



## COUNCIL ASSESSMENT REPORT

### SYDNEY SOUTH PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSSH-154 – DA 2023/0487
<b>PROPOSAL</b>	Demolition works, marina expansion, construction of a new carpark, alterations and additions to the existing club
<b>ADDRESS</b>	2 Wellington Street, Sans Souci (Gorges River LGA) – Lot 1 DP 956068, Lots 1, 2 & 3 DP 1012626, Lot 5A Sec 9 DP 1816, Lot 1 DP 957802, Lot 1 DP 441596, Lot 1 DP 106035, Lot 1 DP 78902
<b>APPLICANT</b>	The St. George Motor Boat Club Ltd
<b>OWNER</b>	The St. George Motor Boat Club Ltd
<b>DA LODGEMENT DATE</b>	25 October 2023
<b>APPLICATION TYPE</b>	Development Application - Designated (s4.10 of EP&A Act & Schedule 3 of Regulations) & Integrated Development (s4.46 of the EP&A Act)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 7(1)(b) of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares it regionally significant development as it proposes Particular Designated Development being marinas or related facilities that meet the requirements for designated development under Schedule 3, section 32 of the <i>Environmental Planning and Assessment Regulation 2021</i>
<b>CIV</b>	\$11,503,485.00
<b>CLAUSE 4.6 REQUESTS</b>	CI 4.6 variation to height of building development standard requested (CI 4.3(2) of the GRLEP 2021)
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• SEPP (Planning Systems) 2021</li> <li>• SEPP (Biodiversity &amp; Conservation) 2021</li> <li>• SEPP (Resilience &amp; Hazards) 2021</li> <li>• SEPP (Transport &amp; Infrastructure) 2021</li> <li>• SEPP (Industry &amp; Employment) 2021</li> <li>• Georges River Local Environmental Plan 2021</li> <li>• Georges River Development Control Plan 2021</li> </ul>
<b>TOTAL SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	41 submissions (all objections) - 27 submissions (1 <sup>st</sup> notification) & 14 (2 <sup>nd</sup> notification)
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Environmental Impact Statement</li> <li>• Architectural Plans (Revision C, July 2024)</li> </ul>

<b>RECOMMENDATION</b>	Refusal
<b>DRAFT CONDITIONS TO APPLICANT</b>	N/A - refusal
<b>SCHEDULED MEETING DATE</b>	21 October 2024
<b>PLAN VERSION</b>	Revision C dated July 2024
<b>PREPARED BY</b>	Kim Johnston (Planning consultant)
<b>DATE OF REPORT</b>	4 October 2024

## EXECUTIVE SUMMARY

The proposal seeks the extension of the existing marina facility at the site, alterations and additions to the existing club facility and reconstruction of a car park for the St George Motor Boat Club (**SGMBC**). The proposal has been amended on several occasions in response to concerns raised by Council, with the proposal outlined in the Revision C Architectural plans (July 2024) forming the basis of this assessment.

The development application is for designated development, integrated development (Environmental Protection Licence) and regionally significant development and relies on existing use rights given a *marina* is prohibited in the R2 zone.

The main components of the proposal include:

- Extension to the existing berthing arms A, B, C and D of the marina with an additional 84 berths (310 berths in total)
- Demolition of the existing at-grade car park in the eastern corner
- Construction of a two (2) level car park comprising 130 car parking spaces and new pedestrian entry and lift with connection to the existing club via a porte cochere
- Construction of a new vehicle access from Plimsoll Street for SRVs, new SRV ramp and extension of the existing ground floor loading bay
- Construction of alterations and additions to the existing club building comprising an extension to the lower ground floor internal area, new entrance foyer, 300m<sup>2</sup> outdoor terrace and enclosure of an existing terrace on the ground floor and a new rooftop terrace on the first floor (3<sup>rd</sup> storey)
- Business identification signage, tree removal and landscaping.

The site is known as No. 2 Wellington Street, Sans Souci and comprises an irregularly shaped lot with an overall area above the mean high water mark (**MHWM**) of 10,977m<sup>2</sup> and an existing Crown Lease below the MHWM of 24,324m<sup>2</sup> (an additional area of 12,220m<sup>2</sup> below the MHWM will be required). The site is a corner allotment, with a northern boundary to Wellington Street, an eastern boundary to Plimsoll Street, northern frontage to Vista Street and Anderson Park and a western frontage to the foreshore.

The SGMBC is a waterfront facility providing a marina for the berthing of boats, sliprail and maintenance area, boat ramp as well as a club facility with dining, bar and function room facilities and car parking. An existing concrete seawall exists on the site which separates the club and car parking areas from the tidal waters and marina component on the site. The MHWM is located further landward than this seawall, with this line occurring through the existing club building.

The application has been notified in accordance with Council's Community Participation Plan

on two occasions, with the original plans being notified in November 2023 and the amended plans being notified in August 2024. A total of 41 submissions were received, all objecting to the proposal. Issues of view loss, bulk and scale, permissibility, visual impacts, acoustic impacts and potential impacts to the Georges River were raised.

The application has also been referred to relevant external agencies and Council's specialist officers, where various issues were raised. In particular, the EPA raised a number of concerns, including construction noise and vibration and potential environmental impacts from the increased use of the sliprail, with such concerns remaining unresolved.

A number of key issues have been identified in this assessment comprising:

- Streetscape impacts
- Architectural Expression, Bulk and Scale and Visual Impacts from the Foreshore
- Foreshore Interface
- View loss
- Acoustic Impacts
- Environmental impacts
- Traffic and Parking
- Navigational Impacts of Marina Expansion
- Waste management
- Contamination and Acid Sulphate Soils

The proposal also exceeds the maximum building height development standard of 9 metres and is considered inconsistent with the Fodor planning principle for merit assessments of existing use rights application. Some of the key issues were considered satisfactory including navigational impacts of marina expansion, waste management, contamination and acid sulphate soils.

However, concern with streetscape impacts, architectural expression and visual impacts from the foreshore, an inadequate interface with the foreshore including public access, view loss, acoustic impacts and environmental impacts remain unresolved. The urban design issues in relation to the rooftop terrace and the height and bulk of the car park on a reduced setback to Plimsoll and Wellington Streets were issues which could not be resolved. The retention and extension of the ground level loading bay was also a concern.

The applicant has not adequately addressed Council's concerns which have been outlined on numerous occasions, from the pre-lodgement meeting held in September 2022 and throughout the assessment of this application. This has included comprehensive requests for information, several meetings with Council and briefings with the Panel, however, such advice and requests for amendments have not been fully embraced by the applicant.

Arising from a thorough consideration of the key issues, a number of jurisdictional prerequisites to the grant of consent have not been satisfied by the proposal and therefore consent cannot be granted. These matters are detailed in this report and annexures.

Following assessment of the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the provisions of the relevant State environmental planning policies, it is considered that the proposal cannot be supported. The jurisdictional preconditions are fundamental issues which do not allow consent to be granted, while the key design elements, view loss, foreshore visual impacts and potential environmental impacts result in the proposal not being supported.

The application is recommended for refusal subject to the reasons at **Annexure A** of this report.

# Contents

<b>1. THE SITE AND LOCALITY .....</b>	<b>5</b>
1.1 The Site.....	5
1.2 The Locality.....	11
1.3 Site Constraints .....	11
<b>2. BACKGROUND.....</b>	<b>12</b>
2.1 History of Consents.....	12
2.2 Pre-lodgement Meeting .....	13
2.3 Need for the Proposal.....	14
2.4 Chronology and Assessment of the Development Application .....	15
<b>3. THE PROPOSAL.....</b>	<b>19</b>
3.1 The Proposal.....	19
<b>4. STATUTORY CONSIDERATIONS.....</b>	<b>24</b>
4.1 Designated Development.....	24
4.2 Integrated Development.....	24
4.3 Matters for Consideration - Section 4.15(1) of the EP&A Act .....	26
(a) Section 4.15(1)(a)(i) to (iv) - Planning Instruments, DCPs, Agreements & Regs ....	26
(b) Section 4.15(1)(b) - Likely Impacts of Development.....	71
(c) Section 4.15(1)(c) - Suitability of the site.....	73
(d) Section 4.15(1)(d) - Public Submissions .....	73
(e) Section 4.15(1)(e) - Public interest.....	73
<b>5. REFERRALS AND SUBMISSIONS.....</b>	<b>73</b>
5.1 Agency Referrals and Concurrence .....	73
5.2 Council Officer Referrals .....	75
5.3 Community Consultation and Submissions.....	77
<b>6. KEY ISSUES .....</b>	<b>83</b>
6.1 Streetscape Impacts .....	83
6.2 Architectural Expression, Bulk and Scale and Visual Impacts from the Foreshore .....	87
6.3 Foreshore Interface.....	92
6.4 View Loss .....	96
6.5 Acoustic impacts.....	105
6.6 Environmental impacts .....	107
6.7 Traffic and Parking .....	113
6.8 Navigational Impacts of Marina Expansion .....	119
6.9 Waste Management.....	122
6.10 Contamination and Acid Sulphate Soils.....	123
<b>7. CONCLUSION.....</b>	<b>126</b>
<b>8. RECOMMENDATION .....</b>	<b>126</b>
 <b>Annexure A: Refusal Reasons .....</b>	 <b>127</b>
<b>Annexure B: Consideration of EIS Requirements &amp; SEARs .....</b>	<b>128</b>
<b>Annexure C: Consideration of SEPPs .....</b>	<b>129</b>
<b>Annexure D: Consideration of the GRDCP 2021.....</b>	<b>130</b>
<b>Annexure E: Consideration of Community Submissions (First Notification) .....</b>	<b>131</b>

## 1. THE SITE AND LOCALITY

### 1.1 The Site

The site contains the St George Motor Boat Club (**SGMBC**) which comprises several individual allotments as well as land above and below the mean high water mark (**MHWM**). The site is known as No. 2 Wellington Street at Sans Souci (**site**), with a legal description of Lot 1 DP 956068, Lot 5A Sec 9 DP 1816, Lot 1 DP 957802, Lot 1 DP 441596, Lot 1 DP 106035, Lot 1 DP 78902, Lots 1 & 2 DP 1012626, and Lot 3 DP 1012626. These latter 3 lots are located below MHWM, which also includes land occupied by car parking and other club facilities such as the slipway.

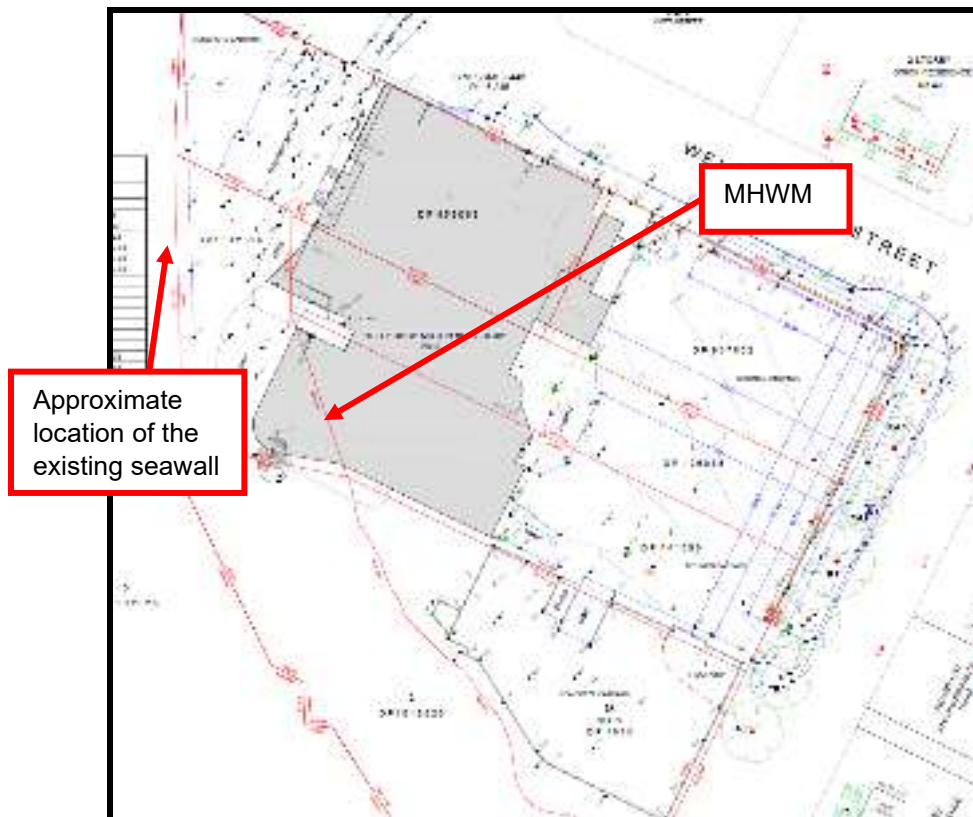
The site is an irregularly shaped lot with an overall area above the MHWM of 10,977m<sup>2</sup> and an existing Crown Lease below the MHWM of 24,324m<sup>2</sup> (No LE319297 and LI549112). To provide for the proposal, an additional area of 12,220m<sup>2</sup> below the MHWM is to be added to the existing lease area under a new Crown lease. A draft Crown licence has been prepared for this additional area of the Georges River for the proposed extended marina if consent were to be granted for this proposal.

The site is a corner allotment, with a northern boundary of 96.66 metres to Wellington Street, as well as a 34.6 metre frontage to Vista Street and Anderson Park. The site has an eastern boundary to Plimsoll Street of 97.38 metres (**Figure 1**).

The SGMBC is a waterfront facility providing a marina for the berthing of boats as well as a club facility with dining, bar and function room facilities as well as car parking. An existing concrete seawall exists on the site which separates the club and car parking areas from the tidal waters and marina component of the use at the site. The MHWM is located further landward than this seawall, with this line occurring through the existing club building on the site (**Figure 2**).



Figure 1: Site Location (Source: SIX Maps)



**Figure 2: Site Survey illustrating the MHW (Source: Boxalls, July 2023)**

The SGMBC has operated at the site in some form since the 1920s and incorporates a series of improvements associated with the existing Marina facility inclusive of the following:

- A two storey building comprising the Club facility with marina management offices, meeting rooms and function areas, bar areas and food and drink premises;
- Existing car parking consisting of 241 spaces comprising:
  - 37 spaces adjoining the lower ground floor and undercroft area;
  - 60 spaces on lower ground floor (under elevated parking structure) accessed from the Plimsoll Street vehicle entry;
  - 24 trailer spaces adjoining the waterfront in the southern corner of the site;
  - 83 at-grade spaces at the corner of Wellington and Plimsoll Streets accessed from Plimsoll Street with an exit to Wellington Street
  - 37 spaces on the first floor of parking structure accessed from the Plimsoll Street vehicle entry.
- Boat berthing / mooring facilities comprising six (6) floating pontoon arms (Arm A to F) consisting of 229 moorings;
- Refuelling facilities and a race tower on Marina Arm A;
- Marina and Boat sales office (single storey) adjoining Marina Arm C;
- Concrete boat ramp and boat slipway/maintenance area between Marina Arms C & D;

The site is illustrated in **Figure 3**.





**Figure 3: The site (Source: SIX maps)**

The current operating hours of the club are as follows:

- Monday to Thursday 11:00am to 10:30pm;
- Friday, Saturday & Public Holidays: 11:00am to 12:00am (midnight); and
- Sunday 11:00am to 9:30pm.

The current operation of the premises has no restriction in security, cleaning maintenance, functions with an unrestricted, 24 hour liquor licence (but not development consent). The premises currently have a staffing level of 75 full time equivalent staff with a proposed additional 8 staff members required for the proposal.

The site slopes down to the waterway by approximately 9% (RL10.61 to MHWM) from the eastern corner at the intersection of Wellington and Plimsoll Streets to the waterway in a south westerly direction. The site also gradually slopes down from the eastern corner to the southern end of Plimsoll Street. A steep decent between the corner of Wellington and Vista Streets, and the lower concrete carpark (to the north of the club building) is also evident in the northern corner of the site. The site is reasonably flat along the interface with the MHWM which currently contains the lower car parks and marina access.

The site is generally devoid of vegetation with the exception of a stand of four (4) palm trees adjoining the main club entrance and in the upper carpark, which are proposed to be removed. There is also existing mature street tree planting along Plimsoll Street as well as smaller trees along Wellington Street, which are to be retained. The site is illustrated in **Figures 4 to 12**.



**Figure 4: The site at the corner of Plimsoll & Wellington Streets**



**Figure 5: The site from Anderson Park in the north**



**Figure 6: The site looking west over existing marina**





**Figure 7: The site looking to the southeast from Anderson Park**



**Figure 8: The site looking towards Arm E of the marina from Plimsoll Street reserve**



**Figure 9: The site from Plimsoll Street into lower car park**



**Figure 10: The site at Plimsoll Street Car park entry**



**Figure 11: The site looking north towards western corner of the club**



**Figure 12: The site looking southwest at the corner of the club building adjoining Wellington and Vista Street**

## 1.2 The Locality

The surrounding land uses comprise low density residential developments as well as some recreational areas and waterfront uses including several small open space areas including Anderson Park to the north and an area at the end of Plimsoll Street where pedestrian access to the water is provided.

A small area zoned E1 Local Centre exists to the east of the site along Rocky Point Road which contains a number of mixed use developments with commercial premises on the ground floor. The NSW Marine Centre/ Botany Bay Water Police, Sydney South Fisheries office and the Sans Souci Leisure Centre are also located in close proximity to this local centre to the east of the site (**Figure 13**). The Sans Souci town centre is located approximately 1.2 kilometres to the northeast of the site.

The site is located at the southern end of the suburb of San Souci adjoining the Georges River and is to the west of Rocky Point Road, which is the main arterial road in the vicinity of the site. Captain Cook Bridge, providing entry to the local government area, is located 750 metres to the southeast of the site.

The site is provided with direct vehicular access from Plimsoll, Wellington and Vista Streets (over the Anderson Park Reserve), with Plimsoll Street being a local road. Wellington and Vista Streets are local collector roads.

The site is well serviced by public transport with regular buses servicing the bus stops along Rocky Point Road approximately 250 metres from the site. The site has adequate utility services for the proposed development.

## 1.3 Site Constraints

There are a number of site constraints including:

- Class 1 and 5 acid sulphate soils
- Coastal hazard and risk mapping under the LEP
- Coastal use area and coastal environment area under the Resilience & Hazards SEPP
- Foreshore building line and foreshore scenic protection area under the GRLEP 2021
- Riparian Lands and Waterways Map under the GRLEP 2021
- Design excellence requirements under the GRLEP 2021
- Mapped area on the Sydney Airport Obstacle Limitation Surfaces (OLS) Map

These matters are considered in this assessment.





Figure 13: The Locality (Source: SIX Maps)

## 2. BACKGROUND

### 2.1 History of Consents

The St George Motorboat Club Marina has been operating continuously at the current site since the 1920's. There have been various development consents issued for the premises, with the significant ones considered in more detail below.

#### DA 222-08-01 (SSD S00/01835)

On 23 November 2001, the then Minister for Planning approved a development application for the redevelopment of the existing marina which involved the following:

- Replacing the existing fixed timber jetties with five (5) floating pontoons (128 berths)
- Upgrading the existing fuel dispensing facilities
- Installing a sewerage pump-out facility
- Dredging 5,470m<sup>3</sup> of material from Kogarah Bay.

This approval did not change the number of berths (although the design changed) and extended outside the existing lease boundary by approximately 15 metres). Following this approval, an additional 23 unauthorised berths were constructed.

This application was deemed *state significant development*, *integrated development* (under the *Protection of the Environment Operations Act 1997* and the *Fisheries Management Act 1994*) and *designated development* due to the proposed dredging under the proposal.

In relation to permissibility, the assessment report prepared by the Department stated:

*Under the Kogarah Local Environmental Plan 1998, the land above the Mean High Water Mark is zoned Residential 2(a) – Residential (Low Density). The proposed development is not permissible within this zone, however the St. George Motor Boat Club has ‘existing use rights’, under Section 106 of the Act. Therefore the proposed development is permissible with consent in this zone.*

*The water below the Mean High Water Mark is zoned 7(a) Environmental Protection (Waterways). Under this zone, the proposed development is permissible with consent.*

Accordingly, the club facilities relied on existing use rights while the development below the MHWM was permissible.

#### MP09 0035

This was a major project under the provisions of the then *State Environmental Planning Policy (Major Development) 2005* and the former Part 3A of the EP&A Act. A concept plan and project approval was granted on 3 October 2011 by the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure. This approval was for the construction of an additional floating pontoon (Arm F) accommodating an additional 78 berths. The additional 78 berths included 37 berths on the new Arm F, an additional 37 berths on the outer side of existing Arm E and an additional 4 berths to the outer edge of Arm D for the total of 78 new berths within an extension to the lease area below MHWM of 1.9 hectares.

This approval provided a total car parking of 238 car parking spaces and a marina with 128 berths to 229 berths. It was noted in this assessment that the existing car parking was shared between the club and the marina components of the site, however, the marina and boat users generally utilised the lower car park given its ready access to the water, while club patrons generally used the upper level car parks due to the proximity to the club entry.

#### Licensing

The site operations below the MHWM have operated under a *Protection of the Environment Operations Act 1997* licence since 14 February 2002 as a scheduled activity. The terms of the licence have been updated on four separate occasions with the last licence issued on 23 October 2012 (Reference no. 1508751) which remains valid for scheduled activities which include Marinas and Boat Repairs, Boat Mooring and Storage.

The licence covers operations including waste management, noise, odour, dust in addition to completed pollution studies and reduction programs for the slipway, fuel bowzers, fuel spill containment and clean-up equipment and bunding around waste oil collection container. A review of the EPA online register has identified that since 2001, there have been no identified licence breaches by the EPA.

## **2.2 Pre-lodgement Meeting**

A Pre-lodgement meeting was held with Council for the proposal on 14 September 2022, and confirmed in correspondence dated 21 October 2022, with the following issues raised:

- Landscaping - The proposal does not include any substantial landscaping, which is required since the site is within the FSPA and Greenweb Reinforcement Corridor. Additional landscaping and trees should be provided within the existing on-ground car parking areas to the west and south sides of the building.



- Foreshore - The 65 metre foreshore frontage is lined with car parking and boat ramp, along the northwest façade of the building with a 1.5m setback to the foreshore. There has been no attempt to address the foreshore interface treatment as part of the proposed development as required by Clause 6.6 of GRLEP 2021, including through the consolidation of car parking.
- Car park – The car park is considered to comprise an excessive floor to ceiling height of between 3.3m to 5.3m (approx.. 2.5m is required) and results in an unacceptable bulk and scale (particularly at its southern end when adding on the 1m high perimeter wall), which should be decreased in height and have greater landscaped setbacks. The structure occurs at the highest point of the site and its elevated nature raises concern in respect to impacts on view loss from surrounding residential properties.
- Streetscape Character – The proposed corner and street interface treatment is inconsistent with the streetscape and results in a very bulky structure with significant impacts on the views to Georges River from the surrounding dwellings (contrary to locality controls in Part 5.2 of the GRDCP 2021). Street activation is not achieved and the blank facades along the street presents an undesirable pedestrian environment. The proposed street interface is also inconsistent with the GRLEP 2021 objectives for development within the FSPA of reinforcing and improving dominance of landscaping over built form and minimising the impacts on the views to and from the Georges River. Design amendments are required to increase setbacks, provide street activation, provide greater landscaping along the street, reduce dominance of signage at the corner and reduce car parking provision.
- Pedestrian movement - There are no designated, safe and desirable pedestrian paths through the car parking area to access either the foreshore or the Club House.
- Architectural expression - The proposal in parts reads as a 3 storey development when viewed from the water, inconsistent with the predominantly 2 storey height in the locality. The building façade should be amended to incorporate variation in composition and upper level setbacks to break the building bulk when viewed from the water. A reduction in the horizontality and glazed surfaces, as well as the incorporation of architectural details and materials that are sympathetic to the existing low density character and foreshore location are required. The existing and proposed development should present as an integrated building that does not dominate the foreshore or the streetscape and blends in with the surrounds.
- Built form - The additions present a modern built form that is inconsistent with the existing expression, especially evident with the addition of the roof terrace. Greater cohesion of the new additions is required, especially when viewed from the Georges River. The visual impact of the new roof terrace is to be reconsidered.

The majority of these issues have not been addressed in the current development application.

## 2.3 Need for the Proposal

The *NSW Boat Ownership and Storage: Growth Forecasts to 2026* prepared by NSW Maritime, 2010 (**2010 Report**) and the *Sydney Harbour Boat Storage Strategy* prepared by Transport for NSW (**TfNSW**) in August 2013 (**2013 Report**) both noted a shortage of boat storage places in the greater Sydney area. The key findings of the 2010 Report included in the preceding ten years, vessel registrations grew at an average of 2.9% annually across NSW, with a similar growth trend forecast to 2026 and Sydney Harbour had a greater proportion of large (> 6 metres) vessels than other regions in NSW. The 2013 Report

suggested that the number of boats to be stored in and around Sydney Harbour is likely to increase by around 5,000 by 2021. While the study is now out of date, it is representative of the need for additional boat mooring places. However, such additional boat storage is required to be consistent with the matters for consideration under the EP&A Act.

## 2.4 Chronology and Assessment of the Development Application

The development application was lodged on 25 October 2023. A chronology of the development application since lodgement is outlined in **Table 1**.

**Table 1: Chronology of the DA**

DATE	EVENT
25 October 2023	<b>DA lodged</b>
26 October 2023	<b>Exhibition of the application</b> (until 6 December 2023) – 27 submissions
27 October 2023	<b>DA referred to external agencies</b> (Section 5 of this report): <ul style="list-style-type: none"> <li>• Environment Protection Authority</li> <li>• Ausgrid</li> <li>• Transport for NSW</li> </ul> <b>DA referred to Council Officers</b> including Urban Design, Traffic, Environment, Waste, Health, Engineering, Building, Property and Landscaping.
22 January 2024	<b>Preliminary Panel briefing (Council &amp; Applicant)</b> <u>Council:</u> <ul style="list-style-type: none"> <li>• Bulk, scale, streetscape, urban design, existing use rights, traffic, water view loss and car parking are initial concerns to be reviewed.</li> <li>• Internal and external referrals outstanding.</li> <li>• The application has been notified.</li> </ul> <u>Next Steps</u> <ul style="list-style-type: none"> <li>• Issue RFI in two weeks after referrals received (mid to late Feb)</li> <li>• Panel site inspection in mid to late February.</li> </ul>
18 March 2024	RFI to the applicant with the following issues to be address: <ul style="list-style-type: none"> <li>• Urban Design and Built Form</li> <li>• View loss (public and private domain views)</li> <li>• Car parking and servicing issues</li> <li>• Landscaping</li> <li>• Acoustic impacts and hours of operation</li> <li>• Contamination and acid sulphate soils</li> <li>• Construction management</li> <li>• Details of the proposal and plan inconsistencies</li> <li>• Sustainability</li> <li>• Community submissions</li> </ul>
21 March 2024	Meeting: Council and EPA to discuss process and progress
25 March 2024	<b>Site inspection – Council staff &amp; Panel</b>
27 March 2024	<b>RFI issued by the EPA</b> for the following: <u>Water</u> <ol style="list-style-type: none"> <li>1. Clarification regarding use of Underground Storage Tanks (UST)</li> <li>2. Clarification regarding use of the slipway</li> <li>3. Piling activities</li> </ol> <u>Noise</u>

	4. Construction noise and vibration
6 May 2024	<p><b>Panel Briefing – Council &amp; Applicant</b></p> <p>Panel notes RFI sent 18 March 2024, Applicant response due - 13 May 2024. Applicant's proposed changes include:</p> <ul style="list-style-type: none"> <li>• Height of carpark <ul style="list-style-type: none"> <li>- Deliveries by SRVs only to lower carpark with min head heights of 3.2m. Overall, 1.4m visual reduction achieved.</li> <li>- Acoustic barrier on top level (1m crash barrier; glass above).</li> </ul> </li> <li>• Additional landscaping and setbacks <ul style="list-style-type: none"> <li>- Green wall and deletion of corner sign.</li> <li>- No change to carpark setback or quantity of landscaping along street frontages (due to parking numbers and layout).</li> <li>- Applicant states improved landscaping along foreshore to be balanced against operational needs and carparking and improvement in landscape quality of the site overall.</li> </ul> </li> <li>• Change of materials and design (new View Loss Analysis) <ul style="list-style-type: none"> <li>- Wall along Wellington St reduced from 3.5m above footpath to 2.5m above footpath.</li> <li>- Wall along Plimsoll St ranges from 2.6m above footpath to 5.7m at highest point.</li> <li>- New 6.5m corridor through site from Wellington St to the water.</li> <li>- Updated view analysis.</li> </ul> </li> <li>• Car parking space numbers <ul style="list-style-type: none"> <li>- Applicant advises parking spaces will be clarified.</li> <li>- Panel notes demand for parking generated should be discussed and agreed with Council. The distribution of car parking (existing &amp; proposed) across site to demonstrate appropriate balance between parking and landscaping, views.</li> <li>- Council notes reduction in additional GFA (to reduce parking demand) rather than proposing shortfall in either landscaping or parking may be required.</li> </ul> </li> <li>• Operations &amp; other amendments <ul style="list-style-type: none"> <li>- Facility has existing use rights and Applicant considers it has permit for 24 hour operation; proposes live-music on terrace would be restricted to 10pm.</li> <li>- Updated contamination report.</li> <li>- Improvements to sustainability including new solar panels.</li> </ul> </li> <li>• Other notes - Council to meet with Applicant to review changes.</li> <li>• Next steps <ul style="list-style-type: none"> <li>- Applicant RFI response due - 13 May.</li> <li>- Applicant/Council to meet to run through amendments.</li> <li>- Tentative Determination Date - within 275-day target.</li> </ul> </li> </ul>
13 May 2024	<p><b>Lodgement - Amended &amp; additional information</b> (Rev B; May 2024):</p> <ul style="list-style-type: none"> <li>• Changes proposed: <ul style="list-style-type: none"> <li>- Reduction in height of the proposed car park from RL 14 to RL 13 (with a 400mm glass panel on top of acoustic barrier from RL 12.60) with an FF of 11.60 (from 12.60);</li> <li>- Reduction in proposed roof level over first floor foyer to RL 14.90 (from RL 15.90)</li> <li>- Reduction in height of lift core to RL 15.25 (from RL 16.25)</li> <li>- Additional 12 car spaces (from 229 to 241)</li> <li>- Reduction in height and dimensions of advertising structure/signage at corner of Plimsoll &amp; Wellington Streets</li> </ul> </li> </ul>

	<p>(reduction in area to 2.45m long x 575mm height from 4.6m long x 800mm high set within car park wall)</p> <ul style="list-style-type: none"> <li>- Addition of native climbers to create green layering on aluminium screening to car park</li> <li>- Addition of solar panels to proposed level 1 entry, EV charging and rainwater tank</li> <li>- Minor change to materials on foreshore elevation (PT1 – Whisper white (columns and walls) to PT2 – same as PT1 with operable roof framing 1<sup>st</sup> floor terrace)</li> <li>- Confirmation of fuel bowser relocation and race tower (height to 5.1m above pontoon) and existing underground storage tanks shown in northwest corner</li> <li>- Changes to head clearance in car park (3.5m for SRV to loading dock from Plimsoll St, 2.2m for car park and access aisles and 3.4m minimum for porte cochere).</li> </ul> <ul style="list-style-type: none"> <li>• Amended material included: <ul style="list-style-type: none"> <li>- Landscape Plan (Rev B, 29 April 2024), amended View Loss Analysis</li> <li>- Amended Acid Sulfate Soils Assessment</li> <li>- Amended Noise Report (no live music from 10pm)</li> <li>- Construction Noise &amp; Vibration Assessment (piling activities)</li> <li>- Traffic and Parking (8 May 2024 with additional parking data from Easter weekend and clarification of total spaces)</li> <li>- Fuel Facilities Letter and proposed extension plan (race tower and fuel lines)</li> <li>- Liquor Licence (24 hour license)</li> <li>- Noise Impact Assessment</li> <li>- Amended Waste Classification letter (UST)</li> </ul> </li> </ul>
30 May	<b>Meeting – Council &amp; Applicant</b> (Applicant & consultants) to discuss amended plans (May 2024).
17 June	<p><b>Panel Assessment briefing</b> – Council &amp; Applicant (no consultants)</p> <p><u>Outstanding issues:</u></p> <ul style="list-style-type: none"> <li>• Council has reviewed amended plans and considers further amendments needed to address matters raised in RFI, including: <ul style="list-style-type: none"> <li>- removal of the southern portion of the first floor level and lowering the overall height of the car park to reduce its dominance and impact on public and private view loss, o improved design resolution to the foreshore elevation and roof terrace,</li> <li>- suitable depth of planter boxes to support proposed planting, including trees, and</li> <li>- limit hours of operation in new areas such as the terrace, consistent with the acoustic report.</li> </ul> </li> <li>• The EPA raised issues regarding noise, potential increased use of slipway and upgrade requirement, potential changes to underground fuel tanks. Council awaiting advice from EPA.</li> <li>• Next steps <ul style="list-style-type: none"> <li>- Council to provide its Briefing Report to applicant</li> <li>- Applicant to advise Council within 7 days whether the plans will be further amended or whether the application should be determined based on the current plans</li> <li>- Council to update the Panel Chair on 24 June on timeframe for determination</li> <li>- Any further amended plans would be expected within the</li> </ul> </li> </ul>

	<p>following 3 weeks</p> <ul style="list-style-type: none"> <li>- If the impacts are reduced, amended plans are unlikely to require re-advertising.</li> </ul> <p>Applicant advised that a response to the requested information in the briefing note will be provided within 21 days. It was noted that the response will likely include some design changes or a written response as to why other parts of the request have not been addressed via change to the design.</p>
28 June 2024	<p><b>Meeting – Council &amp; Applicant</b> (Applicant &amp; consultants) to discuss amendments prior to formal submission for assessment (digital montages provided only at the meeting, with only 1 montage provided following the meeting for a more detailed response by Council). Applicant proposed variation to car park changes proposed by Council including an additional vehicle access from Plimsoll Street for servicing.</p>
25 July 2024	<p><b>Lodgement of amended plans</b> (Rev C dated July 2024) comprising the following:</p> <ul style="list-style-type: none"> <li>• Further excavation of car parking into ground to FFL of RL 7.40 (from RL 8.60), reduction in FFL of 1<sup>st</sup> floor of car park to RL 10.40 (from RL 11.60) and 1.4m solid barrier (removal of 400m glass top);</li> <li>• Reduced footprint of 1<sup>st</sup> floor car park to accommodate SRV vehicles at ground level</li> <li>• New vehicle access point from Plimsoll Street for SRV access only, new ramp from existing car park to ground floor loading dock and extension of existing ground floor loading dock to accommodate new loading bay;</li> <li>• Relocation of lift and stairs from foyer of club to car park, change to pitched roof over foyer (from flat) exceeding height limit by 0.49m and inclusion of crossing within porte cochere</li> <li>• Reduction in GFA of 37.03m<sup>2</sup></li> <li>• Reduction of 10 car parking spaces, resulting in a revised total car parking of 283 spaces</li> <li>• Stone cladding surrounding signage on foreshore elevation</li> <li>• Planter boxes along forehorse converted to planter beds</li> </ul>
29 July 2024	<p><b>RFI issued by EPA</b> for the following:</p> <p><u>Noise</u></p> <ol style="list-style-type: none"> <li>1. Construction vibration guidelines (incorrect guidelines in CNVMP)</li> <li>2. Construction hours (inconsistent with CNVMP)</li> <li>3. Construction noise and vibration impacts (inadequate CNVMP)</li> </ol>
1 August 2024	<p><b>Notification of amended plans</b> (until 22 August 2024) – 14 submissions</p>
28 August	<p>Submission of revised CNVMP (dated 27 August 2024)</p>
13 September	<p><b>RFI issued by EPA</b> for the following:</p> <p><u>Noise</u></p> <ol style="list-style-type: none"> <li>1. Construction noise &amp; vibration impacts – the CNVMP still inadequate</li> <li>2. Upgrade of existing slipway - current slipway arrangement relies heavily on antiquated infrastructure, on tidal ranges and there is potential for contaminants to enter the receiving waterway under certain conditions.</li> </ol>



### 3. THE PROPOSAL

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#### 3.1 The Proposal

The proposal seeks the extension of the existing marina facility at the site, alterations and additions to the existing club facility and reconstruction of a car park for the SGMBC.

The proposal has been amended on several occasions in response to concerns raised by Council. For the purposes of this assessment, the proposal comprises the works outlined in Revision C architectural plans dated July 2024 (**proposal**).

Specifically, the proposal involves the following:

- Extension to the existing berthing arms of the marina in a westerly direction consisting of new pontoon walkways, fingers and piles to be anchored by pile driven piers to provide an additional 84 berths for a total of 310 berths comprising the following:
  - Extension of berthing arm A by 93.8 metres to provide an additional 29 berths and the relocation of the fuel berth and piles to the western end of the berthing arm;
  - Extension of berthing arm B by 74.3 metres to provide an additional 25 berths;
  - Extension of berthing arm C by 60.2 metres to provide an additional 21 berths; and
  - Extension of berthing arm D by 33.8 metres to provide an additional 10 berths.

The proposed extension to the berthing arms requires the removal of three (3) existing berths on Arm A and an additional area of 12,220m<sup>2</sup> within the Georges River is to be subject to a new Crown Lease Agreement. There are no changes proposed to berthing Arms E and F.

- Car parking upgrades comprising:
  - Demolition of the existing at-grade car park and excavation of between 400mm and 2.1 metres in the northeastern corner to RL 7.40 at the corner of Plimsoll and Wellington Streets (removal of 65 car spaces);
  - Construction of a two (2) storey car park comprising 130 car parking spaces including seven (7) accessible spaces.
  - Construction of new pedestrian entry and lift within the new car parking structure and connection at ground level to existing club via a new porte cochere and pedestrian crossing.
  - Retention of the existing vehicle entry point on Plimsoll Street and vehicle exit point on Wellington Street
  - Construction of a new vehicle access from Plimsoll Street for SRVs, new ramp from the lower car park for SRVs only and an extension to the existing loading bay on the ground floor level.
  - Retention of 20 trailer parking spaces in the lower area and other car parking spaces adjoining the northwestern side of the club building.
- Construction of alterations and additions to the existing club facility (Marina) building:
  - Lower Ground Level - minor demolition of existing ramp and stairs and construction

of an indoor extension to the 'Sapphire Room' consisting of 115m<sup>2</sup> including BCA and access upgrades and refurbishment of the existing kitchen;

- Ground level – the following changes are proposed:
  - New entrance foyer from the new car park including a new pitched roof above.
  - Construction of a new 300m<sup>2</sup> outdoor terrace area adjoining Marina's Edge Restaurant and lounge area and BCA and access upgrades;
  - Construction of new external stairs to proposed new roof terrace on first floor.
- First floor level – the following changes are proposed:
  - Construction of a new roof terrace comprising 250m<sup>2</sup> including a bar area to the existing roof area, extension of existing lift well and BCA and access upgrades. The proposed hours of operation of the roof terrace are:
    - Monday to Thursday 11:00am to 10:30pm,
    - Friday, Saturday & Public Holidays: 11:00am to 12:00am (midnight)
    - Sunday 11:00am to 9:30pm
    - Patron Numbers: 68 at any one time or as limited by BCA Occupancy Calculations
    - Unrestricted: Security, Cleaning, Maintenance, Emergency Response
- Business identification signage, comprising five internally illuminated business identification signs on the western façade (facing the foreshore) and in the car park.
- Tree removal of 1 tree stand (palms); and
- Landscaping including new landscaped planters within the new car park, adjoining the foreshore, club entry and street frontages.

The development data is outlined in **Table 2** and the proposal is illustrated in **Figures 14 to 19**.

**Table 2: Development Data**

CONTROL	PROPOSAL
Site area	<ul style="list-style-type: none"> <li>• 10,980.4m<sup>2</sup> (above MHW) and</li> <li>• 24,324m<sup>2</sup> within Georges River waterway under existing Crown Lease, below the MHW; and</li> <li>• 12,220m<sup>2</sup> of additional area within Georges River waterway to be subject to a new Crown Lease Agreement (See Crown Reference 18/07416)</li> </ul>
GFA/FSR (max 0.55:1)	<ul style="list-style-type: none"> <li>• Existing GFA = 3,614m<sup>2</sup> (0.33:1)</li> <li>• Proposed new GFA = 239.41m<sup>2</sup></li> <li>• Total GFA = 3,853.31m<sup>2</sup> (0.35:1)</li> </ul>
Height (max – 9m)	Max height – 13.05m (RL 15.2 – Roof terrace)
Berths	<ul style="list-style-type: none"> <li>• Existing berths – 229</li> <li>• Proposed additional berths - 84</li> <li>• Proposed total berths - 310</li> </ul>
Car parking	<ul style="list-style-type: none"> <li>• Existing spaces – 241 car spaces</li> <li>• Proposed additional spaces – 42 spaces (loss of 65 spaces for new car park and planters)</li> <li>• Proposed total spaces – 283 spaces</li> </ul>
Staff	Increase of 8 staff



Figure 14: Proposed site plan (Source: : Innovate, Rev C, July 2024)

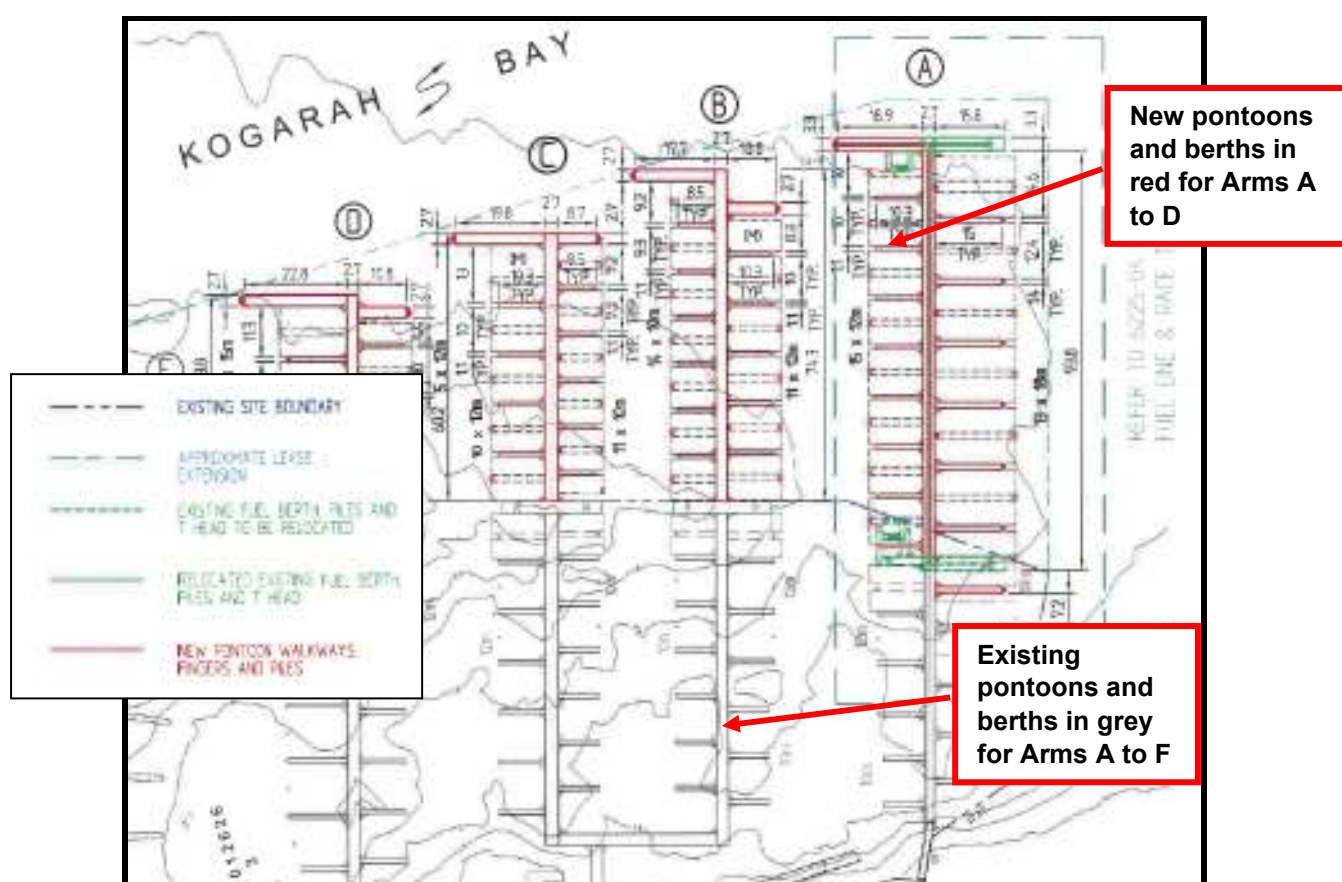


Figure 15: Proposed extension to berthing arms (Source: International Marina Consultants, March 2023)

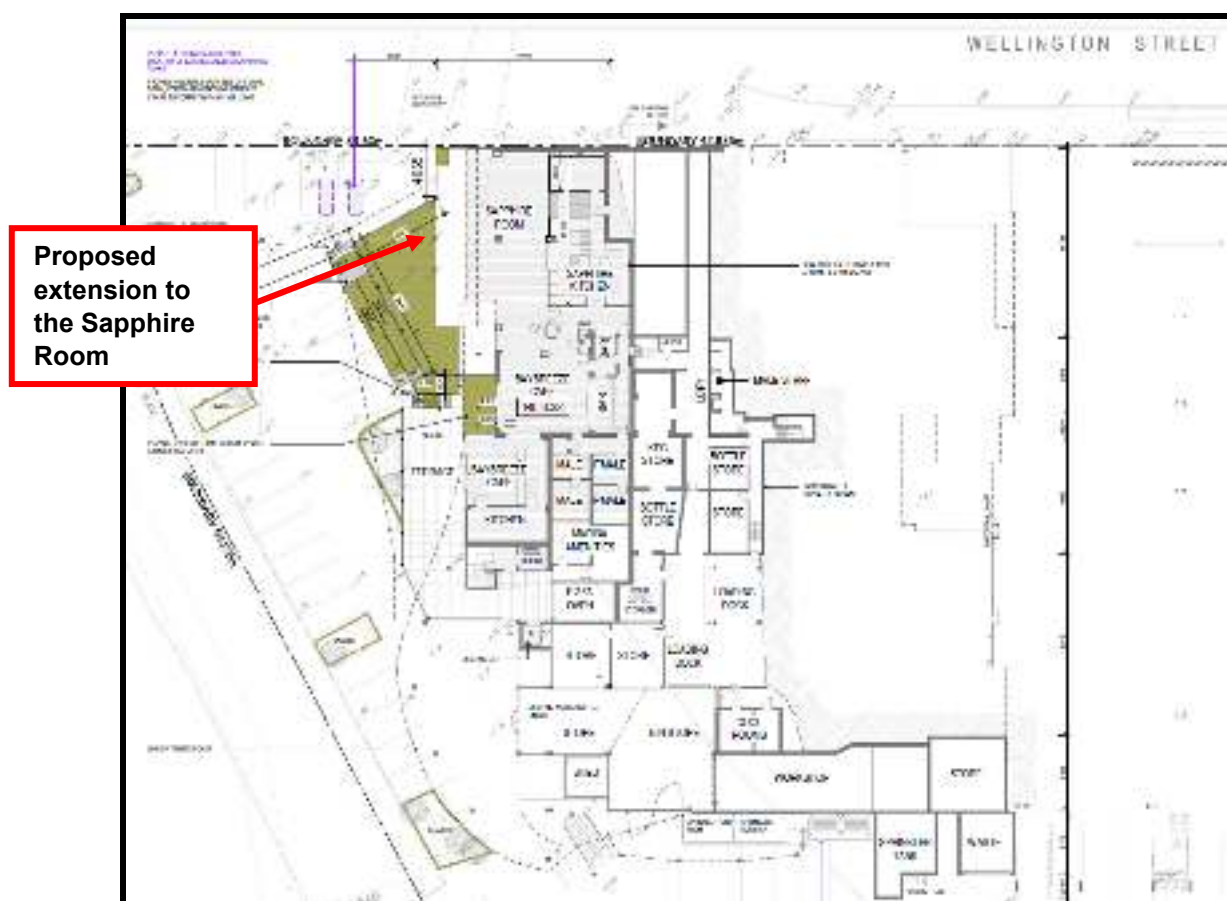


Figure 16: Proposed lower ground floor (Source: Innovate, Rev C, July 2024)

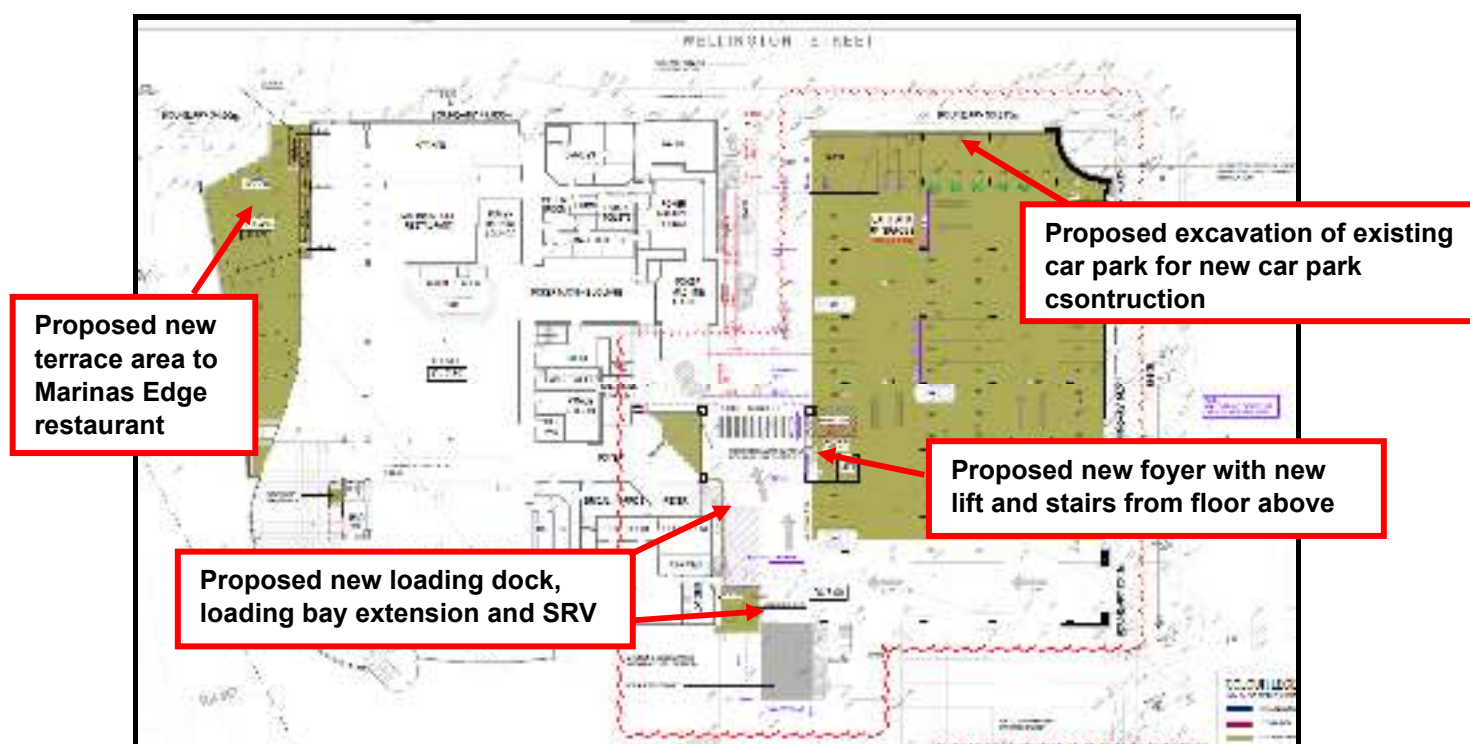
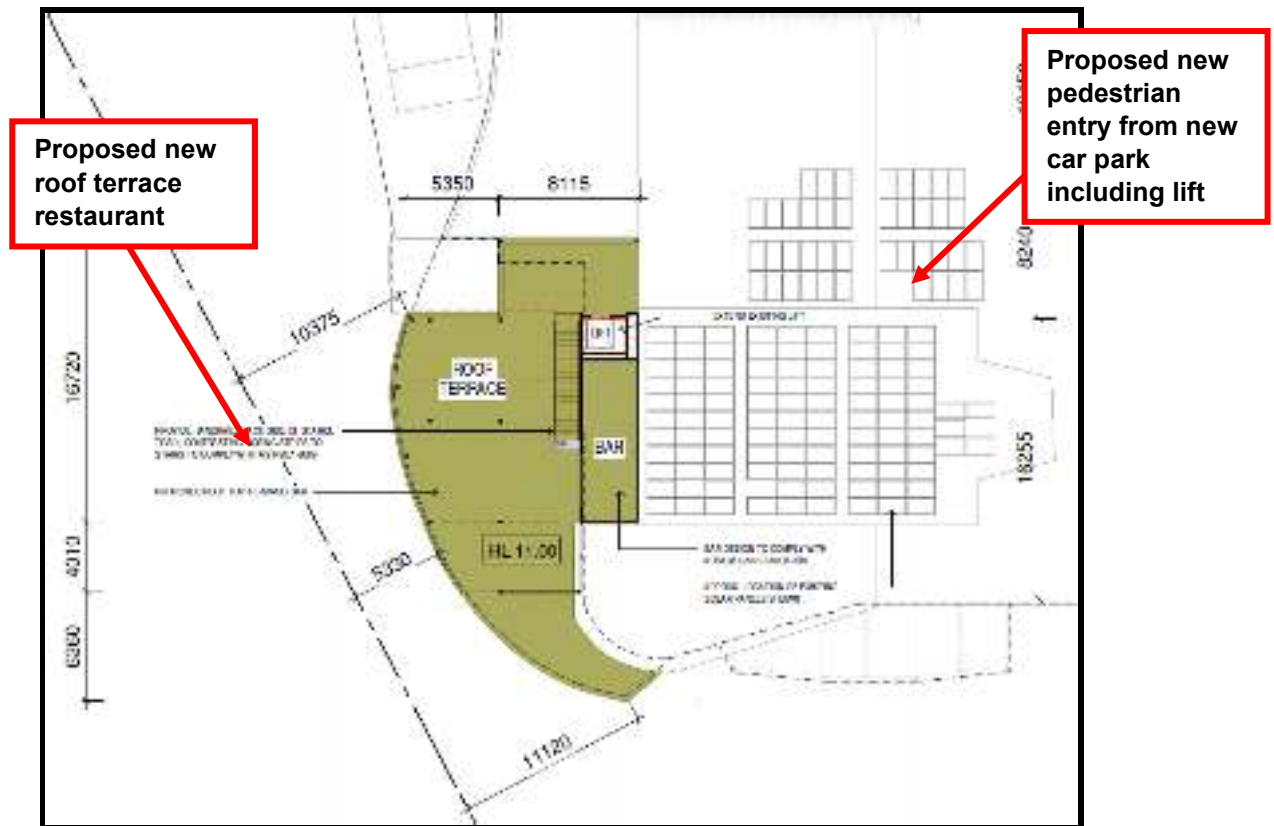
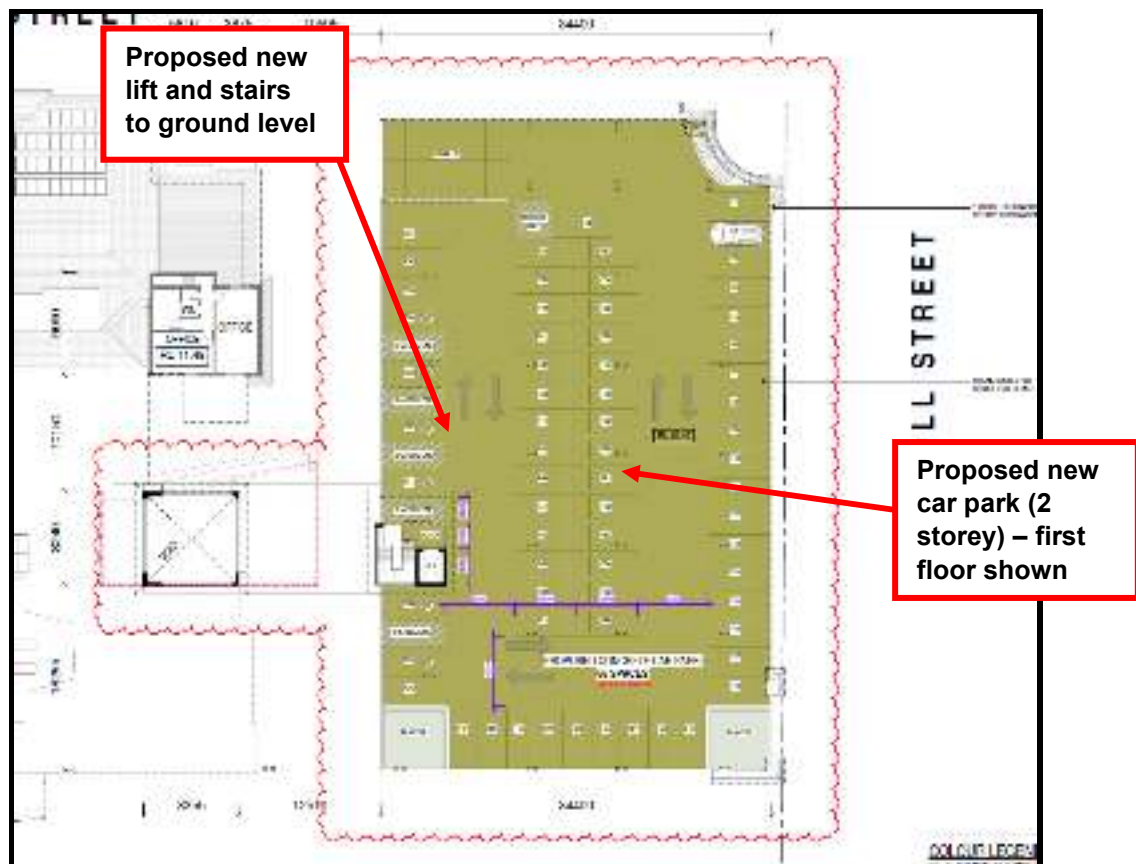


Figure 17: Proposed ground floor (Source: : Innovate, Rev C, July 2024)





**Figure 18: Proposed first floor (Source: : Innovate, Rev C, July 2024)**



**Figure 19: proposed first floor of new car park (Source: : Innovate, Rev C, July 2024)**



## 4. STATUTORY CONSIDERATIONS

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The development application is for designated development and integrated development and therefore there are number of specific matters which need to be considered in this assessment. The matters for consideration pursuant to Section 4.15(1) of the EP&A Act also require consideration. These matters are considered below.

### 4.1 Designated Development

The application is for designated development pursuant to Section 4.10(1) of the EP&A Act as it is declared pursuant to Section 7(1) and Clause 32(1)(b) (Marinas and related land and water shoreline facilities) of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021 (Regulation)*. The criteria satisfied by the proposal is that it proposes development for the purposes of a *marina or related facility* with an intended capacity of 80 or more vessels of any length.

Pursuant to Section 4.12(8) of the EP&A Act, a development application for designated development is to be accompanied by an environmental impact statement (**EIS**) prepared by or on behalf of the applicant in the form prescribed by the Regulation. A consent authority must not determine the development application until after the submission period (within the meaning of Schedule 1) has expired, or if a submission is made with respect to the application within the submission period, until after 21 days following the date on which a copy of the submission is forwarded to the Planning Secretary have expired (Section 4.16(9) of the EP&A Act). The submissions were forwarded to DPE on 7 November 2023 and therefore the development application can be determined.

There are also a number of matters required to be satisfied in relation to designated development pursuant to the Regulation, which are considered in **Annexure B**. The application is considered to be generally consistent with these requirements, with the exception of Section 191 of the Regulation which requires that an EIS must comply with the environmental assessment requirements notified under section 176 of the Regulation.

In this case, the *Construction Noise & Vibration Management Plan* prepared by Rodney Stevens Acoustics dated 27 August 2024 (Revision 2) (**CNVMP**) has not adequately addressed the SEARs in relation to the noise and vibration. Further, the proposal also does not adequately address the soil and water impacts in relation to the increased use of the sliprail as details of the proposed water monitoring and other measures to mitigate surface and groundwater impacts are not addressed.

The EPA considers these matters have not been satisfactorily addressed, which is considered in more detail in the Key Issues section of this report. Therefore, the proposal is inconsistent with Section 191 of the Regulation.

### 4.2 Integrated Development

The application is classified as integrated development pursuant to Section 4.46 of the EP&A Act as the proposal requires an Environment Protection Licence (**EPL**) as a scheduled activity (premises-based) under sections 43(b), 48 and 55 of the *Protection of the Environment Operations Act 1997 (POEO Act)*. This EPL is required pursuant to Clause 25(2) of Schedule 1 of the POEO Act for *marinas and boat repairs* as it involves boat mooring and storage with a capacity for more than 80 vessels at any time.

The site operations below the MHWL have operated under a POEO licence since 14 February 2002 as a scheduled activity. This licence remains valid for scheduled activities which include

### *Marinas and Boat Repairs, Boat Mooring and Storage.*

Pursuant to Section 42 of the Regulation, the consent authority sought general terms of approval (**GTAs**) from the NSW Environmental Protection Authority (**EPA**) as the relevant approval body. The EPA has considered the proposal on a number of occasions and have raised several concerns. These concerns are outlined below as well as whether the matter has been resolved:

- Clarification regarding use of Underground Storage Tanks (UST) - *The Proponent must provide clarification regarding any changes, including expansions and/or upgrades, to the existing fuel management and storage systems at the Premises.*

Comment: The issue of land contamination and fuel facilities on the site is considered further in the key issues section of this report and has been resolved.

- Clarification regarding use of the slipway - *The Proponent must describe in detail the expected increase in the use of the slipway and the proposed environmental controls in place to minimise the potential for pollution incidents, provide clarification regarding any changes, including improvements or upgrades to the existing slipway and provide justification where it is not proposing upgrades to the slipway. This issues was outlined and requested in the EPA Secretary's Environmental Assessment Requirements (SEARs) Letter (DOC22/981085-4) 37% increase in boat storage.*

Comment: This matter formed one of the requirements of the SEARs which has not been satisfactorily provided. Therefore, the development application is contrary to Section 191 of the Regulation which requires that environmental impact statements must comply with the SEARs notified under section 176 of the Regulation. This matter is further considered in the Key Issues section of this report.

- Piling activities - *The proponent must provide details of the marina pile installation process and the associated processes, procedures, and mitigation measures to be put in place to ensure compliance with Section 120 of the Protection of the Environment Operations Act 1997.*

Comment: The applicant outlined that the proposed marina pile installation process was provided within the Marine Navigation & Safety Report submitted as part of the original submission. Additional details of the Piling Installation process were also provided in the Pile Installation Procedure Document. The EPA considered this information during the preparation of the final RFI correspondence and and this matter was no longer raised by the EPA in subsequent correspondence.

- Construction Noise and Vibration - *The Proponent must prepare a Construction Noise and Vibration Impact Assessment which considers the impacts of the Proposal. The Assessment must be prepared by a suitably qualified competent person.*

Comment: This matter requires the likely construction noise and vibration impacts of the proposal to be further considered, particularly the noise and vibration arising from the proposed pile driving activities. This matter is also required to be addressed as a SEARs requirement and is therefore inconsistent with Section 191 of the Regulation which requires that environmental impact statements must comply with the SEARs. This matter remains outstanding and is further in the key issues section of this report.

Arising from these outstanding concerns, the EPA have not issued GTAs for the development application.

A Permit under the *Fisheries Management Act 1994* and a controlled activity approval pursuant to Section 91 of the *Water Management Act 2000* are not required as outlined in Section 5 of this report. The development application is also for ***nominated integrated development*** it requires an approval under a provision of the POEO Act.

### Strategic Context

The *Greater Sydney Region Plan, A Metropolis of Three Cities* is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The site is located in the South District. The proposal is not inconsistent with the regional context.

### **4.3 Matters for Consideration - Section 4.15(1) of the EP&A Act**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

#### **(a) Section 4.15(1)(a)(i) to (iv) - Planning Instruments, DCPs, Agreements & Regs**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

##### **(i) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments and Development Control Plans are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *Georges River Local Environmental Plan 2021*
- *Georges River Development Control Plan 2021*
- *Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 & Section 7.12)*

A summary of the key matters for consideration arising from these Environmental Planning Instruments and Development Control Plans are outlined in **Table 3**, with the jurisdictional preconditions to the grant of consent in **bold**, some of which have not been satisfied.

**Table 3: Summary of Applicable Environmental Planning Instruments**

EPI	MATTERS FOR CONSIDERATION	COMPLY
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> • Section 2.19(1) declares proposal regionally significant development - Clause 7(1)(b) (marinas) of Schedule 6.	✓
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 2: Vegetation in non-rural areas</u> • Section 2.7 clearing that does not require permit or approval <u>Chapter 6: Water Catchments</u> • Sections 6.1(c), <b>6.6, 6.7, 6.8, 6.9</b> , 6.10, 6.11, 6.18 (marinas), 6.21(3)	✓   <b>No</b>
SEPP (Resilience & Hazards) 2021	<u>Chapter 2: Coastal Management</u> • Section 2.4 – Identification of coastal management areas • <b>Section 2.10</b> - Development on land within the coastal environment area • <b>Section 2.11</b> - Development on land within the coastal use area • <b>Sections 2.12, 2.13, 2.14 and 2.15</b>  <u>Chapter 4: Remediation of Land</u> • <b>Section 4.6(1)</b> - Contamination of land	✓  <b>No</b> <b>No</b> ✓  ✓
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> • Section 2.48(2) Development likely to affect an electricity transmission or distribution network (substation on site).	✓
State Environmental Planning Policy (Industry & Employment) 2021	<u>Chapter 3: Advertising &amp; Signage</u> • Section 3.4(1) – application of chapter • Section 3.6 - Granting of consent to signage	✓ ✓
Georges River Local Environment Plan 2021	• Clause 2.2 & 2.3 – Zone objectives & land use table	<b>No</b>
	• Clause 4.3(2) – Height of Buildings	<b>No</b>
	• Clause 4.4(2) – FSR	✓
	• Clause 5.7 – Development below the MWHM	✓
	• Clause 5.10 – Heritage	✓
	• <b>Clause 6.1 – Acid Sulphate Soils</b>	✓

	• Clause 6.2 – Earthworks	✓
	• Clause 6.3 – Stormwater Management	✓
	• <b>Clause 6.4 – Foreshore area &amp; coastal hazards &amp; risks</b>	<b>No</b>
	• Clause 6.5 – Riparian Land and Waterway	✓
	• Clause 6.6 - Foreshore scenic protection area	<b>No</b>
	• <b>Clause 6.7 – Airspace Operations</b>	✓
	• <b>Clause 6.9 – Essential Services</b>	✓
	• <b>Clause 6.10 – Design Excellence</b>	<b>No</b>
	• <b>Clause 6.12 - Landscaped area in certain residential and conservation zones</b>	<b>No</b>
Georges River Development Control Plan 2021	<ul style="list-style-type: none"> <li>• Part 3: General Planning Considerations</li> <li>• Part 5.20: Residential Locality Statements</li> <li>• Part 6.5.1: Foreshore Scenic Protection Area</li> </ul>	<b>No</b> <b>No</b> <b>No</b>

It is noted that *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) does not apply to the development application. While the Policy applies to residential and non-residential development, the proposal does not involve any residential development and therefore Chapter 2 does not apply to the proposal.

In relation to Chapter 3: Standards For Non-Residential Development. Pursuant to Section 3.1(1)(b), the Policy applies to *alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more*. Further, Section 3.1(2)(b) states that the chapter does not apply to development in the W2 zone – recreational waterways zone (among other zones). Therefore, excluding the cost of the marina upgrade, which is listed in the *CIV Cost Report* prepared by Mitchell Brandtman dated 31 August 2023 as \$4.2 million, the value of the alterations to the existing building is less than \$10 million. Therefore, the proposed non-residential development at the site is less than the \$10 million required for the SEPP to apply.

The relevant provisions of the environmental planning instruments and development control plan are summarised below, with a detailed Compliance Table for the relevant SEPPs in **Annexure C** and for Chapter 3 of the GRDCP 2021 in **Annexure D**.

**a. State Environmental Planning Policy (Planning Systems) 2021**

The proposal is *regionally significant development* pursuant to Section 2.19(1) of *State Environmental Planning Policy (Planning Systems) 2021* as it satisfies the criteria in Clause 7(1)(b) of Schedule 6 as the proposal is for *particular designated development* (marina or related facilities that meet the requirements for designated development under Section 32, Schedule 3 of the 2021 Regulation). Accordingly, the Sydney South Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

**b. State Environmental Planning Policy (Biodiversity and Conservation) 2021**

*State Environmental Planning Policy (Biodiversity and Conservation) 2021* (**Biodiversity & Conservation SEPP**) provides controls for various environmental issues, with Chapters 2 and 6 relevant chapters for the current application. It is noted that Chapters 3 and 4 do not apply as Georges River is not included in the relevant local government areas.

**Chapter 2: Vegetation in Non-Rural Areas**

The site is located within the Georges River Council area and therefore this Chapter applies



to the proposal (Section 2.3(1)(a)). The following relevant provisions apply:

- *Section 2.7: Clearing that does not require permit or approval* - a permit or approval to clear vegetation is not required as it is clearing of a kind that is authorised under the *Local Land Services Act 2013*, section 60O or Part 5B as such clearing would be authorised by a development consent under Part 4 of the EP&A Act pursuant to Section 60O(a)(i) of the *Local Land Services Act 2013*. Tree removal and protection for the site is considered further in the Key Issues section of this report.

The proposal is considered to be consistent with Chapter 2 of the Biodiversity & Conservation SEPP.

### Chapter 6: Water Catchments

The site is located within the Georges River Catchment and therefore this Chapter applies to the proposal (Section 6.1(c)). Part 6.2 (development in regulated catchments) is relevant to the proposal, and includes the following relevant provisions:

- *Section 6.6: Water quality and quantity* – The proposal has not adequately demonstrated whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application (Section 6.6(1)(a)), which has also been raised by the EPA. The potential cumulative environmental impact arising from the proposal has also not been adequately outlined in the application (Section 6.6(1)(f)).

Whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application (Section 6.6(2)(a)). Therefore, the proposal does not satisfy the precondition to the grant of consent and is therefore unsatisfactory.

- *Section 6.7: Aquatic Ecology* - There is potential for direct and indirect impacts on aquatic animals given the increased capacity of the existing sliprail and boat maintenance area arising from the proposed larger marina has not been adequately demonstrated to have no adverse impacts on aquatic ecology (Section 6.7(1)(a)). The proposal also does not provide adequate safeguards or consider any additional measures to ensure a neutral or beneficial effect on the water quality of the waterbody which may be required to ensure there will be no impacts on aquatic ecology given the increased capacity of the existing sliprail and boat maintenance area arising from the proposed larger marina has not been adequately demonstrated to have no adverse impacts. (Section 6.7(1)(e) and (f)).

The proposal does not satisfy the precondition to the grant of consent as direct, indirect or cumulative adverse impact on aquatic ecology has not been demonstrated to be kept to the minimum necessary for the carrying out of the development and is therefore unsatisfactory.

- *Section 6.9: Recreation and public access* - The proposal is consistent with this control.
- *Section 6.10: Total catchment management* – The proposal is consistent with this control.
- *Section 6.11: Land within 100m of natural waterbody* - The proposal is consistent with this control.

- *Section 6.18: Marinas* – The proposal is generally consistent with this control, with the exception of complying with the relevant environmental guidelines pursuant to Section 6.18(b), which have also been raised by the EPA.
- *Section 6.21: Stormwater Management* - The proposal is consistent with this control.

Therefore, the proposal is considered to be **inconsistent** with several provisions of Chapter 6 of the Biodiversity & Conservation SEPP, including preconditions to the grant of consent.

**c. State Environmental Planning Policy (Resilience and Hazards) 2021**

*State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)* commenced on 1 March 2022. Chapter 2 (Coastal Management) and Chapter 4 (remediation of land) are relevant to the proposal and are considered in detail in **Annexure C**. A summary is provided below.

*Chapter 2: Coastal Management*

Chapter 2 aims to promote an integrated and coordinated approach to land use planning in the coastal zone. The site is located within the Coastal Environment Area (**Figure 20**) and Coastal Use area (**Figure 21**). The site is not indicated on the Coastal Wetlands and Littoral rainforest Map (or proximity areas) pursuant to Section 2.4. The relevant provisions of Part 2.2 of Chapter 2 are considered below.



**Figure 20: Coastal Environment Area**  
(Source: NSW Planning Portal Spatial Viewer)



**Figure 21: Coastal Use Area (Source: NSW Planning Portal Spatial Viewer)**

The following relevant provisions apply:

- *Section 2.10: Development on land within the coastal environment area* - The proposed development is likely to cause an adverse impact on the water quality of the marine estate given the likely impacts from the increased use of the existing sliprail and boat maintenance facility at the site. This matter has not been adequately considered in the application (Section 2.10(1)(c)). Therefore, the proposal does not satisfy the precondition to the grant of consent and is therefore unsatisfactory.

The consent authority cannot be satisfied that the development has been designed, sited and will be managed to avoid, minimise or mitigate adverse impacts on the water

quality of the marine estate, given the potential for pollution of waters from the increased use of the existing sliprail at the site. Therefore, the proposal does not avoid an adverse impact on the coastal environmental area, does not satisfy the precondition to the grant of consent and is therefore unsatisfactory (Section 2.10(2)).

- *Section 2.11: Development on land within the coastal use area* - The proposal results in adverse impacts within the coastal use area arising from the significant view loss for surrounding private properties and an adverse impact on the visual amenity when viewed from the foreshore (Section 2.11(1)(a)(ii) and (iii)).

The consent authority cannot be satisfied that the development has been designed, sited and will be managed to avoid, minimise or mitigate adverse impacts on the loss of views from public places to foreshores and the visual amenity and scenic qualities of the coast, given the view loss for surrounding residential properties and the adverse visual impact of the proposed club additions when viewed from the foreshore. Therefore, the proposal does not avoid an adverse impact on the coastal use area, does not satisfy the precondition to the grant of consent and is therefore unsatisfactory (Section 2.11(1)(b)).

The proposal is also unsatisfactory having regard to bulk and scale of the proposal, which is considered to be excessive when viewed from the foreshore and is unsatisfactory (Section 2.11(1)(c)).

- *Section 2.12: Development coastal zone generally*—development not to increase risk of coastal hazards - The proposal is consistent with this control.
- *Section 2.13: Development in coastal zone generally*—coastal management programs to be considered - The proposal is consistent with this control.
- *Section 2.14: Other development controls not affected* - The proposal is consistent with this control.
- *Section 2.15: Hierarchy of development controls if overlapping* - The proposal is consistent with this control.

Therefore, the proposal is considered to be **inconsistent** with several provisions of Chapter 2 of the Resilience & Hazards SEPP, including preconditions to the grant of consent.

#### *Chapter 4: Remediation of Land*

Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. The relevant provisions of Part 2.2 of Chapter 2 are considered below:

- *Section 4.6: Contamination and remediation to be considered in determining development application* – This Section requires contamination and remediation to be considered in determining a development application. This matter has been adequately considered in this application and is further discussed in the key issues section of this report. The consent authority can be satisfied as to the matters outlined in this control.

Therefore, the proposal is considered to be consistent with Chapter 4 of the Resilience & Hazards SEPP.

**d. State Environmental Planning Policy (Transport and Infrastructure) 2021**

*State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport & Infrastructure SEPP)* outlines the controls for the provision of infrastructure, among other matters, with Chapter 2 (Infrastructure) relevant to the development application.

*Chapter 2: Infrastructure*

There are limited provisions of Chapter 2, which are relevant to the development application, including:

- *Section 2.48: Determination of development applications – other development* - This section applies to a development application involving development carried out immediately adjacent to an electricity substation as there is a substation within the subject site, located adjoining the existing club building along the Wellington Street boundary (Section 2.48(1)(b)(ii)). Pursuant to Section 2.48(2), the Council has consulted with the electricity supply authority and no objections were raised subject to standard conditions.
- *Sections 2.119: Development with frontage to classified road* - The site is not located on a classified road and therefore this provision does not apply.
- *Section 2.120: Impact of road noise or vibration on non-road development* – The site does not comprise land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles and therefore this provision does not apply.
- *Section 2.122: Traffic-generating development* - The application does not involve traffic generating development as the proposal does not achieve the criteria in Column 2 for a site with access to a road (generally) as the proposal does not involve any of the uses outlined in Column 1 (there are only 52 additional spaces proposed, not 200 new spaces). Similarly, in relation to Column 3, the proposal does not achieve the criteria listed in Column 2 (being more than 90 metres to a classified road) and a referral to TfNSW was not required under this Section. Notwithstanding a referral was not technically required, Transport for NSW (TfNSW) prior to the lodgement of the application and does not object to the proposal from a navigational perspective.

Therefore, the proposal is considered to be consistent with the Transport & Infrastructure SEPP.

**e. State Environmental Planning Policy (Industry and Employment) 2021**

*State Environmental Planning Policy (Industry and Employment) 2021 (Industry & Employment SEPP)* provides controls for advertising and signage (Chapter 3), which is relevant to the application. The proposal involves the installation of five (5) advertising signs comprising (**Figure 22**):

- Sign 1 – External wall to foreshore on Level 1 (1.255m x 1.88m = 2.36m<sup>2</sup>)
- Sign 2 – Proposed new terrace to foreshore on ground floor (1.675m x 2.485m = 4.15m<sup>2</sup>)
- Sign 3 - Proposed new lift/stair tower to Plimsoll St on Level 1 of car park (1.085m x 2.485m = 2.69m<sup>2</sup>)
- Sign 4 – Existing northern wall of club along Wellington Street (2.105m x 3.135m = 6.59m<sup>2</sup>)

- Sign 5 – Corner (freestanding sign) of Plimsoll and Wellington Streets (800mm x 4.6m = 3.68m<sup>2</sup>)

The proposed signs are considered to be *business identification signs* and are permissible subject to satisfaction of Section 3.6 of the Industry & Employment SEPP comprising the objectives of this Chapter as set out in section 3.1(1)(a) and the assessment criteria specified in Schedule 5. The proposed signage is consistent with these requirements as outlined in the Compliance Table in **Annexure D**.

Therefore, the proposal is considered to be consistent with the Industry & Employment SEPP.

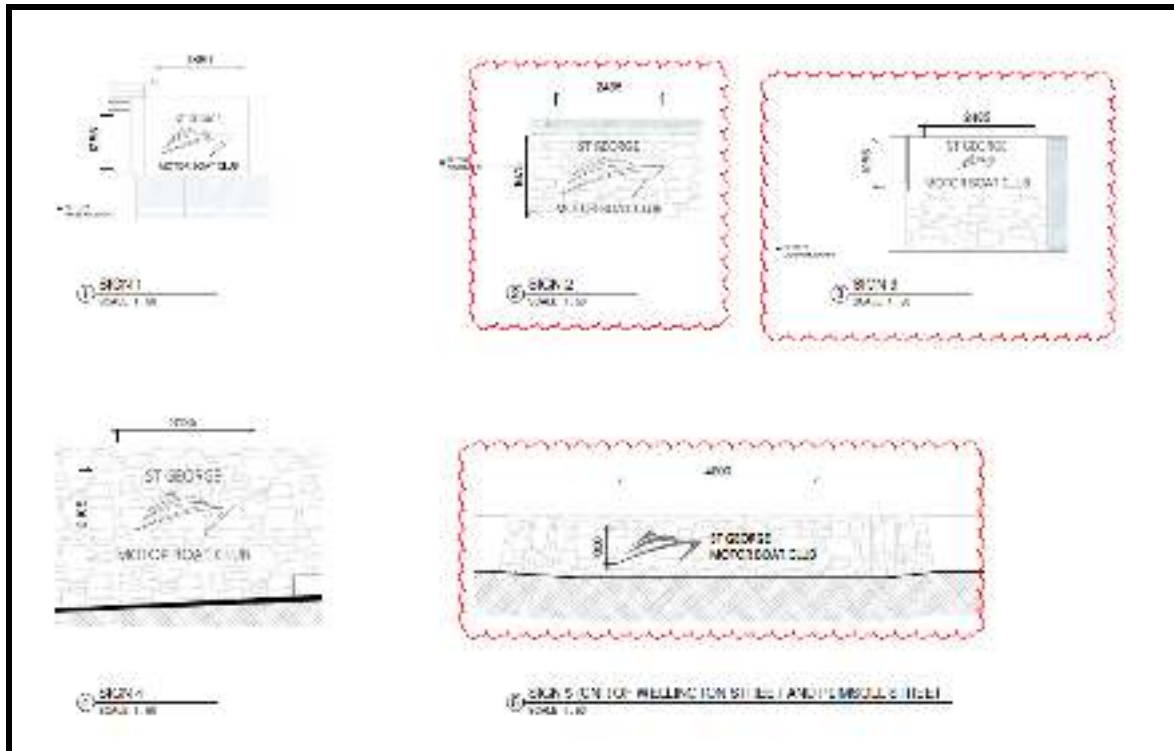


Figure 22: Proposed Signage (Source: Innovate, Rev C, July 2024)

#### f. **Georges River Local Environmental Plan 2021**

The relevant local environmental plan applying to the site is *Georges River Local Environmental Plan 2021 (GRLEP 2021)*. The particular aims of the GRLEP 2021 pursuant to Clause 1.2(2) state:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to provide for housing choices to cater for changing demographics and population needs,*
- (b) *to provide for a range of business uses which promote employment and economic growth and contribute to the viability and vibrancy of centres,*
- (c) *to promote and facilitate an ecologically and economically sustainable and vegetated urban environment in which the needs and aspirations of the community are realised,*
- (d) *to provide for a range of recreational, social, cultural and community service opportunities to meet the needs of the Georges River community,*
- (e) **to protect and preserve the natural, built, cultural and Aboriginal heritage of Georges River and to build upon and enhance the character of local areas,**



- (f) to promote a high standard of urban design and built form,*
- (g) to protect, preserve and enhance the natural landform, vegetation and open space, especially foreshores or bushland, in order to maintain landscape amenity and public access and use,*
- (h) to protect, maintain and improve waterway health to achieve the environmental values of the community and uses for waterways,*
- (i) to facilitate infrastructure to support new development,*
- (j) to promote and facilitate transit-oriented development that encourages the use of public transport, cycling and walking.*

The proposal is consistent with some of these aims, including the provision of recreational opportunities for the local community.

However, the proposal is contrary to the Plan's remaining objectives including that the proposal does not protect or enhance the character of local areas or promote a high standard of urban design and built form given the excessive bulk and scale of the proposal to the surrounding streets arising from the car park and to the foreshore. The proposal also fails to enhance public access and use to the foreshore and does not protect or maintain waterway health to achieve the environmental values of the community and uses for waterways given the lack of any upgrading of the existing sliprail to accommodate the growth in capacity from the proposed extended marina.

The relevant parts of GRLEP 2021 include the following:

- Part 2 Permitted or prohibited development
- Part 4 Principal development standards
- Part 5 Miscellaneous provisions
- Part 6 Additional local provisions

These relevant Parts are considered in further detail below. The remaining parts of the LEP are not relevant to the current application.

#### *Zoning and Permissibility (Part 2)*

The site is located within the R2 Low Density Residential zone and the W2 Recreational Waterways zone pursuant to Clause 2.2 of the GRLEP 2021 (**Figure 23**).

In relation to permissibility, the relevant definitions include:

***Marina*** means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities—

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,*
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,*
- (c) any facility for launching or landing boats, such as slipways or hoists,*
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,***
- (e) any berthing or mooring facilities.*

***business identification sign*** means a sign—

- (a) that indicates—*
  - (i) the name of the person or business, and*
  - (ii) the nature of the business carried on by the person at the premises or place at*

which the sign is displayed, and  
 (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,  
 but that does not contain any advertising relating to a person who does not carry on business at the premises or place. **Note**— Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

The permissibility of the proposal is outlined in **Table 4**.



Figure 23: Zoning Map (Source: NSW Planning Portal Spatial Viewer)

Table 4: Consideration of Permissibility

ZONE	PERMISSIBLE USES	PROPOSED DEVELOPMENT	PERMISSIBLE
R2 Low Density Residential	business identification signs; car parks	Alterations & additions to an existing marina (club facilities)	Yes – Subject to existing use rights*
		car park	✓
		business identification signs	✓
W2 Recreational Waterways	business identification signs, marinas, mooring pens; moorings, water recreation structures	Marina (extension to existing marina)	✓

The proposed alterations and additions to the existing club building are not permissible in the zone and therefore rely on existing use rights, which are discussed below. The proposed alterations and additions to the existing club building also need to demonstrate that such works are *ancillary* to the boat storage facility as outlined in the definition of *marina* outlined above. This matter is also considered in more detail below.

### *Existing Use Rights*

The proposed alterations and additions to the existing building on the site is considered to be for the purposes of a *marina* as the definition of a *marina* includes *any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility*. *Marinas* are prohibited in the R2 zone in which the existing club building is located and therefore the permissibility of the proposed alterations and additions to the existing club facility (*marina*) relies on existing use rights.

Section 4.65 of the EP&A Act provides the definition of *existing use rights*, which means:

*existing use means—*

- (a) *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 this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land—*
  - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
  - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Existing use rights for the SGMBC have previously been established in numerous assessment reports for the development consents issued for the site and therefore it is clear that the existing club building benefits from existing use rights.

Pursuant to Section 4.66(1) of the EP&A Act, except where expressly provided in this Act, nothing in the EP&A Act or an environmental planning instrument prevents the continuance of an existing use. Therefore, the EP&A Act does not require any further approvals or consents for the SGMBC to continue operating on the site in its current form. Section 4.66(2) provides, however, that Section 4.66(1) does not allow any alteration, or extension to, or rebuilding of a building or work, or any increase in the area of a building or work benefitting from existing use rights without further consent.

Section 4.67(1)(a) of the EP&A Act provides that the Regulations (in Section 162) may make provision for, or with respect to, the carrying out of alterations or extensions to an existing use. Section 163(1)(a) and (b) of the Regulation allows existing uses to be enlarged, expanded or intensified as well as altered or extended. Sections 164 and 165 of the Regulation provides the requirements for such works to existing uses which state:

#### **164 Enlargement, expansion and intensification of existing uses**

- (1) *Development consent is required for any enlargement, expansion or intensification of an existing use.*
- (2) *The enlargement, expansion or intensification must be—*
  - (a) *for the existing use and for no other use, and*
  - (b) *carried out only on the land on which the existing use was carried out immediately before the relevant day.*

**165 Alteration of buildings and works**

- (1) *Development consent is required for an alteration of a building or work used for an existing use.*
- (2) *The alteration must be—*
  - (a) *for the existing use of the building or work and for no other use, and*
  - (b) *erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.*

The proposed alterations and additions to the existing club facility is for the existing use of the building, being for a motor boat club associated with the existing marina, and is to be erected only on the land in which the building is erected. Therefore, the proposal is permissible with consent subject to Sections 164 and 165 of the Regulation.

The proposed additional mooring berths are considered to satisfy the definition of a *marina*, comprising additions to an existing marina, which is proposed within the W2 zone and below the MHWM. Therefore, this portion of the proposal is permissible with consent in the zone pursuant to the Land Use Table in Clause 2.3 of the GRLEP 2021. Only the proposed alterations and additions to the existing club building on the site rely on existing use rights. Accordingly, the proposed alterations and additions to the existing club building are permissible with consent pursuant to Section 163(1)(a) and (b) of the Regulation.

Important to note is that the proposal does not involve changing the commercial use to another commercial use that would otherwise be prohibited under the EP&A Act and therefore the constraints of Section 163(2) of the Regulation relating to a maximum of 10% increase in gross floor area, significant intensification and being only *minor alterations* do not apply to the current application.

***Ancillary use***

The provisions for existing use rights do not ordinarily require a use to demonstrate that it is ancillary, however, it is required in this case given the definition of marina, requires the club to be ancillary. The Department's Planning Circular PS21-008 dated 2 December 2021 on '*How to Characterise Development*' provides a useful summary for considering ancillary uses. This Circular considers that an ancillary use is a use that is *subordinate or subservient* to the dominant purpose.

To determine whether a use is ancillary, consideration of whether the component is going to serve the dominant purpose of the development or whether it is independent, the amount of land to be used for a certain component and whether one use is inconsistent with the other use are relevant.

In this case, the marina following the proposed expansion will allow for the berthing of 310 boats, which when combined with the area for car parking, boat ramp (including trailer parking for the boat ramp) and the slipway/boat maintenance area, all associated with the marina use results in a significant portion of the site being used for the marina. By comparison, the club occupies a smaller portion of the site. The club is also considered to be consistent and to some extent dependant on, the dominant purpose in that people using the marina use the facilities of the club, including amenities, food and drink areas and the ancillary services to the marina comprising waste management, security, boat maintenance and management of the marina. Further, the proposed alterations and additions to the club are not significantly increasing the footprint of the club beyond the current building area, with the exception of the car park.

For these reasons, it is considered that the club is still ancillary to the dominant use of the site for a marina. The marina definition includes any facility for the construction, repair,

maintenance, storage, sale or hire of boats, fuelling, sewage pump-out or other services for boats, launching or landing boats, such as slipways or hoists and any berthing or mooring facilities. All of these uses are contained on the site, in addition to the club. Therefore, it is considered that the proposed alterations and additions to the club are still ancillary to the overall use of the site as a marina.

The potential impacts of the proposal on the amenity of the surrounding area is a merit consideration which is considered in detail in this report and in accordance with the planning principle as outlined below.

### *Zone objectives*

Pursuant to Clause 2.3(2), the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The R2 zone objectives include the following pursuant to the Land Use Table in Clause 2.3:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
- *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*

The W2 zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*

The proposal is considered to be inconsistent with these zone objectives as the building form does not promote a high standard of urban design or provide a built form which enhances the local character of the suburb. The lack of adequate setbacks for the proposed car parking structure and the lack of connectivity of the proposal with the streetscape does not enhance the area.

The lack of an appropriately designed foreshore interface along the western elevation of the building, particularly for the proposed roof terrace, also reduces the scenic value of the waterway given the bulk and scale of the building which results from the proposal. Therefore, the proposal is considered to be inconsistent with Clause 2.3(2) of the GRLEP 2021.

The site is not included in Schedule 1 for additional permitted uses (Clause 2.5,) and subdivision (CI 2.6), and temporary use of land (CI 2.8) are not proposed. Some demolition is proposed to provide for the alterations and additions to the club facility which is permissible pursuant to Clause 2.7.

### *Development Standards (Part 4)*

The site is subject to the height of buildings and floor space ratio development standards, which are considered in **Table 5**.



**Table 5: Development standards (Source: GRLEP 2021)**

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
Height of buildings (CI 4.3(2))	9m (R2 zone)	13.05m (to roof of new rooftop terrace and bar on 1 <sup>st</sup> floor)	No
FSR (CI 4.4(2))	0.55:1 & Area 1 (R2 zone)	0.35:1 (3,853.31m <sup>2</sup> )	✓

The maximum height of buildings map is illustrated in **Figure 24**.

**Figure 24: Maximum height of Buildings Map (Source: NSW Planning Portal Spatial Viewer)**

The existing development on the site exceeds the maximum building height development standard in several places, including:

- The roof over the ground floor of the club building on the foreshore elevation,
- Several portions of the pitched roof over the existing club adjoining the Wellington Street boundary; and
- Small area of the ground floor roof on the southern side of the building above the loading/waste areas.

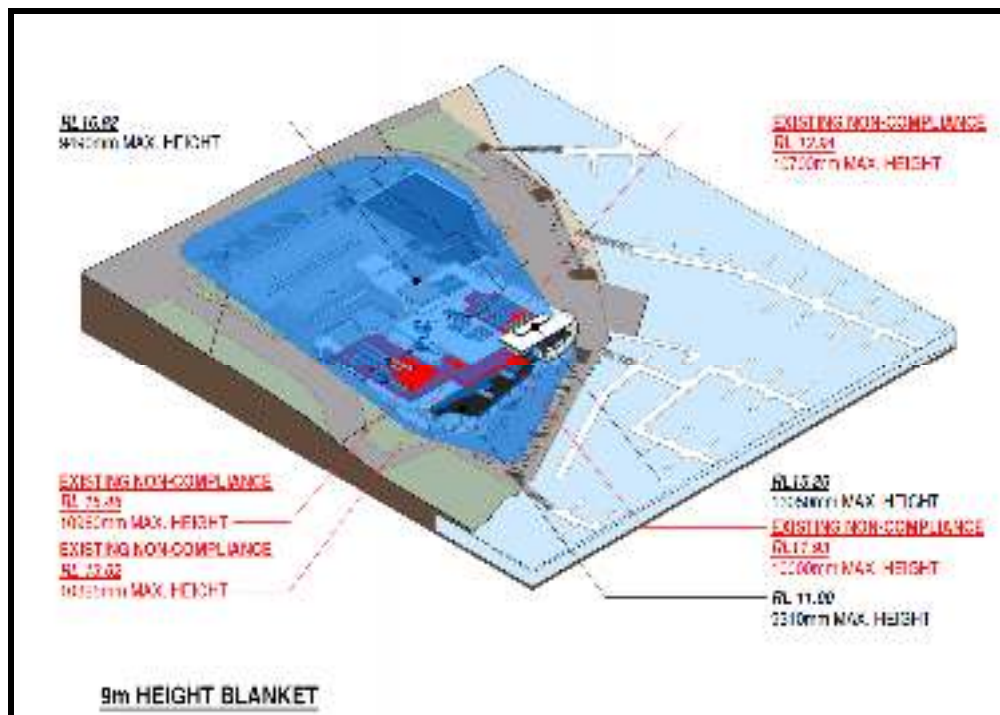
These existing height exceedances arise from a combination of the sloping topography of the site from the eastern (road side) area of the site down to the foreshore as well as the likely lack of a maximum building height control when the existing buildings were constructed in the early 1970s.

The proposal exceeds the maximum building height development standard for the following components of the proposal:

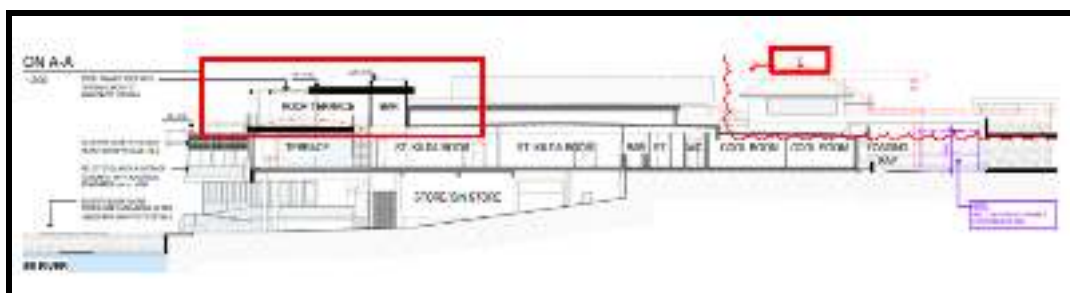
- The roof of the proposed new rooftop terrace and bar area on the first floor to 13.05 metres (exceedance of 4.05 metres) in the southwest corner of the site adjacent to the Georges River foreshore;

- The apex of the proposed roof structure over the new entry area/foyer on the first floor to 9.49 metres (exceedance of 0.49m); and
- The roof over the proposed ground floor outdoor terrace area adjoining the Marinas Edge Restaurant and bar area to the west side of the site to 9.310 metres (exceedance of 0.3m) adjacent to the Georges River foreshore.

The existing height non-compliances (in red) and the proposed height non-compliances (in black) are illustrated in the height blanket diagram in **Figures 25 and 26**.



**Figure 25: Height Blanket (Source: Innovate, Rev C July 2024)**



**Figure 26: Proposed Height Exceedances (Source: Innovate, Revision C, July 2024)**

A Clause 4.6 request has been provided seeking a variation to this development standard. However, the proposed alterations and additions to the existing club building have the benefit of existing use rights and therefore pursuant to section 4.67(3) of the EP&A Act, the provisions of planning instruments that derogate from Section 163 of the Regulation (permissibility of altering existing uses etc) do not apply to the assessment of this application. In this way, a Clause 4.6 request is technically not required for the application.

Section 4.67(3) of the EP&A Act states:

*An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

A planning principle has been established in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 (**Fodor**), on undertaking a merit assessment for development applications which benefit from existing use rights, which were confirmed in *Stromness Pty Ltd v Woollahra Municipal Council* [2006] NSWLEC 587 by Pain J.

In *Fodor*, it was held that the consequence of preserving existing use rights is that zone objectives and planning controls that limit the size of a proposal (i.e. floor space ratio, height and setback) have no application, however, apart from confirming that Section 79C (now Section 4.15(1)) of the EP&A Act applies, they are silent on the considerations that should inform the assessment of such applications.

The planning principle in *Fodor* has established criteria for the assessment of proposals on land with existing use rights and outlines four questions which usually arise in (and can assist with) the assessment of existing use rights developments, which include the following:

- 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?
- What is the relevance of the building in which the existing takes place?
- What are the impacts on adjoining land ?
- What is the internal amenity?

This Planning Principle is considered in the assessment of the Clause 4.6 request below.

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### Consideration of the Clause 4.6 Request

#### *Preconditions to be satisfied*

Clause 4.6(4) of the GRLEP 2021 establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

There are two preconditions to be satisfied, comprising the tests pursuant to Cl 4.6(4)(a) consisting of the matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case, whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)). The second test is the concurrence of the Planning Secretary pursuant to Cl 4.6(b) of the GRLEP 2021.

These matters are considered below for the proposed height exceedance having regard to the applicant's Clause 4.6 request.

#### *Whether the proposal is unreasonable and unnecessary (Cl 4.6(3)(a))*

Preston CJ, in *Initial Action*, reconfirmed the five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary

as outlined in *Wehbe v Pittwater Council (2007) NSWLEC 827* ('Wehbe'). The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The applicant considers that the proposed development satisfies the first Wehbe test, in that the objectives of the standard are achieved notwithstanding noncompliance with the standards. Consideration of the objectives of the Height of Buildings development standard pursuant to Clause 4.3(1) of the GRLEP 2021 is outlined in **Table 6**.

**Table 6: Consideration of the Height development Standard Objectives**

OBJECTIVE	APPLICANTS COMMENTS	ASSESSMENT COMMENTS	COMPLY
(a) <i>to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,</i>	<p>The proposed height exceedances are consistent and generally lower than the overall RL of the existing built form and will not significantly alter the bulk or scale of the existing development.</p> <p>The new building elements will generally be lower than the maximum RL of the existing structure, they are of limited area, minimal bulk, height and dimension, it commensurate whilst integrating into to the existing onsite structure in terms of floor and roof RLs whilst having compatible design elements.</p>	<p>The proposed height exceedances over the ground floor terrace area and the new foyer area are considered to be satisfactory, given these non-compliances are relatively minor (0.49m and 0.3m) and sit within the existing height exceedances. This is supported.</p> <p>However, the proposed height of the rooftop terrace exceeds the height limit by 4.05 metres and is considered to be incompatible with the bulk and scale of surrounding development when viewed from the foreshore. While the overall height of the proposed rooftop terrace is not supported, this is a merit assessment consideration, rather than a development standard exceedance given the proposal benefits from existing use rights.</p>	The rooftop terrace exceedance is not supported from a merit perspective.
(b) <i>to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,</i>	<ul style="list-style-type: none"> <li>As a result of the site's location and orientation, overshadowing impacts are minimal and complies with Councils DCP provisions</li> <li>View and visual impact of the proposed non-compliances is minimized as a result of the existing site topography</li> <li>The existing club facility is currently visible from surrounding streets, presenting a similar scale</li> </ul>	<p>Agreed that the proposed height exceedances do not result in any overshadowing or loss of privacy for adjoining properties.</p> <p>There is view loss arising from the proposal but not from the height exceedances proposed.</p> <p>The visual impact of the bulk and scale arising from the height exceedance of the rooftop terrace is a merit</p>	Yes

	<p>to the existing residential dwellings. Similarly, the scale of the proposal corresponds to the scale of surrounding development.</p> <ul style="list-style-type: none"> <li>The location of the proposed works will not have any adverse privacy impacts on neighbouring properties.</li> </ul>	<p>consideration and is outside the scope of the development standard test given the existing use right for the existing and proposed development on the site.</p>	
<p>(c) <i>to ensure an appropriate height transition between new buildings and—</i></p> <p>(i) <i>adjoining land uses, or</i></p> <p>(ii) <i>heritage items, heritage conservation areas or Aboriginal places of heritage significance.</i></p>	<ul style="list-style-type: none"> <li>The development maintains an appropriate transition as the proposed height exceedances are predominantly consistent and lower than the overall RL of the existing built form and will not significantly alter the bulk or scale of the existing development.</li> <li>The site is not located within a heritage conservation area, or near a heritage item. The site was not identified as containing an Aboriginal place of heritage significance on any AHIMS search.</li> </ul>	<p>The proposed is not a fir a new building and is not located in a heritage conservation area.</p>	Yes

Since the proposal benefits from existing use rights, the second Webhe test may also be relevant, which states that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. The matters for consideration in this instance are outlined in the *Fodor* Planning Principle, which is considered in the key issues section of this report as this principle is to establish criteria when development standards do not apply.

The proposed height exceedance is considered to generally satisfy this test, with the exception of the proposed rooftop terrace exceedance, which is not supported from a merit perspective.

*Whether there are sufficient environmental planning grounds (CI 4.6(3)(b))*

The applicant considers the following are sufficient environmental planning grounds for each of the non-complying components of the proposal, which are assessed for consistency under CI 4.6(3)(b):

(a) *Apex to the pitched roof above the club entry*

- Construction of this portion of the roof will be of minimal bulk and dimension.*
- The roof has been designed with a 30 degree slope so that it is similar in scale and shape as the existing club office roof and to represent pitched roofs of surrounding dwellings.*

Comment: While this is only a minor variation to the height limit, it is considered that this roof form is unnecessarily high and bulky given it is over a void area with no floor area below. This proposed new roof form is also significantly higher than the lift well from the car park adjoining



to the east as well as the existing roof form over the existing office area to the north on the first floor. While the pitched form of the roof is supported, as it is compatible with the existing roof on the club building as well as the residential dwellings in the area, the overall height is excessive and unnecessary.

(b) Rooftop Terrace and Bar

- *Construction of new rooftop terrace and bar will be of minimal bulk, height and dimension.*
- *The new rooftop terrace and bar is compatible with the design of the existing building.*
- *Furthermore, the new rooftop terrace and bar will have no additional amenity impacts given it is situated on the southwestern side of the development with views overlooking the Georges River.*

Comment: This environmental planning ground is not supported. The proposed new roof form is not considered to be of minimal bulk or height given it represents a third storey onto the building, which is inconsistent with other buildings on surrounding sites as well as the existing club building on the site which comprises only two (2) storeys.

It is also not agreed that the proposed new roof terrace is compatible with the existing building given it is one (1) storey higher than the remainder of the club building. The location on a prominent corner of the club which is viewed from all sides of the site from the foreshore exacerbates this bulk of the building in this sensitive area of the site.

This proposed new roof terrace is also considered to result in amenity impacts arising from the adverse visual impact this portion of the building will have from the foreshore, despite the applicant's analysis.

The objects of the EP&A Act pursuant to Section 1.3 include several matters, however, for the purposes of the height exceedance, Object (g) is considered to be relevant which states:

*Object (g) to promote good design and amenity of the built environment,*

The proposed height exceedance for the rooftop terrace is considered to be contrary to this object as the proposed height breach does not promote good design arising from the large, bulky structure and is inconsistent with the prevailing scale and design of existing development in the area.

(c) Ground Floor Terrace Roof

- *The roofing over the terrace is necessary for its practicable use and amenity for patrons.*
- *The protrusion is minor (0.31m), and necessary in order to align the extension with existing building windows and wall heights and to achieve the minimum depth required to facilitate an awning.*
- *The terrace is not proposed to be enclosed and therefore the roof will be of minimal bulk and dimension.*
- *The terrace roof is compatible with the design of the existing building.*
- *Furthermore, the terrace roof will have no additional amenity impacts to neighbours given it is situated on the western side of the development with views overlooking the Georges River.*

Comment: The environmental planning grounds for the ground floor terrace roof are supported as the proposed roof form will continue from the existing building and will be an open form terrace area which reduces its bulk and scale to the foreshore.

*Whether the proposal will be in the public interest (Cl 4.6(4)(a)(ii))*

Whether the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out requires consideration.

Consistency with the objectives of the height development standard were considered above and found to be generally satisfactory with the exception of the proposed roof terrace.

The applicant considers the proposed height exceedances are consistent with the zone objectives for the following reasons:

- *The facility has been in operation for over 100 years and will not prevent the ability for the provision of housing within the surrounding a low-density residential environment.*
- *This facility provides services to meet the day to day needs of residents. The St George Motorboat Club is a community-based organisation, a key employer and piece of social and economic infrastructure which has continually provided a centre for sporting, celebratory and community events, in addition to contributing to the local economy via its food and drink uses.*
- *The proposal provides continued and enhanced access to aquatic recreational facilities and services for local residents, which due to the requirement for foreshore access has limited options for location.*
- *The proposal has been designed to a high quality and to present a low-density street frontage, so as to align with the low-density residential amenity of the locality.*
- *The proposed development improves the landscape setting of the area, through additional landscape planting along Wellington and Plimsoll Streets but also along the foreshore; this will enhance the existing environmental character of the Georges River local government area.*

The proposal is considered to be inconsistent with the objectives of the R2 zone in that the proposal does not promote a high standard of urban design or built form that enhances the local character of the suburb and achieves a high level of residential amenity. Such inconsistency generally arises from the proposed bulk and scale of the proposed roof terrace, particularly when viewed from the foreshore. Therefore, it is not agreed that the proposal is consistent with the objectives of the zone.

*Concurrence of the Planning Secretary (Cl 4.6(4)(b))*

Pursuant to Clause 55 of the *Environmental Planning and Assessment Regulation 2021*, the Secretary has granted assumed concurrence to various proposals as outlined in Planning Circular PS 20-002 issued on 5 May 2020 subject to conditions. The conditions relevant in this case are that the proposal is for *regionally significant development* and accordingly the Panel can assume the Secretary's concurrence for this application. Accordingly, this second precondition has been satisfied by the proposal.

However, in *Initial Action*, Preston CJ, considered that the Court should still consider the matters in Cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard.

The matters for which the Secretary is to take into consideration in deciding whether to grant of concurrence include:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are considered below in the context of the applicant's written request.

It is agreed that there is no matter of state or regional significance which arises out of the proposed height exceedance. In relation to whether there is a public benefit of maintaining the development standard, there is generally a public benefit arising from such compliance and it is considered that the proposed roof terrace is excessive in area and height and that there has been no attempt to reduce such impacts.

### Conclusion

The proposed roof terrace is not supported on merit grounds, while the height exceedances to the main entry area are considered to be unnecessary. The minor height breach for the proposed terrace on the ground floor of the club is supported.

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### *Miscellaneous Provisions (Part 5)*

There are some provisions relevant to the proposal under this Part, which are considered in **Table 5**. However, the site is not identified for land acquisition and is also not affected by the flood planning area and therefore Clauses 5.1 and 5.21 are not relevant to the proposal.

### *Additional Local Provisions (Part 6)*

The site is affected by a number of the local provisions in Part 6 of the GRLEP 2021, including:

- Acid sulphate soils
- Earthworks
- Stormwater management
- Foreshore area and coastal hazards and risks (**Figure 27 & Figure 28**)
- Riparian land and waterways (**Figure 29**)
- Foreshore scenic protection area (**Figure 30**)
- Airspace operations
- Essential services
- Design excellence
- Landscaped areas in certain residential and conservation zones.

The relevant controls of the GRLEP 2021 to the proposal are considered in **Table 7** below and are considered further in the key issues section of the report.



Figure 27: Coastal Hazard and Risk Map (CI 6.4(2)(a) of the GRLEP 2021 (Source: NSW Legislation)



Figure 28: Foreshore Building Line Map (CI 6.4(2)(b) of the GRLEP 2021)– 23 metres (Source: NSW Planning Portal)

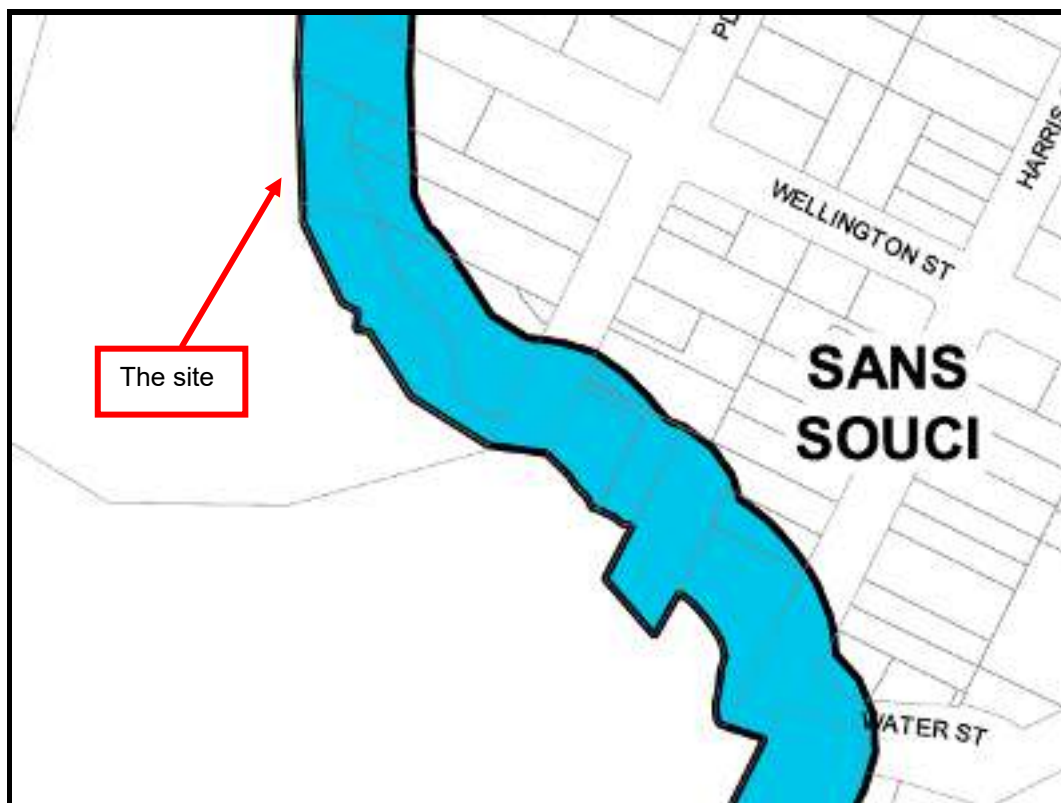


Figure 29: Riparian lands and waterways map – CI 6.5 of the GRLEP 2021 (Source: NSW Planning Portal)

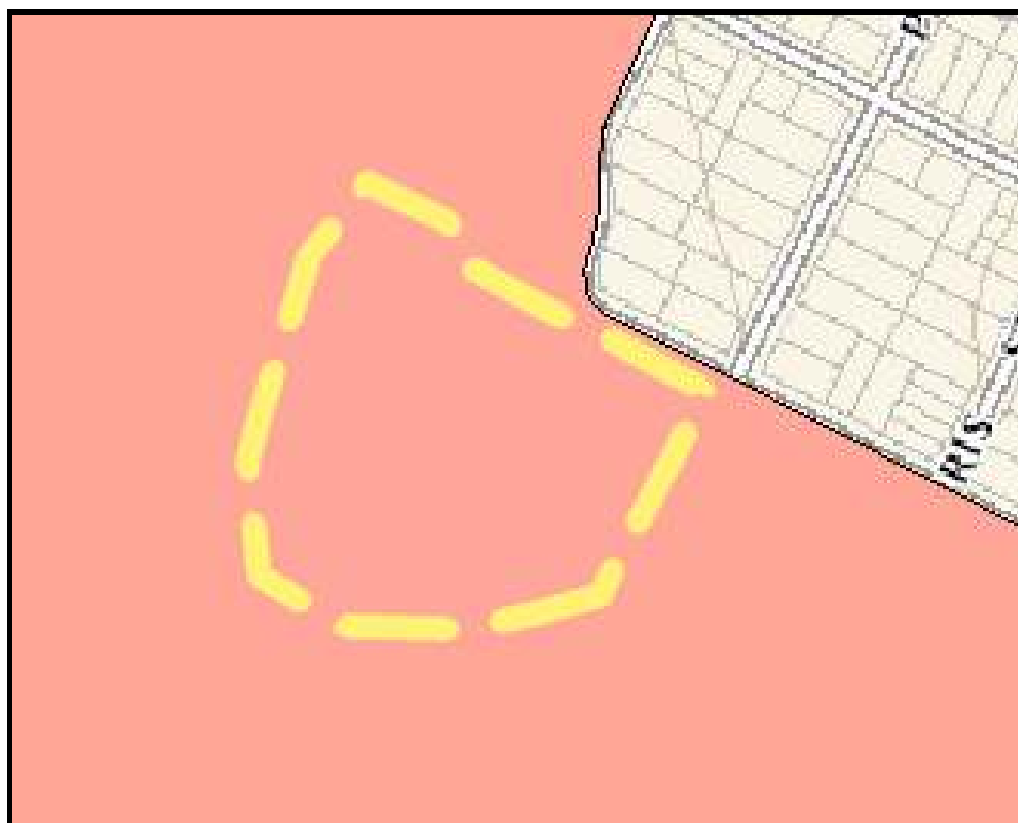


Figure 30: Foreshore Scenic Protection Area Map – CL 6.6 of the GRLEP 2021 (Source: NSW Planning Portal Spatial Viewer)

Table 7: Consideration of GRLEP 2021

REQUIREMENT	PROPOSAL	COMPLY
<b>Part 5: Miscellaneous Provisions</b>		
<b>CI 5.7: Development below mean high water mark</b>		
1) The objective of clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.	This consent is sought in this application.	✓
2) Development consent required to carry out development on any land below <b>MHWM</b> of any body of water subject to tidal influence (including bed of any such water).	Consideration of potential impacts to the coastal zone and land below the MHWM is considered in this report.	✓
<b>CI 5.10: Heritage conservation</b>		
(4) The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6). Consideration of potential impacts to heritage.	<p>There are no heritage items located on the site, or on adjoining sites. There are three (3) items in the vicinity of the site including:</p> <ul style="list-style-type: none"> <li>• Sans Souci Park, public baths and bathers pavilion (I303);</li> <li>• House and garden, "Blanche Cottage" (I302) at 493 Rocky Point Rd</li> <li>• Stables at 489 Rocky Point Road (I301)</li> </ul> <p>These items are a significant distance from the site and are unlikely to be adversely affected by the proposal. There are no items or places of Aboriginal cultural heritage on the site according to the AHIMS search and the Aboriginal Cultural heritage report. Accordingly, there will be no adverse impacts on heritage arising from the proposal.</p>	✓
<b>Part 6: Additional Local Provisions</b>		
<b>CI 6.1: Acid sulphate soils</b>		
1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The proposal is considered unlikely to disturb acid sulphate soils.	✓
2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the <i>Acid Sulfate Soils Map</i> as being of the class specified for those works:	<ul style="list-style-type: none"> <li>• <u>Class 1 land</u> (W2 zone) – The proposed works in the Class 1 land comprises the additional piles for the new mooring berths, however, there is no excavation for such works as the piles will be driven directly into the seabed.</li> <li>• <u>Class 5 land</u> (R2 zone) – The proposed works for the car park comprise excavation within 500m of Class 1 land, however, such works are not below 5m AHD and are unlikely to lower the water table below 1m.</li> </ul> <p>Consent is not required for the works under this clause.</p>	<div>✓</div> <div>✓</div>
<ul style="list-style-type: none"> <li>• Class 1 land – any works</li> <li>• Class 5 - Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre</li> </ul>		



Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.		
3) Development consent <b>must not be granted</b> under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	Consent is not required under this clause (refer above) and therefore an ASS Management Plan is not required.	N/A
4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if— (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.	Despite consent not being required under this clause (refer above), the potential for ASS on the site has been considered and is considered satisfactory. This matter is considered further in the key issues section.	✓
<b>CI 6.2: Earthworks</b>		
1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Considered satisfactory (refer below).	✓
2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or	The proposal includes earthworks comprising proposed excavation in the north-east corner of the site of 1.8m (to RL 8.6) for the proposed car park structure. Consent is required for these earthworks as such works are not exempt development and are not ancillary to development permitted without consent.	✓

to development for which development consent has been given.		
<p>3) In deciding whether to grant development consent, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<ul style="list-style-type: none"> <li>• The proposal is unlikely to result in the disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality given the stormwater is proposed to be managed in accordance with the existing arrangements, while the site is not affected by flooding.</li> <li>• The proposal is also unlikely to adversely impact on the likely future use or redevelopment of the land given only alterations and additions are proposed to the club building and using the site for its current purposes.</li> <li>• The in-situ soil materials within the land portion of the site have been classified as <i>General Solid Waste (non-putrescible)</i>.</li> <li>• The proposal has the potential to adversely impact on the existing and likely amenity of adjoining properties, however, such impacts are related to urban design and view loss, rather than from the proposed earthworks.</li> <li>• There is likely to be minimal fill required given the proposed earthworks are primarily excavation and not filling.</li> <li>• The likelihood of disturbing relics is considered to be low given the absence of any known Aboriginal cultural heritage on the site.</li> <li>• Potential impacts on watercourses are considered in the key issues section of this report and do not arise from the proposed earthworks.</li> <li>• The EIS outlines appropriate measures which will reduce impacts of the development.</li> </ul>	✓
<b>CI 6.3: Stormwater Management</b>		
1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this Plan applies and on adjoining properties, native bushland and receiving waters.	Considered satisfactory (refer below).	✓
2) In deciding whether to grant development consent for development, the consent authority must be satisfied	Council's Engineer has considered the proposed stormwater arrangements and raises no objections, stating that the proposal will utilise the existing stormwater (Council) system, that on-site	✓

<p>that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>	<p>detention is not required and the stormwater objectives for the development have been met. The proposed extended car parking area will drain to the existing drainage pit in the southwest corner of the car park, while the proposed additions to the club building will be directed to the existing drainage pit adjoining the western boundary of the building.</p>	
<b>CI 6.4: Foreshore area and coastal hazards and risk</b>		
<p>1) The objectives of this clause are as follows—</p> <p>(a) to protect people and property from unacceptable risk from coastal hazards associated with climate change,</p> <p>(b) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,</p> <p>(c) to facilitate opportunities for public access to and along the foreshore</p>	<p>This is achieved as outlined below and in the key issues section.</p> <p>The proposed marina extension may result in pollution of the river through the additional use of the sliprail and boat maintenance area which has not been adequately addressed in the application.</p> <p>The proposal presents the opportunity to increase public access in the area along the foreshore which has not been achieved by the proposal.</p>	<p>✓</p> <p><b>No</b></p> <p><b>No</b></p>
<p>2) This clause applies to the following land—</p> <p>(a) land identified on the <i>Coastal Hazard and Risk Map</i>,</p> <p>(b) land identified on the <i>Foreshore Building Line Map</i></p>	<p>The site is land identified on both of these maps:</p> <p>This is land on the site is below the existing seawall and therefore includes the proposed marina extension works.</p> <p>The proposed alterations and additions to the club building on the lower ground and ground floors are below the FSBL (but above the coastal hazard and risk line).</p>	<p>✓</p> <p>Applies</p>

	It is noted that the proposed extension and works to the car park area is not required to be considered under this clause as such works are located behind the FSBL and are not located in the coastal hazard and risk mapped area.	
3) Development consent <b>must not be granted</b> for development on land to which this clause applies except for the following purposes— (a) the alteration, or demolition and rebuilding, of an existing building if the footprint of the building will not extend further forward than the footprint of the existing building into— (i) the foreshore building line, or (ii) the land identified on the <i>Coastal Hazard and Risk Map</i> , (b) the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks.	<p>The proposed additions to the club building increase the footprint of the building beyond the FSBL and therefore technically consent should not be granted to such works. However, these proposed works benefit from existing use rights and therefore this development standard in Clause 6.4(3)(a)(i) does not strictly apply pursuant to Section 4.67(3) of the EP&amp;A Act. However, the matters outlined in the planning principle in <i>Fodor</i> are to be applied to assist with the merit assessment of these matters. These matters are considered below.</p> <p>This is not relevant to the proposal.</p> <p>The proposed marina extension is considered to be consistent with the definition of <i>water recreation structures</i> in this instance (notwithstanding that this is a different definition to <i>marina</i> in the land use table). Such works are permissible in the zone and therefore do not rely on existing use rights (development standards apply as they ordinarily would). The proposed marina extension is permitted by Clause 6.4(3)(c).</p>	<p><b>No</b> (refer below)</p> <p>N/A</p> <p>✓</p>
<p><u>Proposed Club Additions – Consideration under <i>Fodor</i> for development standard</u></p> <p>The four questions outlined in the <i>Fodor</i> planning principle which are to be considered in relation to the proposal:</p> <ul style="list-style-type: none"> <li>• <i>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?</i></li> </ul> <p>The bulk and scale of the proposed additions are considered to be excessive, largely due to the exceedance of the foreshore setback for the proposed roof terrace and the large terrace area proposed adjoining the existing ground floor restaurant. While there are no directly adjoining properties to the site arising from the location of Anderson Park to the north, the proposed works would not be permissible on adjoining sites with respect to the FSBL setback control.</p> <p>The proposed additions to the club building are located over existing hardstand (car parking and manoeuvring) areas on the site and do not encroach on or over any natural areas or beyond the seawall on the site, however, the bulk and scale of the proposal exacerbates the exceedance of the FSBL such that the proposal will adversely impact on</p>		

the visual amenity when viewed from the foreshore.

- *What is the relevance of the building in which the existing takes place?*

The building is an existing club house to the marina, which relies on its proximity to the foreshore, however, the club has functioned on the site since the 1920s and the exceedance of the foreshore building line to the extent proposed is not required for the club to function in association with the marina. The proposal does not satisfy this matter.

- *What are the impacts on adjoining land?*

There are significant visual impacts arising from the proposed works on the nearby public land comprising the foreshore given the excessive bulk and scale of the proposal and the lack of adequate landscaping opportunities to soften the larger proposal when viewed from the foreshore. While there are minimal direct impacts arising from overshadowing or overlooking given the location of the proposal away from adjoining properties, the visual impacts are unsatisfactory. The proposal does not satisfy this matter.

- *What is the internal amenity?*

The proposed works will increase the internal amenity for the site arising from the expanded areas for patrons within the club, along with improvements to accessibility to these areas of the club. There are no adverse internal amenity impacts arising from the encroachment of the development beyond the foreshore building line. The proposal satisfies this matter.

**The proposal is considered to be inconsistent with the planning principle having regard to the encroachment of the proposal beyond the FSBL and is therefore unsatisfactory having regard to the development standard in Clause 6.4(3) of the GRLEP 2021.**

<p>4) In deciding whether to grant development consent, the consent authority must consider the following matters—</p> <p>(a) whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change,</p> <p>(b) whether the development could be located on parts of the site not exposed to</p>	<p>The Coastal Risk Report considered the levels from sea level rise and tidal inundation and concluded:</p> <ul style="list-style-type: none"> <li>• <u>Club additions</u> - the proposed works on the landside of the marina are all on areas higher than the assessed extreme water levels at the site, taking account of sea level rise plus freeboard, and therefore they will not be at risk of coastal inundation. The lower ground floor (sapphire room) is at RL 3.22 while the design water level, plus the effects of sea level rise is 2.3 m AHD as outlined in the Coastal Risk Report.</li> <li>• <u>Marina extension</u> - the proposed pontoons will not be affected by sea level rise, while the piles will be driven in to a height suitable for the height of the pontoons. Such water recreation structures are designed to withstand changes in sea level (tide related) and inundation. Accordingly, the proposal is satisfactory having regard to this matter</li> <li>• <u>Club additions</u> - The proposed alterations and additions to the existing club building are located outside of the coastal hazard and risk</li> </ul>	<p>✓</p> <p>✓</p> <p>✓</p>
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coastal hazards,	<p>area and above the inundation area. Furthermore, the proposed additions are located having regard to the food and drink areas within the existing club building. The potential for coastal risk has been considered in Coastal Risk Report and found to be satisfactory.</p>	
(c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway,	<ul style="list-style-type: none"> <li>• <u>Marina extension</u> - The proposed extension to the marina area is required to be located in this area as it is below MWHM and is required to be accessible by boats. ✓</li> <li>• <u>Club additions</u> - The proposed additions to the club forward of the FSBL will not generate conflict between people using the waterway given there is sufficient space for people to use the waterway and interact with the club facilities. ✓</li> <li>• <u>Marina extension</u> – The Marine Navigation &amp; Safety Report concluded that the proposed marina extension will reduce the navigable width of Kogarah Bay in the vicinity of the marina to approximately 68 metres at the narrowest point of the bay entry (from 153 metres at its widest point) which was considered satisfactory having regard to the size and number of vessels within Kogarah Bay. Transport for NSW (Maritime) also considered that this navigational width was satisfactory. ✓</li> </ul>	
(d) whether the development will cause environmental harm by pollution or siltation of the waterway,	<ul style="list-style-type: none"> <li>• <u>Club additions</u> - The proposed additions are located above the existing sea wall and there are various safeguards proposed in the Construction Management Plan to reduce impacts to the waterway. ✓</li> <li>• <u>Marina extension</u> - The <i>Aquatic Ecology and Sediment Quality Assessment</i> prepared by Advisian dated 17 July 2023 (<b>Aquatic Ecology Report</b>) recommended that a turbidity curtain with a minimum drop of 4 metres is to be used locally around the perimeter of pile driving/drilling works or the construction zone to limit the spread of plumes generated by piling activities. Council's Senior Environment Officer has considered the proposal and concluded that the proposal can be undertaken with minimal impact to the marine environment subject to recommended conditions. This is considered likely to reduce potential pollution and siltation of the surrounding area of the waterway during construction and addresses this matter. However, there are concern with the increased use of the sliprail with the expanded marina with no upgrade or compliance with updated environmental standard are proposed. The EPA's advice also raised concerns with the</li> </ul>	<p>✓</p> <p>No</p>



<p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>potential environmental impacts arising from the sliprail and its lack of improvements for current environmental standards.</p> <ul style="list-style-type: none"> <li>• <u>Club additions &amp; marina extension</u> – There is an existing footpath which runs along the foreshore boundary of the site from the Anderson Park boundary to the boat ramp. The applicant relies on a crown land lease for the purposes of the marina and therefore it is considered reasonable that public access should be provided along the foreshore frontage of the site. Therefore, it is considered that improved public access along the southwestern and southern foreshore boundary of the site should have been provided. This would have only required reconfiguration of some of the trailer parking spaces on the site, which has not been undertaken.</li> <li>• <u>Club additions &amp; marina extension</u> – It is considered that the proposed construction impacts have been adequately considered however, the potential impacts arising from the increased use of the sliprail and boat maintenance area and the visual impacts of the proposed additions to the foreshore have not been adequately mitigated. The proposal is unsatisfactory.</li> </ul>	<p><b>No</b></p> <p><b>No</b></p>
<b>CI 6.5: Riparian Land and Waterways</b>		
<p>1) The objective of this clause is to protect and maintain the following—</p> <ul style="list-style-type: none"> <li>(a) water quality within waterways,</li> <li>(b) the stability of the bed and banks of waterways,</li> <li>(c) aquatic and riparian species, communities, populations and their habitats,</li> <li>(d) ecological processes within waterways and riparian areas,</li> <li>(e) Aboriginal cultural heritage values of riparian land and waterways.</li> </ul>	<p>The proposal will protect and maintain the water quality within waterways and the stability of the bed and banks of waterways since the proposed works in the area affected by this clause will not directly impact on the waterway.</p> <p>The proposal will also not adversely impact on the aquatic and riparian species, communities, populations and their habitats, or ecological processes within waterways and riparian areas given the works are not located within the waterway. There are also no known Aboriginal cultural heritage values of riparian land and waterways.</p>	<p>✓</p>
<p>2) This clause applies to land identified as “Sensitive land” on the <i>Riparian Lands and Waterways Map</i>.</p>	<p>The site is identified on this map for the area between the existing seawall to the MWHM, which includes the southwest corner of the existing club building on the site. Therefore, this clause applies to the proposed additions to the western side of the existing club building comprising the lower ground, ground and rooftop bar additions (Clause 6.4(2)).</p>	<p>✓ Applies</p>
<p>3) In deciding whether to grant development consent for development on land to</p>		

<p>which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p> <p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p> <p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid,</p>	<p>The works in this area affected by this clause (proposed additions to the club) are unlikely to adversely impact on the water quality and flows into the Georges River given the proposed construction and stormwater management proposed.</p> <p>The Geotechnical report considered that the proposed works were satisfactory.</p> <p>The proposed works are considered satisfactory given the works are located above the existing seawall on the site and within a paved area.</p> <p>The proposed works are considered satisfactory given the works are located above the existing seawall on the site and within a paved area. There are no wetlands in close proximity to the site which are likely to be impacted by the proposal.</p> <p>There is no significant vegetation to be removed for the proposal.</p> <p>There are no opportunities for additional riparian planting in the area of the site affected by this clause.</p> <p>The proposal will not result in any increase in water extraction from the Georges River.</p> <p>The works in this area affected by this clause (proposed additions to the club) are unlikely to adversely impact on the water quality and flows into the Georges River given the proposed construction and stormwater management proposed.</p> <p>Satisfactory for this portion of the site.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
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minimise or mitigate the impacts of the development.		
<p>4) Development consent <b>must not be granted</b> to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	The works in this area affected by this clause (proposed additions to the club) are considered satisfactory in relation to potential environmental impacts.	✓
<b>CI 6.6: Foreshore scenic protection area</b>		
<p>1) The objectives of this clause are—</p> <p>(a) to protect, maintain and improve the scenic amenity of the Georges River foreshore,</p> <p>(b) to protect, maintain and improve significant views of and from the Georges River,</p> <p>(c) to protect, maintain and improve the diversity and condition of native vegetation and habitats,</p> <p>(d) to reinforce and improve the dominance of landscape over built form, hard surfaces and cut and fill,</p> <p>(e) to encourage the recovery of threatened species and their communities, populations and habitats,</p>	<p>The scenic amenity of the foreshore is not protected given the excessive bulk and scale of the proposed club additions and the lack of adequate landscaping along the foreshore. This is considered further in the key issues section of the report.</p> <p>There is a significant view loss to the foreshore arising from the proposal, which is considered further in this report.</p> <p>Considered satisfactory.</p> <p>This has not been achieved by the proposal given the excessive bulk and scale of the proposed additions to the club with inadequate landscaping and the height, bulk and lack of setback of the proposed car park structure.</p> <p>The proposal is consistent with this matter.</p>	<p><b>No</b></p> <p><b>No</b></p> <p>✓</p> <p><b>No</b></p> <p>✓</p>

(f) to enhance existing environmental, cultural and built character values of the foreshore.	The built character values of the foreshore are compromised by the proposed development.	<b>No</b>
2) This clause applies to land identified as "Foreshore scenic protection area" on the <i>Foreshore Scenic Protection Area Map</i> .	The whole of the site is identified on the FSPA map.	✓ Applies
3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must be satisfied that the development would facilitate the following—		
(a) the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,	The proposal does not adversely impact the topography of the site notwithstanding the cut and fill proposed for the changes to the car park and there are no rock formations impacted by the proposal. There is also no significant vegetation proposed to be removed for the proposal.	✓
(b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,	The Aquatic Ecology Report considers this to be satisfactory which is supported by Council's Environment Officer (further discussed in the key issues section of this report).	✓
(c) the maintenance and enhancement of native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors,	The site is located within the Greenweb and a mapped habitat reinforcement corridor (GRDCP 2021, section 3.2.2) and also identified as a SSROC connected biodiversity corridors as a supporting area. Such areas are to be landscaped with species indigenous to the Georges River Council area, with trees and landscaping to be provided in a form and configuration that maintains and enhances the core habitat and vegetated linkages. The site has limited biodiversity connectivity given the large areas of existing hardstand for the club, car parking areas and boat ramp/sliprail facilities. Greater landscaping is required along the foreshore elevation of the site, however, this is from a aesthetic perspective and not for biodiversity connectivity.	✓
(d) the achievement of no net loss of significant vegetation or habitat,	Refer above	✓
(e) the avoidance of clearing steep slopes	The site is not considered to comprise steep slopes, despite its sloping nature towards the waterway. The earthworks proposed are	✓

and facilitation of the stability of the land,	considered to be satisfactory and will not adversely impact on the stability of the land or adjoining land.	
(f) the minimisation of the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places,	There are significant impacts on views to the river for adjoining properties, particularly along Plimsoll Street as well as from public places including from Plimsoll and Wellington Street road reserves. Adverse visual impacts arising from the proposed club additions when viewed from the foreshore are also considered to be unsatisfactory (further discussed in the key issues section).	<b>No</b>
(g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.	The proposal involves a height and bulk which is unacceptable when viewed from the foreshore of the proposed club additions and from Plimsoll and Wellington Street road reserves for the proposed car park structure. The proposal is considered to be unsatisfactory (further discussed in the key issues section).	<b>No</b>
<b>CI 6.7: Airspace Operations</b>		
Development consent must not be granted to development to which this clause applies unless— (a) the consent authority has consulted the relevant Commonwealth body, and (b) the relevant Commonwealth body advises the consent authority that— (i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or the development will not penetrate the Limitations or Operations Surface.	The site is located in the outer horizontal surface 156m AHD for Sydney airport.  The proposal does not exceed this height and therefore a referral was not required.	✓
<b>CI 6.9: Essential Services</b>		
Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or adequate arrangements have been made to make them available when required— (a) supply of water, (b) supply of electricity, (c) supply of telecommunications facilities, (d) disposal and management	The site is considered to be adequately serviced and Council's engineer is satisfied with the level of servicing on the site.	✓

of sewage (e) stormwater drainage or on-site conservation, (f) suitable vehicular access.		
<b>CI 6.10: Design excellence</b>		
1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.	The highest standard of urban design has not been achieved by the proposal given the lack of an adequate setback and design for the proposed car parking structure as well as the bulk and scale of the proposed roof terrace and large terrace areas proposed along the foreshore elevation of the proposal.	No
2) This clause applies to development on land referred to in subclause (3) involving— (a) the erection of a new building, or (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.	Not proposed.  The proposal involves significant additions and external alterations to the existing club building and the marina. therefore, this clause applies to the proposal.	N/A  ✓
3) This clause applies to development on the following land— (a) land identified on the <i>Foreshore Scenic Protection Area Map</i> if the development is for one or more of the following purposes— (i) bed and breakfast accommodation (ii) health services facilities, (iii) marinas, (iv) residential accommodation, except for secondary dwellings, (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres ....	The site is wholly located in the FSPA map and proposes a <i>marina</i> .  The design excellence provisions apply to the proposal pursuant to Clause 6.10(2)(b) and (3)(a)(iii) as it comprises significant alterations and additions to a marina within the FSPA.  This Clause applies as outlined above.	✓ Applies           N/A
4) Development consent <b>must not be granted</b> for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.	The development does not exhibit design excellence as outlined below and considered further in the key issues section of this report.	No
5) In considering whether the development exhibits design excellence, the consent authority must have regard		



to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The proposal has not provided an appropriate architectural design, materials or detailing appropriate to the foreshore location of the proposed works.	<b>No</b>
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,	The form and appearance of the proposed car parking structure as well as the roof terrace do not improve the quality and amenity of the public domain. The excessive bulk and scale and lack of design elements to soften the building from the street and the foreshore result in the building form being unsatisfactory.	<b>No</b>
(c) whether the development detrimentally impacts on view corridors,	The proposal will significantly impact on the view corridors for properties along the eastern side of Plimsoll street towards the Georges River across the site arising from the proposed new car parking level.	<b>No</b>
(d) how the development addresses the following matters—	Refer below	-
(i) the suitability of the land for development,	The land is suitable for the proposal given it is currently being undertaken on the site and relies on proximity to the water.	✓
(ii) existing and proposed uses and use mix,	The proposal is consistent with the existing and proposed use of the site.	✓
(iii) heritage issues and streetscape constraints,	There are no heritage issues for the site.	✓
(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,	The setback of the proposed car park is unsatisfactory and the urban form of the proposed club additions is unsatisfactory.	<b>No</b>
(v) bulk, massing and modulation of buildings,	The proposed car park has a bulk and massing which is unacceptable given the lack of adequate setbacks. The proposed club additions are also of a bulk and massing which is incompatible with surrounding development in terms of its three storey height and lack of adequate design measures to mitigate the size of the development when viewed from the foreshore.	<b>No</b>
(vi) street frontage heights,	The height of the proposed car park above the ground level of the adjoining streets is unsatisfactory given the lack of an adequate setback.	<b>No</b>
(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	Satisfactory.	✓
(viii) pedestrian, cycle, vehicular and service	While the proposal includes additional accessible entry points to the building, there are inadequate	<b>No</b>

access and circulation requirements, including the permeability of pedestrian networks,	pedestrian paths through the site, with the permeability of the pedestrian activity along the foreshore being unsatisfactory.	
(ix) the impact on, and proposed improvements to, the public domain,	Not required in this proposal.	N/A
(x) achieving appropriate interfaces at ground level between the building and the public domain,	This is not achieved by the proposed car park to the street or the proposed club additions to the foreshore as outlined above.	<b>No</b>
(xi) excellence and integration of landscape design,	There is insufficient landscaping proposed for the scale of the proposed additions to the site along the foreshore and Plimsoll and Wellington Street boundaries.	<b>No</b>
(xii) the provision of communal spaces and meeting places,	Not required in this proposal.	N/A
(xiii) the provision of public art in the public domain,	Not required in this proposal.	N/A
(xiv) the provision of on-site integrated waste and recycling infrastructure,	Retaining the existing facilities on the site.	✓
(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.	There is a lack of surveillance of the street from the proposed car park.	<b>No</b>
<b>CI 6.12: Landscaped areas in certain residential and conservation zones</b>		
1) The objectives of this clause are as follows—		
(a) to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of the Georges River local government area,	There is limited biodiversity values on the site.	✓
(b) to minimise urban run-off by maximising permeable areas on the sites of development,	There is limited opportunity for this to occur on the site given the extent of the existing hardstand areas on the site.	✓
(c) to ensure that the visual impact of development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings,	This has not been achieved on the site given the bulk and scale of the proposed club additions have not been softened by landscaping along the foreshore or sufficient setback to the street boundaries provided for this to occur.	<b>No</b>
(d) to ensure that the use of surfaces that absorb	There is limited opportunity for this to occur on the site given the extent of the existing hardstand areas on the site.	✓

and retain heat are minimised.		
2) This clause applies to land in the following zones— (a) Zone R2 Low Density Residential, (b) Zone R3 Medium Density Residential, (c) Zone R4 High Density Residential, (d) Zone C2 Environmental Conservation.	The site is located in the R2 residential zone and therefore this clause is relevant to that area of the site above the existing seawall.	✓
3) Despite subclause (2), this clause does not apply to residential apartment development within the meaning of <a href="#">State Environmental Planning Policy (Housing) 2021</a> .	This is not proposed in this application.	N/A
4) Development <b>consent must not be granted</b> to development on land to which the clause applies unless the consent authority is satisfied that the development— (a) allows for the establishment of appropriate plantings— (i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and (ii) that will maintain and enhance the streetscape and the desired future character of the locality, and (b) maintains privacy between dwellings, and (c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and (d) enables the establishment of indigenous vegetation and habitat for native fauna, and	<p>The establishment of appropriate plantings for the proposed height, density and scale of the development has not been provided. There is limited landscaping along the foreshore to soften or integrate the development into the foreshore, while there is also a lack of landscaping to reduce the impact of the proposed car parking structure to the street.</p> <p>This has been achieved by the proposal.</p> <p>This has been achieved by the proposal.</p> <p>There is limited biodiversity values on the site.</p>	<p><b>No</b></p> <p>✓</p> <p>✓</p> <p>✓</p>

(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.	There is no existing vegetation or natural landscape features on the site which are impacted by the proposal.	✓
5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least—.....	The proposal does not involve any of these uses.	N/A
6) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle and any right of carriageway is not to be included in calculating the site area for the purposes of subclause (5).	This is not relevant to the site.	N/A
7) In this clause— <b>Foreshore Scenic Protection Area</b> means land shown on the <i>Foreshore Scenic Protection Area Map</i> .	Noted	✓

Therefore, it is considered that the proposal is inconsistent with a number of the provisions of the GRLEP 2021. These matters are considered further in the key issues section of this report.

#### (i) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Proposed instruments which have been the subject of public consultation under the EP&A Act, which are relevant to the proposal includes the *Draft Remediation of Land SEPP*, which was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:

- Provide a state-wide planning framework for the remediation of land;
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- Clearly list the remediation works that require development consent;
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

The potential land contamination on the site is considered under in the assessment under the Resilience & Hazards SEPP. The proposal is generally consistent with this proposed instrument.

The reforms to Clause 4.6 commenced on 1 November 2023 and therefore do not apply to this application as it was lodged on 25 October 2023.

(ii) **Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The *Georges River Development Control Plan 2021 (GRDCP 2021)* applies to the proposal, which came into effect on 8 October 2021. The following sections are relevant to the application:

- Part 3: General Planning Considerations;
- Part 5.20: Residential Locality Statements; and
- Part 6.5.1: Foreshore Scenic Protection Area

The relevant sections are considered below.

*Part 3: General Planning Considerations*

A detailed compliance table having regard to the provisions of Part 3 of the GRDCP 2021 is provided in **Annexure D**. The proposal is generally consistent with the controls of Part 3 of the DCP, with the exception of the following:

- Section 3.3: Landscaping

The proposed landscaping largely comprises small planter beds located adjoining the foreshore within the hardstand areas. Such planting is considered to be inconsistent with Sections 3.3.1 and 3.3.2 of the GRDCP 2021 in that the proposed landscaping has not been incorporated into the site planning for the development, but rather represents token planting in the gaps between car parking spaces along the foreshore. The proposed landscape planting does not achieve a mature height in scale with the structures which are proposed on the site.

A further concern is that the proposed Landscape Plan does not incorporate locally indigenous plants, which is contrary to Section 3.3.3 of the GRDCP 2021. This has not been adequately demonstrated on the landscape plan.

The proposal is also considered to be inconsistent with the objectives for landscaping pursuant to Section 3.3(d) and (e) of the GRDCP 2021. The proposal does not reduce the visual and environmental impact of buildings, structures and hardstand given the lack of adequate landscaping along the foreshore, while the proposal also does not create attractive streetscapes or the public domain along Wellington and Plimsoll Street given the lack of adequate setback to provide landscaping along these boundaries.

In relation to tree removal and protection, an *Arboricultural Impact Assessment* prepared by Sydney Landscape Consultants dated 10 July 2022 (**Arborist's Report**) has been provided with the application. The Arborist's Report considered eleven (11) trees that are located either on or adjoining the site. Tree 11 comprises a 'stand' of palms on the site in close proximity to the existing loading dock, while the remaining ten (10) trees comprise trees on Councils Street verge. The Arborist's report concluded that Trees 1 to 10 (inclusive) comprising street trees are to be retained and protected, while the stand of Plam trees (Tree 11) should be removed. This conclusion is supported and this issue has been adequately addressed.

- Section 3.8: Views

The proposal results in view loss for residential properties along Plimsoll and Wellington Street and is contrary to Section 3.8.1 of the GRDPC 2021 in that development does not provide for the reasonable sharing of views. The proposal is

also considered to be inconsistent with the objectives for view impacts pursuant to Section 3.8(a) and (c) of the GRDCP 2021 in that vistas and public views from streets and public places have not been protected and the view sharing principles have not been achieved due to the proposed car park structure in the eastern corner of the site.

While there have been some amendments made to the proposed car park to provide for additional view sharing, it is considered that greater height reductions of the proposed car park could have been achieved to provide enhanced view sharing for nearby residential properties. Such changes were not undertaken and therefore view loss is still a significant concern for properties along adjoining streets.

- Section 3.20.3: Noise Generating Development

The proposal does not involve any hours of operation, but instead proposes a 24 hour, 7 days per week operation based on an unrestricted liquor licence. This is despite the acoustic exceedance of the proposed use of the terrace area beyond midnight and the lack of any undertaking to reduce the operating hours. This is considered to be inconsistent with Section 3.20.3.4 of the GRDCP 2021 which requires that noise impact management measures should be used to further limit potential noise impacts on sensitive land uses including reasonable hours of operation. It is also considered that the liquor licence is a different process to development consent and the premises does not have consent to operate 24 hours per day for the while premises given various consents have been issued with specific operating hours.

The proposal is also considered to be inconsistent with the objectives for noise generating development pursuant to Section 3.20.3(a) in that the proposal has not been designed or managed to minimise noise impacts on nearby residential dwellings.

Part 5.20: Residential Locality Statements (Sans Souci & Ramsgate Locality Statement)

The site is located in the Sans Souci and Ramsgate Locality, where the *Future Desired Character* includes the following, which is considered in the context of the proposal (emphasis added):

- *Retain and enhance the existing **low density suburban residential character** through articulated contemporary developments that respond to the human scale.*
- *Encourage well-designed high density residential development in designated areas along Rocky Point Road.*
- ***Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback, alongside low fencing to enhance visual permeability.***
- *Encourage the retention of trees and **sharing of water views wherever possible**, including screening via vegetation rather than solid walls.*
- ***Protect public vistas over Georges River towards Kogarah Bay from Vista Street.***

The proposal is considered to be contrary to this desired future character in that:

- The proposed car park does not respond to the human (pedestrian) scale given the lack of an adequate setback to Wellington and Plimsoll Streets;
- A consistent setback of buildings from the street is not provided given the proposed car park is setback only 1.2 to 1.5 metres from the boundary, which does not allow for the provision of landscaping within the front setback area beyond a small strip of Lilly Pilly's.



- The sharing of views and the protection of public vistas towards the Georges River has not been achieved by the proposal.

#### Part 6.5.1: Foreshore Scenic Protection Area

The relevant controls in this section of the DCP for the proposal include Section 6.5.1 – Foreshore Scenic Protection Area, which are considered in **Table 8**.

**Table 8: Part 6.5.1 - Foreshore Scenic Protection Area**

Requirement	Proposal	Comply
<b>Part 6.5: Foreshore Locality Controls</b>		
<b>6.5.1 Foreshore Scenic Protection Area</b>		
<b>1. Environmental qualities and scenic landscape values</b>		
Objectives		
(a) Achieve a balance between realising the development potential of sites with protecting the integrity of the environmental qualities and scenic landscape values of the Georges River foreshore.	Satisfactory	✓
(b) Retain significant existing natural landscape features.	There are no significant landscaping features on the site.	✓
(c) Ensure that development is sited and designed <b>to blend with the surrounding environment, particularly when viewed from highly visited public viewing points.</b>	The proposal does not blend with the surrounding environment arising from the bulk and scale of the proposed roof terrace and the lack of an adequate setback to the proposed car parking structure.	No
(d) <b>Provide for a reasonable sharing of views of significant landscape features, in particular to the Georges River.</b>	Views to the Georges River are not retained arising from the proposed car parking structure.	No
<b>Controls</b>		
1. Development applications are supported by a site analysis and design response demonstrating how the relevant provisions of the LEP and the objectives of this part of the DCP have been addressed.	Satisfactory	✓
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	There is no significant existing vegetation on the site to be retained.	✓
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	There is limited biodiversity values on the site.	✓
4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	The site is not located on a hillside of ridgeline.	N/A
5. New, complementary planting and landscaping is encouraged.	There is insufficient landscaping on the site.	No
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	The site is not a steep site.	N/A
7. Landscaped areas below the Foreshore Building Line (FBL) should maximise the use of	There is insufficient landscaping on the site, particularly below the FSBL where	No

indigenous plant material and preferably use exclusively indigenous plants. Turf should be limited in this area. Details of planting are to be indicated on any landscape plan submitted to Council.	limited landscaping is proposed.	
8. A landscape plan is to be submitted for any development between the FBL and Mean High Water Mark (MHW). The level of detail required will depend on the level of works being undertaken. Where a landscape plan is submitted it should indicate the existing and proposed changes in contours, existing trees/vegetation to be retained and removed, measures to protect vegetation during construction and proposed planting, including species and common names.	Provided.	✓
9. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native tree and sandstone rock outcrops, platforms and low cliffs, are retained.	These features are not located on the site.	N/A
10. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials and colours and cut and fill.	This has not been achieved by the proposal given the excessive bulk and scale of the proposed roof terrace and the car parking structure.	No
11. Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended.	The site is not located on a hillside of ridgeline.	N/A
12. Where on a steep site, buildings are sited to sit discretely within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the landscape, when viewed from the water, and (iii) Minimised site disturbance through cutting and/or filling of the site.	The site is not a steep site.	N/A
13. Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid walls to glazed areas. Rectangular or boxy shaped dwellings with large expanses of glazing and reflective materials are not acceptable. In this regard, the maximum amount of glazed area to solid area for façades facing the foreshore is to be 50%-50%.	The proposal has a significant portion of the foreshore elevation as glazed areas, being more than 50%. The façade is also not comprised of smaller elements with no balance between solid walls and glazed areas.	No
14. Colours that harmonise with and recede into the background landscape are to be used. In this regard, dark and earthy tones are recommended and white and light coloured roofs and walls are	This has been provided.	✓

not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.		
15. Buildings fronting the waterway must have a compatible presence when viewed from the waterway and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality.	This has not achieved on the site given the excessive bulk and scale of the proposed roof terrace.	<b>No</b>
16. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; or (iii) Open, deep verandas.	There are no blank walls proposed to the foreshore.	✓
17. Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	Achieved	✓
18. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	There are large areas of existing hardstand on the site which are to be retained for car parking and boat launching.	✓
19. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	This has not been achieved on the site arising from the extensive areas of glazing, particularly to the foreshore.	<b>No</b>
20. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	Not proposed	N/A
21. Fences are low in profile and are at least 50% transparent.	Not proposed	N/A
22. Driveways and other forms of vehicular access are as close as practical to running parallel with contours.	Satisfactory	✓
23. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	No significant changes to the landform on the foreshore side of the site.	✓
24. Retaining walls are not to be located: <input type="checkbox"/> Between the FBL and MHW <input type="checkbox"/> Within 40m of MHW	Not proposed	N/A
25. Landscaping works and other structures including retaining walls, stairs, paths and driveways are not permitted below the deemed MHW except where approved by NSW Maritime.	Not proposed	N/A
26. Where retaining walls are constructed in other areas, materials and colours that blend with the character and landscape of the area are used. Where retaining walls face the foreshore they are to be constructed of coarse, rock faced stone or a stone facing and are to be no higher than	Not proposed	N/A

600mm above natural or existing ground level. Under no circumstances will Council permit a masonry faced retaining wall facing the foreshore.		
27. Development provides opportunities to create view corridors from the public domain to the Georges River.	There are limited view corridors provided to the Georges River given the large car parking structure proposed with minimal setback.	<b>No</b>

**(iii) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(iv) Section 4.15(1)(a)(iv) - Provisions of Regulations**

The following matters require consideration in relation to Part 4, Division 1 of the 2021 Regulations:

- Section 61(1) - In determining a development application for the demolition of a building, the consent authority must consider the *Australian Standard AS 2601—2001: The Demolition of Structures* - Demolition of the existing car park is proposed. This matters can be satisfactorily addressed in consent conditions on any consent granted. The remaining components of this section are not relevant to the current proposal.
- Section 62 (consideration of fire safety) – This is not relevant as a change of use is not proposed in this application.
- Section 64 (consent authority may require upgrade of buildings) – This is not relevant to the current application as it does not the propose building work that represents more than half of the total volume of the building.
- Sections 65 (Sydney Opera House), 66 (Contributions plans for certain areas in Sydney) and 66A (Council-related development applications) are not relevant to the current development application.

Accordingly, the provisions of the Regulation have been adequately considered and the proposal is consistent with such provisions.

**(b) Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be inconsistent with the context of the site given the bulk, scale and height of the proposal is incompatible with existing

development in the area and has an adverse visual impact on the foreshore as discussed in this report.

- Access and traffic – The parking and servicing issues are considered unsatisfactory in that the proposed extended loading bay at ground floor level is unsatisfactory and a consolidated approach to the provision of car parking has not been undertaken for the proposal.
- Public Domain – The presentation of the proposal to the public domain is unsatisfactory as outlined in this Report.
- Utilities – The required utilities are available to the site.
- Heritage – There are no heritage items or Aboriginal cultural heritage located on the site or on any adjoining or nearby sites.
- Other land resources – The site is located within the Georges River catchment, which has been considered in this report.
- Water – The proposal does not involve adequate measures for the protection of water quality in the area as outlined in the key issues section of this report.
- Soils impacts – The potential for contaminated land is considered in the assessment under the Hazards & Resilience SEPP and is found to be satisfactory.
- Air and microclimate – The proposal involves adequate measures for the protection of air quality in the area as outlined in the EIS.
- Flora and fauna impacts – There are limited biodiversity values on the site and the proposal is considered to satisfactorily address this matter.
- Natural environment – The potential impacts to the natural environment have not been minimised as outlined in the key issues section of this report and which have also been raised by the EPA. The potential impacts on the natural environment are considered not to be satisfactorily addressed.
- Noise and vibration – There are a number of concerns with the potential acoustic impacts arising from the proposal, including construction noise and vibration as well as likely acoustic impacts from the use of outdoor terraces in the evening. These issues are further considered in the Key Issues section of this report as well as the EPA.
- Natural hazards – The site is not affected by any natural hazards. Marine and navigational issues are further considered in this report and are satisfactory.
- Safety, security and crime prevention – There are not considered to be any concealment opportunities provided on the site.
- Social impact – It is considered that the proposal is unlikely to result in any adverse social impacts in the area.
- Economic impact – The proposal will assist with employment generation and business investment in the area. The proposal is considered to result in a positive economic impact.

- Site design and internal design – The design of the proposal is not supported as outlined in the key issues section.
- Construction – Potential construction impacts can be appropriately managed.
- Cumulative impacts – The proposal is likely to result in any adverse cumulative impacts due to the lack of mitigation measures proposed arising from the increased use of the sliprail at the site.

Accordingly, it is considered that the proposal will result in adverse impacts in the locality as outlined above.

**(c) Section 4.15(1)(c) - Suitability of the site**

The site is considered to be suitable for the development given the proposal involves the extension of a marina and club building which currently exist on the site. There are not any adjoining uses which are prohibitive of the proposal and there are adequate services on the site. Despite the suitability of the site for such a use, the design of the proposal is not supported.

**(d) Section 4.15(1)(d) - Public Submissions**

The community submissions are considered in Section 5.3 of this report.

**(e) Section 4.15(1)(e) - Public interest**

The proposal is inconsistent with a number of the fundamental planning controls relevant to the site, including preconditions to the grant of consent, as outlined in this report. The proposal has not satisfactorily addressed the numerous and fundamental concerns Council has continually raised with the proposal. On balance, it is considered that the proposal is not in the public interest.

The proposal is considered to be inconsistent with Section 4.15(1) of the EP&A Act.

## **5. REFERRALS AND SUBMISSIONS**

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### **5.1 Agency Referrals and Concurrence**

Section 56 of the 2021 Regulation requires that notice of the application be given to the public authorities that, in the consent authority's opinion, may have an interest in the determination of the application. The application is for integrated development and therefore the development application has been referred to various agencies for comment, concurrence or referral as required by the EP&A Act and outlined below in **Table 9**.

These issues are considered in the key issues section of this report.

Table 9: Concurrence and Referrals to agencies

AGENCY	CONCURRENCE/ REFERRAL TRIGGER	COMMENTS (ISSUE, RESOLUTION, CONDITIONS)	RESOLVED
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
Environment Protection Authority ('EPA')	<p>Scheduled under Sections 43(b), 48 and 55 of the POEO Act (premises based)</p> <p>Marinas and Boat Activities are scheduled activities under the Act, as such, an amended Licence will need to be obtained for the work extensions to the Marina</p>	<p>An Environment Protection Licence (EPL) is required pursuant to Clause 25(2) of Schedule 1 of the <i>Protection of the Environment Operations Act 1997 (POEO Act)</i> as the proposal involves <i>marinas and boat repairs</i> for boat mooring and storage with a capacity to handle more than 80 vessels at any time (as a scheduled activity (premises-based) under section 48.</p> <p>The existing marina has operated under an EPL under the POEO since 14 February 2002 as a scheduled activity, which has been updated on four separate occasions with last licence issued on 23 October 2012 (reference no. 1508751).</p> <p>The EPA raised several issues, with the sliprail concerns and the CNVMP being unacceptable remaining unresolved.</p>	No
<b>Referral/Consultation Agencies</b>			
Electricity supply authority	Section 2.48 – Transport & Infrastructure SEPP - Development near electrical infrastructure	No objections raised by Ausgrid.	Yes (Conditions)
<b>Referral under the Regulations</b>			
DPE (Secretary)	Section 60 of 2021 Regulation	The submissions received from the first notification period were provided to DPE on 7 November 2023, with no comments provided. The submissions from the second notification period were not provided to the Secretary.	Yes
<b>Consultation for SEARs (no further consultation required by agency)</b>			
Department of Primary Industries (Fisheries)	Part 7 Permit to Harm Marine Vegetation and dredging/reclamation (piling) – <i>Fisheries Management Act 1994</i>	<p>As part of the agency consultation for the SEARs and owners consent to Crown Lands, DPI Fisheries reviewed the proposal and had no objections provided all construction works are done without excavation and by driving piles to minimise potential disturbance to the seabed.</p> <p>Fisheries stated that this proposal is not considered to include any dredging, reclamation, harm to marine vegetation, or blockage of fish passage, and therefore DPI Fisheries does not consider the proposal to constitute Integrated Development. DPI Fisheries does not need to be consulted at the development application stage unless there are amendments to the proposal.</p>	Yes (Conditions)
Transport for NSW	Navigational hazard	Correspondence was provided from Transport for NSW – Maritime with the application, which stated that it had reviewed the proposal and have no navigational objections regarding this structure impacting unreasonably on the other waterway users.	Yes

		It is also noted that TfNSW rejected a referral through the Portal to consider the proposal as 'Traffic Generating Development'.	
NSW Department of Planning Water Licencing Unit	Section 91 of the <i>Water Management Act 2000</i> (Controlled activity approval)	Pursuant to Clause 36 (Schedule 4) of the <i>Water Management Act (General) Regulation 2018</i> , activities within exempt waterfront land maps for estuaries and lakes (which includes the subject site being noted on the Botany Bay and Georges River map) are exempt from the need to obtain a Controlled Activity Approval. DPE Water stated in the SEARs consultation that the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary.	Not required

## 5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review on several occasions for the original plans (October 2023), amended plans (May/June 2024) as well as for the final amended plans (July 2024) as outlined **Table 10**. The issues raised by Council officers are considered in the Key Issues section of this report.

**Table 10: Consideration of Council Referrals**

OFFICER	COMMENTS	RESOLVED
Urban Design	<ul style="list-style-type: none"> <li>Reviewed Rev A plans (Sept 2023), Rev B plans (April 2024) and Rev C plans (July 2024):</li> <li>Significant concerns with design of the development, particularly the car park and foreshore elevation of the building, including: <ul style="list-style-type: none"> <li><u>Setbacks and streetscape</u> – inadequate setback to street frontages and high curved stone feature wall incorporating signage, limit interaction with the street and casual surveillance.</li> <li><u>Topography</u> – Excavating further and lowering parking levels to have minimum protrusion above existing footpath and splitting the FFL to relate to slope should be considered</li> <li><u>Architectural expression and bulk and scale</u> - concerns with the built form.</li> <li><u>Foreshore interface</u> – the entire length of the foreshore boundary is lined with car parking, with only limited landscaping within planter boxes proposed to integrate the proposed additions into the foreshore setting.</li> <li><u>Height of car park</u> - The height of the car parking area in the north-eastern corner of the site above the ground should be lowered to reduce the impact of view loss to residents opposite the site in both Plimsoll Street and Wellington Street.</li> <li><u>Pedestrian amenity</u> – minimal consideration of pedestrian amenity through the site and along foreshore</li> </ul> </li> <li>Latest comments (Rev c) <ul style="list-style-type: none"> <li><u>Non compliances</u> - Despite amendments, the proposal still is not compliant with the following: <ul style="list-style-type: none"> <li>Maximum building height</li> <li>Number of storeys</li> <li>Amount of glazing along the foreshore</li> </ul> </li> </ul> </li> </ul>	<b>No</b>



	<ul style="list-style-type: none"> <li>- Wellington Street setback</li> <li>- Plimsoll Street Setback</li> <li>- <u>Setbacks and streetscapes</u> - still concerns.</li> <li>- <u>Public / Private Interface Treatment</u> - still concerns.</li> <li>- <u>Architectural Expression and bulk and scale</u> – Concerns remain regarding the bulk and scale of the proposed 1<sup>st</sup> Floor roof terrace in relation to impacts on the foreshore elevation, despite the pitched roof above the foyer entry and the proposed materiality.</li> </ul>	
Traffic	<p>Concerns raised to Rev A plans (Sept 2023):</p> <ul style="list-style-type: none"> <li>• Traffic and parking surveys conducted in winter (unsatisfactory) and existing car parking spaces unclear</li> <li>• Height of car park above ground and excessive height of car parking to accommodate SRVs</li> </ul> <p>Concerns raised to Rev B plans (April 2024):</p> <ul style="list-style-type: none"> <li>• Height of car park - excessive at southern end to provide head clearances for SRV; first floor level should be reduced.</li> <li>• Finished level of ground floor car park/excavation - height and bulk/scale of proposed car park should be reduced,</li> <li>• <u>1st Floor car park balustrades/glazing</u> – 400mm glazed top panel not supported (cleaning/vandalism).</li> </ul> <p>Concerns raised to Rev C plans (July 2024):</p> <ul style="list-style-type: none"> <li>• Concerns with SRV Loading Bay and new SRV Ramp</li> <li>• New Vehicle Crossing/Driveway – No objections.</li> <li>• Swept Path Analysis and Parking Advice – McLaren Traffic Engineering - No objections to advice regarding swept wheel paths and the updated parking summary</li> <li>• Concerns with depth of deep soil planting along foreshore.</li> </ul>	<b>No</b>
Engineering	No objections to the original and current amended plans.	Yes
Landscape	<ul style="list-style-type: none"> <li>• Arborist report does not adequately assess impact from installation of hoarding and scaffolding on Street Trees.</li> <li>• Landscape Plans do not demonstrate satisfaction of landscape percentage requirements of the LEP and DCP.</li> <li>• Proposed Tuckeroos on foreshore not supported.</li> <li>• Proposed planting schedule not supported (endemic genus and species where appropriate).</li> <li>• Pedestrian connection between Anderson Park and Plimsoll Street Reserve should be reinforced with a pedestrian pathway that elevates the pedestrian's hierarchy within the carpark.</li> <li>• Brush Box trees within Wellington St parking lane required.</li> </ul>	<b>No</b>
Health	<ul style="list-style-type: none"> <li>• ASS, fuel lines and UST and food premises satisfactory subject to recommended consent conditions.</li> <li>• Concerns with proposed hours of operation as Acoustic report found limited compliance between 12am to 7am, notwithstanding applicant considers hours are unlimited.</li> <li>• The site is a licenced premises and therefore the EPA referral and licence will cover all environmental matters.</li> </ul>	<b>No</b>
Property	Concerns were raised with the use of the driveway from Vista Street which does not have any legal mechanism for the club to use. There is no evidence of an easement or ROW allowing access over the adjoining public reserve.	<b>No</b>
Environment	No objections to the original proposal, subject to recommended consent conditions.	Yes
Waste	No objections to the original and initial amended proposal, subject to recommended consent conditions.	Yes
Building	No objections to the original proposal, subject to recommended consent conditions.	Yes

### 5.3 Community Consultation and Submissions

The proposal was advertised and notified in accordance with the Council's *Community Participation Plan*, Clause 8 and 8A of Schedule 1 of the EP&A Act (28 days) and Sections 56, 58 and 60 of the Regulation, which requires certain requirements for notification of designated development applications.

The exhibition and notification period occurred from 26 October 2023 to 6 December 2023 for the original proposal and between 1 and 22 August 2024 for the amended plans, which included the following:

- A sign placed on the site (Section 58 of the 2021 Regulation);
- Notification letters sent to adjoining and adjacent properties; and
- Notification on the Council's website (Section 56(2)(a) of the 2021 Regulation).

A total of 27 unique submissions objecting to the proposal were received in the first notification period and 41 submissions were received in relation to the amended plans (Revision C). The issues raised in the first notification are outlined in **Annexure E** and the issues raised in the second notification (August 2024) are considered in **Table 11**. The matters raised in both notification periods were similar and are considered further in the key issues section, where relevant, and have been adequately considered in this assessment. Pursuant to Section 60 of the Regulation, the submissions from the notification period were provided to the Planning Secretary for the first notification period.

**Table 11: Consideration of Community Submissions (Second Notification)**

ISSUE	ISSUE RAISED	COMMENTS
Existing use rights	2	<p>Existing use rights provide for the continuation of previous rights to operate the same use on the parcel of land, but in general where the change of use involves only minor alterations and additions and does not increase the existing floor space by more than 10% or involve the enlargement, expansion or rebuilding of the premises from what existed at the time the rights were created. If this interpretation is correct, we would be interested to learn from Council how existing use rights can be used to validate the proposed major expansion works.</p> <p>Breaches of prior consent conditions must be considered to undermine purported existing use rights. Moreover, the SGMBC has not adequately substantiated the need for extra berths, further function space and the proposed additional parking (whether above or below ground) in this R2 zone.</p> <p><u>Comment:</u> The proposal benefits from existing use right which is considered in this Assessment Report.</p>
Two-storey carpark – loss of views and impacts to streetscape	8	<p>The changes to the two-level car park are only a token and will do almost nothing to reduce the visual impact on the neighbourhood and the views from the public domain.</p> <p>The reduction in the overall height of the car park by 1.2 metres is insufficient and means the car park height will still be 4.54 metres above the existing footpath level at the car park entry in Plimsoll Street. This is visually imposing and out of scale with the surrounding residential and pedestrian environment, will create a tunnel-like effect, reducing the openness and vibrancy of the street.</p>

		<p>While the revised design proposes a ground floor level of RL 7.40, which is closer to the existing southern ground levels (approximately RL 7.0), the resulting first-floor height of RL 10.40 does not adequately integrate with the current topography. This mismatch leads to the need for tall retaining walls, further exacerbating visual and environmental concerns. The car park slab-to-slab height of 3 meters, combined with the proposed floor-to-ceiling height of 2.5 meters and additional structural elements, is excessive and results in an unnecessarily bulky structure</p> <p>The vistas across the Georges River from the public domain, particularly on the corner of Plimsoll and Wellington Streets will be obliterated, resulting in a loss of public amenity and does not serve to protect the natural and built environment.</p> <p>The loss of 10 car parking spaces results in a shortfall of off-street car parking as highlighted by the applicant in their amended submission.</p> <p>Additional car parking should be underground, thus removing the need for an acoustic wall around the car park, which will be not only unsightly, but which will block the view of the Georges River at street level. Further lowering of the ground floor car park level to around RL 7.3 to 7.5, as suggested, would allow for a more harmonious integration with the surrounding area. This adjustment would reduce the overall height of the structure above the existing footpath and minimize the visual impact on the neighbourhood. The design could benefit from a more thoughtful approach to minimizing bulk and scale, such as incorporating more underground parking or reducing the overall height and footprint of the car park. The bulk and scale of the screens is out of character with the area and adversely impacts the streetscape amenity.</p> <p>In addition, the screens prevent passive surveillance of the car park area by adjoining neighbours. This makes the car park more prone to antisocial behaviour and facilitates groups to gather in the area late at night and act unlawfully.</p> <p><u>Comment:</u> This matter is further considered in the Key Issues section of this report.</p>
Noise from car park	1	<p>The elevated height and mass of the structure will likely increase noise levels due to vehicular movement, affecting the surrounding residential areas. Noise pollution from cars entering and exiting at the elevated driveway will be amplified by the high walls, impacting the community's peace and quiet.</p> <p><u>Comment:</u> This potential noise impacts from the car park have been considered in the Acoustic Report and are considered satisfactory.</p>
Marina extension	3	<p>This will hamper navigation - the width of clear waterway 1.7 metres in depth will be reduced from the current 153 metres to 68 metres, which in the opinion of our members will adversely impact on the navigation of vessels into and out of Kogarah Bay.</p> <p>Another concern for our members is the visual impact and loss of</p>

		<p>scenic views in respect to the 94-metre extension to berthing Arm A from Anderson Park.</p> <p>The extension to Berthing Arm A that adjoins Anderson Park more than doubles the length of this part of the Marina. The visual impact of this extension has not been fully shown in the DA documentation and as mentioned previously in respect to the two-level carpark obscuring vistas across the Georges River, this Marina extension will obscure vistas across Kogarah Bay resulting in a loss of public amenity to the area, particularly from Anderson Park.</p> <p>Have there been any studies of hydrodynamic impacts on the marina extension, recognising that the new berths are far more exposed to waves generated by southerly winds than the existing berths, and the potential prevalence of stronger winds and associated storm surge in future as the implications of climate change become apparent?</p> <p><u>Comment:</u> This matter is further considered in the Key Issues section of this report and is considered satisfactory.</p>
Environmental concerns to marina extension	2	<p>Due to the large increase in the number of berthing bays and boating activity, there is a greater risk of oil, petrol and effluent spills into the local waterways of Kogarah Bay and the Georges River. In addition, there will be a loss of seagrasses due to the large footprint expansion of the marina. Seagrass, which has previously in 2009 was missing from the area is essential to marine life and contribute to maintaining good water quality.</p> <p>Another factor that has not been considered is the impact the extended and enlarged marina mooring area will have on wave attenuation in the Bay. Wave energy is an important contributor to cleansing the Bay during storm periods, and is essential more than ever given the accumulation of fine silt where the storm water channels enter the Bay at Carss Park and Claydon Reserve.</p> <p><u>Comment:</u> This matter is further considered in the Key Issues section of this report.</p>
Ground floor terrace extension and the rooftop terrace/bar – increased noise and bulk/scale	4	<p>Increased noise impinging on the adjoining residential neighbourhood, particularly from the new rooftop terrace/bar area. To have up to 68 patrons in the evening with live music on this open roof-top terrace up to midnight on Friday and Saturday nights, up to 10.30pm Monday - Thursday nights and 9.30pm on Sunday nights will have a detrimental impact in respect to acoustic noise on the amenity of the adjoining residential neighbourhood and to the wider residential community. We recommend limiting the time until which music can be played on the rooftop terrace/bar so as not to disturb the residents beyond a reasonable hour, i.e. up to 10pm on Friday and Saturday nights, and up to 9pm Monday - Thursday and Sunday nights.</p> <p><u>Comment:</u> This matter is further considered in the Key Issues section of this report</p>
Inadequate Car parking	1	<p>During peak times the parking situation is completely inadequate for the clubs current capacity, and with improvements to the club and added floor space with the proposed renovations and additions [e.g. the roof top bar] the club will be in more need for added parking,</p>

		<p>however with the proposed car park and the new configuration of the parking bays the effort of building the extra level car park has not dramatically increased the car park capacity at all and I feel will still be insufficient to cater to the increased interest /attendance at the club in the future. The cost of these proposed changes is significant obviously but it would seem prudent to me and many others that the club explore the ability to excavate down and create a lower level car park and increase the car parking capacity even more so that the overflow is not felt amongst the residents.</p> <p>The proposal as it is, is to take the easy way out Level out the car park and another level, but in the future when the par addressed again what then, will you be proposing a third level? 70cm drop in height of the proposed car park is insufficient to appease the public disdain over the previous and now current proposal.</p> <p><u>Comment:</u> This matter is further considered in the Key Issues section of this report</p>
Overlooking from car park	1	<p>Potential overlooking into dwellings on the opposite side of Plimsoll Street.</p> <p><u>Comment:</u> There is an adequate distance between the proposed car park and the residences along Plimsoll Street combined with the existing and proposed street tree planting to reduce overlooking opportunities.</p>
Basement car parking not supported	2	<p>Due to bulk and scale concerns, potential anti-social behaviour, traffic congestion, construction and structural impacts,</p> <p>This will exacerbate concerns of noise and dust arising from deeper excavation (and related health concerns); loading and unloading of trucks, movement of vehicles and carting of spoil over an extended period on already deteriorated local roads; possible risk to bedrock and the possibility of structural damage to nearby properties from excavation.</p> <p><u>Comment:</u> Basement car parking would be supported on the site.</p>
Proposal is not for a modest expansion to upgrade facilities	1	<p>The proposal is for major renovations and is not simply to improve current functioning of the Club or to upgrade it to modern standards.</p> <p>It would not be surprising to us if the floor space calculations in the Amended Proposal Documents involved a complex and technical process of exclusion of new outdoor terrace and balcony function space to produce the floor space (and FSR) asserted by SGMBC. In any case, referring only to a figure for proposed net floor space addition is misleading: it obscures the major renovations (significant demolition and rebuilding) required behind such a net figure. SGMBC asserts that it proposes to “modestly expand the floor space by only 239sqm; and provide additional parking. (Note, the GFA is reduced to 0.35:1)”. The revised plans also indicate that the proposed FSR will be 0.35:1, in the context of a maximum floor space ratio of 0.55:1 since it is in a R2 residential zone.</p> <p>The proposed marina and clubhouse expansion is too big and requires too much parking. It will be short of parking from the outset to the</p>

		<p>extent that, according to their own submissions, they expect to use on-street parking. This is despite digging up the existing carpark and building a new one at greater depth and height, requiring excavation into sandstone, significant disruption to members and local residents and an ongoing adverse impact on views of neighbours and public domain views.</p> <p><u>Comment:</u> The bulk and scale of the proposal is considered in the Key Issues of the report.</p>
New roof exceeds HOB and Clause 4.6 not supported	1	<p>The new entry roof will also exceed height limits - .49m. Insufficient environmental planning grounds, the proposal is not in the public interest, has not considered the FSPA sufficiently and is not consistent with the zone objectives given it does not provide for the day to day needs of residents (given expansion is for the wider community).</p> <p><u>Comment:</u> The height of building development standard is considered in the Key Issues of the report.</p>
FSPA	1	<p>This has not been considered in the CI 4.6.</p> <p>The consent authority is obliged to ensure that the objectives of the Foreshore Scenic Protection Area are met, including, without limitation, by: minimising the impact on views to and from the Georges River; protecting the scenic amenity of the Georges River foreshore (not just for members and guests of the SGMBC); and minimising height and bulk of developments.</p> <p>In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must be satisfied (amongst other things) that the development would facilitate the following:</p> <p><i>“(f) the minimisation of the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places.</i></p> <p><u>Comment:</u> The objectives and controls for development in the FSPA is considered in the Key Issues of the report.</p>
Accessibility issues	1	<p>Any approval of the amended proposal would be premature since according to the Access Report, further design adjustments are required before the design would be capable of compliance with access requirements.</p> <p><u>Comment:</u> Accessibility issues are primarily considered at the detailed design stage and therefore these matters would be resolved prior to the issue of construction documentation.</p>
Social Impact	1	<p>Do not support the conclusions of the social impact report.</p> <p><u>Comment:</u> It is considered that relevant requirements around responsible service of alcohol and gaming as well as the requirement for a Plan of Management are sufficient to ensure there are minimal social impacts arising from the proposal.</p>
Crime prevention/ security objectives not satisfied.	1	<p>Concerns that the proposed high car park wall does not enable surveillance from the public domain to the inside of the building and the site generally at night.</p>

		<u>Comment:</u> The objectives and controls for development in the FSPA is considered in the Key Issues of the report.
Proposed trees on Level 1 car park increase view loss	1	<p>The amended landscape plan indicates mature trees &amp; palms in planters at first floor level 71. Despite proposed reduction in wall height, this will exacerbate view loss for Plimsoll Street and Wellington St neighbours and should be rejected.</p> <p><u>Comment:</u> These trees are not supported.</p>
Operational acoustic concerns	1	<p>It is unclear whether and how the revised Acoustic Report takes account of the proposed lower level of the carpark and boundary wall, since its results and conclusions are the same as before the proposal to excavate further for a lower carpark to reduce wall height. The report refers to the 1.4m concrete barrier for the carpark, but does not appear to specifically acknowledge height reduction of the surrounding wall and the impact on acoustics, including from open terrace areas.</p> <p>The Acoustic Report does not adequately reflect the true noise problems of an outdoor bar, patrons coming and going, and race days. Worryingly, the acoustic report still considers 12am -7am operations. The report appears to show night-time exceedances of noise levels at receptors. Late night/ overnight trading must be rejected, and previous council approved hours restored.</p> <p><u>Comment:</u> The acoustic matters are considered in the Key Issues of the report.</p>
Flaws in EIS are not addressed.	1	<p>Concerns with accuracy of documents.</p> <p><u>Comment:</u> There are some concerns with the level of information in relation to SEARs, which is considered in the report.</p>
Inadequate public consultation on amended plans	1	<p>A clear summary of the proposed changes, cross referenced to the original proposal should have been provided. Interested parties are expected to intuit proposed changes by reviewing another avalanche of plans and drawings and joining the dots. The task is made harder by the existence of documents (with similar names) that pertain to superseded interim proposals put forward by SGMBC, arising from communications with Council to which we are not privy. This is not an appropriate way to elicit proper public feedback, nor has Council allowed sufficient time for the public to do so.</p> <p><u>Comment:</u> Notification undertaken in accordance with Council requirements.</p>

## 6. KEY ISSUES

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The following key issues are relevant to the assessment of this application having considered the relevant planning controls, issues raised in the submissions and by Council officers, the SEARs and the proposal in detail:

1. Streetscape impacts
2. Architectural Expression, Bulk and Scale and Visual Impacts from the Foreshore
3. Foreshore Interface
4. View loss
5. Acoustic Impacts
6. Environmental impacts
7. Traffic and Parking
8. Navigational Impacts of Marina Expansion
9. Waste management
10. Contamination and Acid Sulphate Soils

These issues are considered further below.

### 6.1 Streetscape Impacts

The proposal includes a car parking structure which is to be located on a minimal setback to Plimsoll and Wellington Streets, comprising 1.24 metres to Plimsoll Street and 1.5 metres to Wellington Street. The front setback requirement in this zone for residential development is 4.5 metres to the front wall of the building and 5.5m to the garage pursuant to Section 6.1.2.3(1) and 6.1.3.3(1) of the GRDCP 2021. The prevailing front setbacks in the area are generally between 5.5 to 7 metres and include landscaping, while the secondary setback of the surrounding corner sites varies between 1.5 to 2.5 metres.

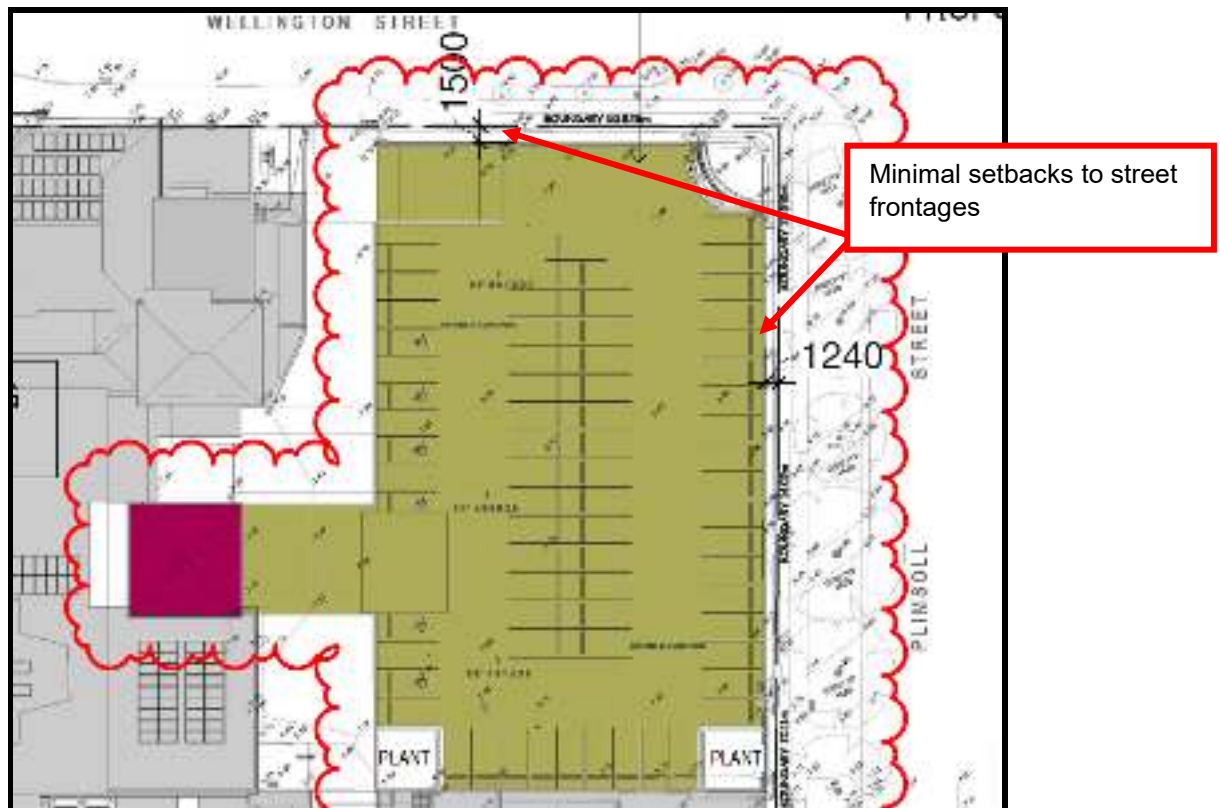
The proposed car park is located on a significantly reduced setback compared with the existing development in the low density residential area within which it is located (**Figure 31**) and is inconsistent with the prevailing setbacks. The proposal fails to integrate into the established streetscape character, resulting in a poor public / private interface treatment to Wellington and Plimsoll Streets.

Exacerbating this minimal setback of the proposed car parking structure is the height and composition of the proposed walls of the car park (**Figures 32 and 33**). Whilst there has been a height reduction from the original proposal (Revision A plans) and from the initial amended plans (Revision B dated 29 April 2024), the car park walls still comprise the following heights (RL 11.80):

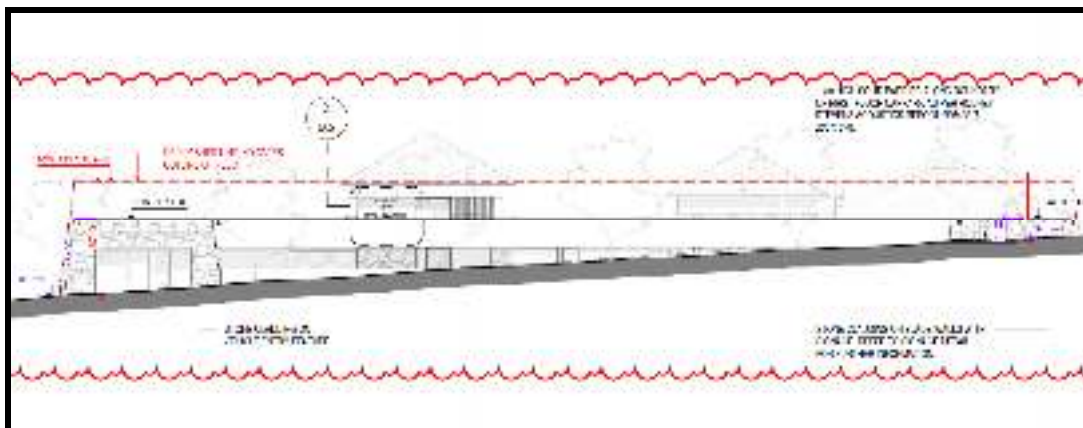
- 2.1 metres along Wellington Street
- 4.54 metres along Plimsoll Street at driveway entrance (southern end)
- 2.8 metres midway along wall on Plimsoll Street
- 1.42 metres at blade wall signage at corner of Wellington and Plimsoll Streets.

This car park comprises a solid wall structure, along Wellington Street where the entire length of the wall is of concrete construction. Plimsoll Street has a more varied composition, with the 1.4m high solid concrete barrier for the first floor of the car park comprising the majority of this frontage with some open form screening towards the driveway entry from Plimsoll Street. The proposed stone cladding on the vehicle entry point from Plimsoll Street at 4.54 metres high further exacerbates the bulk and scale of this structure from the street.





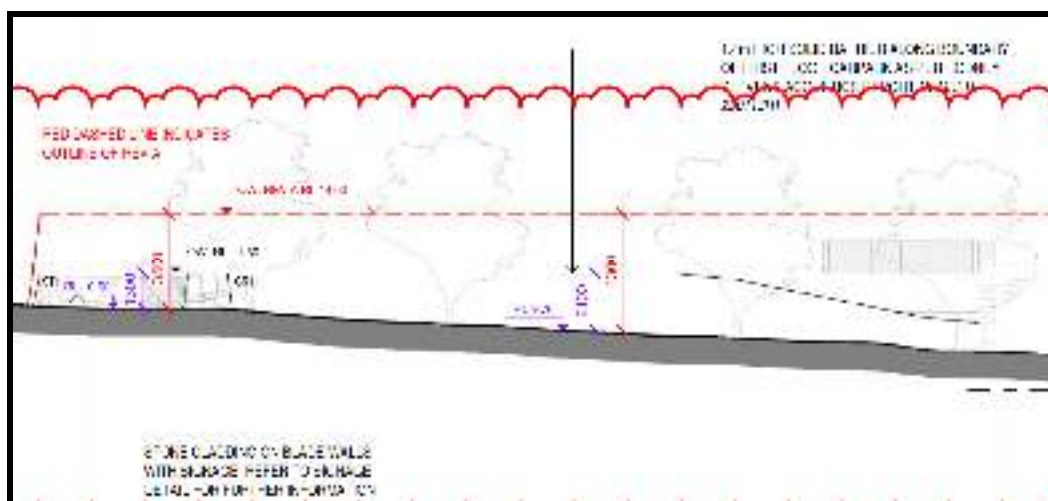
**Figure 31: Setback of Proposed Car Park to Wellington & Plimsoll Streets (Source: Innovate, Revision C, July 2024)**



**Figure 32: Plimsoll Street elevation (Source: Innovate, Revision C, July 2024)**

Arising from the combination of the height, lack of adequate setback and materiality of the structure, the proposed car park overwhelms the streetscape and results in a poor public / private interface. The lack of an adequate setback prevents adequate landscaping which could soften the appearance of the structure to the street from being provided.

The proposed car park does not provide an appropriate transition between the public/private domain as it does not provide any street activation or casual surveillance, which adversely impacts on pedestrian safety in this area. Pedestrian activity is encouraged in this area given the abundance of footpaths and public open space areas such as Anderson Park, Plimsoll Street reserve and the foreshore.



**Figure 33: Proposed Wellington Street frontage (Source: Innovate, Rev C, dated July 2024)**

The provision of this large car parking structure at the street interface exacerbates the visual impact and dominance of the car park to the street and further entrenches the site as a vehicle dominated development. It is acknowledged that the proposal needs certain number of car parking to cater to the proposed intensification. However, prioritising vehicles/ vehicular infrastructure over pedestrian amenity and compromising the streetscape and amenity of the surrounding existing development is not considered a good urban design outcome.

There has been some amendments to the proposed car park following several requests and meetings held with Council staff, which has resulted in a reduction in the overall height of the car park by 2.2 metres (from RL 14.00 to RL 11.80). This reduction has resulted from a combination of greater excavation into the natural ground level and a reduction in the floor to ceiling height of the proposed car park which was originally at a maximum of around 4 metres which was excessive.

Despite the reductions in height and the proposed vertical planting on the car park structure, the scale / height of the car park structure is still considered excessive especially given the significant change to the existing streetscape and impact on the water views from the public domain.

It was clear that the floor to ceiling height of the car park on the ground floor was being driven by the applicant's preference to provide SRV access to the ground floor loading dock. Therefore, Council requested that the SRV access be relocated to the lower ground floor loading dock so that the height of the car park could be reduced further, including the removal of the southern part of the first floor of the car park which would reduce the adverse impact and view loss to Plimsoll Street.

The applicant, however, was reluctant to utilise this lower ground floor loading dock given the lack of an adequate goods lift in the building, and instead wished to continue using the loading dock on the ground floor. This arrangement, while providing SRV access from a separate vehicle access from Plimsoll Street, still requires a minimum floor to ceiling height for the ground floor of the car park given the SRVs are still required to travel under the roof connected to the club building from the car park via the proposed new porte cochere. There are also manoeuvring and pedestrian hazard concerns with this arrangement which are considered in the traffic and parking issue below.

The applicant's reluctance to make the internal changes necessary to provide lift access from the lower ground to ground floor loading areas has led to the car park remaining at a height

and setback which is unacceptable and cannot be supported. There has also been reluctance to reducing the number and/or configuration of the car parking spaces to provide a greater setback of the proposed two storey parking structure.

Notwithstanding the reduction in the height of the car park, the 4.54 metre solid wall and car park structure still overwhelms the street given the lack of an adequate street setback and bulkiness of the proposed stone cladding. This wall height could have been reduced had the SRV access been relocated as requested, while a greater setback of this entrance as well as replacing the stone cladding with a lightweight material should have been considered.

The lack of an adequate streetscape appearance to the proposed development arising from the proposed car parking structure is inconsistent with a number of the fundamental planning controls for the site including the following:

- Clause 6.6 of GRLEP 2021 in relation to the Foreshore Scenic Protection Area. The proposed street interface is inconsistent with the objectives for development within the pursuant to Clause 6.6(1)(d) of GRLEP 2021 and the setback objectives of GRDCP 2021 in that the proposal does not reinforce landscaping over built form or minimise the impacts on the views to and from the Georges River. The impacts on views and minimisation of bulk and scale of the proposed car park also fails to address Causes 6.6(3)(f) and (g) of the GRLEP 2021 in relation to the matters for consideration in the FSPA.
- Clause 6.10 of GRLEP 2021 in relation to design excellence. The impacts of the solid wall on the public domain and the surrounding development are inconsistent with the objectives under Clause 6.10(1) as the proposal does not achieve the highest standard of urban design. In addition, Clause 6.10(5) of GRLEP 2021 requires that in considering whether the development exhibits design excellence, the consent authority must have regard to matters including how the development addresses the impact on, and proposed improvements to, the public domain and achieving appropriate interfaces at ground level between the building and the public domain.

It is considered that appropriate treatment has not been achieved at the public / private interface. Instead of achieving street activation, making the street visually more engaging and providing a transition that enhances safety and security, the car park structure facades along the streets result in an undesirable pedestrian environment. The public / private interface treatment proposed are considered unsuitable for the low-density residential area and inconsistent with the existing and the future desired character resulting in a poor urban design outcome.

- Part 5.2 of GRDCP 2021 in relation to the future desired character for the Sans Souci and Ramsgate Locality. The proposal does not retain or enhance the existing low density suburban residential character and does not encourage consistent setbacks of buildings from the street or provide landscaping within the front setback to enhance visual permeability. The sharing of water views and lack of screening via vegetation rather than solid walls is also not achieved by the proposal.
- The lack of adequate setbacks is inconsistent with the streetscape objectives pursuant to Section 6.1.2.3(b) of GRDCP 2021 for the surrounding residential area which requires that integration of new development with the established setback character of the street by ensuring front setbacks are not inconsistent with adjoining buildings.

Accordingly, it is considered that the proposed car parking structure results in unacceptable adverse impacts to the streetscape and is therefore not supported. While amendments were

made to the proposal in response to Council's concerns, these changes were not sufficient to reduce the adverse impacts to a adequate level.

**Outcome: This matter has not been adequately addressed in the application and is considered to be unsatisfactory.**

## 6.2 Architectural Expression, Bulk and Scale and Visual Impacts from the Foreshore

There are a number of significant concerns with the architectural expression and the bulk and scale of the proposed additions to the club building along the foreshore elevation comprising the western boundary of the building. The major concerns with the architectural expressions include the following:-

- (a) **3 storey development** - The proposal results in a three (3) storey development arising from the proposed first floor roof terrace, which wraps around the western and southern facades (**Figure 34**), adding significant bulk and scale to the building, especially when viewed from the foreshore. This is inconsistent with the predominantly two (2) storey character of the locality, the FSPA controls of the GRLEP 2021 which require the minimisation of the height and bulk of the development and Section 6.1.2.3 of the GRDCP 2021 which imposes a maximum two storey height limit in low density areas. This significant 3 storey bulk dominates the views from the water, with the receding colours failing to mitigate the 3 storey bulk.

The overall height of the proposed first floor terrace also exceeds the maximum building height of 9 metres which applies to the site. While the application of existing use rights to the application reduces the applicability of development standards which seek to derogate from those provisions, it is considered that the proposed height of three (3) storeys fails the merit assessment outlined in the Fodor planning principle. This Planning Principle is considered below in the context of exceeding a development standard for an existing use rights development, as referred to in the consideration of the Clause 4.6 request in Section 4.3((a)(i)(f) of this report. this Planning Principle is also considered in this report having regard to the exceedance of the FSBL for the proposed club additions.



**Figure 34: Three storey element on the foreshore (Source: Innovate, Rev C, July 2024)**

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*Fodor Planning Principle*

- *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 bulk and scale of the proposed additions are considered to be excessive due to the number of storeys being more than surrounding development and the lack of adequate landscaping to screen and soften the development, resulting in the proposal being incompatible with existing development in the area. Surrounding development to the club comprises two (2) storey detached housing consistent with Section 6.1.2.3 of the GRDCP 2021, set within landscaped settings and adequate setbacks.

While the proposal also exceeds the maximum height development standard of nine (9) metres, it is the proposed new third storey roof terrace element, with limited landscaping or other features to reduce bulk and scale to the foreshore, which makes the proposal incompatible with surrounding development. This third storey combined with the proposed large terrace area adjoining the existing ground floor restaurant and the enclosure of the existing ground floor terrace adjoining the St Kilda room exacerbates the bulk and scale of the development to the foreshore. The proposal does not satisfy this matter.

- *What is the relevance of the building in which the existing takes place?*

The building is an existing club house to the marina, which relies on its proximity to the foreshore, however, the club has functioned on the site since the 1920s and the exceedance of the foreshore building line to the extent proposed is not required for the club to function in association with the marina. The proposal does not satisfy this matter.

- *What are the impacts on adjoining land?*

There are significant visual impacts arising from the proposed works on the nearby public land comprising the foreshore given the excessive bulk and scale of the proposal and the lack of adequate landscaping opportunities to soften the larger proposal when viewed from the foreshore. While there are minimal direct impacts arising from overshadowing or overlooking given the location of the proposal away from adjoining properties, the visual impacts are unsatisfactory. The proposal does not satisfy this matter.

- *What is the internal amenity?*

The proposed works will increase the internal amenity for the site arising from the expanded areas for patrons within the club, along with improvements to accessibility to these areas of the club. There are no adverse internal amenity impacts arising from the encroachment of the development beyond the foreshore building line. The proposal satisfies this matter.

The proposed exceedance of the number of storeys planning control is not supported having regard to the Fodor Planning Principle.

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- (b) **Building Materials and Composition** - The proposed new additions lack a variation in building materials and composition and does not integrate with the existing character of the locality. The horizontal bands of the proposed first floor roof terrace and extension of the ground floor terrace emphasise horizontality which exacerbates the building bulk, with no incorporation of any vertical rhythm to minimise the horizontality in the design proposed. The proposed subtle colour change to the top roof level has not resolved these concerns.

The building façade does not incorporate any variation in composition or materials and does not provide any setting back of the proposed upper (first floor) level which would assist in breaking up the building bulk when viewed from the water. The predominantly white render finish of the existing and proposed banding further adds to, and dominates, the views from the waterway.

Further materiality concerns include the absence of an integrated approach to the design of the proposed new additions with the existing building fabric. The existing development, comprising a dated, rendered white façade and red roof tiles, is in contrast to the contemporary proposed addition comprising large glazed surfaces which results in a lack of cohesiveness with the existing building on the site. The predominantly white render finish of the existing and proposed building will also dominate the views from the foreshore.

- (c) **Roof form** – The proposed flat roof over the first floor terrace, which is dominated by horizontality, adds to the building bulk and does not complement the existing built form, enhance the character of the area or the skyline. The proposed roof must be integrated into the design of the building that does not dominate the foreshore. Notwithstanding the proposed new pitched roof above the foyer entry and the proposed materiality, concern still remains on the bulk and scale of the proposed first floor roof terrace. This proposed new foyer pitched roof fails to break the horizontality of flat roof line.
- (d) **Glazing** - The proposed balcony façades comprise glazing, which will increase the reflective surface and glare when viewed from the water. This is contrary to Part 6.5.1(13) of GRDCP 2021 where the maximum glazed area to solid ratio is to be 50%-50% in the FSPA. The solid to void ratio should be proportionate to minimise glazed surface and glare to ensure facades contribute to an interesting public realm.
- (e) **Ground floor terrace areas** - The existing terrace area located off the St Kilda Room has open form sides with a glass balustrade along the edge of the existing concrete slab (the curved feature on the corner of the building), with a lightweight roof which is partially open to sky at the interface with the Lounge (**Figure 35**). However, the proposal involves enclosing this area with floor to ceiling glazing to the edge of the existing terrace and the addition of a rendered white horizontal banding (**Figure 36**).

This enclosing of this space accentuates the bulk and scale of this portion of the building as the open area becomes an enclosed space. The banding further emphasises the horizontal nature of the building and reduces the open area below which assist in minimises the bulk when viewed from the foreshore. This also results in more building bulk being brought forward and closer to the water, emphasising its size to the foreshore. These additions also result in the foreshore facing portion of the building comprising a length of 64 metres, which is a dominating building form in the locality.





Figure 35: Existing foreshore elevation (Source: *Innovate, Rev C, July 2024*)

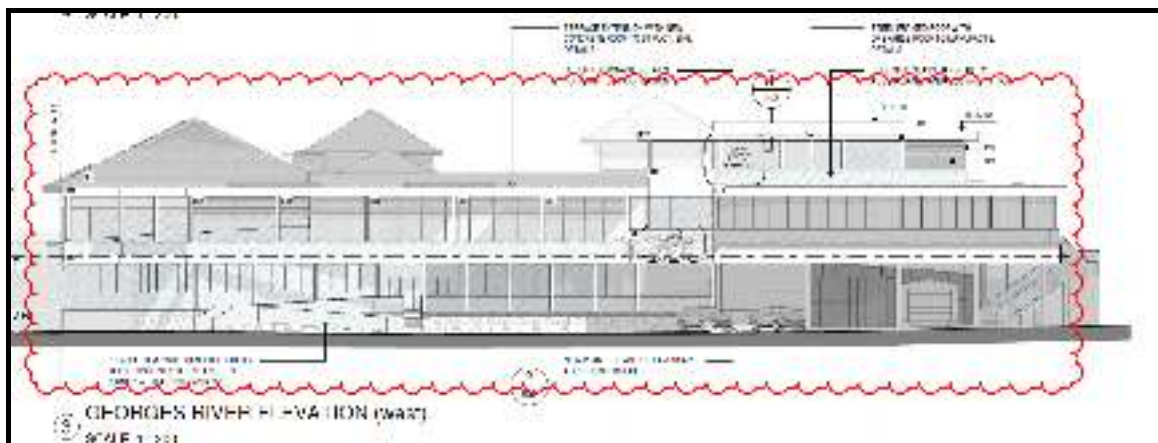


Figure 36: Photomontage showing new enclosed glazed area on ground floor (Source: *Innovate, Rev C, July 2024*)

Further bulk is proposed to be added to the building with the addition of a new outdoor terrace adjoining the lounge and Marina's Edge Restaurant on the ground floor (**Figure 37**). This new terrace area comprises an area of approximately 300m<sup>2</sup> and is 41.6 metres long with a width ranging from 4.9 metres to 12.770 metres (**Figure 38**). This proposed terrace area is to include a concrete roof, further exacerbating the bulk and scale in this area of the building.



**Figure 37: Proposed terrace extension on the ground floor (Source: Innovate, Rev C, July 2024)**



**Figure 38: Proposed Georges River elevation (Source: Innovate, Rev C, July 2024)**

## Planning Controls

These architectural expression concerns combine to exacerbate the bulk and scale of the proposed building and results in the proposal being inconsistent with a number of the planning controls including:

- Clause 6.4(3) of the GRLEP 2021 in that the proposed additions are forward of the FSBL and are inconsistent with the Fodor Planning Principle having regard to the bulk and scale of the proposed third storey roof terrace and larger outdoor terrace areas on the ground floor;
- Clause 6.6(1)(a) and (d) of the GRLEP 2021 in relation to the objectives for the FSPA in that the proposal does not protect, maintain or improve the scenic amenity of the Georges River foreshore and does not reinforce and improve the dominance of landscape over built form arising from the bulk and scale of the proposed additions to the club building;



- Clause 6.6(3)(g) of the GRLEP 2021 in relation to the matters to be satisfied prior to granting consent in the FSPA in that the proposal does not minimise the height and bulk of the development by stepping the development to accommodate the fall in the land.
- Clause 6.10(1) of the GRLEP 2021 in relation to the objectives for design excellence in that the proposal does not achieve the highest standard of urban design as the bulk and scale of the proposed roof terrace and large terrace areas proposed along the foreshore elevation of the proposal have not been adequately mitigated.
- Clause 6.10(4) of the GRLEP 2021 in relation to the precondition to the grant of consent that has not been satisfied in that design excellence has not been achieved for the proposal arising from the bulk and scale of the proposed roof terrace and large terrace areas proposed along the foreshore elevation.
- Clause 6.10(5) of the GRLEP 2021 in relation to the matters for consideration as to whether the development exhibits design excellence, including
  - A high standard of architectural design, materials and detailing appropriate to the building type and location has not been achieved (CI 6.10(5)(a));
  - The form and appearance of the proposed roof terrace does not improve the quality and amenity of the public domain. The excessive bulk and scale and lack of design elements to soften the building from the foreshore result in the building form being unsatisfactory (CI 6.10(5)(b));
  - How the development addresses the bulk, massing and modulation of buildings and the impact on, and proposed improvements to, the public domain, is unsatisfactory (CI 6.10(5)(d)(v) and (x)).
- Section 6.1.2.3 of the GRDCP 2021 which imposes a maximum two storey height limit in low density areas.

Accordingly, it is considered that the architectural expression, bulk and scale visual impacts from the foreshore for the proposal are unsatisfactory.

**Outcome: This matter has not been adequately addressed in the application and is considered to be unsatisfactory**

### **6.3 Foreshore Interface**

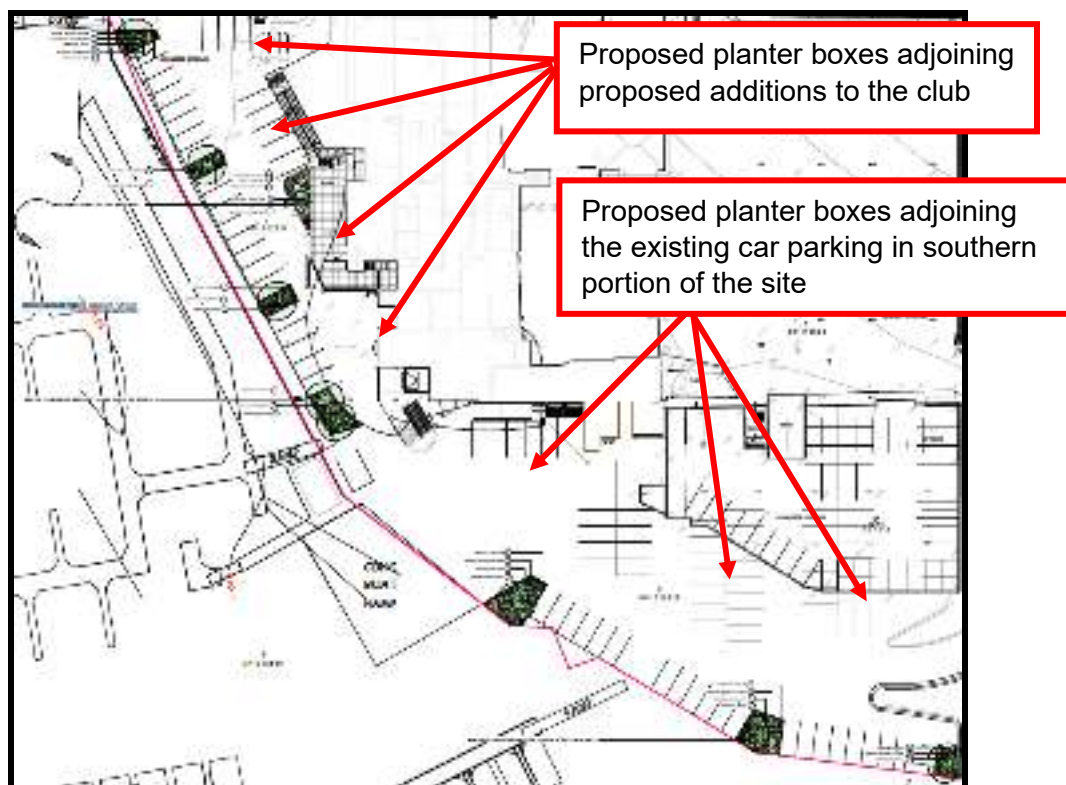
The proposal has a significant frontage to the foreshore, which currently comprises hardstand areas consisting of car parking spaces as well as a concrete boat ramp and outbuildings associated with the marina use (**Figure 39**). It is acknowledged that the site is a working marina and that the boat ramp and structures associated with the marina are required in this location, however, the remainder of the frontage could be enhanced given the scale of the proposed additions. There is a lack of landscaping and public access along the foreshore frontage of the site which is considered further below.



**Figure 39: Existing foreshore frontage at the site (Source: Google Maps)**

#### *Lack of Landscaping*

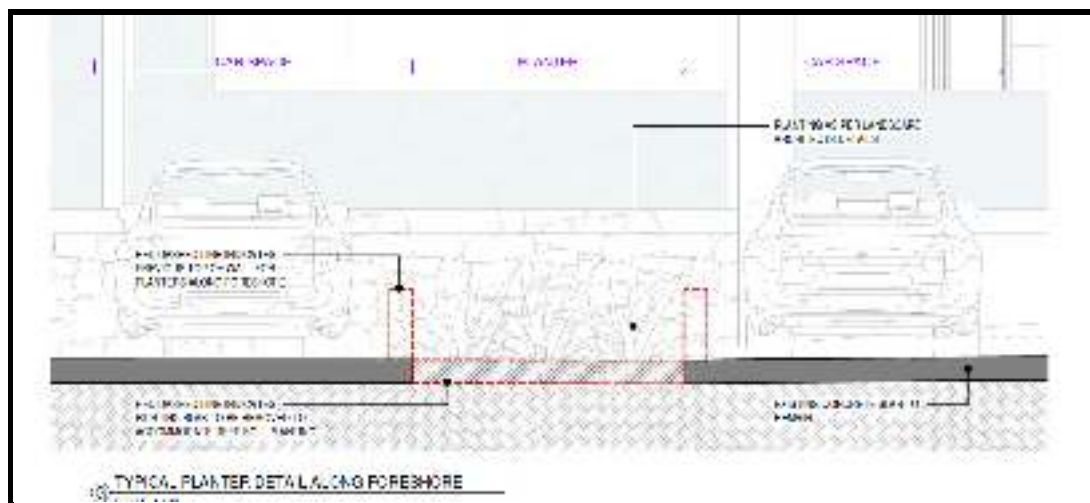
The proposal includes 4 planter boxes within the 70 metre foreshore frontage adjoining the proposed new terrace areas and 3 planter boxes along the car park to the south adjacent to the foreshore (**Figure 40**). While these planters are a minor improvement to the existing situation, they are limited in number and size and also provide a reasonably shallow planting depth such that groundcovers are the likely landscaping to be provided in such areas.



**Figure 40: Proposed Landscaping along the Foreshore (Source: Site Design Studios, Rev C, July 2024)**

The borehole data contained in Table 1 of the *Geotechnical Investigation Report* prepared by Aargus dated 21 July 2023 revealed that sandstone was encountered at a depth of approximately 1 metre. This depth to sandstone and limited planting area, is likely to significantly restrict soil volumes in this area of the site, which will be inadequate for tree planting. This is confirmed in the planter detail in the architectural set (**Figure 41**) which illustrates groundcovers in the proposed planters.

Council's Landscape Officer also does not support the planting of *Cupaniopsis anacardioides* (Tuckeroo) on the foreshore as well as other proposed plantings given the use endemic genus and species has not been included.



**Figure 41: Proposed planter detail (Source: Innovate, Rev C, July 2024)**

Landscaping that involves small planters in discreet locations between car parking spaces and which can only accommodate groundcovers does not soften the proposed building form when viewed from the foreshore or enhance the views from the water. Such landscaping and small planters appear tokenistic and fail to minimise the visual impact of the proposed extensions to the club and car parking when viewed from the water. The scenic values of the foreshore are also not enhanced by the proposed landscaping. This lack of adequate landscaping in the foreground does not offset the proposed three (3) storey built form which will dominate the views from the water. The result is that there continues to be a significant imbalance in the ratio of plants and soft landscaping to hard surfaces at the foreshore interface, exacerbating the bulk and scale of the proposed additions to the club.

Furthermore, the proposal has failed to consider a more consolidated approach to the car parking on the site, which could have provided additional landscaping opportunities throughout the site and particularly along the foreshore.

#### *Lack of Public Access*

There has been minimal consideration of pedestrian amenity and access along the foreshore frontage of the site for the proposed development. The existing and proposed development is car dominated, with no designated, safe or desirable pedestrian paths along the foreshore or to the existing club building. While there is an informal footpath approximately 1.5 metres wide along the frontage of the site, connecting Anderson Park in the north to the boat ramp on the site in the south, this path does not extend for the full foreshore frontage of the site.

Such an extension of this pedestrian path could connect the existing footpath with the Plimsoll Street reserve to the south, beyond the subject site, which would provide a safe and desirable

pedestrian connection with extensive landscaping along the foreshore. This connection could be incorporated on the site, with reconfiguration of some of the trailer parking spaces on the site, which has not been undertaken.

This pedestrian connection would not only benefit the local community, but the club and marina patrons too as a separate pathway would be designated to access the club. This would also provide a more interesting interface with the foreshore and minimise the impact of the proposal when viewed from the water.

These concerns with the foreshore interface results in the proposal being inconsistent with a number of the planning controls including:

- Clause 6.4(1)(c) of the GRLEP 2021 in relation to the objectives for the foreshore area in that the proposal does not facilitate opportunities for public access to and along the foreshore;
- Clause 6.4(4)(e) and (f) of the GRLEP 2021 in relation to the matters to be considered prior to granting consent in the foreshore area in that opportunities to provide reasonable, continuous public access along the foreshore have not been provided as well as no measures to mitigate the adverse visual impacts of the proposed additions given the lack of adequate landscaping;
- Clause 6.6(1)(a) and (d) of the GRLEP 2021 in relation to the objectives for the FSPA in that the proposal does not maintain or improve the scenic amenity of the Georges River foreshore and does not reinforce and improve the dominance of landscape over built form arising from the bulk and scale of the proposed additions to the club building which are not mitigated by landscaping;
- Clause 6.6(3)(f) of the GRLEP 2021 in relation to the matters to be satisfied prior to granting consent in the FSPA in that the proposal does not minimise the impact on views and the visual environment to and from the Georges River arising from the lack of an adequate foreshore interface from the proposal;
- Clause 6.10(1) of the GRLEP 2021 in relation to the objectives for design excellence in that the proposal does not achieve the highest standard of urban design as the bulk and scale of the proposed along the foreshore elevation of the proposal has not been adequately mitigated.
- Clause 6.10(4) of the GRLEP 2021 in relation to the precondition to the grant of consent that has not been satisfied in that design excellence has not been achieved for the proposal arising from the lack of an adequate foreshore interface;
- Clause 6.10(5) of the GRLEP 2021 in relation to the matters for consideration as to whether the development exhibits design excellence, including
  - The form and appearance of the foreshore elevation and interface does not improve the quality and amenity of the public domain. The excessive bulk and scale and lack of design elements to soften the building from the foreshore result in the building form being unsatisfactory (CI 6.10(5)(b));
  - How the development addresses the bulk, massing and modulation of buildings, the lack of a pedestrian network, the impact on, and proposed improvements to, the public domain and the lack of excellence and integration of landscape design, is unsatisfactory (CI 6.10(5)(d)(v), (viii), (ix) & (x)).
- Clause 6.12(4) of the GRLEP 2021 in relation to the lack of appropriate plantings for

the proposed height, density and scale of the development given the limited landscaping along the foreshore to soften or integrate the development into the foreshore, while there is also a lack of landscaping to reduce the impact of the proposed car parking structure to the street;

- Clause 6.9(1)(b) of the Biodiversity and Conservation SEPP in that the proposal does not improve public access to and around the foreshore and does not satisfy the precondition to the grant of consent in Section 6.9(2)(b) that the development will maintain or improve public access to and from natural waterbodies for recreational purposes.
- Section 3.3(d) and (e) of the GRDCP 2021 in relation to the landscaping objectives in that the proposed landscaping does not reduce the visual and environmental impact of buildings, structures and hardstand areas on the site or create attractive public domain (foreshore). The proposal is also contrary to the landscaping controls in Section 3.3(1) and (2) of the GRDCP 2021 in that the proposed landscaping has not been adequately incorporated into the site planning of a development and does not achieve a mature height in scale with the structures on the site.

**Outcome: This matter has not been adequately addressed in the application and is considered to be unsatisfactory**

#### **6.4 View Loss**

A fundamental issue with this proposal since lodgement has been the significant view loss experienced by properties along Plimsoll and Wellington Streets arising from the height of the proposed car park structure. This issue was raised in almost all the public submissions received. A View Loss assessment was prepared for the original proposal as well as for the initial amended plans in Revision B plans dated May 2024.

The proposed car parking structure in the eastern corner of the site results in view loss for several properties along Plimsoll and Wellington Streets, which requires consideration pursuant to the Planning Principle established by the Land and Environment Court of NSW (**Court**) in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (**Tenacity**). The proposed car park also results in loss of views from the public domain, particularly at the corner of Plimsoll and Wellington Streets and from Anderson Park.

As outlined in the various RFI letters to the applicant, the original height of the car park structure was unacceptable given the significant view loss to be experienced by surrounding residential development. Subsequently, there has been a reduction in the overall height of the proposed car park structure from RL 14, in the original proposal, to a current height of RL 11.80 in the plans considered in this report, resulting in a total height reduction of 2.2 metres.

However, there has not been any further view loss consideration for the final amended plans (Revision C plans) the subject of this report which makes a thorough assessment of this issue difficult. Therefore, the likely impacts have been extrapolated for the level of the current proposal, which is considered to be 800mm below the yellow line (bottom of 400mm glass top to car park wall) in the View Loss Assessment dated May 2024.

The potential view loss impacts arising from the proposal on the public domain and private domain is considered below.



## Public Domain Views

### *Views from the Corner of Plimsoll and Wellington Streets*

The existing view from this corner is an expansive view of the broader area as well as significant views towards the Georges River, with Tom Ugly's Bridge evident in the background (**Figure 42**). It is acknowledged that there are a number of water views from this location which will be retained by the proposal, including to the northwest down the alignment of Wellington Street to the water (right hand side of Figure 42) as well as to the south down Plimsoll Street (left hand side of Figure 42).



**Figure 42: Existing View from corner of Plimsoll & Wellington Streets (Source: Google Maps)**

However, the main view over the existing at-grade car parking area towards the existing marina and Georges River will be obstructed, resulting from the proposed two (2) storey car parking structure (**Figure 43**).

This view obstruction arises from the lack of an adequate front setback to this proposed car parking structure as well as the height of car park. A consolidated approach to the car parking on the site and consideration of basement car parking would prevent such view obstruction at this important local vantage point. The other matters for consideration having regard to this view obstruction are included in the streetscape impacts outlined above in Key Issue 1.

Having considered the view analysis and the proposed development, it is considered that the proposal is unsatisfactory given the impact to public domain views from the corner of Plimsoll and Wellington Streets.



**Figure 43: View Loss arising from the proposed car park (Source: Photomontage Verification, Rock Hunter, Australia, 29 April 2024, )**

#### *View Loss from Anderson Park*

The proposal will also be visible and potentially obstruct views from Anderson Park, which adjoins the site to the north. This public reserve comprises a playground and passive spaces as well as providing a riverside location with scenic views to the Georges River (**Figure 44**).



**Figure 44: View from Anderson Park (Source: Photomontage Verification, Rock Hunter, Australia, 29 April 2024, View 15)**

The proposal does not directly impact on views enjoyed from this Park as the Park has a direct water frontage and therefore there will be no obstruction of this main view by the proposal. There will be some view loss to the south from the Park, caused by the proposed rooftop terrace and the extension to the ground floor terrace areas. However, this view loss is primarily of the sky and distant water views towards Sylvania as well as boats within the Marina Arms E and F. This view loss is minimal and is considered to be satisfactory.

#### Private Domain Views

The properties to be considered in the view loss assessment include:

- No. 38 Plimsoll Street
- No. 40 Plimsoll Street
- No. 40a Plimsoll Street
- No. 44 Plimsoll Street
- No. 43 Wellington Street
- No. 42 Plimsoll Street

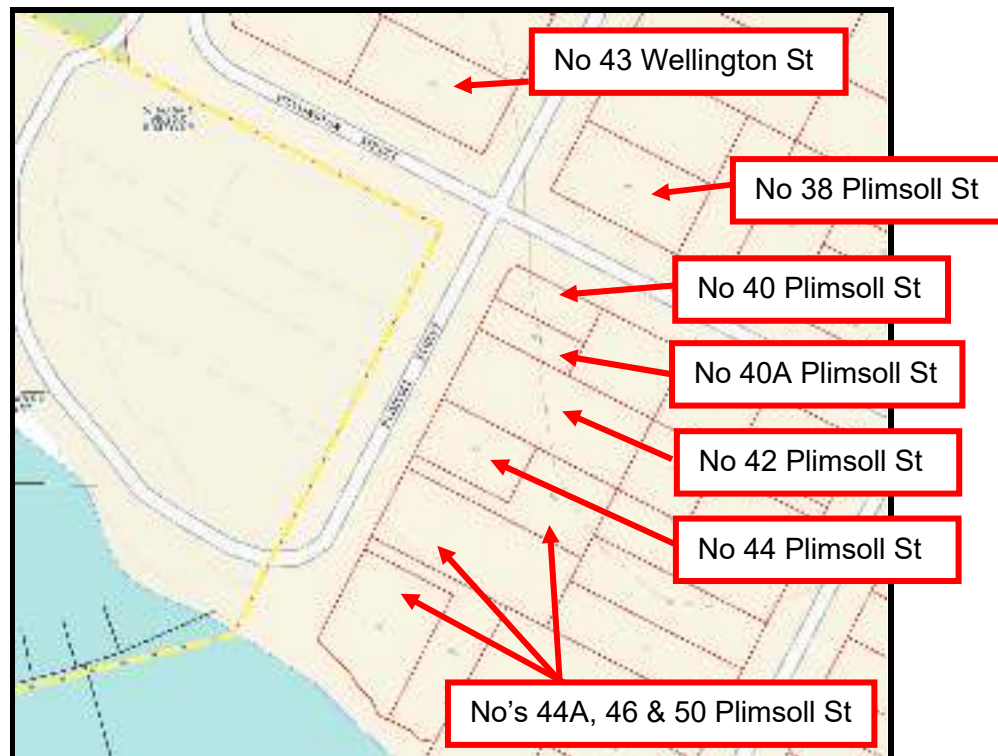
Other properties which were considered in this assessment but following an inspection of the site and review of the View Loss Report, are not considered to be significantly affected by view loss include:

- No. 44A Plimsoll Street – This property is unlikely to result in significant view loss given its position behind No 44 Plimsoll Street;
- No. 46 Plimsoll Street (dark brick 2 storey dwelling) – This property is located towards the southern end of Plimsoll Street behind the location of the proposed car parking structure and therefore is unlikely to result in significant view loss; and
- No. 50 Plimsoll Street – This property is located at the southern end of Plimsoll Street adjoining the public reserve and will retain all views to the Georges River to the west and south in that the proposed car park structure is located further to the northeast of this site.

The location of all of these properties in relation to the subject site are illustrated in **Figure 45**.


An assessment of the potential view loss arising from the proposal on these adjoining properties to the site has been carried out, which is summarised in **Table 12** to ascertain which views require further consideration under Tenacity.









**Figure 45: Locality Plan for Properties impacted by View Loss (Source: NSW Planning Portal Spatial Viewer)**



**Table 12: Consideration of View Loss from Private Properties**

VIEW IMPACTED	COMMENTS
<b>No. 38 Plimsoll Street (adjoining (opposite) corner of Plimsoll &amp; Wellington)</b>	
<ul style="list-style-type: none"> <li>Ground (likely living) – small area of water view currently visible, which will be obstructed by Rev B plans.</li> <li>1<sup>st</sup> floor (balcony) – largely retained by Rev B plans with more view retained by Rev C.</li> </ul>	<p><b>View loss</b> – There is no photo of the ground floor view from this dwelling, but it is likely at least half of this view would be obstructed from the ground floor. The view down Plimsoll Street towards the water would be retained as well as the views down Wellington Street to the water. The land water interface likely to be obstructed on the opposite side of the River. <b>CONSIDER FURTHER UNDER TENANCY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background. <b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
	
<b>No. 40 Plimsoll Street</b>	
<ul style="list-style-type: none"> <li>Ground (living) – small area of water view currently visible, which will be obstructed by Rev B</li> </ul>	<p><b>View loss</b> - This view is relatively small and does not consist of any significant parts of the water view such</p>

<p>plans.</p>  <ul style="list-style-type: none"> <li>1<sup>st</sup> floor (bedroom) – largely retained by Rev B plans with more view retained by Rev C.</li> </ul> 	<p>as the land water interface. Boats on the marina can be seen in parts as well as some water beyond. This small view will be almost totally obstructed by the Rev B plans. The Rev C plans are likely to increase some of this view through the street trees (almost identical to No 40A Plimsoll).</p> <p><b>CONSIDER FURTHER UNDER TENANCY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background. <b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
<p><b>No. 40A Plimsoll Street</b></p> <ul style="list-style-type: none"> <li>Ground (likely living) – small area of water view currently visible, which will be obstructed by Rev B plans</li> </ul>  <ul style="list-style-type: none"> <li>1<sup>st</sup> floor (bedroom) – largely retained by Rev B plans with more view retained by Rev C.</li> </ul> 	<p><b>View loss</b> – the same as for No 40 Plimsoll Street. <b>CONSIDER FURTHER UNDER TENANCY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background. Rev C plans also likely to marginally increase this view to include further parts of the existing marina. <b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
<p><b>No. 44 Plimsoll Street</b></p> <ul style="list-style-type: none"> <li>Ground (likely living) – Water view over the existing driveway from Plimsoll Street currently visible, which will be obstructed by Rev B plans and Rev C plans where the entry structure is 4.54 metres high.</li> </ul>	<p><b>View loss</b> - This view will be almost totally obstructed by the Rev B plans, while the Rev C plans are unlikely to provide any improvement. This could have been avoided had the applicant reduced the size of the first floor of the car park as requested by Council. There is a more skilful design that could have increased view sharing for this property.</p>

 <ul style="list-style-type: none"> <li>1<sup>st</sup> floor (unknown) – largely retained by Rev B plans with more view retained by Rev C.</li> </ul> 	<p><b>CONSIDER FURTHER UNDER TENANCITY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background, with the exception of parts of the inner marina. Rev C plans also likely to marginally increase this view to include further parts of the existing marina. <b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
<p><b>No. 43 Wellington Street</b></p>	
<ul style="list-style-type: none"> <li>Ground (living) – Water view over the existing car park currently visible (including the land and water interface on opposite side of the River), which will be obstructed by Rev B plans. Rev C plans are likely to marginally increase views.</li> </ul>  <ul style="list-style-type: none"> <li>1<sup>st</sup> floor (balcony) – largely retained by Rev B plans with more view retained by Rev C including of the marina and Tom Ugly's Bridge.</li> </ul> 	<p><b>View loss</b> – There is a relatively expansive existing water view from the ground floor which will be significantly impacted by the proposal. The Rev C plans are likely to increase some of this view through to just below the land water interface, which would be important to this view.</p> <p><b>CONSIDER FURTHER UNDER TENANCITY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background, with the exception of parts of the inner marina. Rev C plans also likely to marginally increase this view to include further parts of the existing marina. <b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
<p><b>No. 42 Plimsoll Street</b></p>	
<ul style="list-style-type: none"> <li>Ground (unknown) – a filtered water view over the</li> </ul>	<p><b>View loss</b> - A significant amount of this view is</p>



<p>existing car park through the street trees currently visible, which will be obstructed by Rev B plans. Rev C plans are likely to marginally increase views.</p>  <ul style="list-style-type: none"> <li>• 1<sup>st</sup> floor (unknown) – largely retained by Rev B plans including of the marina and Tom Ugly's Bridge, with more view retained by Rev C.</li> </ul> 	<p>obstructed by the Rev B plans, although that is largely of the boats on the marina. The Rev C plans will retain slightly more view at this location, which is largely through the street trees (which is not a consideration given the view is not obstructed by a building and the trees allow filtered views).</p> <p><b>CONSIDER FURTHER UNDER TENANCITY</b></p> <p><b>View retained</b> - This view is largely retained, including Tom Ugly's Bridge in the background. Rev C plans also likely to marginally increase this view to include further parts of the existing marina.</p> <p><b>SATISFACTORY (NO FURTHER ASSESSMENT).</b></p>
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The proposal results in view loss from the ground floor levels of the dwellings at Nos 38, 40, 40A, 44 and 42 Plimsoll Street and No 43 Wellington Street. The Tenacity Planning Principle is considered below having regard to this view loss given the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

To decide whether or not view sharing is reasonable, a four-step assessment has been adopted, which is considered below on the context of the current proposal.

1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The views to be affected are water views, in most cases including the land water interface and some distant views to Tom Ugly's Bridge. The views lost at Nos 40, 40A and 42 Plimsoll Street comprise only partial water views, obtained through street trees and for only a small portion of the water landscape, where the land water interface is not significant. These views would not be as highly valued as other views in the area. In relation to No 38 Plimsoll Street and No 43 Wellington Street, the views are likely more expansive but are also retained to a higher level than the other properties. The

views from the first floor of all of these residences largely retain the full view currently enjoyed, which is in most cases a whole view.

The views being considered are likely lower value views under this principle given they are not whole views, notwithstanding that the views are water views.

2. *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views are all obtained across the front boundaries and from a standing position of these properties which increases the value of the view and the expectation to retain such views.

3. *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

The extent of the impact on the views from these properties is considered below (from the ground floor only given the view is largely retained for the first floor levels of these residences):

- No 38 Plimsoll Street – The use of the room at ground level is unknown, however, it is likely to be a living room. While at least half of the westerly view over the existing club car park area is likely to be obstructed by the proposal, there are water views still available down Plimsoll Street and Wellington Street. there are also still views retained from the first floor of this dwelling, where a balcony exists, potentially from a living area. Since there are views retained in a number of directions and from different levels of the dwelling, the view loss is considered to be minor.
- No 40, 40A and 42 Plimsoll Street – The rooms at ground level affected are living rooms, however, the view is small and restricted to a small patch of water through street trees and therefore the value of this view is reduced under this Principle. The view at the first floor is generally retained. Therefore, the view loss is considered to be minor given there is still some view retained and the value of the view is low.
- No 44 Plimsoll Street – The view is from a living room and includes the land water interface on the opposite side of the River (near Tom Ugly's Bridge). This view is more highly viewed as it is more of a whole view than the other views enjoyed along this road. Therefore, the view loss is considered to be **moderate** given the value of the view is higher.
- No 43 Wellington Street - The view is from a living room and includes the land water interface on the opposite side of the River (Sylvania area). This view is more

highly valued as it is more of a whole view than the other views enjoyed along this road. Therefore, the view loss is considered to be **moderate** given the value of the view is higher.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

This step is an important consideration for the view loss experienced by No 44 Plimsoll Street and No 43 Wellington Street as it is these views which are more expansive than the other views, are more highly valued and which have the highest extent of the impact under the third step of this Principle.

In this case, the proposal is lower than the 9 metre maximum height limit and the development is below the maximum floor space ratio development standards for the site. However, the proposed development, in this case being the two (2) storey car park, does not comply with the required front setbacks and given the size of the development and the reliance on existing use rights, does not propose a development which would normally be permissible in the zone (a club or marina in the R2 zone).

This results in a large, bulky structure with no front or side setbacks which may result in some view corridors through the site, compared to detached housing with around 2 metres separating building forms, which would ordinarily exist in this location, allowing for view sharing. The provided 'view corridor' through the site aligns with the exit driveway to Wellington Street which is in line with the garage at No 43 Wellington Street. The lack of compliance with these setback setbacks and a consolidated approach to car parking for the site, including potential for basement parking, means that a more skilful design could have been provided with the same development potential and amenity, but which reduced the impact on the views of neighbours

#### *Summary – View Loss and Visual Impacts*

Accordingly, it is considered that the view loss for No 44 Plimsoll Street and No 43 Wellington Street is considered moderate and is unreasonable pursuant to the Tenacity Planning Principle.

## **6.5 Acoustic impacts**

The site is located in close proximity to residential development and involves an extension of a club building which operates into the evening and therefore acoustic impacts require consideration. The proposal also involves the construction of an extension to an existing marina which involves the use of pile driving machinery to install the marina extension which is likely to result in acoustic impacts. The relevant documents include the *Noise Impact Assessment* prepared by Rodney Stevens Acoustics Revision C dated 10 May 2024 (Noise Report) and the *Construction Noise & Vibration Management Plan* prepared by Rodney Stevens Acoustics Revision 2 dated 27 August 2024 (**CNVMP**). These matters are considered below and is a matter which was raised in a number of the community submissions.

#### *Acoustic Impacts*

There are significant concerns with the likely acoustic impacts arising from the proposed terrace areas, particularly the rooftop terrace, for adjoining and nearby residential development in the area. These concerns primarily arise from the large areas proposed, the increase in patron capacity of these areas totally approximately 168 patrons and the proposed hours of operation with capacity for live music. It is acknowledged that changes to the current operating hours of the existing club are outside the scope of this application and that only new hours of operation can be imposed on the proposed new areas of the club.

The Noise Report considered the proposal and established the project trigger noise level, which was then tested against the likely noise emissions from the proposal. This assessment yielded results that predicted the proposal will exceed the nominated noise levels at all residential receivers for the night time period (12:00am to 7:00am). These results were provided, notwithstanding that the EIS stated that the site does not operate beyond midnight and that such operating hours are not proposed to be modified (Pages 58 and 205 of the EIS).

The EIS (page 33) states the current trading times of the club are as follows and are also proposed for the new rooftop terrace area (EIS, page 7):

- Monday to Thursday 11:00am to 10:30pm
- Friday, Saturday & Public Holidays: 11:00am to 12:00am (midnight)
- Sunday 11:00am to 9:30pm

This is contrary to the Noise Report which states that the site has a licence to operate 24 hours (Section 2.3) and that mitigation measures contained in the recommendations (Section 6) attempt to reduce these impacts including restricting the playing of live music on the terrace areas after midnight.

However, the assumptions for the noise testing in Section 5.4 of the Noise Report included no music on the ground floor terrace from 12am - 7am and no music on rooftop terrace between 10pm - 7am, yet noise exceedances are still predicted to occur. The noise exceedances are therefore assumed to arise from patrons on the terrace areas since music was not modelled in the Noise testing subject to these assumptions.

Therefore, the recommendations in Section 6 are unlikely to mitigate the adverse acoustic impacts arising from the use of the proposed new outdoor terrace areas (i.e. no live music permitted). The hours of operation and the likely acoustic impacts is also a concern to Council's Health Officer, given the likely exceedance of noise levels by patrons on these terrace areas in the evening.

Accordingly, the recommendations of the Noise Report are unsatisfactory and the likely acoustic impacts to adjoining and nearby residences have not been satisfactorily addressed.

#### *Construction Noise for Marina Extension*

The construction impacts of the proposal comprising the driving of the piles for the proposed marina extension is likely to impact on the amenity of the area and relevant mitigation measures are required to be outlined in the application to protect the amenity of nearby residents.

The SEARs required that matters relating to noise and vibration are to be addressed, which included the following (emphasis added):-

- *noise and vibration – including:*

- a description of **all potential noise and vibration sources during construction and operation**
- a noise and vibration assessment in accordance with relevant Environment Protection Authority guidelines
- a description and appraisal of noise and vibration impact mitigation and monitoring measures.

The EPA has considered the proposal on a number of occasions, including reviewing the latest version of the CNVMP (Revision 2) and are not satisfied that the potential construction noise and vibration impacts have been adequately considered and mitigated. The concerns are primarily related to the potential acoustic and vibration impacts during the pile driving for the proposed extension to the Marina.

The lack of an adequate CNVMP is contrary to the SEARs, which specifically requires consideration of all potential noise and vibration sources during construction and operation. The EPA considers these matters have not been satisfactorily addressed, which is considered in more detail in the Key Issues section of this report. Therefore, the proposal is inconsistent with Section 191 of the Regulation which requires that an EIS must comply with the environmental assessment requirements notified under section 176 of the Regulation.

Following review of the Noise Report and the CNVMP, together with the advice from the EPA, it is considered that the potential acoustic impacts of the proposed construction and operation have not been adequately addressed and are unsatisfactory.

**Outcome: This matter has not been adequately addressed in the application and is considered to be unsatisfactory.**

## 6.6 Environmental impacts

The environmental impacts arising from the proposal are an important consideration given the proposal involves works both within and adjoining the Georges River. The following reports have been provided in relation to potential environmental and ecological impacts of the proposal:

- *St George Motorboat Club Aquatic Ecology and Sediment Quality Assessment* prepared by Advisian dated 17 July 2023 (**Aquatic Ecology Report**);
- *Geotechnical Investigation Report* prepared by Aargus dated 21 July 2023 (**Geotechnical Report**);
- Construction Management Plan (Marina Expansion) prepared by International Marine Consultants Pty Ltd dated 11 September 2023 (**Construction Plan**).

The Aquatic Ecology Report considered the existing natural environment at the site, stating that the existing intertidal habitat at the site consists of marine invertebrates such as Sydney rock oysters and turban shells. There was no seagrass or saltmarsh identified in the area and it was also noted that mangroves were present at the southern end of the site along the rocky foreshore and away from the proposed construction works of the marina. The subtidal zone did not have any marine flora present along the seafloor, however there was existing flora on the marina berths and pylons. The Aquatic Ecology Report also noted that there were no threatened species, ecological communities or populations observed at the site and in particular, the Coastal Saltmarsh and the *Posidonia australis*, an endangered seagrass population, are not present.

This Report concluded that there is no estuarine vegetation (seagrass, mangroves or saltmarsh) currently mapped by NSW Department of Primary Industries in the study area,



although the study site is located with an area of mapped Key Fish Habitat. There are also no Marine Protected Areas, Internationally Significant Wetlands, Nationally Important Wetlands or Coastal Wetlands or Littoral Rainforest (under the Resilience & Hazards SEPP) occurring within the study area. There are no areas of Critical Habitat or Areas of Outstanding Biodiversity Value (AOBV) occurring within the study area and no aquaculture areas.

The two main considerations for potential environmental impacts arising from the proposal are the increased use of the sliprail resulting from the proposed additional mooring berths at the marina and the impacts arising from the construction of the proposed extended marina.

#### *Increased use of slip rail and boat maintenance*

The site currently contains an existing sliprail and boat maintenance facility adjoining the boat ramp along the foreshore boundary of the site (**Figures 46 & 47**). This sliprail facility is proposed to be retained by the proposal, with the application outlining that the proposed additional marina berths would likely increase the capacity of the sliprail from the current 70% capacity to 100% capacity (given the increase in 84 mooring berths at the site). There are, however, no upgrade works proposed to this sliprail or boat maintenance area.



**Figure 46: Existing slip rail and boat maintenance area (Source: Google Maps)**

This issue was also required to be addressed in the SEARs pursuant to the following relevant requirements:

- *soil and water – including:*
  - ..
  - *an assessment of potential impacts on the quality and quantity of surface and groundwater resources*
  - ..
  - *details of the proposed stormwater and wastewater management systems (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts*
  - ...
  - *a description and appraisal of impact mitigation and monitoring measures.*



**Figure 47: Marina Operations (Source: *Environmental Management Plan, Golder Associates, 2 July 2009*)**

The EIS considered this requirement in Section 6.10.20 which stated that fire and incident management for the current marina facility is detailed in the existing *Environmental Management Plan* prepared by Golder Associates dated 2 July 2009 (**EMP**) and the Emergency Fire Procedures. The EIS also stated that an updated EMP would be provided at Construction Certificate stage subject to approved design.

There is also a brief discussion on the operation of the sliprail and maintenance area, which would seem to be managed by a private operator (mechanic), stating the following:

- Spills occurring on the Marina facility may include oil and fuel spills from the mechanics workshop, boats, vehicles and fuel trucks as well as leaking USTS and associated pipes and bowzers, paint spills from the paint shed and spillway and sewage and general refuse spills from boats and the sewage pump-out point
- All slipway waste is generated and managed by the private mechanic.
- The waste comprises wastewater from the gurney and boat hull paint and shell scrapings. All waste is washed into a drain connected to the wastewater treatment plant where solids are separated from the wastewater and the wastewater is then released into the sewerage system.
- A Sydney Water TWA [trade waste application] is active for water discharged from the plant and regular monitoring of the discharge water is completed as per the TWA. The plant also contains a sensor that monitors suspended solids in the discharge water. This sensor is to be calibrated twice a year as per the specifications of the model. The solid waste collected by the treatment plant comprises paint fragments and shell grit and is suitable for removal as domestic waste.
- Waste oil and used oil filters generated as a result of activities by the private mechanic are to be managed entirely by the mechanic as per the contract of the lease. Waste oil and oil filters are to be stored in new drums which are to be disposed of by an

appropriate contractor with a regularity dependent upon the amount of waste generated. Any waste oil generated by boat owners is completely the responsibility of those boat owners who will need to dispose of the waste oil off-Site.

The EIS focuses on incident management and does not consider or outline the layout of the sliprail in relation to whether the chemicals, paints and other mechanical supplies are located in a bunded area or any other pollution prevention measures. The reliance on an EMP which is 15 years old is also not supported.

The EPA are also concerned with the lack of upgrading to the slipway to accommodate this additional capacity as the current slipway arrangement relies heavily on antiquated infrastructure, on tidal ranges and there is potential for contaminants to enter the receiving waterway under certain conditions. The EPA considered imposing a Special Condition on the EPL for the Proponent to conduct an options assessment for upgrades to the slipway that could improve the environmental performance of the slipway. At the time of preparation of this report, the EPA still considered the issue had not been adequately addressed.

There are a number of preconditions to the grant of consent that are required to be satisfied prior to any consent being granted for the proposal having regard to potential impacts on water quality of the Georges River and therefore it is considered that this issue requires satisfaction prior to the issue of any revised EPL. Having regard to the concerns of the EPA and the lack of information provided on the operation of the sliprail, these preconditions prevent consent being granted to this application.

Chapter 6 of the Biodiversity and Conservation SEPP requires certain matters to be satisfied in relation to water catchments, in this case the Georges River, including matters relating to water quality and quantity (Section 6.6) and aquatic ecology (Section 6.7). The marina controls of Section 6.18 of the SEPP are also required to be considered which include whether the development complies with the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways*, published in 1998 by the Environment Protection Authority. There are also matters to be satisfied pursuant to Sections 2.10 (Coastal environment area) of the Resilience & Hazards SEPP. These matters are considered below.

#### *Impacts on Water Quality and Aquatic Ecology*

Sections 6.6(1) and 6.7(1) of the Biodiversity & Conservation SEPP requires that the consent authority in deciding whether to grant development consent must consider a number of matters in relation to impacts on water quality and aquatic ecology having regard to the quality of water entering the waterway.

Section 6.6(1) requires consideration of whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River. This has not been adequately demonstrated in the application, which has also been raised by the EPA. While the test to address this clause is less than if the site was located in Sydney's drinking water catchment, it is still a test to be considered which has not been adequately addressed by the proposal. The potential cumulative environmental impact arising from the proposal has also not been adequately outlined in the application given the increased capacity of the sliprail at the site. The proposal is considered to be inconsistent with the Clause 6.6(1)(a) and (f) of the Biodiversity & Conservation SEPP.

The matters to be considered in relation to aquatic ecology include whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation, whether adequate safeguards and rehabilitation measures to protect aquatic ecology are provided and if additional measures are required to ensure a neutral or beneficial effect on water quality. There is potential for direct and indirect impacts on aquatic

species and vegetation given the increased capacity of the existing sliprail and boat maintenance area and adequate safeguards have not been outlined. Therefore, these matters have not been adequately demonstrated to have no adverse impacts pursuant to Section 6.7(1)(a), (e) and (f) of the Biodiversity & Conservation SEPP.

Sections 6.6(2) and 6.7(2) of the Biodiversity & Conservation SEPP includes preconditions to the grant of consent such that development consent must not be granted to development unless the consent authority is satisfied the development ensures:

- the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
- the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development

These thresholds for demonstrating that environmental impacts arising from the proposed increased capacity of the sliprail and maintenance area have been minimised have not been established by the proposal given the lack of any upgrading of this facility or detailed operational information which may mitigate potential impacts from the sliprail operation. The incident response plans are insufficient to demonstrate that impacts will be reduced.

Whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application, while the test a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application, which has also been raised by the EPA.

Given the thresholds have not been met, the jurisdictional preconditions to the grant of consent have not been satisfied Sections 6.6(2) and 6.7(2) of the Biodiversity & Conservation SEPP.

The marina controls of Section 6.18(1)(b) of the Biodiversity & Conservation SEPP require various environmental matters to be considered, including whether the development complies with the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways*, published in 1998 by the Environment Protection Authority. Notwithstanding this document is no longer available, the EPA have expressed concerns that the existing sliprail is not proposed to be upgraded and is unsatisfactory. Therefore, the application is considered to be contrary to Section 6.18(1)(b) of the Biodiversity & Conservation SEPP.

#### *Construction Impacts of Marina Expansion*

The Aquatic Ecology Report considers the potential impacts of construction and operation on the local marine environment and impacts of sediment disturbance during construction activities. The Aquatic Ecology Report carried out a field survey and marine sediment sampling to ascertain potential impacts to the marine environment and consider potential existing contamination. The site survey found that the aquatic habitat adjacent to the marina consists of limited intertidal and subtidal artificial habitat on seawalls and pylons. There are no seagrasses or saltmarshes within the project area, although there are four mangrove trees present.

The Aquatic Ecology Report considered that there are no significant impacts expected to occur from the proposal on the identified threatened and protected aquatic species listed under State and Commonwealth legislation with the potential to occur in the study area.

The Report stated that potential direct and indirect impacts on aquatic habitats may occur as a result of the proposed works, with the potential construction risks arising from the proposal largely related to localised disturbance of the unvegetated soft sediment seabed arising from:

- Piling activities
- Potential impacts associated with accidental spills of fuels, chemicals or oils
- Potential pollution of water with construction waste from stormwater runoff,
- Potential indirect impacts on aquatic ecology associated with spills of fuel, oil and other substances from construction vessels.

Mitigation measures are proposed to be undertaken during construction and operation of the proposed marina extension for the protection of water and sediment quality. Such measures aim to avoid or manage these impacts as far as possible, and the selected construction method has been tailored to minimise direct impacts on habitat as far as practicable.

These mitigation measures include the use of a turbidity curtain around the perimeter of pile driving/drilling works or the construction zone to limit the spread of plumes generated by piling activities as well as sleeves to be fitted over hydraulic hoses on equipment operating on the waterway to capture any hydraulic fluid that may be spilt from a ruptured hose. Oil and sewage spill response kits are also to be readily available on the construction vessels or at the marina during operation among other measures.

NSW Fisheries have not raised any concerns with the proposal and Council's Environment Officer has also considered the proposal to be satisfactory subject to relevant consent conditions.

As outlined above, Sections 6.6(1) and 6.7(1) of the Biodiversity & Conservation SEPP requires the consent authority in deciding whether to grant development consent must consider a number of matters in relation to impacts on water quality and aquatic ecology having regard to the quality of water entering the waterway. Sections 6.6(2) and 6.7(2) of the Biodiversity & Conservation SEPP includes a precondition to the grant of consent in that development consent must not be granted to development unless the consent authority is satisfied the development ensures:

- the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
- the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development

The Aquatic Ecology Report concluded that using pile driving techniques and correct methodology for the installation of the marina piles will help minimise impacts on the site and may only have a short term impact on the surrounding ecology. Further measures include the turbidity curtain, the sleeves for equipment and the provision of other land-based construction management techniques to reduce the likelihood for spills into the water and from waste entering the waterway. Furthermore, the Aquatic Ecology Report considered that the addition of new pylons associated with the extension of pontoon and fingers on the marina, may provide artificial habitat for intertidal fauna and flora species. The construction of the new pontoon and fingers will have minimal impact on seagrass, as these generally occur in shallow depths and the proposed pontoon extensions occur in deeper water, outside of seagrasses general depth, as the water clarity is not high enough for sunlight to penetrate.

Council's Environment Officer supported the mitigation measures outlined in the report. The construction phase of the proposal will most likely result in localised disturbance on the surrounding ecology through increased turbidity, however, should be short term and will dissipate shortly after works have been completed. Accordingly, it is considered that the proposed construction works, with the recommended mitigation measures in place, will have a minimal impact on the surrounding ecology and biodiversity. Therefore, it is considered that

the proposed mitigation measures recommended in the Aquatic Ecology Report are sufficient to satisfy this precondition to the grant of consent.

The marina controls of Section 6.18(1)(b) of the Biodiversity & Conservation SEPP also require various environmental matters to be considered, including whether the development complies with the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways*, published in 1998 by the Environment Protection Authority (Section 6.18(1)(b)). In this case, if consent were to be granted, relevant conditions could be imposed to ensure compliance during the construction of the proposal with this document as well as any EPL issued for the proposal.

#### *Land Stability Adjoining Waterway*

Whether the development is likely to affect the stability of land adjoining a natural waterbody is a matter for consideration under the marina controls pursuant to Section 6.18(1)(d) of the Biodiversity & Conservation SEPP.

The Geotechnical Report assessed the ground conditions and feasibility of the site from a geotechnical perspective for the proposal. The investigation included assessment of the existing geotechnical conditions on the site (above and below the seawall) to provide general recommendations for the design and construction of the proposed development.

The report provided recommendations for the design and construction of ground structures for the proposed development, including a recommendation that an experienced Geotechnical Engineer should review foundation designs to ensure compliance with the recommendations of the geotechnical report and assess foundation excavations to ensure suitable materials of appropriate bearing capacity have been reached. The Geotechnical Report did not identify any constraints to the development and it is therefore considered that the proposal is unlikely to affect the stability of land adjoining a natural waterbody, consistent with these controls.

#### *Foreshore Impacts on the foreshore or bed of Waterway*

Potential impacts arising from the development on the foreshore or the bed of a natural waterbody is a matter for consideration in the marina controls pursuant to Section 6.18(1)(e)). The Aquatic Ecology Report provides sufficient mitigation measures to ensure there are minimal impacts on the foreshore and the bed of the Georges River arising from the proposal.

**Outcome: This matter has been adequately addressed in the application and is considered to be satisfactory.**

## **6.7 Traffic and Parking**

The proposal involves changes to the car parking and servicing arrangements for the site and therefore these aspects of the proposal require detailed consideration. The original proposal was unclear on the total number of the existing car parking spaces on the site, the proposed additional car parking spaces as well as the proposed gross floor area included in the proposal. The servicing arrangements for the site also required further clarification. These matters are considered below.

#### *Car Parking*

There are currently 241 existing car parking spaces provided on the site, which is consistent with the previous approval involving the establishment of the additional marina berths (MP 09\_0035) which required 238 car parking spaces to be provided. The proposal involves an



additional 42 car parking spaces being provided, which is a result of some spaces being removed and others added (**Figure 48** and **Table 13**).



**Figure 48: Existing and Proposed Car Parking on the site (Source: Innovate, Rev C, July 2024)**

**Table 13: Car Parking Provision (Source: McLaren Report (Table 1), 23 July 2024)**

LOCATION	EXISTING PARKING PROVIDED	PARKING CHANGES IN CURRENT DA	PROPOSED CAR PARKING PROVISION
Lower Ground	121	+ 1 (loss of 10 spaces (incl 4 trailer) +11 spaces)	122
Ground Floor	120	-25 (loss of spaces due to removal of at-grade spaces in eastern corner)	95
First Floor	0	+66 (new car park (top))	66
<b>Total</b>	<b>241</b>	<b>+42</b>	<b>283</b>

In relation to the car parking requirements for the proposal, as reported to the Panel in June 2024, Council's Traffic Engineer was concerned that the car parking surveys for the proposal were undertaken during winter when a marina is likely to be used less and therefore was not adequately representative of car parking demands on the site. Therefore, the Traffic consultant undertook an analysis of the swipe in/swipe out data from the use of the marina over the Easter long weekend (29 to 31 March 2024), which is noted was a weekend of good weather and could be expected that people would be using their boats.

The Revised Traffic Report dated May 2024 noted that the data from the Easter weekend revealed that the peak member visitation comprised 37 on members on the Saturday which with one (1) vehicle per member, resulted in a car parking demand of 37 spaces. Based on the 229 existing berths, this would result in a rate of 1 car parking space per 6.2 berths. If car parking for the marina was readjusted to the rate of 1 space per 6.2 berths, the Marina would require 13 additional car parking spaces rather than 25.3 spaces. This data is considered satisfactory to Council's Traffic Engineer.

The Revised Traffic Report also clarified that the GFA calculations comprised useable area by guests which included the terrace areas, notwithstanding that these areas are not usually

included in the GFA definition for car parking calculations. It was acknowledged that these areas will contribute to car parking demand and were therefore included. The resulting proposed additional GFA consisted of 472m<sup>2</sup>, which comprises 65m<sup>2</sup> for the proposed Sapphire Room extension, 247m<sup>2</sup> for the proposed extension to the Ground Floor Terrace and 160m<sup>2</sup> for the proposed new roof Terrace (excluding the bar as a separate rate for staff was adopted). The resulting car parking requirement was considered to be between 43 and 55 car parking spaces (depending on the rate used for the additional marina berths) (**Table 14**).

**Table 14: Car Parking Demand Assessment (Source: McLaren Report (Table 2), 23 July 2024)**

LAND USE	SCALE	RATE	SPACES REQUIRED	SPACES PROVIDED
Club	472m <sup>2</sup>	4.54 spaces/100m <sup>2</sup>	21.4	42
	8 staff	1 per staff	8	
Marina	84	1 per 3.2 berths 1 per 6.2 berths	13.5 to 26 spaces	
<b>Total</b>			<b>43 to 55 spaces</b>	<b>42</b>

Council considered that a reduction in car parking could be considered given the rate of car parking for the marina could be reduced in accordance with the Easter data and that the GFA calculations for car parking do not ordinarily require the calculation of terrace areas. As such and as recommended to the Panel in June 2024, a reduction in the car parking provision was supported by Council, which would result in a reduced size of the car parking structure in the eastern corner which would have provided an improved streetscape outcome as well as reducing view impacts to nearby residential properties.

It is also considered that the proposal has not taken a consolidated view of the total car parking for the site in that there has been no other design solutions for the provision of car parking for the proposal. Despite Council's efforts to resolve the issues regarding the height, bulk, and lack of setback of the car parking structure, the applicant has been apprehensive to reduce the amount of car parking provided on the site or seek alternative design solutions.

Therefore, it is considered that while the total amount of car parking provided essentially satisfies the planning controls, the provision of this car parking is considered unsatisfactory in terms of design, layout and location on the site.

#### *Vehicle access and Traffic Generation*

The existing vehicle entry points are from a non-classified road and are to be retained by the proposal, while the safety, efficiency and on-going operation of classified roads in the vicinity of the site will not be adversely by the proposal in relation to the design of vehicle access to the site, the emission of smoke or dust given the distance to the road network from the site.

Furthermore, Council's Traffic Engineer concurred with the applicant's traffic report that the traffic movements generated by the proposal will have a minimal impact on streets in the vicinity of the site and minimal impact on the operation of intersections in the area. The analysis showed there will be no change to the level of service occurring at any of the affected intersections. Therefore, it is considered that the increase in traffic to the site can be absorbed by the local road network. There are no concerns raised in the relation to the proposed vehicle access points or traffic likely to be generated by the proposal.

#### *Servicing*

A further issue which Council has attempted to address with the applicant is that of servicing arrangements for the site. Council considered that utilising the existing loading and back of



house areas on the lower ground floor (**Figure 49**), instead of continuing to use the ground floor loading dock (**Figure 50**), would allow the proposed new car park in the eastern corner of the site to be lowered as SRV access would not be required to the loading area on the ground floor.



**Figure 49: Existing lower ground level loading dock**



**Figure 50: Existing Ground Floor Loading Dock**

This ground floor loading area is a significantly smaller area, compared with the loading and storage facilities located on the lower ground floor, which comprises a number of areas as a loading dock, store rooms, bin and waste rooms, cool rooms and a workshop (**Figure 51**). Such amendments were not made as there is not an internal lift to transport goods within the

building. It would appear that this is not an unresolvable issue given the extent of works proposed to the club in this application.



**Figure 51: Existing loading and storage areas on the lower ground and ground floors of the existing club (Source: Innovate, Rev C, July 2024)**

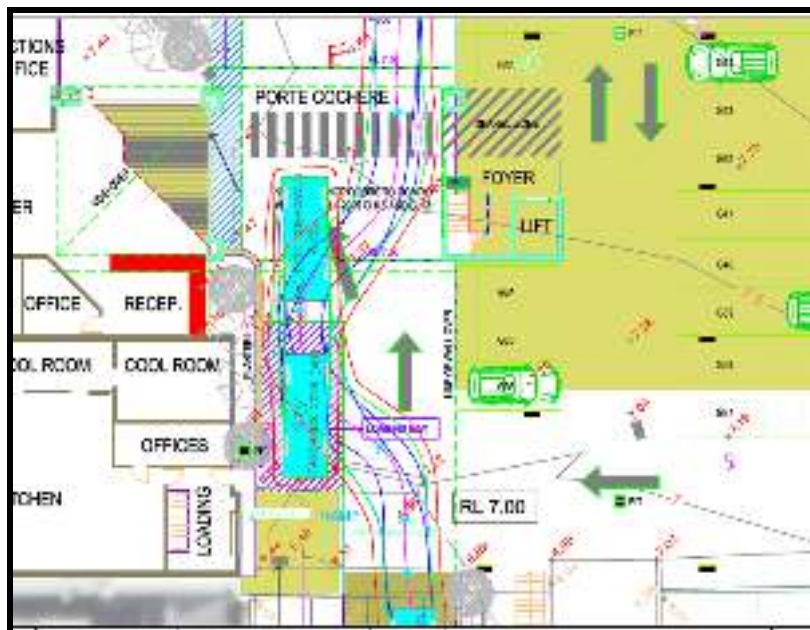
Despite Council's request to relocate all of the servicing functions to the lower ground floor, the proposal retains the ground floor loading dock and also now proposes an extension to this loading dock by providing a larger area for SRVs to stand while unloading (**Figure 52**).



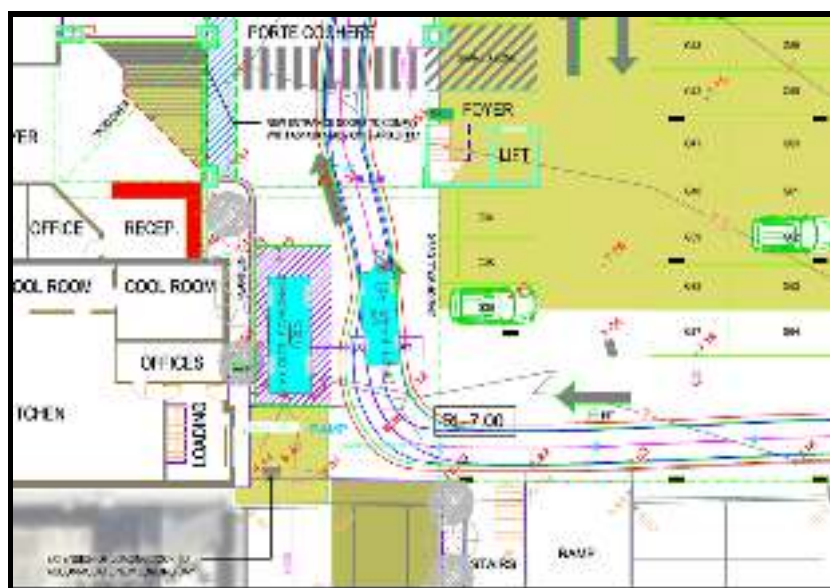
**Figure 52: Proposed new loading dock on the ground floor (Source: Innovate, Rev C, July 2024)**

A further concern with this extended ground floor loading dock is that this area is located adjoining the main pedestrian entry to the club, with trucks accessing the loading bay required to carry out forward and reversing movements in close proximity to the main pedestrian crossing linking the upper-level car parking area to the main entry to the club (**Figure 53**). It is considered unsafe for larger vehicles to be manoeuvring in an area of pedestrian activity and the proposed loading facility is therefore not supported.

This manoeuvring area also adjoins the main vehicle throughfare for vehicles entering the site from Plimsoll Street to access the proposed first floor level of the new car parking area (**Figure 54**). It is also the only path for vehicles exiting from the existing two (2) storey car parking structure to exit the site via Wellington Street. these vehicle movements make this area of the site a busy vehicle throughfare in the vicinity of the main entry to the club, without the additional burden of service vehicles manoeuvring into and out of an extended loading dock.



**Figure 53: Manoeuvring paths for SRVS to access proposed ground floor loading dock**  
(Source: McLaren, 23 July 2024)



**Figure 54: Manoeuvring path for vehicles entering the site** (Source: McLaren, 23 July 2024)

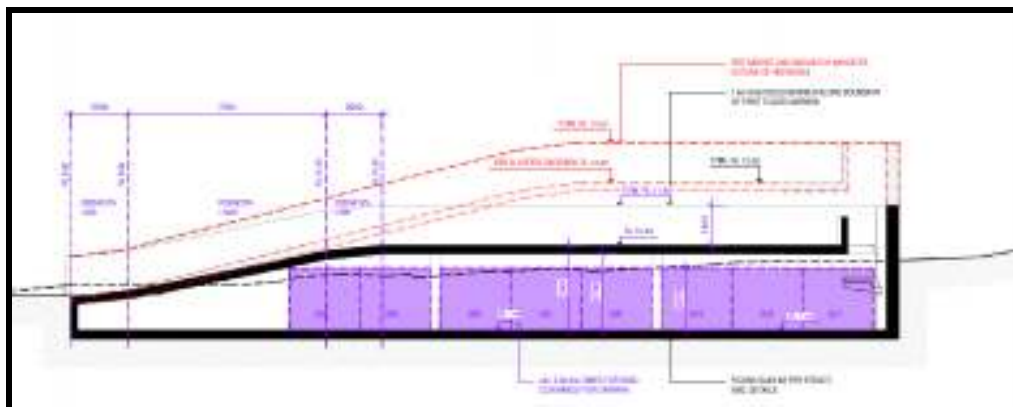


Additionally, the service vehicles will be required to exit the site under the proposed Porte Cochere, which increases its height and consequently the height of the first floor of the new car park (discussed in the first issue in this section).

For the service vehicles to access the new loading dock, a new vehicle entry point is required from Plimsoll Street to access the existing two (2) storey car parking structure and a new ramp from this existing structure into the loading dock. These works require the removal of three (3) car parking spaces within the site as well as three (3) on-street angled parking spaces.

Council's Traffic Engineer raises concerns with this proposed new SRV ramp as the design proposes gradients and gradient changes that do not satisfy the requirements of AS 2890.2:2018 *Parking Facilities Part 2- off street commercial vehicle parking* for use by an SRV.

A proposed gradient of 20% on the main part of the ramp exceeds the maximum gradient of 15.4% (Section 3.3.3.2 – Table 3.2 in the Standard) and the transition sections at the foot and top of the ramp do not satisfy length and gradient requirements. The ramp would need to be extended in length to provide satisfactory use by the SRV which may impact on the operation and vehicle movements in the car park at the foot of the ramp (**Figure 55**).



**Figure 55: Proposed SRV Ramp (Source: Innovate, Rev C, July 2024, Dwg 503)**

Accordingly, the proposed loading dock extension and SRV ramp are considered to be unsatisfactory and are not supported.

**Outcome: This matter has not been adequately addressed in the application and is considered to be unsatisfactory.**

## 6.8 Navigational Impacts of Marina Expansion

There are a number of matters to consider in relation to the potential navigational aspects of the marina and the usability of the proposed marina expansion by vessels. These matters are required to be considered pursuant to the marina controls in Section 6.18 of the Biodiversity and Conservation SEPP. These controls require matters such as whether adequate depth of water exists for the development and related foreshore facilities, whether the development is likely to affect the stability of land adjoining a natural waterbody and whether the development will have an adverse impact on the foreshore or the bed of a natural waterbody to be considered.

To address these matters, the following reports have been provided and are considered further below:

- *Coastal Risk Management Report* prepared by Advisian dated 8 September 2023

- **(Coastal Risk Report); and**
  - *Marine Navigation, Water Traffic Management, Waterway Use and Safety Assessment* prepared by International Marina Consultants Pty Ltd dated 11 September 2023 **(Marine Navigation & Safety Report).**

The Coastal Risk Report reviewed the marine hazards for coastal processes pertaining to the proposed extension of the marina arms. Wave climate at the site and proposed extension and a review of maximum water levels and future sea-level rise projections that may apply to the site were considered. A review of tidal currents and the bathymetry at the site were also investigated.

The Coastal Risk Report noted that the design water level, plus the effects of sea level rise is 2.3m AHD. An allowance for this water level, plus the effects of waves, and the level of the pontoon pile guides, should be considered when determining the top of pile level required to the restrain the pontoons, and an appropriate freeboard should be adopted.

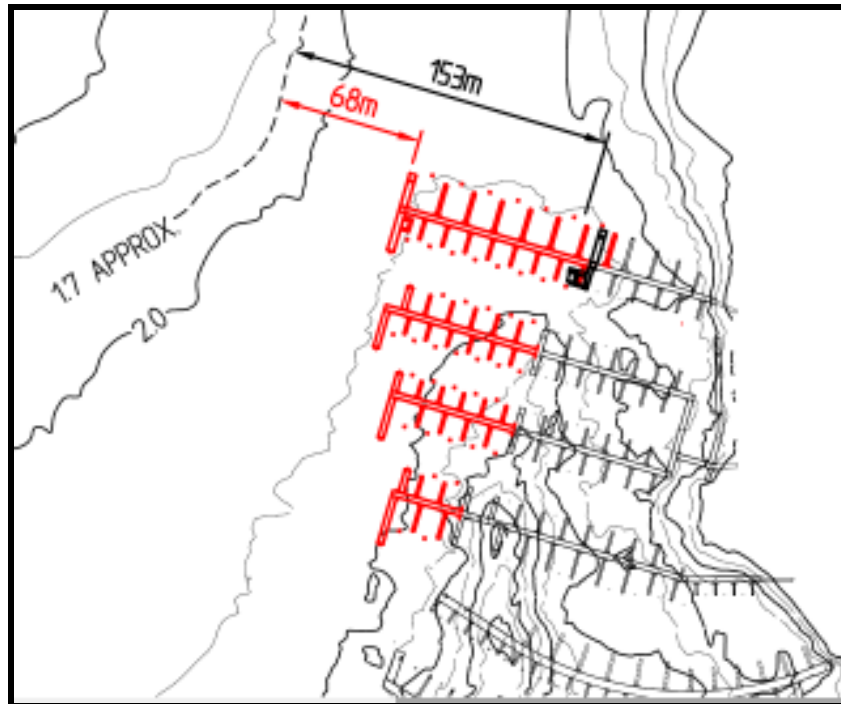
The Coastal Risk Report concluded that the proposed extensions to the pontoon breakwaters at the ends of Marina Arms A, B, C and D to mitigate the impact of oblique seas from the south-west and south-south-west has demonstrated to have been effective in reducing the wave climate such that the design complies with the requirements under the *Australian Standard AS3962:2020 Marina Design* for oblique seas from the south-west and south-south-west directions.

In relation to the potential **impacts of boat wake energy through increased boat activity from the proposed marina extension**, the Coastal Risk Report concluded that there are **many factors which make it difficult to determine the potential erosion impacts on nearby sandy shorelines from increased wake energy resulting from the additional boats to be stored at the marina. However, it is noted that the marina has been designed to include pontoon breakwater extension at the end of each pontoon to minimize wave disturbance and the majority of the surrounding area to the existing marina has existing sea walls erected. These measures are likely to reduce the impact of erosion from increased wave energy from the proposed marina extension.**

The Marine Navigation & Safety Report assessed the level of impact the proposed marina expansion will have on marine navigation, water traffic management, waterway use and maritime safety. This Report outlined that the proposed marina extension comprises additional berths in a seaward extension of the existing marina arms in a westerly direction, with Arm D extending approximately 33.8 metres and approximately 93.8 metres for Arm A. There is no proposed footprint increase in the northerly direction.

The Marine Navigation & Safety Report indicated that the width of the entrance to Kogarah Bay, adjacent to the marina, is approximately 153 metres from the western extent of the marina to the 1.7 metre seabed contour (**Figure 56**). It was also noted that Kogarah Bay has around 220 vessels on swing moorings mainly on the eastern side beyond the location of the existing marina and in terms of boat traffic, the Botany Bay Yacht Club, the Kogarah Bay Sailing Club and the Dover Park Boat Ramp are also located in Kogarah Bay.

A further consideration in this report was the size of boats using this part of the waterway. The clearance under Captain Cook Bridge is around 15 to 16 metres, which restricts the size of yachts able to navigate under the bridge and into the waterway west of the bridge. Therefore, the boats are limited in size in this part of the waterway, including Kogarah Bay.



**Figure 56: Width of channel into Kogarah Bay with existing (black) and proposed (red) marina**  
(Source: Marine Navigation & Safety Report, IMC)

The following conclusions were made in the Marine Navigation & Safety Report:

- The existing marina and marina expansion have been designed in accordance with the AS for Marina Design. They have fairway widths and berth widths that satisfy this standard and therefore considered satisfactory for navigation and safety.
- The main vessel activity requiring navigation near the marina is for yachts with drafts typically up to 1.7 metres that enter or exit the bay on the eastern side to avoid the shallows to the west. The proposed extension will reduce their navigable waterways width to approximately 68m (**Figure 17**). This reduced width is more than satisfactory considering the size and number of vessels within Kogarah Bay.

#### *Adequate Water Depth and Impacts on Water Flow*

The adequacy of the water depth for the proposed development and related foreshore facilities is a consideration pursuant to the marina controls of Section 6.18(1)(c) of the Biodiversity & Conservation SEPP. The Marine Navigation & Safety Report considered the likely size of boats which will utilise the marina (existing and proposed) are constrained by the depth of the Georges River beneath Captain Cook Bridge to the southeast of the site, with the majority of vessels using this waterway having a draft of less than 1.7 metres. The midspan vertical clearance at high water at the Bridge is 15m to 16m, which restricts the size of yachts able to navigate under the bridge and into the waterway west of the bridge.

The Marine Navigation & Safety Report concluded that the maximum vessel size expected to be navigating in this area is 11 metres. In accordance with *AS3962: Guidelines for Design of Marinas*, a typical 11 metre yacht draft would be 1.7m and 95 percentile draft of 2.0m. A power boat with a length of 20 metres requires 1.5 metre vessel draft. The proposed marina extension provides mooring pens for vessels of 10 metre, 12 metre, 15 metre and 18 metre length. Therefore, the maximum depth required at the proposed extended marina arms would be 2 metres. The water depth in the vicinity of the proposed additional marina berths is between 2.5 metres and 4 metres. Therefore, there is adequate depth of water for the

proposed marina extension.

Whether the development will have an adverse impact on water flow in a natural waterbody requires consideration pursuant to Section 6.6(1)(b) of the Biodiversity & Conservation SEPP. The proposal will not adversely impact on water flow into the Georges River and is therefore consistent with this control.

Following review of the Marine Navigation & Safety Report and the Coastal Risk Report, it is considered that appropriate technical expertise has been employed in the design of the marina, with these matters having been satisfactorily addressed.

**Outcome: This matter has been adequately addressed in the application and is considered to be satisfactory.**

## 6.9 Waste Management

There are existing waste management arrangements in place at the site since the club and marina currently operate at the site. The *Operational Waste Management Plan* prepared by Elephants Foot dated 24 July 2023 (**Waste Plan**) states that adequate bins are provided throughout the site to appropriately manage waste currently generated on the site for both the marina and club building. The Waste Plan concludes that such arrangements are also sufficient for the proposal.

Existing bin rooms are provided on the lower ground floor which accommodate bins for general waste, recycling and paper/cardboard with a total of 18 bins comprising a mix of 1500L steel bins and 660L MGB. There is also a bin room on the ground floor adjoining Wellington Street. Source separation for food waste is also proposed in the kitchen areas. A glass crusher system is already in use at the site, which is used by bar staff.

Staff are currently responsible for waste management within each area of the club during daily operations, where all general waste, paper and cardboard are transported to the bin storage rooms. For the existing marina operations, 240L MGBs and 660L MGBs are positioned around the marina and nominated staff and/or caretakers monitor the bins and transfer them towards the bin storage room 2 to be collected.

A private waste collection contractor currently services the general waste, recycling, paper/cardboard bins and glass crusher bins at the site, which enters from Plimsoll Street and services the bins in the lower ground floor loading area. The glass crusher bins are collected via Wellington Street on a weekly basis. Vehicles can enter and leave the site via Plimsoll Street in a forward direction.

Section 6.18(1)(a)(Marina controls) of the Biodiversity & Conservation SEPP requires that development is to include adequate measures in relation to the collection, storage, treatment and disposal of sewage and other waste. Waste management activities are also covered by the EPL including *Condition O4.1* which states:

*All activities at the premises must be carried out in a manner that will prevent waste from polluting waters.*

The proposed additions to the club will utilise the existing sewerage reticulated services and waste collection services currently on the site and therefore will not adversely impact on the waterway. The proposed marina extension component of the proposal has the potential to impact the waterway given the proposed extension to the floating arms of the marina will result in additional boats being moored at the site, which are likely to result in an increased demand



on the existing sewage pump-out facilities at the marina as well as waste in general. As outlined above, there are considered to be adequate measures provided.

Accordingly, the proposal is considered to be adequate in relation to waste management.

**Outcome: This matter has been adequately addressed in the application and is considered to be satisfactory.**

## **6.10 Contamination and Acid Sulphate Soils**

### *Land Contamination*

The potential for land contamination is required to be considered as a jurisdictional precondition to the grant of consent pursuant to Section 4.6 of the Resilience & Hazards SEPP. The application has provided the following reports to consider the issue of land contamination:

- *Waste Classification of Insitu Soil Materials – Marina portion of site* prepared Aargus dated 5 July 2023 (**Marina Waste Classification**); and
- *Waste Classification of Insitu Soil Materials – Land portion of site* prepared Aargus dated 12 April 2024 (**Land Waste Classification**).

These reports included the drilling of boreholes and laboratory analysis, with acid sulphate soils also considered in the analysis. The Waste Classification Reports concluded that the insitu soil materials did not contain any potential contaminants of concern above the applicable criteria and there was no asbestos discovered on the site. Based on these results, excavated material can be disposed of as per Schedule 1 Part 3 of the *POEO Act*.

The Waste Classification Reports stated there are underground storage tanks on the site and there were no suspicious odours or visible signs of contamination detected on the site.

Council's Environmental Health Officer raised no objection to the proposal subject to relevant consent conditions if consent were to be granted, requiring that any unexpected contaminants found during demolition or construction must be notified to the Certifying Authority.

Pursuant to Section 4.6(1), the consent authority **must not consent** to the carrying out of any development on land unless—

- it has considered whether the land is contaminated, and*
- if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Preliminary Investigation is not strictly required for this proposal since the application does not involve a change of use on the site as the proposal seeks alterations and additions to an existing marina and club building on the site, which is the current land use on the site. The site is considered to be 'land specified' in subclause (4) as there is a known history of marina slipway (ship building) uses on the site which are listed in Table 1 to the contaminated land planning guidelines.

It is considered that the waste classification reports are sufficient to address this issue and the matter has been satisfactorily addressed in the development application. This precondition

to the grant of consent is considered to be satisfied.

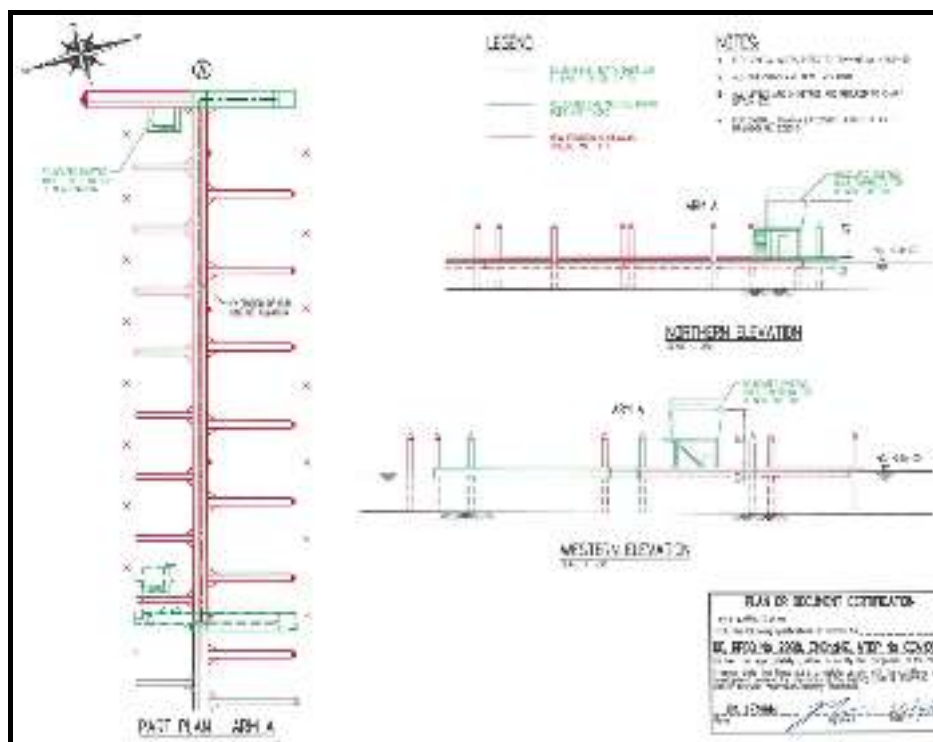
### Fuel facilities

The proposal involves the relocation of the existing fuel bowzers and the extension of the fuel lines from the existing end of Arm A to the proposed new end of Arm A. These works are to the existing aboveground fuel lines and there will be no excavation or exposure of any potential existing land contamination in and around the existing underground storage tanks. The application states that the capacity of the fuel tanks will not be increased.

The existing fuel facilities at the site comprise a premium unleaded (PULP 95 Tank 1) of 10,000L, a diesel Tank 2 of 10,000L, associated pumps and lines/risers (i.e. vent, dip, fill) including aboveground fuel line along pontoons to the fuel berth area.

A *Fuel Facilities Report* prepared by Aargus dated 12 April 2024 has been provided which includes a report on the existing fuel infrastructure, titled *UPSS Precision Test Report*, prepared by Leighton O'Brien Field Services Pty Ltd dated 12 March 2024. An Extension Layout Plan was also provided (**Figure 57**) illustrating the relocated fuel facilities.

This report concluded that both fuel tanks and the suction lines associated with both tanks were operating satisfactorily and that there are no concerns with the existing fuel infrastructure as it is currently operating. This aspect of the proposal is considered to be satisfactory, subject to adherence to the requirements of the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2019 (NSW).



**Figure 57: Proposed Fuel Facilities relocation (Source: International Marina Consultants, 24 April 2024)**

### Acid Sulphate Soils

The subject site is located within Class 1 land (below the MHWL) and Class 5 land (above

MHWM) within 500 metres of Class 1 land (**Figure 58**) with respect to acid sulphate soils (**ASS**). The proposal involves works below the natural ground surface for the proposed new piles, therefore consent is required pursuant to Clause 6.1(2).



**Figure 58: Acid Sulphate Soils Map (Source: NSW Planning Portal Spatial Viewer)**

Pursuant to Clause 6.1(3), consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and provided to the consent authority. The following reports have been provided:

- *Acid Sulphate Soils Assessment* (Marina portion) prepared by Aargus dated 12 April 2024 (**Marina ASS Report**); and
- Potential Acid Sulfate Soils Assessment Prepared Aargus Dated 27 June 2023 (**Land Portion ASS Report**).

The Marina ASS Report indicates the soils from which the samples were collected did not contain Actual Acid Sulfate Soil, while the samples recovered from borehole BH9 (10m), indicates potential acid sulphate soils (PASS) were present. The laboratory analysis indicated that the percentage of oxidisable Sulfur (SPOS) in all the samples analysed were above the action criteria, indicating that the soil material has the potential to generate acid within the soil matrix.

The Marina ASS Report concluded that based on the field and laboratory testing, potential acid sulfate soils exist in the underlying sediments and natural soil beneath the water level. However, pile driving techniques must be used, as required by NSW Fisheries, for the installation of pilings during construction to limit disturbance of Class 1 acid sulfate soils sub-surface. Therefore, based on the proposed construction method, potential acid sulfate soils will not be disturbed for installation of the piles.

The Land Portion ASS Report concluded that PASS soils were not detected within the borehole locations investigated within the land portion of the site.

Council's Health Officer has considered the issue of acid sulphate soils and no objections

were raised, with relevant consent conditions imposed if consent were to be granted. Council's Environment Officer also reiterated the comments from Fisheries that all construction works are to be undertaken without excavation and by driving piles to minimise potential disturbance to the seabed.

It is considered that the proposal has adequately considered ASS management for the proposed works and therefore the jurisdictional precondition in Clause 6.1(3) of the GRLEP 2021 is satisfied.

**Outcome: The matters relating to contamination, ASS and fuel facilities has been adequately addressed in the application and is considered to be satisfactory.**

## **7. CONCLUSION**

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This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported for the reasons outlined in **Annexure A**.

The key issues of streetscape impacts, architectural expression, building bulk and scale including setbacks, visual impacts from the foreshore and view loss warrant refusal of the application given the adverse impact those matters will have on the streetscape, foreshore and surrounding development.

The lack of adequate landscaping for the site and public access along the foreshore result in the proposal being unsatisfactory. Concerns with acoustic and environmental impacts were not adequately addressed, while the servicing arrangements were also not adequately resolved by the proposal.

It is considered that the key issues as outlined in Section 6 have not been satisfactorily resolved.

## **8. RECOMMENDATION**

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That the Development Application DA 2023/0487 for demolition works, marina expansion, construction of a new carpark, alterations and additions to the existing club at No 2 Wellington Street, Sans Souci be refused pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at **Annexure A**.

The following attachments are provided:

- **Annexure A: Refusal reasons**
- **Annexure B: Compliance Table –**
- **Annexure C: State Environmental Planning Policies Compliance Table**
- **Annexure D: Chapter 3 of the GRDCP 2021 Compliance Table**
- **Annexure E: Community Submissions – First Notification**

## **Annexure A: Refusal Reasons**

**Annexure B: Consideration of EIS Requirements & SEARs**

## **Annexure C: Consideration of SEPPs**



**Annexure D: Consideration of the GRDCP 2021**

**Annexure E: Consideration of Community Submissions (First Notification)**

## **Annexure A: Refusal reasons**

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development does not exhibit design excellence which is a precondition to the grant of consent and accordingly, consent cannot be granted pursuant to Section 6.10(4) of *Georges River Local Environmental Plan 2021*. In considering whether the development exhibits **design excellence**, the following matters have not been satisfied:
  - (a) A high standard of architectural design, materials and detailing appropriate to the foreshore location have not been achieved arising from the lack of articulation, the three storey height of the proposed additions and the lack of variety in the materiality to adequately mitigate the bulk and scale of the development to the foreshore pursuant to Section 6.10(5)(a);
  - (b) The form and external appearance of the proposed development does not improve the quality or amenity of the public domain as the excessive bulk and scale and lack of design elements to soften the building additions and the car park from the street and the foreshore have not been provided, pursuant to Section 6.10(5)(b);
  - (c) The proposal detrimentally impacts on view corridors for properties along the eastern side of Plimsoll and Wellington Streets towards the Georges River across the site arising from the proposed new car parking level pursuant to Section 6.10(5)(c);
  - (d) The proposed development has not adequately addressed the following matters pursuant to Section 6.10(5)(d):
    - (i) The relationship of the development with other development in terms of separation, setbacks, amenity and urban form in that the setback of the proposed car park is unsatisfactory and the urban form of the proposed club additions is unsatisfactory given the lack of integration of the existing and proposed building forms (Section 6.10(5)(d)(iv));
    - (ii) The bulk, massing and modulation of buildings in that the proposed car park has a bulk and massing which is unacceptable given the lack of adequate setbacks. The proposed club additions are also of a bulk and massing which is incompatible with surrounding development in terms of its three storey height, the extensive terrace area and enclosing of existing terrace areas and lack of adequate design measures to mitigate the size of the development when viewed from the foreshore (Section 6.10(5)(d)(v));
    - (iii) The street frontage heights in that the height of the proposed car park above the ground level of the adjoining streets is unsatisfactory given the lack of an adequate setback, which results in an adverse impact on the streetscape (Section 6.10(5)(d)(vi));
    - (iv) The pedestrian and service access provisions are unsatisfactory in that adequate pedestrian access along the foreshore is not provided and the service access interferes with the safety and functioning of the car park (Section 6.10(5)(d)(viii));
    - (v) Appropriate interfaces at ground level between the building and the public domain is not achieved by the proposed car park to the street or

- the proposed club additions to the foreshore (Section 6.10(5)(d)(x)); and
- (vi) Excellence and integration of landscape design is not achieved as there is insufficient landscaping proposed for the scale of the proposed additions to the site along the foreshore and Plimsoll and Wellington Street boundaries (Section 6.10(5)(d)(xi)); and
  - (vii) The promotion of safety through the application of the principles of crime prevention through environmental design is not achieved as there is a lack of surveillance of the street from the proposed car park (Section 6.10(5)(d)(xv)).
- (e) The objective for design excellence pursuant to Clause 6.10(1) of the GRLEP 2021 has not been achieved as the highest standard of urban design has not been achieved by the proposal given the lack of an adequate setback and design for the proposed car parking structure as well as the bulk and scale of the proposed roof terrace and large terrace areas proposed along the foreshore elevation of the proposal.
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development does not adequately mitigate potential impacts from the proposed increased use of the **sliprail and boat maintenance area** due to the increase in mooring berths which are preconditions to the grant of consent pursuant to:
- (a) Section 6.6(2) of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* in that whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application, which has also been raised by the EPA;
  - (b) Section 6.7(2) of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* in that the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development has not been adequately demonstrated;
  - (c) Section 2.10(1)(c) and (2) of *State Environmental Planning Policy (Resilience and Hazards) 2021* as the proposal is likely to cause impacts on the marine environment from the increased use of the existing sliprail and boat maintenance facility at the site and which has not been adequately considered in the application.

Accordingly, consent cannot be granted.

3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development does not improve **public access** to and around the foreshore, contrary to Section 6.9(1)(b) of *State Environmental Planning policy (Biodiversity and Conservation) 2021*.
4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the development is contrary to Section 2.11(1) of *State Environmental Planning policy (Resilience and Hazards) 2021* in that the proposal results in **significant view loss**

for surrounding private properties and an adverse impact on the visual amenity when viewed from the foreshore.

5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposed additions to the club building encroach beyond the **foreshore building line** pursuant to Clause 6.4(3)(a)(i) of the GRLEP 2021. The proposal is considered to be contrary to the principles established in the *Fodor* planning principle for the merit assessment of proposals with existing use rights as the bulk and scale of the proposed additions are considered to be excessive, largely due to the exceedance of the foreshore building line setback for the proposed roof terrace and the large terrace area proposed adjoining the existing ground floor restaurant resulting in adverse visual impacts from the foreshore.

The proposal is also contrary to Clause 6.4(4)(e) and (f) of the GRLEP 2021 in relation to the matters to be considered prior to granting consent in the foreshore area in that opportunities to provide reasonable, continuous public access along the foreshore have not been provided as well as no measures to mitigate the adverse visual impacts of the proposed additions given the lack of adequate landscaping.

6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal is inconsistent with the objectives and matters to be satisfied for development in the **Foreshore Scenic Protection Area (FSPA)** pursuant to Clause 6.6 in that:

- (a) The proposal is inconsistent with Clause 6.6(3)(f) of the GRLEP 2021 having regard to the matters to which the consent authority must be satisfied as there are significant impacts on views to the Georges River for properties along Plimsoll and Wellington Streets as well as from public places including road reserves arising from the proposed car parking structure. Adverse visual impacts also arise from the proposed club additions when viewed from the foreshore.
- (b) The proposal is inconsistent with Clause 6.6(3)(g) of the GRLEP 2021 having regard to the matters to which the consent authority must be satisfied as the proposal involves a height and bulk which is unacceptable when viewed from the foreshore and from Plimsoll and Wellington Streets (proposed car park).
- (c) The proposal is inconsistent with the objectives for the FSPA pursuant to Clauses 6.6(1)(a), (b) and (d) in that the scenic amenity of the foreshore is not protected given the excessive bulk and scale of the proposed club additions and the inadequate landscaping along the foreshore, the view loss to the foreshore arising from the proposal and the lack of a dominance of landscaping over built form.

7. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal is inconsistent with Clause 6.12(4)(a) of the GRLEP 2021 which is a precondition to the grant of consent, as the establishment of **appropriate plantings** for the proposed height, bulk and scale of the development has not been provided. There is limited landscaping along the foreshore to soften or integrate the development into the foreshore and there is also a lack of landscaping to reduce the impact of the proposed car parking structure to the street. The proposal will not

maintain or enhance the streetscape or the desired future character of the locality. Since the consent authority cannot be satisfied as to this matter, consent cannot be granted.

8. The proposed development is considered unacceptable pursuant to the provisions of Section 191 of the *Environmental Planning and Assessment Regulation 2021* (Regulation) in that the Environmental Impact Statement does not comply with the **Secretary's Environmental Assessment Requirements** dated 28 November 2022 (No 1740) notified under section 176 of the Regulation as:
  - (a) The *Construction Noise and Vibration Management Plan* does not satisfy the noise and vibration matters which required all potential noise and vibration sources during construction and operation to be addressed; and
  - (b) The potential soil and water impacts in relation to the increased use of the sliprail have not been provided, including details of mitigation measures for surface water impacts arising from the proposal.
9. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the following provisions of the *Georges River Development Control Plan 2021*:
  - (a) Section 3.3 (Landscaping) – The proposal is inconsistent with Sections 3.3.1 and 3.3.2 as the proposed landscaping has not been incorporated into the site planning for the development and does not achieve a mature height in scale with the structures which are proposed on the site. The proposed Landscape Plan does not incorporate locally indigenous plants, contrary to Section 3.3.3. The proposal is also inconsistent with the objectives for landscaping pursuant to Section 3.3(d) and (e) given the lack of adequate landscaping along the foreshore.
  - (b) Section 3.8 (Views) – The proposal results in view loss for residential properties along Plimsoll and Wellington Street and is contrary to Section 3.8.1 in that development does not provide for the reasonable sharing of views. The proposal is also considered to be inconsistent with the objectives for view impacts pursuant to Section 3.8(a) and (c) of the GRDCP 2021 in that vistas and public views from streets and public places have not been protected and the view sharing principles have not been achieved due to the proposed car park structure in the eastern corner of the site.
  - (c) Section 3.13 (Parking Access and Transport) - The proposed extension to the ground floor loading dock is unsatisfactory as this will result in service vehicles manoeuvring in close proximity to the main pedestrian entry to the building and results in potential pedestrian conflicts. The proposed new service vehicle access ramp in the existing car park is also unsatisfactory in that it is inconsistent with AS 2890.2:2018 *Parking Facilities Part 2- off street commercial vehicle parking*.
  - (d) Section 3.20.3 (noise generating development) – The proposal exceeds the project trigger noise level for the proposed use and fails to provide reasonable operating hours, inconsistent with Section 3.20.3.4 of the GRDCP 2021. The proposal is also considered to be inconsistent with the objectives for noise generating development pursuant to Section 3.20.3(a) in that the proposal has not been designed or managed to minimise noise impacts on nearby

residential dwellings.

- (e) Section 5.20 (Sans Souci & Ramsgate Locality Statement) - The proposal is considered to be contrary to the future desired future character of the locality in that:
    - (i) The proposed car park does not respond to the human (pedestrian) scale given the lack of an adequate setback to Wellington and Plimsoll Streets;
    - (ii) A consistent setback of buildings from the street is not provided given the proposed car park is setback only 1.2 to 1.5 metres from the boundary, which does not allow for the provision of landscaping within the front setback area beyond a small strip of Lilly Pilly's.
    - (iii) The sharing of views and the protection of public vistas towards the Georges River has not been achieved by the proposal.
  - (f) Section 6.5.1 (Foreshore Scenic Protection Area) – The proposal does not blend with the surrounding environment arising from the bulk and scale of the proposed roof terrace and the lack of an adequate setback to the proposed car parking structure and views to the Georges River are not retained arising from the proposed car parking structure, contrary to the objectives. The proposal is also contrary to Foreshore Scenic Protection Area controls pursuant to Section 6.5.1.1 arising from the lack of foreshore landscaping, the visual impact of the proposed building additions and the proposal comprising a significant portion of the foreshore elevation as glazed areas, being more than 50%.
10. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal exceeds the **maximum height of buildings** development standard of 9 metres pursuant to Clause 4.3(2) of the GRLEP 2021. The proposal is considered to be inconsistent with the criteria established under the *Fodor* planning principle for the merit assessment of proposals with existing use rights as the bulk and scale of the proposal in relation to development on surrounding sites is unacceptable.
- The proposed roof terrace represents a third storey onto the building, which is inconsistent with other buildings on surrounding sites and there are significant visual impacts to the foreshore given the excessive bulk and scale of the proposal and the lack of adequate landscaping opportunities to soften the proposal.
11. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal is considered to be inconsistent with Clause 2.3(2) of the GRLEP 2021 as the proposal is contrary to the **objectives of the R2 and W2 zone** arising from:
- (a) The proposal does not promote a high standard of urban design or provide a built form which enhances the local character of the suburb. The lack of adequate setbacks for the proposed car parking structure and the lack of connectivity of the proposal with the streetscape does not enhance the area, contrary to the R2 zone objectives.
  - (b) The lack of an appropriately designed foreshore interface along the western elevation of the building, particularly for the proposed roof terrace, also reduces the scenic value of the waterway given the bulk and scale of the building which results from the proposal, contrary to the W2 zone objectives



12. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* as the proposal is likely to result in adverse acoustic impacts to surrounding residential properties. The proposal exceeds the project noise trigger level arising from the proposed club additions (particularly from the roof top terrace) and the noise and vibration from the construction of the proposed marina extension has not been adequately mitigated.
13. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest as it is inconsistent with numerous planning controls in relation to the adverse impacts on the streetscape and the bulk, scale and design when viewed from the foreshore. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood.

## **Annexure B: Consideration of EIS requirements and SEARs**

**Table 1: Consideration of the Regulation Requirements for an EIS**

<b>REQUIREMENT</b>	<b>PROPOSAL</b>	<b>COMPLY</b>
<b>Regulation Provisions</b>		
<b>Notice of development applications</b> (Section 56(2)) - requires that notice of application must be published on consent authority's website, and give notice of application to public authorities that may have an interest in determination of application	Applies as it proposes <i>nominated integrated development</i> (requires approval under POEO Act). This has been undertaken as outlined in Section 5 of this Report.	✓
<b>Notice not required in certain circumstances</b> (Section 57) - consent authority may decide not to comply with s56 for amended DA if it complied with s56 and considers amended DA differs in minor ways.	The amended development application (plans dated July 2024) was renotified.	✓
<b>Exhibition of notice of designated development application</b> (Section 58) - site notice to be displayed on the site.	A site notice was displayed on the land by Council	✓
<b>Submissions about designated development to be given to Planning Secretary</b> (Section 60) – submissions to the Dept.	Submissions provided for first notification and outlined in Section 5 of this report	✓
<b>Application to Planning Secretary for environmental assessment requirements</b> (Section 173(1)) – must apply to secretary for SEARs.	The SEARs for the EIS were provided and are considered in this assessment.	✓
<b>Application for environmental assessment requirements for integrated development</b> (Section 174(2)) - For integrated development, in addition to requirements under s173, DA must contain details of approvals required for development.	This is provided in the application.	✓
<b>Notice of environmental assessment requirements</b> (Section 176(1)) - Planning Secretary must give written notice of environmental assessment requirements to responsible person, and if relevant, consent authority or determining authority.	This was provided to the applicant.	✓
<b>Duration of environmental assessment requirements for designated development and other activities</b> (Section 178) – SEARs valid for 2 years from date of issue.	The SEARs are dated 28 November 2022 and the development application was lodged on 25 October 2023.	✓
<b>Form of environmental impact statement</b> (Section 190(1) & (3)) - An EIS must contain information outlined in this section, including:		✓

<ul style="list-style-type: none"> <li>• Name, address and professional qualifications of the person who prepared the EIS and name/ address of responsible person</li> <li>• Address of the land</li> <li>• Description of development</li> <li>• Assessment by person who prepared the EIS</li> <li>• Declaration by relevant person that the statement has been prepared in accordance with the Regulation, it contains all available information relevant to the environmental assessment of the development and the information is not false or misleading.</li> </ul>	<p>This is provided in the Declaration dated 22 September 2023 on the first page of the EIS.</p> <p>Section 4 includes a description of the proposed development and Sections 6 and 7 contain an assessment of statutory controls and impacts of the proposed development.</p>	
<p><b>Compliance with environmental assessment requirements</b> (Section 191) - The EIS must comply with the environmental assessment requirements notified under section 176 or the Act, section 5.16(4).</p>	<p>The submitted EIS has not adequately addressed the SEARs and is therefore inconsistent with this section.</p> <p><b>Table 2</b> considers these requirements.</p>	<p><b>No</b></p>
<p><b>Content of environmental impact statement</b> (Section 192) - The EIS must contain the following information:</p> <ul style="list-style-type: none"> <li>• summary of environmental impact statement,</li> <li>• statement of objectives of the development, activity or infrastructure,</li> <li>• an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,</li> <li>• analysis of development, including— <ul style="list-style-type: none"> <li>- full description of development</li> <li>- general description of environment likely to be affected by development, and a detailed description of aspects of the environment that are likely to be significantly affected, and</li> <li>- likely impact on environment of development, and</li> <li>- full description of measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and</li> <li>- list of approvals that must be obtained under another Act</li> </ul> </li> </ul>	<p>Provided in:</p> <p>Executive summary</p> <p>Section 1.3</p> <p>Section 4.2</p> <p>Section 3</p> <p>Section 4</p> <p>Section 3</p> <p>Section 6</p> <p>Sections 6 and 7</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

<p>before development may lawfully be carried out,</p> <ul style="list-style-type: none"> <li>- compilation, in single section of EIS of measures referred to in paragraph (d)(iv),</li> <li>- reasons justifying carrying out of development, considering biophysical, economic and social factors, including the principles of ecologically sustainable development set out in section 193.</li> </ul>	Section 6.7.5	✓
	Section 6.1.1	✓
	Section 4.1.9 & 7	✓
	The submitted EIS is consistent with this section.	✓
<b>The principles of ecologically sustainable development</b> (Section 193) - to be considered in the EIS	These matters are considered in Section 6.1.1 of the EIS.	✓

**Table 2: Consideration of the SEARs (required by Section 191 of the Regulation)**

REQUIREMENT	COMMENT
<b>General Requirements</b>	
The Environmental Impact Statement (EIS) must comply with the assessment requirements and meet the minimum form and content requirements in sections 190 and 192 of the <i>Environmental Planning and Assessment Regulation 2021</i> .	Provided – refer to Table 1 above
<b>Key Issues</b>	
The EIS must include an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts) and develop appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. As part of the EIS assessment, the following matters must also be addressed:	Refer below
<ul style="list-style-type: none"> <li>• <b>strategic and statutory context</b> – including: <ul style="list-style-type: none"> <li>- a detailed justification for the proposal and suitability of the site for the development</li> <li>- demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies</li> <li>- a description of how the proposed expansion would integrate with existing on-site operations</li> <li>- details of the relationship between the proposed development and all development consents and approved plans previously and/or currently applicable to the site</li> <li>- a description of any amendments to and/ or additional licence(s) or approval(s) that must be obtained under any other Act or law before the proposed development may lawfully be carried out.</li> </ul> </li> </ul>	<p>Considered in Sections 2, 5 and 7 of the EIS.</p> <p>Discussed in Sections 2, 4, 5 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>suitability of the site</b> – including: <ul style="list-style-type: none"> <li>- a detailed justification that the site can accommodate the proposed additional berths and any ancillary floating structures, having regard to the scope of the operations, its environmental impacts and relevant mitigation measures</li> </ul> </li> </ul>	Considered in Sections 3 of the EIS and the accompanying Marina Extension plan.

<ul style="list-style-type: none"> <li>- detailed plans depicting the proposed marina layout, including the location of the additional berths and any other ancillary floating structures.</li> </ul>	<p>Discussed in Sections 1.3, 2, 4, 5 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>community and stakeholder engagement</b> – including: <ul style="list-style-type: none"> <li>- a detailed community and stakeholder participation strategy which identifies who in the community has been consulted and a justification for their selection, other stakeholders consulted and the form(s) of the consultation, including a justification for this approach</li> <li>- a report on the results of the implementation of the strategy including issues raised by the community and surrounding occupiers and landowners that may be impacted by the proposed expansion</li> <li>- details of how issues raised during community and stakeholder consultation have been addressed and whether they have resulted in changes to the expansion plans</li> <li>- details of the proposed approach to future community and stakeholder engagement based on the results of the consultation.</li> </ul> </li> </ul>	<p>Considered in Sections 1.6, 6.5 and 7.3 of the EIS.</p> <p>Discussed in Section 5.3 and the key issues section (where relevant) of this report.</p>
<ul style="list-style-type: none"> <li>• <b>marine safety and navigation</b> – including: <ul style="list-style-type: none"> <li>- a detailed navigation and safety assessment, prepared in accordance with the relevant Transport for NSW guidelines</li> <li>- an assessment of potential impacts on water-based traffic and the existing users of the Georges River in the vicinity of the proposed marina expansion</li> <li>- an assessment of potential impacts on private moorings in the vicinity of the proposed marina expansion.</li> </ul> </li> </ul>	<p>Considered in Section 3 of the EIS and the accompanying Marina Extension plan.</p> <p>Discussed in Sections 4 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>soil and water</b> – including: <ul style="list-style-type: none"> <li>- a description of local soils, topography, drainage and landscapes</li> <li>- an assessment of potential impacts on the quality and quantity of surface and groundwater resources</li> <li>- details of sediment and erosion controls during construction</li> <li>- details of the proposed stormwater and wastewater management systems (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts</li> <li>- details of any proposed dredging of the riverbed, including measures to managed and minimised disturbance of potentially contaminated sediments</li> <li>- an assessment in accordance with ASSMAC Guidelines for the presence and extent of acid sulfate soils (ASS) and potential acid sulfate soils (PASS) on the site and, where relevant, appropriate mitigation measures</li> <li>- a description and appraisal of impact mitigation and monitoring measures.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.16 of the EIS and the accompanying plans and reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p> <p><b>No - The potential environmental impacts arising from the proposed increased capacity of the slipway have not been provided (EPA issue).</b></p>
<ul style="list-style-type: none"> <li>• <b>biodiversity</b> – including: <ul style="list-style-type: none"> <li>- accurate predictions of any marine vegetation clearing required to facilitate the expansion</li> <li>- a detailed assessment of the potential impacts on any threatened species, populations, endangered ecological communities or their habitats, groundwater dependent ecosystems and any potential offsetting requirements</li> <li>- an aquatic habitat assessment in accordance with relevant Department of Primary Industries guidelines</li> <li>- a detailed description of the measures to avoid, minimise, mitigate and/or offset biodiversity impacts.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.8 of the EIS and the accompanying reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p>

<ul style="list-style-type: none"> <li>• <b>noise and vibration</b> – including: <ul style="list-style-type: none"> <li>- a description of all potential noise and vibration sources during construction and operation</li> <li>- a noise and vibration assessment in accordance with relevant Environment Protection Authority guidelines</li> <li>- a description and appraisal of noise and vibration impact mitigation and monitoring measures.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.2 of the EIS and the accompanying reports.</p> <p><b>No - Discussed in Sections 4 and 6 of this report. As outlined by the EPA, the CNVMP is unsatisfactory.</b></p>
<ul style="list-style-type: none"> <li>• <b>air quality</b> – including: <ul style="list-style-type: none"> <li>- a description of all potential sources of air emissions during construction and operation</li> <li>- an assessment of air quality impacts in accordance with relevant Environment Protection Authority guidelines</li> <li>- a description and appraisal of air quality impact mitigation and monitoring measures.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.17 of the EIS and the accompanying reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>traffic and transport</b> – including: <ul style="list-style-type: none"> <li>- details of road transport routes and access to the site</li> <li>- details of the existing and proposed vehicle (including taxi), bicycle and trailer parking arrangements, in accordance with the relevant guidelines and/or Australian Standards</li> <li>- road traffic predictions for the development during construction and operation</li> <li>- an assessment of impacts to the safety and function of the road network and the details of any road upgrades required for the development.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.1 of the EIS and the accompanying reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>visual</b> – including an impact assessment of the expanded club building, multi-storey parking area and additional berthed vessels, particularly when viewed from: <ul style="list-style-type: none"> <li>- properties in the vicinity of the site</li> <li>- public and other significant land-based vantage points (including Anderson Park).</li> </ul> </li> </ul>	<p>Considered in Section 6.10.3 of the EIS and the accompanying reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>heritage</b> – including an assessment of potential impacts to Aboriginal and non-Aboriginal cultural heritage.</li> </ul>	<p>Considered in Section 6.10.7 of the EIS and the accompanying reports.</p> <p>Discussed in Section 4 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>fire and incident management</b> – including: <ul style="list-style-type: none"> <li>- technical information on the environmental protection equipment to be installed in the additional berth areas, such as spill clean-up equipment, fire management equipment (including the location of fire hydrants and water flow rates at the hydrants) and containment measures.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.20 of the EIS and the accompanying reports.</p> <p>Discussed in Section 4 of this report.</p>
<ul style="list-style-type: none"> <li>• <b>waste management</b> – including: <ul style="list-style-type: none"> <li>- details of waste handling including, transport, identification, receipt, stockpiling and quality control including off-site reuse and disposal</li> <li>- the measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Waste Avoidance and Sustainable Materials Strategy 2041.</li> </ul> </li> </ul>	<p>Considered in Section 6.10.19 of the EIS and the accompanying reports.</p> <p>Discussed in Sections 4 and 6 of this report.</p>
<p><b>Environmental Planning Instruments</b></p>	

<p>The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021 (Chapter 2 and Schedule 6)</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Chapter 11)</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (Chapters 2, 3 and 4)</li> <li>• Georges River Local Environmental Plan 2021</li> <li>• relevant development control plans and section 7.11 plans.</li> </ul>	<p>The relevant environmental planning instruments are outlined in Sections 5 and 6 of the EIS and considered in Section 4.3 of this report.</p>
<p><b>Consultation</b></p>	
<p>During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult with the:</p> <ul style="list-style-type: none"> <li>• Department of Planning and Environment, specifically the: <ul style="list-style-type: none"> <li>- Crown Lands and Local Government Group</li> <li>- Water Group</li> <li>- Environment Protection Authority</li> </ul> </li> <li>• Department of Regional NSW, specifically: <ul style="list-style-type: none"> <li>- Department of Primary Industries – Fisheries</li> </ul> </li> <li>• Transport for NSW</li> <li>• Georges River Council</li> <li>• the surrounding landowners and occupiers likely to be impacted by the proposal.</li> </ul> <p>Details of the consultation carried out and issues raised must be included in the EIS.</p>	<p>Consultation has been carried out as required by the SEARs and is considered in Section 5 of this Report.</p>



## **Annexure C: State Environmental Planning Policy Consideration**

<b>CONTROL</b>	<b>REQUIREMENT</b>	<b>PROPOSAL</b>	<b>COMPLY</b>
<b>State Environmental Planning Policy (Biodiversity and Conservation) 2021</b>			
<b>Chapter 2: Vegetation in Non-Rural Areas</b>			
Section 2.7	(1) A permit or approval to clear vegetation is not required under this Chapter if it is clearing of a kind that is authorised under the <i>Local Land Services Act</i> 2013, section 60O or Part 5B.	Section 60O(a)(i) of the <i>Local Land Services Act</i> 2013 provides an exemption for any tree clearing authorised by a development consent under Part 4 of the EP&A Act. Accordingly, tree clearing proposed in this application is covered by this exemption.	✓
<b>Chapter 6: Water Catchments</b>			
Section 6.6: Water quality and quantity	1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—		
	(a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,	Whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application, which has also been raised by the EPA.	<b>No (refer to Key Issues)</b>
	(b) whether the development will have an adverse impact on water flow in a natural waterbody,	The proposed marina extension has been considered by marina consultants to be satisfactory.	
	(c) whether the development will increase the amount of stormwater run-off from a site,	The proposal involves utilising the existing stormwater management arrangements on the site and therefore it is unlikely that there will be an increase in stormwater runoff given the proposed works are on existing hardstand areas.	Yes (refer to Key Issues)
	(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,	Rainwater tanks are proposed to be utilised, which are noted on the Landscape Plan to be used for irrigation of landscaping on the site.	✓

	(e) the impact of the development on the level and quality of the water table,	The proposal is unlikely to impact on the level or quality of the water table.	✓
	(f) the cumulative environmental impact of the development on the regulated catchment,	The potential cumulative environmental impact arising from the proposal has not been adequately outlined in the application.	✓
	(g) whether the development makes adequate provision to protect the quality and quantity of ground water.	There is unlikely to be any adverse impacts on the quality or quantity of groundwater arising from the proposal.	<b>No (refer to Key Issues)</b>
	2) Development consent <b>must not be granted</b> to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—  (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and  (b) the impact on water flow in a natural waterbody will be minimised.	Whether the proposal will have a neutral or beneficial effect on the quality of water entering the Georges River has not been adequately demonstrated in the application, which has also been raised by the EPA.  This has been established.	<b>No (refer to Key Issues)</b>  Yes (refer to Key Issues)
	3) Subsections (1)(a) and (2)(a) do not apply to development on land in the Sydney Drinking Water Catchment.	The site is not located in Sydney Drinking Water Catchment.	N/A
Section 6.7: Aquatic Ecology	1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—  (a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial,	The proposal will not result in any direct impacts on terrestrial animals or vegetation as no significant vegetation is proposed to be removed above the seawall.	<b>No (refer to Key Issues)</b>

	<p>aquatic or migratory animals or vegetation,</p>	<p>There is potential for direct and indirect impacts on aquatic or migratory animals or vegetation given the increased capacity of the existing sliprail and boat maintenance area arising from the proposed larger marina has not been adequately demonstrated to have no adverse impacts.</p>	
	<p>(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—</p> <p>(i) a controlled activity approval under the Water Management Act 2000, or</p> <p>(ii) a permit under the Fisheries Management Act 1994,</p>	<p>There is no clearing of riparian vegetation proposed and no permits under other legislation are required. NSW Fisheries provided comments on the proposal and stated that there was no proposed dredging, reclamation, obstruction of fish passage or harm to marine vegetation within key fish habitat as the proposed additional piles of the extended marina would be driven into the seabed with no dredging or reclamation required.</p>	✓
	<p>(c) whether the development will minimise or avoid—</p> <p>(i) the erosion of land abutting a natural waterbody, or</p> <p>(ii) the sedimentation of a natural waterbody,</p>	<p>The proposal will not result in the erosion of land adjoining the Georges River or result in any additional sedimentation given the stormwater will be appropriately managed on the site and relevant construction management measures are proposed to reduce impacts to the Georges River.</p>	✓
	<p>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</p>	<p>There will be no impacts to wetlands listed under the Resilience &amp; Hazards SEPP as there are no such wetlands in close proximity to the site and the proposal will utilise the existing stormwater management arrangements for the site.</p>	✓
	<p>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</p>	<p>The proposal does not provide adequate safeguards to ensure there will be impacts on aquatic ecology given the increased capacity of the existing sliprail and boat maintenance area arising from the proposed larger marina has not</p>	<p><b>No (refer to Key Issues)</b></p>

	<p>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</p>	<p>been adequately demonstrated to have no adverse impacts.</p> <p>As outlined above, this has not been adequately demonstrated.</p>	<p><b>No (refer to Key Issues)</b></p>
	<p>2) Development consent <b>must not be granted</b> to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,</p> <p>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,</p> <p>(c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,</p> <p>(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,</p>	<p>This has not been adequately demonstrated as outlined above.</p> <p>Towra Point Aquatic Reserve is the largest NSW aquatic reserve and is located to the east of the site beyond Captain Cook Bridge. The proposal is unlikely to have any impacts on this aquatic reserve.</p> <p>An approval or permit is not required.</p> <p>The proposal is unlikely to result in any of these impacts.</p>	<p><b>No (refer to Key Issues)</b></p> <p>✓</p> <p>N/A</p> <p>✓</p>

	(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.	Impacts to wetlands have been minimised.	✓
Section 6.9: Recreation and public access	1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider— (a) the likely impact of the development on recreational land uses in the regulated catchment, and	The proposal is considered to have a positive impact on recreational land uses in the catchment as it allows for greater boat storage in the area.	✓
	(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.	The proposal does not improve public access to and around the foreshore. While a path adjoining the foreshore car parking spaces, leading from Anderson Park in the north to the boat ramp in the central portion of the foreshore frontage within the site, there is no further pedestrian connection along the site towards the small reserve adjoining Plimsoll Street.	No
	2) Development consent <b>must not be granted</b> to development on land in a regulated catchment unless the consent authority is satisfied of the following— (a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,	As outlined above, the proposal does not improve public access along the frontage of the site which can be used for boating without adversely impacting on the Georges River.  None provided.	No  N/A

	<p>(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,</p> <p>(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.</p>	There are no changes proposed to the existing public access along the foreshore.	✓
	3) This section does not apply to development on land in a regulated catchment if the land is in a special area under the Water NSW Act 2014.	This is not relevant to the subject site.	N/A
Section 6.10: Total catchment management	In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.	This matter is considered by the EPA under the integrated development provisions. Refer to the key issues section of this report.	-
Section 6.11: Land within 100m of natural waterbody	<p>In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—</p> <p>(a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and</p> <p>(b) conflicts between land uses are minimised.</p>	The site is located within 100m of a natural waterbody, the Georges River. It is considered that the proposal involves a water dependent use and there will not be a conflict between land uses as the club and marina rely on access to the water and the club and marina currently exist on the site.	✓

Section 6.18: Marinas	In deciding whether to grant development consent to development for the purposes of marinas on land in a regulated catchment, the consent authority must consider the following—		
	(a) whether the development includes adequate measures in relation to the collection, storage, treatment and disposal of sewage and other waste,	It is considered that adequate measures have been provided.	✓ (Refer to key issues)
	(b) whether the development complies with the document entitled <i>Environmental Guidelines: Best Management Practice for Marinas and Slipways</i> , published in 1998 by the Environment Protection Authority,	The environmental matters are considered by the EPA in their referral for the EPL and were found to be unsatisfactory.	<b>No</b> (Refer to key issues)
	(c) whether adequate depth of water exists for the development and related foreshore facilities,	There is adequate depth for the proposed marina extension.	✓ (Refer to key issues)
	(d) whether the development is likely to affect the stability of land adjoining a natural waterbody,	A <i>Geotechnical Investigation Report</i> prepared by Aargus dated 21 July 2023 (Geotechnical Report) has been prepared which assesses the ground conditions and feasibility of the site from a geotechnical perspective for the proposal. The proposal is considered to be satisfactory.	✓ (Refer to key issues)
	(e) whether the development will have an adverse impact on the foreshore or the bed of a natural waterbody.	The Aquatic Ecology Report provides sufficient mitigation measures to ensure there are minimal impacts on the foreshore and the bed of the Georges River arising from the proposal.	✓ (Refer to key issues)
Section 6.21: Stormwater Management	1) This section applies to development for the purposes of works, including <i>water recycling facilities</i> , <i>water reticulation systems</i> and	The application does not propose any of these uses, as defined in the GRLEP 2021.  It is noted that the proposal involves runoff from within the site being	✓

	<p><i>water storage facilities</i>, that are designed to collect, channel, store, treat or disperse stormwater runoff.</p>	<p>diverted to the existing stormwater system. Therefore, there is no untreated stormwater to be disposed of into a natural waterbody. The proposal also includes appropriate erosion and sediment control measures to minimise potential for pollutants on the Georges River.</p>	
<b>State Environmental Planning Policy (Resilience and Hazards) 2021</b>			
<b>Chapter 2: Coastal Management</b>			
Section 2.10: Development on land within the coastal environment area	<p>1) Development consent <b>must not be granted</b> to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—</p> <p>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</p> <p>(b) coastal environmental values and natural coastal processes,</p> <p>(c) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</p>	<p>The proposal does not require the removal of any vegetation or require any significant changes to the natural landform (outside of the pylon footprints) and accordingly it is considered that there is unlikely to be any significant long term adverse impacts on the natural environment.</p> <p>The proposal will not result in any adverse impacts on the coastal environment or processes given the proposed works have been designed within the urban footprint and will not impinge or obstruct any natural coastal processes.</p> <p>The proposal may result in impacts on the marine environment given the likely impacts from the increased use of the existing sliprail and boat maintenance facility at the site has not been adequately considered in the application. There are no coastal lakes in the vicinity of the site.</p> <p>There will be no impacts on the marine or native vegetation as</p>	<p>✓</p> <p>✓</p> <p><b>No</b></p>



	<p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p>	<p>there is none of this vegetation proposed to be removed. There are no headlands in the vicinity of the site which will be affected and there are no rock platforms which will be affected by the proposal. This is considered further in the GRLEP 2021 assessment in this report.</p> <p>To adverse impacts to the existing public access along the foreshore.</p>	✓
	<p>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p>	<p>There is no known Aboriginal cultural heritage on the site.</p> <p>No impacts on the surf zone arising from the proposal.</p>	✓
	<p>(f) Aboriginal cultural heritage, practices and places,</p>		✓
	<p>(g) the use of the surf zone.</p>		✓
	<p>2) Development consent <b>must not be granted</b> to development on land to which this section applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>The proposal may result in environmental impact given the potential for pollution of waters from the increased use of the existing sliprail at the site. Therefore, the proposal does not avoid an adverse impact on the coastal environmental area.</p>	<p><b>No (refer to key issues)</b></p>

	3) This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.	The site is not located in this area.	N/A
Section 2.11: Development on land within the coastal use area	<p>1) Development consent <b>must not be granted</b> to development on land that is within the coastal use area unless the consent authority—</p> <p>(a) has considered whether the proposed development is likely to cause an adverse impact on the following—</p> <p>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that—</p> <p>(i) the development is designed, sited and will be managed to</p>	<p>The proposal retains the existing public access across the frontage of the site.</p> <p>The proposal results in significant view loss for surrounding private properties as outlined in the key issues section of this report.</p> <p>The proposal results in adverse impact on the visual amenity when viewed from the foreshore as outlined in the key issues section of this report.</p> <p>There is no Aboriginal cultural heritage in the site.</p> <p>Satisfactory.</p> <p>The proposed development has not been designed or sited to avoid, minimise or mitigate adverse</p>	<p>✓</p> <p><b>No (refer to key issues)</b></p> <p><b>No (refer to key issues)</b></p> <p>✓</p> <p>✓</p> <p><b>No</b></p>

	<p>avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</p> <p>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>	<p>impacts in relation to views from public places to foreshores and the visual amenity and scenic qualities of the coast given the adverse bulk and scale of the proposal when viewed from the foreshore.</p> <p>The bulk and scale of the proposal is considered to be excessive when viewed from the foreshore and is unsatisfactory.</p>	<p><b>(refer to key issues)</b></p> <p><b>No (refer to key issues)</b></p>
	<p>2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, Chapter 6.</p>	<p>The site is not located in this area.</p>	<p>N/A</p>
<p>Section 2.12: Development in coastal zone generally—development not to increase risk of coastal hazards</p>	<p>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</p>	<p>The proposal will not increase the risk of coastal hazards on the land as outlined in the <i>Coastal Risk Management Report</i> prepared by Advisian dated 8 September 2023 and the <i>Marine Navigation, Water Traffic Management, Waterway Use and Safety Assessment</i> prepared by International Marina Consultants Pty Ltd dated 11 September 2023.</p> <p>These matters are considered further in relation to CI 6.4 of GRLEP 2021 and are satisfactory.</p>	<p>✓</p>
<p>Section 2.13: Development in coastal zone generally—coastal management programs to be considered</p>	<p>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal</p>	<p>These matters are considered further in relation to Clause 6.4 of the GRLEP 2021 and are satisfactory.</p>	<p>✓</p>

	management program that applies to the land.		
Section 2.14: Other development controls not affected	<p>Subject to section 2.5, for the avoidance of doubt, nothing in this Part—</p> <p>(a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or</p> <p>(b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.</p>	The proposal is permissible with consent in the zone and with existing use rights.	✓
Section 2.15: Hierarchy of development controls if overlapping	<p>If a single parcel of land is identified by this Chapter as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency—</p> <p>(a) coastal wetlands and littoral rainforests area,</p> <p>(b) coastal vulnerability area,</p> <p>(c) coastal environment area,</p> <p>(d) coastal use area.</p>	The site is located within both the coastal environment area and the coastal use area, however, the controls are consistent and the proposal is acceptable having regard to these controls.	✓
<b>Chapter 4: Remediation of Land</b>			
Section 4.6: Contamination and remediation to be considered in determining development application	<p>1) A consent authority must not consent to the carrying out of any development on land unless—</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its</p>	This is considered in the key issues section of the report.	✓ (refer to key issues)

	<p>contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>		
	<p>2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>A change in land use for the land is not proposed as the proposal seeks alterations and additions to an existing marina and club building on the site, which is the current land use on the site. The site is considered to be 'land specified' in subclause (4) as there is a known history of marina slipway (ship building) uses on the site which are listed in Table 1 to the contaminated land planning guidelines. A Preliminary Investigation is required to be prepared for the site, which is considered further in the key issues section of the report.</p>	<p>✓ (refer to key issues)</p>
	<p>3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary</p>	<p>A Preliminary Investigation has been prepared for the site, which is considered further in the key issues section of the report.</p>	<p>✓ (refer to key issues)</p>

	investigation warrant such an investigation.		
	<p>4) The land concerned is—</p> <p>(a) land that is within an investigation area,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—</p> <p>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>	<p>The site is not within an investigation area (subclause (a)), however, involves a slipway which uses materials such as antifouling paint, which is listed as Heavy engineering installations in Table 1 of the contaminated land planning guidelines. Furthermore, a recreational use (marina) is proposed (retained), which is one of the uses contained in subclause (c).</p>	<p>✓ (refer to key issues)</p>
<b>State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</b>			
<b>Chapter 2: Infrastructure</b>			
Section 2.48 – Determination of development applications – other development	This section applies to a development application involving development carried out immediately adjacent to an electricity substation as there is a substation within the subject site, located adjoining the existing club	Pursuant to Section 2.48(2), Council has consulted with the electricity supply authority and no objections were raised subject to standard conditions (refer to Section 5 of this report).	✓

	building along the Wellington Street boundary (Section 2,48(1)(b)(ii)).		
Section 2.119 - Development with frontage to classified road	Frontage to a classified road.	The site does not have a frontage to a classified road.	N/A
Section 2.120 – Impact of road noise or vibration on non-road development	<p>1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—</p> <p>(a) residential accommodation,</p> <p>(b) a place of public worship,</p> <p>(c) a hospital,</p> <p>(d) an educational establishment or centre-based child care facility.</p> <p>(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.</p> <p>(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate</p>		

	<p>measures will be taken to ensure that the following LAeq levels are not exceeded—</p> <p>(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,</p> <p>(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.</p>		
Section 2.122 – Traffic-generating development	<p>1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <p>(a) new premises of the relevant size or capacity, or</p> <p>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</p>	<p>This section requires consideration of certain matters relating to development which is deemed to be traffic-generating. In this case, the proposal does not meet the criteria in Column 2 for a site with access to a road (generally) as the proposal does not involve any of the uses outlined in Column 1 (there are only 52 additional spaces proposed, not 200 new spaces). Similarly, in relation to Column 3, the proposal does not achieve the criteria listed in Column 2 (being more than 90 metres to a classified road) and a referral to TfNSW is not required under this Section.</p>	✓
<b>State Environmental Planning Policy (Industry &amp; Employment) 2021</b>			
<b>Chapter 3: Advertising and Signage</b>			
Section 3.4: Signage to which this Chapter applies	<p>1) This Chapter applies to all signage that—</p> <p>(a) can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and</p> <p>(b) is visible from any public place or public reserve, except as provided by this Chapter.</p>	<p>Business identification signs are permissible with consent in the R2 zone and are visible from a public place (the street and foreshore).</p>	✓
	<p>2) This Chapter does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is</p>	<p>The signage is not exempt development.</p>	N/A



	exempt development under this Chapter.		
Section 3.6: Granting of consent to signage	<p>A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—</p> <p>(a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and</p>	<ul style="list-style-type: none"> <li>• The proposed signage is considered to be consistent with these objectives in that:</li> <li>•</li> <li>• The proposed signage has been designed to be part of the building façade and is of a size and design expected on a large commercial building as proposed. This allows for the integration of the proposed new signage into the proposed building on the site. This also ensures that the proposed new sign does not dominate the visual amenity of the area and is compatible with existing signage in the area.</li> <li>• The proposed new signage provides for effective communication of the services available at the site. The proposed new signage is located in a suitable location.</li> <li>• The proposed new signs will be of high quality design and finish, consistent with contemporary design features and modern design.</li> <li>• The proposed new signage will comprise internal illumination and is unlikely to adversely impact on adjoining residential properties.</li> </ul>	✓
	(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.	Refer below	


**Table 1: Consideration of the Schedule 5 Assessment Criteria of Industry & Employment SEPP**

REQUIREMENTS	PROPOSAL	COMPLY
<b>1. Character of the area</b>		
<ul style="list-style-type: none"> <li>• Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</li> <li>• Is the proposal consistent with a particular theme for outdoor</li> </ul>	<p>The proposed signs are compatible with the amenity and visual character of the area as the signs are located on the existing components of the club adjoining residential development and are of a suitable scale having regard to the existing development on the site and surrounding sites. The proposed signage is integrated within the</p>	✓

advertising in the area or locality?	<p>façade of the building on the site. This ensures it does not dominate the vistas in the local area.</p> <p>The particular theme for outdoor advertising in the area is signage that identifies individual businesses throughout the area. The proposed signs are generally consistent with the other signs in the area.</p>	
<b>2. Special areas</b>		
<ul style="list-style-type: none"> <li>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</li> </ul>	The proposal is located in an environmentally sensitive area, adjoining a waterway and it is considered that the proposed signs are compatible with the amenity of the area and does not detract from the visual amenity of the locality.	✓
<b>3. Views and vistas</b>		
<ul style="list-style-type: none"> <li>Does the proposal obscure or compromise important views?</li> <li>Does the proposal dominate the skyline and reduce the quality of vistas?</li> <li>Does the proposal respect the viewing rights of other advertisers?</li> </ul>	The proposed signs do not obscure any important views in the locality and do not dominate the skyline given their position on the facade of the proposed building and at ground level. The viewing rights of other advertisers are respected as no other signs are obscured by the proposed signage.	✓
<b>4. Streetscape, setting or landscape</b>		
<ul style="list-style-type: none"> <li>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</li> <li>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</li> <li>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</li> <li>Does the proposal screen unsightliness?</li> <li>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</li> <li>Does the proposal require ongoing vegetation management?</li> </ul>	<p>The scale and proportion of the signs are appropriate for the site and provides visual interest to the street and waterway. The proposed signs are a simple form of signage and are not required to screen unsightliness on the site. The signs are reasonably large, however, the building is of a suitable size for the proposed signage and is therefore consistent with the scale of the proposed building.</p> <p>The proposed signs do not protrude above the level of the building on the site or nearby buildings in the area and will not require ongoing vegetation management.</p> <p>The proposed signs, in some instances, replace existing signs on the site.</p>	✓
<b>5. Site and building</b>		
<ul style="list-style-type: none"> <li>Is the proposal compatible with the scale, proportion and other characteristics of the site or</li> </ul>	The scale and proportion of the proposed signs are appropriate for the site given the scale of the existing building on the site. The proposed signage	✓

<p>building, or both, on which the proposed signage is to be located?</p> <ul style="list-style-type: none"> <li>Does the proposal respect important features of the site or building, or both?</li> <li>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</li> </ul>	<p>provides visual interest to the street and are of a relatively simple design for the area. There are no special features of the site.</p>	
<b>6. Associated devices and logos with advertisements and advertising structures</b>		
<ul style="list-style-type: none"> <li>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</li> </ul>	<p>The proposed signage is to be constructed on the façade and at ground level and safety devices are not required. The signs are proposed to be internally.</p>	✓
<b>7. Illumination</b>		
<ul style="list-style-type: none"> <li>Would illumination result in unacceptable glare?</li> <li>Would illumination affect safety for pedestrians, vehicles or aircraft?</li> <li>Would illumination detract from the amenity of any residence or other form of accommodation?</li> <li>Can the intensity of the illumination be adjusted, if necessary?</li> <li>Is the illumination subject to a curfew?</li> </ul>	<p>The proposed signage involves internal illumination. It is considered that the proposed signs will not adversely impact on nearby residential development as there are only small parts of the proposed signs which are internally illuminated and the distance between the signs and the nearest residential development is sufficient to ensure there are minimal adverse impacts from the illuminated signage.</p> <p>The proposed illumination impacts are likely to be minimal as the proposed signs are to include internal illumination only which produce a light glow, and not floodlit signs where brightly lit beams of light would result. The signs will minimise potential light spill whilst providing appropriately lit vehicular and pedestrian and wayfinding signage.</p>	✓
<b>8. Safety</b>		
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for any public road?</li> <li>Would the proposal reduce the safety for pedestrians or bicyclists?</li> <li>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</li> </ul>	<p>The proposed signage is located at an appropriate distance to the road to ensure sight lines are not adversely affected.</p>	✓

## Annexure D: Compliance Table for Part 3 of GRDCP 2021

Requirement	Proposal	Comply
<b>Part 3 General Planning Considerations</b>		
<b>3.2 Biodiversity</b> <b>3.2.1 Trees &amp; Vegetation</b> 1. Development is to comply with the provisions of SEPP (Vegetation in Non-Rural Areas) 2017. 2. Development to comply with the provisions of the <i>Biodiversity Conservation Act 2016</i> and the <i>Biodiversity Regulation 2017</i> . 3. Development to comply with Council's Tree Management Policy and <b>Appendix 1</b> – Green Web Map and Biodiversity Guide on Council's website.	Satisfactory  Considered satisfactory by Council's Environment Officer.  The site has limited biodiversity value.	✓  ✓  N/A
<b>3.2.2 Green Web</b> <b>All Green Web Areas</b> 1. Green Web areas are those areas mapped on the maps contained within <b>Appendix 1</b> .  2. Green Web areas are to be landscaped with species indigenous to the Georges River Council area, listed in Council's Backyard Biodiversity Guide on Council's website and Council's Tree Management Policy (and its Appendix 1 – Tree Planting). Trees and landscaping should be provided in a form and configuration that maintains and enhances the core habitat and vegetated linkages. 3. Development should contribute to the maintenance of local habitats and connectivity between bushland remnants. 4. Development should seek to retain unique environmental features of the site including: i. Rock outcrops; ii. Wetlands and the like; iii. Watercourses, drainage lines and riparian land; iv. Groups of significant trees and vegetation; and	The site is located on the Green Web Map, with the portion of the site above the seawall mapped as "habitat reinforcement corridor". There are no trees proposed to be removed.  The site has limited biodiversity value.  Satisfactory.  There are no such site features.	✓  N/A  ✓  N/A

<p>v. Mature trees with hollows and other fauna habitat features on the site.</p> <p>5. Bushfire asset protection zones must not be in identified area of key habitat and corridors, except in the case of development or redevelopment of single dwellings and secondary dwellings on existing lots or alterations and additions to existing dwellings.</p> <p>6. Development should ensure that off-site impacts into adjoining bushland are minimised, such as weed invasion, increased runoff and stormwater pollutants.</p>	<p>The site is not bushfire prone.</p> <p>The Arborist's report has considered the potential impacts arising to the trees on adjoining land and conclude that adequate tree protection can be provided. The proposed stormwater management is also satisfactory.</p>	<p>N/A</p> <p>✓</p>
<p><b>Controls for Green Web Habitat Reinforcement Corridor Areas</b></p> <p>9. Development should, through its siting, design and landscape treatment, maximise habitat values and minimise disruption to connectivity through:</p> <ul style="list-style-type: none"> <li>(i) Allocating one boundary of the site to planting of indigenous vegetation of a mix of canopy species (over 3m height at maturity) and understorey species (less than 3m height at maturity, or</li> <li>(ii) Retention and revegetation of remnant bushland elements.</li> </ul> <p>10. The required treatment will depend upon the scale of the bushland remnants linked by the land or the quality of the remnants to be retained on site.</p>	<p>The site has limited biodiversity value.</p> <p>The site has limited biodiversity value.</p>	<p>N/A</p> <p>N/A</p>
<p><b>3.3 Landscaping Objectives</b></p> <p>(a) Contribute to the creation of a distinct landscape character for the Georges River LGA.</p> <p>(b) Protect existing significant trees and vegetation as outlined in Council's Tree Management Policy and Appendices.</p> <p>(c) Promote healthy growth of canopy trees.</p> <p>(d) Reduce the visual and environmental impact of buildings, structures and hardstand.</p> <p>(e) Create attractive, comfortable, functional and safe streets, public domain and private domain.</p>	<p>This is not achieved on the site.</p> <p>There are no existing trees to be retained on the site.</p> <p>These are not proposed or likely to be achieved on the site given the shallow depth of soil.</p> <p>This has not been achieved for the proposal given the significant building form proposed and the lack of landscaping along the foreshore elevation.</p> <p>The proposal does not create an attractive street frontage or public domain to the foreshore arising from the</p>	<p><b>No</b></p> <p>N/A</p> <p>N/A</p> <p><b>No</b></p> <p><b>No</b></p>

	lack of landscaping to screen the development.	
(f) Complement and enhance the function of communal open space, private open space and setback areas.	Not required on the site.	N/A
(g) Provide habitat corridors for local wildlife species.	There is limited biodiversity value on the site.	N/A
(h) Encourage infiltration of rainwater to the water table.	This is not achievable given the extensive hardstand areas existing on the site.	N/A
(i) Reduce urban heat.	Refer above.	N/A
(j) Protect existing natural rock outcrops.	There are no natural rock outcrops on the site.	N/A
<b>3.3 Landscaping – controls</b>		
1. Landscaping on site should be incorporated into the site planning of a development.	The proposed landscaping largely comprises narrow garden beds located on hardstand areas and within the minimum required setbacks.	<b>No</b>
2. Landscape planting should achieve a mature height in scale with the structures on the site.	Not achieved – minimal landscaping is proposed, particularly along the foreshore and street elevations of the proposed works.	<b>No</b>
3. Where canopy trees, shrubs and groundcovers are required, preference should be given to incorporating locally indigenous plants.	This has not been adequately demonstrated on the landscape plan.	<b>No</b>
4. Hydrological issues should be considered at the early stages of design for development around and close to trees on development sites.	Satisfactory.	✓
5. Public domain works including street tree planting should comply with Council's relevant policies including i. Kogarah North Public Domain Plan ii. Kogarah Street Tree Management Strategy and Masterplan 2009; iii. Hurstville Street Tree Management Study 2015; and iv. Georges River Public Domain Streetscape works specifications 2019.	Not required – adequate street tree planting in place along street frontages to the site.	✓
6. Topsoil and mulch should be included in landscape areas and should contain organic matter to support plant growth.	Can form conditions.	✓
<b>3.5 Earthworks</b>		

<b>Objectives</b> (a) <i>Ensure that the natural topography and landform is maintained, and the amount of excavation is minimised.</i> (b) <i>Minimise the visual impact of new development, particularly when viewed from the public domain.</i> (c) <i>Minimise earthworks to maintain the existing landform and protect the integrity and stability of geological elements in the vicinity of the site.</i> (d) <i>Minimise impacts on surrounding vegetation and provide increased opportunities for tree retention, including trees on neighbouring properties.</i> (e) <i>Ensure earthworks do not detrimentally impact on stormwater flows or flood conditions on adjacent land.</i>	Satisfactory	✓
<b>3.5.1 Excavation (including cut and fill)</b> 1. Natural ground level should be maintained within 900mm of side and rear boundary. 2. Cut and fill should not alter natural or existing ground levels by > 1m (see Figure 1). 3. Habitable rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level. 4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered. 5. Development is to be located so that clearing of vegetation is avoided. 6. Cut and fill within a tree protection zone (TPZ) of a tree on the development site or adjoining land, must be undertaken in accordance with Australian Standard AS 4970 (Protection of trees on development sites). 7. Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens. 8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions, on adjacent land. 9. Fill material must be virgin excavated natural	This is achieved.  There is approximately up to 1.5 metres of excavation proposed for the changes to the car parking area (ramp section in the eastern corner of the site).  Satisfactory  No such features exist on the site.  There will be no adverse impacts on the existing trees on adjoining properties as outlined in the Arborist's report.  An Arborist's report has been provided.  Satisfactory.  Council's engineer raises no objections to the proposal in relation to stormwater management or flooding.  Conditions	✓  ✓  ✓  N/A  ✓  ✓  ✓  ✓

material (VENM) or fill that meets all of the conditions of a recourse recovery order issued by the NSW Environmental Protection Authority (EPA).		✓
10. For sites identified as flood affected, any cut and fill works, included in the development are to comply with the requirements of Council's Stormwater Management Policy, specifically Chapter 6 – Flooding and Overland Flow.	Council's engineer raises no objections to the proposal in relation to stormwater management or flooding.	✓
<b>3.5.2 Construction Management / Erosion and Sediment Control</b>	Satisfactory	
<b>3.6 Contaminated Land</b>	Considered in the Resilience & Hazards SEPP	N/A
<b>3.8 Views Impacts</b> Objectives		
(a) Protect vistas and public views from streets and public places.	This has not been achieved arising from the proposed car park structure in the eastern corner of the site.	<b>No</b>
(b) Ensure views to and from the site are considered at the site analysis stage.	Satisfactory	✓
(c) Recognise the value of views from private dwellings and encourage view sharing based on the Tenacity Planning Principle.	There have been some amendments made to the proposal to provide greater view sharing, however, it is considered that greater height reductions of the proposed car park could have been achieved to provide enhanced view sharing for nearby residential properties.	<b>No</b>
(d) Recognise the value of view sharing whilst not restricting the reasonable development potential of the site.	Refer above	✓
(e) Recognise the value of trees and vegetation in improving or framing views.	Satisfactory.	✓
<b>3.8 Views Impacts – controls</b>		
1. Development shall provide for the reasonable sharing of views.	This has not been achieved.	<b>No</b>
2. View pruning is to comply with Council's Tree Management Policy.	There is no view pruning proposed.	✓
Note: Where a proposal is likely to adversely affect views from either private or public land, assessment of applications will refer to the Planning Principle established by the Land and Environment Court in <i>Tenacity Consulting vs Warringah Council (2004) NSWLEC140</i> . The Planning Principle is available to view on the Land and Environment Court's website at <a href="http://www.lawlink.nsw.gov.au/lec">www.lawlink.nsw.gov.au/lec</a>	View loss is addressed in the key issues section of this report.	<b>No</b>
<b>3.9 Coastal Hazards and Risks</b>		
<b>3.9.1 Coastal Management</b>	Considered in the Resilience & Hazards	✓



1. Development is to comply with the provisions of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> and the Coastal Management Act 2016.	SEPP	
<b>3.9.2 Sea Level Rise</b> 1. Development on land identified on the Georges River LEP 2021 'Coastal Hazard and Risk Map' must implement measures to mitigate the adverse effects of projected sea level rise and increases in flood levels on the development.	This is addressed in the Resilience & Hazards SEPP assessment.	✓
<b>3.10 Water Management</b> Stormwater management, flood risk management and water quality controls.	Council's engineer raises no objections to the proposal in relation to stormwater management or flooding.	✓
<b>3.11 Ecologically Sustainable Development</b> <b>3.11.1 Energy and Water Efficiency</b> <u>Non-Residential Buildings</u>		
7. Development must comply with Clause 6.10 Design Excellence of Georges River LEP 2021.	Does not comply with Design excellence clause – refer to GRLEP 2021 assessment.	-
8. All development must comply with Section J Energy Efficiency of the BCA/NCC.	Compliance with BCA is a prescribed condition.	✓
9. The energy efficiency provisions of the Building Code of Australia should be incorporated into the design of non-residential buildings. This may require the inclusion of the following: <ul style="list-style-type: none"> <li>i. Windows that are appropriately sized and shaded to reduce summer heat load and permit entry of winter sun.</li> <li>ii. Building materials selected to assist thermal performance and ceiling insulation used where appropriate.</li> <li>iii. Natural ventilation.</li> <li>iv. Buildings should have an area, orientation and roof pitch that is suitable for the installation of solar collectors.</li> <li>v. Low energy, high efficiency plant, fittings and appliances should be specified.</li> <li>vi. The use of photovoltaic panels/solar collectors for hot water heating and power is encouraged to reduce energy consumption.</li> </ul>	As above	✓
10. Water conservation principles should be incorporated into non-residential developments, including the following: <ul style="list-style-type: none"> <li>i. Water efficient fittings and appliances including: 4 star dual-flush toilets and taps, 3 star showerheads and urinals,</li> </ul>	A rainwater tank is proposed on the site.	✓

<p>water efficient washing machines and dishwashers.</p> <ul style="list-style-type: none"> <li>ii. Rainwater tanks should be provided to meet 80% of non-potable demand including outdoor use, toilets and laundry.</li> <li>iii. Cooling Towers are designed in accordance with best practice guidelines to reduce potable water consumption.</li> <li>iv. Water use within open spaces (for irrigation, water features etc.) should be supplied from sources other than potable mains water (e.g. stormwater, greywater or wastewater) to meet 80% water use demand.</li> </ul>		
<p>11. Development is to demonstrate how the design has sought to reduce the urban heat island effect through the following:</p> <ul style="list-style-type: none"> <li>i. Use of reflective or light coloured building materials;</li> <li>ii. Provision of permeable surfaces; and</li> <li>iii. Planting of increased vegetation to achieve substantial tree canopy and shading.</li> </ul>	<p>There is limited landscaping proposed which would assist with reducing the urban heat island effect on the site.</p>	<p><b>No</b></p>
<p>12. Building design is to demonstrate that the indoor environmental quality has been considered through:</p> <ul style="list-style-type: none"> <li>i. Use of passive design elements i.e. natural lighting and natural cross ventilation;</li> <li>ii. Provision of shading devices to reduce heat load and for glare control; and</li> <li>iii. Use of cross ventilation for thermal comfort.</li> </ul>	<p>There is adequate access to natural light or ventilation.</p>	<p>✓</p>
<p>13. Ecologically sustainable, second hand and recycled building materials should be considered for use in building construction.</p>	<p>This can form a condition.</p>	<p>✓</p>
<p>14. Developments should seek to reduce car dependence through the provision of end of trip facilities, bicycle parking, car share and small vehicle parking spaces, electric vehicle charging stations and green travel plans. Note: In achieving the desired outcomes of this element, applicants for non-residential developments are encouraged to demonstrate that the development is designed to achieve a minimum 4 star rating</p>	<p>The proposal provides bicycle storage.</p>	<p>✓</p>

<p>under the Green Building Council of Australia's Green Star Rating Tool. Go to <a href="http://www.gbca.org.au">www.gbca.org.au</a> for more details on the green star rating tool.</p> <p><u>Photovoltaic solar panels</u></p> <p>15. The use, location and placement of photovoltaic solar panels are to consider the potential permissible building form on adjacent properties.</p> <p>16. Where possible proposals for new buildings, alterations and additions and major tree plantings are to maintain solar access to existing photovoltaic solar panels having regard to the performance, efficiency, economic viability and reasonableness of their location.</p>	<p>Solar panels, rainwater tanks and electric vehicle charging points.</p>	<p>✓</p>
<p><b>3.12 Waste Management</b></p> <p>1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (see Appendix 4). Appendix 4</p> <p><b><u>4.1.4 Objectives</u></b></p> <p>The objectives of this section are to:</p> <ol style="list-style-type: none"> <li>Promote the use of recyclable materials in the design, construction and operation of buildings and land use activities;</li> <li>Maximise waste reduction, material separation and resource recovery in all stages of development (demolition, design, construction) and operations of developments;</li> <li>Encourage building designs and constructions that maximise waste minimisation and management;</li> <li>Provide advice on waste reduction and handling strategies, and minimise the environmental impacts of waste during construction, demolition and end use stages of developments;</li> <li><i>Encourage the design and construction of waste and recycling storage facilities that are:</i> <ul style="list-style-type: none"> <li><i>- Of an adequate size;</i></li> <li><i>- Appropriately designed for the intended uses;</i></li> <li><i>- Hygienic, safe to access;</i></li> <li><i>- In compliance with any occupational health and safety requirements;</i></li> <li><i>- Visually compatible with their surroundings, and;</i></li> <li><i>- Minimise noise transfer.</i></li> </ul> </li> </ol>	<p>WMP summary:</p> <ul style="list-style-type: none"> <li>All waste and recycling collection services will take place from within the site in the dedicated Loading Bay.</li> <li>All waste and recycling services will be provided by a licensed private waste and recycling collection contractor using a standard rear loading SRV collection vehicle (length – 6.4m, operational height – 2.2m (approx.), and width – 2.8m.</li> <li>Council waste officer raises no objections subject to consent conditions.</li> </ul>	<p>✓</p>

<ul style="list-style-type: none"> <li>f) Minimise the environmental impact of poorly designed waste and recycling storage facilities or from the poor management of those facilities;</li> <li>g) Provide on-going control for waste handling and minimisation in all premises;</li> <li>h) Encourage source separation of recyclables and green waste, minimising waste generation and maximising recycling from each dwelling;</li> <li>i) Ensure efficient waste management practices from each dwelling with regards to managing bulky waste materials for kerbside clean-up services;</li> <li>j) Ensure the appropriate on-site storage of all bins for each dwelling whether bins are stored within individual dwellings or within a common storage area;</li> <li>k) Ensure that the storage of bins for each dwelling does not impact negatively on the visual amenity of the area; and</li> <li>l) Ensure that the storage of bins for each dwelling does not impact negatively on the neighbouring properties.</li> </ul>		
<p><b>4.3 On-going Waste Management for Development Types</b></p> <p><b>3. Development Requirements</b></p> <p>For commercial and industrial developments:</p> <ul style="list-style-type: none"> <li>a) Each development must be provided with sufficient on-site space to store waste and recycling bins of a sufficient type, size and number in accordance with expected waste generation rates.</li> <li>b) The location of the on-site bin storage areas and/or rooms should be situated so as not to impact negatively on the visual amenity of the area and should preferably be located in the front yard of the development.</li> <li>c) The bin storage area or room should also be designed to minimise the impact upon neighbouring properties, for example impacts from odour or vermin.</li> <li>d) The Owners Corporation is responsible for on-site waste management and is to ensure that bin storage areas and or rooms remain clean and tidy at all time (i.e. no waste is to be placed outside of an MGB). If Council's waste contractor cannot access the bin storage area/room,</li> </ul>	<p>The WMP states that the existing three (3) bin rooms are sufficient for the proposal.</p> <p>There are no waste storage areas on the street.</p> <p>The bin areas are underneath and within the existing building on the site.</p> <p>The Building Manager is responsible for waste management as currently exists.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

the bins will not be collected.		
<b>3.13 Parking Access and Transport</b> <u>Parking Rates</u> 1. parking rates	Traffic referral satisfactory	✓
<u>Bicycle Parking</u> 8. All Commercial, Place of Public Worship, Residential flat building and Shop-top housing development is to provide on-site bicycle parking as outlined in <b>Table 2</b> – Bicycle Parking Requirements. <ul style="list-style-type: none"> <li>Commercial development - 1 space per 5 car parking spaces (<b>12 spaces</b> required based on 59 required spaces)</li> </ul>	Bicycle spaces provided.	✓
<u>End of Trip Facilities</u> 11. For non-residential uses, the following facilities for bike parking are to be provided ....	End of trip facilities can be provided in the marina facilities.	✓
<u>Design and Layout of Car Parking Areas</u> 12. Car parking to comply with AS2890.1  13. Design vehicular access in accordance with the current Australian Standard for 'off-street parking (Part 1)' and 'off-street carparking for commercial vehicles (Part 2)'.	Traffic referral – satisfactory.	✓
<u>At Grade Parking</u> 20. Car parking areas may be designed as ground level parking provided that the design results in building frontages level with the street.  21. Parking areas are to include: <ul style="list-style-type: none"> <li>i. Planting beds fronting a street or public place are to have a minimum width of 1 metre, unless otherwise specified elsewhere in this DCP.</li> <li>ii. Shade trees are to be provided in open parking areas at the ratio of 1 shade tree for every 6 spaces.</li> <li>iii. Plants to avoid are those which have a short life, drop branches, gum or fruit or those which interfere with underground pipes.</li> </ul>	Traffic referral – satisfactory.	✓
	Provided	✓
	Not required.	N/A
22. Parking areas are to incorporate a 150mm concrete kerb or edge treatment to reduce the likelihood of vehicles damaging adjoining landscaped areas. The use of bollards should also be considered.	Complies	✓
<u>Parking for People with a Disability</u> 23. Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.	7 accessible spaces are provided (% of spaces).	✓
24. All off-street parking facilities shall allocate accessible parking spaces for people with disabilities at the rate in accordance with Section 3.17 – Universal/ Accessible Design of this DCP.	Refer above	✓

25. Accessible parking spaces shall be located close to an accessible lift, ramp or building entrance and be provided with an accessible path of travel.	Complies	✓
26. Accessible parking spaces shall be indicated by a permanent sign as specified in AS 1428.1.	Complies	✓
<u>Pedestrian</u> 30. Design parking to ensure pedestrian safety. 31. Pedestrian entrances and exits shall be separated from vehicular access paths.	This has been demonstrated by the proposal.	✓
<u>Access</u> 32. Design driveways to minimise visual impact on the street and maximise pedestrian safety.	The existing vehicle access is proposed to be retained.	✓
33. Ensure that all vehicles, including vehicles using loading bays, can enter and leave the site in a forward direction.	Complies	✓
34. Avoid locating accessways to driveways adjacent to the doors or windows of habitable rooms.	Complies	✓
<u>Materials</u> 35. All driveways are to be finished in plain concrete	Concrete is proposed as required by these controls.	✓
36. In streets which have brick paved surfaces, driveways are constructed to Council's Engineering Specification including a concrete base with matching brick paving surface.	Not applicable to this site.	N/A
37. Large areas of at grade carparking are to be constructed of concrete or a light coloured material to minimise heat load. Tree planting within the carparking will be required to provide shade.	There is limited tree planting on the site.	<b>No</b>
<u>Loading Requirements</u> 52. Planning and design layout of loading and manoeuvring areas should be provided in accordance with AS2890.2 and: i. Preferably be located to the side or rear of buildings; ii. Screened from view from local and main roads; and iii. Located so that vehicles stand wholly within the dedicated loading/unloading area and do not obstruct the car parking on the subject property or public road, footway, laneway or service road. 53. 1 bay – 1,000sqm to 5,000sqm 2 bays – 5,000sqm to 1,0000sqm 54. The design of loading bay facilities are to be in accordance with Australian Standard	The existing loading docks on the lower ground and ground floors are to be retained by the proposal.  The proposed extension to the ground floor loading dock is unsatisfactory as this will result in service vehicles manoeuvring in close proximity to the main pedestrian entry to the building and results in potential pedestrian conflicts. The proposed new service vehicle access ramp in the existing car park is also unsatisfactory in that it is inconsistent with AS 2890.2:2018 <i>Parking Facilities Part 2- off street commercial vehicle parking</i> .	<b>No</b>

AS2890.2 and Table 4 below.

Vehicle Class	Bay Length in Mts	Platform Height in Mts	Vertical Clearance in Mts
Class 1	1.4	1.25 to 1.40	3.5
Class 2	1.8	1.40 to 1.55	4.0
Class 3	2.4	1.55 to 1.65	4.4
Class 4	3.0	1.65 to 1.80	4.8

\* All vehicle bays, car bays and vehicle platforms must be fully enclosed by a solid barrier to prevent vehicles from crossing the boundary.

Table 4.4 Service Bay Dimensions

### 3.14 Utilities

1. Applicants should consult service providers for energy, electricity, gas, water, telephone, national broadband network (NBN) fibre cables and fire requirements.	There are adequate services on the site and Council's engineer was satisfied with the proposed stormwater and flooding management arrangements for the proposal. Relevant conditions of consent can be imposed for servicing of the site.	✓
2. Any services and structures required by the providers should be located within the basement, or concealed within the facade, with appropriate access. Where this is not possible, an alternative method of minimising street impact should be demonstrated, such as screening with landscape or built elements.	Satisfactory	✓
3. With the exception of dwelling houses, all buildings should accommodate proposed or future air conditioning units within the basement or on rooftops, with provision of associated vertical/ horizontal stacks to all sections of the building.	Satisfactory.	✓
4. Air conditioning units and mechanical plant located on the roof should be well screened and integrated into the building form.	There is no additional mechanical plant proposed.	N/A
5. Air conditioning units and mechanical plant should be sited away from adjacent sensitive land uses and/or screened by walls or other acoustic treatments.	Satisfactory.	✓
6. Car parking areas are to be designed and constructed so that electric vehicle and bicycle charging points can be installed now or at a later date. This will include the provision of 3 phase power to car parking areas for residential flat buildings, shop top housing and non-residential buildings.	Not shown but can be covered in conditions.	Condition
7. For all future roaded subdivisions, electricity supply is to be installed underground.	Subdivision is not proposed.	N/A
8. The existing above ground electricity and telecommunication cables within the road	Not shown but can be covered in conditions.	✓

reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines.		
<b>3.15 Public Domain</b> 1. Council Public Domain Plan	Conditions where required	✓
<b>3.16 Subdivision</b>	Not proposed	N/A
<b>3.17 Universal/Accessible Design</b> 1. All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises - Buildings) Standards 2010 where required.	The Access report concludes that development is capable of achieving compliance with the relevant accessibility provisions of the BCA/NCC subject to detailed design and recommendations of the report.	✓
2. Continuous unobstructed paths of travel should be provided from public footpaths, accessible car parking, and set down areas to public building entrances. Paths of travel should be designed in accordance with the Disability (Access to Premises - Buildings) Standards 2010.	The proposal provides a lift from the lower ground floor to level 1. The Access Report states that subject to detailed design at CC stage, the proposal is capable of compliance with the requirements.	✓
3. Accessways for pedestrians and for vehicles are to be separated.	There are pedestrian areas outlined on each level.	✓
7. Accessible parking – 1-2% of total car parking spaces (commercial development).	There are seven (7) accessible spaces provided on level 1.	✓
<b>3.18 Advertising and Signage</b>	Refer to Industry & Employment consideration.	✓
<b>3.19 Crime Prevention / Safety and Security Objectives</b> (a) <i>Provide a safe environment and minimise opportunities for criminal and anti-social behaviour.</i>		
<u>Surveillance</u> 1. Active spaces and windows of habitable rooms within buildings are to be located to maximise casual surveillance of streets, laneways, parking areas, public spaces and communal courtyard space.	There is surveillance of the entry to the development from the ground level and level 1 car parking area as well as from the reception area of the club. There is also some surveillance from the street into the car park.  There is only one direct pedestrian access to the site from the street, being from Wellington Street into the front entry. This proposed pedestrian path is adjacent to the driveway/ramp where there is some separation from vehicles.	✓
2. In commercial, retail or public buildings, facilities such as toilets and parents rooms	There are adequate facilities within the club.	✓



are to be conveniently located and designed to maximise casual surveillance to facility entries.		
3. Minimise blind-corners, recesses and other external areas that have the potential for concealment or entrapment.	There are no blind-corners, recesses and entrapment sites proposed.	✓
4. Building entries are to be clearly visible, unobstructed and easily identifiable from the street, other public areas and other development. Where practicable lift lobbies, stairwells, hallways and corridors should be visible from the public domain.	Provided from Wellington Street.	✓
5. Ground floors of non-residential buildings, the non-residential component of mixed use developments, and the foyers of residential buildings, are to be designed to enable surveillance from the public domain to the inside of the building at night.	There is some surveillance from the street into the foyer of the club building.	✓
6. Pedestrian routes from car parking spaces to lift lobbies are to be as direct as possible with clear lines of sight along the route.	Satisfactory as the lift and stairs are located within the club.	✓
<u>Access Control</u>		
7. Where dwelling units have individual main entries directly from a public space, the entry is to include a clearly defined transitional space between public and private areas.	No dwellings are proposed.	N/A
8. Development should comprise elements that contribute to effective access control by creating: <ul style="list-style-type: none"> <li>i. Landscapes and physical locations that channel and group people into public areas;</li> <li>ii. Public spaces that attract, rather than discourage people from gathering; and</li> <li>iii. Restricted access to high crime risk areas such as car parks and other rarely visited areas.</li> </ul>	Satisfactory	✓
9. Building details such as fencing, drainpipes and landscaping are to be designed so that illegitimate access is not facilitated by the opportunity for foot or hand-holds, concealment and the like.	Complies	✓
<u>Territorial Reinforcement</u>		
10. Development should incorporate design elements that contribute to the creation of a sense of community ownership of public spaces by: <ul style="list-style-type: none"> <li>i. Encouraging people to gather in public</li> </ul>	There is a pedestrian footpath along the foreshore frontage of the site.	✓

<p>spaces and feel some responsibility for its use and condition;</p> <p>ii. Clearly defining transitions and boundaries between public and private spaces; and</p> <p>iii. Clearly defining the use of public spaces.</p>		
<p><b>3.20 Noise and Vibration</b></p> <p>1. Buildings exposed to aircraft noise are to be designed and constructed in accordance with AS 2021-2000 – Acoustics- Aircraft noise intrusion – Building siting and construction).</p> <p>2. If the building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to Civil Aviation Safety Authority and Airservices Australia for assessment.</p> <p>3. Developments must consider the operating heights of all construction cranes or machinery (short term controlled activities) that may exceed the OLS height limits thereby penetrating the prescribed airspace. Consideration should be given to the timing and location for the proposed controlled activity on site for referral to Civil Aviation Safety Authority and Airservices Australia.</p> <p>4. Approval to operate construction equipment (i.e. cranes) shall be obtained prior to any commencement of construction, where the prescribed airspace is affected.</p>	<p>The site is located outside the 20 ANEF contour.</p> <p>The site is located in the 'outer horizontal surface 156m AHD'</p> <p>Conditions</p> <p>Conditions</p>	<p>N/A</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p><b>3.20.2 Development near Road and Rail Corridors</b></p> <p>Assessment under the Transport &amp; infrastructure SEPP.</p>	<p>Wellington and Plimsoll Streets is not included in the "mandatory" or recommended category for this assessment.</p>	<p>N/A</p>
<p><b>Objectives</b></p> <p>(a) Development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses.</p>	<p>The proposal involves significant outdoor terrace areas and a 24 hours operation which is inconsistent with the noise standards for the site.</p>	<p><b>No</b></p>
<p><b>3.20.3 Noise Generating Development</b></p> <p>1. Development should be sited and designed so that noise is kept to a minimum and does not create offensive noise as defined by the Protection of the Environment Operations Act 1997.</p> <p>2. Noise generating developments should be accompanied by an acoustic report that demonstrates the development is sited and designed to: i. Minimise the effect of noise</p>	<p>Satisfactory.</p> <p>An Acoustic Report has been provided.</p>	<p>✓</p> <p>✓</p>

and vibration on surrounding sensitive land uses; and ii. Comply with relevant State Government and Council guidelines.		
3. The location and design of noise generating activities, such as loading and unloading areas, garbage collection areas, driveways, parking areas, active recreation areas, air conditioning or mechanical plants, should be sited away from adjacent sensitive land uses and/or screened by walls or other acoustic treatments.	Satisfactory.	✓
4. In addition to physical noise mitigation measures, noise impact management measures should be used to further limit potential noise impacts on sensitive land uses such as: <ul style="list-style-type: none"> <li>i. Scheduled times to undertake noise generating activities and/or use of noise generating machinery; and</li> <li>ii. Reasonable hours of operation including delivery hours. Notes: Noise generating development may include, but is not limited to the following: child care centres, schools, places of public worship, industrial uses, commercial developments, hotels, backpackers' accommodation, and some active recreational facilities.</li> </ul>	There are a number of sensitive receivers surrounding the proposed development, these receivers will be affected by noise generated by the proposed development. The proposed 24 hour operation of the site is not supported.	<b>No</b>

## Annexure E: Community Submissions – First Notification

ISSUE	ISSUE RAISED	COMMENTS
Existing use rights	4	<p>There were concerns raised that any alterations and additions to the Club and Marina should be modest and sympathetic to all residential dwellings in the neighbourhood and be mindful to the safe boating in Kogarah Bay.</p> <p>The submissions stated:</p> <ul style="list-style-type: none"> <li>• The proposed development is incompatible with the surrounding residential area and is therefore inconsistent with the planning principles in <i>Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71</i>.</li> <li>• The proposed development appears to have a scale and density that is excessive for the residential neighbourhood. The height and bulk of the structures are out of proportion with the existing residences, potentially impacting the overall aesthetics of the locality. The proposed view loss is a direct result of the extensive height, bulk of the proposed car park and scale of the proposed development which will create negligible impacts on the amenity of the surrounding properties, in particular 36 Plimsoll Street, 38 Plimsoll Street, 40 Plimsoll Street, 42 Plimsoll Street, 43 Plimsoll Street &amp; 46 Plimsoll Street and the issue of view loss.</li> <li>• Existing use rights provide for the continuation of previous rights to operate the same use on the parcel of land, but in general where the change of use involves only minor alterations and additions and does not increase the existing floor space by more than 10% or involve the enlargement, expansion or rebuilding of the premises from what existed at the time the rights were created.</li> <li>• The SGMBC clubhouse is no longer 'ancillary' to the marina which justified its original existence.</li> <li>• The project seeks to rely on 'existing use rights' for the clubhouse, but these are compromised by breaches of consent conditions and will be further compromised by an enlargement and intensification of use which will unacceptably change the characterisation of use. The area will be further compromised by an enlargement and intensification of use which will unacceptably change the characterisation of use.</li> <li>• A proposal to enlarge the club's floor space by 22% amounts to an unacceptable enlargement or expansion of use. There is a limit – and it has well been reached - beyond which it must be acknowledged that the characterisation of use has changed too much for the Club to continue to rely on existing use rights. There are no other similar sized clubs along the waterfront, despite the EIS stating that the Botany Bay water Police centre and the Botany Bay Yacht Club, both of which are small facilities.</li> <li>• The carpark must be ancillary to the boat storage facility, or it has no business being there. We submit that the proposed carpark is far too big to be considered ancillary to the marina boat storage facility. If the Club were to seek to rely on alleged existing use rights for the carpark for this proposal, we submit that this would be undermined by an intensification of use that seriously changes the characterisation of use, as well as by breaches of earlier consent</li> </ul>

		<p>conditions which interrupt and compromise existing use rights as referred to earlier in these submissions.</p> <p><u>Comment:</u> The proposal benefits from existing use right as outlined in the Assessment Report. The 10% limit only applies to proposals which involve a change of use which is not proposed in this development application. The club facility is only required to be ancillary to a marina to be permissible as it has the benefit of existing use rights, which has also been considered in the assessment report.</p> <p>Any breaches of the existing consent conditions does not detract from the applicability of existing use rights (unless it affects the use or abandonment of the land which is not the case for this proposal). The permissibility of the proposal, including consideration of existing use rights, is considered in Section 4.3(e) of the report.</p> <p>Car parks are a permissible use in the R2 zone and therefore the proposed car park in the eastern corner of the site does not need to be ancillary to the marina as marinas are not permissible in the R2 zone. Permissibility, which is achieved by the proposed car park, and a merit assessment are separate matters. The assessment report considers the merit aspects of the proposal.</p>
Non-conforming	1	<p>The submission stated that the club is non-conforming and the consent authority must investigate whether the club complied with every condition of the 2011 approval including the following:</p> <ul style="list-style-type: none"> <li>• A second dilapidation report for 50 and 50A Plimsoll Street.</li> <li>• Vessels exceeding the 18m length at positions 8 and 9 which in turn adds to the aspect of increased bulk and height of long term berthed vessels in Kogarah Bay.</li> <li>• Unlawful use of 23 marina berths</li> <li>• Failure to prepare and implement an Environmental Management Plan required by 2001 consent conditions (not prepared until 2009 ahead of its previous expansion approved 2011). The last project was approved under the former Part 3A procedures despite these breaches.</li> </ul> <p>The submission also stated that it is wrong to allow such breaches to continue to go unpunished and to continue to reward an applicant despite a history of breaches and that the club cannot rely on "Existing use rights" because existing use rights are compromised by breaches of consent conditions.</p> <p><u>Comment:</u> The existing club has existing use rights and breaches of development consent do not result in the loss of those rights. Issues of non-compliance should be reported to Council's enforcement unit for investigation.</p>
Visual impact and loss of views from the proposed car park structure	24	<p>The submissions raised the following concerns:</p> <ul style="list-style-type: none"> <li>• The height and scale of the two-level carpark with its 1.4 metres high acoustic barrier wall and other high, blank walls are considered visually intrusive and contribute to the excessive bulk and scale of the proposal when viewed from the street. It obscures vistas across the existing carpark to the Georges River,</li> </ul>

		<p>which includes significant historical land markers including views of Tom Ugly Bridge.</p> <ul style="list-style-type: none"> <li>• It will result in a loss of public amenity and does not serve to protect the natural environment, nor that which has been developed and which also represents historical significance in its contribution to the surroundings, such as Tom Uglys Bridge.</li> <li>• Significant view loss for dwellings on the corner of Wellington &amp; Plimsoll Streets as well as along the lower half of Plimsoll Street adjoining the club to the east.</li> <li>• The proposed 2 storey car parking structure at should be submerged or basement level car parking structure rather than an out of ground 2 storey car parking structure that obstructs views and disconnects the public domain to the bay. A reduction in height of the structure would maintain views that residents currently enjoy from properties identified above and for the connection between the public domain and Bay to be maintained.</li> <li>• The photo montages are misleading as they depict the car park walls at their lowest point and not the highest point, being 7 metres at the southern end of the Plimsoll Street elevation. A 7 metre high wall in an R2 zone is totally against the character of the low density area.</li> <li>• The walls around the Club are likely to become targets for graffiti and the proposed high walls and additional undercover parking will encourage criminal and anti-social behaviour which has already been an issue in the lower carpark due to inadequate afterhours security.</li> </ul> <p><u>Comment:</u> This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>
Navigational impact to waterway (of marina extension)	5	<p>The submissions stated that the impact on navigation in Kogarah Bay will be quite severe as the width of clear waterway 1.7 metres in depth will be reduced from the current 153 metres to 68 metres, which will adversely impact on the navigation of vessels into and out of Kogarah Bay. The submissions stated that the size and scale are out of all proportion in the context of its location, on a W2 zoned waterway located in a residential area with R2 zoning, which is simply too big for the low-density residential area.</p> <p><u>Comment:</u> Transport for NSW has considered the proposal and have no navigational objections regarding this structure impacting unreasonably on the other waterway users.</p>
Visual impact and view loss of marina extension	5	<p>The submissions stated:</p> <ul style="list-style-type: none"> <li>• The visual impact and loss of scenic views in respect to the 94-metre extension to berthing Arm A from Anderson Park, which more than doubles the length of this part of the Marina. The visual impact of this extension has not been fully shown in the DA documentation and will obscure vistas across Kogarah Bay resulting in a loss of public amenity to the area, particularly from Anderson Park.</li> <li>• The existing Berthing Arm A extending along the prolonged boundary of the Club with Anderson Park already overlaps the southern side of Anderson Park thereby obscuring views across Kogarah Bay and creating a static view of vessels for nearby residents and the majority of visitors to Anderson Park.</li> </ul>

		<ul style="list-style-type: none"> <li>It would also be appropriate to restrict the lengths of berthing vessels in positions 1 to 9 to a maximum 8m for Berthing Arm A thereby achieving a reduction of view obstruction from Anderson Park by further enhancing lower vessel height and reduced bulk.</li> </ul> <p><u>Comment:</u> This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>
View loss Analysis Unsatisfactory	3	<p>The submissions stated:</p> <ul style="list-style-type: none"> <li>The view loss analysis is unsatisfactory in that there is no photographic evidence to show the impact that the Marina extension will have from the public domain of Anderson Park, Wellington and Vista Streets. The analysis also did not consider No 46 Plimsoll Street (also known as No 48?). There are no images which illustrate the likely view loss arising from the proposal for the dwellings in Plimsoll Street.</li> <li>The View Loss Analysis also refers to incorrectly numbered houses and therefore it is unclear which of the dwellings are considered to suffer which view loss.</li> <li>The view loss report is not supported as it states that the assessed view losses for some of the properties will be 'acceptable' - even one identified as 'moderate to significant'. Acceptable to the club perhaps, but not to residents. Or to suggest that it is ok because they retain a "sky view". The EIS even considers the proposal to have a 'neutral impact' in this regard because "<i>the Project is unlikely to lead to severe or devastating view loss</i>". To say that the view loss caused by the construction of a wall on the other side of the street that reaches nearly 7m high is acceptable is simply absurd and in our view indicates that the view loss report is partisan, not independent.</li> <li>It is not agreed that "<i>The proposal.... aims to minimise view loss to existing residences</i>", nor that "<i>The development has negligible impacts to public domain views of the water</i>". 'Public domain views' of the water do not only relate to views from a public park, but views from any place (such as a footpath) from which a member of the public could currently see the water, when out and about in public.</li> <li>An activity that can only be carried out behind a wall that reaches nearly 7m high is not an activity that should be permitted to exist at all in a low-density residential zone.</li> </ul> <p><u>Comment:</u> This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>
Environmental impact from marina extension	4	<p>The submissions stated that due to the large increase in the number of berthing bays and boating activity, there is a greater risk of oil, petrol and effluent spills into the local waterways of Kogarah Bay and the Georges River. It was also stated that the proposal could result in the possible loss of sea grasses in Kogarah Bay due to the large footprint expansion to the marina, which may impact marine life in the area.</p> <p>The submissions suggested that to prevent contaminants and residues from hull treatments etc, entering Kogarah Bay, the three (3) vessel maintenance positions on slip rails must be enclosed along the lines of similar facilities. Concerns was also raised that the proposal has not demonstrated that they have been able to take care of the ecology in the vicinity of the marina and that with each successive</p>

		<p>project for the site, expert reports identify less and less seagrasses and biodiversity to disrupt.</p> <p>The submissions stated that an expanded marina does not meet the objectives of the zone and that it is not an objective of the W2 zone to provide one of the largest marinas in NSW.</p> <p><u>Comment:</u> This matter is further considered in the planning controls assessment and key issues section of this report and was also raised by the EPA.</p>
Inconsistency with number of existing and proposed berths	1	<p>The submissions stated that the number of existing and proposed berths is inconsistent with those reported in earlier discussions prior to lodgement of the application, those quoted by club staff to newspapers and those quoted on the Club's website. There were also concerns raised that a Club director placed the new berths away from a property he formerly owned.</p> <p>The Club mentions on its website that the proposed bigger marina will have a "floating race tower" but there is no mention of this in the EIS, nor how high it will be or where it is expected to be located or (if it is moveable) within what area it would move.</p> <p><u>Comment:</u> The proposed number of additional berths is 84 and the current number of berths is 229. The proposal would result in the loss of 3 berths to accommodate the proposal. Therefore, there would be a total of 310 berths in the marina under the current proposal. This is consistent with information supplied to Crown Lands for lease requirements. The decision as to the proposed location of the new and existing berths is a matter for the club which is then assessed by Council, Crown Lands and the Panel. The race tower is shown as being relocated within the fuel berths. This matter is resolved.</p>
Impacts on wave attenuation	2	<p>The submissions stated that wave energy is an important contributor to cleansing the Bay during storm periods, and is essential more than ever given the accumulation of fine silt where the storm water channels enter the Bay at Carss Park and Claydon Reserve.</p> <p><u>Comment:</u> The proposal has been designed to be consistent with the Australian Standard for Marina Design.</p>
Need for additional berths	1	<p>The submissions stated that the figures relied upon by the Club in the EIS about demand for marina berths must be viewed with caution and are unreliable to support the club's case. The consent authority must consider this issue of other boat storage options.</p> <p><u>Comment:</u> There is a known shortage of floating berths for boat storage in Sydney.</p>
Acoustic impacts from additional terraces (particularly rooftop terrace)	8	<p>The submissions stated the following concerns:</p> <ul style="list-style-type: none"> <li>Noise impact from the proposed additional terrace areas are likely to adversely impact on the adjoining residential neighbourhood, particularly from the new rooftop terrace/bar area.</li> <li>The proposed 68 patrons in the evening with live music on this open roof-top terrace up to midnight on Friday and Saturday nights until 10.30pm Monday - Thursday nights and 9.30pm on Sunday night will have a detrimental impact in respect to acoustic noise on</li> </ul>



		<p>the amenity of the adjoining residential neighbourhood and to the wider residential community.</p> <ul style="list-style-type: none"> <li>• The requirement of a 7 metre high noise wall for the proposed car park is evidence that the club is too close to neighbours.</li> <li>• It is also noted that the acoustic study does not consider the noise emanating from boats and partying on the marina, nor take account of the impact of more berths for such noise.</li> </ul> <p><u>Comment:</u> This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>
Not in public interest	1	<p>The submissions stated that given the likely impacts to the community in relation to noise and navigational concerns, the proposal is not in the public interest.</p> <p><u>Comment:</u> The navigational concerns are considered to have been addressed by the proposal. The potential noise impacts arising from the proposal are considered in this report and submissions.</p>
Traffic generation	5	<p>The submissions raised the following concerns:</p> <ul style="list-style-type: none"> <li>• The existing access driveway to the lower car park adjoining Anderson Park is a safety hazard given the park attracts children and families on the weekends when the club is at its busiest.</li> <li>• The current road infrastructure will not be adequately equipped to handle the additional traffic load resulting from the proposed development. Local residents are concerned that this could lead to deteriorating road conditions, increased maintenance costs, and a strain on our local infrastructure.</li> <li>• Certain intersections in the vicinity of the proposed development are already prone to congestion and safety concerns. The added traffic may exacerbate these issues, posing risks to both vehicular and pedestrian traffic</li> </ul> <p><u>Comment:</u> Council's Property section consider that this driveway has no lawful right of carriageway and therefore this should be further considered by Council.</p>
Main entry on Wellington Street to the club misleading	1	<p>The submissions stated that it is incorrect and misleading to say that the entry on Wellington Street is the main club entrance as this only operates as an exit by automated doors that are not activated from the outside. Concerns were raised that this is to distract from the fact that digging up the car park will result in significant disruption to the club operations.</p> <p><u>Comment:</u> The main entry to the club is from Wellington Street from the car park. Arrangements for pedestrians and vehicle entry and car parking during construction will be required to be outlined by the applicant. This matter was included in the March 2024 RFI.</p>
Lack of car parking and current parking problems	3	<p>The submissions raised the following concerns:</p> <ul style="list-style-type: none"> <li>• Insufficient provisions for parking within the proposed development may result in on-street parking spill-over into the residential neighbourhood. This could further impede traffic flow and hinder emergency vehicle access. The changes outlined in the DA do not offer a tenable solution to parking shortages. Instead, expansion of the clubhouse and marina facilities will exacerbate parking congestion at great inconvenience to residents and visitors.</li> </ul>

		<ul style="list-style-type: none"> <li>Concerns that the previous approval required 238 spaces when only 207 are currently provided on the site.</li> <li>The proposed refurbishment comprises a large imposing construction which ultimately does not increase parking spaces that significantly at all.</li> <li>Illegal parking occurs on the weekends.</li> </ul> <p><u>Comment:</u> A Traffic Assessment has been prepared for the site, which was considered by Council's Traffic Engineer. This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>
Social impacts from expanded club	1	<p>Concerns were raised that it is not responsible to approve further expansion of a club that boasts that it had more than \$5.2m in bar sales and \$4.18m in gaming income in the last financial year, given the strong social policy grounds for discouraging excessive alcohol consumption and gaming. The submissions also stated that the Club appears to have around 100 gaming machines and that the social costs are even worse in the context of unrestricted trading hours and particularly abhorrent for a club in a low-density residential zone.</p> <p><u>Comment:</u> The proposal is for the expansion of food and drink areas of the club, which is required to satisfy various liquor and gaming laws.</p>
Impacts from car park lighting and CCTV	1	<p>The submission raised the following concerns:</p> <ul style="list-style-type: none"> <li>The very high light poles proposed to the first floor parking area, will adversely impact neighbours and the proposed CCTV at the perimeter of the Club will be a privacy intrusion to local residents.</li> <li>The high wall will limit the possibility of outsiders scrutinising the Club's conduct, including compliance with conditions.</li> </ul> <p><u>Comment:</u> The potential impacts from lighting have been considered in this report. The lack of natural surveillance of the proposed car park is also considered in this report. The CCTV cameras are unlikely to intrude on privacy of the surrounding area as they will be focussed on the car park and other club property.</p>
Reduction in trailer parking	1	<p>The submission stated that as a result of the proposal, the trailer parking will decrease as it involve the loss of 3 trailer parking spaces (from 22 down to 19).</p> <p><u>Comment:</u> The boat ramp is a private ramp for members. The loss of three (3) trailer parking spaces is acceptable.</p>
Public transport integration	1	<p>The submission stated that the impact of the proposal on public transportation routes and facilities needs consideration, with any changes in traffic patterns to align with and support the efficiency of our existing public transportation system. The submission also stated that the planning assessment team should conduct a thorough traffic impact assessment for the proposed development, which should include a comprehensive analysis of potential bottlenecks, safety hazards, and recommendations for necessary infrastructure improvements.</p> <p><u>Comment:</u> A Traffic Assessment has been prepared for the site, which was considered by Council's Traffic Engineer to be satisfactory. The issues of car parking and traffic generation are considered in this report.</p>

Street trees retained	1	<p>The submission stated that the club should not receive kudos in the approvals process for retaining trees that are not the Club's trees in the first place.</p> <p><u>Comment:</u> The street trees are to be retained by the proposal.</p>
Impact on property values	2	<p>The submission stated that whilst it is accepted that the value of property as a consequence of development is not a directly relevant matter for consideration in DA's, views and in particular water views contribute substantially to property values in areas like this. The concern stated that the alteration or loss of these views will have a direct impact on the property values of homes in the vicinity of the development which will result in economic consequences for current property owners.</p> <p><u>Comment:</u> The potential impact on property values is not a planning consideration, however, the likely view loss arising from the proposal is considered in detail in this assessment.</p>
Impact on well-being from view loss	1	<p>The submission stated that the visual aesthetics of the neighbourhood that involves water views of intrinsic value contribute to the overall well-being of its residents. The concern was that a sudden and drastic change in the views will affect the quality of life for those who have chosen to live in this area for its unique charm and visual appeal.</p> <p><u>Comment:</u> The likely view loss arising from the proposal is considered in detail in this assessment.</p>
Preservation of green spaces	1	<p>The proposed development seems to encroach upon these open areas, potentially compromising the quality of life for current residents.</p> <p><u>Comment:</u> The proposal does not encroach into any of the existing public open space areas in proximity of the site, although there is some view loss experienced from Anderson Park, which is considered in the view loss assessment.</p>
Lack of Community engagement	2	<p>The submission stated there has been a lack of sufficient engagement with local residents regarding the proposed development, with the applicant initially engaging with a planning consultant on behalf of nearby residents but then ignoring requests for details and discussions. The submissions also stated that there were concerns that the residents did not engage in the pre-development consultation with the applicant knowing they would have an opportunity to lodge a submission during the notification period.</p> <p><u>Comment:</u> The issues raised in the submissions have been thoroughly considered in this assessment.</p>
Overdevelopment	6	<p>The submissions stated that the size of the proposed expansion is excessive and that the proposed additions will be an intrusive feature on the already overdeveloped site located within this foreshore protected area.</p> <p><u>Comment:</u> The proposed bulk and scale of the proposal is outlined in the Key Issues section of the report.</p>
Options analysis not supported	1	<p>The submission stated that the EIS states in the Executive Summary that 3 options were considered by SGMBC before presenting this proposal including option 1 to expand the club building, additional marina berths and parking, option 2 reduced scale of works, namely,</p>

		<p>“complete other possible uses such as dual occupancies”; or option 3: Do nothing. The concerns were that it is most unlikely that the club genuinely considered an option of ‘dual occupancy’ or similar to develop the site as described in Option 2.</p> <p><u>Comment:</u> Relevant consideration has been given to the potential options on the site, with no value attributed to option 2.</p>
Restriction on vessel size	1	<p>The submission stated that consideration should be given to restricting vessel lengths on Berthing Arm E in positions 7, 8 and 9 to a maximum of 15m while retaining the table of existing lengths for positions 1 through 6.</p> <p><u>Comment:</u> Relevant consent conditions can be imposed restricting the maximum length of boats to be moored at the facility to 18 metres.</p>
Foreshore access	1	<p>The submission stated that far from improving amenity and access to the foreshore for the public generally, members of the public including local residents will no longer be able to even look at the river view across the south-west quadrant unless they are a member or guest of the club who enter the walled city.</p> <p><u>Comment:</u> The proposal does not restrict public access to the foreshore, although the interface between the site and the foreshore (public domain) is not improved by the proposal.</p>
Air pollution	1	<p>The concern was that public viewing areas and visitors from the car park areas and at Anderson Park may also be affected by air borne dust. Air pollution from an additional 85 vessels coming in and out of the marina and the additional use of fuel for those vessels, plus the increased potential for fuel spillage, will be an ongoing concern for local residents if this project goes ahead. Concerns were also raised about air pollution during construction from dust arising from excavation, loading and unloading of trucks, and movement of vehicles over an extended period particularly as it is understood that construction will take place over a period of 12 months.</p> <p><u>Comment:</u> Appropriate construction management conditions can be imposed.</p>
Disposal of excavated material	1	<p>The submissions stated that there is inadequate information about proposals for disposal of material from site. The Construction Waste Management Plan is vague and includes too many comments of “To be advised” or “yet to be determined.”</p> <p><u>Comment:</u> This issue can be addressed in consent conditions where required.</p>
Potential environmental impacts from increased use of slipway	1	<p>Concerns were raised that to pollution emanating from marinas and slipways commonly includes paint flakes or soluble paint in water, which are then transported into receiving waters by tide changes or hosing.</p> <p><u>Comment:</u> This matter is considered in the Key Issues section of the report.</p>
Concerns about consequences of fire emergencies	1	<p>The submission stated the following concerns:</p> <ul style="list-style-type: none"> <li>• There are already concerns that emergency services would find it hard to access the site at the marina if a berthed vessel caught alight, especially given locked gates at each marina arm. The</li> </ul>

		<p>concerns were that the proposed longer marina arms will add to the access issue.</p> <ul style="list-style-type: none"> <li>• During construction, with increased parking congestion, (exacerbated by storage of materials and marine spoil on-site) and limited vehicular access points, emergency vehicles may find it hard to access the site.</li> <li>• Evacuation from the proposed roof terrace is even more problematic which would create exit bottlenecks if evacuation were required.</li> <li>• The proposed lower ground floor extensions to the Sapphire room and terrace, together with new planter boxes would further impede access for emergency services, due to greater crowding near the seawall.</li> </ul> <p><u>Comment:</u> A Fire Services Plan has been provided and such issues will be assessed as part of the BCA assessment at CC stage where relevant.</p>
Structural concerns	1	<p>Concerns were raised about potential structural damage to homes due to the pile driving required for the project to affix the extensions to existing marina arms. The submission stated that properties in the area sit on extensive areas of sandstone that will transmit any vibrations of piling and excavation activity to adjacent structures and such vibrations may cause structural problems for any properties with structures on or relating to that bedrock.</p> <p><u>Comment:</u> Further geotechnical reports will be required as consent conditions to ensure impacts do not occur to surrounding properties.</p>
Waste collection	1	<p>The submission stated that the “as required” waste disposal generated from the expanded club and marina operations should only be carried out a limited number of times per week (no more than existing arrangements) and at more reasonable hours than currently (currently occurring at around 4am).</p> <p><u>Comment:</u> Council’s waste officer has reviewed the proposal and raises no objections subject to recommended consent conditions including restricting waste collection to a maximum three times per week (from 6am to 10pm).</p>
Construction impacts – noise and traffic, loss of on-site parking	2	<p>The submissions raised the following concerns:</p> <ul style="list-style-type: none"> <li>• In relation to excessive noise from the construction process, which is it stated as being at least 12 months, including some 14 weeks of exceedingly noisy pile driving. This additional noise would occur alongside existing disturbance associated with the Club’s usual business activities. Such high levels of noise disturbance over a prolonged period are likely to adversely impact the wellbeing of residents and possibly even local fauna.</li> <li>• Construction will cause enormous disruption as members will lose 65 car spaces in the ‘at grade’ car park adjacent the main entry. There will be no parking at this main car park for the duration of the project, which is likely to result in higher demand for on-street car parking.</li> <li>• Some of the local streets have vehicular load limits, including Plimsoll St north of Wellington St, which has a limit of 3t.</li> <li>• The potential for noise and vibrations of pile driving sustained for 14 weeks or more (as well as the potential release of acid sulfate</li> </ul>

		<p>marine spoil) to cause amenity impacts to residents and damage to aquatic life including fish.</p> <ul style="list-style-type: none"> <li>The proposal will generate unacceptable levels of noise and dust pollution during demolition and construction. Trucks coming and going to remove excavated earthworks will add still further noise.</li> </ul> <p><u>Comment:</u> This matter was included in the March 2024 RFI.</p>
Acid sulphate soils	1	<p>The submission stated that there were concerns with the potential air and water pollution from potential acid sulfate soils as part of the excavation and pile driving process to affix extensions to existing marina arms. The submission stated that the proposal stated, <i>generation and management of acid sulfate soils is expected to be a cause for concern.</i></p> <p><u>Comment:</u> Acid sulphate soils have been considered in this assessment report and is satisfactory subject to recommended consent conditions.</p>
No demonstrated need for additional GFA	1	<p>The submission stated that the Club has not provided evidence of local demand for extra floor space and instead, proposes to grow its customer base way beyond local community without tangible benefit for the local community nor any real connection to the marina. The submission also stated that the EIS also contains misleading statements about the availability of function space in nearby council venues or similar licensed premises.</p> <p><u>Comment:</u> The proposal involves additional marina capacity which is likely to result in an increased demand for services within the club. The proposed additional GFA is considered in the merit assessment of this proposal. It is acknowledged that there are a number of similar clubs in the area which offer function and meeting places for the community.</p>
Hours of Operation	2	<p>The submission raised the following concerns:</p> <ul style="list-style-type: none"> <li>The application for unrestricted trading hours raises serious concerns that the club will seek to establish 24-hour trading, which would be devastating to residents, who would have little or no respite from increased noise and traffic levels during and after construction. The submission stated that this should not be allowed in an R2 Residential zone and that there is a clear agenda to pursue overnight trading for the premises.</li> <li>Requested that the previous Council-approved trading hours are to be reinforced, and no stretching of those hours tolerated given the low-density residential location and proximity to neighbours.</li> <li>A substantial purpose in the proposal to build a prison-like wall around the Club is not for landscaping nor as a design technique to incorporate or conceal an apparently necessary first level car park, but as a noise attenuating device to run a party venue up to 24 hours a day, 7 days a week (apparently within the discretion of the Club) in the middle of a low-density residential zone.</li> </ul> <p><u>Comment:</u> Extended and unlimited trading hours are not proposed in this application. The liquor licence is 24 hours, however, the current consent for the property imposes strict hours of operation which are to be retained. The proposed wall around the proposed car park area is considered in the report. This matter was included in the March 2024 RFI and considered in the Key Issues section of the report.</p>

Overshadowing	1	<p>The submission stated that the proposal will cause overshadowing along Plimsoll Street, which is currently a sunny street and afternoon shadowing across the homes of some of the properties along Plimsoll Street.</p> <p><u>Comment:</u> The proposal outlines the likely overshadowing arising from the proposed car park, which illustrates that the majority of the shadow occurs over the existing car parking area at 9am and Noon during midwinter. At 3pm, No. 42 and No. 44 Plimsoll Street have some overshadowing, with minor shadowing to 40A and 48 Plimsoll Street. These properties still receive the required 3 hours of sunlight during midwinter.</p>
Recommended consent conditions	1	<p>This submission stated that the following consent conditions are recommended:</p> <ul style="list-style-type: none"> <li>• Previous council approved trading hours should be restored (i.e. to no later than midnight on Fri, Sat, public holidays).</li> <li>• Rubbish removal on limited days and not before 6am. Any after-hours activity to be limited to security, cleaning, maintenance at reasonable hours, and emergency response.</li> <li>• Curfews on marina movements to reasonable hours and restrictions imposed to limit marina noise including for playing of music from berthed vessels.</li> <li>• Signage illumination should also follow trading hours so that large, illuminated signs are not operating after hours across the road from neighbours.</li> <li>• Dilapidation reports required for properties along Vista Street.</li> <li>• Construction hours to be restricted to 8am to 5pm Monday to Friday only. Weekend work is inappropriate for a facility which is busiest at weekends with pedestrian, vehicle and boat traffic. Weekend construction activity would present safety hazards, cause traffic congestion and interfere with the amenity of the residential area.</li> <li>• Fix a maximum membership of the Club.</li> <li>• Approval by members - the proposed project must first be obtained by a resolution of members of SGMBC for reasons described in these submissions, including lack of information given to members about the project.</li> <li>• Continuation of environmental conditions imposed under the last expansion approvals (after verification by the consent authority as to compliance with those conditions since the last expansion).</li> </ul> <p><u>Comment:</u> These matters have been considered in the assessment.</p>
Crown Land issues	1	<p>The following concerns were raised in the submission:</p> <ul style="list-style-type: none"> <li>• Lease Anomaly - For over a decade, berths at marina Arm F and the southern side of Arm E appear to have existed on the waterway outside of a formal crown lease. This is a failure to formalise an extended crown lease for those berths (until expedient to do so for another expansion) to be one of the breaches of 2011 conditions of approval which interrupts and undermines the 'existing use rights' upon which the club seeks to rely to expand the related clubhouse. It is proposed that those berths will be quietly wrapped up into a new extended crown lease together with an additional 85 berths, under a "In principle Commercial in Confidence Agreement".</li> </ul>

		<ul style="list-style-type: none"> <li>• Encroachment of Crown Land (car parking area) - The consent authority must clarify to what extent this proposal to extend clubhouse and parking would encroach on crown land under the crown titles Lot 1 &amp; 2 DP1012626 and if so, under what arrangements? This was not clear from the EIS - plans with title overlays should be provided</li> <li>• Extension of Crown lease - The project proposes that the Crown Lease will be expanded, by an additional area 12,200m<sup>2</sup> on top of an existing area of 24,324m<sup>2</sup>, representing about a 50% increase in the crown lease area.</li> <li>• The EIS sets out what is essentially a timeline of "Agency Stakeholder Engagement" in relation to the proposal, indicating that approvals for the expanded crown lease were granted (in principle at least) around July and August 2023. The Department had already approved the extension to the Crown Lease more than a year beforehand. As residents, it makes us feel that it is already a 'done deal'.</li> </ul> <p><u>Comment:</u> A new lease will be required for the extended marina, which has been considered in consultation with Crown Lands (NSW DPHI). Any inconsistencies with the current lease arrangement is a matter for Crown Lands and Council's Compliance team. A marina is a permissible use in the zone and therefore this component of the proposal does not rely on existing use rights for permissibility. In relation to the car park area, the area below the MHWL which includes parts of the existing car parking area, is on land owned by Crown Lands, which is part of an existing lease.</p>
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