot 10 DP 1021479) leased from the NSW Roads and Maritime. The commercial swing moorings associated with the Marina and which are subject to license from the NSW Roads and Maritime occupy a much larger area generally to the north east of the leased area.</p> <p>The land above the MHWL has a 15.49m frontage to the eastern side of Wunulla Road and is irregular shaped with an area of 409.5m² and is also known as lot 10 DP 1021479.</p>

Environment
<p>Rose Bay Park consists of a vegetated embankment which slopes down from New South Head and Wunulla Roads to a sandy beach. There are pedestrian paths and steps intersecting the park and a service vehicle access ramp. The beach is used for passive recreation and the informal storage of small craft, e.g. dinghies, kayaks and the like. A kayak storage pavilion for the storage of mainly private and some kayaks for hire is located toward the northern end of the park. The Rose Bay Police Station is located in the south western corner of the park at the intersection of New South Head and Wunulla Roads.</p> <p>Cranbrook School is located on New South Head Road, opposite Wunulla Road. The majority of development in the vicinity is residential, consisting of detached dwellings and low and medium rise apartment buildings. Immediately to the north of the Point Piper Marina are Harbour frontage properties occupied by detached dwellings, most of which have private jetties.</p> <p>The Royal Motor Yacht Club is about 150m to the north of the Point Piper Marina on Wunulla Road. It comprises land based club facilities including parking adjacent to Wunulla Road and boat storage in the form of floating pontoons/walkways with a capacity to accommodate 90 boats plus 18 moorings.</p> <p>Rose Bay Marina is to the east of the development and is accessed from New South Head Road some 200m downhill from the Wunulla Road intersection. The Rose Bay Marina forms a part of a promenade that contains a sea wall and concrete balustrade. There is a series of stormwater pipes at the base of the sea wall and small sandy areas, subject to tidal influences. Access points to the Harbour waters, consisting of openings in the balustrade and steps are located along the promenade. The promenade consists of paving and grassed nature strip with isolated indents for on-street parking spaces for use by the general public. Large fig trees within the nature strip are a feature of the promenade.</p>

9. RELEVANT PROPERTY HISTORY

Current use
<p>The main use is boat storage in the form of 34 fixed marina berths and 24 swing moorings. The existing building accommodates a dwelling as well as marina related facilities.</p> <p>The predominant use of land surrounding the Marinas is private residential and public recreation reserves.</p>
Previous Relevant Applications
<p>DA766/2006 proposed redevelopment of both the Rose Bay and Point Piper Marinas. The works proposed an expansion of and an increase in the number of berths to the Rose Bay and Point Piper Marinas. In addition, the existing swing moorings were to be removed to create a navigation channel between both marinas. On 5 December 2007, at an Extra Ordinary meeting, the Council resolved to resist a 'deemed refusal' Class 1 appeal by the Applicant to the Land & Environment Court.</p> <p>The appeal (No.11179 of 2008) was heard by Biscoe J (assisted by Commissioner Tuor). On 13 June 2008 Biscoe J ruled that the appeal be dismissed. The primary reason for the appeal being dismissed related to the adverse visual impact the proposed Rose Bay Marina berths would have on the promenade and New South Head Road - see <i>Addenbrooke Pty Ltd v Woollahra Municipal Council [2008] NSWLEC 190 (Addenbrooke)</i>. Of relevance to the application that is the subject of this report, Paragraph 66 of the judgement states in part: "...the proposed Point Piper Marina will not have an unreasonable view impact. The impact of the Point Piper Marina on views from the public domain will generally be mitigated..."</p> <p>Following this judgement, separate development applications were submitted for the redevelopment of each marina, DA682/2008 for the Rose Bay Marina and DA706/2008 for the Point Piper Marina (discussed below). These applications were considered concurrently by Council at its meeting on 11 May 2009 who resolved to refuse both applications.</p> <p>The applicant filed appeals with the Court on 8 January 2009 against the 'deemed refusal' of these DAs. On the 18 August 2009 the Court ordered that both appeals be upheld, i.e. that consent be granted to both development applications - see <i>Addenbrooke Pty Ltd v Woollahra Municipal Council (2) [2009] NSWLEC 134 (Addenbrooke 2)</i>.</p> <p>DA706/2008 proposed redevelopment of the Point Piper Marina. The proposal was changed from what was originally proposed by the development application during the course of the Court hearing. The changes included moving the walkway about 40m further from the shore to be about 114m from the front of the Wunulla Road properties. This application was approved by the Land and Environment Court on 26 August 2008 and included the following works:</p>

- Removal of existing fixed timber walkways and other berthing structures
- Construction of new marina berths comprising floating, concrete pontoons configured with 2 berthing arms orientated east-west and connected by a walkway approximately parallel to the foreshore
- Widening of the existing timber jetty to provide access to the berthing arms via a gangway
- 34 marina berths comprising 6x10m, 6x15m, 13x20m, 8x25m and 1x30m
- Sewage pump out, water, electricity and fuelling facilities

The approval includes conditions that further limit the development. Condition D.4 was a deferred commencement condition that required consultation with Wunulla Road residents regarding the Noise Management Plan. The condition included additional details to satisfactorily resolve issues associated with the Environmental Management Plan and Fire Safety. This condition has been satisfied and the Marina is operational in accordance with the requirements of the terms of this condition and would continue to apply to the subject proposal, if approval is granted. Other relevant conditions pertinent to the subject development are recommended to be reapplied as discussed in the report.

DA706/2008/2 proposed to modify the consent granted by the Court for the Point Piper Marina. The application proposed increasing the width of the northern walkway to 3.2m which was reduced by Condition C.1(b) of the development consent. Condition A.4 of the development consent required a noise management plan be provided to certain Wunulla Road property owners so that they may provide comment before Council decides on whether to approve it. The Noise Management Plan was provided to the Wunulla Road property owners and in response there were no comments received. The application was approved by the Development Control Committee on 7 December 2009.

The works approved under this development application currently exist on site.

DA682/2008 proposed redevelopment of the **Rose Bay Marina**. This application was approved by the Land and Environment Court on 26 August 2009 and included the following works:

- Removal of the existing fixed timber walkways, other berthing structures and slipway
- Construction of a hardstand on the eastern side of the marina building incorporating a fuel storage chamber and with an electricity substation
- Construction of new marina berths comprising floating, concrete pontoons configured with 2 berthing arms orientated north-south accessed by a curved walkway approximately parallel to the existing New South Head Road sea wall
- A gangway connecting the hardstand and walkway
- 49 marina berths comprising 4x15m, 38x20m and 7x30m berths
- 70 swing moorings
- Sewage pump out, water, electricity and fuelling facilities

DA682/2008/2 is a s.96 Application to the Rose Bay Marina and is unrelated to the scope of works currently proposed.

DA682/2008/3 is a s.96 Application to the Rose Bay Marina that proposes an increase to the size of the north west berths from 30-37m. This application is currently being considered and may have a potential impact on the subject site. See *Section 28 – Visual Impacts* for further discussion.

DA293/2012 proposed works to the subject site to both the dwelling and to the Marina as follows:

- Remediation of the site
- Site preparation works including demolition of the existing buildings, removal of slipway rails and fuel tanks
- Replace and upgrade existing Wunulla Road retaining wall
- Erection of a new four storey dwelling, swimming pool and deck
- Separate lift & staircase access to the Point Piper marina.

This application was approved by the Development Control Committee on 1 July 2013. The works approved under this application are yet to commence.

There is no other relevant history pertaining to the application that is subject of this report.

Pre-DA

Nil.

Requests for Additional Information
29.07.2014 – A letter was sent to the applicant requesting: Plans and Elevations to be coloured; an Addendum report/letter from the authors or a relevant expert in relation to the dated documentation submitted; and, additional copies of the submitted information.
Amended Plans/Replacement Application
Nil.
Land and Environment Court Appeal
No appeal has been lodged.

10. REFERRALS

EXTERNAL REFERRALS		
External Referral Body	Reason for referral	Comment
NSW Department of Primary Industries Office of Water	For the terms of approval under <i>Water Management Act</i> (2000)	<i>No objection raised subject to the proponent meeting the General Terms of Approval</i> (see Annexure 3 for detailed comments, Condition A.6, C.1 and Advising K.16)
Department of Primary Industries	For the terms of approval for a permit under s.205 of the <i>Fisheries Management Act</i> 1994 to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease	<i>No objection raised subject to the proponent meeting the General Terms of Approval</i> (see Annexure 4 for detailed comments and Condition A.5)
Department of Infrastructure Planning and Natural Resources	For the terms of approval for a licence or permit under s.10. 13A. 18F. 20B. 20CA and 20L of the <i>Water Act</i> 1912 to construct a work and to take water	No response provided.
NSW Transport Roads & Maritime Services	For the terms of approval for a permit under Part 3A (section 22B) or the <i>Rivers and Foreshores Improvement Act</i> 1948 to make an excavation or remove material within 40 metres of a river, lake or lagoon or do anything that obstructs or detrimentally affects the flow of water on a river, lake or lagoon	No response provided.
Sydney Water	Section 78 Sydney of the <i>Water Act</i> 1994	<i>Due to the proximity of a SydneyWater wastewater asset, a condition should be applied.</i> (An email response with the contents forming part of Condition C.4)
Sydney Ferries	cl. 77 of the <i>Environmental Planning and Assessment Regulation 2000</i> Potential impacts on harbour transit	No response provided.
Energy Australia Ausgrid	cl. 77 of the <i>Environmental Planning and Assessment Regulation 2000</i>	An email response was provided that outlined terms the developer must undertake and satisfy (see Condition C.8)
NSW Maritime Authority	For concurrence under Sydney Regional Environmental Plan (Sydney Harbour Catchment 2005)	No response provided.

INTERNAL REFERRALS		
Department	Reason for referral	Comment
Development Engineer	To co-ordinate engineering responses	As a result of site constraints, a Construction Management Plan is to be submitted. The proposal is satisfactory (see Annexure 5).
Traffic and Parking Engineer	To assess the traffic and parking impacts	The existing land uses, activities and lack of off-street parking currently impact on the parking amenity of residents in the locality. Based on previous court rulings and acceptance of parking rates, the proposal would not have a significant impact on traffic and parking in the area (see Annexure 6).
Manager Public Open Space	To assess the impact on Council assets	No objection subject to Conditions that form part of the Recommendation (see Annexure 7 and Conditions A.7, A.8, B.3 and C.7).
Heritage Officer	To assess the impact on the Heritage Items	Consent. No Heritage conservation conditions required (See Annexure 8).
Environmental Health Officer	To determine appropriate public health/amenity/land contamination/acid sulfate soil requirements	No objection subject to standard conditions that form part of the Recommendation (See Annexure 9).

There were no other referral responses requested or provided.

11. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

11.1 Major Infrastructure or Regional Environmental Planning Significance (Part 3A)

The development is not a project to which Part 3A of the EPA Act applies.

11.2 Designated development (Section 77A)

Section 77A of the EPA Act provides that development is designated development if it is declared to be designated development under an environmental planning instrument or the *Environmental Planning and Assessment Regulation 2000* (EPA Reg). Schedule 3 of the EPA Reg includes certain categories of marinas as being designated development. Alterations and additions are not designated development if, in the opinion of the consent authority, they do not significantly increase the environmental impacts of the total development.

The DA has been submitted on the basis that it is a designated development and it is being processed accordingly.

An application for designated development is required to be:

- Publicly exhibited in accordance with s.79 of the EPA Act which provides for a notice to be placed on the land in addition to notification of adjoining land owners and advertising in the local newspaper
- Exhibited for 30 days (cl.78(2) of the EPA Reg)
- Notified to public authorities, other than approval and concurrence authorities who, in the opinion of the consent authority, may have an interest in the determination of the DA (cl.77 of the EPA Regs)
- Accompanied by an environmental impact statement (EIS) (schedule 1, part 1, 2(1)(e) of the EPA Regs)

The EPA Regs contains provisions for the form and content of an EIS (cl.71 & 72) and for the applicant to consult with the Director General and have regard to the Director General's requirements (cl.73).

A copy of submissions received during the public exhibition must be forwarded to the Director General (cl.81).

The DA has been publicly exhibited as required.

The form and contents of the EIS are satisfactory with regard to the EPA Reg.

In addition to the approval and concurrence authorities, notification of the DA was also sent to the relevant public authorities as required by cl.77 and detailed above.

For the purposes of section 80 (9) (b) of the Act, a copy of all submissions received in response to the public exhibition of the development application for designated development were forwarded to the Director General on 20 October 2014 (as required by cl.81 of the EPA Reg).

11.3 Integrated development (Section 91)

Section 91 of the EPA Act provides that development is integrated development if it requires consent and it requires approval under certain other Acts. The proposed development is integrated as it requires approval under the following Acts which are listed in s.91:

- *Water Management Act 2000* (WMA) as approval is required under s.91 to carry out a controlled activity. The approval body under the WMA is the Department of Primary Industries Office of Water.
- *Fisheries Management Act 1974* (FMA) as a permit is required to harm marine vegetation in a protected area. The Department of Primary Industries (DPI) is the approval body under the FMA.

The proposal does not require approval under the *Protection of the Environment Operations Act 1997* as it accommodates less than 80 vessels.

Section 91A(3) provides that a consent must be consistent with the general terms of approval of an approval body. S.91A(4) provides that if an approval body informs a consent authority that it will not grant a required approval the consent authority must refuse consent to the application. S.91A(5) provides that if an approval body fails to inform a consent authority the consent authority may determine the DA. Under cl.70 of the Regs an approval body is required to advise its decision in relation to the general terms of approval within 21 days after receiving the last of the submissions received during the submission period.

Submissions were forwarded to the approval bodies on 7 August 2014. The approval bodies who did not respond within the 21 days were the *Department of Infrastructure Planning and Natural Resources* and *NSW Transport Roads and Maritime Services*.

The DPI has furnished its general terms of approval and they form part of the Recommendation (see **Condition A.5**). The DPI also advises the applicant must apply to the Office of Water for a controlled activity approval **after consent** has been issued **and before** the commencement of any work or activity on waterfront land. The DPI also requests a copy of its letter be forwarded to the applicant, which was undertaken on 20 October 2014.

A copy of the determination is also required to be forwarded to the DPI in accordance with S91A(6).

11.4 Existing use rights (land based development)

The land use zoning of the area on which the development is proposed to take place is discussed in detail in relation to the assessment of the proposal under the relevant environmental planning instruments, i.e. *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SHREP) and *Woollahra Local Environmental Plan 1995* (WLEP).

Existing use rights is an issue because part of the land is zoned Residential 2(a) under WLEP. The land zoned 2(a) is occupied by a dwelling and part of the Marina, being essentially the land based component of the Marina. The table for the 2(a) zone does not include *tourist facilities* as development which may be carried out either with or without development consent (see items 4 & 5). Tourist facilities as defined in WLEP ...*may include ...marinas*. Therefore under item 6 of the table ...*Development which is prohibited...* includes ...*Any development other than development included in Item 4 or 5*. Marinas are prohibited and dwellings are permissible with consent.

Under section 106(a) of the EPA Act an existing use is defined to mean:

“The use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use...”

Our records show that existing use rights was an issue concerning a previous proposal for an additional storey to extend the dwelling accommodation and which also proposed a garage (refer BA 21/89). The application was refused partly due to non-compliance with previous existing use regulations limiting the extension of floor space. The refusal was the subject of an appeal to the Land & Environment Court which was dismissed. The dismissal of the appeal was subsequently appealed and that appeal was also dismissed. In those proceedings it was accepted that the site enjoyed existing use rights as marinas and dwellings were not permissible in the then 6(a) zoning.

Under the present controls, i.e. WLEP, marinas are still prohibited in the now applicable 2(a) zone whereas dwelling houses are permissible with consent. Lawful commencement of the marina use was effectively affirmed through the assessment and subsequent court proceedings relating to BA 21/89. There have been numerous applications which verify that the Marina use has been continuous on part of the 2(a) zoned portion of the land.

Based on the above information it is concluded that the part of the land used for marina purposes has existing use rights. It should be noted that the configuration of the land changed in 2000 when Council sold off an area of land adjacent to Wunulla Road. That section of land is partly zoned 2(a) and is partly ‘uncoloured land’. The Council reclassified the ‘uncoloured land’ part of that land as operational land in 2000 to facilitate its sale. Existing use rights would not apply in respect to that part of the land which was added in 2000. This DA does not propose any development on that part of the land.

Those works subject to existing use rights are:

- The removal of existing slipway holding berth and work berth;
- Installation of new timber deck with kayak storage and associated launch ramp
- Glass balustrade and screen fence
- New stair access to Rose Bay Park.

The following planning principles, in relation to the environmental assessment of proposals on land with existing use rights, were established in the Fodor Investments v Hornsby Shire Council Land & Environment Court case. These principles are applied to the subject development in light of the recent Land and Environment Court judgment in the Stromness Pty Ltd v Woollahra Municipal Council handed down on 26 October 2006. These principles fundamentally prohibit any consideration of any statutory and policy planning provisions, including building envelope controls and objectives, which derogate from the existing use rights provisions.

The consideration of the impact of any proposed development benefiting from existing use rights upon the amenity of the public domain and adjoining properties was central to the judgment.

The assessment of the land based component of the development against the established principles is as follows:

1. *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?*

The works are relatively minor and consistent with other land-water interface type of developments in this locality.

2. *What is the relevance of the building in which the existing use takes place?*

The existing building is currently used as a commercial marina.

3. *What are the impacts on adjoining land?*

The works are relatively minor and have little resultant impacts on the amenity of neighbouring residential or public land in relation to privacy, views or solar access.

4. *What is the internal amenity?*

Not relevant to this proposal which is for an open deck area only.

NOTE: The new marina berths are located in areas zoned under the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. Commercial marinas are a permissible use, with development consent, within this zone. Accordingly, the establishment of existing use rights for the new marina berths is not required.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C

Section 79C of the EPA Act sets out matters that a consent authority must take into consideration in determining a DA, if they are of relevance to the proposed development. The relevant matters for consideration are listed below and are assessed under the relevant heads of consideration in this report. This assessment is limited to the water based development which is permissible with consent under the SHREP.

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan

8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

12. STATE ENVIRONMENTAL PLANNING POLICY No.33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT

Point Piper Marina has an existing petrol fuel storage tank (5,100 litres), located in the adjoining Rose Bay Park, and dispensing facilities. The fuel storage facility will not be altered under this application.

The approved fuel berth at the eastern end of Arm A is not proposed to be installed and will be superseded under this scheme.

Fuelling facilities are available immediately adjoining at the Rose Bay Marina.

The provisions of SEPP 33 are therefore not considered to be relevant to the assessment of this DA.

13. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated.

Council's Environmental Health Officer has reviewed the submitted documentation and states:

"...The results of a series of sediment testing and the Site Audit have concluded that remediation of sediments at the site is not required. Accordingly, the land area is suitable for the purpose of the development proposed to be carried out..."

Having regard to the above comments and given the assessment of the *Initial site evaluation* provided by the applicant, the land does not require further consideration under clause 7 (1) (b) and (c) of SEPP 55.

14. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The SHREP was gazetted on 28 September 2005. It consolidated and replaced *Sydney Regional Environmental Plan No.22 – Parramatta River* and *Sydney Regional Environmental Plan No.23 – Sydney and Middle Harbours*. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways.

The SHREP contains the following parts:

- Part 1: Preliminary, which contains the aims and the principles which enable those aims to be achieved in relation to the foreshore and waterway area.
- Part 2: Planning principles, which relate to the plan making process.
- Part 3: Foreshores and waterways area, which includes zonings and their objectives, matters for consideration in relation to DAs, the Advisory Committee's constitution and role and special provisions

- Part 4: Strategic sites, which contains matters for consideration in relation to sites identified as strategic foreshore sites in the SHREP
- Part 5: Heritage provisions, which contains provisions for the assessment of DAs relating to heritage items and places of potential heritage significance as identified in the SHREP
- Part 6: Wetlands protection, which contains provisions relating to the assessment of DAs relating to wetlands protection areas as identified in the SHREP

Clause 2 sets out the aims of the plan as follows:

2. Aims of plan

- (1) *This plan has the following aims with respect to the Sydney Harbour Catchment:*
- (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:*
 - (i) as an outstanding natural asset, and*
 - (ii) as a public asset of national and heritage significance, for existing and future generations,*
 - (b) to ensure a healthy, sustainable environment on land and water,*
 - (c) to achieve a high quality and ecologically sustainable urban environment,*
 - (d) to ensure a prosperous working harbour and an effective transport corridor,*
 - (e) to encourage a culturally rich and vibrant place for people,*
 - (f) to ensure accessibility to and along Sydney Harbour and its foreshores,*
 - (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
 - (h) to provide a consolidated, simplified and updated legislative framework for future planning.*
- (2) *For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:*
- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,*
 - (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,*
 - (c) protection of the natural assets of Sydney Harbour has precedence over all other interests.*

Clause 5 provides that the local council is the consent authority for land/water interface development. Notwithstanding, the classes of regional development are set out in Schedule 4A of the Environmental Planning and Assessment Act 1979 (the Act). In accordance with the Act, the JRPP is the consent authority for this development application which is for alterations and additions to a marina that is a Designated and Integrated Development.

Clause 16 sets out zonings which apply to the Harbour. The proposed development is to be carried out in *Zone No. W5 – Water Recreation*. The proposed development, being for a commercial marina, is defined as *land/water interface development*.

Clause 17 contains the objectives of all the zones and those for the W5 zone as follows:

- (a) to give preference to and increase public water-dependent development so that people can enjoy and freely access the waters of Sydney Harbour and its tributaries,*
- (b) to allow development only where it is demonstrated that the public use of waters in this zone is enhanced and will not be compromised now or in the future,*
- (c) to minimise the number, scale and extent of artificial structures consistent with their function,*

- (d) to allow commercial water-dependent development, but only where it is demonstrated that it meets a justified demand, provides benefits to the general and boating public and results in a visual outcome that harmonises with the planned character of the locality,*
- (e) to minimise congestion of and conflict between people using waters in this zone and the foreshore,*
- (f) to protect and preserve beach environments and ensure they are free from artificial structures,*
- (g) to ensure that the scale and size of development are appropriate to the locality, and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or from areas of public access.*

Clause 17(2) provides that a consent authority must not grant development consent to any development unless it is satisfied that the development is consistent with the aims of the plan (i.e. as contained in Clause 2) and the zone objectives.

For reasons that will be outlined below, the proposal is considered to satisfy the above stated objectives subject to conditions.

14.1 Matters requiring consideration (Clause 18)

This clause provides that the commercial marina development is permissible only with development consent in the W5 zone and provided it satisfies the objectives of this plan.

The matters to be considered in the assessment of a DA are in Part 3, Division 2 is assessed under the relevant heads of consideration that follow.

14.2 Biodiversity, ecology and environment protection (Clause 21)

The EIS included a Seagrass Distribution Survey by Marine Pollution Research Pty Ltd.

The report provided an assessment of the effects the Marina will have on topics relevant to this section of the SREP. The conclusion of the report indicated that subject to appropriate mitigation measures being implemented, the proposal satisfies the relevant aquatic ecology conservation requirements of the SREP and the aquatic ecology and fish habitat conservation requirements of the Fisheries Management Act 1994 and the updated Fisheries NSW *Habitat Protection Guidelines* (Fisheries NSW 2013).

Furthermore, the NSW DPI has reviewed the scheme and considers the proposal satisfactory subject to the general terms of approval (see **Condition A.6**)

Based on the findings of this survey, the proposal satisfies the relevant criteria prescribed by this clause.

14.3 Public access to, and use of, foreshores and waterways (Clause 22)

The application does not propose to alter the existing arms or walkways of the marina.

To the south of the Marina is Rose Bay Park. The useable section of Rose Bay Park and access along the beach is maintained and is unaltered by the proposed development.

The proposal satisfies the relevant criteria prescribed by this clause.

14.4 Maintenance of a working harbour (Clause 23)

The approved fuelling berth has not been installed. It is to be removed with alternate access made available for fuelling on the adjoining Rose Bay Marina.

The proposal does not alter the use or function of the existing Marina which is permissible in this locality.

The proposal satisfies the relevant criteria prescribed by this clause.

14.5 Interrelationship of waterway and foreshore uses (Clause 24)

The number of vessels in this locality is to be maintained. The removal of the swing moorings assists in expanding the use of the Rose Bay Park Beach for recreational purposes and smaller water craft.

The proposal satisfies the relevant criteria prescribed by this clause.

14.6 Foreshore and waterways scenic quality (Clause 25)

The proposed design and layout of the new berths is consistent in material, scale, form, design and siting of the existing Marina to which it is attached and the other adjoining marinas.

This clause requires consideration of visual impacts on Sydney Harbour views. This issue is discussed under *Section 27 - Visual Impacts*.

14.7 Maintenance, protection and enhancement of views (Clause 26)

This clause requires consideration of the impacts on views. This issue is discussed under *Section 27 - Visual Impacts*.

14.8 Boat storage facilities (Clause 27)

The expanded use of the Marina satisfies the relevant intent of this clause that states:

“...Development should increase the number of public boats storage facilities and encourage the use of such facilities.”

The recommendation is to remove 6 berths from the proposed Marina based on environmental considerations including visual and ecological impacts and for navigation related issues. These are discussed under the relevant heads of consideration that follow.

14.9 Consultation required for certain development applications (Clause 29)

Clause 29 provides that consent cannot be granted to the development unless the DA has been referred to the Advisory Committee and consideration of any submission received from the Advisory Committee within 30 days of the initial date of the referral.

The DA was forwarded to the Committee on 7 August 2014. No submission has been received from the Committee.

In accordance with this clause, the specified time for response has elapsed and a determination can be made.

14.10 Protection of heritage items (Clause 55)

Sydney Harbour is an item of environmental heritage under the *Heritage Act 1977*, s170. According to definition, that part of the Marina below the mean high water mark is part of the item.

The Rose Bay Sea Wall, Promenade and Police Station are identified as Heritage Items pursuant to Schedule 3 of Woollahra Local Environmental Plan 1995.

In relation to the proposed development, Council's Heritage Officer states:

"...The proposed works will not detract from the heritage significance of the heritage items in the vicinity..."

The comment goes on to state:

"...The proposed alterations to the Point Piper Marina occur within the visual curtilage of the Rose Bay Sea Wall and Promenade. The rearrangement of the moorings at the marina appears to consolidate the boats along the northern and southern arms, and remove an equivalent number of swing moorings. This will result in a reduction of boats scattered in the bay but may increase the density of the boats at the marina. Visually, swing moorings are preferable to marina extensions, however, no extension of the marina is proposed in this application and the consolidation of boats at the marina has the potential to open a view corridor from Rose Bay Park, which is positive..."

The proposed works to the Marina are in keeping with recent developments to the subject and adjoining marinas. The proposal is sufficiently removed from the nearby heritage items so that the works do not adversely impact upon the setting or curtilage of these items.

The visual impacts are pertinent to this clause and are discussed under *Section 27 - Visual Impacts*.

The proposal satisfies the relevant criteria prescribed by this Clause.

14.11 Development in the vicinity of heritage items (Clause 59)

In light of the comments immediately above, the proposal satisfies the relevant criteria prescribed by this Clause.

15. ENVIRONMENTAL PROTECTION & BIODIVERSITY PROTECTION ACT 1999 (EPBC ACT)

The EPBC Act is federal legislation. It requires the Federal Minister to approve of certain activities. An action includes a project, development, undertaking, activity, or series of activities.

Seahorses and pipefish are listed under the EPBC Act and although they are known to reside in seagrass beds in Sydney Harbour none were observed during surveys conducted by the applicant. Therefore, referral under the EPBC Act appears to be unnecessary (Note: the Council has no obligation to refer the DA to the Federal Minister under the EPBC Act - the obligation for referral rests with the proponent).

16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

WLEP applies to all land within the area of Woollahra and under clause 3(1) includes land taken to be within the area by virtue of s.205 of the *Local Government Act 1993*. Section 205(1) includes land and water between the high-water mark and the low-water mark (commonly referred to as the inter-tidal zone).

The land based component of the development has been assessed above (see *Section 11.4 - Existing Use Rights*).

The main components of the proposal, being the berthing pens are to be located on areas where the WLEP does not apply. The Point Piper Marina is mostly below the low-water mark (marina arms and berths) but also includes land which, under WLEP 1995, is zoned residential 2(a) and ‘uncoloured land’, generally comprising that land known as No.5 Wunulla Road. In addition to ‘uncoloured land’ comprising the inter-tidal zone, part of the land previously described as having been added in 2000 (refer ‘Existing Use Rights’) is also ‘uncoloured land’.

16.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposal is not a permissible form of development within the Residential 2(a) zone but it has been established that the site benefits from existing use rights.

In light of the assessment provided, the development nevertheless satisfies the objectives of the zone and of this clause.

16.2 HFSPA (Clause 19)

Clause 19 applies to land within the harbour foreshore scenic protection area (HFSPA). The HFSPA affects that part of the land to be developed which is above the Mean High Water Mark. Clause 19 provides that consent shall not be granted to an application unless an assessment has been made of:

- (a) the visual impact when viewed from Sydney Harbour of the design of the proposed development, including the colours, textures, styles and types of materials to be used and the type and form of any roof, and*
- (b) the impact of the proposed development on the natural landform and topography.*

The works within the HFSPA have been described earlier in this part of the report. These works are minor in scale and the visual impacts when viewed from Sydney Harbour are considered to be satisfactory. The works also will not impact on the natural landform and topography.

The proposal satisfies the relevant criteria prescribed by this clause.

16.3 Foreshore Building Line (Clause 22)

None of the land upon which the development is proposed is affected by a foreshore building line.

16.4 Land adjoining public open space (Clause 24)

Clause 24 applies to all land adjoining public open space. It provides that:

The Council shall not grant consent to an application for development on land which adjoins public open space unless it has made an assessment of the impact of the development on the amenity of the public open space and it has taken into consideration whether the development is in conflict with any plan of management for the public open space.

The Marina abuts the northern end of Rose Bay Park. The impacts on Rose Bay Park will be acceptable. There is no specific plan of management for Rose Bay Park nor is it required as part of this proposal.

The impact of all the works proposed on the amenity of Rose Bay Park is considered under the SHREP.

The proposal nevertheless satisfies the relevant criteria prescribed by this clause.

16.5 Water, wastewater and stormwater (Clause 25)

The provisions of cl.25 are not relevant to the proposal.

16.6 Acid Sulfate Soils (Clause 25D)

Based on the submitted documentation, the provisions of cl.25D are not relevant to the proposal.

16.7 Heritage and conservation area provisions (Clauses 26-32)

Clause 26 relates to works proposed to heritage items. This DA does not propose any works to heritage items.

Clause 27 relates to development in the vicinity of heritage items, heritage item groups, heritage conservation areas, archaeological sites or potential archaeological sites. In light of the comments undertaken under the SHREP in relation to the Protection of Heritage Items and development in the vicinity of Heritage Items (Clauses 55 and 59 respectively), the proposal also satisfies the relevant criteria prescribed by this clause.

Clauses 28-30 relate to heritage conservation areas. The development is not being carried out in a heritage conservation area and therefore these clauses are not relevant.

Clause 31 relates to development of known or potential archaeological sites. There are no known archaeological sites in this vicinity. Notwithstanding, recommended **Condition E.4** requires the applicant to notify Council of any new evidence that comes to light during demolition or construction.

Clause 32 relates to heritage conservation incentives for heritage items and is not relevant to the assessment of this proposal.

Clause 33 relates to heritage notifications. It provides that consent shall not be granted for the demolition of a heritage item unless the Heritage Council has been notified. This DA does not propose the demolition of a heritage item.

17. DRAFT AMENDMENTS TO STATUTORY CONTROLS

17.1 Draft Woollahra Local Environmental Plan 2013 (Draft WLEP) 2013

The Draft LEP was exhibited between 21 August 2013 and 13 November 2013 and was considered in this assessment.

18. SYDNEY HARBOUR FORESHORES & WATERWAYS AREA DEVELOPMENT CONTROL PLAN (SHDCP)

The SHDCP applies to the proposed development as it applies to all development within the foreshores and waterways area as identified in the SHREP.

The SHDCP contains provisions for assessing the impact of developments on the ecology (part 2) and landscape (part 3). It also contains general design guidelines for various types of development (part 4) and guidelines for specific developments including marinas (both commercial and private) (part 4.7).

An assessment of the scheme against the relevant controls under this DCP is as follows:

Part	Assessment
Part 2. Ecological assessment	
Ecological communities (Aquatic) - <i>sandy beaches</i> - <i>seagrasses</i>	Medium conservation status High conservation status <i>Satisfactory</i> - The Seagrass Distribution Survey by Marine Pollution Research Pty Ltd dated 17 March 2014 assesses the impacts of the proposal. The Survey references mitigation measures which are adopted as part of the recommendation. Subject to these measures, the proposal satisfies the relevant performance criteria referenced in Table 2.
Part 3. Landscape assessment	
3.2 General aims All development should aim to: <ul style="list-style-type: none"> Minimise any significant impact on views and vistas from and to: <ul style="list-style-type: none"> Public places Landmarks identified on the maps accompanying the DCP, and Heritage items Ensure it complements the scenic character of the area Protect the integrity of foreshores with rock outcrops, dramatic topography or distinctive visual features Provide a high quality of built and landscape design Contribute to the diverse character of the landscape 	<i>Satisfactory</i> - The impact on views and vistas from public places is minimal given the existing backdrop of other marinas in this locality (see <i>Section 27 - Visual Impacts</i> for further assessment) <i>Satisfactory</i> <i>N/A</i> <i>Satisfactory</i> <i>Satisfactory</i>
3.4 Landscape character type 10 performance criteria	<i>Satisfactory</i> - Special natural elements (i.e. beaches) will not be impacted; open nature of the bay will not be lost; and, commercial marina activities are established, permissible and expected in this locality. There is no increase in vessel numbers in this locality

Part 4 Design guidelines for water-based and land/water interface development	
4.2 General Requirements	
public access to waterways and public land is maintained and enhanced;	<i>Satisfactory</i>
congestion of the waterway and foreshore is minimised;	<i>Satisfactory</i>
conflicts on the waterway and foreshore are avoided;	<i>Satisfactory</i>
the development warrants a foreshore location;	<i>Satisfactory</i>
the development does not interfere with navigation, swimming or other recreational activities;	<i>Satisfactory</i>
the demand for the development has been established;	<i>Satisfactory</i>
the structure does not obstruct or affect the natural flow of tides and currents;	<i>Satisfactory</i>
development does not dominate its landscape setting;	<i>Satisfactory</i>
the extent of development is kept to the absolute minimum necessary to provide access to the waterway;	<i>Satisfactory</i> - subject to deletion of the 6 nearest berths to the waterway
shared usage of facilities is encouraged to minimise the number of structures and their cumulative impact on the environment of the Harbour and its tributaries;	<i>Satisfactory</i>
development is setback at least 2.5 metres from the division of the waterway as established by the NSW Maritime Authority and illustrated in Figure 4	<i>Satisfactory</i>
4.7 Commercial marinas	
Location	
Marinas (where permissible) are to be located where they can be used by as many people as possible and are easily accessed from land and water	<i>Satisfactory</i> – unchanged location
marinas are to be located where there is adequate water depth or where minimal dredging of soft material will achieve an adequate water depth;	<i>Satisfactory</i> - no dredging is proposed
marinas are to be located away from areas subjected to exposed wave environments;	<i>Satisfactory</i> – unchanged location
marinas are preferably to be located away from wetlands or the wetlands protection area (both as defined by the SREP) or where they or the vessels using them will physically damage or overshadow estuarine vegetation of high value. Clauses 61 to 63 inclusive of SREP (Sydney Harbour Catchment) 2005 indicate provisions relevant to wetlands protection;	<i>Satisfactory</i> – The existing Marina is located in a wetlands protection area. Documentation submitted indicates vessel impact on estuarine vegetation is acceptable
marinas are not to reduce the number of publicly available single (swing) moorings, jeopardise safe navigation or adversely impact other water users including small craft;	<i>Satisfactory</i> – The number of swing moorings will be reduced although this is not considered a sustainable reason for refusal (<i>Addenbrooke Judgment</i>). Documentation submitted indicates safe navigation and no detrimental impact on other water users including small craft
waterside structures are to minimise impacts on public water activities.	No change proposed
Design and layout	
buildings and other facilities are to be designed and sited so that natural or other attractive features are not obscured (see also Section 4.5 of this DCP);	<i>Satisfactory</i> – works to the existing Marina are relatively minor
buildings are to be designed so that their dimensions are not excessive and can reasonably meet the functional requirements of the proposed uses;	<i>Satisfactory</i>

marinas are to enhance public access to and along the shore and, where relevant, the inter tidal zone;	<i>Satisfactory</i> – no change proposed to the public access
Secure storage is to be provided in a controlled environment;	<i>Satisfactory</i>
the extent of development over water including waterside structures, berths, fairways and access channels is to be minimised and result in minimal alienation of the waterway;	<i>Satisfactory</i>
marinas are to be in the form of a series of interlinked pontoons which shall be restrained and held in position by a minimum number of piles or mooring lines to anchor points in the seabed;	<i>Satisfactory</i> – the extent of additional work is minimal and limited to 2 additional telescopic piles
design of marina restraints shall take into account the flexibility and performance of the pontoon systems under environmental loads;	<i>Satisfactory</i>
the colours, appearance and form of any associated buildings shall be compatible with the surrounding environment;	<i>Satisfactory</i>
shiny or reflective materials are not to be used;	<i>Satisfactory</i>
the depth and width of berths and fairways of commercial marinas shall accommodate either a yacht or motor vessel. Restricted berths are to be nominated only where this will lead to an optimal environmental outcome;	<i>Satisfactory</i> – No berths are specified as being restricted to a yacht or motor vessel
commercial marinas are to provide a point of access to boats for disabled people where possible;	<i>Satisfactory</i>
marinas are to be designed to minimise the impact of vessels when in use on the environment including on air and water quality, marine habitat and bank stability;	<i>Satisfactory</i> – The approved EMP includes requirements to minimise the impact of vessels when in use and would continue to apply to the proposed scheme
<p>marina layouts are to be designed in accordance with the following publications:</p> <ul style="list-style-type: none"> • Department of Environment and Conservation (NSW) "Environmental Information for Marinas, Boatsheds and Slipways" (November 1998). NSW Maritime Authority "Engineering Standards and Guidelines for Maritime Structures" • NSW Fisheries Department's "Aquatic Habitat Management and Fish Conservation—Policy and Guidelines", 1998 • NSW Department of Primary Industries – Fisheries "Policy and Guidelines – Aquatic Management and Fish Conservation (1999)". • NSW Department of Primary Industries – Fisheries "Habitat Protection Plan No. 2: Seagrasses"; and • NSW Department of Primary Industries – Fisheries "Habitat Protection Plan No. 1: General". 	<i>Satisfactory</i> – The Marina has been designed in accordance with the relevant publications. The DPI has considered the proposal in its capacity as an approval body and has issued its general terms of approval.
Facilities and services	
commercial marinas are to provide boating service facilities such as fuel, water, toilet facilities or sewage pumpout where practicable and where such facilities are not yet locally available;	<i>Satisfactory</i> – The existing Marina provides boating service facilities and includes sewage pumpout to cater for the increased number of berths. The fuelling facilities are to be removed but facilities are available immediately adjoining at the Rose Bay Marina

commercial marinas are to provide a mix and choice of boat storage facilities based on established demand as well as a range of marine services to the boating public; and	<i>Satisfactory</i> – The Marina will provide a mixture of berth sizes. The <i>Boat Storage Policy</i> for Sydney Harbour establishes that there is a demand for accommodating power boats. Swing moorings are still available nearby to the east of the Rose Bay Marina.
commercial marinas are to provide benefits to both the general and boating public; and	<i>Satisfactory</i> – Benefits to the general public include improved access to marina facilities
vessels at the marina are not to be used as a permanent residence. A covenant shall be included on the lease to enforce this requirement.	Noted.
Visual Impact	
Note: Detailed provisions on how to undertake a visual impact analysis is referenced in Appendix D in this DCP.	
the visual contrast (derived from an analysis of form, line, colour and texture) between the marina and the existing or planned future character of its setting is to be minimised;	<i>Satisfactory</i> – The visual contrast between the Marina and the character of the setting is considered to be minimised
the visual impact of the marina on people in the visual catchment (derived from an analysis of the potential number of viewers, their location within the landscape, distance from the marina, and duration of view) is to be minimised;	<i>Satisfactory</i> – The visual impacts are considered to be acceptable, having particular regard to comments contained in the <i>Addenbrooke</i> judgement (see <i>Section 27 - Visual Impacts</i> for further assessment)
any visual analysis shall consider the impact of the largest motor vessel(s) capable of being berthed at the marina;	<i>Satisfactory</i> – The largest new mooring is 15m in length. Any new mooring is to be limited to a maximum height of 3metres (see <i>Section 27 - Visual Impacts</i> for further assessment)
the largest vessels (motorised or otherwise) to be berthed at the marina are to be located as far from shore as possible;	<i>Satisfactory</i> – For reasons outlined, the 6 nearest berths to the Wunnula Road residences are to be deleted. The largest proposed vessel berth, as a result of this recommendation, is located at the outer end of the marina.
waterside structures and berthed vessels associated with marinas are not to block views from foreshore public open space or views to foreshore public open space from the waterway;	<i>Satisfactory</i> – Views of the waterway will not be blocked (see <i>Section 27 - Visual Impacts</i> for further assessment)
the bulk and scale of buildings and other structures on land is to be minimised through appropriate mitigation measures including landscaping, articulated walls, detailing of surfaces and by using smaller elements (see also <i>Section 4.5</i> of this DCP);	Not relevant (refer to <i>Section 11.4</i> - existing use rights)
the visual impact of car parking from the waterway is to be minimised; and	No car parking is proposed
all signage is to be located on dry land below the roofline (or parapet) of buildings. Advertising signs are not to detract from the visual quality or amenity of the foreshores and waterways when viewed from the waterways.	No advertising signs are proposed
Environmental management	
<p>Pollution and waste:</p> <ul style="list-style-type: none"> • potential pollutant sources from the site must be controlled and meet established performance standards; • appropriate controls are to be in place and managed to prevent any pollutants entering the environment; • marinas for nine or more vessels are to provide adequate and readily accessible facilities for the collection and disposal of wastes from vessels; • facilities for pumping out sewage holding tanks are to be provided onshore; and • any waste that cannot be recycled is to be disposed of at an appropriate facility. 	<p><i>Satisfactory</i> – The sewage pump out facilities were upgraded under a previous approval to meet contemporary standards. The fuelling berth, though approved, is to be removed. Fuelling facilities are available on the adjoining marina.</p> <p>Measures to prevent pollutants entering the environment are included in the approved EMP and continue to apply to the proposed development.</p>

<p>Traffic and Parking:</p> <ul style="list-style-type: none"> land-based impacts including traffic volumes and parking demand meet established performance standards; adequate car and trailer parking (based on the number and type of berths, associated activities and number of employees) is to be available on-site. Off-site parking is acceptable only where it will not reduce community amenity or generate adverse traffic impacts; and the adverse impacts of traffic and parking generated by boat storage facilities in terms of congestion, safety, air quality and noise are to be minimised. 	<p><i>Satisfactory</i> – The existing land uses, activities and lack of off-street parking currently impact on the parking amenity of residents in the locality. The <i>Addenbrooke</i> judgment provides accepted parking rates. The proposal will not have a significant impact on traffic and parking in the area.</p> <p>Furthermore, for reasons outlined, 6 berths are recommended to be deleted. Based on the accepted parking rates, the removal of these berths reduces the demand for and any adverse effects as a result of traffic and parking in the locality.</p>
<p>Noise:</p> <ul style="list-style-type: none"> the adverse impacts of noise (considering hours of operation, existing background noise, expected departure/arrival times for vessels, noise level of marina patrons, noise level from repair and testing of vessels and motors) are to be minimised through appropriate design and management measures; and land-based impacts including noise emissions meet established performance standards. 	<p><i>Satisfactory</i> – An approved EMP applies to the site and continues to apply to the proposed scheme. The terms of the EMP ensure noise impacts are minimised.</p>
<p>Lighting:</p> <ul style="list-style-type: none"> the adverse impacts of lighting on night navigation and neighbours are to be minimised through appropriate design and management measures. 	<p><i>Satisfactory</i> - The proposal is required to comply with the relevant Australian Standard for lighting which will minimise any likely impacts from light spill.</p>
Health and amenity	
<p>Marinas are to be a safe place to work and adequate environmental safety and emergency response plans are in place.</p>	<p><i>Satisfactory</i> – Environmental safety and emergency response plans are incorporated into the approved EMP and continue to apply to the proposal.</p>

19. ACCESS DEVELOPMENT CONTROL PLAN 2004

There is no proposed or resultant change to the existing and approved access stair, inclinator and elevator to the Marina. The expansion of the Marina provides improved facilities to people with disabilities.

The proposal satisfies the relevant provisions of the Access DCP.

20. PARKING DEVELOPMENT CONTROL PLAN 2011

This DCP applies to the proposed development.

Table 2.1 provides non-residential parking generation rates for *Recreational Land uses (Marina)* as follows:

*0.6 car parking spaces per wet berth, 0.2 parking spaces per dry storage berth and swing mooring and 0.5 parking spaces per marina employee.**

** Note: Where variation to the required parking is sought, a traffic and parking report is to be submitted with the DA.*

Based on these generation rates, the resultant parking requirements for the proposal is as follows:

0.6 spaces x 24 (wet berths) =	+14.4
0.2 spaces x 24 (swing moorings) =	- 4.8
Net impact =	+9.6

Based on this parking generation rate, the proposal results in an increase demand of 10 parking spaces.

The proposal does not provide any additional off-street parking.

The EIS includes a report by Christopher Hallam & Associates Pty Ltd, *Traffic and parking impact assessment of proposed modifications to Point Piper Marina*, dated December 2013. The report makes reference to information gathered as part of the *Addenbrooke* proceedings. This Report was also reviewed by Council's Traffic Engineer (see **Annexure 8**).

As mentioned, the issue of parking has previously been considered in the *Addenbrooke* proceedings and is prudent to refer to the judgment to provide some guidance on parking generation rates associated with the Marina.

On the question of the appropriateness of using published guidelines and codes to assess parking needs, the experts in the *Addenbrooke* judgment drew the following conclusions, as quoted in paragraph 172:

"...The Contentions rely on parking calculations based on the NSW Roads & Traffic Authority Guide to Traffic Generating Developments and on Woollahra Municipal Council's Development Control Plan for Off Street Parking Provision and Servicing Facilities. [The experts] both agree that these documents provide a guide only and should only be considered if surveys were not undertaken at other appropriate marina developments. [The experts] both agree that there have been adequate and sufficient surveys undertaken of parking demand at other appropriate marinas. [The experts] agree that the results and analysis of these surveys should be used in the assessment of parking issues, rather than the RTA and Council guidelines..."

Based on peak summer weekend boat usage, for boats of up to 20 metres in length, which is the basis of the subject proposal, the experts agreed that the parking rates that should apply are:

Swing moorings 0.224 cars/mooring
Marina berths 0.166 cars/berth

Based on the research undertaken, the adopted parking rates in the judgment applicable to this proposal are:

24 swing moorings @ 0.224 cars/boat = 5.4 cars
24 marina berths @ 0.166 cars/berth = 4 cars

Net impact = - 1.4 cars

Paragraph 180 of the *Addenbrooke* judgment indicates that there would be a net increase in supply of parking within 300m of the Point Piper Marina. Paragraph 182 of the judgment states:

“...Based on the evidence of the traffic experts, the proposal will not generate an unacceptable demand for parking which cannot be met by the availability of on street parking...”

The submitted Traffic Report indicates that due to the change from moorings to berths, the proposed development results in less demand for parking in this locality. Council’s Traffic Engineer concurs with this position.

In addition, for reasons previously outlined, it is recommended that 6 marina berths are to be deleted. This recommendation further reduces the parking demand in the locality by 1 parking space (ie. 6 marina berths x 0.166 cars/berth).

Furthermore, having regards to comments contained in the *Addenbrooke* judgment, the existing street network can accommodate traffic movements generated by the proposal.

The recommendation by Council’s Traffic Engineer on parking states:

“...The existing land uses, activities and lack of off-street parking currently impact on the parking amenity of residents in the locality. It is accepted that the proposed development does not significantly change the use of the facility and as such the impact would not be significant.

Based on the Land and Environment Court Proceedings 11179 of 2007 in relation to the parking rates adopted, it is accepted the proposed development would not have a significant impact on traffic and parking in the area.”

On this basis, the proposal is unlikely to detrimentally impact on parking or traffic movement in this locality.

The proposal does not include any on-site loading bay and the nature of the site precludes such a facility. However there is an existing 18m “No Parking/Loading zone” in Wunulla Road immediately fronting the site. Council’s Traffic Engineer considers this existing loading zone sufficient to cater for the servicing needs of the existing Marina and its proposed expansion.

21. DEVELOPMENT CONTROL GUIDELINES FOR THE PROVISION OF FORESHORE OPEN SPACE AND ACCESS

The Guidelines were adopted by Council on 26 August 1991 under SREP 23 (now replaced by SHREP) and as a policy in relation to the Council’s own determinations.

The purpose of the Guidelines, as contained in Part 2, is to state the means by which the Council intends to implement its foreshore objectives. The foreshore objectives, as stated in part 3, relate to:

- Preserving existing public open space along the foreshore and to provide further public pedestrian access to the foreshore in appropriate locations
- Discourage alienation of the foreshore by buildings and encourage greater public access
- Foster an environment which satisfies community needs and expectations while protecting the natural environment
- Foster opportunities for the study and appreciation of the intertidal zone
- Provide stopping points for people exploring the foreshore by small boats.

Part 5 contains the means by which the Council will implement its objectives. These mostly relate to initiatives for Council to undertake. Part 6 relates to providing facilities for access to foreshore parks and onto the water for people with ambulatory problems.

The proposal is a relatively minor alteration to the existing Marina. There is no increase in vessel numbers in this locality but rather a relocation of vessels that are to be attached to the arms of the existing Marina.

The proposal satisfies the intent of these controls and their respective objectives.

22. BOAT STORAGE POLICY FOR SYDNEY HARBOUR

The policy was prepared by the former Department of Infrastructure, Planning and Natural Resources and the Waterways Authority in June 2004. It aims to provide a more strategic and certain approach to regulating boat storage facilities and to provide a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshores and waterways.

Critical issues are contained in Part 4 of the Policy. Part 4.1 relates to a ‘moratorium’ on marina development which resulted from concerns about visual impacts of boat storage facilities, environmental impacts and public access to the foreshore and waterway.

Part 4.2 discusses changing demands. It relevantly states that there is a clear trend towards larger motorised boats which are more likely to be stored on marina berths. Consequently, marina operators are looking to convert swing moorings to marina berths. In relation to precincts such as Rose Bay the following statement is made:

“...there are a number of precincts in the harbour, such as The Spit and Rose Bay ... in which demands for growth and change may be most pronounced. A more detailed and localised understanding of such precincts would assist all stakeholders in working together to ensure that growth and change in these areas occurs in the most appropriate manner.”

Part 5, Boat storage policy statement, outlines the State Government’s policy for effective boat storage. Part 5.1 relates to commercial marinas. It states that commercial marinas will generally be allowable in certain locations where:

- *Foreshores are already modified through development , including existing maritime commercial and recreational activities*
- *Conflicts with other land and water uses are minimised*
- *Public access to and use of the foreshores and waterways is not reduced*
- *The visual impacts of the development are acceptable, and*
- *There are no adverse impacts on wetland or flora and fauna habitats*

These matters are discussed in this report and found to be satisfactory.

Part 5.3, Single moorings, states ‘Single moorings generally have a lower visual impact than fixed berth storage ‘... However, as boats are able to move more freely on single moorings, they can also impede navigation by other vessels. ... The Government therefore supports the retention of private single mooring areas at their current levels. ... As a means of freeing up water space for navigation, the Government also considers the conversion of commercial single moorings (associated with commercial marinas) to marina berths to be appropriate in suitable locations. This will also potentially facilitate greater public access to the waterway for recreational boating.’

The visual impact of the proposal is discussed below (see *Section 27 – Visual Impacts*). Subject to conditions to delete 6 berths and limit the height of vessels in the new berths to 3metres, the proposal is considered acceptable.

Part 6, Implementing the policy, states the moratorium will be lifted by gazettal of SHREP and the release of the new Waterways Authority land owner's consent manual. The REP and manual are both now effective.

In Part 6.2, Simplifying the planning framework, the following comments are included regarding the SHREP ... *The development of new commercial marinas and the conversion of single moorings to fixed marina berths will be permissible in four separate zones ... These zones reflect the primary areas of the harbour used for ... public recreation (such as The Spit, Rose Bay and Rushcutters Bay)...* Furthermore ... *Private single moorings are permissible without the requirement for development consent in all waterway zones. Such facilities are licensed by the Waterways Authority and numbers will remain at about current levels.*

The proposal includes the removal of commercial swing moorings and an increase in fixed marina berths. There are no changes proposed to the number of private swing moorings. The proposal is considered satisfactory with regard to part 6.2 of the Policy.

Part 6.3 - Improving development controls for marinas, states ... *The draft (now adopted) Harbour DCP therefore provides a stronger and comprehensive assessment tool for marinas, which will contribute to improved scenic quality and other environmental outcomes for the harbour.*

These specific provisions of the DCP issues are discussed in this report and are satisfactory.

Part 6.5, Planning for high usage precincts, provides:

The Waterways Authority will prepare 'Framework Plans' for some high usage boating precincts of the harbour. Such a plan is currently being prepared for the Rose Bay West boating precinct.

These plans are not statutory documents, however they are used by the Authority to help guide its decisions as land owner in areas of the harbour where there are competing demands for water-based development and particular environmental issues are to be addressed. The plans are prepared in consultation with local councils, relevant state agencies, boating groups and the local community.

The former land owner's consent manual required NSW Roads and Maritime to consider a wide range of environmental matters in deciding whether or not it would grant land owner's consent. The new policy does not contain environmental considerations. Environmental impacts are now only part of the development consent assessment.

23. ROSE BAY WEST FRAMEWORK PLAN (RBWFP)

The Plan summarises the land and water use issues and future opportunities relating to Rose Bay West.

The following points are included under ...*The site and its context, Water use issues:*

- *Waterways Authority manages an additional 138 swing moorings which it leases to the general public (usually nearby residents). This totals 326 swing moorings in Rose Bay west and east and it is generally regarded that this represents maximum on-water boat storage capacity.*
- *As a recreational boating hub, this Bay offers the opportunity to provide a higher level of service to the general public, including fuel, sewage pumpout and provisioning.*

The following point is included under *Marina issues*:

- *Any conversion to fixed berths results in a change in the views from both the land and water. A marina based largely on fixed berths presents a more congested picture and in some circumstances results in blocking views.*

The following point is included under *Land use issues*:

- *New South Head Road carries heavy traffic and parking is limited on this road and in Wunulla Road. The Council plan (public domain improvements) removes approximately 20 spaces on New South Head Rd as part of the pedestrian and cycle access improvements.*

Under *Future uses and development opportunities* there are 12 factors which any development proposal should take into consideration. The factors cover:

- the consideration of land and water uses in conjunction
- retention of commercial marinas and provision of a range of boating services
- public access to marinas
- vessel manoeuvrability
- protection of seagrass beds
- facilitation of cycle and pedestrian access improvements above the mean high water mark and the possibility of boating facilities and dinghy storage below the mean high water mark
- intertidal access opportunities
- retention of boat repair facilities at HolmePort (Point Piper) marina
- dinghy storage rack in Rose Bay Park.

In particular the following factors are also included:

- *Significant views from Rose Bay Park (near and far), including views of the open water and the eastern shore of Rose Bay, should not be obstructed by marina berthing structures and associated vessels. In order to maximise views from all public vantage points, smaller vessels should be berthed or moored closest to the shore while larger vessels should be further from the shore.*
- *Boat storage in this section of Rose Bay should be limited to the current number of vessels. The configuration of fixed berths, private and public swing moorings can be varied within this maximum. There will be no decrease in the number of mooring spaces available to the general public.*
- *The outer limit of vessel moorings is identified on the map. A maximum vessel size of 15-18 metres is considered appropriate to permit safe and adequate manoeuvring in the Bay to ensure views of the Bay are not impeded.*

Under s.79C of the EPA Act the Council is required to consider, among other matters:

- (d) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The Point Piper Marina is in the shadow of other marinas in this vicinity as viewed from the public domain. The resultant variation to the view of Rose Bay and the Marina by removing swing moorings and attaching a similar number of vessels to its existing arms is a relatively minor variation to the view from the public domain.

There is an environmental benefit in removing the swing moorings that are currently detrimental to a large patch of sea grass in the western end of Rose Bay. The approved lift access to the marina provides benefit to people with limited mobility and improves access to boats and kayaks. Access to the Kayaks remains available from Rose Bay Park.

The recommendation to remove 6 berths from the proposed Marina is based on environmental considerations including visual and ecological impacts and for navigation related issues. These are discussed under the relevant heads of consideration in this report.

For reasons outlined, the proposal satisfies relevant matters under the RBFP.

24. AS 3962-2001 GUIDELINES FOR DESIGN OF MARINAS

AS 3962 contains guidelines for marina designers, manufacturers and operators in relation to recreational marinas and small commercial vessels up to 50m in length. The standard covers investigations, dimensional criteria, loading & stability, design considerations, services, onshore boat facilities and traffic & parking.

The EIS, including technical appendices, makes various references to guidelines contained in AS 3962. It states that the proposal has been designed in accordance with the provisions of AS 3962.

Section 3 – *Dimensional Criteria* of AS 3962 sets out minimum dimensions for various aspects of marinas, including channel widths (3.1), berth sizes (3.3) and walkways, fingers and mooring points (3.5).

There is no change proposed to the existing arms of the Marina. The documentation submitted with the application indicates the proposed berths satisfy the technical requirements of this standard.

Section 8 – *Traffic and parking* of AS 3962 applies to the development. The issue of parking and the relevancy of this requirement have been discussed above.

25. APPLICABLE ACTS/REGULATIONS

25.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the development to comply with Australian Standard AS 2601-2004: The demolition of structures. Compliance with this requirement is enforced by condition forming part of the recommendation.

25.2 Fire Safety

An annual fire safety schedule is required to be submitted and compliance with this requirement is enforced by condition forming part of the recommendation.

25.3 Building Code of Australia

The proposal is required to comply with the relevant provisions of the Building Code of Australia. Compliance with these requirements is enforced by condition forming part of the recommendation.

26. SECTION 94A CONTRIBUTION PLANS

The provisions of *Section 94A* Contribution Plan 2011 also applies to all development in the Woollahra Municipality, including the subject development, which is based on the cost of works.

The contribution under this plan is calculated as follows:

Development Type	Levy (percentage of proposed cost of development)	Cost of works
All developments	1%	\$442,250.00

The total contribution under the provisions of this plan is **\$44,250.00** and is applied as a condition forming part of the recommendation.

27. THE LIKELY IMPACTS OF THE PROPOSAL

S.79C(1)(b) requires the likely impacts of the development (including environmental impacts on both the natural and built environments) and social and economic impacts in the locality to be taken into consideration. The *Addenbrooke* judgments are important documents in assessing the likely impact of the proposal and are referenced where applicable. Following is an assessment of the likely impacts of the current proposal:

27.1 Visual Impacts

Visual impact is the most critical impact of this proposal and is assessed as follows:

- **Planning controls**

The following planning controls make reference to visual impacts:

- Sydney Harbour Regional Environmental Plan 2005 – Clauses 2(1) and (2); 17(2) Zone W5 Objectives (d) and (g); 25; 26 and 27.
- Sydney Harbour Development Control Plan 2005 – Clauses 3.2; 3.4; 4.2; 4.7 and Appendix D (How to undertake a visual impact assessment for Marinas).
- Woollahra Local Environmental Plan – Part 1 Clause 2(h).
- Woollahra Residential Development Control Plan 2003 – Objective O 4.5.7

These planning controls have been used in conjunction with the *Addenbrooke* judgments and the planning principle established in assessing view impacts from public places.

- **Addenbrooke judgments**

The *Addenbrooke* judgments contain detailed discussions on the assessment of visual impact concerning the redevelopment of the Point Piper and Rose Bay Marinas. Some of the comments under *visual impact* in the *Addenbrooke* judgment relating to the Point Piper redevelopment are:

Paragraph 66:

“...the proposed Point Piper Marina will not have an unreasonable visual impact. The impact of the proposed Point Piper Marina on views from the public domain will generally be mitigated. It replaces an existing marina. It is viewed from the south against the backdrop of the Royal Motor Yacht Club. It is viewed from the east against the backdrop of Point Piper and is partly shielded by Rose Bay Marina. It represents a relatively modest increase in size. The Royal Motor Yacht Club does impact on views from the public domain but, in my opinion, the proposed Point Piper Marina will not unreasonably exacerbate this impact. The proposed development will, however, impact on views from Wunulla Road.”

Paragraph 94:

“...Point Piper Marina is relatively modest and is buried visually in the shadow of the existing structure and the Point Piper backdrop.”

The *Addenbrooke* judgment makes a number of comments on the visual impact of swing moorings.

Paragraph 70:

“...swing moorings are characteristic of Rose Bay and an important and pleasant part of the view...”

Paragraph 110:

“...In addition, the proposal removes the swing moorings within the navigation channel to provide uninterrupted views of the harbour from the beach. While this can be viewed as a positive feature, the existing view with the boats on swing moorings is characteristic of Rose Bay and does not offend the view from the beach...”

In the *Addenbrooke 2* judgment relating to the previous Point Piper development approved by Biscoe J, the following comments are relevant to the current scheme in relation to the reduction of swing moorings to fixed berths:

Paragraph 54:

“...The change in proportions is justifiable in terms of the trend towards larger boats and more power boats identified in the Boat Storage Policy and the substantial proportion of vacant swing moorings at the current...Marinas. ...The reduction in swing moorings is not, in itself, a reason for refusal.”

Paragraph 140:

“...Having regard to the location, beauty, character and public significance of Rose Bay...as well as the potential impact on the public and private domain...it is appropriate to impose a height limit for berthed boats. ...views from the shore are less sensitive to...height.”

- **Public views**

In *Rose Bay Marina Pty Ltd v Woollahra Council [2013]* the Court set out a Planning Principle for assessing view impacts from the public domain. There are five steps that have been summarised and applied to the subject proposal as follows:

i) *The nature and scope of the existing views from the public domain*

The existing public view is of Sydney Harbour and Rose Bay that includes its headlands, Shark Island and the north shore of Sydney Harbour in the background. The existing Marinas and the swing moorings form part of this existing view.

ii) *Identify locations in the public domain from which potential interrupted view is enjoyed*

In *Addenbrooke* judgment, Paragraph 133 it states “...**Apart from Rose Bay Beach** ...the impact of the Point Piper Marina, alone or in conjunction with the Rose Bay Marina, on publicly accessible locations, including adjoining roads and footpaths, is insufficient to refuse the application.”

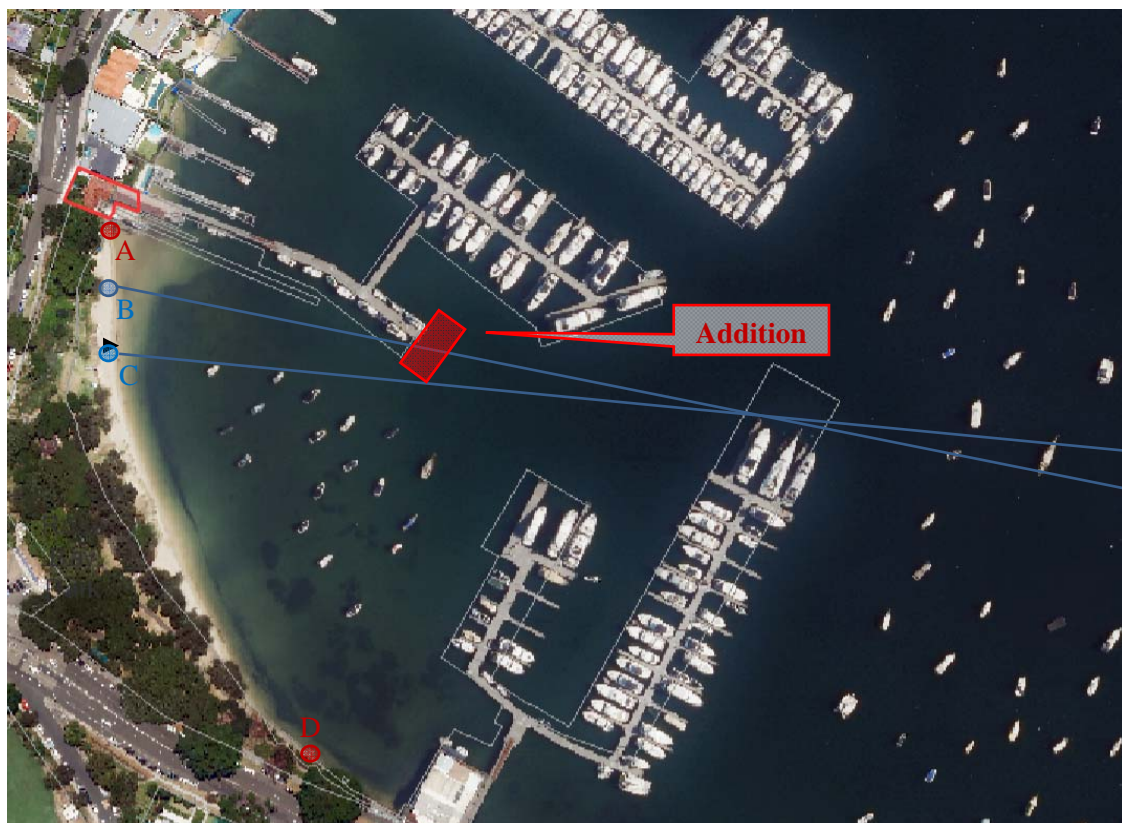
Given the nature of the topography surrounding Point Piper Marina, the only public area that has an interrupted view by the proposed development is from Rose Bay Park and its beach.

An existing and proposed view from a central location on the beach as provided by the applicant is depicted in the following photographs:



iii) *Extent of obstruction in each location*

The following photograph has been marked and details the existing interrupted and uninterrupted line of sight from the beach as a result of the new berths. The relevance of the term uninterrupted refers to a clear line of sight to distant views provided between the existing Marinas.



Aerial Photo of Rose Bay Beach (2014)

The length of the entire beach is 255m measured from Point A to D.

- Existing interrupted view is 29m (A – B) or 11% of the beach
- *Additional interrupted view is 29m (B – C) or 11% of the beach*
- Total interrupted view is 58m (A – C) or 22% of the beach
- Total uninterrupted view is 197m (C – D) or 78% of the beach

Of relevance is a current s.96 Application that seeks to modify DA 682/2008/3 that relates to the Rose Bay Marina. The modification seeks to increase the length of the berths from 30m to 37m. The berths are those located where the sight lines for points B and C intersect on the above photograph. Should Council approve this s.96 Application, the extent of uninterrupted view from the Rose Bay Park Beach will be reduced.

iv) *Identify intensity of public use of those locations where that enjoyment will be obscured*

The intensity of use of the beach is seasonal and varies depending on weather conditions.

v) *Documentation that identifies the importance of the view*

The importance of Sydney Harbour and the Rose Bay Promenade have been identified and listed in this report. Rose Bay Park and its beach forms part of Sydney Harbour.

Conclusion:

In the *Addenbrooke 2* judgment, J Biscoe states in paragraph 132: “...*Given the creation of a clear channel between the proposed marinas, I consider that the visual impact on Rose Bay beach would be acceptable...and a height limit imposed for berthed boats.*”

The existing Marinas currently hinder a clear line of sight from Rose Bay Park Beach at its northern end. The proposal further reduces this clear line of sight though the additional impact is minimal in context to the overall view afforded from the beach.

The applicant has proposed a 3m height limit be applied to all vessels in the new berths.

Based on the above and subject to a condition restricting the height of vessels in the new berths, the extent of additional view impact is not considered significant to warrant refusal of the application.

• Private Views

The *Addenbrooke* judgment at paragraph 66 in part states “...*The proposal will, however, impact on views from properties in Wunulla Road.*”

The *Addenbrooke 2* judgment at paragraph 124 in part states “...*The visual experts’ assessment of the impacts on views...and my own assessment (assisted by my inspection) are:*

- a) *5A wunulla Road*
- b) *7 Wunulla Road*
- c) *9 Wunulla Road*
- d) *11 Wunulla Road*
- e) *15 Wunulla Road*

In assessing view impacts, a planning principle from the Land & Environment Court in *Tenacity Consulting Pty Ltd V Warringah Council (2004)* adopted a four-step assessment of view sharing. These steps are applied and limited to the above properties only, as these are the private properties that the Court acknowledged as most affected:

i) *What is the value of the view?*

The views afforded to the private residences are similar to those offered to the public but from an alternate viewing position. The views encompass Sydney Harbour and Rose Bay that includes its headlands, Shark Island and the north shore of Sydney Harbour in the background. The existing Marinas and the swing moorings form part of this view.

ii) *From what part of the property the views are obtained?*

These properties slope steeply from the street to the shoreline. The residences generally have their ground floor at street level with levels above and below. The main living areas are elevated above the waterway sufficiently so that views over boats moored on the existing Marina will be available. Views of the waterway, Lyne Park, Rose Bay east and the Vaucluse hillside from the ridge line to the shoreline will remain available.

Towards their water frontages the properties have yard areas retained by sea walls, some incorporating swimming pools. Most of these properties also have their own boat storage facilities in the form of boat houses and private jetties.

The views offered to these residential properties vary from the lower ground floor level to the upper elevated levels. The type of view afforded from the upper level of these properties is depicted in the following photograph:



Photo: Real Estate.com.au of No.7 Wunulla Road (upper level)

The type of view afforded from the lower level of these properties is depicted in the following photographs. The photographs have been provided by the applicant and include a photomontage of the proposal from the most affected residence, being No.5A Wunulla Road immediately adjoining the Marina to the north:



iii) *What is the extent of the impact?*

Given that these residences have direct harbor frontage and have their primary living and outdoor areas orientated towards the Harbour on all levels, the extent of impact is minor.

iv) *What is the reasonableness of the proposal that is causing the impact?*

In the *Addenbrooke 2* judgment, paragraph 122 states in part:

“...The walkway is relocated 40m further to the east. The relocation of the tender berth, work berth, and causal berth to the southern side of the arm significantly improves their aspect, particularly No.5A and 7. ...The boats on the southern arm are bow to shore...The importance of these changes should not be underestimated, particularly when coupled with, first, the opening up of the view to the south east...and, secondly, the height limit condition...”

The critical elements in this judgment are a culmination of issues and include:

- Orientation of the vessels (ie. Parallel with the walkway)
- No vessels moored on the link between Arm A and B (Conditioned)
- The limitation on the height of vessels (Conditioned)

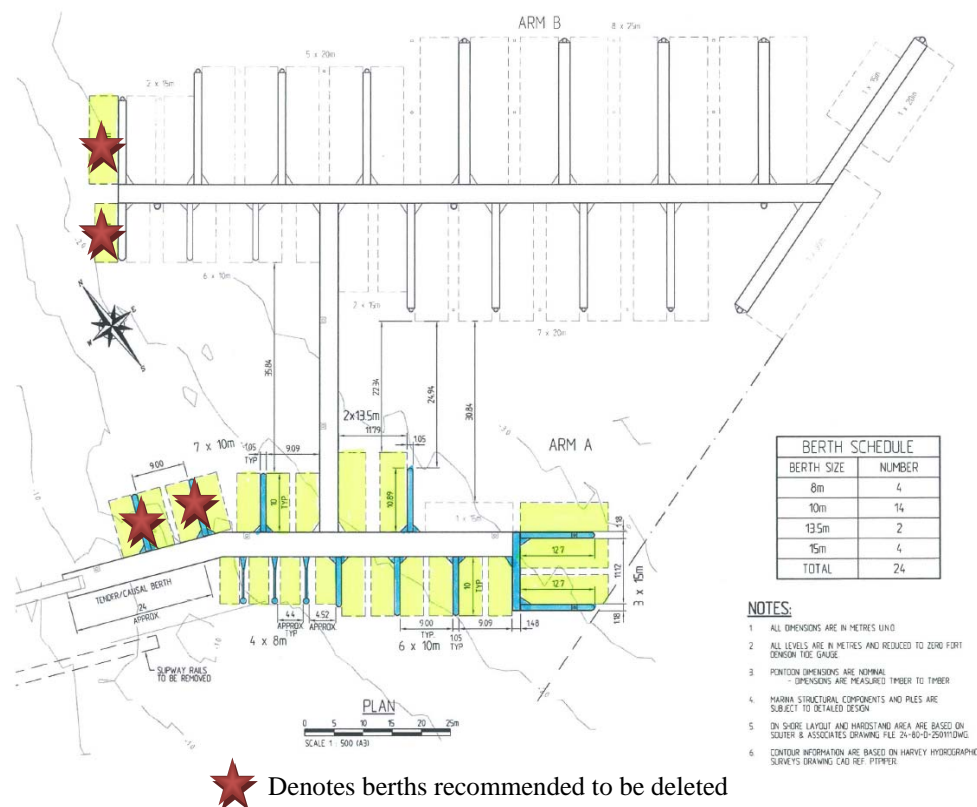
The proposal will result in a loss of view between to the arms of the Marina from the lowest level of No.5A Wunulla Road which is contrary to the critical elements referred to in the *Addenbrooke 2* judgment. However, any loss of land/water interface views afforded between the arms of the Marina is compensated by the removal of the existing building with additional views afforded to the east (see photomontage above).

The considerations and conditions in the *Addenbrooke 2* judgment provided an improved view outlook from the lower level of the residences and a clear delineated channel between the commercial marina and the private jetties.

Having regard to the judgment, the extent of view affectation on adjoining private properties from Wunulla Road is not such as to justify outright refusal of the DA.

However, the proposed additional berths expand this existing commercial marina and in particular its proximity to the boundaries and private jetties of the Wunulla Road residences. The narrowing or reduction of the channels that delineates the commercial and private moorings is not supported. The outlook from the lower levels of the subject residences, and in particular No.5A Wunulla Road, has the greatest impact. The new berths, particularly on the western end of the northern side of Arm A as depicted in the photomontage above, diminish any separation between the private jetty and the Marina. It is the combination of the vessels in the new berths and the existing arm of the Marina that causes the greatest impact on No.5A by removing view of the water.

On this basis, it is recommended the 6 closest berths to the Wunulla Road residents be deleted as depicted in the following drawing:



Subject to a condition deleting the highlighted berths and the applicants proposed 3m height limit on all vessels in the new berths, the proposal satisfies the established planning principle and does not result in an unreasonable impact on the views from private residences.

The conditions imposed in the *Addenbrooke 2* judgment, being restriction of moorings on the link between Arm A and B and the applicants proposed height of vessels, form part of the recommendation (see **Conditions C.2, I.8 and I.12**).

The resultant additional benefits by imposing the recommended conditions are:

- Reduced parking demand
- Improved foreshore access for smaller craft
- Improved and safer access for navigation
- Improved and safer access to nearby private jetties

27.2 Land owner's consent

NSW Transport Roads & Maritime Services has granted land owner's consent for the proposal on 20 August 2014. The written consent includes stamped copies of plans that are identical to those that form the basis of this assessment report.

27.3 Aural and Visual Privacy

Aural and visual privacy is a specific concern in relation to 5 properties immediately adjoining and to the north of the marina on Wunulla Road, being those assessed for views impact. This is because the main walkway adjoins the southern side boundary of No.5A Wunulla Road and extends across the front of these identified properties.

This assessment has regard to the submitted information, which includes joint expert's reports pertaining to the *Addenbrooke* appeal, a detailed Environmental Management Plan and in particular appendix D which is a Noise Management Plan.

The potential privacy implications are not considered to be unreasonable on these affected properties for the following reasons:

- Subject to recommended **Condition C.2**, the existing separation between berths and the dwellings is consistent with the existing separation and maintained at or above 90m.
- The existing commercial marina is retained.
- No change is proposed to the approved hours of use of the existing Marina or access hours for the boat owners.
- No change is proposed to the size of the existing arms of the Marina where the existing and new berths are attached.
- There are screens proposed around the kayak storage area to mitigate privacy and visual impacts to the immediately adjoining and most affect residence.
- The Wunulla Road properties are currently overlooked from the existing Marina, particularly those closest to the existing facility, and from boats that may use this section of the waterway
- The *Addenbrooke 2* judgment imposed conditions of consent to mitigate impacts on the amenity of adjoining residents and these conditions have been reapplied and form part of the recommendation (see **Conditions D.9, E.17, E.18 and I.1 - 14**).
- Council's Environmental Health Officer raised no issue with the acoustic implications associated with this proposal
- The Noise Management Plan is similar to that imposed by condition in the *Addenbrooke 2* judgment and includes reference to boat owners code of conduct and rules and responsibilities (see **Condition I.7, I.11**)
- The acoustic and visual privacy conditions will be similar to that currently experienced

27.4 Ecology

A Seagrass Distribution Survey by Marine Pollution Research Pty Ltd dated 17 March 2014 provides an updated review of:

- Possible threatened species
- Present distribution of marine vegetation habitats around the Marina
- Assessment Impact against updated Fisheries NSW *Habitat Protection Guidelines* (Fisheries NSW 2013)

The Department of Primary Industries (Fisheries NSW) is an integrated approval body for the development. The EIS and the above referenced Survey were referred to the DPI who raised no objection to the proposal subject to general terms of approval. These general terms of approval are included in the recommendation (see **Condition A.5**).

The Survey references the relevant State and Federal legislation, being:

- *Threatened Species Conservation Act 1995 (TSC)*
- *Fisheries Management Act 1994 (FMA)*
- *Environment Protection and Biodiversity Conservation Act 1999 (EPBC)*
- *Fisheries NSW Policy and Guidelines (Fisheries NSW 2013)*

The Survey states that a Part 7 permit under the FMA for construction is unlikely to be required.

The Survey concludes that the proposal...*would not result in the any direct or indirect losses of aquatic habitat and organisms and would satisfy the requirement of Section 7.1 of the Fisheries NSW Policy and Guidelines (Fisheries NSW 2013) that there must be no net loss of fish habitat...*

...The project would satisfy the aquatic ecology conservation requirements of the SREP (Sydney Harbour Catchment 2005) and the aquatic ecological and fish habitat conservation requirements of the Fisheries Management Act 1994 (FMA) as set out in the NSW Fisheries Policy and Guidelines (NSW Fisheries 2013).

The Survey does reference mitigation measures which are adopted as part of the recommendation (see **Condition D.9, E.17, E.18 and I.7**).

Site Audit Report/Environmental Health Officer's comments

A Site Audit Report prepared by Environ Australia Pty Ltd and dated November 2007 has been submitted and was used in the *Addenbrooke* judgments. The EIS includes a letter dated 31 July 2014 from Greg Britton, Resident Director of Royal HaskoningDHV, a suitably qualified expert, which states *...the audit report remains relevant since the sediment characteristics would not have changed... and since operation of the proposed Point Piper Marina extension would fall within the approved EMP.*

The site audit concludes *...that remnant contamination is not considered to pose an unacceptable risk to onsite or offsite environments.*

The SHREP, cl.21 contains matters to be taken into consideration in relation to biodiversity, ecology and environment protection. These include:

- (b) *Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*

There are specific matters for consideration in part 6 of the SHREP for development within a wetlands protection area. These include cl.63(2)(b)(i):

- (b) *The environmental effects of the development, including effects on:*
 - (i) *The growth of native plant communities,*

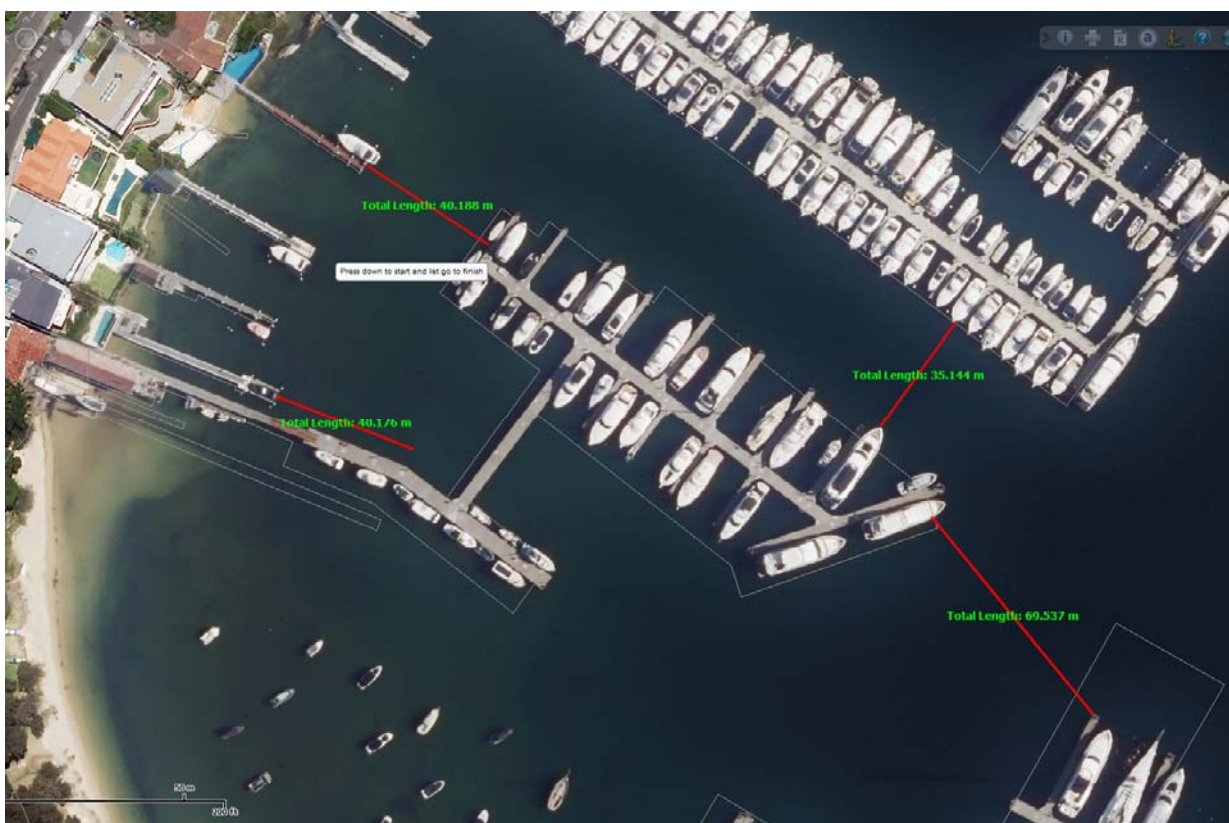
Based on the findings of the Site Audit Report, as reviewed by Council's Environmental Health Officer and Greg Britton, Resident Director of Royal HaskoningDHV a suitably qualified expert, it is considered that the ecological impacts of the proposal will, subject to appropriate conditions, be acceptable.

27.5 Navigation

A Vessel Navigation Report by Worley Parsons dated October 2008 was submitted as part of the EIS and was used in the *Addenbrooke* judgments. The submitted report makes the following statement in relation to the Rose Bay and Point Piper Marina combined:

"...There is no significant potential for cumulative navigation impacts to occur beyond those for each of the two marinas in isolation. This is because the only consequence of both marinas proceeding is a redistribution of the licensing of the commercial swing moorings between the two marinas, no physical action that could further affect navigation would occur."

Recommended Condition C.2 requires the deletion of the 6 berths nearest the Wunulla Road residents. This condition also assists safe vessel navigation by allowing consistent and adequate separation between the marina and the private jetties as evidenced in the following photograph:



In the *Addenbrooke* judgment, Biscoe J after reviewing the specialist report states in Paragraph 170 in relation to navigation and safety:

"...a plan of management, including code of conduct, should be finalised prior to any approval of an application such as this to ensure that the measures required to ensure navigation safety and mitigate conflict are reasonably achieved..."

A Plan of Management has been approved for the site and continues to apply to the proposal. The Plan of Management forms part of the documentation submitted and is referenced in the supporting documentation (see **Condition A.3**).

The addendum to the EIS includes letters dated 15 April and 31 July 2014 from Greg Britton, Resident Director of Royal HaskoningDHV, a suitably qualified expert, which states “...*There has been no material change to the use of the bay or the navigation requirements. Given this, the report and its conclusions and recommendations are still current and have been taken into account in the operation of the new marinas.*”

The proposal is acceptable with regard to navigation matters.

27.6 General

All other likely impacts have been addressed elsewhere in the report or are relatively minor and are satisfactory and do not warrant any further consideration.

28. THE SUITABILITY OF THE SITE

A Site Audit Report has been prepared by Environ dated November 2007. This report states that the site is suitable for use as a marina subject to the implementation of the EMP. The area to be developed has a history of marina and boat storage use and marinas are a permissible use under the SHREP zoning, i.e. W5 – Water Recreation.

It is concluded that the site is suitable for the proposed extended use of the Marina.

29. THE PUBLIC INTEREST

In the Land & Environment Court judgement, *Double Bay Marina v Woollahra Council [2009] NSWLEC 1001*, (Double Bay Marina) Roseth SC set out a planning principle for discerning the public interest. Although the planning principle was intended to apply to the assessment of all DAs, it is particularly relevant to this proposal as it also related to a proposed marina redevelopment.

It is noted that the planning principle set out in the *Double Bay Marina* judgement has not been adopted by the Land & Environment Court as a planning principle. Nevertheless, the judgement does set out a methodology for assessing public interest that is considered to be of some relevance. The *Double Bay Marina* judgement sets out steps for discerning the public interest in the assessment of a development proposal as follows:

Who is the public?

Applying the Senior Commissioner’s approach to the current proposal, the public is the users of the nearby public domain areas.

What is the benefit/detriment?

In the *Double Bay Marina* judgement the proposed marina facilities *serves a private rather than a public interest*. The public and private interests in the matter and which relate to the current proposal are summarised as:

- *view loss from the public domain - a public detriment;*
- *improved facilities accessible by the public - a public benefit;*
- *the significant loss of views to dwellings - a private detriment;*
- *improved mooring facilities - a private benefit.*

Weighing up the public interest

In the *Double Bay Marina* judgement the Senior Commissioner's view is that *the public interest overrides the private interest.*

Quantifying the benefits and disbenefits of the public interest in the Double Bay marina, the words of Roseth SC are prudent ...*there is no option for the decision-maker but to make a subjective choice...*

In relation to the subject proposal, the use of the Marina is not expanded but altered by replacing swing moorings with equal number of berths attached to its existing arms. The public disbenefit associated with loss of visual amenity from the public domain is minimal given the context of the Marina in its surrounds and the limited view impact from the public domain.

However, the removal of swing moorings may provide a public benefit by allowing a wider and expanded use of Rose Bay Park and the associated beach as well as improving views from the beach. The removal of the swing moorings also provides an ecological benefit to the seagrass and marine life in the locality. The expanded Marina also provides benefits to people with disabilities.

The private benefits to boat owners through improved boating facilities is of equal weight to the private disbenefit in terms of loss of amenity and primarily views, to the identified Wunulla Road residents. The view impacts are at their worst, minor, and subject to condition, are acceptable.

Conclusion

The public and private disbenefits in terms of visual impacts are not considered to be of sufficient weight to justify refusal of the DA or to conclude that the proposal is not in the public interest.

30. ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

Section 5(a)(vii) of the EPA Act provides that an objective of the Act is to encourage ESD. Under s.79C(1)(e) of the EPA Act consideration of the public interest is required if it is relevant to the development.

There are a number of Land & Environment Court cases involving ESD principles. *BGP Properties Pty Limited v Lake Macquarie City Council [2004] NSWLEC399 (12 August 2004)* and *Telstra Corporation v Hornsby Shire Council [2006] NSWLEC 133* are among those more frequently referenced. These judgements explain the concept of the precautionary principle, its constituent elements and an analytical framework for its application, including in NSW environmental and planning laws.

Mandatory issues for an EIS are included in schedule 2 of the EPA Reg. They include reasons justifying the development. Each of the ESD principles is discussed below.

30.1 Precautionary principle

Meaning

This means if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Comment

Based on the various scientific documents used to assess the environmental impacts of the proposal, the proposal does not pose a serious threat or irreversible environmental damage. Precautions to avoid environmental damage can effectively be implemented through the imposition of consent conditions.

30.2 Inter-generational equity

Meaning

This means that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.

Comment

The proposal will continue the historical use of west Rose Bay for marina purposes. It has been concluded that biological impacts are either satisfactory or manageable. The change in the aesthetic qualities of Rose Bay is minimal. The development ensures that the environment of Rose Bay is maintained or enhanced for the benefit of future generations.

Inter-generational principles are considered to be satisfactory.

30.3 Conservation of biological diversity and ecological integrity

Meaning

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

Comment

The impacts on flora and fauna will be minimal and in some cases positive. The proposal will conserve and enhance biological diversity and ecological integrity through provision of additional habitat (on floating marine pontoons) and reduced seagrass damage through the removal of swing moorings.

30.4 Improved valuation, pricing and incentive mechanisms

Meaning

Environmental factors should be included in the valuation of assets and services, e.g. polluter pays. Environmental goals should be pursued in the most cost effective way.

Comment

Pricing mechanisms in relation to matters such as waste disposal, electrical power and fuel consumption factor environmental levies. The cost of managing environmental protection can be transferred to the applicant through consent conditions.

30.5 Conclusion

The proposal is considered to be satisfactory when assessed against the principles of ESD.

31. GLOBAL WARMING

The EIS includes a report, *Analysis of greenhouse gas emissions*, by Hyder Consulting, dated 1 October 2008.

The report summary states that the emissions associated with the existing and proposed facility are *minor in the context of both global and Australian emissions*.

The proposal is considered to be acceptable in terms of global warming.

32. CONCLUSION

The principle planning instrument for the assessment of this proposed development is the SHREP.

This report finds that the current proposal is consistent with the SHREP with the exception of visual impact which can be addressed through the grant of a conditional consent that requires the removal of 6 berths and limitation to the height of vessels in the new berths.

It is concluded that the proposed development, subject to conditions, satisfies the objectives of those controls and is an appropriate development for the site.

33. DISCLOSURE STATEMENTS

Under S.147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

34. RECOMMENDATION: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Joint Regional Planning Panel, as the consent authority, grant development consent to Development Application No. 282/2014 for alterations and extensions to existing Point Piper Marina including the installation of a new access deck, kayak storage and ramp, replacement of 24 existing swing moorings to the north of Rose Bay Park and beach with 22 berths on Arm A (4 x 8m berths, 13 x 10m berths, 2 x 13.5m berths and 3 x 15m berths) and 2 berths on Arm B (1 x 10m berth and 1 x 15m berth); new casual berthing area to Arm A on land at 5 Wunulla Road Point Piper, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning and Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 79C of the Act.

Standard Condition: A1

A.2 Definitions

Unless specified otherwise words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this Consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs published by the Southern Sydney Regional Organisation of Councils).

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

PCA means the *Principal Certifying Authority* under the *Act*.

Principal Contractor has the same meaning as in the *Act* or where a *principal contractor* has not been appointed by the *owner* of the land being developed *Principal Contractor* means the *owner* of the land being developed.

Professional Engineer has the same meaning as in the *BCA*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same mean as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

WLEP 1995 means *Woollahra Local Environmental Plan 1995*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,

- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: Interpretation of Conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
4506-01/B	Preliminary layout Plan	International Marina Consultants	19.11.2013
4506-02/D	Kayak Storage and decking Plan	International Marina Consultants	31.07.2014
4506-03/A	Marina Layout & Moorings Plan	International Marina Consultants	25.03.2014
9398200_3	Environmental Management Plan	Advanced Marina Management Pty Ltd	05.11.2009
9435370_1	Construction Management Plan		Sept 2008
AS120699	Site Audit Report	Environ Australia Pty Ltd	08.11.2007
	Environmental Impact Statement Heritage Issues	Noel, Bell Ridley & Smith & Partners Architects	18.09.2008
Letter	Update of Reports	Haskoning Australia	31.07.2014
13566	Environmental Impact Statement	JBA Urban Planning Consultants Pty Ltd	July 2014
MPR1032 02/14 Version 3a	Seagrass Distribution Survey	Marine Pollution Research Pty Ltd	17.03.2014
5635-10	Vessel Navigation Report	Worley Parsons	Oct 2008
Issue No.1	Sediment Sampling & Testing	Patterson Britton & Partners	May 2006

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

A.4 Ancillary Aspect of the Development (s80A(2) of the Act)

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's “Specification for Roadworks, Drainage and Miscellaneous Works” dated February 2012 unless expressly provided otherwise by these conditions at the *owner's* expense.

Note: This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8

A.5 General Terms of Approval – Fisheries Management Act 1994 (FM Act)

The following general terms of approval have been imposed by the NSW Department of Primary Industries:

- a) The proponent must apply for and obtain a Part 7 permit to harm marine vegetation under the FM Act from Fisheries NSW **prior to any works on site**. This permit is for the likely harm of *Zostera* seagrass habitat from shading. Permit application forms are available from the Fisheries NSW Website at:
<http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>; and,
- b) Environmental safeguards (silt curtains, booms etc) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms; and,
- c) All other relevant authorities have no objection to this proposal.

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Note: Should you have any questions relating to this condition please contact Aquatic Ecosystems Unit, Fisheries NSW, Locked Bag 1, Nelson Bay, NSW 2315.
Standard Condition: A10

A.6 General Terms of Approval – Water Management Act 2000 (WM Act)

The following general terms of approval have been imposed by the NSW Department of Primary Industries Officer of Water:

- a) These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2014/282 and provided by Council:
 - (i) Site plan, map and/or surveys
Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
- b) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the foreshore identified.
- c) The consent holder must prepare or commission the preparation of:
 - (i) Erosion and Sediment Control Plan
 - (ii) Soil and Water Management Plan
- d) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
- e) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
- f) The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

- g) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
- h) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

Note: These conditions have not been imposed by Council but are required to be incorporated as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Note: See Section K – Advising of this consent titled *NSW Department of Primary Industries – Office of Water*, for additional information and requirements.

A.7 Making Good Damage to Park and Infrastructure

The applicant must repair or meet the cost of making good any damage to Rose Bay Park and Council's infrastructure, as a consequence of the activities associated with this consent.

A.8 Protection of Parkland

An Erosion and Sediment Control Plan must be implemented during construction to ensure that material does not migrate off-site into Rose Bay Park and the Harbour foreshore.

Note: See Condition D.4 of this consent titled *Erosion and Sediment Controls – Installation* and Condition E.9 of this consent titled *Erosion and Sediment Controls – Maintenance* for additional information and requirements.

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Construction Certificate required prior to any demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 81A(2) of the Act. In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1

B.2 Identification of Hazardous Material

In accordance with Australian Standard AS2601- 'The Demolition of Structures' the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing;

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.
Standard Condition: B6

B.3 Access through Public Open Space

Access to the Point Piper Marina from the adjoining Rose Bay Park will not be permitted unless prior written approval has been obtained by Council's Open Space & Tree Department. An application must be submitted for assessment with a minimum of four weeks prior notice to the commencement of works. It must be approved by Council before any construction access is granted.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Controlled Activity Approval – Department of Primary Industries Office of Water

The Construction Certificate must not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been submitted to Council.

Note: This condition has not been imposed by Council but is required to be incorporate as conditions of development consent.

C.2 Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) The 2 berths located to the western end of Arm B (ie 1 x10m and 1 x 15m) and the 4 berths located on the western end and northern side of Arm A (ie 4 x 10m) shall be deleted.
- b) To assist with the safe navigation of vessels at night additional lighting shall be installed within the marina that is such a colour, direction or intensity that will minimise visual confusion to passing vessels. This lighting shall also be designed to prevent and or minimise intrusion to nearby residential properties.
- c) To minimise the visual impact of the proposed extended Marina the height of vessels in all the new berths as depicted in Drawing No.4506-01/B referenced in Condition A.3 above, shall be limited to a maximum height of 3 metres (Note: The height of the vessel is measured from the waterline to the top of the superstructure of the vessel, but excluding any antennas to motor boats or masts to yachts or the like).
- d) To protect the safety of vessels a large sign distinctly visible from all approaches shall be erected on the southern arm of the Marina to inform boat users of the 15 metre limitation of use of the casual, fuel and slipway holding berths.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

Standard Condition: C4

C.3 Payment of Long Service Levy, Security, Contributions and Fees

The certifying authority must not issue any *Part 4A Certificate* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a *construction certificate, subdivision certificate or occupation certificate*, as will apply.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$11,075.00	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au .			
Development Levy (Section 94A)	\$44,225.00 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under Section 608 of the Local Government Act 1993			
Security Administration Fee	\$185.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$55,485.00 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The Long Service Levy under Section 34 of the *Building and Construction Industry Long Service Payment Act*, 1986, must be paid and proof of payment provided to the *Certifying Authority* prior to the issue of any *Construction Certificate*. The Levy can be paid directly to the Long Services Payments Corporation or to Council. Further information can be obtained from the Long Service Payments Corporation's website <http://www.longservice.nsw.gov.au/> or the Long Service Payments Corporation on 13 14 41.

How must the payments be made?

Payments must be made by:

- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

Please contact our customer service officers. Failure to correctly calculate the adjusted development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

Deferred or periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2011

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- The reasons given;
- Whether any prejudice will be caused to the community deriving benefit from the public facilities;
- Whether any prejudice will be caused to the efficacy and operation of the plan; and
- Whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.4 Checking Construction Certificate plans & protecting assets owned by the Sydney Water

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and any further requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – see Building and Development then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Development then Building and Renovating

Note: Further information can be obtained from the Sydney Water Corporation by visiting their web site:
<http://www.sydneywater.com.au> or telephone 13 20 92.
Standard Condition: C24

C.5 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Note: This does not affect the right of the developer to seek staged Construction Certificates.
Standard Condition: C36

C.6 Stormwater Discharge to Harbour (Clause 25(2) WLEP 1995)

The developer must obtain written approval from the NSW Maritime Authority to discharge stormwater from the subject property directly into Sydney Harbour.

Standard Condition: C50

C.7 Storage of building material in Public Open Space

Building, excavation or demolition material and plant must not be stored on Council's public open space (Rose Bay Park) unless prior written approval has been obtained by Council's Open Space & Trees Department.

C.8 Provision for Energy Supplies

The applicant is required to make a formal submission to Ausgrid by duly completing a Preliminary Enquiry and/or Connection Application Form to assess any impacts on its infrastructure and determine the electrical supply requirements for the development.

The developer is to ensure that the proposed works do not compromise Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia

For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) That the work must be carried out in accordance with the requirements of the Building Code of Australia.

This condition does not apply:

- a) to the extent to which an exemption is in force under *the Home Building Regulation 2004*,
- b) to the erection of a temporary building.

In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

D.2 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan is to be submitted to Council. Also, due to the lack of on-street parking a Work Zone may be required during construction.

A construction management plan must be submitted and approved by Council's Development Engineer. The plan must:-

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
 - Local traffic routes
 - Pedestrian circulation adjacent to the building site
 - On-street parking in the local area
- b) Describe the means proposed to:
 - Manage construction works to minimise such impacts,
 - Provide for the standing of vehicles during construction,
 - Provide for the movement of trucks to and from the site, and deliveries to the site
- c) Show the location of:
 - Any site sheds and any anticipated use of cranes and concrete pumps,
 - Any areas of Council property on which it is proposed to install a Works Zone (Construction Zone)
 - Structures to be erected such as hoardings, scaffolding or shoring
 - Any excavation
- d) Describe the excavation impact on the area including
 - Number and types of trucks to be used
 - Time frame
 - Streets to be used
 - Routes to be taken
 - Directions of travel
 - Truck storage areas
 - It is recommended that vehicle routes be shared

- e) Protect Trees, Bushland and Public Open Space:
- Show the location of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.
 - The storage of building materials in or access through the Rose Bay Park Reserve will not be permitted without prior approval by Council.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9

D.3 Works (Construction) Zone – Approval & Implementation

A works zone is required for this development. The *principal contractor* or *owner* must apply for a works zone. If the works zone is approved the *principal contractor* or *owner* must pay all fees for and implement the required works zone before commencement of any work.

The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a works zone. All works zone signs must have been erected by Council to permit enforcement of the works zone by Rangers and Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10

D.4 Site Signs

The *Principal Contractor* or *owner builder* must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision 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 principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws."

Clause 227A of the Regulation provides:

Signs on development sites

If there is a person who is the PCA or the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.

Standard Condition: D12

D.5 Toilet Facilities

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. Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- d) 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 in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with Workcover NSW requirements.
Standard Condition: D13

D.6 Erosion and Sediment Controls – Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The *Soil and Water Management Plan* if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (‘The Blue Book’).

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be down loaded free of charge from www.woollahra.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14

D.7 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - Appointed a principal certifying authority for the building work, and
 - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the principal certifying authority has, no later than 2 days before the building work commences:
 - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- 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
 - Notified the principal certifying authority of any such appointment, and
 - 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
 - Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 109H of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website www.woollahra.nsw.gov.au.

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.

Standard Condition: D15

D.8 Establishment of boundary location, building location and datum

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying Act* 2002 sets out:

- a) the boundaries of the *site* by permanent marks (including permanent recovery points);
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum ("AHD") in compliance with the approved plans;
- c) establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

Note: Where the *principal contractor* or *owner builder* notes any discrepancy between the approved development consent and the *Construction Certificate*, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the *principal contractor* or *owner builder* should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

Standard Condition: D18

D.9 Caulerpa taxifolia

During the construction phase, physical disturbance to known areas of seagrasses and *Caulerpa taxifolia* in the development footprint shall be avoided wherever possible.

Prior to construction, areas of seagrass and *Caulerpa taxifolia* are to be mapped accurately, marked with buoys and identified to all construction staff. These measures are to be audited by NSW Department of Primary Industries (Fisheries) or a nominee agreed to by the person who has the benefit of the consent, NSW Department of Primary Industries (Fisheries) and Woollahra Council.

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia

For the purposes of section 80A (11) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) That the work must be carried out in accordance with the requirements of the Building Code of Australia,

This condition does not apply:

- a) To the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the Regulation, or
- b) To the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

Standard Condition: E2

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3

E.4 Requirement to notify about new evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifying Authority. Standard Condition: E4

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *Critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the PCA and any PCA Service Agreement.

Note: The PCA may require inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5

E.6 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - i) Piling;
 - ii) Piering;
 - iii) Rock or concrete cutting, boring or drilling;
 - iv) Rock breaking;
 - v) Rock sawing;
 - vi) Jack hammering; or
 - vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Note: EPA Guidelines can be down loaded from <http://www.epa.nsw.gov.au/noise/nglg.htm> .

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.7 Public Footpaths – Safety, Access and Maintenance

The *principal contractor* or *owner builder* and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. Any road closure requires Police approval.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.”
- Part E Public roads:
 - a. 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
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”

- c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.
Standard Condition: E7

E.8 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

Note: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.
Standard Condition: E11

E.9 Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition (“*The Blue Book*”).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
Standard Condition: E15

E.10 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act* 1993;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act* 1997, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17

E.11 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act* 1993 to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation* 1999.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21

E.12 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation* 2000 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22

E.13 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.

- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “Dust Control - Do it right on site” can be down loaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and

www.epa.nsw.gov.au . Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.14 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- c) Provide separate collection bins and/or areas for the storage of residual waste
- d) Clearly ‘signpost’ the purpose and content of the bins and/or storage areas
- e) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- f) Minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31

E.15 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work

- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly 'signpost' the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation
- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW

Standard Condition: E32

E.16 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "*Code of Practice for the Safe Removal of Asbestos*",
- No asbestos products may be reused on the site
- No asbestos laden skip or bins shall be left in any public place

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

E.17 Inspection of the Seabed

Any existing marina structures, including those associated with swing moorings, that are to be removed as a result of the marina development, and the surrounding seabed to a distance of at least 20m, are to be inspected by a suitably qualified marine ecologist for the presence of seagrasses and *Caulerpa taxifolia*.

- a) Any *Zostera* that is likely to be damaged by construction activities shall be transplanted to the edges of adjoining beds of *Zostera* that are not to be disturbed by construction activities.
- b) Where *Caulerpa taxifolia* is identified attached to any existing marina structures or growing on the seabed to a distance of 20m from these structures, it is to be either physically removed, or treated with an appropriate dose of salt to kill the plants. If physical removal is undertaken, all collected plants and plant fragments are to be disposed of within an appropriate refuse tip (details to be provided in the EMPs).

- c) Activities referred to in this condition are to be audited by the NSW Department of Primary Industries (Fisheries) or a nominee agreed to by the person who has the benefit of the consent, NSW Department of Primary Industries (Fisheries) and Woollahra Council. Auditing of referred to in this condition will include assessment of the occurrence of seagrasses and *Caulerpa taxifolia* before, during and after construction.

E.18 Caulerpa Taxifolia

Contractors operating during the construction phase shall inspect all ropes, chains, anchors, anchor wells and other structures for the presence of *Caulerpa taxifolia* before leaving the construction area. Any *Caulerpa taxifolia* found shall be disposed of within an appropriate refuse tip that has been specified by the environmental management plan.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1

F.2 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the *PCA* works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* confirming that the *works*, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*.

Works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

Note: This condition has been imposed to ensure that systems and works as completed meet *development standards* as defined by the *Act*, comply with the *BCA*, comply with this consent and so that a public record of works as execute is maintained.

Note: The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, Development Standards, *BCA*, and relevant *Australia Standards*. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.

Standard Condition: F7

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

Standard Condition: H12

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Storage and handling of flammable and combustible liquids

The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 - *The storage and handling of flammable and combustible liquids*.

Reason: This condition has been imposed to protect public safety.

I.2 Outdoor lighting

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Standard Condition: I50

I.3 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

I.4 Use of casual berthing area

The casual berthing area shall only be used by non-commercial vessels and are not to be used by persons not using marina facilities with the exception of Water Taxis. The casual berthing area shall not be used for berthing of vessels on a permanent basis or overnight.

This condition is imposed with regard to parking, views and visual impacts.

I.5 Noise management plan

The Noise Management Plan which forms Appendix D of the Environmental Management Plan prepared by Advanced Marina Management Pty Ltd and titled Point Piper Marina E.M.P. Environmental Management Plan, November 2009 must be strictly complied with at all times.

This condition is imposed with regard to the amenity of the surrounding residential neighbourhood.

I.6 Use of marina berths – boat lengths

Marina berths are not to be occupied by vessels which exceed the length as shown on the approved plans for each berth.

This condition is imposed to protect the visual amenity of Rose Bay and the amenity of the surrounding residential area.

I.7 Compliance with the Environmental Management Plan

The Marina is to be operated strictly in accordance with the Environmental Management Plan, prepared by Advanced Marina Management Pty Ltd and titled Point Piper Marina E.M.P. Environmental Management Plan, November 2009, including any amendments required to the Environmental Management Plan by the terms of this development consent.

This condition is imposed to protect the environment.

I.8 Use of main walkway

The north/south walkway and the northern side of the east/west tender arm immediately opposite the tender/casual berth shall not be used for the securing, berthing or storage of vessels at any time. No devices for the securing of vessels are to be fixed to the north/south walkway or to the northern side of the east/west tender arm immediately opposite the tender/casual berth. "NO MOORING" signs are to be placed on each arm and walkway to which this condition applies (excludes all new berths subject to these conditions).

This condition is imposed with regard to parking, view, visual impacts and the amenity of residents of neighbouring properties.

I.9 Use of Slipway Holding and Casual Berths

To protect the safety of vessels the marina operator shall not permit vessels greater than 15 metres in length to use the casual, slipway holding unless in an emergency. In addition the marina operator shall ensure that there is adequate clearance under the keel of the vessel equal to 300mm or 10 percent of the vessel draught, whichever is the greater, in accordance with Australian Standard AS3962-2001: Guidelines for Design of Marinas and having regard to wave conditions at the time.

I.10 Use of the Floating Marina Structure

To protect the amenity of surrounding residential properties the floating marina structure shall not be used for recreational activities including fishing, swimming or the like.

I.11 Use of Marina

To protect the amenity of surrounding residential properties the Marina shall not be used by commercial vessels such as charter boats or the like including without limitation, to pick up or drop off passengers as part of charter or commercial boating businesses. This condition does not apply to water taxis.

I.12 Use of marina berths – boat height

To minimise the visual impact of the proposed extended marina the height of vessels in all the new berths as depicted in Drawing No.4506-01/B referenced in Condition A.3 above, shall be limited to a maximum height of 3 metres (Note: The height of the vessel is measured from the waterline to the top of the superstructure of the vessel, but excluding any antennas to motor boats or masts to yachts or the like).

I.13 Sediment disturbance and mobilisation

The risks associated with sediment disturbance and mobilisation of contaminated sediments throughout the construction and subsequent operational phases shall be addressed in accordance with the documents attached to the Environmental Impact Statement accompanying the development application as recommended by Mike Hayter, EPA Accredited Site Auditor (0001). The documents are:

Installation of the Marina, Point Piper Marina, Construction Management Plan for Environmental Management, prepared by Addenbrooke Pty Ltd and dated September 2008

Environmental Management Plan, Point Piper Marina, prepared by Advanced Marina Management Pty Ltd and dated November 2009.

I.14 Information availability

Relevant information prepared by the NSW Department of Primary Industries (Fisheries) on the identification and control of the algae is to be made available to marina customers (i.e. in stands, dispensers and /or posters).

J. Miscellaneous Conditions

Nil.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.
Standard Advising: K1

K.2 Dial before you dig



The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au.

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2

K.3 Commonwealth Disability Discrimination Act 1992 (“DDA”)

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council’s Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>
- b) http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html

If you have any further questions relating to the application of the DDA you can send an email to HEROC at disabdis@humanrights.gov.au.

Standard Advising: K3

K.4 NSW Police Service and Road Closures

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

Warning: If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

K.5 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):

<http://www.dft.nsw.gov.au/building.html> .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

Standard Condition: K5

K.6 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the “Guide to Standards and Tolerances©” ISBN 0 7347 6010 8 are achieved.

The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

The NSW Office of Fair Trading have published a “Guide to Standards and Tolerances©” ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124.

The Guide can be down loaded from:

<http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf>

Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

Standard Condition: K6

K.7 Workcover requirements

The Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.
Standard Condition: K7

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.
Standard Advising: K8

K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1-1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2-1998, Guide to Lead Paint Management—Residential and Commercial Buildings.

Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.10 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act* 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands -

<http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.
Standard Advising: K10

K.11 Decommissioning of fire protection systems

Decommissioning of any Halon extinguishers and fixed flooding systems must be carried out by a technician authorised under the *Ozone Protection Act* 1989.

Yellow portable fire extinguishers contain halon. From 31 December 1995, use or possession of these extinguishers without approval has been illegal.

Standard Advising: K12

K.12 Decommissioning of refrigeration or air conditioning equipment

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person *under* the *Ozone Protection Act* 1989, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation* 1997.

K.13 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Dimitri Lukas, Senior Assessment Officer, on (02) 9391 7159.

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14

K.14 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*.

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from

<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

Standard Condition: K15

K.15 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17

K.16 NSW Department of Primary Industries – Office of Water

Further to the Office of Water's General Terms of Approval referenced in Condition A.6 of this consent, the Office of Water also requests the applicant to note the following:

- a) The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- b) Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.
- c) The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- d) The Office of Water requests notification of any legal challenge to the consent.
- e) **The GTA referenced in Section A of this consent are not the controlled activity approval.** The applicant must apply (to the Office of Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

- f) Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent to:

Nicole Hely
Water Regulatory Officer
Office of Water – Water Regulatory Operations South
PO Box 3720
PARRAMATTA NSW 2124

- g) Application forms for the controlled activity approval are available from the Office of Water's website: www.water.nsw.gov.au > Water licensing > Approvals > Controlled activities or from the above referenced postal address.

Mr D Lukas
SENIOR ASSESSMENT OFFICER

Mr D Waghorn
TEAM LEADER

ANNEXURES

1. Plans and elevations
2. Details of all Submissions
3. Referral Response – Department of Primary Industries Office of Water
4. Referral Response – Department of Primary Industries
5. Referral response – Development Engineer
6. Referral response – Traffic Engineer
7. Referral response – Manager Open Space and Recreation
8. Referral response – Strategic Heritage Officer
9. Referral response – Environmental Health Officer