Sydney Seaplanes
Aviation Terminal, Rose Bay

Statement of Support for Section 4.55(2) Modification

June 2018
Table of Contents

1.0 Introduction 4
1.1 Overview 4
1.2 Site Context and Locality 4
1.3 Site Description 5
2.0 Proposed Development 6
2.1 Overview 6
2.2 Justification 6
2.3 Revised conditions 8
3.0 Section 4.55 Assessment 9
3.1 Section 4.55(2) of the EP&A Act 1979 – Other Modifications 9
3.2 Section 4.55(3) of the EP&A Act 1979 10
4.0 Section 4.15 Assessment 11
4.1 Overview of Statutory and Policy Controls 11
4.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 11
4.3 Sydney Harbour Foreshores and Waterways Area Development Control Plan (SHFWA DCP) 2005 16
4.4 Likely Impacts of the Development 16
5.0 Conclusion 17

List of Figures

Figure 1: Location plan (Source: Google Maps)
Figure 2: Sydney Seaplane Terminal base (left) and dock (right) prior to 2016
Figure 3: Sydney Seaplane Terminal base (left) and dock (right) after completion in 2016

List of Tables

Table 1: Examples of food offered on Sydney Harbour
Table 2: W4 Aviation zone objectives assessment table
Table 3: SREP (Sydney Harbour) 2005 - Division 2 assessment table
1.0 Introduction

1.1 Overview

This SoS has been prepared in support of an application to modify Development Consent DA-745/10 for services and facilities ancillary to an approved aviation terminal.

The development was approved 21 January 2011 by the then NSW Maritime. The proposed modification involves the following:

- Deletion of Condition 7 limiting numbers of staff;
- Amendment to Condition 8 to change the approved variable hours of operation to set operation times; and
- Amendment to Condition 10 to allow the provision of on-site food preparation as part of the existing kiosk.

The proposed modifications will not result in any additional built form or gross floor area (GFA). The modifications relate to the operations of the existing approved aviation terminal.

1.2 Site Context and Locality

Sydney Seaplanes aviation terminal is located adjacent to Lyne Park, Rose Bay. Lyne Park was reclaimed from sand flats in 1902, and in 1938 a flying boat base was established on its eastern end as Australia’s first international airport for flying boats, and operated between 1938 and 1974.

Figure 1: Location plan (Source: Google Maps)

Sydney Seaplanes aviation terminal was constructed during 2016, and replaced a previous commercial aviation terminal which had been operating from the site (refer Figure 2). The present terminal has been operating since its completion in 2016 (refer Figure 3).
The site is surrounded by Lyne Park, Rose Bay, Catalina Restaurant, Woollahra Sailing Club, Rose Bay Scout Hall, and Club Rose Bay.

### 1.3 Site Description

The site is part of Sydney Harbour being located below mean high watermark. The development consent granted for the site describes the land as “Part of the bed of Rose Bay”.

The terminal building and mooring are within a leasehold area managed on behalf of the Crown by Roads and Maritime Services (RMS). The lease area has a property description of Lot 1 in DP 11556078 and Lot 1 in DP 1016968.
2.0 Proposed Development

2.1 Overview

This SoS has been prepared in support of an application to modify Development Consent DA-745/10 for services and facilities ancillary to an aviation terminal.

The development was approved by the then NSW Maritime on 21 January 2011.

This S4.55(2) application seeks to modify the consent to remove the restriction on staff numbers operating from the site, impose set operation times instead of variable times closing at last light, and include the provision of on-site food preparation as part of the existing kiosk.

The proposed modifications will not result in any additional built form or GFA. The modifications relate to the operation of the existing aviation terminal and its ancillary uses only, and do not alter the nature of the approved land use.

The proposed modification involves the following:

- Deletion of Condition 7 limiting numbers of staff;
- Amend Condition 8 to set operation hours; and
- Amend Condition 10 to allow the provision of on-site food preparation as part of the existing on-site kiosk.

2.2 Justification

The justification for the modification, or deletion, of each of the aforementioned conditions is as follows:

2.2.1 Condition 7

Condition 7 specifies that the facility may have a maximum of nine (9) full-time employees (or equivalent part-time employees) being employed within the terminal building. This condition significantly limits the level of service Sydney Seaplanes can offer to its patrons, which in turn is detrimental to Sydney Seaplanes’ business.

As part of everyday operations, the business has a number of behind the scenes staff who deal with the operational management of Sydney Seaplanes, and are not directly dealing with customers. Pilots also come in and out of the terminal to work throughout the day, collecting technical documentation, carrying out weather checks, dealing with maintenance issues, and the like. The wording of the condition is unclear as to whether the businesses pilots are included or excluded in the count, as they are technically not permanently within the terminal building.

Furthermore, limiting the number of employees results in a reduction in opportunities which could be available for local people to work in an exciting and challenging tourism industry, and for the business to maximise the customer experience.

It is therefore requested that Condition 7 be deleted, enabling Sydney Seaplanes the opportunity to employ an appropriate number of staff to manage its day to day operations, whilst also employing sufficient staff to operate the terminal building, museum and its associated ancillary facilities, delivering the level of service desired for its patrons.
The overall scope of operations is naturally limited by the number of planes that can be accommodated on the available moorings, flight slot availability, and the seasonal variability of the business.

The removal of the employee cap will remove potential confusion over what employees are counted as being permanently within the terminal building, and allow for staffing levels to be employed to more satisfactorily manage and respond to demand.

This requested modification does not alter the nature of the approved land use. The modification facilitates more reasonable employee service levels.

2.2.2 Condition 8

Condition 8 restricts the entry by members of the public to the aviation facility after the cessation of daylight flying hours, and requires that all persons other than employees must leave the premises within one (1) hour of the cessation of daylight flying. This condition results in a varying closing time throughout the year for the terminal and its associated facilities and the museum. Sydney Seaplanes is seeking to vary this condition to provide uniformity to its operations within the terminal, and to provide regularity of service for its staff and patrons.

With the reduced demand in winter, and the reduced hours of daylight, it is expected that the later hours are less likely to be utilised. In addition to this, the lease Sydney Seaplanes holds with RMS limits that the operating hours will be from 6:00am to 11:00pm, seven (7) days a week.

The aviation facility is located away from any residential properties, and will not give rise to any adverse impacts by the regularisation of the opening hours. Therefore, it is requested to modify Condition 8 to permit the operation of the aviation facility (terminal building) and its associated facilities between 6:00am and 10:00pm, which are hours that do not conflict with the terms of the lease.

The regulated hours will allow the customers of the business to enjoy the facility before and after flights in a relaxed and unhurried manner. The requested hours of operation also allow the museum to be open to the public, many of whom may need to travel to visit the museum outside of traditional working hours of 9:00am to 5:00pm.

Flight operations hours will remain unchanged.

The reconfiguration of the hours of operation does not alter the nature of the approved use as an aviation terminal. The primary use and generation of activity remains the aviation terminal. The regularised hours of operation allow post flight service to the customers, and access to the museum.

2.2.3 Condition 10

Condition 10 limits the activities of the kiosk within the aviation facility to only serving pre-prepared and pre-packaged food, and the service of hot and cold beverages. It specifically excludes the preparation of food on the premises.

This condition is at odds with the range of services and amenities permitted on many water based, commercial facilities within Sydney Harbour, where restaurants and cafes form part of the marina, and provide meals prepared on the premises. Such examples include:

<table>
<thead>
<tr>
<th>Marina</th>
<th>Establishment</th>
<th>Food Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elizabeth Bay Marina</td>
<td>The Lookout</td>
<td>Hot and cold food prepared on-site.</td>
</tr>
<tr>
<td>Rose Bay Marina</td>
<td>Regatta Restaurant &amp; Bar</td>
<td>Hot and cold food prepared on-site.</td>
</tr>
<tr>
<td>Rose Bay Marina</td>
<td>Tide Cafe</td>
<td>Hot and cold food prepared on-site.</td>
</tr>
<tr>
<td>D’Albora Marina, Cabarita Point</td>
<td>Vela Dining and Bar</td>
<td>Hot and cold food prepared on-site.</td>
</tr>
<tr>
<td>Balmoral Boatshed, Balmoral</td>
<td>The Balmoral Boathouse</td>
<td>Hot and cold food prepared on-site.</td>
</tr>
</tbody>
</table>

Table 1: Examples of food offered on Sydney Harbour
The provision of food is seen as an ancillary activity to the marina related activities.

The kiosk within the terminal is an ancillary use to the aviation facility, providing facilities for patrons of the terminal and associated museum before and/or after a flight, or a visit to the museum. Sydney Seaplanes have found that a number of guests have asked why it isn’t possible for them to produce light hot snacks or small meals on the premises, which would be typical of many similar establishments. The ability to prepare food on-site is consistent with the facilities provided at other marinas surrounding Sydney Harbour as set out above.

The ability to prepare food on-site does not alter the nature of the approval of the kiosk as ancillary to the aviation terminal use, rather it significantly improves the quality and reduces the cost of the ancillary service and offering already approved for the site, and would be more complimentary to the service offered by Sydney Seaplanes and desired by customers.

The modification seeks to provide flexibility to the delivery of the approved ancillary kiosk, and does not increase the approved scope of use within the aviation building. The kiosk will continue as an ancillary offering to the approved aviation terminal.

The requested amendment to the condition would allow for food preparation in the already approved and constructed kitchen facilities.

At present, Sydney Seaplanes can have pre-prepared food delivered to the site, including hot food prepared in an external kitchen. A factor which limits this is the prohibitive expense, and the desire to provide food which is both fresh and of a high quality.

This places them at a significant disadvantage as compared to surrounding marinas, whose facilities have in-house provisions for food preparation. This includes the recently opened café at the Elizabeth Bay Marina, ‘The Lookout’.

Therefore, it is requested that Condition 10 is modified to allow the kiosk to provide hot and cold beverages and foodstuffs, prepared either on or off-site.

2.3 Revised conditions

The modifications are as follows:

- Deletion of Condition 7:

  “A maximum of 9 full-time employees (or equivalent part-time employees) being permanently employed within the terminal building.”

- Modification of Condition 8 as follows:

  “Public entry to the facility is not permitted between the hours of 6:00am and 10:00pm after the cessation of daylight flight hours. All persons, other than employees, must be off the premises outside of these times.”

- Modification of Condition 10 as follows:

  “The kiosk being available for service of hot and cold beverages and foodstuffs prepared on-site pre-packaged/prepared food goods only. No food is to be prepared on site.”
3.0 Section 4.55 Assessment

3.1 Section 4.55(2) of the EP&A Act 1979 – Other Modifications

Section 4.55 of the EP&A Act 1979 allows development consent to be modified if the development is substantially the same. Section 4.55(2) relates to modifications where they do not involve minimal environmental impact and are not modifications involving minor errors, misdescription, or miscalculation.

Set criteria identified in Section 4.55(2) of the Act are reproduced below:

“(2) Other modifications.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that the Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) It has notified the application in accordance with:

i. The regulations, if the regulations so require, or

ii. A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) It has considered any submission may be concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

In relation to Subclause (a), development as proposed to be modified is considered to be of substantially the same development for the following reasons:

- The approved use remains an aviation facility with ancillary uses. In the calendar year 2017, approximately 75% of total income derived from the site was from seaplane sightseeing flights;
- No alterations are proposed to the approved and constructed aviation facility, or its internal arrangement;
- The proposed modifications only relate to the operation of the facility;
- The modification does not alter the nature of already approved ancillary uses, just the method by which the ancillary uses are provided; and
- The museum and kiosk will remain ancillary to the principle use as an aviation facility.

Accordingly, the proposed modifications satisfy Section 4.55(2) of the EP&A Act 1979, as they result in a development that is substantially the same as the development originally approved by the Consent Authority.
In relation to Subclauses (c) and (d), Clause 119(3) of the EP&A Regulation 2000 requires that the application be notified or advertised in accordance with the relevant DCP. The consent authority is required to consider any submissions made in accordance with that notification.

It is demonstrated above that the proposed modified development is substantially the same as the approved development, and therefore subject to the procedures provided by Subclauses (c) and (d), and may be considered by the consent authority under Section 4.55(2) of the EP&A Act 1979.

3.2 Section 4.55(3) of the EP&A Act 1979

In accordance with Section 4.55(3) of the EP&A Act 1979, when determining an application to modify a consent, the Consent Authority:

“…must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.”

An assessment of the proposed modifications with regard to relevant matters referred to in Section 4.15(1) is outlined in Section 4 of this report.

No reasons for the grant of consent or the conditions imposed are given on the notice of determination. Therefore, the modification and deletion of the conditions proposed can be assessed on the merit of the condition alone.

The requested modifications do not alter the dominant use or categorisation of the use as approved. There is no barrier to granting consent to the modification request in this instance.
4.0 Section 4.15 Assessment

The assessment of the proposal outlined below addresses matters listed under Section 4.15 of the EP&A Act 1979. The assessment set out in this section is provided to assist the Consent Authority in its consideration of the application.

4.1 Overview of Statutory and Policy Controls

The legislation, statutory controls, and policies relevant to the assessment of the proposed development are assessed below.

4.1.1 State Environmental Planning Policies

- Sydney Regional Environment Plan (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005.

4.1.2 Relevant Development Control Plans

- Sydney Harbour Foreshores Area Development Control Plan (SHFA DCP).

4.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

4.2.1 Consent Authority (Clause 5)

The approved development has been defined as being water-based development consistent with the definition in SREP (Sydney Harbour) 2005:

“development carried out wholly below the mean high water mark, and development for any of the following purposes:…

…d) aviation facilities,”

As set out in Clause 5(4) SREP (Sydney Harbour Catchment), the development being water-based development not within a local government area, the consent authority for this s4.55(2) is the Minister administering the Ports and Maritime Administration Act 1995.

4.2.2 Zoning Objectives (Clause 17)

The site is identified on the zoning map as being in the W4 Aviation zone. The modifications are consistent with the objectives of the zone as set out below:

<table>
<thead>
<tr>
<th>Objective</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To give preference to and protect waters required for marine aviation activities</td>
<td>The existing building and use is a water-based marine aviation facility. The modifications are proposed to the operation of this facility and the ancillary uses. No new land uses are proposed that would impact upon the maritime aviation activities or hinder the ongoing use for marine aviation activities.</td>
</tr>
</tbody>
</table>

|                      | |
|----------------------||
|                      | |
Table 2: W4 Aviation zone objectives assessment table

<table>
<thead>
<tr>
<th>Objective</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that marine aviation activities safely coexist with other activities and facilities</td>
<td>The modifications will not alter how the marine aviation activities interact with other activities and facilities in Rose Bay. The modifications will enable sufficient service staff to be in the terminal building to look after customers, enabling operations staff to solely deal with Sydney Seaplanes operations and activities.</td>
</tr>
<tr>
<td>To allow development only where it is demonstrated that it is compatible with and will not adversely affect marine aviation activities</td>
<td>The proposed modifications seek to allow the ancillary kiosk to serve food prepared on the premises. This will not adversely affect the marine aviation activities or any of the surrounding land based activities, and will be compatible.</td>
</tr>
</tbody>
</table>

The use is defined as an ‘aviation facility’ under the provisions of SREP (Sydney Harbour).

An aviation facility is defined as:

“…an area of the waterway set aside, or a structure provided, for the purpose of aircraft landing or taking off.”

Within the terminal building is a museum dedicated to the seaplane history associated with the site. This use would be defined as a ‘community facility’ under SREP (Sydney Harbour).

A community facility is defined as:

“…a building or place that provides for the physical, social, cultural, religious or intellectual development or welfare of the community.”

The kitchen and kiosk were approved as part of the aviation facility.

The provision of food and drink is an ancillary element to the dominant use of aviation facility and community facility (museum). The requested modifications to the conditions of consent remain consistent with the dominant purpose of marine aviation. The ancillary service of food and beverages allows for the best possible customer experience, and does not conflict with these land use definitions. The aims of SREP (Sydney Harbour) include to ensure a prosperous working harbour, to ensure accessibility to, and along, the harbour, and to recognise the harbour as a public asset of national heritage significance.

The modifications to the conditions support the commercial activity and the economic contribution of employment facilities utilising the harbour, support the provision of an amenity that facilitates public access and utilisation of the harbour and foreshore as a recreation amenity and the continuation of the historic use of the location for sea based aviation.

The modifications do not alter the categorisation as an ancillary use to the dominant aviation use, and can be approved.
### 4.2.3 Matters to be taken into consideration (Division 2)

Division 2 of SREP (Sydney Harbour) 2005 sets out matters to be taken into consideration by consent authorities prior to granting development consent under Part 4 of the EP&A Act 1979. The modifications proposed have been assessed against these matters as follows:

<table>
<thead>
<tr>
<th>Matter for Consideration</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Biodiversity, ecology and environment protection</strong></td>
<td></td>
</tr>
<tr>
<td>a) Development should have a neutral or beneficial effect on the quality of water entering the waterways,</td>
<td>The proposed modifications will not alter the quality of the water within the waterways.</td>
</tr>
<tr>
<td>b) Development should protect and enhance terrestrial and aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),</td>
<td>The native and aquatic vegetation will not be impacted upon by the proposed modifications to the conditions of consent.</td>
</tr>
<tr>
<td>c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),</td>
<td>The alterations proposed do not alter the ecological connectivity between neighbouring areas.</td>
</tr>
<tr>
<td>d) Development should avoid indirect impacts on aquatic vegetation such as changes to flow, current and wave action and changes to water quality as a result of increased access,</td>
<td>No direct or indirect impacts will arise to current, flow, or wave action as a result of the proposed modifications.</td>
</tr>
<tr>
<td>e) Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands,</td>
<td>No impacts to any wetlands or their ecological integrity will result from the proposed modifications.</td>
</tr>
<tr>
<td>f) Development should retain, rehabilitate and restore riparian land,</td>
<td>No impact will be had upon riparian land as a result of the proposed modifications to the conditions of consent.</td>
</tr>
<tr>
<td>g) Development on land adjoining wetlands should maintain and change the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands,</td>
<td>No alterations to any wetlands or their ecological integrity will result from the proposed modifications.</td>
</tr>
<tr>
<td>h) The cumulative environmental impact of development,</td>
<td>The proposed modifications will have no impact on the environment above that of the approved and constructed development.</td>
</tr>
<tr>
<td>i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance,</td>
<td>The approved development is constructed and the proposed amendments will not disturb any contaminated sediments.</td>
</tr>
</tbody>
</table>

**Public access to, and use of, foreshores and waterways**

<p>| a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation, | Public access along the foreshore will not be altered by the proposed modifications. The regularisation of hours for the opening of the aviation facility will enable regular access for members of the public and improve public access to the facility. |</p>
<table>
<thead>
<tr>
<th>Matter for Consideration</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting upon watercourses, wetlands, riparian lands or remnant vegetation,</td>
<td>The proposed modifications will not alter public access to and from the waterways. The modifications will also not alter the approved developments impact on any watercourses, wetlands, riparian land or remnant vegetation.</td>
</tr>
<tr>
<td>c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,</td>
<td>The proposed modifications do not alter the tenure of or access to foreshore land.</td>
</tr>
<tr>
<td>d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,</td>
<td>Public access is not impacted by the proposed modifications and no boardwalks are proposed to enable access as part of the modifications.</td>
</tr>
<tr>
<td>e) The need to minimise disturbance of contaminated sediments.</td>
<td>The proposed modifications do not alter the approved developments disturbance of any sediments.</td>
</tr>
<tr>
<td><strong>Maintenance of a working harbour</strong></td>
<td></td>
</tr>
<tr>
<td>a) Foreshore sites should be retained so as to preserve the character and function of a working harbour, in relation to both current and future demand,</td>
<td>The proposed modifications will enhance the approved aviation facility enabling it to operate for regular hours throughout the year and providing a level of service its patrons would wish to see.</td>
</tr>
<tr>
<td></td>
<td>The facility continues seaplane operations from a location historically associated with seaplane aviation, which is also recognised in the on-site museum.</td>
</tr>
<tr>
<td>b) Consideration should be given to integrating facilities for maritime activities in any development,</td>
<td>The approved aviation facility is a base for maritime aviation activities. The proposed modifications seek to enhance this facility and its associated amenities to patrons of the business operating from the site.</td>
</tr>
<tr>
<td>c) In the case of development land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,</td>
<td>The development has been assessed as being compatible with the surrounding land uses by its approval. The proposed modifications do not seek to alter the relationship of the commercial maritime purpose (aviation facility) with the uses of the adjoining land.</td>
</tr>
<tr>
<td>d) In the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.</td>
<td>Public access to the foreshore will be maintained consistent with the approved development. The proposed modifications will however improve public access to the aviation facility and associated uses through implementing regular opening hours.</td>
</tr>
<tr>
<td><strong>Interrelationship of waterway and foreshore uses</strong></td>
<td></td>
</tr>
<tr>
<td>a) Development should promote equitable use of the waterway, including use by passive recreation craft,</td>
<td>The development as approved is consistent with the intended use of Rose Bay for marine aviation activities. The proposed modifications do not alter this approved activity or use.</td>
</tr>
<tr>
<td>Matter for Consideration</td>
<td>Response</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>b) Development on foreshore land should minimise any adverse impact on the way of the waterway, including the use of the waterway for commercial and recreational uses,</strong></td>
<td>The proposed modifications do not alter the approved relationship with the foreshore and do not have any adverse impacts on the waterway.</td>
</tr>
<tr>
<td><strong>c) Development on foreshore land should minimise excessive congestion of traffic in the waterway or along the foreshore,</strong></td>
<td>The proposed modifications will not alter the traffic within the waterway or along the foreshore. The modifications do not increase flight capacity, but allows patrons to stay on-site for a longer period.</td>
</tr>
<tr>
<td><strong>d) Water-dependant land uses should have priority over other uses,</strong></td>
<td>The proposed modifications do not alter the approved land use of the aviation facility. They do however seek to enhance the customer experience of the facility.</td>
</tr>
<tr>
<td><strong>e) Development should avoid conflict between the various uses in the waterway and along the foreshores.</strong></td>
<td>The proposed modifications will not alter the overall use of the aviation facility. The ability for the associated kiosk to prepare food onsite will, however, provide an extension to the catering options available within the facility to serve patrons of the business. This extension of catering options will not conflict with the existing established catering options located along the foreshore as the kiosk already offers a range of pre-prepared food and snacks.</td>
</tr>
</tbody>
</table>

**Foreshore and waterway scenic quality**

| **a) The scale, form, design and siting of any building should be based on an analysis of:** | The scale, form, design and siting of the approved building will not be altered as a result of the proposed modifications.                                                                                                                          |                                                                                                                                                                                                                                                 |
| i. The land on which it is to be erected, and i. The adjoining land, and i. The likely future character of the locality, |                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                 |
| **b) Development should maintain, protect and enhance the unique visual qualities of Sydney harbour and its islands, foreshores and tributaries,** | The proposed modifications will not alter the approved buildings relationship with the unique qualities of Sydney harbour.                                                                                               |                                                                                                                                                                                                                                                 |
| **c) The cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.** | The approved and constructed built form will not be altered by the modifications proposed. The modifications relate specifically to the operation of the facility.                                                                                     |                                                                                                                                                                                                                                                 |

**Maintenance, protection and enhancement of views**

| **a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,** | No alterations to the views, including night views, of Sydney Harbour will result from the proposed modifications.                                                                                                                                                                                                                                                                             | The standardisation of the opening hours of the aviation facility will not significantly increase light spill into Rose Bay outside of daylight hours given the adjacent restaurant (Catalina), ferry terminal, clubs, illuminated board walks, roads, private dwellings and commercial mannas surrounding Rose Bay. |
| **b) Development should minimise any adverse impact on views and vistas to and from public places, landmarks and heritage items,** | Views and vistas will not be impacted beyond the approved and constructed development as a result of the proposed modifications.                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                 |
Matter for Consideration | Response
---|---
c) The cumulative impact of development on views should be minimised. | The impact on views will not be altered above the approved and constructed development. The proposed modifications relate specifically to operational elements of the approval only.

### Boat storage facilities

a) Development should increase the number public boat storage facilities and encourage the use of such facilities, | No alteration to existing boat storage facilities will result as part of the proposed modifications to the approved DA.
b) Development should avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark, | No additional development will result as part of the proposed modifications. The modifications relate to the operation of the approved and constructed facility.
c) Development should provide for the shared use of private boat storage facilities, | Boat storage facilities will not be altered by the proposed modifications.
d) Development should avoid the proliferation of private boat storage facilities in and over the waterway by ensuring that all such facilities satisfy a demonstrated demand, | No new private boat storage facilities are proposed by the modifications sought.
e) Boat storage facilities should be visually unobtrusive as possible, | No new private boat storage facilities are proposed by the modifications sought.
f) In the case of permanent boat storage, the safety and utility of the development should not be adversely affected by the wave environment, and the development should avoid adverse impacts on safe navigation and single moorings. | No new private boat storage facilities are proposed by the modifications sought.

Table 3: SREP (Sydney Harbour) 2005 - Division 2 assessment table

### 4.3 Sydney Harbour Foreshores and Waterways Area Development Control Plan (SHFWA DCP) 2005

SHFWA DCP 2005 does not contain any policies which are applicable to the operational changes proposed as part of these modifications. The development as modified will therefore remain consistent with the SHFWA DCP 2005

### 4.4 Likely Impacts of the Development

This report demonstrate that the modifications proposed do not result in any unacceptable impacts on the existing neighbouring development or the surrounding environment.

The modifications proposed relate to the operation of the approved and constructed aviation facility. The removal of a cap on staff numbers, regularisation of opening hours, and provision of on-site food preparation will not adversely impact on the adjoining uses or marine activities, and no increase will be experienced in noise, overshadowing, privacy, or social impacts as a result of the requested modifications.

Therefore, the development as modified is still in the public interest.
5.0 Conclusion

The proposal to modify DA-745/10 seeks the deletion or modification of Conditions 7, 8, and 10 which relate to the operation of the approved aviation terminal, and do not alter the constructed facility.

The development was approved having regard to the provisions of Sydney Regional Environmental Plan (SREP) (Sydney Harbour Catchment) 2005 and Sydney Harbour Foreshores Area DCP 2005 and the proposed modifications remain consistent with these controls.

For the reasons set out in this report, the development as modified will remain substantially the same as the approved development, and does not materially alter the impacts of the development on the locality.

The museum and kiosk will remain ancillary to the principle use of the site as an aviation facility.

It is therefore requested that the scope of amendments described in this Statement be approved, including the following amendment to Conditions of Consent:

- Condition 7 – Deletion;
- Condition 8 – Modification of operation hours to allow consistency for staff/patrons and enable Sydney Seaplanes to comply with their lease; and
- Condition 10 – Modification to enable the sale of food prepared on site within the existing kiosk.

The modified proposal will facilitate enhancement of the facilities and services associated with, and contained in the approved aviation terminal, ensuring Sydney Seaplanes are able to provide a high level of service to customers, consistent with the underlying intent of the original determination to continue marine aviation from the locality and to celebrate this history in the associated museum.

Based on the assessment undertaken, Roads and Maritime Services’ approval of the proposed development is sought.