



**Planning &
Infrastructure**

**MAJOR PROJECT ASSESSMENT:
MP 09_0035
2 Wellington Street, Sans Souci**



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

September 2011

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning & Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PAC	Planning Assessment Commission
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	St George Motor Boat Club Ltd
RtS	Response to Submissions

Cover Photograph: St George Motor Boat Club Marina (Source: Proponent's EA)

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EXECUTIVE SUMMARY

St George Motor Boat Club Limited (the Proponent) currently operates a marina at Sans Souci in the Kogarah Local Government Area. The marina complex consists of:

- 151 berths (128 approved berths, and 23 unauthorised berths) within a floating marina structure;
- land-based facilities include a two storey clubhouse with function facilities; and
- 202 car parking spaces, workshop and slipway, water, electricity, fuel and sewage services, a race tower, a weigh station and three boat ramps.

The proposal seeks Concept Plan and Project Application approval for:

- construction of an additional floating pontoon (arm F) accommodating an additional 78 berths;
- continued use of 23 unauthorised berths; and
- a new car parking structure with 34 car parking spaces.

The project has a Capital Investment Value of approximately \$1.75 million.

The proposal constitutes a 'major project' under the provisions of Clause 14 of Schedule 1 of *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP) and Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Therefore the Minister for Planning and Infrastructure is the approval authority.

The Department exhibited the Environmental Assessment (EA) of the project from 25 May 2010 to 25 June 2010, and received 19 submissions on the proposal. 7 submissions were received from government authorities and 12 from the general public, including 2 from special interest groups.

Kogarah Council made a submission during exhibition of the EA and to the Preferred Project Report (PPR). Council initially raised issues with the proposal, primarily on the basis of car and boat trailer parking, which have now been resolved.

The public submissions received in respect of the project raise concerns about the potential visual impacts; increase in traffic; car parking; water quality; public access to the waterway; loss of privacy; and noise impacts.

The Department's merit assessment of the proposal concludes that the:

- the proposal is generally consistent with the character of the bay;
- the proposal will result in minimal scenic visual impacts and view loss from the public domain and residential properties;
- project is unlikely to affect navigation, safety and public access within the Georges River and Kogarah Bay; and
- environmental impacts of the project can be mitigated and managed through the existing Environmental Management Plan.

The Department also considers that the proposed expansion of the existing marina would cater for the likely increased demand for berths within the region in the future. Further, the proposed additional car parking will assist in minimising the traffic and on-street parking related impacts of the marina and club operations on the surrounding residential area.

On balance the Department considers that the project is in the public interest, and should be approved subject to conditions.

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1. BACKGROUND

1.1 Site Description

The site is located at 2 Wellington Street, Sans Souci. The site is within the Kogarah LGA on St Kilda Point, adjoining Kogarah Bay to the west, Georges River to the south and the residential suburb of Sans Souci to the north and east (refer **Figure 1** and **2**). The property is occupied by the St George Motor Boat Club.



Figure 1: Locality Context Plan (Base Image Source: Google Maps)

The site includes land and water based components. The land component is triangular in shape with an area of approx 1.1 hectares and a frontage of approximately 115 metres to Plimsoll Street and 130 metres to Wellington Street. The south-western boundary which adjoins the foreshore is approximately 180 metres in length. The water based component of the site covers approximately 2.43 hectares, which is leased from the State Property Authority.

The land based component of the site slopes from the north-east corner to the foreshore. The northern portion of the site is occupied by the club facilities and upper car parking level and generally follows the natural slope of the land. However, the southern portion of the site (containing the lower level car parking area, boat launching ramp, workshop and access to the marina arms) has been excavated, lying approximately 5 metres below the upper level. An exposed sandstone bedrock cliff face separates the lower and upper level car parking areas.

Existing facilities on the site include:

- two-storey club house including function rooms, restaurant, meeting rooms and bars;
- car parking areas providing a total of 202 parking spaces, including 18 trailer spaces;
- five floating pontoon arms comprising 151 berths (128 approved berths and 23 unauthorised berths);
- marina management office;
- race tower located at the end of berthing arm A;
- boat ramp;
- marina workshop and dual slipway for cleaning and painting boat hulls;
- a weigh station; and
- water, electricity, fuel and sewerage services.

Existing vegetation is limited to street tree planting. Vehicular access is gained from Plimsoll Avenue in two locations, and from Wellington Street and Vista Street. Photos of site and surrounds are provided in **Figures 3** and **4** below.



Figure 2: The site in its immediate locality (Base Image Source: Google Maps)

1.2 Previous Approvals

On 23 November 2001, the Minister for Planning approved a Development Application for the re-development of the existing marina, which involved replacing the existing fixed timber jetties with five floating pontoons (128 berths), upgrading the existing fuel dispensing facilities and installing a sewerage pump-out facility and dredging 5,470m³ of material from Kogarah Bay.

Since this approval, an additional 23 unauthorised berths have been constructed. As the proposal seeks to remedy the unauthorised use, it is not considered warranted to undertake any compliance investigation whilst the proposal is under assessment.

1.3 Surrounding Development

Sans Souci is predominately a low density residential area. The nearest residential properties are located approximately 20 metres to the east and north of the site within Plimsoll Street and Wellington Street, respectively. The majority of waterfront residential properties have private jetties, boat ramps and/or boatsheds. A grassed area with seating is provided at the end of Plimsoll Street at the foreshore. This forms part of the road reserve and offers public access to the waterway. The Botany Bay Water Police facilities are located further east of the site.

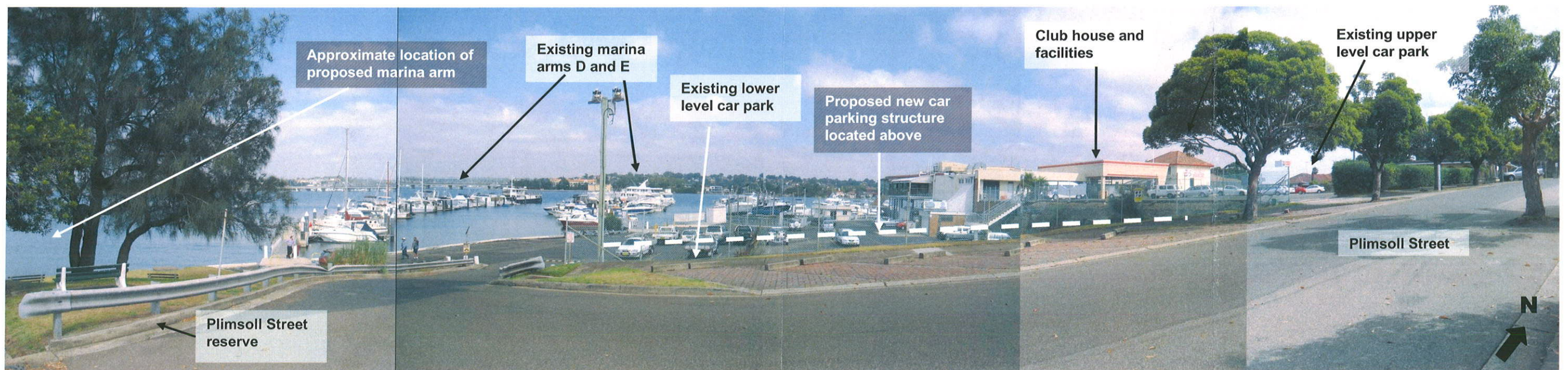


Figure 3: The existing marina, car parking and club facilities viewed from the southern end of Plimsoll Street

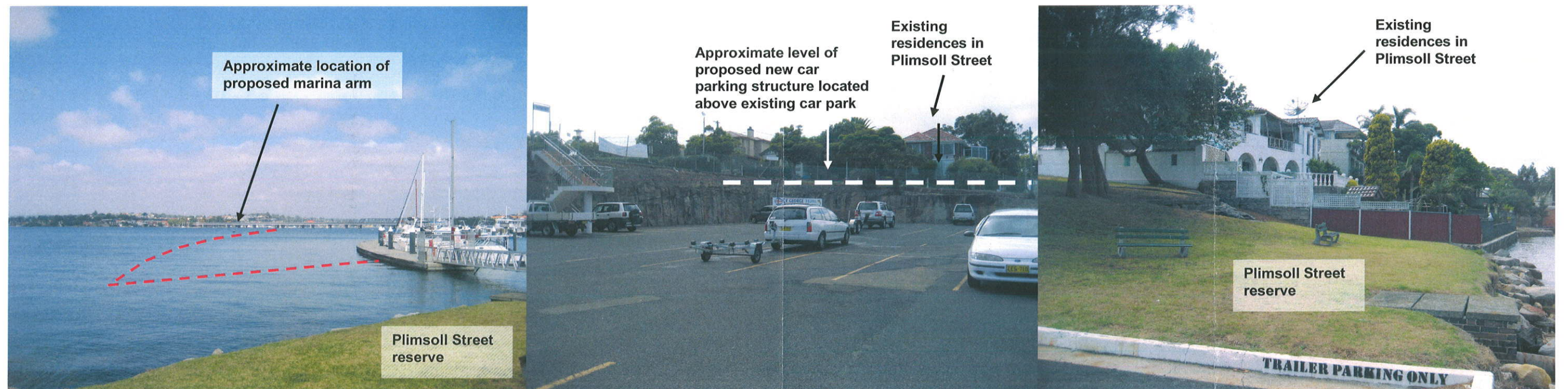


Figure 4: Location of the proposed marina arm (left), proposed car parking structure (middle) and adjoining residential properties in Plimsoll Street (middle and right)

2. PROPOSED PROJECT

2.1. Project Description

2.1.1 Environmental Assessment (as exhibited)

The proposal as exhibited in the Environmental Assessment (EA) sought project approval for the expansion of the existing approved marina from 128 berths to 229 berths including the construction of a new berthing arm, the continued use of 23 existing unapproved berths; and construction of a car parking structure providing 34 additional parking spaces (Refer to **Figure 4** below).

The key components of the project are outlined in **Table 1**.

Table 1: Key Project Components

Aspect	Description
<i>Project Summary</i>	Expansion of the existing marina and car parking facilities.
<i>New berths</i>	<p>An additional 78 berths including:</p> <ul style="list-style-type: none"> the construction of a new marina arm F accommodating an additional 37 berths (36 x 10 metre berths and 1 x 15 metre berth); the construction of an additional 37 berths on the outer side of the existing arm E (34 x 8 metre berths, 2 x 12 metre berths and 1 x 15 metre berth); the construction of 4 additional berths on the western (outer) edge of arm D (12 x 15 metre and 2 x 12 metre berths); and boat refuelling facilities at the outer edge of arm A.
<i>Continued use of existing unauthorised berths</i>	<p>Regularisation and continued use of 23 existing unauthorised berths within arms A, B, C, D and E:</p> <ul style="list-style-type: none"> 18 x 8 metre berths; 1 x 10 metre berth; 2 x 12 metre berths; 2 x 15 metre berths; 5 x 18 metre berths; and Relinquishment of 4 approved 12 metre berths and 1 x 10 metre berth
<i>Parking</i>	Construction of a car parking structure above the lower car parking level accommodating 34 car parking spaces and reconfiguration of the existing lower and upper level car parking area to provide an additional 2 spaces to accommodate a total of 238 car parking spaces.
<i>Boundary/lease Adjustment</i>	Use of an expanded site area to incorporate the additional berthing structures (an additional area of 1.9 hectares)

The proposed new berths, existing unauthorised berths and car parking are outlined in **Figures 5, 6 and 7**.

2.1.2 Preferred Project Report (PPR)

Following the public exhibition of the EA, the Department advised the Proponent of a number of issues which required further consideration, and requested the submission of a response to submissions and/or PPR.

On 3 March 2011, the Proponent submitted a response to submissions and a PPR. The PPR does not involve any changes to the proposal, as exhibited. On 27 April 2011, the Proponent submitted an additional view analysis and revised Statement of Commitments. On 26 September 2011, the Proponent provided information indicating the provision of an additional 4 trailer parking spaces to address Council's concerns.

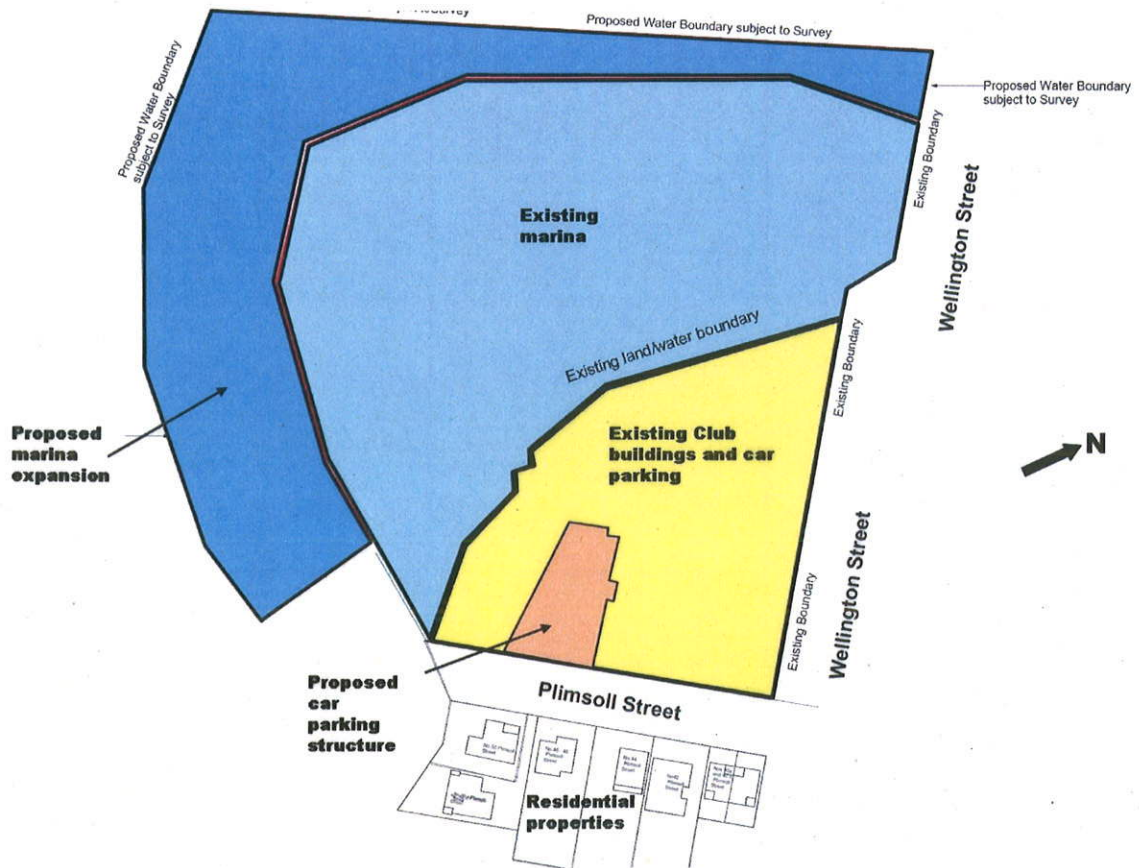


Figure 5: Overall site layout (Source: Proponent's PPR)

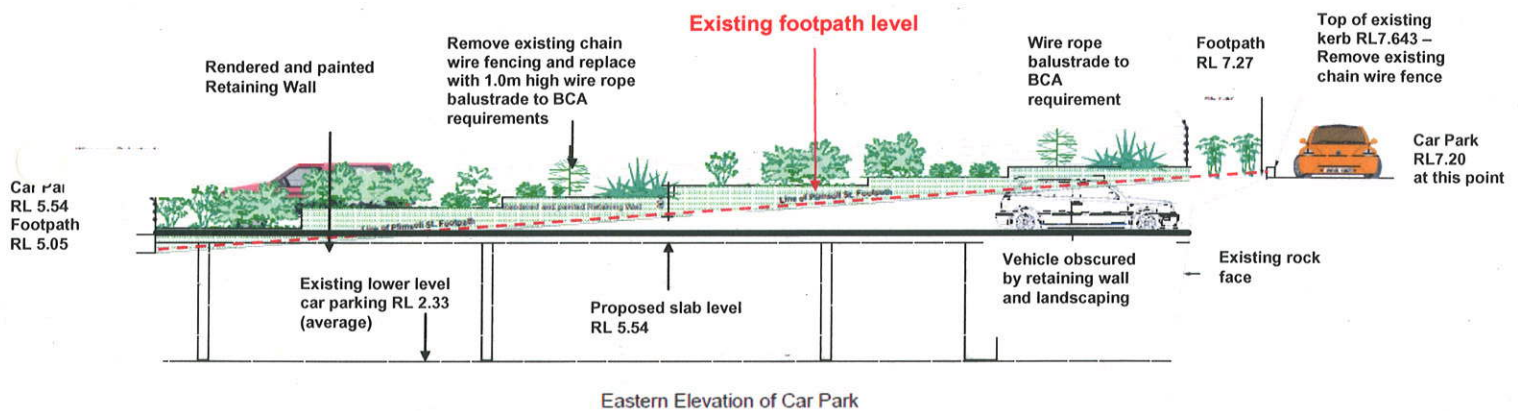


Figure 6: Proposed car parking section showing relationship to footpath and street level in Plimsoll Street (Source: Proponents PPR)



2.2. Project Need and Justification

Metropolitan Plan for Sydney 2036 and Draft South Subregional Strategy

The site is within the South Subregion of Sydney. The Metropolitan Plan for Sydney 2036 provides a dwelling target of 58,000 additional dwellings within the South Subregion between 2006 and 2036.

There are no specific actions in relation to marinas within the Metropolitan Plan for Sydney 2036 and Draft Subregional Strategy.

The St George Motor Boat Club was established on the site in the 1920s and has expanded to provide substantial licensed club and function facilities and a commercial marina, serving a social and recreation function in the local and wider community. The existing club facilities and proposed expansion to the marina will provide highly valued social and recreation facilities for the existing and anticipated population growth in the South Subregion of Sydney.

Where impacts are minimised, it is considered appropriate to allow the expansion of existing marinas to accommodate additional berths, utilising established infrastructure including fuel, sewer, slipway and repair/maintenance facilities.

NSW Maritime Boat Ownership and Storage Growth Forecasts to 2026

In July 2010, NSW Maritime published the results of a study projecting boat ownership and storage in NSW to 2026. Records of boat ownership for 7 regions of NSW between 1999 and 2009 were used to establish boat ownership trends. The site is within the Botany Bay/Port Hacking region.

The study found that between 1999 and 2009 recreational vessels within the Botany Bay/Port Hacking region increased from 20,734 to 23,977 boats (3,243 or 10%).

In order to determine the demand for moorings, the study differentiated between boats less than 6 metres in length (generally stored on trailer) and boats greater than 6 metres in length.

Approximately 15% of the boats in the region are greater than 6 metres in length, generally requiring mooring. There was an increase from 2,986 to 4,040 (1,054 or 35%) in boats over 6 metres in length over the 10 year period.

The study predicts that between 2009 and 2025, the region will experience an overall increase in boats (over 6 metres) from 4,040 to between 5,029 and 6,567 (989 to 2,527 or 24 to 62%).

The provision of an additional 101 fixed berths will assist in meeting the boat storage requirements for storage of between 989 to 2,527 boats within the region to 2026.

2.3. Concept Plan

A Concept Plan has been authorised under section 75M of the EP&A Act following exhibition of the EA to allow for the Department to consider the proposed car parking, which is prohibited within the residential zoned portion of the site.

Authorisation of a Concept Plan was considered appropriate for the following reasons:

- the proposed uses are considered sound in the geographic context as the site has been historically used as a marina, and registered club with carparking;

- a Concept Plan will allow for the merit assessment of the carparking demand created by the proposed marina expansion, which is an existing and permissible use in the water based component of the site;
- there is existing parking at the site; and
- the Council and public submissions have indicated that there is a need for increased parking facilities on the site.

The site is not located within the "coastal zone" as identified on the Coastal zone maps for the greater metropolitan region. The site is therefore not a "sensitive coastal location" for the purposes of sections 75J(3) and 75O(3) of the Act and Section 8N of the Environmental Planning and Assessment Regulation 2000. Accordingly, there is no impediment to allowing a Concept Plan.

3. STATUTORY CONTEXT

3.1. Major Project

The proposal is a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) because it is development for the purpose of a marina expansion that will store more than 30 additional vessels in Botany Bay pursuant to Clause 14(a) of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning & Infrastructure is the approval authority.

On 1 September 2010, the Deputy Director General, as delegate of the Minister for Planning, authorised a Concept Plan for the project.

On 22 June 2011, the NSW Parliament passed a Bill to repeal Part 3A of the Environmental Planning and Assessment Act. Under transitional arrangements, this application will be finalised as a Part 3A project due to its advanced stage in the assessment process.

The Minister for Planning and Infrastructure is the approval authority for the proposal. However, the Deputy Director General may determine the application on the Minister's behalf under delegation.

3.2. Permissibility

The site is zoned part "Residential 2(a) (Low Density)" and part "Environment Protection 7(a) (Waterway)" pursuant to the *Kogarah Local Environmental Plan 1998*.

A marina is defined within the LEP 1998 as "*a pontoon, jetty, pier or the like used or intended to be used to provide moorings for boats used for pleasure or recreation, and includes:*

- (a) slipways, and*
- (b) facilities for the repair, maintenance and fuelling of, or the provision of accessories and parts for, boats or boating enthusiasts, and*
- (c) facilities for the storage or provision of food".*

Marinas are permissible within the "Environment Protection 7(a)" zone. The proposed marina expansion is located entirely within the 7(a) zone, and therefore is a permissible land use.

The proposed car parking facility associated with the marina is within the "Residential 2(a)" zone. Marina uses are prohibited in the Residential 2(a) zone. The existing Club and parking on the site however benefit from existing use rights (this was established through the assessment of the previous DA in November 2001). Notwithstanding, the authorisation of a Concept Plan for the site allows the Minister to give project approval for prohibited land uses where the land is not in a sensitive coastal location or is an environmentally sensitive area of State significance.

3.3. Environmental Planning Instruments

The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the applicable SEPP's and EPI's. The following SEPPs and EPIs apply to the subject site.

- State Environmental Planning Policy (Major Development) 2005
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Kogarah Local Environmental Plan 1998

The Department's consideration of relevant SEPPs and EPIs is provided in **Appendix D**.

3.4. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The objects of most relevance to the decision of whether to approve this project are those under 5(a)(ii), (vi), (vii) and 5(c). The proposal is consistent with these objectives of the EP&A Act in that it will facilitate orderly and economic development through the expansion of the existing marina, rather than the creation of a new marina site. The site has been found to be suitable for the expansion without the need for dredging, thereby minimising environmental impacts.

With regard to objective 5(c), Kogarah Council, together with the public, have been consulted in relation to the proposed development, and all submissions have been considered by the Department in the assessment of the proposal.

3.5. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department's consideration of relevant of ESD principles is included at **Appendix D**.

3.6. Statement of Compliance

In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days. The Department publicly exhibited the EA from Wednesday 26 May 2010 until Friday 25 June 2010 (31 days) on the Department's website, at the Department of Planning Information Centre and at Kogarah Council Customer Service Centre. The Department also advertised the public exhibition in the St George and Sutherland Shire Leader newspaper on Tuesday 25 May 2010 and the Sydney Morning Herald and Daily Telegraph on Wednesday 26 May 2010. The Department notified landholders, and relevant State and local government authorities in writing.

The Department received 19 submissions during the exhibition of the EA - 7 submissions from public authorities and 12 submissions from the general public and special interest groups. Kogarah City Council provided a submission to the Preferred Project Report.

A summary of the issues raised in submissions is provided below.

4.2. Public Authority Submissions

At total of 7 submissions were received from public authorities. Kogarah City Council initially raised a number of objections to the proposal. The State Property Authority have also raised concerns within the expansion of the marina and recommended a reduction in the number of berths. Other public authorities did not object to the project subject to relevant recommended conditions.

4.2.1 Kogarah City Council has submitted responses to both the EA and the PPR raising a number of concerns.

Council's submission to the EA

The Council's submission to the EA can be categorised as follows:

- lack of adequate trailer parking on site;
- inadequate existing car parking facilities for the existing club;
- increased parking demand caused by the project and potential for increased on-street parking;
- requirement for water sensitive urban design measures and rainwater tanks;
- requirement for consideration of Kogarah Council's *Foreshore Management Plan* and *Marine Assets Management Plan*;
- the Land & Property Management Authority should be advised of the proposed oyster bed removal;
- concern regarding water depths and need for further dredging;
- impacts on pedestrian safety along the eastern boundary of Anderson Park;
- objection to the potential removal of street trees; and
- waste storage and collection.

Department's comment

The Department has considered Council's concerns regarding car and boat trailer parking in **Section 5.2**.

A rainwater tank is proposed to collect stormwater from the proposed car park for reuse on site at the slipway.

The proposal does not involve any oyster bed removal or dredging as water depths are sufficient (with some restrictions on vessel sizes for 3 berths close to the shore line).

The proposed car parking structure is located adjacent to Plimsoll Street and is unlikely to cause any impacts on Anderson Park on Wellington Street.

No street trees are proposed to be removed.

Appropriate conditions of approval have been recommended in relation to waste storage and collection.

Council's submission to the PPR.

Council advised that the PPR addresses the initial concerns in relation to noise, waste and stormwater (subject to recommended conditions of approval). Council also confirmed that the *Foreshore Management Plan* and *Marine Assets Management Plan* were not relevant to the proposal.

However, Council advised that the PPR does not address the previously raised concerns in relation to boat trailer parking and parking for the club facilities. Council is particularly concerned that the additional car parking and improved facilities may generate an increase in the use of the boat ramp and the need for additional trailer parking. Council advises that complaints have been received in relation to boat trailers parked in the surrounding residential streets and submitted aerial photographs as evidence of parking which occurs on the street.

Council also raised concern that the club does not have sufficient car parking and the existing shortfall will exacerbate impacts of on-street parking in the surrounding residential area.

Council also considers that the storm water plan does not incorporate adequate Water Sensitive Urban Design principles and considers that a 2000 litre rainwater tank is insufficient. Council advises that a water balance circulation should be provided to determine the appropriate tank size, taking into account the car park catchment area, estimated water use demand from boat washing and estimated rainfall levels. Council also requires further details in relation to treatment of water and the overflow from the rainwater tank. Council reaffirmed its concerns that the water is very shallow in the location of the proposed marina expansion and that dredging may be required and that no street trees are permitted to be removed.

Department's comment

On 30 September 2011, Kogarah Council advised the Department that the Proponent's addition of 4 trailer parking spaces has satisfactorily addressed the concern raised by Council in its earlier submission

The Department has recommended an appropriate condition of approval to require a detailed stormwater management plan addressing these issues prior to issue of a Construction Certificate..

4.2.2 NSW Maritime does not object to the project subject to recommended conditions including construction requirements to ensure navigation safety.

Department's comment

NSW Maritime's requirements have been incorporated in the recommended conditions of approval.

4.2.3 State Property Authority (SPA) provided owners consent to the application to expand the marina. The SPA has provided the following additional comments for the Department's consideration:

- the available and perceived waterway area of Kogarah Bay for the public will be reduced by the proposed marina expansion;
- the proposed marina arm will reduce the waterway width of the bay by approximately 14% creating a pinch point;
- the proposed marina arm occupies previously open water and there would be a greater tendency for boating to traverse the Kogarah Bay closer to the opposite side at Tom Ugly's Point, potentially placing environmental pressure on seagrass beds in that location;
- in order to minimise these impacts, the SPA recommends that the proposed arm be shortened to create a rounded marina footprint that follows the St Kilda Point shoreline. This would necessitate the removal of approximately 20 proposed berths.

Department's comment

The Department has considered the impacts of the proposed marina arm on the width of the navigational channel to Kogarah Bay in **Section 5.4**.

4.2.4 NSW Office of Water (NOW) does not object to the project. NOW recommended that any landscaping of the site use local native plant species, particularly near the foreshore area of Kogarah Bay. Appropriate conditions of approval have been recommended.

NOW also advised that the installation of groundwater monitoring wells require a licence under Part 5 of the Water Act 1912.

Department's comment

The existing fuel storage tank on the site must comply with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*. The Department notes that groundwater monitoring wells are required to be installed, however these works do not form part of this application. An advisory note has been included in the recommended conditions of approval.

4.2.5 Industry and Investment NSW (Cronulla Fisheries Centre) does not object to the project and provides the following comments:

- Anchoring or mooring in nearby sparsely vegetated sub-tidal rock is to be avoided as this area provides key fish habitat;
- The occurrence of propeller dredging should be minimised, by restricting access to shallow areas;
- Educational material on seagrasses should be provided to all mooring holdings within the marina complex; and
- Any opportunities for public access for recreational fishing from the proposed facility are encouraged.

Department's comment

Appropriate conditions of approval have been recommended, including a restriction on the size of vessels permitted to occupy shallow berths close to the shoreline.

4.2.6 The former **Department of Environment, Climate Change and Water (DECCW)** does not object to the project subject to the preparation of the detailed Construction Environmental Management Plan prior to the commencement of construction and the implementation of a complaints handling procedure during construction.

Department's comment

DECCW's requirements have been incorporated in the recommended conditions of approval.

4.2.7 Roads and Traffic Authority (RTA) does not object to the project. The RTA provided recommended conditions in relation to compliance with relevant Australian Standards for vehicle access and parking and the preparation of a Construction Traffic Management Plan. Appropriate conditions of approval have been recommended.

Department's comment

The RTA's requirements have been incorporated in the recommended conditions of approval.

4.2.8 Sydney Water does not object to the project and will assess the need for any amplification or adjustments to Sydney Water's infrastructure when the Proponent applies for a Section 73 Certificate.

Department's comment

Sydney Water's requirements have been incorporated in the recommended conditions of approval.

4.3. Public Submissions

12 submissions were received from the public. This included submissions from the following special interest groups:

- Kogarah Bay Progress Association Inc
- Kogarah City Councillor, Lachlan McLean

All public submissions objected to the project. The key issues raised in public submissions are listed in **Table 2**.

Table 2: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
Car parking	75
Traffic	67
View loss	58
Noise	58
Residential zoning and character	58
Residential amenity	42
Occupation of public waterway	33
Environmental concerns	33
Unauthorised berths	25
Anti-social behaviour	25
Concerns regarding any future proposals	25

The Department has considered the issues raised in submissions in its assessment of the project.

4.4. Proponent's Response to Submissions

The proponent submitted a Preferred Project Report which responded to the key issues including car and boat trailer parking; traffic; view loss; and noise.

No fundamental changes were made to the proposal.

5. ASSESSMENT

The Department considers the key environmental issues for the project to be:

- Visual impacts;
- Traffic and car parking; and
- Environmental impacts and management.

5.1. Visual impacts

The site is located at St Kilda Point adjacent to the Georges River and Kogarah Bay. This section of the foreshore is highly urbanised and is characterised by maritime elements, including the existing marina, the Botany Bay Water Police marina and private jetties within the bay.

The proposed marina expansion and car parking structure has the potential to have visual impacts in terms of:

- scenic foreshore impacts; and
- potential view loss from surrounding residential properties and publicly accessible foreshore areas.

Public submissions also raised concerns in relation to the visual impact and view loss caused by the car park and marina structures.

5.1.1 Scenic foreshore impacts

The Proponent's justification

The Proponent provided a visual impact assessment, including photographic assessment and photomontages of the proposed marina expansion and car parking structure from various publicly accessible vantage points adjacent to the Georges River and Kogarah Bay.

The Proponent assessed the scenic visual impacts as minor, concluding that:

- watercraft facilities are common on waterfront properties and not necessarily visually intrusive;
- the surrounding area is urbanised with significant modification to the natural land water interface; and
- the visual impact of the marina expansion from the waterway and from the foreshore areas of Blakehurst, Sylvania and Taren Point is minor having regard to the distant and broad views from these locations.

The Department's Assessment

Although the site is not within the Sydney Harbour, the Sydney Harbour Foreshores and Waterways DCP provides specific principles for the assessment of visual impacts of marinas. The DCP highlights the following factors to be considered in determining the overall visual impact:

- (a) location of viewer;
- (b) distance of view;
- (c) period of view;
- (d) boat numbers and mix of vessel size and types; and

(e) spatial relationships.

The Department's consideration of the proposal against the key factors is provided in **Table 3**.

Table 3: Visual Impact Assessment against the principles in the Sydney Harbour Foreshores and Waterways DCP

Principle	Consideration
Location of viewer	Due to the width of Kogarah Bay and the Georges River at this location, the visual impact of the proposal from other locations around the bay is minor. The proposed marina occupies a very small area of the overall shoreline in this location. Further, the proposed additional marina arm will enlarge the length of existing water based facility by approximately 20% only. In addition, the degree of landform elevation is sufficient to provide a backdrop to the marina in these locations so that boats are not viewed against the skyline.
Distance of view	Views from waterfront locations around the bay are located between 500 metres and 1 kilometre from the marina. The proposal will have minor visual impacts having regard to the distance and landform in the backdrop to the view (ie. elevated landform so that the boats are not visible against the skyline).
Approximate period of view	The marina expansion will be within the visual catchment of residential properties around the bay, various publicly accessible foreshore areas and passing traffic. The approximate period of view from these vantage points varies from the majority of the day (residential) to a glimpse only (passing traffic). In the context of the existing marina, the visual impact of the proposed expansion is not considered likely to alter the character or attractiveness of the waterway.
Scale or relative size (boat numbers and mix of vessel types)	The proposed expansion features fixed berths for 8 to 15 metre length vessels. 92% of the vessels to be moored within the proposed expansion are 10 metres or less in length. The largest boats being 12 and 15 metres in length are to be stored at the greatest distance from the shoreline. This is consistent with the DCP guidelines for minimising the visual impact at the shoreline. On this basis it is considered that the impact is minor.
Spatial relationship	The marina expansion is located at the entry to Kogarah Bay which is approximately 550 metres wide at this point. The width and openness of the waterway minimises the overall visual impact of the proposed marina expansion and car parking structure. The photomontages provided by the Proponent demonstrate that the additional visual impacts from the waterway and other vantage points around the bay are minor.

The Department considers that scenic visual impacts are very limited when considered in the wider visual catchment of the Georges River foreshore. In this regard the Department considers that the visual impact of the proposed marina expansion and car parking structure is acceptable given that:

- the width and openness of Kogarah Bay at this location minimises the intrusiveness of the marina on the landscape;
- the visual impact of the marina expansion from the water and the foreshore areas of Blakehurst, Sylvania and Taren Point is minor having regard to the distant and broad views from these locations and the width of the Georges River and Kogarah Bay;
- when viewed from the water, the entire car parking structure will sit below the upper level car park. Further, the car parking structure is setback 23 metres from the shoreline which will negate any visual dominance from the water; and
- the size of vessels to be stored are generally 10 metres or less in length with larger vessels to be stored further away from the shoreline within deeper water which minimises the visual impact at the shoreline.

5.1.2 Potential view loss impacts

The Proponent's justification

The Proponent provided an assessment of potential view loss which included a photographic assessment and photomontages of the proposed marina expansion and car parking structure from nearby residential properties.

The Proponent assessed any view loss as minor, concluding that:

- residences along the northern foreshore would experience minor impacts, retaining water views to the south and south east;
- views from residential properties toward the existing marina and proposed expansion are generally filtered by vegetation;
- inland residential properties are generally located at a higher elevation and will maintain existing views over the proposed marina expansion and car parking structure; and
- the proposed car parking structure has been designed to sit lower than the upper car parking level, and generally below street level, to minimise visual impacts. The provision of new fencing and landscaping will create an improved streetscape, replacing existing chain wire fencing.

The Department's Assessment

The Department has reviewed the potential view loss impacts of the proposed marina expansion and car parking structure in the context of the 'Views Planning Principle' adopted in the Land and Environment Court judgement "*Tenacity Consulting v Warringah Council (2004)*".

The criteria adopted in the decision state as follows:

- assess what views are affected (i.e. whether or not they are iconic views, water views, obscured etc);
- from what part of the property are the views obtained;
- the extent of the impact (negligible, minor, moderate, severe or devastating); and
- the reasonableness of the proposal which is causing the impact.

The Department's consideration of the proposal against the above criteria and principles is provided in **Table 4**.

Table 4: Visual Impact Assessment against the 'Views Planning Principle'

Principle	Consideration
Views which are affected	The residential properties and the small park at the end of Plimsoll Street enjoy water views of the Georges River generally between Tom Ugly's Bridge to the west and Captain Cook Bridge to the east. Taren Point and Sylvania form the backdrop within the view.
From what part of the property are the views obtained	Views are enjoyed from balconies, living rooms and bedrooms within the residential properties. Views are also enjoyed from the small area of open space at the end of Plimsoll Street.
Extent of impacts	<p><u>Marina expansion</u></p> <ul style="list-style-type: none"> • Expressed in quantitative terms, the proposal will interrupt approximately 20% of the view enjoyed from the nearest residential properties and approximately 30% of the view from the small area of open space at the end of Plimsoll Street. This is shown diagrammatically in Figures 8 and 9. • In qualitative terms, the extent of impacts is limited to views to the south west including the Tom Ugly's Bridge. The water views to the south and south east will be unaffected. • The view corridor down Plimsoll Street will be maintained with minimal intrusions as the proposed marina arm is generally in line with the Plimsoll Street property boundary of the site. <p><u>Car parking structure</u></p> <ul style="list-style-type: none"> • The proposed car parking structure sits over the existing lower level car parking area and will have a finished surface level which is generally below the kerb level in Plimsoll Street. At its highest point above the

Principle	Consideration
	<p>footpath the slab will be a maximum of 0.49 metres above the footpath level (refer to Figure 6). It is noted that approximately 85% of the car park will sit at or below the footpath level at the Plimsoll Street frontage.</p> <ul style="list-style-type: none"> • The existing 1.8 metre high chain-wire fencing will be removed and replaced with 1.0 metre high wire rope fencing on top of a rendered retaining wall. The overall height of the proposed fence will be between 1.4 and 1.8 metres above the footpath level. The open style of the fence will ensure maximum transparency. Landscaping will be provided between the fence and the car park to soften the appearance of the car parking structure and screen views of parked vehicles. • The proposed car parking structure will screen views of the lower ground car parking area and a small portion of the marina structures and moored vessels. The photomontage provided by the Proponent (refer Figure 11) demonstrates that the proposed car parking structure is not intrusive or out of character with the existing site features. Given that the car park is generally below the level of the footpath the overall visual impact is considered minor.
The reasonableness of the proposal which is causing the impact	It is considered that the proposal is reasonable and acceptable given that 70-80% of existing views will be retained. Extension of the existing marina builds on the existing maritime elements within the Bay. Further the proposal meets the requirements of relevant design standards and would meet increased demand for boat storage within the Botany Bay region.

In summary, the Department considers that there will be minimal view loss impacts caused by the marina expansion and car parking structure given that:

- the existing marina, club facilities and car parking are dominant elements in the surrounding residential area;
- the most affected residential properties will maintain open water views to the south and south-east with 70-80% of existing views maintained;
- the view corridor down Plimsoll Street to the waterway will be maintained with minimal intrusions; and
- the car parking structure is generally located at or below the existing footpath level minimising any view loss, and new landscaping and fencing will screen and soften the appearance of the structure.

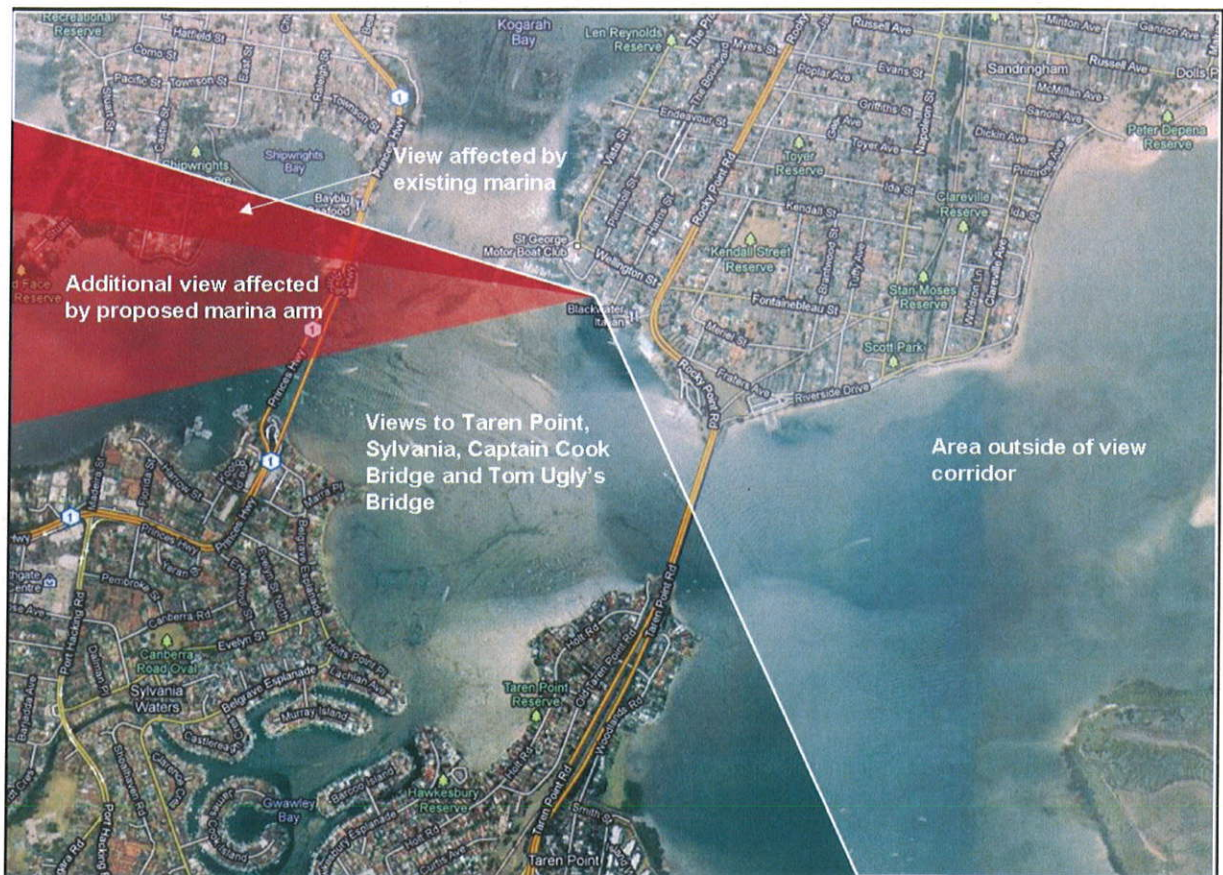


Figure 8: Estimated view affection to neighbouring residential properties (Base Image Source: Google Maps)



Figure 9: Estimated view affection to public open space at the end of Plimsoll Street (Base Image Source: Google Maps)



Figure 10: Existing car parking and marina structures (Source: Proponent's PPR)



Figure 11: Photomontage of the proposed car parking structure and new marina arm (Source: Proponent's PPR)

5.2. Traffic and car parking

5.2.1 Traffic Generation and Local Road Network

The application was accompanied by an "Assessment of Traffic and Parking Impacts" prepared by Transport and Urban Planning. The Traffic Assessment considered the impact of the existing traffic generating land uses, including the existing marina and club facilities, and the traffic impact associated with the proposed marina expansion.

The Traffic Assessment indicates that the highest usage of marinas for boating activities generally occurs on Sundays during daylight hours. The highest usage of the club facilities occurs predominantly on Saturday afternoon/evening and Sunday lunch/afternoon.

The assessment included traffic surveys undertaken between 8:00am and 4:30pm, Sunday 13 September 2009. The results demonstrated that the local road network experienced low to moderate traffic levels and that the intersections operate at an A level of service with minimal delays.

Concern was raised within the public submissions that the traffic surveys were undertaken outside of the boating season and may not be representative of the traffic generated by the Marina and Club facilities.

The Proponent has described the day of the traffic surveys as having fine weather conditions with very high usage of the marina and a very busy day at the club. Data from the Bureau of Meteorology (BoM, 2011) confirms the Proponent's description of weather conditions.

The Traffic Assessment also included surveys of boat usage (between July and November 2009) and found that the maximum number of boats used at any one time was equivalent to 35% of boats over the course of the day. It was also found that the majority of boat owners (90%) travelled to and from the site in one vehicle per boat. On this basis, the traffic generation for the proposed 78 new berths is estimated to be a maximum of 17 vehicle trips per hour, assuming a maximum of 28 boats are in use over the course of the day, and that a maximum of 60% of patrons arrive and leave in the same one (1) hour period.

It is noted that as the 23 unauthorised berths are already in operation, and form part of the existing traffic generation, they were not included for the purposes of estimating the additional traffic generation.

The traffic study concludes that the increases in vehicle movements can be accommodated within the local road work with minimal adverse impacts and the intersections will continue to operate at a good level of service with minimal delays.

The RTA and Council raised no objections to the proposal on traffic grounds, and were satisfied that the traffic generation can be accommodated within the local road network with no significant impacts on the surrounding intersections.

The Department considers that the traffic impacts resulting from the proposal are acceptable as the nearby intersections will continue to operate at a good level of service.

5.2.2 Car parking

The proposal involves a new car parking structure with 34 car parking spaces, as well as the realignment of the existing lower level car parking area to accommodate an additional 2 spaces. A total of 238 spaces will be provided.

There are 202 existing car parking spaces on site, including 193 spaces for club members and visitors and 9 spaces for staff. The existing parking is shared between the club facilities and the marina, and although the spaces are not allocated or marked, the marina and boat

ramp users predominantly use the lower level car parking area which has direct access to the water while the club patrons generally use the upper level car parking area that provides direct access into the club's foyer area. It is also noted that there are an additional 15, 45° angle car parking spaces on Plimsoll Street.

Kogarah Council's planning controls do not provide specific car parking requirements for marinas or clubs. The RTA's *Guide to Traffic Generating Development* recommends that surveys of similar developments be utilised to determine the on-site car parking requirements.

The Proponent surveyed existing weekend car parking demand between August and November 2009 and average levels of boat usage between July and November 2009 to determine the additional parking requirements for the proposed marina expansion.

The survey found that maximum boat usage recorded was 53 of the 151 boats which represents 35% of the total number of existing berths (both approved and unauthorised). The peak usage generally occurs on Sundays, however it was noted that the usage fluctuated depending on weather conditions.

The peak usage for the club is generally Saturday evening and Sunday lunch and early afternoon periods. The peak usage for the club and marina overlaps on Sundays. At these times, there is a high parking demand and the car parking was generally at or near capacity, with some vehicles entering and exiting the upper and lower level car parks to find a vacant space, and if all spaces were full (generally only on a Sunday), on street parking, would be utilised. At other times the demand for car parking was generally met, with vacant spaces readily available.

The Traffic Assessment recommends the provision of 36 additional parking for the proposed berths at a rate of 0.35 spaces per berth. This is consistent with the existing parking demand.

Both the Department and Council are satisfied that the additional car parking is sufficient for the proposed increase in the number of berths.

The Department is also satisfied that the design of the new car parking structure is suitable for the site. The car parking structure is situated above the existing lower ground car parking area and access is provided internally, negating the need for any additional vehicular crossing in Plimsoll Street. Further, the car parking structure is located generally below or level with the footpath and will have minor visual impacts as outlined in **Section 5.1.2**.

Council also raised concerns that the club parking facilities are inadequate. The Department notes that the Proponent is not required to provide additional parking for the existing club facilities as they have previously been approved by Council and there is no proposed alteration to the club size or use. It is noted, however, that the additional parking will also be available for club patrons outside of days/times when the marina experiences peak demand. This is likely to improve the amenity of the surrounding residential area by lessening the need for overflow parking on the surrounding residential streets, particularly in the case of any night time functions and events at the club.

5.2.3 Trailer Parking

Council raised significant concerns regarding parking for boat trailers. In response to this issue, the Proponent has noted that the proposed new marina arm does not generate the need for additional trailer parking, however has agreed to provide an additional 4 trailer parking spaces on-site. Council has confirmed that this action satisfactorily addresses the concern raised in its earlier submissions.

Conditions of approval are recommended to ensure that the additional trailer parking spaces are provided and also to ensure the management of on-site trailer parking in accordance with the Club policy. This includes measures to prohibit any illegal use of the boat ramp and boat trailer parking on surrounding residential streets.

5.3. Environmental impacts and management

5.3.1 Potential Impacts on seagrass and aquatic life

The EA documents were accompanied by an Aquatic Ecology Impact Assessment prepared by Marine Pollution Research Pty Ltd. This assessment considered any potential impacts of the proposal on critical habitats, threatened and protected species, ecological communities, and aquatic vegetation and habitats.

The assessment found the following conditions within the vicinity of the proposed marina expansion (Refer to **Figure 12**):

- rock rubble habitat located to the south of the existing lease area;
- a number of isolated patches of eelgrass are located south of the proposed arm F;
- sandy to muddy, unvegetated conditions within the footprint of the proposed arm F;
- a single patch of 5 shoots of eelgrass and isolated prigs of paddle weed were found within the footprint of the proposed arm F; and
- there were no threatened species, populations or endangered ecological communities found in the vicinity of the site.

The Department is satisfied that the proposed marina expansion footprint has been designed to avoid impacts on the rock rubble habitat and seagrass. Further, as dredging was undertaken in association with the Minister's approval in 2001, the water depths are adequate to accommodate the proposed marina expansion without the need for further dredging. This has been confirmed by Cardno Pty Ltd who were engaged to undertake an assessment of water depths. In this regard, it is considered that the proposed marina expansion is unlikely to have significant impacts on the existing habitats.

Appropriate measures have been recommended to minimise impacts on the seabed and any nearby vegetated areas during construction and operation of the marina. These matters have been included in the recommended conditions of approval.

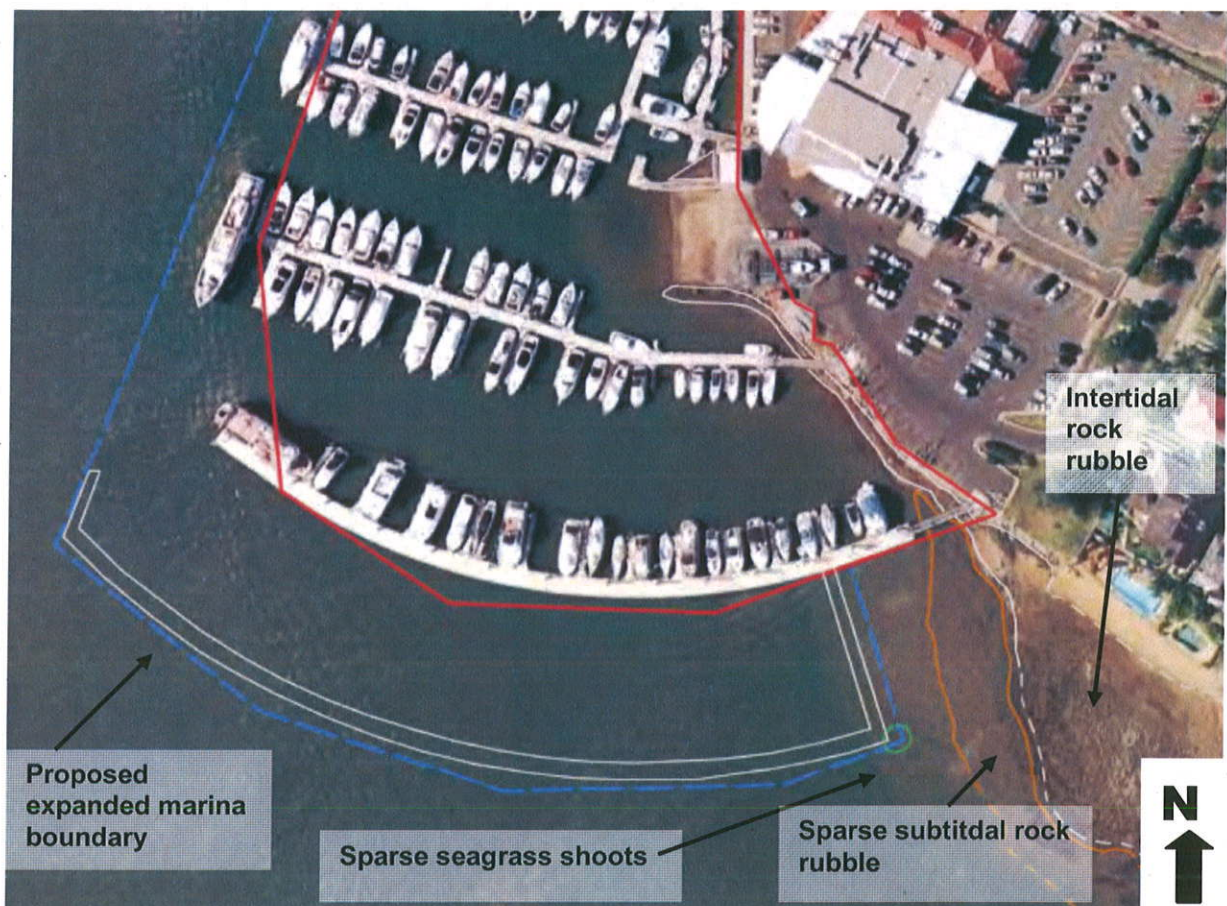


Figure 12 Known locations of aquatic ecological habitats in the vicinity of the site
(Base Image Source: Marine Pollution Research Pty Ltd, 2010)

5.3.2 Climate Change and Sea Level Rise

The *NSW Sea Level Rise Policy Statement* specifies sea level planning benchmarks for the NSW coastline. These benchmarks are an increase above 1990 mean sea levels of 0.4 metres by 2050 and 0.9 metres by 2100.

The marina structures comprise of floating pontoons which would not be affected by sea level rise.

The Proponent engaged Cardno Pty Ltd to undertake an assessment of the impacts of sea level rise at the land/water interface to 2050. This assessment found that by 2050 the highest astronomical tide may increase to 1.57m AHD, storm surges may increase to 1.85m AHD and the flood level may increase to 2m AHD. The existing sea wall has a height of 1.88m AHD which would contain the highest astronomical tide and storm surge. However, it may not contain flooding during extreme events. In this regard, the area of the lower level car park below 2m AHD may be susceptible to flooding in the future. Cardno advised that modification of the seawall is not warranted at this time as potential future flooding would be infrequent, limited in depth, and affect only a small portion of the car park.

The proposed new car parking structure would not be affected by flooding as it is located approximately 23 metres from the shoreline and elevated at a height of 5.54m AHD.

The Department is satisfied the potential increase in sea level rise will not affect the marina expansion or the proposed car parking structure. Potential flooding impacts on the land/water interface are considered acceptable due to probable low flood water depths, infrequent occurrence and use of the affected portion of site for car parking.

5.3.3 Environmental Management Plan

An Environmental Management Plan (EMP) has been prepared to minimise the potential risks to the environment and human life. The EMP has identified risks associated with the operation of the marina and categorised the risks as high medium or low based on the likelihood of occurrence and consequences.

The following risks were identified as medium or high risk:

- sewage spill;
- oil, fuel, chemical or paint spills;
- underground fuel storage tank leak;
- fire or explosion;
- inappropriate liquid into the sewer; and
- malfunction of wastewater plant.

The Proponent currently implements a Berthing Management Plan; Slipway Management Plan; Water Quality Management Plan; Emergency and Spill Management Plan; Waste Management Plan; and Fuel Management Plan to manage and minimise the above risks:

The Department is satisfied that the measures within the above management plans will ensure that environmental impacts and risks are minimised, particularly in relation to water quality and the potential environmental harm which may be caused by waste, fuel, spills and repair and cleaning of boats.

5.4. Other Issues

5.4.1 Noise and Vibration

The EA included a Noise Impact Assessment undertaken by RSA Acoustic Consultants. The Assessment included unattended noise monitoring to establish the existing ambient noise levels at nearby residential properties. The results were used to determine the appropriate criteria for the assessment of the noise impacts from the proposed marina expansion.

The Office of Environment and Heritage's *Industrial Noise Policy* and *Interim Construction Noise Guidelines* provide a basis for measuring the noise impacts and whether the impacts are acceptable in a residential context.

The Noise Assessment considered noise generating activities during construction and operation of the marina.

Construction noise and vibration

The proposed construction hours are 7:00am to 6:00pm, Monday to Friday and 8:00am to 1:00pm Saturdays. No construction work is to occur on Sundays or Public Holidays. The assessment finds that noise levels at the nearest residents will generally comply with the above guidelines with the exception of piling, crane and truck movements which may exceed the guidelines by between 5 dBA and 9 dBA.

The Proponent estimates that construction of the parking facility, new berthing arm and marina alterations will take between 5 and 6 months. As the construction is temporary, the proposed noise impact is acceptable.

The following mitigation strategies have been recommended to minimise impacts:

- conduct piling after 8:00am, and include respite periods;
- conduct excavation and off-site disposal during the day time;
- residential grade mufflers to be fitted to all mobile plant utilised on site; and
- regular maintenance of all plant and equipment to minimise noise emissions.

The Department considers that the following additional measures should be implemented:

- prepare and implement a Noise Management Plan for the proposed works;
- inform nearby residents prior to any piling activities;
- sound-deadening packers would be installed on the head of the piles to minimise the noise impacts; and
- carry out all impact piling between 9:00am and 4:00pm Monday to Friday, 9:00am to 1:00pm Saturdays, and at no time on Sundays and Public Holidays; and
- advise residents whose premises are likely to be affected by noise levels above an LA max level of 70 dB(A) by letter about when they are likely to be affected by noise, the reasons for the noise nuisance, and provide contact details of a nominated contractor (or the like) to register complaints.

Operational noise

The main source of noise from the marina is the start up, departure and arrival of boats to and from the marina. The distance between the closest berth on the existing marina arm E and the nearest residential property is approximately 60 metres. The location of the closest berth on the proposed marina arm is approximately 50-55 metres.

The Noise Assessment indicates that noise levels at the nearest residences will comply with the day, evening and night operational noise guidelines for the project. The Department considers that the proposed marina arm would also act as a breakwater. Therefore, it is expected that there will be minimal additional noise impacts from boat engine noise and wave noise at the nearest residential properties.

Noise from patrons of vessels moored closest to the shoreline on the proposed marina arm may exceed the night time noise goal for the project. Further the disposal of rubbish, in particular bottles may cause sleep disturbance. It is recommended that these matters be addressed through the Marina Noise Management Plan and Code of Conduct managed by the Club.

Appropriate conditions of approval have been recommended to ensure that noise mitigation strategies as outlined in the Noise Assessment are implemented to minimise noise impacts from piling, crane and truck operation.

5.4.2 Privacy

Concerns were raised in submissions that the proposal would impact on the privacy of the nearest residential properties. As the nearest residential properties face the waterway, with their main living areas, bedrooms, balconies and open space areas oriented toward the waterway, they are more susceptible to privacy impacts.

The existing marina arm E is situated approximately 45 metres from the nearest residential property. The proposed marina arm F will feature an increased setback of approximately 65 metres from the nearest residential property.

Further, it is noted that up to 35% of boats are expected to be used on any one day. Therefore, it is estimated that up to 13 of the additional 37 boats on the proposed new marina arm F would be expected to be in use at any one time and mainly during the day. The increase in usage of the marina is not expected to create significant privacy impacts on the adjacent residential properties.

The Department considers that the increased separation between the existing residences and the proposed new marina arm and the nature of marina usage will ensure that privacy is maintained.

5.4.3 Navigation, safety and public access

Concerns were raised in submissions that the proposal would:

- restrict access to a public waterway;

- reduce the navigation channel; and
- cause additional movements of large boats entering and leaving the marina and impact on safe use of the waterway by the general public.

The proposed marina arm F is located to the south of the existing marina and extends approximately 50 metres further into the waterway than the existing marina arms. The width of Kogarah Bay at this point is approximately 550 metres. The proposed marina arm will reduce the navigational width of Kogarah Bay to approximately 500 metres which represents a reduction of approximately 10% (refer to **Figure 13**).

The SPA is concerned that the proposed marina arm will create a 'pinch point' reducing the navigation channel into Kogarah Bay. Further, the new marina arm may encourage boats to navigate closer to Tom Ugly's Point potentially impacting on sea grasses in this location.

The Department considers that the navigation width of approximately 500 metres is satisfactory, as it is unlikely that the number or size of boats entering the bay would necessitate a significant alteration in their navigation. It is noted that the width of the waterway under Captain Cook Bridge is approximately 450 metres which is utilised by a higher number of vessels travelling to other locations further west within the Georges River (refer to **Figure 13**).

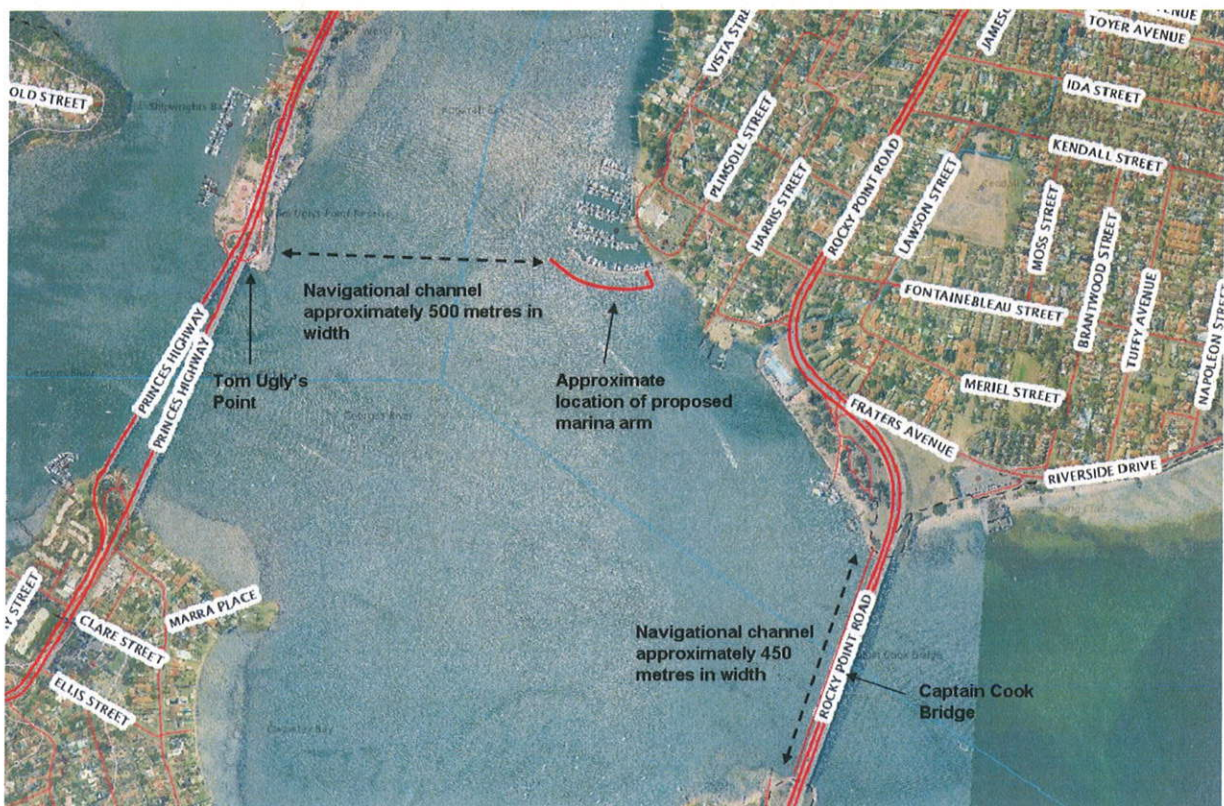


Figure 13: Navigational channel of Kogarah Bay (Base Image Source: LPMA)

Further, NSW Maritime has also raised no objections to the proposal in relation to navigation safety and seagrasses. As the width of Kogarah Bay at this location is considered to be sufficient, the Department does not consider the reduction in the length of the marina arm (and therefore boat storage numbers) justified.

Concern was also raised in relation to the proposed marina arm location, which extends in front of the small area of open space at the end of Plimsoll Street. Residents were concerned that the location of the arm would restrict public access to the waterway and that the increased number of boats would impact on the safe use of the waterway.

The Department considers that safe public access to the waterway from the small park will be maintained given that:

- the proposed marina arm is generally aligned with the property boundary;
- no boats will be moored on the outside of the proposed marina arm; and
- the increase in boat movements generated by the additional marina berths is equivalent to approximately 35 boats on a good boating day (assuming approximately 35% of boats in use on any one day).

5.4.4 Marina Design and Water Depths

The design of marinas must comply with Australian Standard AS 3962-2001. AS 3962-2001 provides minimum and preferred dimensions for fairway widths, water depths, berth sizes, walkway widths and gangway requirements. The Department is satisfied that the marina can be designed to comply with the Australian Standard, however some of the submissions raised concern in relation to the water depth and the need for dredging.

The Proponent engaged Cardno Pty Ltd to undertake an assessment of the available drafts for motor boats, in accordance with AS 3962-2001 to establish whether there is sufficient water depth to accommodate the proposed range of vessels.

This assessment found that, as a result of previous dredging undertaken on the site, water depths are generally sufficient throughout the marina without the need for any further dredging. The only areas of exception are three berths close to the foreshore which are not suitable for boats greater than 8 metres in length (highlighted in red in **Figure 14** below). These berths are proposed to store 8 and 10 metre long boats. An appropriate condition has been recommended restricting the use of these 3 berths for boats up to 8 metres in length.

On this basis, the Department is satisfied that the marina can be accommodated without the need for any dredging. A condition has been recommended to ensure that if any future dredging is proposed it will need to be subject to a separate application.

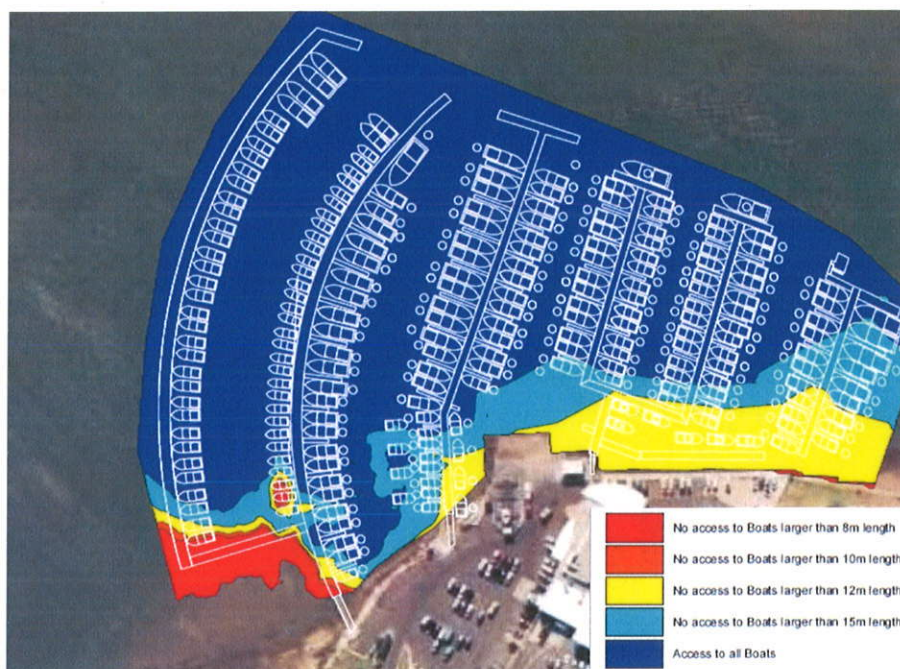


Figure 14: Available water depths (Source: Cardno, 2010)

6. RECOMMENDATION

The Department has assessed the merits of the proposal taking into consideration the issues raised in public submissions and is satisfied that the impacts have been addressed in the Proponent's response to submissions, the revised Statement of Commitments and recommended conditions. It is considered that the impacts can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance.

The Department considers that the proposal is acceptable in the context of the urban foreshore locality. The proposal has been designed to minimise any additional visual impacts, while catering for demand for fixed marina berths in the region. Further, the additional parking will ensure that reliance on on-street parking is minimised and residential amenity is maintained.

The proposal maintains adequate public foreshore access and navigation area within the waterway. There is no additional dredging required to facilitate the marina expansion and an Environmental Management Plan is in place to minimise risk and harm to the environment.

On these grounds, the Department considers that the proposal is in the public interest and the site is suitable for the development. The proposal is therefore recommended for approval subject to conditions of approval.

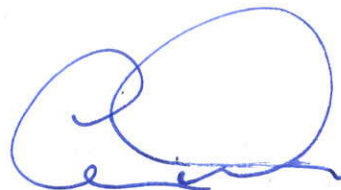
It is recommended that the Deputy Director General, as delegate for the Minister for Planning and Infrastructure:

- A) **note** the information provided in this report;
- B) **approve** the Concept Plan application, subject to recommended requirements;
- C) **approve** the Project Application, subject to recommended conditions; and
- D) **sign** the attached approvals.




30/9/2011

**Director
Metropolitan and Regional
Projects South**



30.9.11

**Executive Director
Major Projects Assessment**



3/10/11

**Deputy Director-General
Development Assessment
& Systems Performance**

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3269

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3269

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3269

APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (b) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (c) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (d) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the proposed development in relation to the ESD principles and has made the following assessment:

- **Precautionary Principle** – The application is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. Mitigation measures are outlined in the proponent's Statement of Commitments and/or the recommended conditions of approval. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The proposal includes environmental management practices to be employed during construction and on-going operation of the development, will ensure that the environment is protected for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats.
- **Valuation Principle** – The valuation principle is more appropriately applied to strategic planning decisions and not at the scale of an application for an individual development. The principle is not considered to be relevant to this particular application.

Section 75I(2) of the Act/ Clause 8B of Regulations

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director general's Report is to address a number of requirements. These matters and the Department's response are set out below:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and response to submissions (PPR) are located at Appendices A and C to this report.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out

	in Section 4.2 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	It is considered that the proposal adequately complies with the DGRs and the Statement of Compliance appears in Section 3.6 of this report.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Sections 5 and 6 of this report.
The suitability of the site for the project	
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	Copies of submissions are available on the Department's website. A summary of the issues raised in the submissions is provided in Section 4 of this report and the Proponent's response appears at in Appendix C .

State Environmental Planning Policy (Major Development) 2005

The proposal is a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) because it is development for the purpose of a marina expansion that "moor, berth or store more than 30 vessels in ... Botany Bay" pursuant to Clause 14(a) of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning and Infrastructure is the approval authority.

Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment

The aims and objectives of the *Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment* (GMREP 2) are:

- (a) to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,
- (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,
- (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,
- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment, and
- (e) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

GMREP 2 also has the following specific aims in relation to environmental protection, water quality and river flows:

- (a) to preserve and protect and to encourage the restoration or rehabilitation of regionally significant sensitive natural environments such as wetlands (including mangroves, saltmarsh and seagrass areas), bushland and open space corridors within the Catchment, by identifying environmentally sensitive areas and providing for appropriate land use planning and development controls,
- (b) to preserve, enhance and protect the freshwater and estuarine ecosystems within the Catchment by providing appropriate development, and
- (c) to ensure that development achieves the environmental objectives for the Catchment.

GMREP 2 also has the following specific aims in relation to regional role and land use:

- (a) to identify land uses in the Catchment which have the potential to impact adversely on the water quality and river flows in the Georges River and its tributaries and to provide appropriate planning controls aimed at reducing adverse impacts on the water quality and river flows,
- (b) to conserve, manage and improve the aquatic environment within the Catchment which is a significant resource base for the aquaculture industry, by providing controls aimed at reducing pollution entering the Catchment's watercourses,
- (c) to protect the safety and well being of the local and regional community in accordance with standards and processes aimed at improving the water quality and river flows in the Catchment to enable recreation, and

- (d) *to aid in the improvement of the environmental quality of Botany Bay in conjunction with other regional planning instruments.*

The Department considers that the proposal is consistent with the aims and objectives of GMREP as:

- there are minimal likely adverse impacts on existing coastal processes;
- the proposal is unlikely to impact on any threatened or protected aquatic bird, marine mammal or fish species;
- management plans have been prepared to guide the construction and on-going operation of the facility to ensure protection of the environment and water quality; and
- appropriate conditions of approval have been recommended in relation to erosion and sediment erosion, drainage and water quality.

Clause 11 (Item 15) within GMREP 2 provides the following planning controls and considerations for marinas and slipways.

- *The need for a condition of consent requiring centralised pumping stations.*
- *Whether adverse impacts will occur on any natural wetlands, seagrass beds, mangroves and any other flora and fauna habitats.*
- *Whether arrangements for the collection, storage, treatment and subsequent disposal of sewage and other wastes are satisfactory and meet the requirements of the Environment Protection Authority.*
- *Whether measures to prevent the escape of fuels, oils, grease and other chemicals into the waterway are adequate.*
- *Whether the proposal satisfies the document entitled Environmental Guidelines: Best Management Practice for Marinas and Slipways (1997) prepared by and available from the Environment Protection Authority.*
- *Whether adequate depth of water exists for the marina and other related land and water shoreline facilities and, if not, whether the means proposed for maintaining adequate water depth are appropriate and will not lead to adverse impacts on the Georges River or its tributaries.*
- *The stability of banks and foreshores and whether acid sulfate soils are likely to be disturbed.*

The Department has considered the above controls and finds that the proposal is satisfactory with regard to the following:

- no dredging is required to facilitate the proposal;
- there are minimal likely impacts on seagrass beds;
- an Environmental Management Plan is in place;
- adequate depth of water exists for the proposed marina expansion, and recommended conditions of approval have been provided to restrict the size/draft of vessels which access the berths in shallower locations; and
- the Proponent has undertaken an assessment of the geotechnical conditions, coastal processes and aquatic ecology which have found that the proposal will have minimal environmental impacts subject to appropriate conditions during construction and throughout operation of the marina.

Kogarah Local Environmental Plan 1998

The provisions of *Kogarah Local Environmental Plan 1998* apply to the site.

The site is zoned part "Residential 2(a) - Residential (Low Density)" and part "Environmental Protection 7(a) - Environmental Protection (Waterways)".

The objectives of the "Residential 2(a)" zone are to:

- *to provide for the housing needs of the Kogarah area,*
- *to maintain the amenity and low density environment of areas predominantly characterised by detached dwelling houses, and*
- *to allow certain non-residential development of low intensity which is compatible with the residential character and amenity of the locality.*

The objective of the "Environmental Protection 7(a)" zone is to ensure any development of land below mean high water mark is carried out in an environmentally sensitive manner, having particular regard to the nature and function of the waterways.

Marinas are permitted with development consent within the 7(a) zone. The proposed marina expansion is located entirely within the 7(a) zone, and therefore is a permissible land use.

However, the proposed car parking facility associated with the marina is within the "Residential 2(a)" zone. Marina uses are prohibited in the Residential 2(a) zone. However as a Concept plan has been authorised for the site, permissibility is not a consideration under section 75R of the EP&A Act.

Clause 16 of Kogarah LEP 1998 requires consideration of ESD principles:

- *conservation of natural resources,*
- *optimisation of the use of natural features,*
- *optimisation of energy efficiency,*
- *maintenance or improvement of air, water and soil quality,*
- *reduction of car dependence, and*
- *waste avoidance, waste minimisation and cleaner production.*

The Department has assessed the proposal against the principles of ESD and considers that the proposal incorporates satisfactory measures to minimise environmental impacts. The proposed expansion of the marina is not in conflict with any of the ESD principles identified in Kogarah LEP.

Clause 18 of Kogarah LEP restricts development between the mean high water level and the foreshore building line. The applicable foreshore building line for the site is 23 metres.

The proposed car parking structure is largely outside of the foreshore building line, however a portion of the car park encroaches into the foreshore building, setback approximately 21 metres from the mean high water mark.

The LEP states that the following matters must be given consideration prior to the approval of any encroachment into the foreshore building line:

- (a) the appearance of the development from both the waterway and adjacent foreshore areas,*
- (b) whether the development will cause pollution or siltation of the waterway,*
- (c) whether the development will have any adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats,*
- (d) whether the development will have an adverse effect on drainage patterns,*
- (e) whether the development will cause congestion of or generate conflicts between people using open space areas or the waterway,*
- (f) the desirability of ensuring continuous public access along the foreshore and to the waterway,*

- (g) *any effects on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and on surrounding land,*
- (h) *whether the development will cause disturbance of any acid sulfate soil,*
- (i) *whether any required permission or approval has been granted from the Department of Land and Water Conservation, and*
- (j) *the suitability of any environmental monitoring or environmental rehabilitation, or both, that may be required with regard to the proposed development*

Although the setback does not strictly comply with the foreshore building line, it is considered acceptable given that:

- the proposed car park is located above existing car parking at ground level which encroaches into the foreshore building line;
- the car park is wholly on private land and there are no impacts on access to the foreshore;
- any environmental impacts can be managed through appropriate drainage and treatment of stormwater from the car park. Appropriate conditions of approval have been recommended; and
- the visual impact of the car park is considered acceptable when viewed from surrounding properties and from the water.

Kogarah Residential Design Guide 2005

As the site and surrounding locality is zoned for residential land uses, the *Residential Design Guide 2005* (RDG) applies. *Part 6: Controls for Development along the foreshore* provides foreshore character statements and controls for foreshore and waterfront development and development below the mean high water mark. The controls predominantly relate to residential development, including boatsheds, private jetties and ramps and swimming pools, however the objectives for foreshore development can be applied to the proposal.

The site is within Foreshore Locality 1: Sans Souci (Rocky Point Road to Wellington Street). The character of this locality is urban, with a mix of residential development, public recreation areas, commercial marina and waterside facilities, including the Water Police and associated uses.

The main landmarks are the Tom Ugly's Bridge and Captain Cook Bridge, which dominates that visual character of the area. Seagrasses, rock shelves and scattered rock, tidal public foreshore access and fish habitat. Little native vegetation remains.

The RDG provides the following objectives for foreshore and waterfront development:

- *minimise the impact of development on the natural landform of the foreshore and waterway by integrating structures into the site with a minimum change to the natural topography;*
- *minimise the visual impact of development when viewed from adjacent land and waterways;*
- *blend developments into the foreshore and waterfront environment by using designs and materials which complement the natural landscape;*
- *retain and enhance native vegetation along the foreshore and ensure that development does not adversely affect any estuarine flora or fauna habitat;*
- *achieve an appropriate balance between private development and the alienation of the waterways, which is a public resource, from public use; and*
- *improve the scenic quality of the foreshore by:*
 - *maintaining and protecting existing native vegetation close to the water's edge and below the foreshore building line;*

- *retaining and protecting the natural landform;*
- *encouraging suitable landscaping below the foreshore building line; and*
- *ensuring that any development close to the waters edge is suitably designed and treated to minimise its impact when viewed from the water.*

The proposal is considered consistent with the above objectives in the following respects:

- the foreshore is highly urbanised, characterised by various maritime elements including the existing marina;
- the proposal does not involve any change to the natural topography;
- the proposed location of the marina arm maintains acceptable public access to the waterway and sufficient navigable distances; and
- the visual impact of the development is considered acceptable for reasons outlined in this report.

The RDG provides the following objectives for water based development, below the mean high water mark:

- *protect the estuarine flora and fauna habitat and minimise disturbance of ecological communities;*
- *retain and encourage tidal public foreshore access; and*
- *minimise the individual and cumulative visual impact of watercraft facilities and ensure that they do not detract from the visual quality of the waterway.*

The proposal is considered consistent with the above objectives in the following respects

- the proposal does not involve any dredging and minimal impact on flora and fauna is likely;
- adequate foreshore access is maintained to the general public; and
- the visual impact of the proposal has been addressed in this report and is considered to be acceptable in the urban context of the site.

The RDG also requires natural features along the foreshore to be retained and use of native landscaping which complements the existing landscape character.

Appropriate conditions of approval have been recommended in relation to use of native vegetation in the proposed landscaping strategy for the car park.

Dredging generally has an adverse impact on the estuarine habitat of the waterway and Council will generally not support dredging, unless a public authority is undertaking the work or there is a general public benefit.

The proposal does not involve any dredging works. In addition, appropriate conditions of approval have been recommended to prevent propeller dredging by restricting the size of vessels that are permitted to access the shallower berths close to the shore line.

APPENDIX E RECOMMENDED CONDITIONS OF APPROVAL
