

## PART C: STATE SIGNIFICANT SITE PROPOSAL

### 17.0 The State Significance of East Darling Harbour

#### 17.1 Introduction

The identification of State significant sites under SEPP (Major Projects) 2005 aims to facilitate development, redevelopment or protection of important urban coastal and regional sites of economic, environmental or social significance to the State.

The State significant site provisions are used to deliver the State's planning objectives on major sites important in the implementation of the Metropolitan Strategy and other regional strategies, and to facilitate major investment in economic and employment generating development in NSW and the redevelopment of major State Government sites.

The Minister, in determining whether a site is of State significance, will consider whether the site meets one or more of the criteria described in the *Draft Guideline State Significant Sites* (24 July 2005), namely whether:

- (a) The site is in an identified strategic location (in a State or regional Strategy), is important to a particular industry sector, or employment, infrastructure, service delivery or redevelopment significance in achieving government policy objectives; or
- (b) The site is important for environmental conservation or natural resources; or
- (c) The site is important in terms of amenity, cultural, heritage, or historical significance in achieving State or regional objectives; or
- (d) The site needs alternative planning or consent arrangements where added transparency is required because of potential conflicting interests or more than one local council is likely to be affected.

## 17.2 Planning Study

The Minister has initiated the preparation of a Study to justify nomination of EDH as a State significant site under SEPP (Major Projects) 2005.

The Director General of the Department of Planning has required that the Planning Study address:

- The state or regional significance of the site with respect to the criteria at Clause 8(2) of SEPP (Major Projects) 2005 and the criteria contained within the Draft Guidelines State significant sites dated 24 July 2005.
- The suitability of the site for the proposed use taking into consideration environmental, social and economic factors, the principles of ecologically sustainable development and any applicable State or regional planning strategy.
- The implications of any proposed land use for local and regional land use, infrastructure, services delivery and natural resource planning.
- Appropriate development controls for EDH, including future zoning and permissible land uses that are preferably consistent with Standard Instrument (Local Environmental Plans) Order 2006, or Council's existing planning instruments.
- The need for concurrent amendments to other state environmental planning policies.
- Any consultation with the Council of The City of Sydney, other relevant agencies, and the community.

This Part provides a summary statement addressing the positioning of EDH as a site of significance to the State and region having regard to its national and international economic, community and environmental context, and the principles for urban renewal identified in Part A.

The summary statement of significance addresses the relevant criteria to support the nomination of EDH on Schedule 3 of SEPP (Major Projects) 2005.

This Part also identifies the statutory development controls proposed to be applied to the site, and the relationship of the site to other Environmental Planning Instruments (EPIs) and planning controls.

In accordance with the requirements of the Director General, the:

- Suitability of the site for the land uses proposed; and
- Implications of the proposed land use for local and regional land use, infrastructure, services delivery and natural resource planning,

are addressed at Part D of this Report.

Consultation with the Council of The City of Sydney, other relevant agencies and the community is addressed at **Part A** Section 5 and **Part B** Section 16.0 and summarised at **Appendix G**.

## 17.3 Summary Statement of Significance

The EDH site is a 22 hectare waterfront site on the western edge of the CBD, with potential for large scale renewal to create a new commercial, residential and recreational precinct.

The redevelopment of EDH will enhance the growth and positioning of Sydney as the premier cultural and living centre of the Asia –Pacific region. The site is of regional and State importance due to its strategic location, its ability to deliver significant public outcomes in the form of public open space, infrastructure and public domain improvements, its contribution to the economic growth of Global Sydney and its importance in achieving State Government objectives with respect to commerce, employment and housing.

With a limited number of sites remaining in the core of the CBD capable of delivering large scale commercial and residential floor space, together with opportunities for large-scale recreation and significant infrastructure improvements, the redevelopment of EDH has the potential to be a significant driver in the growth and success of Sydney in the Global market.

While Australia's recent economic success has ostensibly been secured through commodity and resource exports the last generation of development has been driven by the Advanced Business Service clusters in our major cities – Melbourne and Sydney in particular. These Advanced Business Services – management services, legal, marketing, design, advertising and engineering activities - are at the forefront of 'high end' value creation. They depend on innovation and knowledge creation. Sydney, and the CBD in particular, as Australia's dominant centre for these services, will remain at the forefront of the country's economic performance. In this context, EDH, as an extension of the CBD, has a central role in the country's economic future.

The impending relocation of the existing merchant port facilities away from EDH also provides a unique opportunity to return a substantial part of Sydney's foreshore to the community.

Consistent with criteria (a) of the *Draft Guideline State Significant Sites*, the EDH site is identified as a strategic location and a site of importance in terms of achieving government policy objectives. It is:

- Part of the "Global Sydney" Strategic centre in the City's Metropolitan Strategy *City of Cities, A Plan for Sydney's Future, 2005*;
- A "Strategic Foreshore site" under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SREP Sydney Harbour Catchment 2005), being a site considered to be "strategically significant in terms of its prominent location, size and / or potential for redevelopment"; and
- A Major Project subject to Part 3A of the EP&A Act under Schedule 2 of SEPP (Major Projects) 2005.

The EDH site is of significance to the State and region on the basis of its;

- Metropolitan strategic context and role in the implementation of The Metropolitan Strategy for Sydney.
- Role in hosting jobs and development.
- Strategic economic context, including its premium location for the attraction of new investment in Sydney, and potential to strengthen the global competitiveness of Sydney's existing business community.
- Locational and functional relationship to the Sydney CBD for the development of a new high value economic cluster.

- Positioning as Australia's global and business services capital.
- Strategic location between the Sydney CBD and Sydney Harbour and potential to integrate with the City socially, physically and visually.
- Ability to deliver significant public outcomes to the State and region.
- Contribution to the State Government's commitment to the continued 'working harbour' of Sydney.

Specifically, the renewal of EDH has the potential to:

- Contribute to employment targets and economic growth for the region and NSW as envisaged in the Metropolitan Strategy by increasing the long term supply of commercial floor space in the CBD.
- Contribute to the housing supply for the City and assist in meeting the demand for housing within this Global City by increasing the long term supply of residential floor space within strategic centres.
- Provide new and enhanced opportunities for access to public open space in a strategic location that can provide both passive and active recreation and assist State Government in achieving the right balance between working and living in centres.
- Provide the opportunity to link the waterfront walkway from Woolloomooloo to the ANZAC Bridge.
- Accommodate a redeveloped cruise passenger terminal to consolidate the status of Sydney as the preferred turnaround port in Australia.
- Re-establish connections – physical, transport, working, cultural – linking the City and harbour that have been severed by the isolation of the site for a single exclusive use.
- Restore the western foreshore of Sydney and create a productive and active waterfront that provides for a broad range of recreation experiences – active and passive, indoor and outdoor, cultural and physical.
- Ensure the sustainability of one of Australia's most important historic precincts Millers Point, by providing living and working opportunities.

EDH is of state significance due to the potential significant public benefits that will result from its redevelopment.

The site is unique in that – due to its scale and position – its renewal can leverage the wider economic development of Sydney in both commercial/finance and tourism/lifestyle markets. No other site in Sydney is so positioned to act as a nexus between the city's economic, natural and tourism strengths.

EDH can continue to have an economic role and can also develop a cultural role for Sydney. A new commercial life as a bustling, peopled waterfront will revive and continue the area's history as the trade gateway of Sydney, adapting it to the 21st century. A substantial new waterfront parkland for Sydney Harbour can reinforce the environmental and recreational strengths of the State capital.

By freeing up the transport corridor of Hickson Road/Sussex Street from freight use and creating new passenger demand, the project can act as an impetus for wider transport initiatives for Sydney, opening up possibilities in terms of both light and heavy rail and increased ferry usage.

The site has been State owned and controlled for over a century, helping to preserve its integrity. As a site of regional and State impact it requires a “State-wide” view to ensure that its renewal is managed to an outcome that benefits New South Wales. The defining parks and landmarks of our harbour are created, conserved and managed by the State Government, including The Rocks, Darling Harbour, the Opera House and the Royal Botanic Gardens. EDH has the potential to be an addition to that legacy.

The existing land use zoning of the EDH site is incompatible with its urban renewal. Alternative planning arrangements are therefore required to facilitate the redevelopment of the site.

It is imperative that the renewal of the site can be executed in a staged and coordinated manner with respect to:

- Resourcing and financing.
- Market up take and desires and trends in commercial place making.
- Public expectation regarding provision of new open space and infrastructure.
- The importance of sensitive change management in terms of transforming the site.
- The land uses required to engender a new living and working culture in the precinct.
- Prohibition of freehold sale of the site, requiring that commercial development will be subject to long term leases – not exceeding 99 years – with land ownership retained by the State Government.

## 18.0 SEPP (Major Projects) 2005 Amendment Proposal

### 18.1 Introduction

The proposed listing of EDH as a State Significant Site within Schedule 3 of SEPP (Major Projects) 2005 will establish a new planning regime for the site.

The new planning regime for EDH will rezone the land from part Maritime and Transport Zone and part Residential Zone under Sydney Local Environmental Plan 2005 (SLEP 2005) to part RE1 Public Recreation Zone and part B4 Mixed Use Zone in accordance with the provisions of *Standard Instrument (Local Environmental Plans) Order 2006* (the Standard LEP Template).

The following sections identify the new land use zoning and planning provisions that are proposed to be established via the amendment to Schedule 3 of SEPP (Major Projects) 2005. The SEPP amendment will be prepared by the Department of Planning prior to the Minister's approval of the Concept Plan.

No amendments to other existing environmental planning instruments are proposed or required at this stage.

### 18.2 Existing Land Use Zoning

The existing planning framework for the assessment of development proposals on the EDH site is provided by Sydney Local Environmental Plan 2005 (SLEP 2005).

The SLEP 2005 zoning map is shown at **Figure 1.6** at Section 1.2 of **Part A** of this Report. The majority of the land based component of EDH is zoned "Maritime and Transport", with a small area zoned "Residential". The water way immediately adjacent to the site is zoned "Maritime Waters" under SREP (Sydney Harbour Catchment) 2005. Land to the north – east of the site is zoned under the Sydney Cove Redevelopment Area Scheme .

The land use zoning and other key relevant provisions that currently apply to the EDH site under SLEP 2005 are set out in **Table 1** at **Appendix H**.

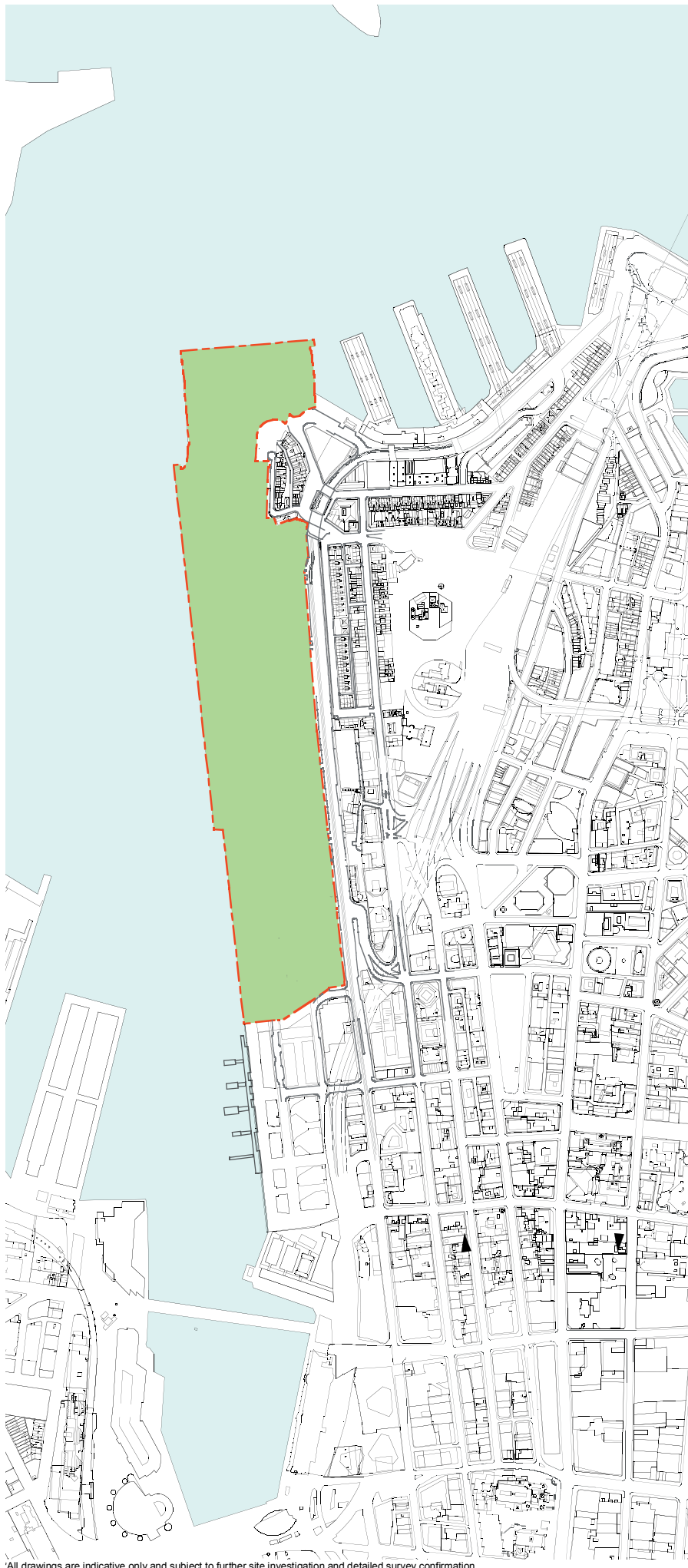
The Maritime and Transport Zone and the Residential Zone under SLEP 2005 do not currently allow for the redevelopment of the EDH site in the manner proposed.

The proposed inclusion of EDH as a State significant site within Schedule 3 of the Major Projects SEPP will effect the required change to the range of permissible and prohibited uses to enable the intended redevelopment of the site.

### 18.3 Land to which SEPP Amendment Applies

The proposed SEPP amendment will apply to all development on land identified on **Figure 18.1** below.

**Figure 18.1 – Land to which proposed SEPP amendment applies**



All drawings are indicative only and subject to further site investigation and detailed survey confirmation.

## 18.4 Proposed Land Use Zones

It is proposed to rezone the EDH site to part RE1 Public Recreation Zone and part B4 Mixed Use Zone in accordance with the Standard LEP Template provisions.

The proposed land use zones are shown on **Figure 18.2**.

**Table 4** below details the proposed:

- Zone objectives; and
- Land uses to be permitted with development consent, and to be prohibited in each zone.

In accordance with the provisions of Part 2 of the Standard LEP Template, it is proposed to:

- Add to the standard mandatory objectives for the RE1 Public Recreation Zone a number of tailored objectives that reflect the significance, and intended function and character of the future open space areas of the EDH site, as well as the contribution that the open space areas of the site are to make towards the achievement of the overall planning objectives for the site.
- Identify non-desireable land uses as prohibited development in the B4 Mixed Use Zone and to render all other land uses as permissible with consent. This approach is intended to provide the greatest degree of flexibility in terms of the land uses and development that will be permitted in the Mixed Use Zone.
- Broaden the standard mandatory list of development that is permitted with consent in the RE1 Public Recreation Zone in order to facilitate the objectives of that zone.



Figure 18.2 – Proposed land use zoning



All drawings are indicative only and subject to further site investigation and detailed survey confirmation.

**Table 4** – Development within the RE1 Public Recreation Zone and B4 Mixed Use Zones

Zone	Zone objectives	(1) Permitted without consent	(2) Permitted with consent <sup>1</sup>	(3) Prohibited
<b>RE1 Public Recreation</b>	<ul style="list-style-type: none"> <li>To enable land to be used for public open space or recreational purposes.</li> <li>To provide a range of recreational settings and activities and compatible land uses.</li> <li>To protect and enhance the natural environment for recreational purposes.</li> <li>To allow land to be used for the provision of integrated water cycle management, energy and other services infrastructure associated with development in the B4 Mixed Use Zone where it can be demonstrated that the use of progressive technology will deliver an environmental benefit, and that the primary use of the land for public open space or recreational purposes will not be detracted from</li> <li>To allow land beneath the finished surface of the public domain to be used for car parking associated with development in the B4 Mixed Use Zone where it can be demonstrated that such use will not detract from the primary use of the land for public open space or recreational purposes</li> <li>To allow for the public domain to be activated by a variety of compatible land uses in a manner that contributes positively to, and does not dominate, the primary use of the land for public open space or recreational purposes</li> <li>To allow land to be used in conjunction with the transportation of passengers by water, including the provision of car parking and infrastructure associated with that development</li> <li>To facilitate the continued operation of port safety and control operations required to support the carrying of goods or persons by water</li> </ul>		Advertisements, advertising structures, business identification signs, car parks, charter and tourism boating facilities, commercial port facilities, community facilities, drainage, earthworks, electricity generating works, entertainment facilities, <b>environmental facilities, environmental protection works</b> , excavation, filling, filming, food and drink premises, flood mitigation works, function centres, information and education facilities, below ground car parking, integrated water cycle management, energy and other services infrastructure associated with development in the adjoining B4 Mixed Use Zone; jetties, <b>kiosks</b> , markets, moorings, passenger transport facilities, port services facilities, public entertainment, public halls, public utility undertakings, rainwater tanks, <b>recreation area</b> ; recreation facilities (indoor), recreation facilities (major), recreation facilities (outdoor), <b>roads</b> , sewage treatment works, signage, subdivision, telecommunications facilities, telecommunications networks, temporary structures, transport depots, utility installations waste management facilities, water recreation structures, waterbodies,	Any other development not specified in items (1) and (2)
<b>B4 Mixed Use</b>	<ul style="list-style-type: none"> <li>To provide a mixture of compatible land uses;</li> <li>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> </ul>		<b>Boarding houses; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel accommodation; information and education facilities; multi dwelling housing; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; residential flat buildings; retail premises; seniors housing;</b> and any other development not specified in Item (3) (Prohibited).	Agricultural produce industries; agriculture; airports; airstrips; animal boarding or training establishments; aquaculture; bulky goods premises; canal estate development; caravan parks; cemeteries; correctional centres; crematorium; dairies; extensive agriculture; extractive industries; farm buildings; feedlots, hazardous industries; hazardous storage establishments; heavy industries; industries; intensive livestock agriculture; liquid fuel depots; livestock processing industries; materials recycling or recovery centres; mines; moveable dwellings; offensive industries; offensive storage establishments; restricted dairies; restricted premises; rural industries; rural worker's dwellings; sawmill or log processing works; sex services premises; timber and building supplies; truck depots; turf farming; warehouse or distribution centres; waste disposal landfill operations.

<sup>1</sup> Note: the land uses highlighted in bold in the following table are those identified under the Standard LEP Template as mandatory permissible land uses for inclusion in the relevant zones.

## 18.5 Development provisions

### 8.5.1 Maximum gross floor area and building height development standards

It is proposed to establish the following development standards:

#### B4 Mixed Use Zone

1. A total maximum GFA development standard of 388,300 m<sup>2</sup> within the B4 Mixed Use zone comprising:
  - A maximum of 100,000 m<sup>2</sup> (or 25%) and a minimum of 60,000 m<sup>2</sup> (or 15%) GFA for residential uses;
  - A minimum of 30,800 m<sup>2</sup> GFA for tourist uses;
  - A maximum of 39,000 GFA for retail uses; and
  - A minimum of 2,000 m<sup>2</sup> GFA for community uses.
2. Maximum GFA and building height development standards for future development blocks within the B4 Mixed Use Zone as shown at **Figure 18.3**. The maximum building height expressed as an RL prevails over the maximum building height expressed in metres above existing ground level where there is any inconsistency in the height control. The boundaries of the development blocks identified on **Figure 18.3** are subject to survey and confirmation.

#### RE1 Public Recreation Zone

3. A maximum of 8,500 m<sup>2</sup> GFA for the passenger ship terminal i.e. commercial port facility uses / port services facility uses within the RE1 Public Recreation Zone (excluding the Sydney Ports Corporation Harbour Tower Control Operations and Harbour Safety Operations).
4. A maximum of 3,000 m<sup>2</sup> GFA for other permissible land uses within the RE1 Public Recreation Zone, excluding any commercial port facility / port service facility uses (i.e. the passenger ship terminal, Sydney Ports Corporation Harbour Tower Control Operations and Harbour Safety Operations).

For the purposes of the above, 'gross floor area' and 'building height' are defined as per the definitions contained within the dictionary of the Standard LEP Template, as follows:

**'Gross floor area'** means *"the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine within the storey, and*
- (b) habitable rooms in a basement, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*

*but excludes:*

- (d) any area for common vertical circulations, such as lifts and stairs, and*
- (e) any basement:*
- (f) storage, and*
- (g) vehicular access, loading areas, garbage and services, and*
- (h) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (i) car parking to meet any requirements of the consent authority (including access to that car parking), and*

- (j) any space used for the loading or unloading of goods (including access to it), and*
- (k) terraces and balconies with outer walls less than 1.4 metres high, and*
- (l) voids above a floor at the level of a storey or storey above."*

**'Building height'** means *"the vertical distance between ground level (existing) at any point to highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like"*.

**'Ground level (existing)'** means *"the existing level of a site at any point"*.

Also for the purposes of the above provisions, the nominated land use categories relating to GFA development standards include the uses as set out below. All definitions used are consistent with those contained within the Standard LEP Template, where relevant.

**'Residential'** uses includes *"residential accommodation, multi unit housing, residential flat buildings, seniors housing, shop top housing and boarding houses"*.

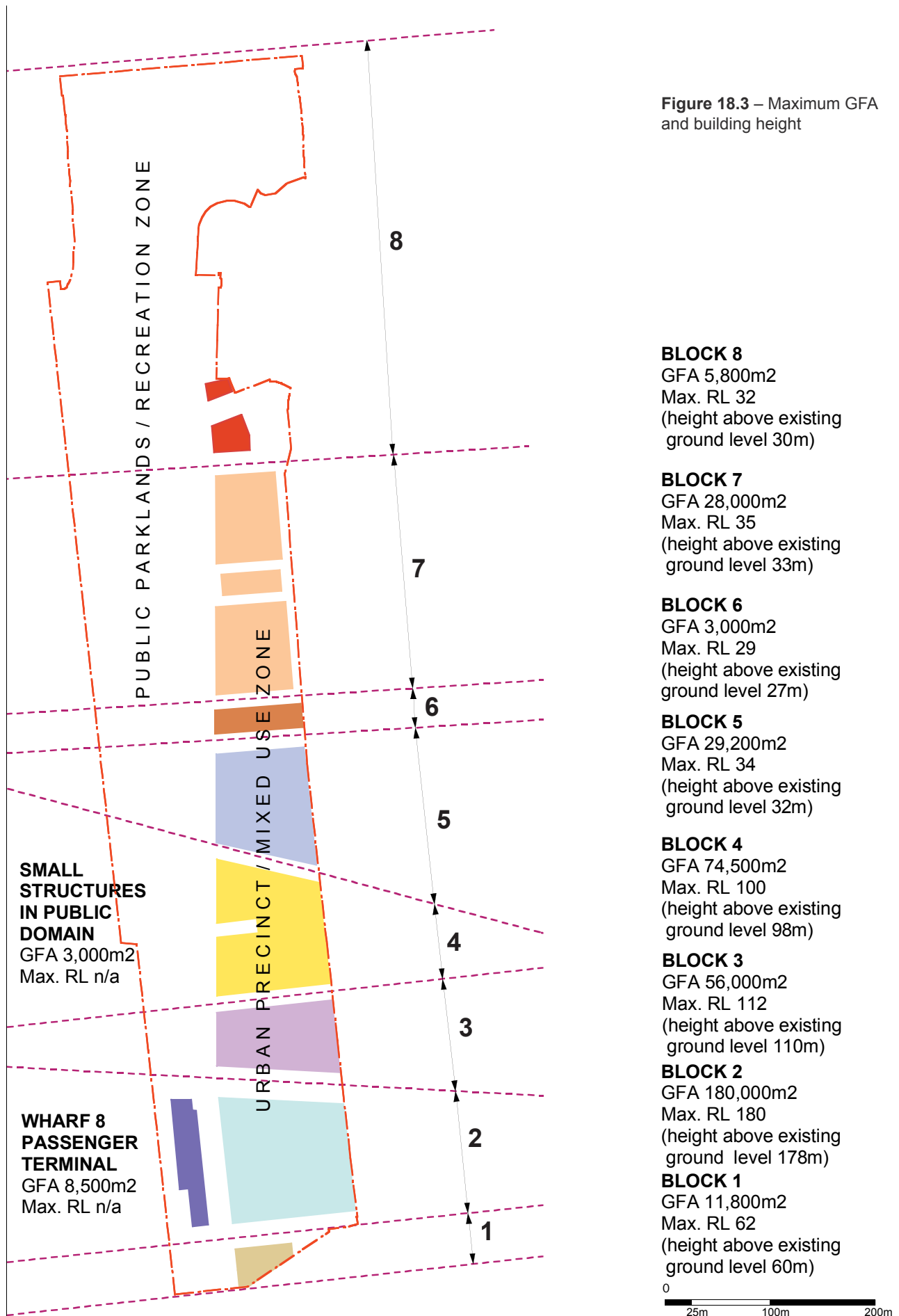
**'Tourist'** uses includes *"backpackers' accommodation, bed and breakfast accommodation, hotel accommodation and serviced apartments"*.

**'Retail'** uses includes *"food and drink premises, retail premises, markets and pubs"*.

**'Community'** uses includes *"child care centres, community facilities, educational establishments, entertainment facilities (other than cinemas and amusement centres), information and education facilities, places of public worship, public administration buildings, public halls, recreation areas, recreation facilities (major, outdoor and indoor)"*.

**'Commercial port facility'** means *"a facility (including any building or other structure) used in connection with the carrying of goods or persons by water from one port to another for business or commercial purposes, being a facility having a direct structural connection between the foreshore and the waterway."*

**'Port services facility'** means *"a facility (including any building or other structure) used in connection with or to support the carrying of goods or persons by water for business or commercial purposes)"*.



Note: Finished ground level will be approximately 2 to 3 meters above RL0

\*All drawings are indicative only and subject to further site investigation and detailed survey confirmation.

## 8.5.2 Exceptions to development standards

It is proposed to apply Clause 23 from the Standard LEP Template relating to exemptions to development standards to provide an appropriate degree of flexibility in the application of the GFA and building height development standards that are proposed, and to allow for the achievement of better outcomes for and from development by allowing flexibility in particular circumstances.

## 8.5.3 Special provisions relating to Sydney Ports Corporation

To facilitate continued operations by Sydney Ports Corporation it is proposed that:

1. A special provision be included that allows for all works less than \$5 million in capital investment value undertaken by Sydney Ports Corporation on land owned by Sydney Ports Corporation to be subject to Part 5 of the EP&A Act.
2. The following special provision be included to ensure that development that may be sensitive to noise and vibration impacts associated with the operation of any future commercial port facility (i.e the new passenger terminal) is not adversely affected:

***“Development in proximity to any commercial port facility / port services facility***

*Development consent must not be granted to development to which this clause applies that the consent authority considers is, or is likely to be, adversely affected by noise or vibration from the operation of any commercial port / port services facility unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures to address amenity impacts.”*

Note: ‘Port services facility’ and ‘commercial port facility’ are as defined above.

4. Additional objectives be included in relation to the RE1 Public Recreation Zone to recognise the continued operation of the passenger terminal and port operations (refer to **Table 3**).

## 8.5.4 Subdivision

It is proposed to apply Clause 15 from the Standard LEP Template relating to subdivision requirements as follows.

***“Subdivision – consent requirements***

- (1) *Land to which this Plan applies may be subdivided, but only with consent.*
- (2) *However, consent is not required for a subdivision for the purpose of any one or more of the following:*
  - (a) *widening a public road,*
  - (b) *making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,*
  - (c) *a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,*
  - (d) *a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,*
  - (e) *rectifying an encroachment on a lot,*

- (f) *creating a public reserve,*
- (g) *excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.”*

### 8.5.5 Crown development and public utilities

It is proposed to apply Clause 36 from the Standard LEP Template relating to Crown development and public utilities, to the effect that certain specified railway undertakings, and public utility undertakings relating to water sewerage, drainage, electricity or gas undertakings, water transport undertakings, wharf or river undertakings, road transport undertakings etc will not require development consent under Part 4 of the EP&A Act. These undertakings will require assessment under Part 5 of the EP&A Act, as relevant.

### 8.5.6 Future consent authority

It is proposed that the future consent authority for development proposals within EDH will be the Minister for Planning, and that future development proposals will be the subject of development applications made to the Minister under Part 4 of the EP&A Act.

### 8.5.7 Exempt and complying development

The Foreshore Authority is in the process of developing a list of exempt and complying development as part of its review of planning controls for the whole of Darling Harbour. It is intended that this exempt and complying development regime will apply to future development on the EDH site.

## 8.6 Relationship to other EPIs and Planning Documents

The new provisions for EDH included at Schedule 3 of SEPP (Major Projects) and the Concept Plan Approval for the site will replace the provisions of SLEP 2005 and its accompanying Development Control Plans:

- Central Sydney Development Control Plan 1996;
- City of Sydney Notification of Planning and Development Applications Development Control Plan 2005; and
- City of Sydney Contaminated Land Development Control Plan 2004.

The relationship between the proposed amendment to Schedule 3 of SEPP (Major Projects) 2005 and other existing State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REPs) and associated planning documents of relevance to the proposal is identified at **Appendix I**.