

**Item 4.****Development Application: 26-32 Pirrama Road, Pyrmont - D/2022/473****File No.:** D/2022/473**Summary****Date of Submission:** 23 May 2022

Amended plans and documentation were submitted on 26 October 2022.

**Applicant:** Toga Development No 27 Pty Ltd**Owners:** The Owners - Strata Plan No 69951 (26-28 Pirrama Road, Pyrmont)

The Owners - Strata Plan No 69950 (30-32 Pirrama Road, Pyrmont)

Maritime Authority of NSW (26A Pirrama Road, Pyrmont)

**Planning Consultant:** Ethos Urban**Heritage Consultant:** OCP Architects**Cost of Works:** \$2,938,927.45**Zoning:** The water-based component of the site falls within Zone 1 - Maritime Waters under Part 6.3 - Sydney Harbour Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The land-based component is zoned B3 - Commercial Core under the Sydney Local Environmental Plan 2012.

The proposed development is permissible with consent in both zones.

**Proposal Summary:** Approval is sought for alterations and additions to the existing Jones Bay Wharf Marina, resulting in an additional nine berths (from 31 to 40 vessels) compared to the current approval. The proposal comprises:

- reconfiguration of the approved 21 berths on the western side of the wharf to accommodate 18 berths;

- reconfiguration of the existing floating pontoon on the eastern side of the wharf to accommodate:
  - 12 new perpendicular berths; and
  - retention of two existing berths at the northern end and two new berths on the eastern side of these.
- retention of approximately 150m of linear mooring space on the eastern side of the wharf;
- construction of two floating ancillary structures between the western wharf and the floating pontoon structure; and
- construction of seven floating ancillary structures between the eastern wharf and floating pontoon structure.

The Minister is specified as the consent authority for the development under Clause 6.25(2) of the State Environmental Planning Policy (Biodiversity and Conservation) 2021. However, the Minister has delegated consent authority functions to Council/LPP to determine the application, in accordance with the Instrument of Delegation dated 21 November 2022. This report has been prepared in accordance with this delegated authority from the Minister.

The application is referred to the Local Planning Panel for determination as it is classified as Designated Development.

The application is classified as Designated Development pursuant to Schedule 3, Clause 32 of the Environmental Planning and Assessment Regulation 2021 as it:

- constitutes a marina with an intended capacity of more than 15 vessels with a length of 20 metres or more (per Clause 32(1)(a)); and
- has an intended capacity of 30 or more vessels of any length and has a ratio of car park spaces to vessels of less than 0.5:1 (per Clause 32(2)(b)).

The development was lodged as Integrated Development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 as it seeks approval under:

- the Water Management Act 2000 to undertake controlled activities on waterfront land. The Department of Planning and Environment - Water, reviewed the development application and advised that the works are exempt under Schedule 4, 36 of the Act.
- the Fisheries Management Act 1994; as the construction of berths may involve removal, damage and destruction of marine vegetation on public water land or on the foreshore of any such land or lease. General Terms of Approval have been issued by the Department of Primary Industries - Fisheries and form part of the recommended conditions in Attachment A.

It is noted that the development is not classified as State Significant Development as it is not a type of development listed under Schedule 1 or Schedule 2 of the State Environmental Planning Policy (Planning Systems) 2021. It is also not classified as Regionally Significant Development under the Planning Systems SEPP 2021.

The application was notified for a period of 28 days between 2 June and 1 July 2022. A total of 42 submissions were received, including 24 in objection and 18 in support. The objections raised issues relating to acoustic impacts, visual impacts, light spill, amenity, privacy, traffic and parking, accessibility, and heritage impacts. The applicant submitted a Response to Submissions (RtS) report which provided additional information and justification for the proposed development.

The Environmental Impact Statement and Response to Submissions adequately address the Secretary's Environmental Assessment Requirements (SEARs). The proposed development generally complies with the planning controls that apply to the site.

Subject to the recommended conditions provided in Attachment A, the proposed development will have acceptable impacts on the site and its surroundings. The proposal is consistent with the strategic framework for the site as it provides a more efficient use of space within the existing marina and will contribute positively to the working harbour. The proposed arrangement of the marina and the additional nine berths are considered to be relatively minor in comparison to the existing operation of the marina. Environmental impacts such as operational management, heritage, traffic, noise, view impacts and ecology impacts have been adequately addressed and are considered acceptable subject to the recommended conditions of consent.

The proposal will be in the public interest as it is consistent with the relevant planning controls for the site and will enhance the maritime operations of the site whilst adequately protecting the amenity of its surroundings.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulation 2021
- (iii) Biodiversity Conservation Act 2016
- (iv) Fisheries Management Act 1994
- (v) Water Management Act 2000
- (vi) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (vii) State Environmental Planning Policy (Resilience and Hazards) 2021
- (viii) Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Plan of Management

## Recommendation

It is resolved that consent be granted to Development Application No. D/2022/473 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development is permissible in the zone in accordance with the requirements of the Sydney Local Environmental Plan 2012 and the State Environmental Planning Policy (Biodiversity and Conservation) 2021. The proposed alterations and additions to the existing marina are consistent with the objectives of the B3 - Commercial Core zone and Zone 1 - Maritime Waters.
- (C) The development is in accordance with the requirements of the Sydney Development Control Plan 2012 and the Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005 and responds appropriately to heritage items on the site and in the vicinity.
- (D) The proposal demonstrates design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposal has provided sufficient information to address the SEARs.
- (F) All other issues have been appropriately addressed by recommended conditions of consent.

## Background

### The Site and Surrounding Development

1. The site comprises Jones Bay Wharf, Berths 19-21 located at 26-32 Pirrama Road, Pyrmont. The site comprises three separate lots, being 26A Pirrama Road (the marina berth), 26-28 Pirrama Road and 30-32 Pirrama Road, Pyrmont.
2. Jones Bay Wharf is located on the north-eastern side of Pyrmont's harbour foreshore. It has a length of approximately 340m and an area of approximately 14,106sqm.
3. The site is currently used as a commercial marina with berths for small and large commercial vessels. The marina contains floating pontoons along its eastern and western sides. On the eastern side, the vessels are moored parallel to the wharf, whereas on the western side they are moored perpendicular to the wharf. There are also private vessel moorings in the south-western corner of the marina at 24A Pirrama Road (outside the subject site). Vessels are not permitted to moor at the northern end of the wharf.
4. The land-based component of the site contains two separate two storey buildings facing the eastern and western sides of the wharf, separated by an internal road for access. The buildings are used for a range of commercial uses including office premises, restaurants/ cafes and a function centre.
5. The surrounding area comprises a range of residential, commercial and retail uses. Surrounding development includes:
  - North: The site adjoins Darling Harbour to the north. To the north-west is Balmain East within the Inner West Council area.
  - East: To the east of the site, across Jones Bay, is Darling Island which comprises residential apartments and various commercial uses.
  - South: Immediately south of the site, across Pirrama Road, are residential flat buildings, commercial premises and Giba Park.
  - West: Across Jones Bay to the west of the site is Pirrama Park and further west is Johnstons Bay and White Bay.
6. The site is a local heritage item known as 'Jones Bay Wharf (Wharf 60, Berths 19-20) including wharf, sea wall, sheds and interiors, lower and elevated road and industrial artefacts' (I1249) under the Sydney Local Environmental Plan 2012.
7. Photos of the site and surrounds are provided below.

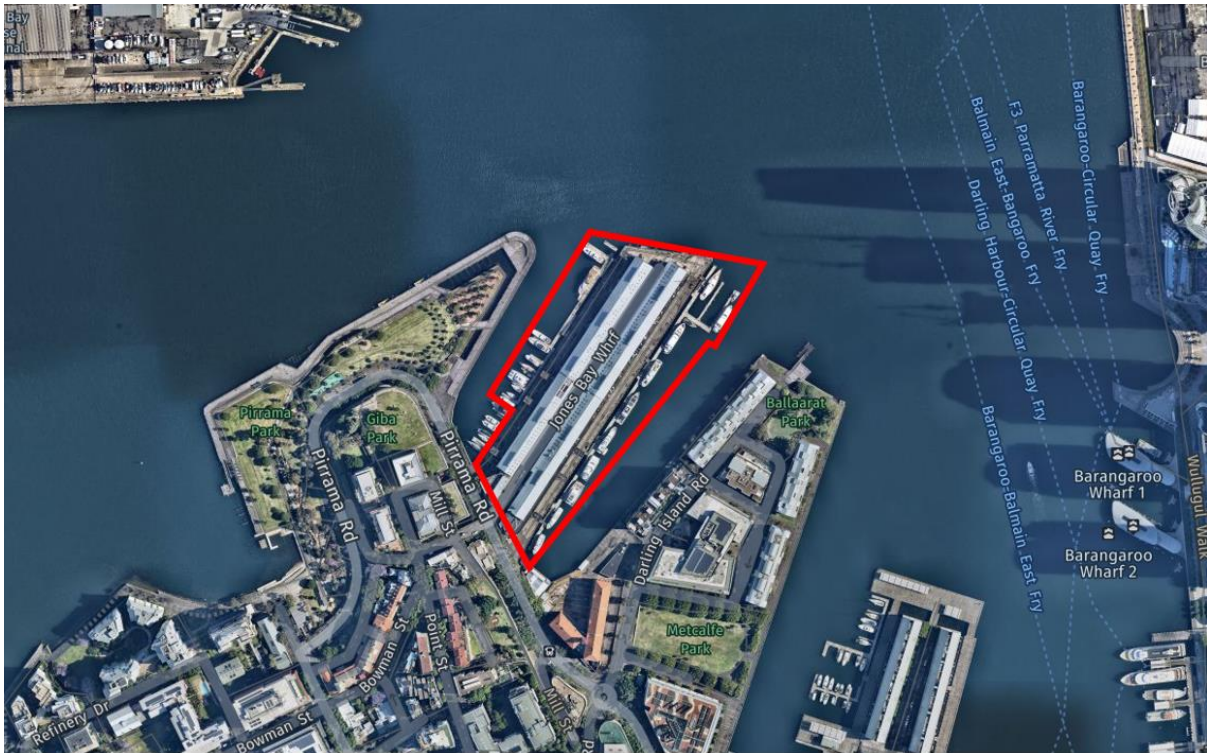


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Pirrama Road, looking north



**Figure 3:** Site viewed from Pirrama Road, looking along the eastern side of the wharf



**Figure 4:** Eastern side of the wharf, looking towards the residential building at 8 Darling Island Road





**Figure 5:** Eastern side of the wharf, looking towards the residential building at 3 Darling Island Road



**Figure 6:** Eastern side of the wharf, looking towards Pirrama Road



**Figure 7:** Site viewed from Pirrama Road, looking along the western side of the wharf



**Figure 8:** Existing marina along the western side of the wharf



**Figure 9:** Looking along the western side of the wharf towards Pirrama Road

## History Relevant to the Development Application

### Development Applications

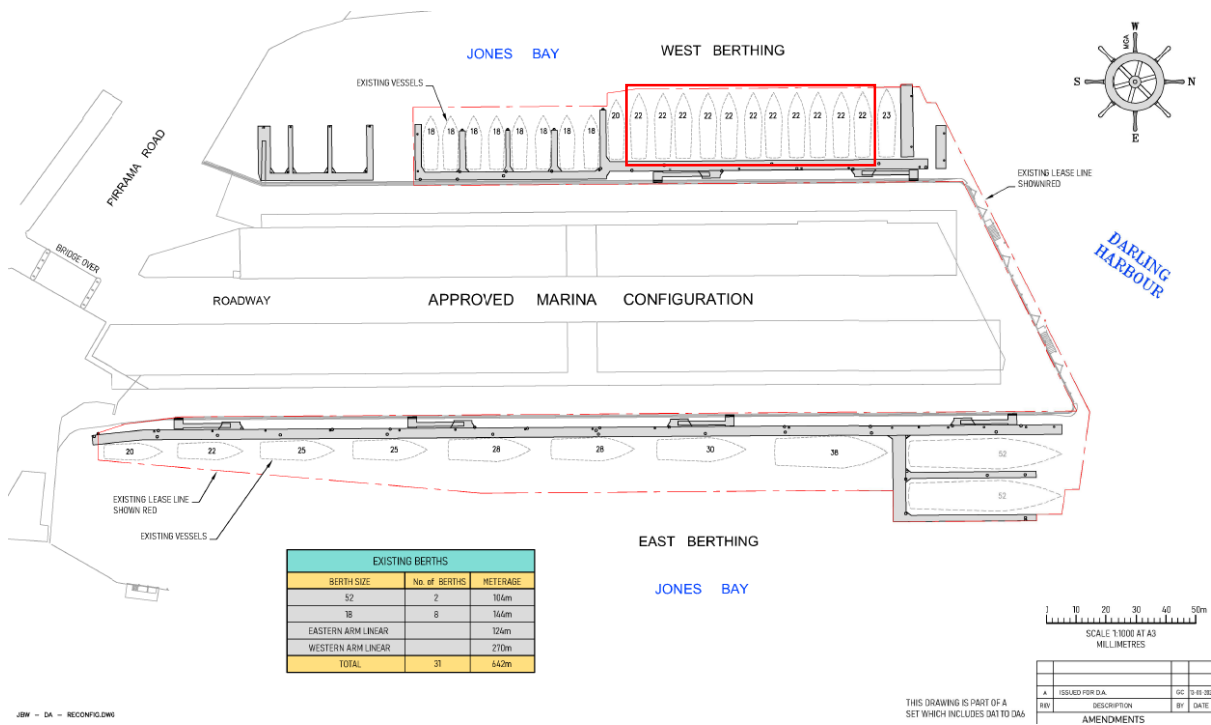
8. The following applications are relevant to the current proposal:
  - **DA 358-10-2002** – The then Minister of Planning approved an application on 16 September 2003 for construction of the marina containing both commercial and private moorings. The consent did not stipulate a minimum or maximum number of vessels at the marina.
  - **MP09\_0205** – The Planning Assessment Commission, as delegate for the Minister of Planning and Infrastructure, approved an application on 30 September 2011 for the expansion of the Jones Bay Wharf Marina under the former Part 3A of the Environmental Planning and Assessment Act 1979. The consent included:
    - construction of 21 commercial vessels moorings on the western side of the marina;
    - construction of one additional mooring on the eastern side of the marina;
    - construction of additional pontoon restrain piles; and

- extension of services.

This approval allowed a total of 31 vessels to be moored along the eastern and western sides of the marina. Vessels on the western side were to be moored perpendicular to the wharf and on the eastern side were moored parallel. The consent also restricted the use to registered commercial vessels.

The 21 fixed berths approved along the western wharf (outlined in red below) were not subsequently constructed. This area currently contains parallel mooring space. The eastern side has been constructed as per the approval.

A plan of the approved arrangement under MP09\_0205 is provided below.



**Figure 10:** Marina configuration approved under MP09\_0205 (western berths outlined in red not constructed)

- **D/2017/895** – Development consent was granted on 28 November 2017 for boundary amendments to reflect the lease area that Toga Developments will occupy as part of future modifications to the on-water marina.

**Secretary's Environmental Assessment Requirements (SEARs)**

- The proposed development is classified as Designated Development pursuant Schedule 3, Clause 32 of the Environmental Planning and Assessment Regulation 2021, as it:
  - constitutes a marina with an intended capacity of more than 15 vessels with a length of 20 metres or more (per Clause 32(1)(a)); and

- (b) has an intended capacity of 30 or more vessels of any length and has a ratio of car park spaces to vessels of less than 0.5:1 (per Clause 32(2)(b)). The existing marina provides 12 car parking spaces and the proposed marina will have capacity for 40 vessels, which results in a ratio of car park spaces to vessels of less than 0.5:1.

10. The SEARs were issued by the Department of Planning and Environment on 15 July 2021 and the EIS has been prepared in accordance with the SEARs.

### **Amendments**

11. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 25 August 2022.

12. The following issues were raised by the City:

**(a) Design modifications**

The City noted that the proposal includes an increase in the number of berths on the eastern side of Jones Bay Wharf. Having regard to the public submissions received, concern was raised that the increase of berths in this location could result in amenity impacts to neighbouring residential development on Darling Island.

It was recommended that the number of additional berths be reduced, so that the majority of additional berths are located on the western side of Jones Bay Wharf.

**(b) Additional drawings**

Architectural drawings including elevations and sections were requested to demonstrate the interface between the proposed ancillary marina structures and the existing wharf.

**(c) Heritage**

A Historical Maritime Archaeology Impact Assessment was requested.

**(d) Ecology**

The City recommended that the proposed piles and pontoons be modified to better support marine community establishment. This could include small holes, ridges and protrusions on the piles to facilitate settlement.

**(e) Lease line**

The proposed development includes an encroachment beyond the lease line on the eastern side of the wharf which was to be addressed.

**(f) Traffic and transport**

Additional information was requested regarding the location and number of existing bicycle parking and end of trip facilities within the wharf.

13. The applicant responded to the request on 26 October 2022 and submitted the following response to the issues raised:

**(a) Design modifications**

The applicant outlined that it is not possible to reconfigure the proposal so that the majority of new berths are on the western side of the wharf whilst still achieving the project objectives. The primary objective is to improve the marina configuration to accommodate the mooring of additional high end commercial vessels by utilising existing mooring space more efficiently. This is consistent with the objective of Chapter 10 of the Biodiversity and Conservation SEPP, and numerous strategic planning studies, which identify the need to promote a prosperous working harbour for Sydney and to provide for additional mooring capacity.

The western side of the wharf already has approval for perpendicular berthing and therefore cannot provide any additional berths beyond those already approved. On the contrary, the eastern side of the wharf has mooring space running parallel to the wharf which presents the opportunity to use this space more efficiently.

The applicant provided additional information to demonstrate the proposal results in acceptable amenity impacts, which is outlined further in the 'Discussion' section.

**(b) Additional drawings**

The requested plans and elevations showing the relationship between the new ancillary structures and the wharf were submitted.

**(c) Heritage**

A Historical and Maritime Archaeology Impact Assessment was submitted.

**(d) Ecology**

In response to Council's request for modifications to the proposed piles to allow for improved ecology outcomes, the applicant's consultants advised that it was not possible to incorporate design modifications without compromising the performance of the structure. An assessment of the ecology impacts is outlined further in the 'Discussion' section.

**(e) Lease line**

Correspondence from Transport for NSW was provided to address the issue relating to the lease line. The correspondence states that TfNSW grants permission to lodge the application and acknowledges that if the proposal is granted consent, then a new lease to include the areas beyond the existing lease line will need to be entered into.

**(f) Traffic and transport**

Details showing the location of existing and proposed bicycle parking and amenities were provided.

**(g) Response to Submissions**

A written response to the matters raised in public submissions was submitted.

## Proposed Development

14. The application seeks consent for alterations and additions to the existing Jones Bay Wharf Marina, including the following:

### *Western side of wharf*

- Reconfiguration of the approved 21 berths to provide 18 berths. This includes 16 berths perpendicular to the wharf and two larger berths parallel to the wharf.
- Construction of two new ancillary floating structures between the western wharf and the floating pontoon structure to be used for storage.

### *Eastern side of wharf*

- Provision of 12 new perpendicular berths to replace the existing parallel berths.
  - Retention of the two existing parallel berths and provision of two new smaller berths at the northern end of the wharf.
  - Construction of 7 floating ancillary structures between the eastern wharf and the floating pontoon structure to be used for storage, an office and amenities.
15. Overall, the development results in an increase of nine berths, from 31 to 40 (compared to the current approval which has been substantially commenced).
16. Plans and elevations of the proposed development are provided below.

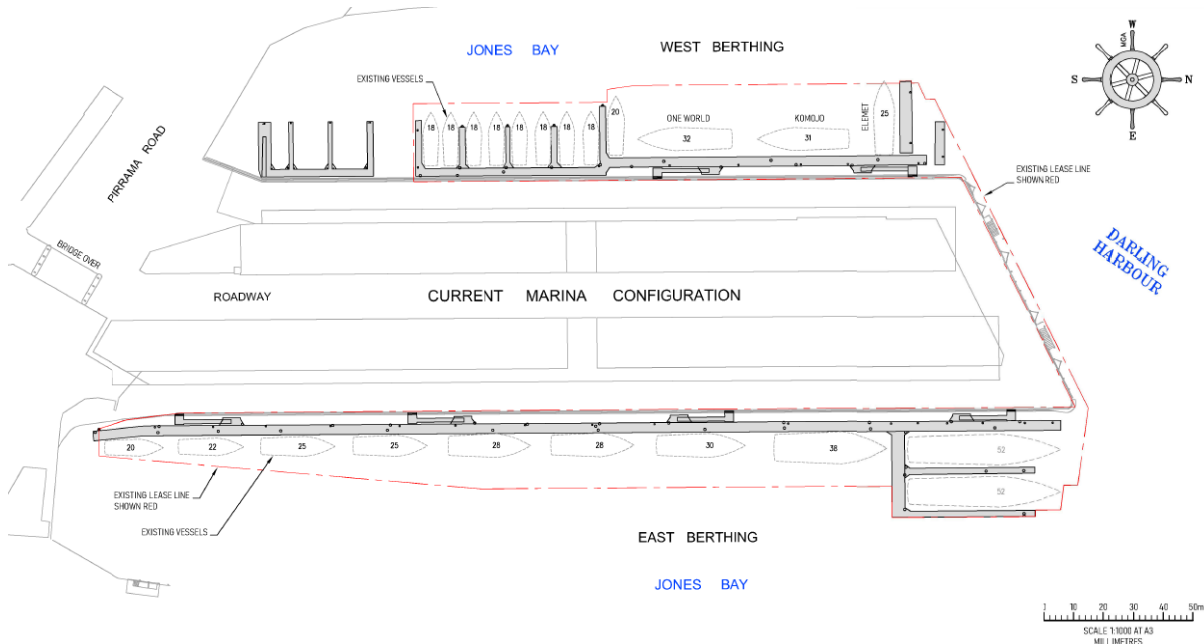


Figure 11: Existing plan

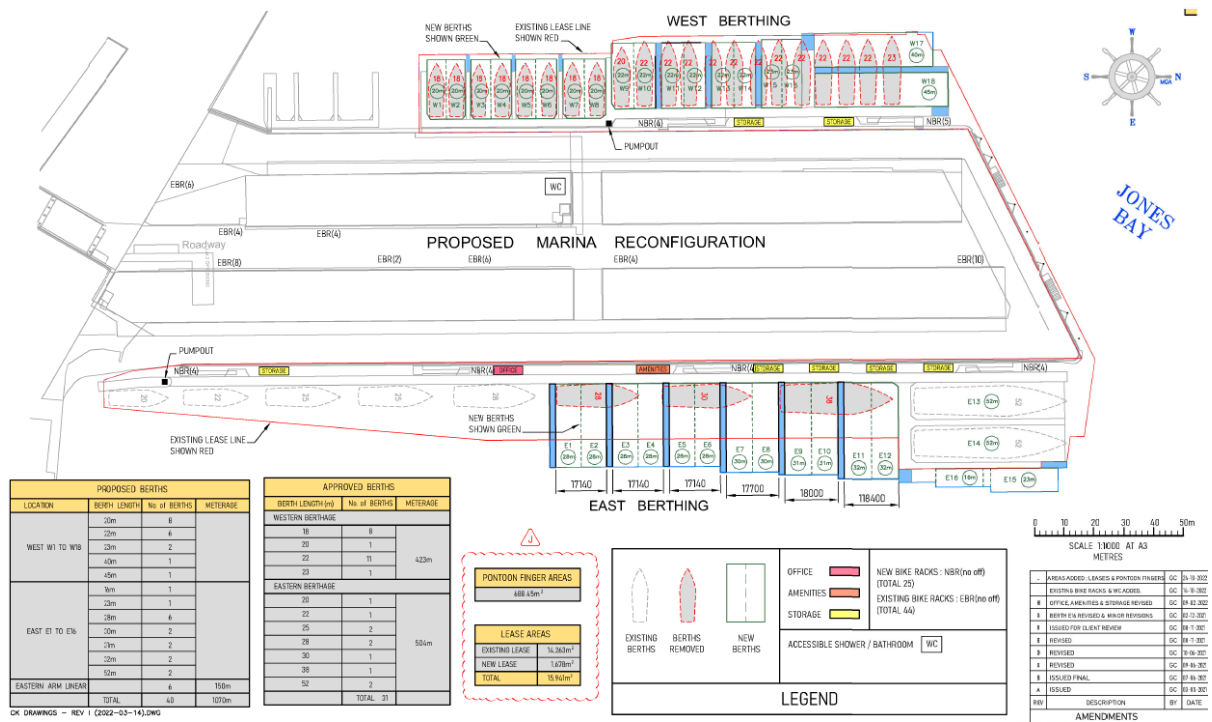


Figure 12: Proposed plan

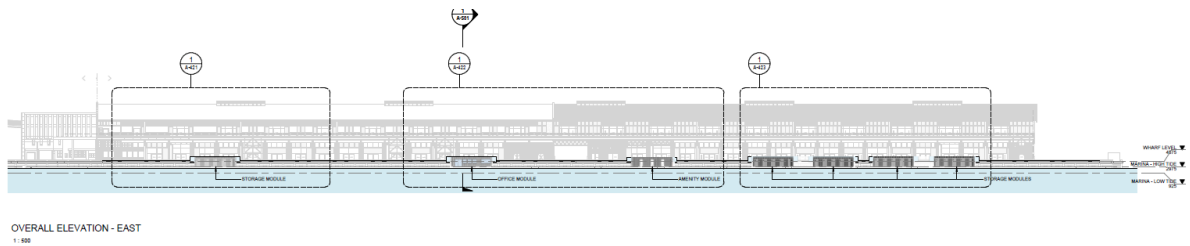


Figure 13: Proposed eastern elevation

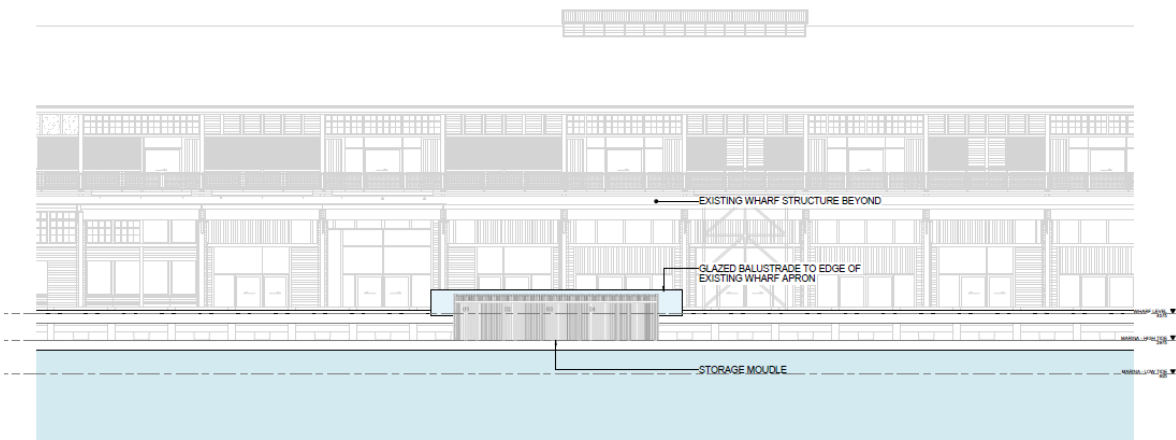


Figure 14: Proposed eastern elevation (example storage structure)





Figure 15: Proposed western elevation

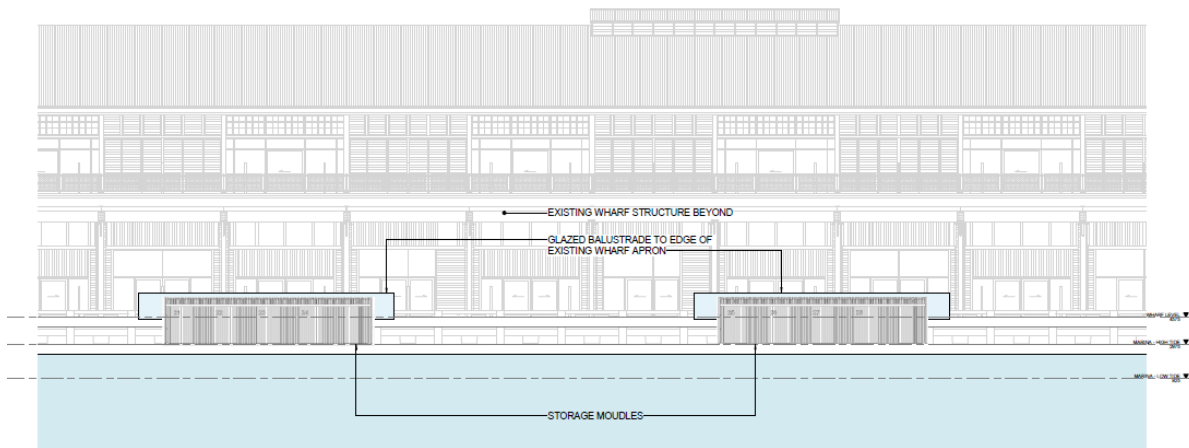


Figure 16: Proposed western elevation

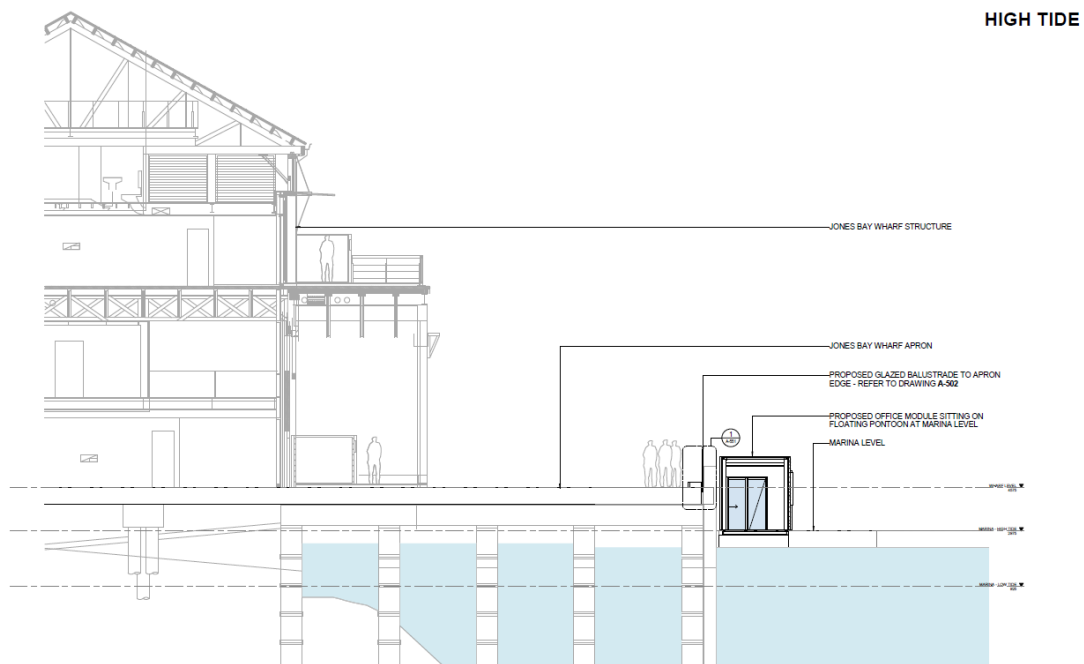
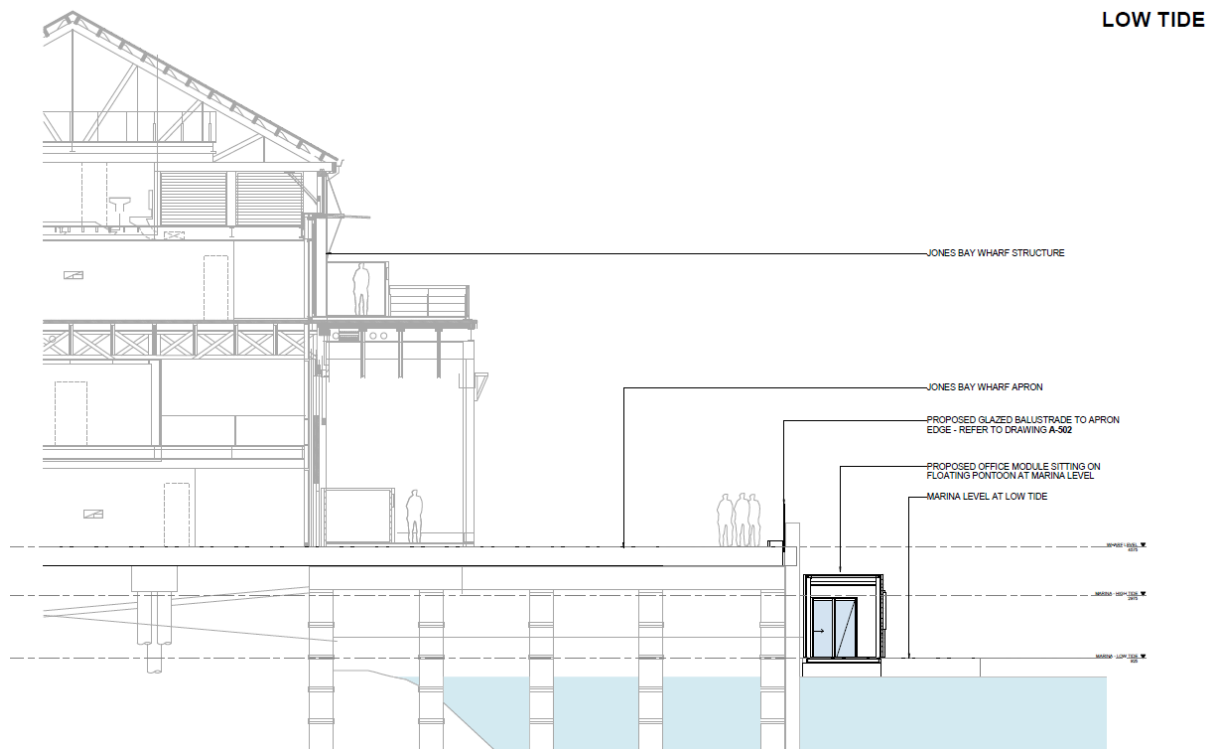


Figure 17: Proposed section (high tide)



**Figure 18:** Proposed section (low tide)

## Assessment

17. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
18. The Minister is specified as the consent authority for the development under Clause 6.25(2) of the State Environmental Planning Policy (Biodiversity and Conservation) 2021. However, the Minister has delegated consent authority functions to Council/Local Planning Panel to determine the application, in accordance with the Instrument of Delegation dated 21 November 2022. This assessment has been carried out in accordance with this delegated authority from the Minister.

## Water Management Act 2000

19. Pursuant to Section 91 of the Water Management Act 2000, the application was referred to the Department of Planning and Environment - Water for concurrence as the development involves controlled activities on waterfront land.
20. The Department of Planning and Environment - Water responded to the request on 4 October 2022 and advised that the proposed works are exempt from the need to obtain a controlled activity approval, under Schedule 4, 36 of the Water Management Act (General) Regulation. Therefore, DPE Water advised that no further assessment by the agency is necessary.

**Fisheries Management Act 1994**

21. Pursuant to the Fisheries Management Act 1994, the application was referred to the Department of Primary Industries for concurrence as the works may involve removal, damage or destruction of marine vegetation on public water land or on the foreshore of any such land or lease.
22. The Department of Primary Industries Fisheries responded to the request on 9 June 2022 and provided General Terms of Approval, which have been included in the recommended conditions of consent.

**Biodiversity Conservation Act 2016**

23. The submitted Estuarine Ecology Assessment demonstrates that the proposal is not anticipated to cause any adverse impacts on threatened species or endangered ecological communities as prescribed by the Act.

**Protection of the Environment Operations Act 1997**

24. The proposed development seeks to increase the vessel capacity to 40. Therefore, a license for boat moorings is not required by the Act, as the capacity is less than 80 vessels.

**State Environmental Planning Policies****Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 - Water Catchments**

25. The site falls within the Sydney Harbour Catchment pursuant to Part 6.1 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021
26. Under Part 6.3 of the SEPP, the waterway is identified as Zone 1 - Maritime Waters. The objectives of Zone 1 are:
  - (a) to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,
  - (b) to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,
  - (c) to promote equitable use of the waterway, including use by passive recreation craft.
27. Commercial marinas are permissible in the Zone 1 - Maritime Waters zone. The proposed alterations and additions to the existing marina to provide additional berths are consistent with the objectives of the zone.
28. Pursuant to Part 6.2, Division 2 of the SEPP, the consent authority must consider the following in deciding whether to grant development consent.

Provision	Compliance	Comment
6.6 Water quality and quantity	Yes	<p>The proposal would have a neutral effect on the quality of water entering the waterway.</p> <p>The Construction Environmental Management Plan contains mitigation measures to minimise impacts to water quality.</p> <p>Council officers are satisfied that the effect on the quality of water will be as close as possible to neutral and will minimise the impact on water flow, as required by this provision.</p>
6.7 Aquatic ecology	Yes	<p>An Estuarine Ecology Assessment prepared by H2O Consulting Group was submitted with the EIS. The report identifies any potential impacts from the proposal on threatened biodiversity, fish habitat, marine vegetation, other fauna, areas of biodiversity value, aquaculture leases and water quality.</p> <p>The report concludes that the proposed development would remove a small amount of artificial habitat (piles and pontoon). However, the amount removed will be insignificant to the total amount present in Jones Bay. Further, the number of piles and pontoon area will eventually result in beneficial net gain for habitat to colonise. The development will not have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation.</p>
6.8 Flooding	Yes	The development is not likely to impact flooding within surrounding ecosystems.

Provision	Compliance	Comment
6.9 Recreation and public access	Yes	<p>The proposal would have minimal impact on recreational land uses in the catchment.</p> <p>The development will not adversely impact public access to and around the foreshore.</p>
6.19 Marinas	Yes	The alterations and additions to the existing marina meet the requirements of this clause.

29. The following provisions in Part 6.2, Division 3 are relevant to the proposed development.

Provision	Compliance	Comment
6.28 General	Yes	<p>The development is consistent with the principle of Sydney Harbour being a public resource, owned by the public, to be protected for the public good and where the public good and the protection of natural assets have precedence over all other interests.</p> <p>The development will promote the equitable use of the Foreshores and Waterways area.</p> <p>The development promotes water-dependent land uses over other land uses.</p> <p>The development minimises risk to the development from rising sea levels.</p> <p>The development will protect natural foreshore areas, landforms and vegetations and adequately protects ecological communities.</p> <p>The development will protect, maintain and rehabilitate ecological connectivity.</p> <p>Given the above, Council officers are satisfied that the character and functions of a working harbour will be retained on the site and that the development maintains public access along the foreshore. The unique visual</p>

Provision	Compliance	Comment
		qualities of the foreshores will be adequately protected including views and vistas from the foreshore and public spaces, landmarks and heritage items.
6.33 Boat storage facilities	Yes	The development increases the number of public boat storage facilities and encourages the use of such facilities.
6.37 Marinas in Zone 1	Yes	Council officers are satisfied that access between the marina and the foreshore will not be provided on or across land in Zone 2, 3, 7 or 8.

### State Environmental Planning Policy (Resilience and Hazards) 2021

#### Chapter 2 - Coastal Management

30. Chapter 2 of the SEPP (Resilience and Hazards) 2021 relates to coastal management and aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the Coastal Management Act 2016.
31. The site falls within a Coastal Environment Area and a Coastal Use Area.

Provision	Compliance	Comment
Division 3 - Coastal Environment Area	Yes	<p>The submitted Estuarine Ecology Assessment outlines that the proposal is not likely to have an adverse impact on the biophysical, hydrological and ecological environment.</p> <p>The Wave Climate Study prepared by Cardno concludes that the proposal will not worsen wave conditions at Jones Bay and will therefore not adversely impact coastal environmental values and natural coastal processes.</p> <p>The development is not likely to adversely impact water quality, marine vegetation, existing public open space, Aboriginal cultural heritage or surf zones.</p>
Division 4 - Coastal Use Area	Yes	The proposed development will not adversely impact the existing, safe access to and along the foreshore for

Provision	Compliance	Comment
		<p>members of the public, including persons with a disability.</p> <p>The proposal does not include built form elements that would create adverse overshadowing or wind funnelling impacts.</p> <p>The proposal will not result in unacceptable impacts to views from public places to foreshores, as outlined in the Visual Impact Assessment.</p> <p>The visual amenity and scenic qualities of the coast will not be adversely impacted.</p> <p>Aboriginal cultural heritage, practices and places will not be adversely impacted by the development.</p> <p>Conditions of consent are recommended to ensure the proposal does not adversely impact cultural and built environment heritage.</p>

#### Chapter 4 - Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. Site investigations have identified that the disturbance of contaminants from vessels during operation of the marina is expected to be minimal. Impacts from works during construction are addressed by mitigation measures outlined in the Construction Environmental Management Plan.
34. The Council's Environmental Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the mitigation measures outlined. Council officers are satisfied that, subject to conditions, the site can be made suitable for the proposed use.

#### Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005

35. The Sydney Harbour Foreshore and Waterways Area DCP 2005 accompanies the SEPP (Biodiversity and Conservation) 2021. The DCP includes design guidelines for development and assessment criteria for marinas.

36. Overall, the proposed development is consistent with the general requirements contained in Part 4.2 of the DCP. The development maintains public access to waterways and public land, minimises congestion, appropriately manages conflicts on the waterway and foreshore, will not interfere with recreational activities, does not dominate its landscape setting and seeks to best utilise the existing marina space and facilities.
37. Part 4.6 of the DCP contains guidelines for marinas. Commercial marinas are permitted in a variety of locations in the Sydney Harbour Catchment in order to support working waterfront functions and recreational use of the harbour. The objectives and principles of Part 4.6 of the DCP have been assessed as follows:

**(a) Location**

- Marinas are to be located where they can be used by as many people as possible and easily accessed. The proposal includes alterations and additions to an existing marina in a highly accessible location.
- Access to the marina will be maintained via the existing public walkway.
- The existing marina has adequate water depth and is not subject to exposed wave environments or wetlands.
- The proposal will not adversely impact other water users including small craft.
- The waterside structures will not impact public water activities.

**(b) Design and layout**

- The changes to the existing marina will not obscure natural or other attractive features. No land-based buildings are proposed.
- Public access along the shore is maintained.
- Seven of the floating structures will provide secure storage facilities.
- The marina is designed to have a series of floating pontoon walkways with appropriate access.

**(c) Facilities and services**

- The proposed floating structures will provide facilities such as storage, an office and amenities.
- The proposal will increase the mix and choice of boat storage facilities.
- Permanent residences within vessels are not permitted.



**(d) Visual impact**

- The Visual Impact Assessment demonstrates that the proposal adequately maintains and protects important views. The visual contrast between existing and proposed views is considered to be minimal.
- The proposal locates larger vessels as far from the shore as possible.

**(e) Environmental management**

- Waste and pollution will be controlled appropriately, per the Waste Management Plan.
- Traffic and Parking impacts will be acceptable - see 'Discussion' section for details.
- Noise impacts have been outlined in the Noise and Vibration Assessment - see 'Discussion' section for details.
- Lighting is addressed in the Operational Management Plan, which includes measures to reduce light spillage.

**(f) Health and Safety**

- Health and safety are addressed in the Operational Plan of Management, which has adequately demonstrated that the marina is a safe place to work subject to the actions of the OPM.

**Local Environmental Plans****Sydney Local Environmental Plan 2012**

38. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

**Part 2 Permitted or prohibited development**

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The land-based component of the site is located in the B3 Commercial Core zone. The proposed development is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 18 metres is permitted.

Provision	Compliance	Comment
		The proposal does not involve any additional structures on the land-based component of the site.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1.25:1 is permitted. No additional floor space is proposed on the land-based component of the site.

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is a local heritage item known as 'Jones Bay Wharf (Wharf 60, Berths 19-20) including wharf, sea wall, sheds and interiors, lower and elevated road and industrial artefacts' (I1249).  The proposed development will not have detrimental impact on the heritage significance of the heritage item, subject to conditions.  See further details in the 'Discussion' section below.

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	An Acid Sulfate Soils Assessment was submitted with the application. A condition is included in Attachment A which requires compliance with the recommended actions in the Acid Sulfate Soils Assessment.

### Development Control Plans

#### Sydney Development Control Plan 2012

39. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

**Section 3 – General Provisions**

Provision	Compliance	Comment
3.9 Heritage	Yes	See further details in the 'Discussion' section below.
3.11 Transport and Parking	Yes	The proposal will have acceptable impacts on transport and parking. See details in the 'Discussion' section below.
3.12 Accessible Design	Yes	The proposal will maintain appropriate access for people with a disability.
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

**NSW Sydney Harbour Boat Storage Strategy (TfNSW 2013)**

40. Transport for NSW's Sydney Harbour Boat Storage Strategy estimates demand for boat storage in Sydney Harbour and identifies the likely increase in capacity required to keep pace with demand.
41. In order to keep pace with growth, the following targets are identified in the strategy:
- 1000-1200 new spaces in dry-stack storage facilities
  - 600-800 new commercial marina berths
  - 300 new mooring spaces
  - 150-250 new berths at private marinas
42. The EIS addresses the need for the proposal in light of the above strategy and submits that there is a growing demand for berths to accommodate larger and wider vessels. Overall, the proposal is considered to be consistent with the objectives of the strategy as it seeks to provide additional boat storage capacity within an existing marina in Sydney Harbour.

**Regional Boating Plan - Sydney Harbour Region (TfNSW 2015)**

43. The Regional Boating Plan for the Sydney Harbour Region seeks to boost the experience of recreational boating across the state and identifies the boating safety, access and infrastructure actions across the region to be implemented.
44. The EIS submits that the proposal seeks to address this Plan through increasing the capacity of vessels at Jones Bay Marina and increasing on-water storage options. Additionally, the proposal optimises the existing use of the marina in an area that is permitted by the planning controls.

## Discussion

### Heritage

45. The site is a local heritage item known as 'Jones Bay Wharf (Wharf 60, Berths 19-20) including wharf, sea wall, sheds and interiors, lower and elevated road and industrial artefacts' (I1249) under the Sydney Local Environmental Plan 2012.
46. Jones Bay Wharf dates from one of the key periods of building activity by the Sydney Harbour Trust as part of expanded shipping facilities in the port of Sydney. It is a good example of an early 20th century industrial design and makes a positive contribution to the streetscape, harbourfront and local area.
47. On 25 August 2022, Council requested additional information to assess the heritage impacts of the proposed development, including additional drawings of the wharf and external finishes and materials. Council also requested that a Historic and Maritime Archaeological Assessment be submitted to identify potential historical and maritime archaeology and any impacts of the proposal on this.
48. The additional information requested was submitted by the applicant on 26 October 2022. The submitted Historical and Maritime Archaeology Statement of Heritage Impact, prepared by Cosmos Archaeology, indicates that the reconfiguration of the Jones Bay Marina, currently only limited to piling, will have a minor impact on any identified underwater archaeological remains which are of local significance.
49. The report includes recommendations including the requirement for an archaeological monitoring and recording programme prior to any piling activities and during any other direct impacts to the seabed for future development. Conditions of consent are recommended requiring compliance with these recommendations.
50. The additional drawings submitted provide a clearer indication of the proposed works and Council's Heritage Specialist advised that the works are acceptable from a heritage perspective.
51. Further details of proposed external materials, finishes and colours were not provided. A condition of consent requiring this information is recommended.
52. Overall, the proposed marina expansion is considered to have an acceptable heritage impact, noting that it is an existing berthing facility and evokes the traditional role of ships that used to dock at the wharf when it was part of a wharfage facility. The new container structures will read as simple contemporary additions set against the backdrop of the wharf structure, which will have little impact on views to the wharf.

### Ecology

53. An Estuarine Ecology Assessment prepared by H2O Consulting Group was submitted with the application. In the Request for Information dated 25 August 2022, Council advised that while the conclusions of the assessment are generally acceptable, concern is raised regarding the temporary loss of habitat with the removal of piles and pontoons and the loss of established macroalgae and sessile invertebrate communities. It was recommended that the applicant explore ways to modify the piles and pontoons to better support marine community establishment.

54. The RtS outlines that the applicant's marina designer and ecological consultant explored this request but were not able to identify further opportunities for design modifications without compromising the performance of the structure and reducing the lifespan of the marina. A key objective of the project is to use materials that are designed for marine longevity (steel piles with HDPE and concrete floats).
55. Notwithstanding the above, the Ecology Assessment submitted with the EIS outlined that overall, the proposal would improve biodiversity over time. The City's Urban Ecology specialist reviewed the Ecology Assessment and the RtS submission and is satisfied with the response. The City is therefore satisfied that the proposal would not result in unacceptable ecological impacts in the marine environment.

### **Traffic and transport**

56. A Traffic and Transport Assessment prepared by Colston Budd Rogers and Kafes Pty Ltd was submitted with the EIS to assess the traffic and transport implications of the proposed development.
57. Overall, the City's Transport and Access unit are satisfied that the proposal would not result in adverse traffic or parking impacts in the locality. An assessment of key transport issues is provided below.

### ***Parking demand***

58. No additional car parking is proposed, which is in keeping with the provisions in Section 3.11.4 of the SDCP 2012 and Part 7.3 of the SLEP 2012 relating to vehicle parking. Overall, the provisions of the DCP seek to encourage walking, cycling public transport and car sharing as opposed to private vehicle use.
59. The marina currently contains 12 car parking spaces for use by marine operators and maintenance contractors. The Jones Bay Wharf public car park is located on the western side of Pirrama Road and contains public parking spaces for 220 vehicles.
60. The existing nearby car park has been assessed as being able to accommodate any additional car parking demand from the proposal.
61. The site benefits from good access to public transport and provides adequate bicycle parking (see discussion below). Therefore, the City supports the proposal having regard to parking and traffic impacts.

### ***Bicycle parking***

62. Section 3.11.3 of the SDCP 2012 states that all development is to provide on-site bike parking designed in accordance with the relevant Australian Standards.
63. The amended plans show the location of existing and proposed bicycle parking across the site. There are currently 44 bicycle racks along the existing wharf at various locations. The proposal includes 25 new bicycle parking spaces distributed along the marina pontoons. In addition, one of the ancillary floating structures will be an amenities block, which will provide end of trip facilities for marina users.

64. The City's Transport and Access unit support the proposed bicycle parking spaces. Conditions of consent are recommended to ensure these spaces are designed appropriately. A condition of consent is also recommended that requires a Workplace Travel Plan to be prepared prior to the issue of a Construction Certificate to encourage workers to utilise nearby active transport modes.

#### Hours of operation

65. The EIS states that no changes are sought to the existing hours of operation approved as part of MP09\_0205. The approved hours of operation are 7.00am to 12.00 midnight.
66. However, the revised Plan of Management includes the following breakdown of the proposed hours of operation for the marina.

Activity	Hours of operation
1. General hours of operation, including the delivery of materials and supplies to and from the site	7.00am to 12.00 midnight, Mondays to Sundays
2. Marina office hours	8.00am to 5.00pm, Mondays to Sundays
3. Use of power tools such as grinders and sanders (only for minor repairs)	8.00am to 5.00pm Mondays to Fridays 8.00am to 12.00 midday on Saturdays No work on Sundays
4. Vessels accessing marina berths	24 hours, Mondays to Sundays

67. The applicant has requested that the above breakdown of hours be referenced within the development consent for clarity for marina users and community members.
68. The general hours of operation being 7.00am to 12.00 midnight are consistent with the current hours of operation approved under MP09\_0205 and are supported.
69. However, concern is raised regarding Activity 4 in the table above. It is noted that the following conditions of consent have been imposed for previous applications for use of the marina:
- **DA 358-10-2002** dated 16 September 2003 included a condition of consent stating that 'all maritime operations shall cease between 12 midnight and 7.00am.'
  - **MP09\_0205** dated 30 September 2011 included a condition of consent stating that 'the hours of operation, including the delivery of materials and supplies to and from the marina site, shall be restricted to between 7.00am and 12.00 midnight Mondays to Sundays inclusive.' The consent did not include a condition allowing vessels to access marina berths 24/7.

70. Given the assessment is for alterations and additions to the existing marina, it is considered appropriate for the use of the marina, including hours of operation, to continue as per the previous consents for that use. Further, 24/7 vessel activity has not been directly considered in the EIS. Therefore, it is recommended that the hours of operation for marina operations be limited to 7.00am to 12.00 midnight for consistency. To this effect, it is also recommended that the Plan of Management be updated to reflect this requirement.

### **Acoustic impacts**

71. A Noise and Vibration Impact Assessment was submitted with the EIS to assess the acoustic impacts of the proposed marina modifications.
72. The report identifies the key residential receivers as being apartment buildings located to the east of the site at Darling Island.
73. The report outlines operational noise criteria and assesses the predicted operational noise levels against these criteria. The operational noise levels from the proposed development during the day and evening are expected to comply with the criteria. During the night time, the exceedance of the criteria is considered to be negligible as the noise levels are similar to the ambient noise levels during the night.
74. Construction noise levels were also assessed. The predicted construction noise levels on the eastern side of the wharf exceed the criteria and therefore mitigation measures are proposed.
75. The Noise and Vibration Assessment has been reviewed by the City's Environmental Health unit who advised that the report is acceptable and that the proposed development would have acceptable acoustic impacts, subject to conditions of consent.
76. Conditions of consent are recommended to manage acoustic impacts, including conditions to:
- (a) comply with relevant NSW EPA noise criteria;
  - (b) limit the hours of operation to between 7.00am to 12.00 midnight;
  - (c) prohibit music or speakers outdoors; and
  - (d) comply with all of the recommendations in the Construction Environmental Management Plan.
  - (e) prohibit the embarking and disembarking of passengers.
77. Subject to conditions of consent, Council's Environmental Health unit are satisfied that the proposal would not result in unacceptable acoustic impacts to surrounding properties.

### **Visual impacts**

78. A number of submissions were received that raised concern about the visual impacts of the proposal. This includes concern relating to impacts to vantage points within the public domain as well as impacts to residential apartments located at Darling Island, to the east of the site.

- 79. A Visual Impact Assessment (VIA) prepared by APRL was submitted with the application. An assessment of the findings in the VIA is outlined below.

**Impacts to the public domain**

- 80. The VIA identifies 15 possibly sensitive public domain locations in the vicinity of the site (Figure 19 below). Of these, 10 were identified as warranting further evaluation and the preparation of photomontages.



**Figure 19:** Map of potentially sensitive public domain view locations, of which 10 are identified as requiring further assessment (Visual Impact Assessment, April 2022)

- 81. The VIA provides an assessment of visual impacts from 10 of the public domain locations identified in Figure 19 above. The VIA finds that the proposal is visible primarily from the east and west where there are areas of land-based public open space and walkways.
- 82. Having regard to these impacts, the VIA concludes that there will be marginal change to the views to the site as a result of the proposed development. There is minimal impact in terms of visibility from the east and west to the wharf structure itself as the existing vessel arrangement already obscures its side elevations and the new arrangement will not evidently increase its current effect. Examples of comparison photomontages provided in the VIA are provided below.





**Figure 20:** Before photo at Location 5 - Darling Island Walkway (south)



**Figure 21:** After photo at Location 5 - Darling Island Walkway (south)



**Figure 22:** Before photo at Location 1 - Wilkinson Park



**Figure 23:** After photo at Location 1 - Wilkinson Park

83. In summary, while the proposal would result in additional vessels being visible, the proposal is not likely to result in significant impact to views from the public domain to the site. Having regard to the above, the proposal is considered acceptable having regard to view impacts to the public domain.

***Impacts to private properties***

84. Submissions were received raising concern about adverse visual impacts to private residences, particularly located at Darling Island.

85. As outlined above, the submitted VIA considers the impact of the proposal from various public domain locations and provides an assessment of impacts to 10 sensitive locations in the public domain. This includes Locations 5 and 6 which are located directly in front of the apartment buildings at Darling Island.
86. Locations 5 and 6 within the public domain were assessed in the VIA as having a low to medium impact. The applicant's Response to Submission (RtS) report also notes that the VIA considers a conservative, worst-case scenario of views from Darling Island compared to the apartments, which are setback further from the site and are elevated above the public domain, resulting in the assessed locations being lower and closer in perspective to the site. The RtS submits that while additional vessels will be visible from nearby residences, these are viewed against the backdrop of the existing wharf and the perpendicular arrangement of the berths will allow views through to the wharf and its walkway in a similar manner to that provided on the western side.
87. The VIA concludes that given the assessed locations in the public domain are all closer and lower in perspective to the outlook from surrounding residential locations, it is unlikely that the view impact on any nearby dwellings within the visual catchment would exceed that already assessed in the VIA.

## Consultation

### Internal Referrals

88. The application was discussed with the following Council units:

Council unit	Comments
Heritage	The proposed marina expansion is considered to have an acceptable heritage impact, subject to conditions. See details in the 'Discussion' section above.
Environmental Health - Noise	The Noise and Vibration Management Plan is considered to be acceptable. The operational noise levels are expected to comply with the required criteria and any exceedances would be negligible given noise levels are similar to the ambient noise levels.  Conditions preventing music and speakers, limiting the hours of operation and specifying noise criteria are recommended.
Environmental Health - Contamination	The proposal is acceptable having regard to contamination, subject to conditions of consent.
Transport and Access	The proposal is supported on transport planning grounds, subject to conditions of consent. See details in the 'Discussion' section above.
Waste Management	The reconfiguration of the existing berths and floating pontoons to increase the number of moorings for vessels

Council unit	Comments
	<p>is not likely to significantly increase the waste generated from the marina compared to the existing conditions.</p> <p>The construction of the ancillary structures will also be unlikely to significantly impact the existing waste management facilities.</p> <p>The existing waste management storage areas and facilities of the marina are sufficient in size and capacity to accommodate the waste generated from the proposal.</p> <p>Standard conditions relating to waste management are included in Attachment A.</p>
Ecology	The proposal is acceptable having regard to impacts on local ecology.

## External Referrals

### Department of Planning and Environment - Water

89. Pursuant to Section 91 of the Water Management Act 2000, the application was referred to the Department of Planning and Environment - Water for concurrence as the development involves works that are located within 40m of 'waterfront land'.
90. The Department of Planning and Environment - Water responded to the request on 4 October 2022 and advised that the proposed works are exempt from the need to obtain a controlled activity approval, under Schedule 4, 36 of the Act.

### Department of Primary Industries (Fisheries)

91. The application is classified as Integrated Development under Section 205 of the Fisheries Management Act 1994, requiring concurrence from the Department of Primary Industries (Fisheries).
92. DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend.
93. DPI Fisheries reviewed the proposal and raised no objections, subject to compliance with the provided General Terms of Approval (GTAs). These are included in the recommended conditions of consent.

### Transport for NSW

94. The application was referred to Transport for NSW (TfNSW). TfNSW responded on 22 June 2022 raising no objection to the proposed development, as it is not expected to impact the classified road network.
95. TfNSW recommended forwarding the application to Maritime Planning for review. Advice was subsequently sought from Maritime Planning, however no response was received.

**Port Authority of NSW**

96. A request for advice was sent to the Port Authority of NSW under Section 38 of the EP&A Regulation 2021.
97. The Port Authority of NSW raised no objections to the proposed development and provided conditions of consent, which are included in the recommended conditions at Attachment A.

**Department of Planning and Environment - Biodiversity, Conservation and Science**

98. Advice from the Department of Planning and Environment - Biodiversity, Conservation and Science was requested pursuant to Clause 10.28 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 10. No comments were received.

**Advertising and Notification**

99. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 2 June 2022 and 1 July 2022. A total of 587 properties were notified and 42 submissions were received. Of these submissions, 24 were in objection to the proposal and 18 were in support.
100. The submissions raised the following issues:

Issue	Response
<b>Acoustic impacts</b>	
Noise from the increased number of boats and impacts to Darling Island residents	<p>The Noise and Vibration Management Plan found that the proposal would have minor operational acoustic impacts and no mitigation measures are required.</p> <p>Environmental Health unit advised that the NVMP is acceptable. Conditions of consent relating to noise are recommended.</p> <p>See further details in the 'Discussion' section.</p>
Noise impacts from use of the boats (party boats, loud music, embarkation and disembarkation of passengers, etc)	<p>Overall, the Noise and Vibration Management Plan adequately addresses noise impacts. This is discussed further under the 'Discussion' section.</p> <p>However, the City concurs with the concern raised regarding the embarkation and disembarkation of passengers.</p> <p>The revised Plan of Management states that owners may embark family members and invited guests at the Marina, providing it is done with minimal noise. The City is concerned that this is a departure from the existing operation of the marina, which is currently</p>

	<p>subject to conditions of consent that prohibit the embarkation/ disembarkation of passengers and patrons from commercial vessels.</p> <p>As this DA seeks consent for alterations and additions and does not propose changes to the use/ operation of the marina, it is not considered appropriate to permit embarkation/ disembarkation of passengers, even if they are family members or invited guests. The difference between passengers that are family members/ invited guests verses commercial passengers is not clearly distinguished to allow certainty of acoustic outcomes.</p> <p>Given the above, a condition is recommended requiring the Plan of Management to remove this statement.</p>
<b>Visual impacts</b>	
View impacts from the public domain	<p>The Visual Impact Assessment (VIA) considers view impacts from the public domain, including a number of vantage points at Darling Island in front of the apartment buildings.</p> <p>The VIA demonstrates that while additional vessels will be visible, the proposal would not result in significant adverse view impacts compared to the existing marina arrangement and would not significantly obscure views to the existing wharf.</p> <p>See 'Discussion' section for further details.</p>
View impacts from private residences at Darling Island	<p>Given the VIA considers the most impacted locations within the public domain, it was concluded that view impacts to nearby dwellings would not exceed the impacts assessed for the public domain.</p> <p>See 'Discussion' section for further details.</p>
Impacts to the amount of water visible from the public domain and Darling Island	<p>The impacts to the amount of water visible from Darling Island are limited to the new eastern berths, where parallel berths are changed to perpendicular berths. Overall, the new marina space covers 1,678sqm which represents 4 per cent of the Jones Bay waterway.</p> <p>On balance, the impacts to the amount of water visible are considered to be reasonable.</p> <p>Further assessment of the view impacts is contained in the 'Discussion' section.</p>

<p>The floating structures will block views from the foreshore walkway</p>	<p>Additional drawings have been submitted to demonstrate the interface between the proposed ancillary structures and the existing wharf.</p> <p>These structures are designed to float and will therefore not block views of pedestrians using the walkway.</p> <p>As a worst-case scenario during a king high tide (1-2 times per year), the roof level would be a maximum of 500mm above the wharf deck, which would still permit views above the structure.</p> <p>Sections at high tide and low tide are provided at Figure 17 and 18 of this report.</p>
<p>The VIA incorrectly describes public domain locations eg. Darling Island walkway is described as being infrequently used.</p>	<p>The RtS clarifies that Location 6 at Darling Island Walkway was visited during lunch time mid week on 29 October 2021 for the purposes of the VIA.</p> <p>The VIA found that there is only a minor change to the existing view to the water and the foreshore at this location.</p>
<p><b>Traffic and parking</b></p>	
<p>Increased demand for parking on the wharf</p>	<p>No additional car parking is proposed on the wharf. The submitted Traffic and Transport Assessment concludes that any increased demand in parking (estimated as being up to 10 vehicles) can be readily accommodated in existing car parking.</p> <p>See further details in the 'Discussion' section above.</p>
<p>Increase in traffic generation in the locality</p>	<p>The Traffic and Transport Assessment concludes that the proposal will result in minimal increase in traffic generation. Utilisation of active transport options will be encouraged via a Workplace Travel Plan to be prepared prior to the issue of a Construction Certificate.</p>
<p>The parking survey only includes weekday hours and not weekends or evenings</p>	<p>The marina contains commercial vessels and therefore the parking survey has only assessed weekdays as this is the peak parking demand time due to workers accessing the wharf.</p>
<p><b>Heritage impacts</b></p>	<p>The proposal has been assessed by Council's Heritage Specialist as being acceptable from a heritage perspective. Refer to the 'Discussion' section above.</p>

<b>Privacy impacts</b>	
The increased number of people using the boats/ marina will result in visual privacy impacts to nearby residences	<p>The increase of 9 additional berths in this location is unlikely to result in unacceptable adverse visual privacy impacts compared to the operation of the existing marina. The berths are located approximately 60m from the apartments at Darling Island.</p> <p>Further, the RtS submits that the proposed reorientation of the vessels would typically improve privacy as the main outdoor living areas of boats are generally located towards the stern which will face the wharf and windows will now be oriented away from the dwellings. Notwithstanding, people will not be permitted to live on vessels at this marina and this is reinforced by condition of consent.</p>
<b>Odour and air pollution</b>	
The pump-out facility will create odour issues	<p>The pump-out facility is an existing part of the wharf.</p> <p>An Air Quality Impact Assessment was submitted that concluded that the proposal is not likely to adversely impact surrounding sensitive receivers.</p>
The proposal will worsen air pollution.	<p>As noted above, the Air Quality Impact Assessment concludes that the proposal is not likely to adversely impact surrounding sensitive receivers. The construction works would have negligible risk of dust soiling and human health impacts.</p>
<b>Light spill</b>	<p>The Plan of Management includes measures to control light spill. All lighting will be required to comply with relevant Australian Standards.</p>
<b>Boat traffic</b>	
Boat navigation means the boats will come too close to residences	<p>A Marine Safety and Navigation Assessment was submitted with the EIS. This concludes that there is sufficient spacing for boats to manoeuvre within the waterway and the widths are compliant. There will be sufficient space in front of vessels when berthed and the path of travel will remain similar to existing.</p>
Increase in boat traffic	<p>The existing marina has approximately six boat movements per day during the week and approximately eight on Friday/ Saturday evenings. It is estimated that the proposal would result in two or three additional movements. This increase would have minimal impact on boat traffic in the area.</p>



<b>Hours of operation</b>	
Inconsistency in the Plan of Management regarding hours of operation	A condition of consent is recommended that clearly outlines the approved hours of operation, which is consistent with previous consents for the use of the marina.
<b>Need for the proposal</b>	
There is not sufficient demand for additional berths	<p>The NSW Sydney Boat Storage Policy 2013 and the Regional Boating Plan – Sydney Harbour Region 2015 have identified a significant demand for boat storage in Sydney Harbour and a shortfall of berths for large vessels.</p> <p>The City is satisfied with the applicant's justification for the demand for additional berths in line with government policy.</p>
The proposal includes private and commercial vessels	The marina will continue to operate as a commercial marina. No changes to the type of vessel moored at the marina are proposed.
<b>Plan of Management</b>	
<p>Submissions received from residential buildings at Darling Island raised concern about noise impacts from the proposed development. In light of this, these submissions requested the following changes to the Plan of Management.</p>	
Embarkation and disembarkation of passengers should apply to all vessels.	<p>The applicant's revised Plan of Management seeks to allow owners to embark family members and invited guests at the Marina, provided it is done with minimal noise.</p> <p>Council does not support this inclusion in the Plan of Management as the existing conditions of consent applying to the marina prohibit any embarkation or disembarkation of passengers.</p> <p>A condition of consent is recommended that continues to prohibit the embarkation and disembarkation of passengers.</p>
The word 'loud' should be deleted from point 3 of section 1.6 so that it reads 'no group congregations, music or parties'.	Conditions of consent are recommended to manage noise impacts from the use of the marina. This includes a condition that prohibits speakers or music outside and a condition that requires noise to be kept within NSW EPA noise requirements.

<p>Garbage removal should state that garbage will only be removed from the garbage room within the hours of operation (8.00am to 5.00pm).</p>	<p>The RtS states that the waste management for the marina is combined with the collection times and waste facilities of the overall wharf.</p> <p>The marina produces a small proportion of waste generated within the wharf. Subject to conditions of consent, Council's Waste Management Unit are supportive of the proposed waste management process.</p>
<p>The PoM should require termination of lease for any marina user who fails to comply with the second warning.</p>	<p>The PoM states that marina users who do not comply with the second warning may be asked to leave the marina. The RtS states that this is appropriate as it provides for various actions commensurate with the type of offense incurred.</p> <p>This is considered to be a reasonable action.</p>
<p>Section 5.8 should be updated to prohibit radios, music and PA systems while on the marina.</p>	<p>The PoM states that music must be controlled to not create an offensive noise.</p> <p>Council's Environmental Health Unit recommend a condition of consent prohibiting outdoor music/speakers. The Plan of Management will be required to be updated to reflect this.</p>
<p>Requirements in the existing Plan of Management should be included in the revised Plan of Management.</p>	<p>The Plan of Management has been updated to include the recommended additions.</p>
<p><b>Conditions of consent</b></p> <p>Submissions received from residential buildings at Darling Island included recommended conditions of consent.</p>	
<p>Include a requirement for the keeping of a register of all breaches and complaints. The register should be available for inspection by any neighbouring apartment.</p>	<p>A condition of consent is recommended that requires a complaints register to be made available by Council upon request. However, it is outside the scope of Council's authority to require this to be made available for inspection by any neighbouring apartment. This can be done with the agreement of the proponent.</p>
<p>Require the Marina Owner to provide a written report annually to neighbouring buildings as to all breaches of Marina rules and all complaints and actions taken.</p>	<p>This request falls outside the scope of what Council can reasonably request a proponent to do, having regard to the planning controls and planning principles for conditions of consent.</p>

Current condition F12 should be amended to require an onsite staff member to be based at the marina office on the eastern arm of the marina from 8am to 5pm, Mondays to Sundays.	The operational management as proposed is considered acceptable by Council. Having regard to the planning controls, an assessment of noise impacts, the submitted Plan of Management and recommended conditions of consent, Council considers these to satisfactory address the management of the marina and noise impacts.
The marina owner should be responsible for additional maintenance which arises to air conditioning systems due to the construction works.	A condition of consent is recommended requiring compliance with the Construction Environmental Management Plan, to ensure construction impacts are managed appropriately. Council cannot enforce liability for maintenance via conditions of consent beyond requiring compliance with the CEMP.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

101. The development is not subject to a Section 7.11 development contribution as it does not comprise additional gross floor area on land subject to the City of Sydney Development Contributions Plan 2015.

### Relevant Legislation

102. Environmental Planning and Assessment Act 1979.  
 103. Water Management Act 2000.  
 104. Biodiversity Conservation Act 2016  
 105. Fisheries Management Act 1994

### Conclusion

106. Approval is sought for alterations and additions to the existing Jones Bay Wharf Marina, resulting in an additional nine berths (from 31 to 40 vessels).
107. The proposal complies with the objectives of the B3 - Commercial Core zone under the Sydney Local Environmental Plan 2012 and Zone 1 - Maritime Waters under the State Environmental Planning Policy (Biodiversity and Conservation) 2021.
108. The development complies with the planning controls that apply to the site. The development is in accordance with the requirements of the Sydney Development Control Plan 2012 and the Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005 and responds appropriately to heritage items on the site and in the vicinity.

109. The development will provide a more efficient use of the existing Jones Bay Wharf Marina and will enhance the site's role as a commercial marina within a working harbour.
110. Environmental impacts such as noise, visual impacts and privacy have been adequately addressed in the proposal and can be managed through conditions of consent.
111. A total of 42 submissions were received. Issues raised in the submissions have been addressed in the report.
112. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls and is recommended for approval, subject to conditions.

**ANDREW THOMAS**

Executive Manager Planning and Development

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