



New South Wales Government  
Independent Planning Commission

# **Glebe Island Concrete Batching Plant & Aggregate Handling Facility - SSD 8544**

## **Statement of Reasons for Decision**

Annelise Tuor (Chair)  
Dr Peter Williams

23 July 2021

Glebe Island Concrete Batching Plant & Aggregate Handling Facility Final Report ©  
State of New South Wales through the Independent Planning Commission 2021

Independent Planning Commission NSW  
Level 3, 201 Elizabeth St Sydney NSW Australia  
Telephone: (02) 9383 2100  
Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)  
ABN: 38755709681

**Disclaimer:**

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

The Independent Planning Commission NSW advises that the maps included in the report are to give visual support to the discussion presented within the report. Hence information presented on the maps should be seen as indicative, rather than definite or accurate. The State of New South Wales will not accept responsibility for anything, or the consequences of anything, done or omitted to be done in reliance upon the mapped information.

## EXECUTIVE SUMMARY

Hanson Construction Materials Pty Ltd (the Applicant) has sought development consent for the Glebe Island Concrete Batching Plant and Aggregate Handling Facility (the Project) located in the Inner West Local Government Area (LGA).

The Capital Investment Value (CIV) of the development is over \$22 million. It is projected to create 90 construction jobs and 67 full-time jobs.

The Department of Planning, Industry and Environment (the Department) finalised its whole-of-government assessment of this State significant development (SSD) application (Application) in April 2021 - concluding that the Application is approvable, subject to the imposition of its recommended conditions of consent. The Independent Planning Commission (Commission) is the consent authority for this SSD application because the Department received more than 50 'unique' public submissions objecting to the Application and Inner West Council also objected to the Application.

In making its determination the Commission has relied on material including the assessment conducted on its behalf by the Department. The Commission is satisfied that this assessment was undertaken in line with relevant legislation and guidelines, was informed by appropriate expertise, and addressed the mandatory relevant considerations under s 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Commission also relied on material presented to it by the community and other stakeholders at the electronic public meeting held on 17 May 2021 and in written submissions made to the Commission. The Commission has also taken into consideration the material discussed at and submitted following the Commission's meetings with the Applicant, Department, Inner West Council, City of Sydney Council and the NSW Port Authority, and the observations made at the site inspection and locality tour.

After weighing all the material and considering the community's views, the Commission has determined to **approve** the Glebe Island Concrete Batching Plant and Aggregate Handling Facility, as modified by the Commission and subject to conditions, pursuant to the powers under section 4.38(1)(a) of the EP&A Act and for the reasons outlined in this Statement of Reasons.

Key issues which are the subject of findings in this Statement of Reasons include: permissibility and strategic justification, built form, visual impacts, and operational impacts - including noise, air quality, traffic, parking and access.

In considering these key issues, the Commission acknowledges that the Application will potentially result in noise, visual and other amenity impacts for the occupants of residential buildings in Jackson's Landing and Pyrmont, and users of the public domain. For the reasons set out in this Statement of Reasons, the Commission has modified the application and imposed conditions to better address these and other community concerns. These changes include a limitation on non-port-related activities, a reduction in the height of the aggregate storage silos, a restriction on night-time ship deliveries, a time limit to the consent until the end of 2040, and further noise, air quality and traffic mitigation measures. The Commission considers that subject to the imposition of these conditions, the matters raised in public submissions do not preclude the granting of development consent.

On balance, the Commission finds that the Application is a reasonable and acceptable development expectation for the Site given the Application, as modified by the Commission and subject to conditions:

- is permissible with consent in the zone and will promote port and employment uses;
- is consistent with State, regional and local strategic planning objectives for the precinct, in the short to medium term;
- will create 90 construction jobs and 67 full-time operational jobs;
- will supply concrete to facilitate development in inner-Sydney and surrounding locations, including major infrastructure projects; and

- is situated on a working harbour close to the CBD, meaning that concrete and less material required for its production will have to be transported by road from elsewhere, thereby reducing heavy vehicle movements on the wider road network.

The Commission has concluded the Application, as modified by the Commission and subject to conditions, is a suitable development for the Site that will result in local and regional economic benefits and is therefore in the public interest. As such, the Commission has determined to grant consent to the Application, as amended, subject to conditions.

## CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>i</b>
<b>DEFINED TERMS.....</b>	<b>1</b>
<b>1 INTRODUCTION.....</b>	<b>1</b>
<b>2 THE APPLICATION.....</b>	<b>1</b>
2.1 Site and Locality .....	1
2.2 Background to the Application.....	2
2.3 The Project.....	2
2.4 Relevant Site Context.....	8
<b>3 COMMUNITY PARTICIPATION &amp; PUBLIC SUBMISSIONS .....</b>	<b>9</b>
3.1 Community Group Attendance at the Site Inspection .....	9
3.2 Public Meeting .....	9
3.3 Public Submissions.....	9
<b>4 THE COMMISSION'S CONSIDERATION.....</b>	<b>15</b>
4.1 The Department's Assessment Report .....	15
4.2 The Commission's Meetings .....	15
4.3 Public Comments.....	16
4.4 Material Considered by the Commission.....	16
<b>5 STRATEGIC CONTEXT .....</b>	<b>18</b>
5.1 Greater Sydney Region Plan: A Metropolis of Three Cities - Eastern City District Plan.....	18
5.2 State Infrastructure Strategy 2018-2038 .....	18
5.3 NSW Freight and Ports Plan 2018-2038.....	18
5.4 Bays Precinct Transformation Plan - October 2015.....	18
5.5 Draft Bays West Place Strategy - March 2021.....	19
<b>6 STATUTORY CONTEXT .....</b>	<b>20</b>
6.1 Permissibility .....	20
6.2 Integrated and other NSW Approvals.....	20
6.3 Mandatory Considerations.....	20
6.4 Additional Considerations.....	22
<b>7 KEY ISSUES.....</b>	<b>23</b>
7.1 Strategic Justification.....	23
7.2 Built Form and Visual Impact.....	25
7.3 Noise Impacts .....	26
7.4 Air Quality Impacts.....	29
7.5 Traffic, Parking and Access Impacts .....	29
7.6 Other Issues.....	31
7.7 Objects of the EP&A Act and Public Interest.....	32
<b>8 THE COMMISSION'S FINDINGS AND DETERMINATION.....</b>	<b>33</b>

## DEFINED TERMS

ABBREVIATION	DEFINITION
<b>Aggregate</b>	Fragments of rock ranging from coarse aggregates (such as gravel) to fine aggregates (such as sand)
<b>AHF</b>	Aggregate Handling Facility
<b>Applicant</b>	Hanson Construction Materials Pty Ltd
<b>Application</b>	SSD-8544
<b>ARP</b>	Department's Assessment Report paragraph number
<b>Bays Precinct</b>	Glebe Island, Blackwattle Bay, Wentworth Park, Rozelle Bay (including the rail yards) and White Bay
<b>CBP</b>	Concrete Batching Plant
<b>Commission</b>	Independent Planning Commission of NSW
<b>Council</b>	Inner West Council
<b>DCP</b>	Development Control Plan
<b>Department</b>	Department of Planning, Industry and Environment
<b>Department's AR</b>	Department's Assessment Report dated April 2021
<b>Draft Place Strategy</b>	<i>Draft Bays West Place Strategy</i>
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EPA</b>	Environment Protection Authority
<b>EPI</b>	Environmental Planning Instrument
<b>EPL</b>	Environment Protection Licence
<b>ESD</b>	Ecologically Sustainable Development
<b>FRtS</b>	Further Response to Submissions
<b>LEP</b>	Local Environmental Plan
<b>LGA</b>	Local Government Area
<b>Mandatory Considerations</b>	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
<b>Material</b>	The material set out in section 4.4
<b>Minister</b>	Minister for Planning and Public Spaces
<b>MUF</b>	Multi User Facility
<b>NPfI</b>	<i>NSW Noise Policy for Industry</i>
<b>PNP</b>	<i>Glebe Island and White Bay Port Noise Policy</i>
<b>Port Authority</b>	Port Authority of NSW
<b>Project</b>	Glebe Island Concrete Batching Plant and Aggregate Handling Facility
<b>Recommended Conditions</b>	Draft Development Consent provided by the Department on 19 April 2021
<b>Regulations</b>	<i>Environmental Planning and Assessment Regulations 2000</i>
<b>RL</b>	Reduced Level (height measured in metres above Australian Height Datum)

<b>RtS</b>	Response to Submissions
<b>SEARs</b>	Secretary's Environmental Assessment Requirements
<b>SEPP</b>	State Environmental Planning Policy
<b>Site</b>	Glebe Island (Part Lot 10 DP1170710) as described in paragraph 7
<b>SREP 26</b>	<i>Sydney Regional Environmental Plan No. 26 – City West</i>
<b>SRD SEPP</b>	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for NSW
<b>Transformation Plan</b>	<i>Bays Precinct Transformation Plan</i>
<b>VIA</b>	Visual Impact Assessment

## 1 INTRODUCTION

1. On 19 April 2021, the NSW Department of Planning, Industry and Environment (**Department**) referred a State significant development application (SSD 8544) (**Application**) from Hanson Construction Materials Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination. The Application seeks approval for the Glebe Island Concrete Batching Plant and Aggregate Handling Facility (**Project**) located in the Inner West Local Government Area (**LGA**), under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**). This is because:
  - the Application constitutes State significant development under section 4.36 of the EP&A Act as the Application triggers the criteria in clause 2 of Schedule 2 of the SRD SEPP, being development on land within the Bays Precinct Site with a capital investment value of more than \$10 million (in this case, \$22.27 million);
  - the Department received more than 50 public submissions objecting to the Application; and
  - Inner West Council made an objection.
3. Professor Mary O’Kane AM, Chair of the Commission, nominated Commissioners Annelise Tuor (Panel Chair) and Dr Peter Williams to determine this Application.
4. The Commission notes the Department recommended approval of the Application and provided draft conditions of development consent (**Recommended Conditions**).

## 2 THE APPLICATION

### 2.1 Site and Locality

5. The Department’s Assessment Report (**Department’s AR**) dated April 2021 describes the site at Section 1.2.
6. Glebe Island, located 4km west of the Sydney CBD, is a reclaimed peninsula to the south of Balmain and is surrounded by water to the north (White Bay), south (Rozelle Bay) and east (Johnstons Bay). The Site is situated in the **Bays Precinct**, which includes Glebe Island, Blackwattle Bay, Wentworth Park, Rozelle Bay (including the rail yards) and White Bay. As detailed in the Department’s AR Paragraph (**ARP**) 1.1.3, ANZAC Bridge and the City West Link are situated to the south and south-east of Glebe Island respectively. The site is located at the southern end of Glebe Island and includes both a water-based (Glebe Island Berth 1) and an adjacent land-based component (ARP 1.2.1).
7. The ‘Site’ for the purposes of this Statement of Reasons is defined in the Department’s AR as part Lot 10 in DP 1170710 at James Craig Road, Rozelle (ARP 1.2.1). The Site is owned by the Newcastle Port Corporation (a State-owned Corporation) and administered on its behalf by the Port Authority of NSW (**Port Authority**). The Site is vacant of buildings and is predominantly comprised of concrete and asphalt. The Site is flat with a rectangular shape. The land and water-based components of the Site comprise areas of approximately 1.4 ha and 0.25 ha respectively. The location of the Site is illustrated in Figure 1 below.



Figure 1: The Site (source: Department's AR)



## 2.2 Background to the Application

8. The Applicant advises the proposal is required due to the demolition of its concrete batching plant on Bridge Road, Glebe (at the head of Blackwattle Bay), for construction of the new Sydney Fish Market (ARP 1.5.1) and to meet the ongoing demand for concrete to service nearby infrastructure and construction projects.
9. Also, at ARP 1.5.2, the Department stated “*the proposal would seek to replace the shortfall from the Hymix (a subsidiary of Hanson) concrete batching plant at Bank Street, Pyrmont, expected to be demolished to facilitate the renewal of the Blackwattle Bay District (formerly known as the Bays Market District)*”. However, the Commission understands from the Applicant’s advice (Applicant meeting 6 May 2021, transcript page 21) that the Hymix facility is likely to continue operations. The future operation of Hymix is unclear and the Commission has not relied on its replacement or otherwise as justification for the Project.

## 2.3 The Project

10. The Applicant seeks approval for a concrete batching plant (**CBP**) and an aggregate handling facility (**AHF**) to supply concrete to the building and construction industries. The Project would have the capacity to produce up to one million cubic metres of concrete per annum and operate up to 24 hours per day, seven days per week. The Project’s key components are described in Table 1 below. The final set of plans provided to the Commission is included as Figure 2 (Layout Plan) and Figures 3 and 4 (elevation plans) below.

*Table 1 - Key Project Components  
(Source: the Department's AR)*

Key Component	Details
Concrete Batching Plant	<ul style="list-style-type: none"> <li>• Production of up to 1 million m<sup>3</sup> of concrete per annum in a 15m high enclosed building, comprising a footprint of approximately 4,100 m<sup>2</sup>, including: <ul style="list-style-type: none"> <li>○ 6 x 25 m high silos (4 for aggregate and 2 for cement)</li> <li>○ concrete loading area, with sand, cement and aggregate transferred to the batching area via an enclosed conveyor feed, truck wash bay, concrete batch room, water storage tanks, sand and fly ash silos.</li> </ul> </li> <li>• Up to 35 deliveries of cement per day (unloaded within the enclosed building)</li> <li>• Up to 24 concrete truck movements made from the plant per hour</li> <li>• Vehicle movements for the entire facility would be capped at 182 per hour until the opening of the Rozelle Interchange in mid-2023. The facility would then operate at full capacity, with a maximum of 286 vehicle movements per hour.</li> </ul>
Aggregate Handling Facility	<ul style="list-style-type: none"> <li>• Use of existing terminal at Glebe Island Berth 1 for the delivery of up to 1 million tonnes of concrete aggregates per annum by ship</li> <li>• Up to 3 vessel deliveries per week (approximately 10 ships per month), with a berthing duration of approximately 12 hours</li> <li>• 7.8 m high bins for receiving aggregate by ship and road in the site's north</li> <li>• Enclosed conveyor feed for transfer of aggregate from bins to silos</li> <li>• 6 x 34 m high concrete silos (including roof structure), with a capacity of 4,333 tonnes (total of 26,000 tonnes)</li> <li>• Dispatch of aggregate and sand directly from silos into trucks for delivery to other CBPs (up to 241 aggregate deliveries per day).</li> </ul>
Ancillary Components	<ul style="list-style-type: none"> <li>• Modular site office building at south-western end of site</li> <li>• Drivers' room and amenities building to the immediate north of the silos (approximately 7.5 m x 25 m)</li> <li>• Shipping containers stacked 3 high along eastern boundary to height of 7.8 m to provide acoustic and visual screening.</li> </ul>
Parking	<ul style="list-style-type: none"> <li>• 50 truck parking spaces</li> <li>• 40 car parking spaces, including 35 for employees, 4 for visitors and 1 accessible space</li> <li>• 7 bicycle parking spaces</li> </ul>
Operating hours (for all components)	<ul style="list-style-type: none"> <li>• 24-hours-a-day, seven-days-a-week, however, the plant is likely to operate approximately 250 days per year, which is unlikely to include Sundays and public holidays</li> </ul>
Employment	<ul style="list-style-type: none"> <li>• 90 construction jobs</li> <li>• 67 operational jobs</li> </ul>
CIV	<ul style="list-style-type: none"> <li>• \$22,274,978.26</li> </ul>

Figure 2: Layout Plan (Source: Applicant's Information 24 May 2021)

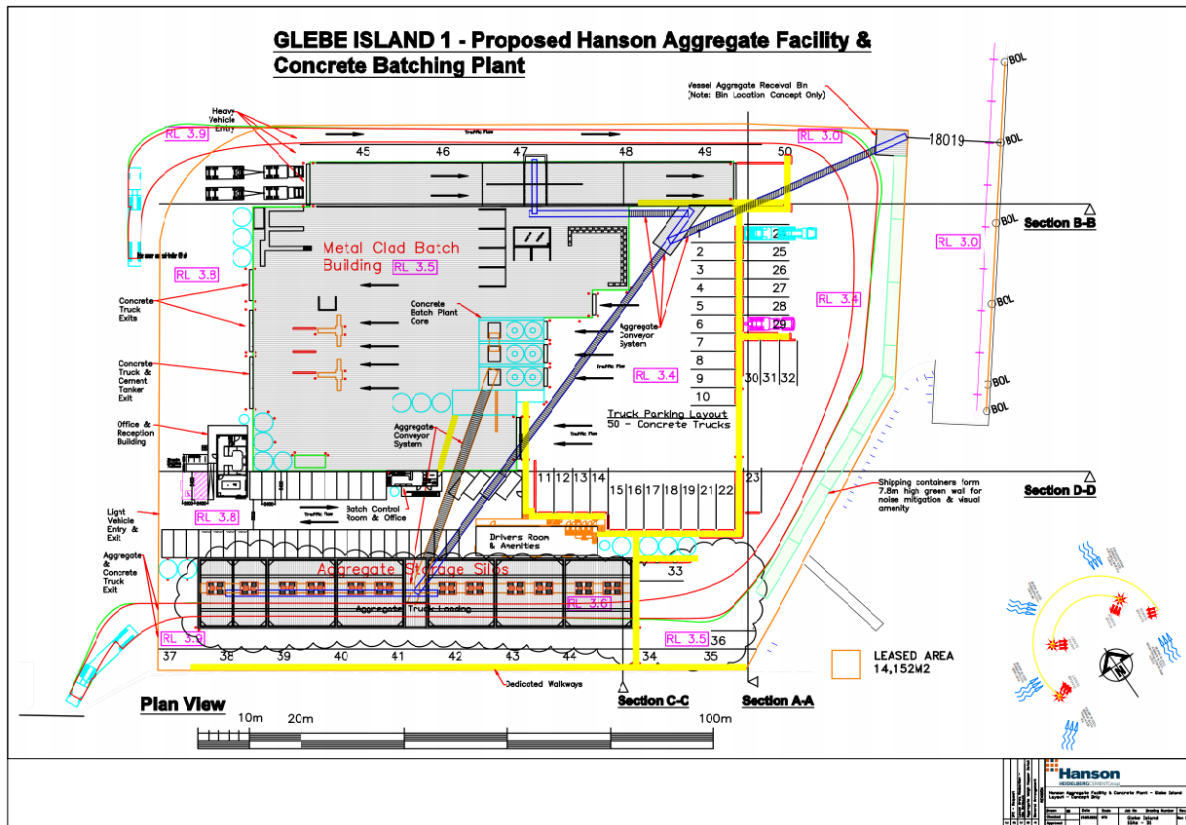


Figure 3: Eastern & Western Elevations (Source: Applicant's correspondence 24 May 2021)

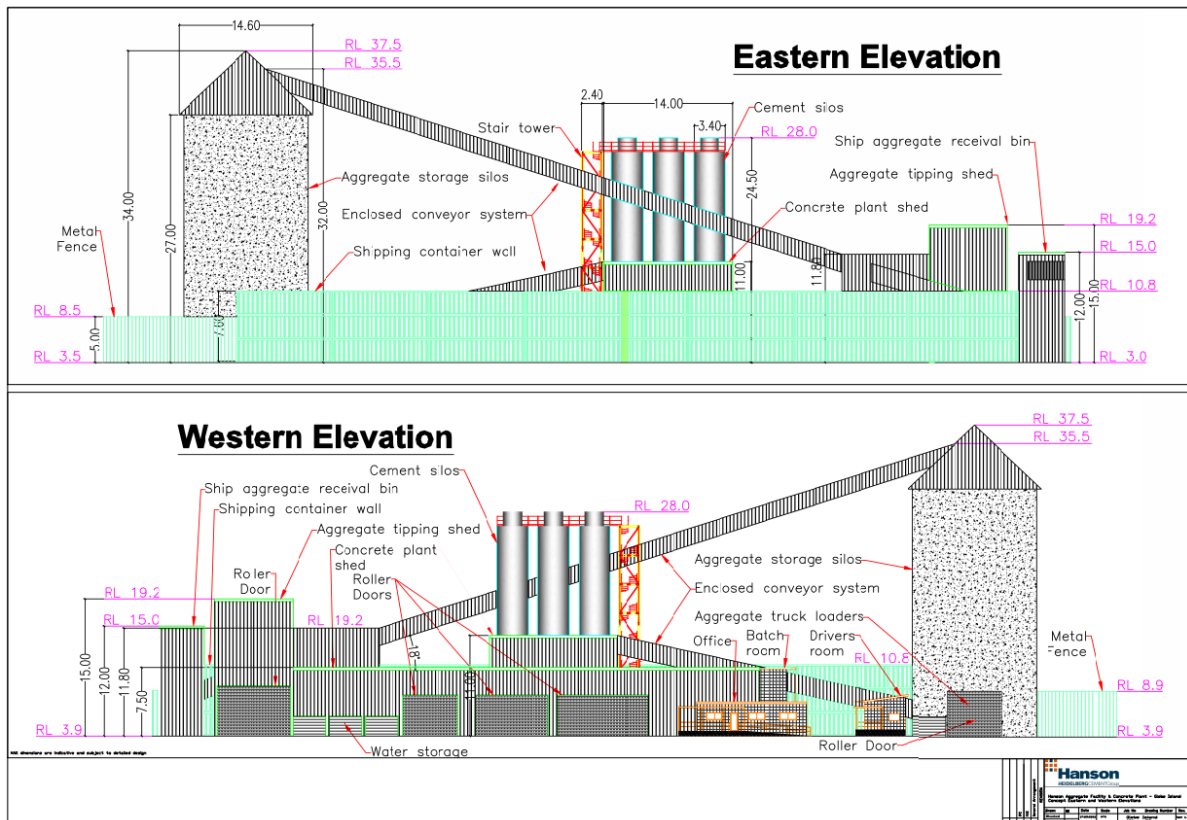
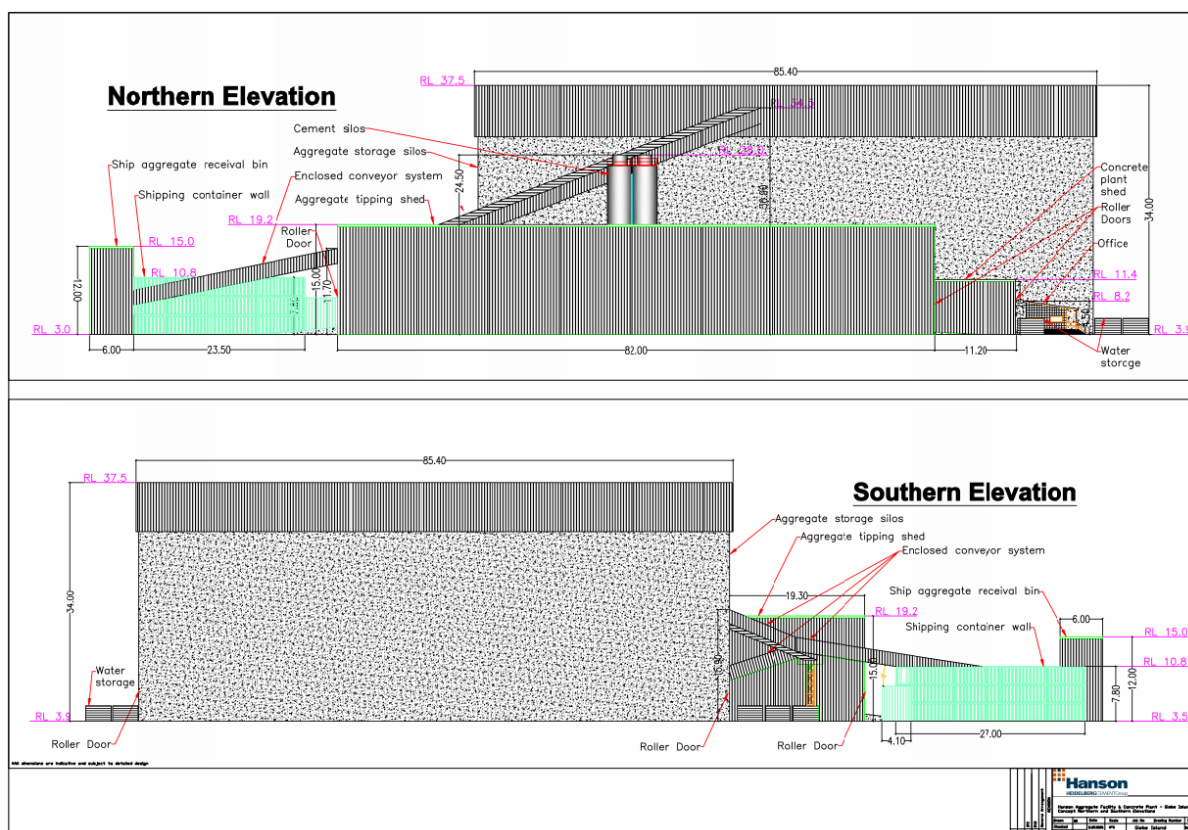


Figure 4: Northern & Southern Elevations (Source: Applicant's Information 24 May 2021)



12. During the course of the Commission's consideration of this Application, further information was provided to the Commission (as outlined in section 4.4 Material Considered by the Commission). However, for the purpose of clarifying the scope of the key elements of the Application, as assessed by the Department, the following chronology is provided (Table 2):

*Table 2 Chronology of information provided to the Commission post-referral*

Date	Author	Information provided
5 May 21	Applicant	Proposed plan amendments
10 May 21	Applicant	Retraction of proposed plan amendments
12 May 21	Applicant	<p>Response to questions on notice taken at its meeting with the Commission (paragraph 68), including confirmation of:</p> <ul style="list-style-type: none"> <li>- Height of the proposed buildings and the height of surrounding structures, including the Glebe Island silos, the approved Multi User Facility to the north and the ANZAC Bridge carriageway deck (RL 30.63 AHD);</li> <li>- Plan and setback dimensions;</li> <li>- Visual impact matters;</li> <li>- Traffic impact matters; significantly, the peak of 241 truck deliveries per day (average of 75 deliveries per day), were stated to be deliveries of sand <b>to</b> the Site from Hanson quarries.</li> <li>- Noise attenuation matters;</li> <li>- Landscaping matters.</li> </ul>

Date	Author	Information provided
17 May 21	Applicant	Confirmation of: <ul style="list-style-type: none"> <li>- the origin of the 182 truck movement figure (Condition F3(f))</li> <li>- truck loading beneath the aggregate storage silo building</li> </ul>
19 May 21	Applicant	Updated photomontages to reflect the current proposal
24 May 21	Applicant	Correspondence provided by the Applicant on 24 May 2021 included the following: <ul style="list-style-type: none"> <li>- Updated plans to clarify Commission's questions regarding the loading under the aggregate silo building (Figures 2 to 4);</li> <li>- Confirmation on a number of matters relating to the aggregate storage silos, including their capacity and storage composition;</li> <li>- Confirmation that <i>"the vast majority (if not all) of the aggregates delivered to the site via ship would be used on site at the proposed Glebe Island concrete batching plant"</i> (page 2);</li> <li>- Proposal for 1 million tonnes of aggregates to be delivered to the site by ship and up to 500,000 tonnes of aggregates delivered to the site by road per annum;</li> <li>- Clarification of on-site traffic movements, including the provision of swept paths on the site plan;</li> <li>- Confirmation of the aggregate silo building height of 34m overall, with a wall height of 27m and a roof height of 7m.</li> </ul>
28 May 21	Department	Response to Questions on Notice taken at its meeting with the Commission (paragraph 68), covering matters including: <ul style="list-style-type: none"> <li>- Strategic context;</li> <li>- Height context details;</li> <li>- Clarification of landscaping details;</li> <li>- Noise matters, including confirmation that <i>"The Applicant has committed to carrying out all concrete batching and truck unloading activities within fully enclosed buildings. The only proposed openings relate to the time-limited opening of roller doors for loading and unloading"</i> (page 4);</li> <li>- Traffic matters, including the statement that <i>"the Applicant has confirmed that trucks would be used to deliver and dispatch sand and aggregate"</i> (page 5).</li> </ul>
21 June 21	Department	Response to the Commission's draft condition amendments
8 July 21	Department	Confirmation that the Department's Assessment was based on the following key components of the Project: <ul style="list-style-type: none"> <li>- A maximum of 1 million tonnes of aggregate, to be primarily delivered to the site by ship; and that any aggregate delivered to the site by truck is to be used in the CBP;</li> <li>- A cap of 182 truck movements per hour includes all truck movements coming into or out of the Site, whether they are filled with aggregates, cement/sand or concrete;</li> <li>- The maximum of 241 aggregate deliveries per day is for aggregate that has arrived to the Site <b>by ship</b> and is being delivered to an offsite location (i.e. "dispatch" as referenced in Table 2 of the Department's Assessment Report).</li> </ul> <p>In this correspondence, the Department also provided recommended amendments to conditions regarding the Limits on Consent (recommended</p>

Date	Author	Information provided
		<p>conditions F3, F4, F5 and F6) to change the truck delivery reference to truck 'movements' to be consistent with the numbers provided in the Applicant's Traffic Impact Assessment. The Department has also recommended using <b>daily</b> truck movement caps, rather than hourly, consistent with the Traffic Impact Assessment.</p> <p>The Department also suggested the Commission consult with the Applicant on the draft conditions to ensure that there are no unintended consequences, and offered to undertake this consultation on the Commission's behalf.</p> <p>On 9 July 2021, the Commission wrote to the Department and requested the Department consult with the Applicant regarding the workability and potential unintended consequences of the draft conditions to the extent that the Department considered necessary.</p>
15 July 21	Applicant	<p>The Applicant wrote to the Department in response to the draft conditions. This response was forwarded to the Commission as an attachment to the Department's letter dated 19 July 2021 (detailed below).</p> <p>In summary, the Applicant provided the responses below to five draft conditions:</p> <ul style="list-style-type: none"> <li>- Amended Plans - Condition B26(a)(i): The Applicant stated the Commission's draft condition to require the height of the aggregate storage silos to be reduced to the average height of the ANZAC Bridge deck or RL 30.36 AHD caused confusion. The Applicant proposed to delete the RL 30.36 AHD measurement "<i>due to uncertainty of the RL specified</i>". The Commission notes the Applicant's advice dated 12 May 2021 identified an ANZAC Bridge carriageway deck of RL 30.63 AHD, but in this correspondence uses a deck height of RL 30.36 AHD.</li> <li>- Construction Hours - Condition D4: The Applicant sought to include a provision in this condition to allow the construction hours to be amended subject to approval from the Planning Secretary;</li> <li>- Limits on Consent - Condition F3(a): The Applicant advised it intends to deliver 1,000,000 tonnes of aggregates by ship as well as 500,000 tonnes of aggregates by truck;</li> <li>- Limits on Consent - Condition F4: In response to the Commission's draft condition that at least 80% of the aggregates must be delivered to the Site by ship, the Applicant indicated such a condition would exacerbate the operational efficiency impacts resulting from silo storage and shipping restrictions (conditions B26(a)(i) and F6) by creating an added restriction in delivering aggregates to the Site by truck; and</li> <li>- Limits on Consent - Condition F6: In response to the Commission's draft conditions to restrict night time ship deliveries, the Applicant requested a yearly average on ship frequency be provided, rather than a monthly cap to allow for increased shipments during peak operational periods through the year. The Applicant also submitted that with the restrictions in Condition B26(a)(i) and the curfew in Condition F6, "<i>the latest production profile to meet a demand of 1 million tonnes requires aggregate deliveries by ship approximately 18 times per month or 216 times per year</i>" (page 3).</li> </ul>
19 July 21	Department	<p>Following the Department's consultation with the Applicant regarding the draft conditions, the Department provided commentary on the Applicant's proposed changes (detailed above) dated 15 July 2021 to the following conditions:</p> <ul style="list-style-type: none"> <li>- Amended Plans - Condition B26(a)(i): The Department agreed that the use of both the RL and average height measurement could create confusion and recommended the RL height be retained (deleting reference to the average height of the ANZAC Bridge deck);</li> </ul>



Date	Author	Information provided
		<ul style="list-style-type: none"> <li>- Construction Hours - Condition D4: The Department did not support the Applicant's proposed change because it was not a standard condition of consent. The Department advised that, should the Applicant wish to extend the hours of construction, they should lodge a modification application;</li> <li>- Limits on Consent - Condition F3(a): The Department did not support the Applicant's proposed change because the additional 500,000 tonnes of aggregate per year delivered by truck, and its associated potential environmental impacts, never formed part of the Application and was outside the scope of the Department's merit assessment;</li> <li>- Limits on Consent - Condition F4: The Department noted the Applicant's comment on this draft condition and noted the Commission could seek clarity from the Applicant about what proportion of aggregates delivered by ship would be appropriate; and</li> <li>- Limits on Consent - Condition F6: The Department advised the Applicant's proposal to increase ship arrival frequency to 216 per year was outside the scope of the Department's merit assessment.</li> </ul>

13. To the extent that any of the correspondence received by the Commission from the Applicant and outlined in Table 2 purported to seek to amend or vary the Application in the form provided to the Commission by the Department, the Commission has not agreed to the amendment or variation. Amendments not accepted by the Commission include delivery of 500,000 tonnes of aggregate per annum by truck that would be in addition to the total amount of 1,000,000 tonnes delivered per annum (primarily by ship but may also include some by truck) and the increase in ship deliveries of aggregate from 120 per year to 216 per year. These amendments are beyond that for which approval was originally sought and on which the Department's assessment was based.

## 2.4 Relevant Site Context

14. On 11 March 2019, the Port Authority approved a Multi-User Facility (**MUF**) under Part 5 of the EP&A Act on the adjoining land to the north (part Lot 10 DP 1170710) and including Berths 1 and 2. The MUF is approved to operate 24-hours-a-day, seven-days-a-week and will involve a ship offloading, storage and distribution facility for dry bulk construction materials, such as sand and aggregates (ARP 1.4.1).
15. The Glebe Island Silos, located to the west of the subject Site, have approval for the shipment of concrete materials into White Bay and transfer to the silos prior to distribution across the metropolitan area. On 29 November 2019, the Department approved a temporary increase in the annual cement throughput from 500,000 to 600,000 tonnes, for 18 months (DA 9967) (ARP 1.4.3). On 22 July 2020, Cement Australia requested Secretary's Environmental Assessment Requirements (**SEARs**) for the preparation of an Environmental Impact Assessment to increase the annual cement throughput from 500,000 to 1,200,000 tonnes (ARP 1.4.4). The Department issued the SEARs on 11 August 2020 (SSD 8595604). At the time of writing this report, the EIS for that development had not been lodged.

### 3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS

#### 3.1 Community Group Attendance at the Site Inspection

16. On 30 April 2021, the Commission conducted an inspection of the Project Site and locality. The Commission invited representatives from local community groups to attend and observe the Site Inspection. The following groups were represented:
  - Pyrmont Action Inc
  - Evolve Strata Committee
  - White Bay Stratas Committee
17. A record of the site inspection was published on the Commission's website on 4 May 2021.

#### 3.2 Public Meeting

18. The Commission conducted a Public Meeting on 17 May 2021. The Public Meeting was held electronically with registered speakers presenting to the Commission Panel via telephone or video conference. The Public Meeting was streamed live on the Commission's website.
19. The Commission heard from the Department, the Applicant, various community group representatives and individual community members. In total, 32 speakers presented to the Commission during the Public Meeting.
20. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 3.3.

#### 3.3 Public Submissions

21. As part of the Commission's consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission from 19 April 2021 until 5pm on Monday 24 May 2021, seven days after the Public Meeting (**First Submission Period**).
22. The Commission received a total of 260 written submissions on the Application during the First Submission Period. Of those submissions, three indicated support for the Project, eight provided comments (neither supporting nor objecting to the Project) and 249 objected to the Project. In terms of a location analysis, 238 of the submissions were received from residents in the immediately adjoining suburbs and 230 submissions indicated they would be directly impacted by the Project.
23. The submissions made in support of the Project raised the following for the Commission's consideration:
  - The Project will benefit the public through the provision of ship-based deliveries to service critical infrastructure projects;
  - The Project will support a reduction in vehicle traffic across roads in Greater Sydney as a result of moving this material mostly by ship;
  - Any localised traffic, noise or pollution impacts are justified by a reduction of these impacts to the wider Sydney area;
  - Pyrmont has always been located in close proximity to a working port; and
  - Glebe Island is one of the few remaining industrial and working ports in Sydney Harbour and should be maintained.
24. The submissions objecting to the Project generally raised the following issues for the Commission's consideration:
  - Noise;
  - Strategic Justification/Land Use Compatibility;
  - Visual Impact;
  - Traffic;
  - Air Quality;
  - Water Safety; and



- Light Pollution.

### 3.3.1 Key Issues Raised – First Submission Period and Public Meeting

25. The Commission has taken into account the written and oral submissions received during its consideration of this Project. The key concerns raised in the First Submission Period and at the Public Meeting have been summarised in the following paragraphs. Other submissions raised matters that would not warrant refusal of the application or require conditioning and were weighted accordingly.

#### *Operational Noise*

26. The Commission received a significant number of submissions raising objections to the noise impacts that are expected from the Project.
27. Concerns conveyed to the Commission identified that White Bay is a natural amphitheatre, and, during the day, ambient noise would effectively cancel out ship, batching plant and storage facility noise. However, at night, when ambient noise is reduced, the Bay amplifies noise. From the hours of 8-9pm to 6-7am noise is magnified around the Bay.
28. Objectors identified that the cumulative impact of ships berthing at Glebe Island will increase from four to six per year to four to six per week. Submissions also raised concerns that the ships being unloaded as part of the Project will each remain in port for 12 hours each and the ships being unloaded at the MUF are expected to be in port for 30-40 hours each. Therefore, there is expected to be a ship in port for most of the week, including overnight. Further, there is a plan to double the throughput of the cement silos on the Balmain side of Glebe Island from about 600,000 tonnes per year to 1,200,000 tonnes per year, which will also increase ship movements as outlined in paragraph 15.
29. In terms of the noise and vibration impacts associated with ships in port, objector concerns included the noise impacts from ships arriving and leaving (including from the tugboats assisting ships to arrive and leave, and vibration from tugboat propellers), the continuous running of engines and generators while the ships are in port, maintenance of ships while in port, and the unloading of materials from the ships. The Commission received submissions requesting conditions be imposed requiring shore to ship power to be implemented to reduce the noise associated with ships that are berthed.
30. Objectors also stated that the Project is predicted to result in noise criteria exceedances for all periods of the day at the nearest residences in Pyrmont.
31. The objectors noted the argument that the residential buildings in proximity to the Site have noise mitigation measures built into the apartments is unreasonable because it implies an expectation that the residents will have all windows and doors shut at all hours. This expectation significantly compromises residential amenity, undisturbed sleep and health. The Commission received submissions requesting mandatory respite periods be imposed on any approval.
32. Several submissions showed a lack of confidence that the noise limits recommended by the Department would be implemented and policed and suggested a curfew or restricted operating hours be imposed to minimise noise-generating activities at night, including no ships berthing or unloading at night. Submissions also noted the apparent assumption in the Department's assessment that noise breaches would be policed by the Port Authority, which is the lessor of the Site for this Project. Therefore, members of the local community saw this as a conflict of interest that would result in a lack of action in the event of exceedances.
33. Submissions referred to the Applicant's track record as a reason to refuse this Application.

#### *Strategic Justification / Land use compatibility*

34. Submissions made to the Commission raised concerns about the land use compatibility of the proposed use of the Site. Submissions stated that the proposed use is no longer consistent with the evolving character of the area and with the high-density residential uses

in close proximity to the Site. In this regard, many submissions mentioned the *Bays Precinct Transformation Plan (Transformation Plan)* and the *Draft Bays West Place Strategy (Draft Place Strategy)* and noted the goals in those documents relating to public access, urban growth and commercial uses are incompatible with the proposed CBP and AHF. Several submissions suggested that master planning for the precinct be completed before any proposed development is approved.

35. Further to this, submissions identified concerns that the Draft Place Strategy includes a site for a CBP in the same location as this Project, despite this Application still being under assessment and before it was referred to the Commission. Members of the public voiced concerns that this indicates a predetermined outcome for this SSD Assessment.
36. Objections noted that the Project is an industrial use and is outside the scope of what could be considered normal 'working port' activities. Submissions noted that unloading, storing, and on-transporting aggregate aligns with a port use, but there is no justification for the industrial activity of manufacturing concrete and that this changes the fundamental nature of Glebe Island from a port use to an industrial use.
37. Submissions responded to the Applicant's and Department's views that this Application represents a continuation of historic port uses. Submissions argued that industrial activity has not occurred at the Glebe Island port for a significant period and in recent years the port has accommodated a maximum of four to six large ships per year. Objections disagreed with the Applicant and Department that the scope of this Project is comparable to historical and more recent port activities at the Site.
38. Objections to the Project noted previous strategic planning for the area identified this precinct as a potential innovation hub and a significant public domain involving a peninsula park and amphitheatre, which led to community expectations that future uses on Glebe Island would involve technological or commercial pursuits rather than heavy industry.
39. The Commission also received several requests to impose a time-limited consent, to enable a review of the impacts and compatibility of the Project once implementation of the strategic planning for the precinct has progressed.

#### *Visual Impact*

40. The Commission received several submissions raising concerns with the visual impact of the Project. Submissions stated that the aggregate storage silo building will be significantly larger than the other existing and approved buildings in the immediate locality and is higher than the deck of the ANZAC Bridge. Submissions were of the view that the resulting visual impact from foreshore open spaces and to and from the ANZAC Bridge is unacceptable. Objections argued that the scale of the aggregate storage silo building is also inconsistent with the character of the immediate locality and will set a precedent that has the potential to erode the landmark significance of the ANZAC Bridge and the heritage listed Glebe Island Cement Silos.
41. Submissions also noted the NSW Government's plans to repurpose and reopen the Glebe Island bridge to provide an active transport link from Pyrmont to the west. Submissions raised concerns that this Project would have an adverse impact on the experience of pedestrians and cyclists along the future Glebe Island bridge transport link.

#### *Traffic*

42. Submissions made to the Commission raised concerns with the increased traffic, and particularly truck movements, on the local road network and the impact this will have on local residential amenity. Submissions noted the Project would result in thousands of daily truck movements to the area around Glebe Island, which is already gridlocked at peak times of day. Many concerns were raised that, should this Application be approved in its current form, the cumulative impacts of this Project with the MUF, the Cement Australia facility on Glebe Island and the White Bay Cruise Terminal, will significantly exacerbate the existing traffic congestion.

### *Air Quality*

43. Submissions made to the Commission raised concerns regarding the dust and fumes associated with the Project, and the adverse impact this may have on the public's enjoyment of the surrounding open spaces. Concerns include dust associated with concrete batching and aggregate loading and unloading, and the fumes from ships at berth. Several submissions requested mandatory shore-to-ship power so that ship engines and generators can be turned off while in port.

### *Water Safety*

44. Submissions to the Commission raised concerns regarding the safety of vessels travelling along the channel of water between Johnstons Bay and Blackwattle Bay. Submissions were of the view that there is insufficient space for safe passing when a large ship is berthed at Glebe Island.

### *Light Pollution*

45. The Commission received submissions raising concerns about the light spill that would occur during the Project's 24-hour operations, causing amenity disturbance for surrounding residents.

### **3.3.2 Key Issues Raised – Second Submission Period**

46. Following receipt of additional information from the Applicant and the Department, the Commission opened a second submission period from Friday 28 May 2021 to 5pm Friday 4 June 2021 (**Second Submission Period**), inviting public comment on the **Additional Material**, which comprised the following:
- Correspondence from the Applicant to the Commission, dated 17 May 2021;
  - Letter from the Commission to the Applicant, regarding further questions, dated 18 May 2021;
  - Photomontages from the Applicant;
  - Letter from the Applicant to the Commission, dated 24 May 2021 (including the Applicant's amended Site Plan, NS Elevations and EW Elevations); and
  - Letter from the Department to the Commission, dated 28 May 2021.
47. During the Second Submission Period, the Commission received written submissions from a further 24 individuals.

### *Operational concerns*

48. Submissions questioned the expected aggregate ship delivery volume of 1,000,000 tonnes per annum and the expected capacity of the ship, which according to the submissions appears to result in the requirement for more deliveries than 10 per month, or up to three per week as assessed by the Department. The submissions noted that if the Applicant obtains a ship with a 4,000-tonne capacity, approximately 20 ship deliveries will be required per month to achieve 1,000,000 tonnes per year.
49. In response to the Applicant's statement in its letter to the Commission dated 24 May 2021 that a number of other CBPs are approved as 24-hour/7-day operations, submissions noted the listed facilities are located within heavy industrial precincts and are not in such close proximity to sensitive receivers. Submissions also anecdotally commented that the Hymix plant in Bank St, Pyrmont rarely operates at night and on weekends, contrary to the statements made by the Applicant in the Additional Material.
50. Submissions also noted that there are 13 Hanson and eight Hymix CBPs in Sydney and that to only mention the 24/7 operating hours of two of these CBPs is not a sufficient argument to justify 24/7 operation for a plant in such an urbanised setting.

### *Operational Noise*

51. The Commission received submissions during the Second Submission Period raising concerns that previously identified noise issues had not been resolved by the Applicant in

the Additional Material. According to the submissions, objectors maintain their concerns in relation to the Project's noise impacts at night, including potential impacts on sleep disturbance.

52. The Commission also received submissions which stated that the peak truck movement would result in approximately three vehicles per minute, which does not provide sufficient time between vehicle departure and arrival to close the proposed roller doors. Submissions were of the view that the noise impacts of the Project should therefore be assessed with the roller doors open. Submissions suggested that the vehicle entrance should be redesigned with a system of double doors, providing an interlock system where at least one door was closed at all times, achieving the 'fully enclosed' requirements.
53. Submissions also noted the metal construction of the building will amplify noise impacts, and requested all metal buildings include sound attenuation measures to mitigate noise impacts.

#### *Strategic Justification*

54. Submissions received during the Second Submission Period commented on the Department's response to the strategic justification questions posed by the Commission. Objectors raised concerns that this Project will preclude the vision of a pedestrian-friendly mixed-use precinct with a peninsula park and anchored by a commercial and transport hub that is compatible with the surrounding urbanised areas.
55. Submissions also reiterated concerns that the Draft Place Strategy includes the concrete plant when the Project's assessment and determination has not been concluded.

#### *Visual Impact and Landscaping*

56. The Commission received submissions claiming that the amended photomontages are inaccurate and misleading, in that the perspectives do not demonstrate the true impact of the Project. Submissions maintained that the Project will result in unacceptable visual impacts when viewed from ANZAC Bridge and the foreshore public domain. Objectors reiterated requests to ensure the height of the buildings are less than the ANZAC Bridge carriageway to preserve views to and from the bridge.
57. In terms of height, objectors noted that the Reduced Levels (**RLs**) provided by the Applicant in the Additional Material further demonstrate the unreasonableness of the proposed height of the aggregate storage silo building. Submissions were of the view that the proposed structure will be overwhelming in the context of the surrounding area.
58. The Commission was provided with comments questioning the effectiveness of a public art strategy to soften the visual impact. Submissions were of the view that it would require painting the entire structure and will not soften the appearance or mitigate the visual impacts.
59. The Commission received submissions supporting the Department's recommendation that the Applicant submit further details of measures to soften the visual impact of the Project, including landscaping. One submission suggested it would be beneficial to require tree planting along the Glebe Island Bridge abutment to provide a visual and physical separation of the Project to the future reopening of the Glebe Island Bridge for active transportation links.
60. The Commission received requests that the Applicant and the Port Authority liaise directly with affected communities with respect to the public art strategy and landscape plans.

#### *Air Quality*

61. Objectors raised concerns that the running of the engines and generators of a ship for the entire time it is berthed creates adverse air quality impacts for surrounding residents and members of the community enjoying the foreshore public spaces. Concerns were also raised regarding the odour from ship berthing and Glebe Island and its impacts on amenity.

62. Submissions confirmed requests for the Commission to mandate shore-to-ship power for this Project.

#### *Traffic Impacts*

63. Submissions made to the Commission on the Additional Material were of the view that even with the reduced truck movement estimates, there is still an unreasonable volume of truck traffic that will be generated in a severely congested area.
64. The Commission received requests to limit the storage of aggregates to only those being used on Site, rather than aggregates being stored for transportation elsewhere, which will contribute to congestion resulting from additional truck movements.

#### *Sustainability*

65. The Commission received a submission requesting that the Project be required to install solar power facilities to serve the Project. The request to mandate shore-to-ship power was also repeated to reduce greenhouse gas emissions and noise generated from ships at berth.
66. Regarding shore-to-ship power, the Commission received submissions requesting that any studies be made available to confirm the Applicant's statement that they are not aware of any dry goods commercial ports in Australia or elsewhere that are provided with shore-to-ship power. Submissions note that even if other ports of this nature do not have shore-to-ship power, the unique characteristics of Glebe Island, including its proximity to residences, makes it reasonable to require sustainable port infrastructure.

## 4 THE COMMISSION'S CONSIDERATION

### 4.1 The Department's Assessment Report

67. ARP 7.1.2 details the reasons why the Department considers the proposal is acceptable. Key reasons identified were zoning permissibility, consistency with strategic planning, maintaining and utilising Sydney's working harbour, a reduction in Sydney Region truck movements through shipping, acceptable built form and visual impacts, the Applicant's commitment to a range of mitigation measures, and being in the public interest to supply concrete in close proximity to CBD and major infrastructure projects.

### 4.2 The Commission's Meetings

68. As part of its determination process, the Commission met with various persons as set out in Table 3. All meeting and site inspection notes were made available on the Commission's website.

*Table 3 – Commission's Meetings*

Meeting	Date of Meeting	Transcript/Notes Available on
Site Inspection	30 April 2021	<a href="#">4 May 2021</a>
Department	6 May 2021	<a href="#">11 May 2021</a>
Applicant	6 May 2021	<a href="#">11 May 2021</a>
Inner West Council	6 May 2021	<a href="#">11 May 2021</a>
City of Sydney Council	6 May 2021	<a href="#">11 May 2021</a>
Port Authority of NSW	6 May 2021	<a href="#">11 May 2021</a>
Public Meeting	17 May 2021	<a href="#">20 May 2021</a>

#### 4.2.1 Councils' Comments

69. During the Commission's meeting with Inner West Council on 6 May 2021, Council officers acknowledged positive changes following Council's 2018 submission, such as restricting access from the heavy vehicles to Robert Street in Rozelle, but maintained Council's objection to the approval of the Project. Inner West Council's comments focused on draft conditions (A1, B9, B26, C19, C40, D2, D3, D4, D5, E32, F3) and reducing traffic and amenity impacts for residents as well as from cumulative impacts of the ongoing construction of WestConnex and the Western Harbour Tunnel.
70. During the Commission's meeting with City of Sydney Council on 6 May 2021, Council officers referred to the following:
- an outdated waste policy in draft condition B21;
  - suggested condition E20 include expanded pedestrian and cyclist links;
  - public art should be part of the proposal;
  - amendments to condition E5 to enable the future provision of shore-to-ship power, if feasible;
  - visual impacts of the proposal across the harbour and to significant historic landmarks;
  - signage or advertising be prohibited;
  - details of noise attenuation of the enclosed building were lacking;
  - future urbanisation and density of the locality;
  - suggested a time limited consent; and
  - comments on lighting and dust management and linking the green wall to the landscape plan under draft condition C40.



71. On 10 May 2021 further commentary and suggested amendments to the draft conditions were provided to the Commission by the Inner West Council and the City of Sydney. A letter dated 21 May 2021 from the Lord Mayor of Sydney registered strong support for the Pyrmont community's objections to the proposal.

#### 4.3 Public Comments

72. Section 3 of this report sets out the matters raised in the public submissions made to, and considered by, the Commission. Consideration has been given to these submissions in the Commission's assessment of the Project as set out in the Key Issues section of this report (see section 7). For the reasons set out in this Statement of Reasons, the Commission has made amendments to the application through conditions that address a number of issues raised in the public submissions. These include a limitation on the use to port-related activities, a consequent reduction in the height of the aggregate storage silos, a restriction on night-time ship deliveries, a time limit to the consent until the end of 2040, and further noise, air quality and traffic mitigation measures. The Commission considers that with these changes the matters raised in submissions do not preclude the grant of development consent.

#### 4.4 Material Considered by the Commission

73. In this determination, the Commission has carefully considered the following material (**Material**):
- the SEARs, dated 7 July 2017;
  - the Applicant's EIS, dated 14 March 2018, and accompanying documents;
  - public submissions made to the Department following the exhibition of the EIS;
  - the Applicant's Response to Submissions (**RtS**), dated 11 December 2019, and accompanying documents;
  - the Applicant's Supplementary Response to Submissions (**SRtS**) dated 11 June 2020, and accompanying documents;
  - the Department's AR, dated April 2021, received on 19 April 2021;
  - the Department's draft Recommended Conditions received on 19 April 2021;
  - the Department's Independent Air Quality Final Review by Todoroski Air Sciences dated 18 December 2020;
  - the material covered in the Commission's meetings with the Department, Applicant, Inner West Council, City of Sydney Council and Port Authority of NSW and the site inspection (paragraph 68);
  - all speaker comments and presentation material made to the Commission at the electronic Public Meeting held on 17 May 2021 (Section 3.3);
  - all written comments received by the Commission up until 5pm, 24 May 2021 during the First Submission Period and those received up to 5pm, 4 June 2021 during the Second Submission Period (Section 3.3);
  - The following Additional Material provided by the Applicant (detailed in Table 2):
    - Correspondence from the Applicant to the Commission, dated 12 May 2021 (including the Applicant's response to questions on notice taken at its meeting with the Commission on 11 May 2021);
    - Correspondence from the Applicant to the Commission, dated 17 May 2021;
    - Photomontages from the Applicant, received on 19 May 2021;
    - Correspondence from the Applicant to the Commission, dated 24 May 2021 (including the Applicant's amended Site Plan, NS Elevations and EW Elevations);
    - Correspondence from the Applicant to the Department, dated 15 July 2021 (including the Applicant's comments on draft conditions);
  - The following further advice provided by the Department (detailed in Table 2):
    - Correspondence from the Department to the Commission, dated 28 May 2021 (including the Department's response to questions on notice taken at its meeting with the Commission on 11 May 2021);

- Correspondence from the Department to the Commission, dated 21 June 2021 (including the Department's response to the Commission's draft condition amendments);
- Correspondence from the Department to the Commission, dated 8 July 2021 (including the Department's clarification of the scope of the Project); and
- Correspondence from the Department to the Commission, dated 19 July 2021 (including the Applicant's letter dated 15 July 2021 and the Department's further commentary on the draft conditions of consent).



## 5 STRATEGIC CONTEXT

### 5.1 Greater Sydney Region Plan: A Metropolis of Three Cities - Eastern City District Plan

74. The *Eastern City District Plan (District Plan)* is a 20-year plan outlining the planning priorities and actions for implementing the *Greater Sydney Region Plan (GSRP)* at a district level. The Eastern City District includes the Inner West local government area where Glebe Island is located.
75. As described at ARP 3.1.1, the GSRP identifies the Bays Precinct as part of the innovation corridor for industrial and urban services land, stating it should be retained because there is a shortage of this type of land in the Eastern Harbour City. Both the GSRP and the District Plan acknowledge the important contribution Sydney Harbour plays, as a working harbour, in supporting the CBD and the Eastern Economic Corridor. As noted in the GSRP, the port at Glebe Island is “critical to the bulk construction supply chain for concrete...and offers a land/water interface...for which there are few, if any, feasible and sustainable alternatives [in Sydney Harbour]” (page 70). The District Plan outlines a similar objective for Glebe Island at Planning Priority E9, which states *Port functions at Glebe Island and White Bay need to be retained and expanded primarily to meet the needs of the inner-city concrete supply chain*” (p.68).
76. The Commission finds the Project will provide a CBP and AHF that predominantly rely on port-based aggregate deliveries and will service large construction and infrastructure projects within the Sydney Metropolitan area. The Commission has placed limitations on the consent to ensure that storage of aggregate that is not delivered by ship or used in the CBP does occur.

### 5.2 State Infrastructure Strategy 2018-2038

77. As described at ARP 3.2.1, the State Infrastructure Strategy seeks to maintain Glebe Island as a working port to ensure there is an efficient bulk-handling network to support the development of the Sydney CBD. While the State Infrastructure Strategy acknowledges the challenge of integrating the working port at Glebe Island with existing and planned urban development, it promotes the benefits of maintaining this working port, including “fewer noise, air pollution and safety impacts than freight vehicles” (pp 139-140).
78. The Commission acknowledges the ongoing port use identified in paragraph 77 and has determined that the Project is consistent with the continued use of the working port, and has imposed stringent conditions to reduce the impacts arising from the development to enable better integration with the current and future urban development. These measures are detailed in Section 7 of this Statement of Reasons.

### 5.3 NSW Freight and Ports Plan 2018-2038

79. This Plan describes the strategic significance of Glebe Island with respect to the transportation of construction materials to Sydney and the staging for major construction projects. The retention of Glebe Island as a working port is described as critical because “it provides opportunities for increased use of coastal shipping to transport freight closer to the demand source, thereby reducing road congestion” (p67).
80. The Commission recognises that it is strategically important to maintain Glebe Island as a working port, at least in the short term, to service major construction projects in Sydney and has sought to balance this strategic direction with the potential land use conflicts with the growing urban development in the precinct (as described in 7).

### 5.4 Bays Precinct Transformation Plan - October 2015

81. As described at ARP 3.3.3, the Bays Precinct Transformation Plan (**Transformation Plan**) identifies the potential for renewal on Glebe Island, but also identifies that the site would continue to support the existing port and maritime economy. This outlines the long-term

challenges that development on Glebe Island is likely to face – specifically the compatibility of a working port with increasing urbanisation.

82. The Commission acknowledges that, in 2015 when the Transformation Plan was released, it set a 30-year timeframe envisaging the transformation of the foreshore area and the renewal of waterfront industrial land for urban purposes, including public open space. In consideration of the long-term vision for the Bays Precinct in the Transformation Plan, as well as the other strategic documents, the Commission finds it reasonable to impose a time limit to the consent. This is discussed in detail in section 7.1 of this Statement of Reasons.

## **5.5 Draft Bays West Place Strategy - March 2021**

83. Building on the ambitions and commitments previously adopted in the Transformation Plan, the Draft Bays West Place Strategy (**Draft Place Strategy**) seeks to create a long-term vision for the Bays West Precinct to be delivered in stages.
84. The Draft Place Strategy aims to retain and manage the port and allow it to evolve to continue to support the NSW economy but notes the Port Authority must work with stakeholders to consider how the future port and maritime functions can evolve while being compatible with other future uses in the Bays West area.
85. The Commission notes that strategic planning for this precinct is still ongoing and there are no clear timeframes for when the relevant planning policies will take effect or for when the final version of the Strategy will be adopted. The Commission has, as a consequence, given the Draft Place Strategy relatively little weight. However, the Commission acknowledges that the vision outlined for Glebe Island in the Draft Place Strategy is a progression of the Transformation Plan and includes the retention of a working port alongside the creation of a signature foreshore recreational space for significant events and public enjoyment by 2040.

## 6 STATUTORY CONTEXT

### 6.1 Permissibility

86. Under Sydney Regional Environmental Plan No. 26 – City West (**SREP 26**), the land-based component of the site is zoned ‘Port and Employment’. Development is permissible with consent if it is generally consistent with the objectives to allow a range of commercial port facilities and encourage development on Glebe Island that requires close proximity to the port (ARP 4.2.1).
87. Under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SHC SREP), the water-based component of the site is zoned W1 Maritime Waters. The water berth associated with the proposed commercial port facility is permissible with consent in this zone, noting the berth is existing (ARP 4.2.2).
88. The Commission acknowledges that the CBP is predominantly reliant upon the receipt of aggregate by ship from Glebe Island Berth 1. The handling and storage of aggregate delivered by ship for concrete batching on site and for use off site is also port-dependent. These uses rely on close proximity to the port and are consistent with the objectives of the port and employment zone and are permissible within the zone. The delivery by truck of other materials that are used in concrete batching on the Site is permissible if ancillary to these dominant uses.
89. However, the Commission finds that the handling of aggregate, which is delivered to the Site by trucks and not used on-site for concrete batching but stored in aggregate silos until taken by trucks to other off-site facilities is, unless an ancillary use, not a port-related or employment-generating use that is consistent with the objectives of the zone and would therefore not be permissible.

### 6.2 Integrated and other NSW Approvals

90. The Project requires an Environment Protection Licence (**EPL**) from the Environment Protection Authority (**EPA**) under clause 37 of Schedule 1 of the *Protection of the Environment Operations Act 1997* as it proposes shipping in bulk with a capacity to handle more than 500 tonnes of rock per day, and more than 50,000 tonnes of rock per year (ARP 4.3.1). The Commission notes that other activities occurring at the premises, such as concrete batching, will also be regulated by the EPA under an EPL in accordance with section 44(4) of the *Protection of the Environment Operations Act 1997*.

### 6.3 Mandatory Considerations

91. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the following matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**):

- *the provisions of:*
  - *any environmental planning instrument;*
  - *any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the Commission (unless the Planning Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved);*
  - *any development control plan;*
  - *any planning agreement that has been entered into under s 7.4 of the EP&A Act, and any draft planning agreement that a developer has offered to enter into under s 7.4;*
  - *the Environmental Planning and Assessment Regulations 2000 (**Regulations**) to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act;*

*that apply to the land to which the Application relates;*

- *the likely impacts of the development, including environmental impacts on both the*

- natural and built environments, and social and economic impacts in the locality;*
- the suitability of the site for the development;*
- submissions made in accordance with the EP&A Act and Regulations; and*
- the public interest.*

92. In accordance with s 4.15(1), the Commission has considered the mandatory considerations. They are addressed in the following sections.
93. The mandatory considerations are not an exhaustive statement of the matters that the Commission is permitted to consider in determining the Project. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

### 6.3.1 Relevant Environmental Planning Instruments

94. As outlined in Appendix C of the Department's AR, relevant EPIs include:
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*
  - State Environmental Planning Policy (State Significant Precincts) 2005*
  - State Environmental Planning Policy (Infrastructure) 2007*
  - State Environmental Planning Policy 55 – Remediation of Land*
  - Draft State Environmental Planning Policy for the Remediation of Land*
  - State Environmental Planning Policy 33 – Hazardous and Offensive Development*
  - State Environmental Planning Policy (Coastal Management) 2018*
  - Sydney Regional Environmental Plan No.26 – City West (SREP 26)*
  - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
  - Draft State Environmental Planning Policy (Environment)*
95. The Commission agrees with the Department's assessment of EPIs as set out in Appendix C of the Department's AR. The Commission therefore adopts the Department's assessment of the EPIs but has also further addressed some of the EPIs in the reasons below.

### 6.3.2 Relevant Development Control Plans

96. The Commission notes that the *Glebe Island and White Bay Master Plan*, prepared under SREP 26, applies to the Site but has the status of a development control plan (**DCP**). Therefore, pursuant to clause 11 of the SRD SEPP, which states that DCPs do not apply to SSD, the Commission is of the view that the Master Plan does not apply to the Commission's determination of the Project and its provisions do not take precedence over the zoning and related objectives applicable to the site under SREP 26.

### 6.3.3 Applicable Regulations

97. The Application satisfactorily meets the relevant requirements of the *Environmental Planning and Assessment Regulation 2000 (EP&A Regs)*, including the procedures relating to applications (Part 6 of the EP&A Regs), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.

### 6.3.4 The Likely Impacts of the Development

98. The likely impacts of the Project have been considered in section 7 below.

### 6.3.5 The Suitability of the Site for Development

99. The Commission has considered the suitability of the Site for the Project. The Commission finds that the Site is suitable for a CBP and AHF which is predominantly serviced by ship for the following reasons:
- it is permissible with consent and consistent with the Ports and Employment zone objectives of SREP 26 and the Maritime Waters zone of SHC SRP;

- the proposed use of the Site is consistent with the State Infrastructure Strategy, NSW Freight and Ports Plan, GSRP, the District Plan and the Transformation Plan, which identify a strategic need to retain Glebe Island and White Bay as a working port;
- the proposed use of the Site is consistent with the orderly and economic use and development of land; and
- impacts on surrounding land uses have been minimised through modifications by the Commission and subject to the imposed conditions

100. However, the Commission also finds that the site is not suitable for storage of aggregate, which is delivered to the Site by trucks and not used in the onsite CBP but stored in the aggregate silos until trucked to other off-site facilities. Such a use would not be port-related and, unless secondary or ancillary to the approved Project, does not need to be located on or near this port land. In this regard, the Commission has imposed conditions to ensure the facility remains a predominantly port-based facility. This is set out further in section 7.1 below.

#### **6.3.6 Submissions**

101. The Commission has considered public submissions in sections 3, 3.4 and 7 of this report.

#### **6.3.7 The Public Interest**

102. The Commission has considered the public interest in section 7.7.2 of this report.

### **6.4 Additional Considerations**

103. In determining this Application, the Commission has also considered:

- NSW Noise Policy for Industry (**NPfI**);
- Glebe Island and White Bay Port Noise Policy (**PNP**);
- Interim Construction Noise Guideline;
- NSW Road Noise Policy;
- Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2016);
- Glebe Island and White Bay Master Plan (noting the comments in paragraph 96)
- Sydney Harbour Foreshores and Waterways Area DCP 2005 (noting the comments in paragraph 96).

## 7 KEY ISSUES

### 7.1 Strategic Justification

104. The Commission notes that during the public meeting and in written submissions many members of the public voiced concerns that the Project is not strategically justified. As noted in paragraphs 34 to 39 and 54 to 55, concerns were raised about land use incompatibility of the proposed use with the surrounding urban locality and inconsistencies with the strategic planning goals and visions for the Bays West precinct.
105. The Commission also received submissions identifying concerns that the Draft Place Strategy includes a site for a CBP in the same location as this Project, despite this Application still being under assessment and before it was referred to the Commission. As stated above in paragraph 85, the Commission has given little weight to the Draft Place Strategy and its reference to a CBP on the Site. In considering the strategic and statutory planning policies currently in force, the Commission finds for the reasons set out below that there is strategic merit to the Project, subject to the modifications imposed through the conditions of consent.
106. The Commission notes the Applicant's justification and the Department's assessment of the Project are based on the port being used to deliver by ship the majority of the raw materials for use in the CBP.
107. The Commission notes there have been discrepancies between the proposed operations provided in the EIS, those assessed by the Department and those provided to the Commission by the Applicant, as outlined in Table 2 of this Statement of Reasons.
108. In its letter dated 24 May 2021, the Applicant advised the Project would accept, per year, one million tonnes of aggregates delivered by ship and a further 500,000 tonnes of aggregates delivered by truck (Table 2). The Applicant reiterated this in its letter to the Department in response to conditions dated 15 July 2021 (12).
109. However, as advised on 21 June 2021 and confirmed on 8 July 2021 and 20 July 2021, the Department assessed the Project on the basis of a total delivery capacity of 1,000,000 tonnes of aggregate per annum, predominantly by ship (Table 2), as indicated in the EIS. Within the 1,000,000 tonne limit, the Department identified that some aggregate (such as sand or aggregate of a particular size) would be delivered to the site by trucks for use in the CBP. Also, some aggregate that is delivered by ship and is not required in the CBP could be delivered by truck for use off site. The Department advised that the additional 500,000 tonnes of aggregate "*was not considered in the Department's assessment, as the Applicant sought approval for the delivery of 1,000,000 tonnes of aggregate, primarily by ship*" (letter dated 21 June 2021, page 31). If the Commission were to allow a total of 1,500,000 tonnes of aggregate to be delivered to the Site by ship and truck, it would exceed the capacity indicated in the development application and EIS and assessed by the Department.
110. On this basis, to the extent that the Applicant's correspondence to the Commission dated 24 May 2021 and to the Department on 15 July 2021 purports to amend the Application, in accordance with clause 55 of the *Environmental Planning and Assessment Regulation 2000 (Regulations)*, the Commission does not agree with or accept this amendment. An additional 500,000 tonnes of aggregate delivered to the site by truck would only be consistent with the port and employment zoning of the Site if it were to be used predominantly in the CBP (i.e. not stored in the AHF for use offsite) and if the amount is ancillary to the amount of aggregate delivered by ship or if storage of aggregate were an employment generating use. From the information before the Commission this cannot be concluded. Such an amendment to materially increase truck deliveries of aggregate would need to be made pursuant to clause 55 of the Regulations, would need to be supported by information to demonstrate permissibility and would need to be further assessed by the Department.



111. The Commission has imposed an amended Condition F3 to clarify that the Application being approved is for the delivery of 1,000,000 tonnes of aggregates per annum. The Commission has also imposed conditions F4 and F5 to ensure the aggregate delivered to the Site are predominantly (at least 80%) by ship, with an allowance for aggregate to be delivered to the Site by truck for use in the CBP only, such as sand or aggregate of a specific size required for particular concrete specifications or in the event that ship deliveries are not possible at a particular time. The Commission is satisfied this will ensure the Project remains a predominantly port-based facility.
112. Further to the Commission's conclusions outlined in paragraph 111, the Commission finds the size of the aggregate storage silos to be more than what a facility would need in order to accommodate 1,000,000 tonnes of aggregates per year. Therefore, the Commission has imposed a new condition B26 to address design concerns, including bulk and scale and visual impact of the aggregate storage silos. This is discussed in greater detail in Section 7.2 Built Form and Visual Impact (below).
113. In terms of strategic justification, the Commission generally agrees with the Department's assessment regarding the strategic suitability of the Site for a port-related purpose, while acknowledging that urban transformation over the past two decades in Pyrmont has shaped expectations about the future uses of Glebe Island (ARP 6.2.3). Furthermore, the Site is strategically well placed to service major construction projects in the CBD and surrounding area and will reduce the number of truck movements on the road network (ARP 6.2.4).
114. However, the Commission acknowledges the concerns raised in public submissions about the impacts of ongoing port use and that the Project includes a CBP in a precinct adjoining densely-populated residential areas.
115. On balance, the Commission finds that the working port of Glebe Island should be maintained in the short to medium term on the basis that the strategic planning for Glebe Island envisages its ongoing use as a port until at least 2040. The Commission finds that the siting of the Project is strategically justified because the use of the port for deliveries will alleviate some traffic pressure and will provide direct access for concrete and aggregate to major construction projects in the CBD and surrounding areas.
116. However, beyond 2040, the Commission notes the precinct is envisaged to be an Integrated Ports Facility as described in paragraphs 83 to 85, and the nature of port uses and surrounding development are likely to significantly change.
117. The Commission's concerns about the long-term compatibility of the Project with the future Bays West Precinct is shared by both Inner West Council and the City of Sydney Council. At the meetings with the Commission on 6 May 2021, both Councils encouraged the Commission to impose a time-limited consent to protect the opportunity for future development to be consistent with the potential changes that will be experienced in the Bays Precinct following the construction of the Bays metro station and the developed strategic planning for Glebe Island and White Bay.
118. In consideration of the Material before it, the Commission has formed the view that towards the year 2040 and beyond, there is some level of uncertainty regarding the continued land-use compatibility of the Project. The Commission also finds that the ongoing need to locate a CBP to service nearby infrastructure and construction projects beyond 2040 is also uncertain, given the likely completion of current projects.
119. For the reasons set out above, the Commission finds it is reasonable to allow the Project to continue until the end of the year 2040 (Condition A5). The Commission notes the Department's statement in ARP 6.6.1 that *"the duration of use can be controlled through leasing agreements with the Port Authority of NSW"*, however the Commission finds that there are reasonable planning grounds to justify the imposed condition instead of relying on leasing arrangements to achieve planning outcomes.

120. In summary, the Commission finds that the Project is strategically suitable, subject to the conditions imposed to set a time limit for the consent, to ensure the use remains predominantly port based and to set capacity limits on the Project.

## 7.2 Built Form and Visual Impact

121. The Commission received several objections raising concerns with the proposed built form and visual impact, as summarised in paragraphs 40 to 41 and 56 to 60.
122. As described at ARP 6.3.6, the Department considers the proposed built form to be acceptable because the scale is compatible with the surrounding context, which the Department notes includes significantly taller structures, and that the materials and finishes are consistent with the industrial waterfront character of Glebe Island.
123. In order to understand the height of the Project in the context of surrounding structures, the Commission sought information from the Applicant and the Department to confirm the RL height of the structures in the surrounding context, including the Glebe Island Cement Silos, the approved MUF adjoining the Site to the north and the ANZAC Bridge road deck at the pylons adjacent to the Site. This information was provided by the Applicant on 12 May 2021 and by the Department on 28 May 2021 and demonstrates that, with an RL of 37.6m, the aggregate storage silos will sit higher than the ANZAC Bridge deck (at RL 30.63m) and the MUF (at RL 24.2m), but will sit lower than the Glebe Island Cement Silos (at RL 43.9m to the top of the silos and RL 52.4m to the top of the signage structure).
124. The Commission notes that, even though the Glebe Island Cement Silos sit higher than the proposed ridge height of the aggregate silo building, the impact of the proposed aggregate silo building will be significant because it is set closer to the Johnstons Bay waterfront and both the ANZAC and Glebe Island bridges. The Commission does not agree with the Department's position that the height is justified on the basis of the overall height of the ANZAC Bridge and the Cement Silos. Rather, the Commission agrees with the public submissions that the height of the proposed aggregate storage silos would reduce the landmark quality of these structures and adversely impact views to and from the ANZAC Bridge.
125. The Commission is also concerned with the Applicant's proposal that the aggregate silo building is expected to be a metal clad rectangle (approximately 85m long by 15m wide by 27m high to the top of the storage silo with an overall height of 34m, including a pitched roof), providing little visual interest or articulation that would reduce the impact of the building. The Commission also notes that based on these dimensions, the storage capacity could be up to 34,400m<sup>3</sup>, which even if areas for structure, equipment and loading are deducted, would be well above the 16,000m<sup>3</sup> (26,000 tonnes) storage capacity required for the Project (as confirmed by the Applicant in its letter of 24 May 2021 to the Commission). If the size of the aggregate storage silos is reduced, as required by the Commission, this allows for a capacity, which is still comfortably above that required for the Project.
126. The Applicant's Visual Impact Assessment in the EIS (**VIA**) found the Project will have a high to moderate visual impact from eight key public domain viewpoints surrounding the Site. The VIA states "*The sensitivity of receivers viewing the Project from nearby surrounding areas has been assessed as high. Many of these receivers view the site from places in which they have a proprietary interest, e.g. their places of residence or from public open spaces where their attention would be focussed on the landscape. The sensitivity of these receptors informs many of the high visual impact ratings*" (page ix). The VIA recommends a number of mitigation measures, but notes while these will not change the visual bulk or scale of the Project, they would assist in softening the visual nature of the Project. The VIA concludes the consideration of a landscape and public art strategy within the development could potentially "*create a landmark element which is enjoyed by the community*" (page ix).



127. The Commission finds the visual impact of the Project will be significant when viewed from both bridges and from several waterfront public domain locations around the harbour. This was observed by the Commission during the site inspection undertaken on 30 April 2021 and reflects the findings of the VIA. The Commission finds this impact is unreasonable given the size of the aggregate storage silos has not been justified as discussed in paragraph 112.
128. The Commission notes the VIA proposes the provision of a Landscape Plan as a key mitigation strategy for the Project (as confirmed in the Department's letter to the Commission dated 28 May 2021). The Applicant and the Port Authority raised concerns about the ability for the Site to accommodate landscaping at their respective meetings with the Commission on 11 May 2021, which the Commission acknowledges would be difficult given the proposed layout of the Project and the constraints of the Site and its use. A Public Art Strategy is also proposed as a mitigation measure. However, the Commission finds that landscaping and public art would not be sufficient to mitigate the visual impact of the Project as proposed to an acceptable level.
129. In the context of the concerns identified in paragraphs 124 and 125, the findings in paragraphs 127 and 128 and also when taking into account the storage capacity required, as discussed in paragraph 112, the Commission has imposed Condition B26. Condition B26 requires amended plans to reduce the size of the aggregate storage silos and integrate landscaping and a public art strategy into the design of the Project. Condition B26 seeks to mitigate the visual impact of the proposal by reducing the size of the aggregate storage silos to a size that is sufficient to accommodate only material approved under this consent and to be no higher than the Anzac Bridge carriageway (at the pylons nearest the site RL 30.63m to be confirmed by survey) in order to maintain views to and from this structure. Condition B26 also requires design improvements that respond to the highly visual context of the Site and its waterside location, incorporates landscaping to soften and screen, where appropriate, and incorporates public art. These design measures must be to the satisfaction of the Planning Secretary, in consultation with the Government Architect of NSW, the local community and the councils.
130. The Commission finds, subject to the amendments to the development and design improvements required by Condition B26, the visual impact of the Project can be appropriately mitigated.

### 7.3 Noise Impacts

131. The Commission notes that noise impacts resulting from the operation of the Project, particularly at night, were some of the most significant concerns raised in the presentations made during the Public Meeting and in written submissions to the Commission (paragraphs 26 to 33 and 51 to 53).
132. The Commission acknowledges the noise issues primarily include concerns about the range of potential noise sources (potential impacts from shipping, the unloading of aggregate from Glebe Island Berth 1 and concrete batching activities), the number of sensitive receivers nearby located across a water body that exacerbates noise impacts, the proposed operation for up to 24 hours per day and seven days per week, and cumulative noise impacts from the approved MUF.
133. At its meeting with the Commission (paragraph 68), the City of Sydney Council also raised concerns about noise, noting "*the details of the noise attenuation of the enclosure are noticeably lacking*" (page 5 of the meeting transcript) and identifying that the Applicant's EIS refers to a steel frame and Colorbond construction of the buildings but does not propose any further acoustic treatment or insulation to the buildings.
134. The Commission notes there seems to be some conjecture about the construction of the buildings, with the Applicant discussing at its meeting with the Commission on 11 May 2021 that it was originally "*going to build the silos out of concrete and that would require...a*

*form structure [that] is very difficult to manufacture...But...if we do it in square then it gives us the opportunity to make it out of – not concrete but other materials such as steel...”* (page 12 of the transcript).

135. In its letter of 12 May 2021, the Applicant states “*As identified in the Supplementary Noise Assessment.....SLR confirms that the silos are passive buildings and are not considered to be a major source of noise. As such, SLR has not specified a specific material or acoustic treatment for the purpose of meeting noise criteria*” (page 5).
136. However, in its letter to the Commission dated 28 May 2021, the Department noted “*the Applicant’s EIS states that the silos would be constructed out of concrete and the Department has assessed the proposal on this basis. The Noise Assessment does not specify that the buildings (including the silos) need to be a specific material or acoustically treated to meet the relevant noise criteria*” (page 4). The Department confirmed this position in its correspondence on 21 June 2021 that “*metal clad silos were not contemplated in the Department’s assessment*” (page 19).
137. The Commission also raised uncertainties about the enclosure of the structures, including the aggregate handling facility. The Applicant, in its correspondence dated 12 May 2021, confirmed “*Hanson definitively commits to carrying out all concrete batching and truck unloading activities within fully enclosed buildings. Further, the entire conveyor system will be fully enclosed in order to minimise noise and dust emissions. Aggregate trucks would be loaded up directly from underneath the silos, which would be considered a partially enclosed area*” (page 5). Regarding the loading of trucks from the aggregate storage silos, the Applicant confirmed in its correspondence dated 24 May 2021 that “*the trucks can be loaded from the partially enclosed space underneath the silos with high speed roller door located at the entry and exit areas*” (page 4). The plans submitted on 24 May 2021 confirmed this arrangement.
138. Regardless of the inconsistencies identified above, the Commission notes the Department, in consultation with the NSW Environment Protection Authority (EPA), has assessed the noise generated from the Project under the relevant noise criteria in the Port Authority’s *Glebe Island and White Bay Port Noise Policy (PNP)* and the *NSW Noise Policy for Industry 2017 (NPfI)* and found the proposal would “*comply with the relevant noise criteria...in the residential areas of Glebe and Balmain for all periods (day, evening and night-time)*” (ARP 6.4.25). The Department acknowledges there would be exceedances of the NPfI noise criteria at the nearest residences in Pyrmont. The Commission notes from the Applicant’s Noise Impact Assessment that these exceedances occur at night-time.
139. With regard to noise impacts, the Department’s assessment found that the Project is well placed strategically, is located on land zoned for the proposed use, and will comply with the noise criteria in the PNP and NPfI in surrounding residential areas, with the exception of the nearest residences in Pyrmont (ARP 6.4.25 to 6.4.26). On balance, and in recognition that those affected residents reside in buildings that were constructed with in-built noise attenuation, the Department ultimately concludes “*the noise impacts of the proposal would be acceptable and can be appropriately mitigated and managed through a range of committed mitigation controls and recommended conditions*” (ARP 6.4.27).
140. The Commission notes those residents of Pyrmont categorically reject the justification that the noise impacts are acceptable based on their buildings’ in-built noise attenuation because, in order for those in-built noise attenuation measures to be effective, the doors and windows of these residences will need to be closed at all times. The Commission heard many objections stating this is an unreasonable restriction (paragraph 31).
141. Further noise attenuation measures imposed by the Department and the EPA are to require the Applicant to source a dedicated vessel for ship deliveries that would minimise ship noise and to implement other specific noise mitigation controls, such as brake silencers on the concrete trucks, enclosure of the batching plant and conveyors, minimal timed opening of roller doors on the batching plant and installation of a shipping container barrier on the eastern site boundary, to minimise impacts to residents in Pyrmont (ARP 6.2.24)

142. On the basis of the above material considered by the Commission with respect to noise, the Commission acknowledges the noise criteria limits recommended by the Department and the EPA would be incorporated into an Environmental Protection Licence (**EPL**) for the Project. However, while the Department contemplated a concrete construction for the aggregate storage silos when assessing this Application (paragraph 136), the EIS and Supplementary Noise Impact Assessment were based on "*Building enclosure – construction colour bond minimum thickness 0.6mm*" (Table 13A). Further, as noted in paragraph 135, the Applicant's noise consultants had "*not specified a specific material or acoustic treatment for the purposes of meeting the noise criteria*". Accordingly, the Commission finds it is reasonable and feasible to include further noise mitigation measures such as construction materials, acoustic attenuation, or insulation to further reduce the noise from the buildings, structures, and conveyors. The Commission has imposed Condition B24 that requires further noise mitigation measures to be included in the Construction Certificate drawings and incorporated into the amended architectural plans required by condition B26.
143. The Commission has also imposed conditions confirming the noise criteria that the dedicated vessel must achieve for ship deliveries and requiring noise monitoring data to be publicly available.
144. With regard to the night-time operation of the facility, at its meeting with the Commission on 11 May 2021, the Applicant advised that 24-hours-a-day, seven-days-a-week operation is crucial for this Project and opposed a restriction on night-time operation. The EIS proposed ship deliveries "*three times per week and each delivery will last approximately 12 hours. Approximately 10 ships are anticipated each month*" (page 31). At its meeting with the Commission on 11 May 2021, the Applicant advised there could be delays in ship arrivals due to bad weather, which would mean ships unloading may need to continue into the night. The Commission has considered this, along with the zoning of the land, the strategic rationale for the Project, the increasing urbanisation of the surrounding areas and the cumulative port-based impacts of existing and recently approved developments. On balance, the Commission finds that the proposed operation is generally a reasonable development expectation for this Site.
145. However, in acknowledgement of the concerns raised by Pymont residences regarding sleep disturbance, in particular, that compliance with the noise criteria limits at night rely on doors and windows being shut, the Commission considers it reasonable to impose a new Condition F6 that generally restricts ship deliveries to between 6am to 10pm, but allows up to 12 night-time unloading operations per annum to address the Applicant's concerns about delays resulting from unforeseen circumstances, such as bad weather. The Commission has formed the view that this compromise will allow some night-time activity when it is unavoidable to not stifle operations, but will also provide night-time respite for the residences across the bay.
146. The Applicant advised in its letter to the Department dated 15 July 2021, that the night-time curfew and the reduced storage capacity of the aggregate storage silos (Condition B26(a)(i)) (paragraph 129), would result in the need to utilise smaller ships and the need to increase the ship frequency to 18 per month or 216 per year in order to meet demand. The Applicant also requested the Commission impose a ship cap on a per annum basis, rather than the 10 per month basis, which was an average.
147. In its letter to the Commission dated 19 July 2021, the Department provided commentary on the Applicant's request described above at paragraph 146, stating "*this request is outside the scope of the Department's merit assessment*". The Commission agrees with the Department's statement and, to the extent that the Applicant's letter to the Department dated 15 July 2021 purports to amend or vary the Application provided to the Commission, this was not done in accordance with clause 55 of the Regulations. In any event the Commission does not agree to the amendment or variation sought. The Applicant has not provided justification as to why smaller ships and increased deliveries (216 per year) would be required. As discussed in paragraph 125, the reduction in the size of the silos (condition

B26(a)(i)) would still accommodate 16,000m<sup>3</sup> (26,000 tonnes) of aggregate, which the applicant stated in its letter of 24 May 2021 was the storage capacity required for the 1,000,000 tonnes per annum approved to be delivered to the Site. With respect to limiting the ship frequencies per annum (paragraph 146), the Commission has imposed a condition that caps ship deliveries to 120 per year rather than 10 per month.

148. The Commission also notes the Applicant's request in its letter to the Department that Condition D4 to permit construction work outside standard construction hours, if permitted by the Planning Secretary, on the basis that this may be required in certain circumstances and that it is standard for SSD applications. The Department has advised that proposed amendment would not be a standard condition and is not supported. The Commission has therefore not further amended Condition D4.
149. In summary, the Commission acknowledges the challenges arising from the proposed use in an urban setting, but also acknowledges that this Site is strategically well placed and zoned for such a use. Therefore, the Commission finds that the strict noise criteria, monitoring and operational conditions imposed are reasonable to achieve a balance between maintaining the working harbour and providing some improvement to residential amenity. On this basis, the Commission is satisfied the Project would have acceptable noise impacts, subject to the imposed conditions.

#### **7.4 Air Quality Impacts**

150. With regard to air quality impacts, the concerns raised at the Public Meeting and in written submissions are summarised at paragraphs 43 and 61 to 62. Key issues included air and odour emissions from ships (particularly sulfur) and vehicle and plant emissions.
151. The Department appointed an independent air quality expert and consulted with the EPA to assist with its assessment of air quality. The Department's assessment found the proposal is predicted to meet all relevant air quality criteria at sensitive receivers and incorporates best practice controls for managing emissions (ARP 6.4.38). The Department's assessment also found that through effective implementation of the mitigation measures, operational emissions can be effectively managed. The Department has Recommended Conditions relating to air quality criteria, management plans and monitoring requirements (ARP 6.4.39) and notes that air emissions from the facility would also be regulated through an EPL.
152. The Commission has considered the air quality matters raised and generally agrees with the Department's recommendations. In addition to the Recommended Conditions, the Commission has also imposed a condition requiring ships serving the facility to limit sulfur emissions by using low sulfur fuel and to investigate the future use of shore-to-ship or alternative energy. The Commission finds the Application to be acceptable from an air quality perspective, subject to the imposed conditions.

#### **7.5 Traffic, Parking and Access Impacts**

153. The Commission notes that paragraphs 52, 63 and 64 provide a summary of the issues that were raised in relation to traffic matters at the Public Meeting and in written submissions. Key concerns included increased truck movements, local road and amenity impacts and high cumulative traffic volumes.
154. The Department's assessment, in consultation with TfNSW and advice from both local Councils, accepts the analysis provided in the EIS regarding traffic movements and the impact on local intersections. The Department notes that WestConnex construction will be completed in the next two years and recommends an hourly cap on truck movements until such time as the Rozelle interchange opens to ensure the impacts on the already constrained local road network are kept to a minimum (ARP 6.5.9). Once the Rozelle interchange is open, the Applicant can *"apply to modify the consent. Any such application*

would be assessed on its merits at that time and would need to demonstrate that it did not adversely impact on the functioning of the surrounding road network” (ARP 6.5.10).

155. The Department also Recommended Conditions limiting the number of aggregate, cement and concrete deliveries. With respect to aggregate deliveries (i.e. dispatches), the Department’s Recommended Conditions imposed a condition restricting the consent to a maximum of up to 241 vehicle aggregate deliveries per day on the basis of the development proposed in the EIS, that *“aggregate will be dispatched from the aggregate storage silos to aggregate delivery trucks for dispatch to other facilities in the surrounding areas...consent is sought for a maximum of 241 aggregate deliveries per day. This frequency of delivery would only be achieved when the proposed development is operating at full capacity, which is anticipated to be an infrequent occurrence”* (page 31 of the EIS).
156. It was apparent to the Commission, in its consideration of the EIS and the Department’s AR, that the limit of 241 aggregate deliveries in the Recommended Conditions pertains to outgoing, or “dispatched” deliveries only of aggregate that has predominantly been delivered to the Site by ship. The Department’s correspondence dated 28 May 2021 also noted *“the Applicant has confirmed that trucks would be used to deliver and dispatch sand and aggregate to and from the site and...the Applicant estimates total sand deliveries would be 75 per day for an average production day and up to 241 trucks per day for a peak production day”* (page 5). Proposed truck deliveries of this magnitude to the Site were also confirmed by the Applicant in its letter to the Commission dated 12 May 2021.
157. In its letter to the Commission dated 24 May 2021, the Applicant referred to an additional 500,000 tonnes of aggregates being delivered to the facility by road per annum. As previously discussed in this report, the Department advised the Commission on 21 June 2021 and confirmed on 8 July 2021 and 19 July 2021 that the additional 500,000 tonnes sought by the Applicant to be delivered to the Site by truck was not part of the development application and EIS, and so had not been included in the Department’s assessment of the Project. In its letter dated 8 July 2021, the Department confirmed the truck movement limitations in its Recommended Conditions should refer to ‘movements’ per day, rather than ‘deliveries’ per hour. Subsequently, the Commission has imposed restrictions within Condition F3 which reflect the truck movements recommended by the Department. The Commission notes that these movements are based on Table 5 of the Applicant’s Traffic Impact Assessment. The figures for the cement trucks, aggregate trucks and concrete trucks in Condition F3 are maximums per day. The limit of 182 movements per hour is for all truck movements and is expected to occur only in periods of peak production.
158. In addition, the Commission has imposed Condition F4 which specifies that the 1,000,000 tonnes of aggregate must be predominantly delivered by ship (at least 80%). This is to ensure that the facility remains a predominantly port-based facility, in accordance with the zone objectives (paragraph 86) and to ensure that aggregate delivered by ship and stored in the AHF is for use in the CBP or off site. While enabling different sized aggregate to be delivered by truck, such as sand required for the production of certain concrete specifications but cannot be delivered by ship. The restriction under Condition F4 also enables a proportion of aggregate to be delivered by truck at times when ship deliveries are unavailable. The Commission has imposed Condition F4 because it does not support aggregate to be delivered to the site by truck, stored in the AHF and then used off site, which would not be consistent with the port zoning of the Site.
159. In terms of on-site parking, the Department concludes the proposed parking arrangement for employees, trucks and bicycles is adequate (ARP 6.5.16 – 6.5.18). The Commission has imposed a condition to ensure an appropriate number of parking spaces are provided on site.
160. The Department notes trucks would travel to and from the site via the arterial road network, rather than surrounding residential suburbs (except where concrete deliveries may be required in these areas). To ensure this is the case, the Department recommends a

condition to prevent access via Robert Street (ARP 6.5.24 and 6.5.25). The Commission considers it reasonable to also limit access to The Crescent in a similar fashion and discussed such an approach with the Applicant at its meeting on 11 May 2021. In its response dated 12 May 2021 to questions taken on notice at that meeting, the Applicant confirmed *“Hanson’s concrete agitator trucks will only travel along The Crescent if they are accessing worksites located along The Crescent or its surrounding areas”* (page 4). Therefore, the Commission has imposed a further condition to limit truck access along The Crescent only for trucks making local concrete deliveries to areas directly accessed via The Crescent in order to further mitigate local traffic impacts.

161. In addition to the above, the Department has also Recommended Conditions requiring the preparation of construction and operational management plans. The Commission has made modifications to require that the operational management plan provide further detail of the truck movements within the maximum limits imposed by Condition F3. The Commission is satisfied these conditions will ensure the Project is carried out in a manner that will minimise the impact of the development on the safety and capacity of the surrounding road network and minimise truck movements as far as practicable during the peak periods. The Commission agrees with these conditions and has imposed them accordingly.
162. In consideration of the above material, the Commission is satisfied that the traffic, parking and access impacts of the Project are not unreasonable, subject to the imposed conditions.

## 7.6 Other Issues

### *Shore-to-ship power*

163. Many submitters requested the Commission require the Applicant to provide a sustainable power source for ships at berth, including shore-to-ship power or solar power provision to reduce the noise and fumes while ships idle at berth (as summarised at paragraphs 65 and 66).
164. The Department considered the provision of shore-to-ship power for this Project and concluded *“the provision of shore to ship power is not feasible at this point in time due to the lack of capability of vessels that will visit the site being able to connect to such a supply”* (page 44).
165. The Port Authority agreed with this statement at its meeting with the Commission on 11 May 2021, stating shore-to-ship power is *“not currently available at any commercial shipping berth in Sydney Harbour or Australia”* (page 21 of the meeting transcript) and the cost to transition the ships and the port for such a power source would be *“in the order of millions and millions of dollars with all the costs, networks costs, the infrastructure for the shore power itself, retrofitting ships to be able to accept the shore power whilst at berth”* (page 22 of the meeting transcript). However, the Port Authority confirmed that, while the capability is not available at this time, it’s *“not saying it couldn’t happen in the future”* (page 21 of the meeting transcript). The Port Authority also noted that there is an increasing interest globally for alternate sources of energy that could power ships both in port and on the water, which is being looked into by the International Maritime Organisation to reduce global shipping emissions (page 23 of the transcript).
166. Based on this advice, the Commission has imposed Condition F9 requiring the Applicant to undertake periodic investigations into the feasibility of onshore power or alternate energy source to be provided to enable vessels to turn off their engines and generators thereby reducing noise and fumes.
167. Further to this, the Commission notes the EIS provides a number of sustainability initiatives proposed by the Applicant including climate change measures, water efficiency measures, green travel plan and waste management measures. The Department’s Recommended



Conditions include a requirement for the Applicant to develop the Project in accordance with such initiatives contained within the EIS.

#### *Water safety*

168. The Commission heard concerns that the Project would compromise water safety for vessels navigating the channel of water between Johnstons Bay and Blackwattle Bay when a ship is at Berth at Glebe Island Berth 1 (see paragraph 44).
169. However, the Commission notes ship berthing is not a new phenomenon at Glebe Island and has been successfully managed historically. The Commission also notes that water safety matters are the responsibility of the Port Authority.
170. The Commission notes the Department considered marine and navigation safety at Table 7 of the Department's AR. The Commission agrees with the Department's recommendation that an Operational Vessel Management Plan, endorsed by the Planning Secretary, TfNSW and the Harbour Master of the Port Authority (Condition E13) would ensure marine and navigation safety is effectively managed.

#### *Light pollution*

171. The Commission also heard concerns of residents in Pyrmont that light pollution will compromise residential amenity at night (see paragraph 45).
172. In this regard the Department Recommended Conditions to ensure outdoor lighting complies with the relevant Australian Standards and the proposed light strategy. The Commission agrees with the Department's conditions regarding lighting and has also imposed a condition requiring all outdoor lights to be fitted with dimmers and motion sensors to further minimise light spill. On this basis, the Commission is satisfied the Project will not result in unreasonable light impacts.

## **7.7 Objects of the EP&A Act and Public Interest**

### **7.7.1 Objects**

173. The Commission has considered the Application against the relevant objects of the EP&A Act and is satisfied with the Department's assessment of the objects of the EP&A Act as set out in Appendix C of the Department's AR.

#### *Ecologically Sustainable Development*

174. The Commission has considered the Application having regard to the principles of Ecologically Sustainable Development (**ESD**). The Commission finds the proposed ESD measures to be appropriate, including the requirement for the buildings to incorporate the ESD measures proposed in the EIS, the use of low sulfur fuel and ongoing investigations into alternative, sustainable power sources for shore-to ship-power.
175. The Commission is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

### **7.7.2 Public Interest**

176. In considering whether the Application is in the public interest, the Commission has weighed up all the Material before it, relevant strategic and statutory planning policies, the objects of the EP&A Act, the principles of ESD and socio-economic benefits. On balance, the Commission finds the Application, as modified by the Commission through the imposed conditions, to be an appropriate development in this location. The likely benefits result from the provision of a port-based facility that will reduce truck movements on the wider road network, while providing concrete and aggregates to major construction projects in the CBD and surrounding areas, and the provision of sustainability initiatives in the design, warrant the conclusion that an appropriately modified and conditioned approval is in the public interest.

## 8 THE COMMISSION'S FINDINGS AND DETERMINATION

177. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in oral presentations to the Commission at the Public Meeting. The Commission carefully considered all of these views in making its decision.
178. The Commission has carefully considered the Material before it as set out in section 4.4 of this report. Based on its consideration of the Material, the Commission finds that the Project should be **approved** subject to the modifications imposed by the Commission and subject to the conditions of consent, pursuant to the powers under section 4.38(1)(a) of the EP&A Act. The amendments and measures imposed by the Commission include limitations to ensure the operation remains a predominantly port-based facility, a time-limited consent, design amendments that will reduce the bulk and scale of the aggregate storage silos and the visual impact of the Project, and further noise mitigation measures, including a restriction on night-time deliveries by ship. The Commission has approved the Application for the following reasons:
- The Project is permissible with consent because it is consistent with the objectives of the Port and Employment and Maritime Waters zone;
  - The Project is strategically justified in the short to medium term;
  - The Site is well located to accept materials delivered by ship, which will reduce truck movements on Sydney's roads;
  - The imposed conditions will minimise amenity impacts, such as noise, air quality and visual impacts;
  - Traffic impacts can be appropriately managed and mitigated through the imposed conditions;
  - The Project is in the public interest because it is a reasonable development expectation for the site, it is located on a working harbour, it would supply concrete in close proximity to the CBD and major infrastructure projects, and support the construction industry and broader economy
  - The Commission concludes that an appropriately amended and conditioned approval is appropriate and reasonable in this case.
179. For the reasons set out in paragraph 179, the Commission has determined that the consent should be subject to modifications and conditions. The amendments and conditions are designed to:
- clearly define the scope and limits of the proposed use of the Site;
  - prevent, minimise and/or offset adverse environmental impacts;
  - set standards and performance measures for acceptable environmental performance
  - require regular monitoring and reporting; and
  - provide for the on-going environmental management of the development.
180. The reasons for the Decision are given in the Statement of Reasons for Decision dated 23 July 2021.



**Annelise Tuor (Chair)**  
Member of the Commission



**Dr Peter Williams**  
Member of the Commission