



## **West Basin Phase 2 (Boardwalk and Land Reclamation) Works Approval Application**

### **Lake Burley Griffin Guardians submission**

#### **Overview of our position on West Basin**

The Lake Burley Griffin Guardians express our ongoing opposition to the ACT Government's proposals to develop West Basin as a mixed-use private apartment estate with a waterfront park.

West Basin is a major component of the Lake Burley Griffin and parklands complex, a place of international significance, which should not be squandered in short term political pursuit of land economics for mostly private profit. Alienation of public space for mixed use urban commercial/residential development of the scale proposed by the ACT Government is not acceptable to us.

In our opinion, the National Capital Authority (NCA) and the City Renewal Authority (CRA) do not have the imagination or social commitment to create an international standard development on the shores of Lake Burley Griffin.

Nevertheless, we urge both organisations to seriously consider the deficiencies we have identified in the plans to date and the proposals we put forward here for a sensible approach to developing a world class community asset at West Basin.

#### **Need for a fully developed plan**

We remain disgusted that more than five years into planning for West Basin, the NCA and the CRA are yet to produce a public, updated design which shows the whole development, including the 2000 or more apartments being mapped out for the site and on which the community has yet to be formally consulted.

We see no viable solutions to major issues with the whole West Basin precinct, including how to overcome the barrier of Parkes Way, dealing with the manifest traffic management issues associated with developing an urban enclave at the Basin, the lack of design quality in Canberra apartment estates generally, and the now ever-diminishing public amenity that was part of the original City to the Lake plan.

Development of anything like the current known plans of the ACT Government would simply 'lock in' an insipid hard-edged waterfront overlooked by mediocre, mixed residential/commercial buildings of 8m on the waterfront to 25m in the apartment estate.

The lack of a fully developed plan merely demonstrates the limited vision of a bureaucratically focussed National Capital Authority and the blinkered, real estate sales driven, focus of the City Renewal Authority.

We submit that the latest step in this slow-moving train wreck of urban planning, CRA's West Basin Phase 2 Works Approval Application, contains significant shortcomings as detailed below.

### **Guardians' key recommendations regarding development at West Basin**

1. The ACT Government should conduct an international competition to obtain a world class design for public use of West Basin in collaboration with the Canberra community.
2. The NCA must reject the works approval application for Phase 2 because of the major deficiencies identified by the Guardians (below) and it must require the City Renewal Authority to re-plan its West Basin proposals in a way that does not lock-in the lake infill and the privatisation of public space.
3. As a minimum, the NCA must not approve the Phase 2 works application unless:
  - a. The necessary West Basin Heritage Management Plan has been prepared and the entire future proposed works (not just the foreshore works) are assessed as being consistent;
  - b. the ACT Government has considered and acted on its apparent legal obligations to provide a referral under the *EPBC Act* (s26) for its entire works proposal (not just the foreshore works) as it is adjacent to Commonwealth Land and will or is likely to have a significant impact on its heritage values; and
  - c. the as-yet-unreleased Indesco/Hames Sharley master plan for West Basin is approved by the National Capital Design Review Panel and, to ensure a transparent process, any commentary and conditions imposed are made public.
4. The NCA should facilitate the heritage listing of the Lake and its foreshores, even over opposition from the ACT Government and prior to any resolution of a Canberra heritage listing.

## **Our concerns about West Basin development overall**

### **Neglect of site**

We believe the West Basin foreshore has been neglected by the ACT Government. Businesses are shuttered, trees are in poor condition, buildings are abandoned, community infrastructure is deteriorating and homeless people are living there.

Neglect is a strategy usually employed by developers to create a degraded place, whose eventual decline is then used to justify its destruction for so-called renovation into a higher yielding development. **In our opinion, the NCA has failed to fulfill its duty to the nation, by not preventing the decline of West Basin over several years.**

### **Need for a re-imagined place for a different world**

In the light of recent events (drought, bushfires, hail, COVID-19), we believe planning for West Basin needs to be re-imagined and tested against international best practice urban placemaking for a future that will be characterised by more extreme weather events, greater demand for community open space near the city, and the likely ongoing social distancing requirements of a post-pandemic society. **It is extremely regrettable that these fundamental environmental and social factors appear not to have occurred to the ACT Government or the NCA.**

**We would support world class development, which this demonstrably is not.**

We do not oppose development of West Basin *per se*, and would support its enhancement as a natural asset by the Lake. However, the Guardians will only support redevelopment that is of international standard, low in scale, remains in public ownership, avoids lake infill and respects the area's social, heritage values, and natural qualities. A high degree of public participation in decision making would also be needed.

The Guardians articulated our position in *West Basin Values, Principles for Development and Acceptable Proposals* in 2019.<sup>1</sup> Copies were provided to the NCA and the CRA at the time. We have responded to various amendments to the National Capital Plan (NCP) over many years, the original City to the Lake proposal, and the Works Approval Application for Stage 1 West Basin (WA2018 in Oct 2015). All our comments and those by others have been ignored.

**Works Approval cannot be considered in isolation from the remainder of the project**

The Guardians have a difficulty with the notion that the Phase 2 works application can be submitted for approval in isolation from the later estate development works. There would be no such foreshore works without the intention to build an estate on and behind it. Previously-provided drawings of the completed estate (including in indicative drawings in the NCP see e.g. Figs 57, 60 & 64) reveal that estate components are planned for the infill area including multi-storey buildings and a street. The collective works are cumulative in their impacts and inseparable. The NCA cannot approve the current proposal without consideration of the entire project.

**The works approval application should present the foreshore and apartment estate works together – they are two interdependent components of the same project and need to be considered together, irrespective of any staged timing of the two. The Phase 2 application should be rejected for consideration until the estate design works are complete and ready for NCA approval.**

**City Renewal Authority review not reflected in current works applications**

The Lake Burley Griffin Guardians have called for an independent public review of the ACT Government's plans for West Basin. In 2019, the ACT Government appointed Indesco to review its West Basin development plans, with urban designers Hames Sharley preparing a place plan, spatial master plan and urban design framework (i.e. a Master Plan). Hames Sharley conducted two days of workshops with community representatives, including the Guardians and local residents, which developed several innovative ideas for West Basin. None of these ideas have been incorporated into the Works Approval Application, which is merely an extension of Phase 1. We believe the Indesco Review will be completed in 2020. There is no reason why outcomes should not be reflected in the works application for Phase 2 before it is considered by the NCA.

**In our view, public consultation and involvement in the outcomes of the West Basin Design Review are the very minimum needed prior to consideration of works which, once approved, will not be able to be undone.**

**The CRA and the NCA should demonstrate a commitment to public involvement in decision making around the re-design of places for the future social and environmental construct. They can do this by including the outcomes of the Indesco West Basin Plan Review and the Hames Sharley Master Plan in a new works application for Phase 2.**

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<sup>1</sup> <https://lakeburleygriffinguardians.org.au/media/values-principles-acceptable-12.2.19.pdf>

### **NCA Guidelines require NATCAP Design Review Panel approval before any works**

The NCA's own West Basin Design Guidelines require the ACT Design Review Panel's approval **prior to works approval** being granted.

*The public space, landscape and urban design proposals for the site will be the subject of the design review panel's approval, prior to works approval.<sup>2</sup>*

The works approval application does not indicate that the Phase 2 works or any others have been considered or approved by the design review panel.

**The NCA must not approve any works prior to the completion and public consideration of the CRA's West Basin design review and associated Place Plan; and the ACT Design Review Panel's consideration of a new consolidated works application for Phase 2 and the remainder of the proposed public amenity in the area of Acton Park.**

### **Works cannot be considered without adequately accounting for the impact on heritage values**

The Guardians have long argued for heritage listing of Lake Burley Griffin and its foreshore landscape (as did the NCA itself in 2010 with a Commonwealth Heritage List nomination). The heritage value of Lake Burley Griffin and Adjacent Lands was recognised in the GML 2009 *Lake Burley Griffin and Adjacent Lands HMP*. 3 vols. as being above the respective thresholds for both the National and Commonwealth Heritage Lists and was recommended to be nominated for both Lists.<sup>3</sup> The NCA nominated it to the Commonwealth Heritage List in 2010. It was also recommended that its components, specifically including West Basin, be included in the Heritage Inventory/Register as required to be maintained by the NCA under the *Environment Protection and Biodiversity Conservation Act (EPBC Act)*.<sup>4</sup>

In 2017, the International Council on Monuments and Sites (ICOMOS) called on the Australian and ACT Governments to ensure the inclusion of Lake Burley Griffin and its lakeside landscape on the National Heritage List, demanded a halt to plans to infill part of West Basin and urged that any development be guided by an overarching Heritage Management Plan.<sup>5</sup> The ACT Government has blocked heritage listing of the lake and its foreshore, we believe, because this would restrict its future potential private development.

The NCA is required under the *EPBC Act* and the NCP to ensure its actions are consistent with the EPBC Act and the Burra Charter.<sup>6</sup>

The NCA cannot approve these works, to be consistent with the NCP and the recommendation of the existing HMP for the Lake and adjacent lands (*GML HMP Vol 1 p32*), without first preparing a specific West Basin Precinct Heritage Conservation Management Plan and ensuring that any development proposal is consistent with it. There is no such Plan.

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<sup>2</sup> National Capital Authority West Basin Guidelines, P 36. <https://www.nca.gov.au/sites/default/files/west-basin-precinct-guidelines-may-2014.pdf>

<sup>3</sup> GML Heritage Management Plan Vol 1 p5.

<sup>4</sup> Ibid Vol 1 Table 1.1 p5 and Section 341ZB of the EPBC Act.

<sup>5</sup> Full text of the ICOMOS resolution addressed to the Australian and ACT Governments available at [http://lakeburleygriffinguardians.org.au/media/Let\\_18\\_GA2017\\_Resolution\\_15\\_LakeBurleyGriffin\\_20180219-copy.pdf](http://lakeburleygriffinguardians.org.au/media/Let_18_GA2017_Resolution_15_LakeBurleyGriffin_20180219-copy.pdf)

<sup>6</sup> The ICOMOS Burra Charter defines the basic principles and procedures to be followed in the conservation of Australian heritage places.

The Departmental policy documents advising on how to interpret the Commonwealth Heritage Management Principles (CHMPs) suggest that in the absence of a Management Plan, the CHMPs could be used to guide heritage management. This, coupled with the NCP requirement to consider heritage identified in the Designated Area (see below) in the manner of the *EPBC Act*, provides some confirmation of this approach. Similarly, the NCA cannot approve the current proposal without consideration of the entire project. This is consistent with considering how an ‘action’ under the *EPBC Act* is assessed – all impacts direct and indirect must be considered. The collective works are cumulative in their impacts on heritage values.

Legal advice provided to the Guardians states in part, that:

*...the granting of development consent or works approval does not remove the need for the proponent of the development, and holder of consent, to obtain EPBC Act approval for any action that is likely to have a significant impact on the environment on Commonwealth Land, as per s26 of the EPBC Act and the Tasmanian Aboriginal Centre case. Therefore, any action on Territory Land adjacent to the Lake which will or is likely to have a significant impact on its heritage values will likely require referral to the Minister.*

The heritage values that the significant impact should be assessed against, are those that are not tenure bound or otherwise constrained. The boundaries of the place should encompass all heritage values, consistent with the most recent expert approach, and not just those of the water body.

**The NCA’s approach, as a Commonwealth agency, and the ACT Government as works proponent, should be guided in managing heritage at West Basin more rigorously by the EPBC Act, its regulations and related Departmental policy documents, than it appears to be.**

## **More detailed deficiencies in Works Approval Application Phase 2**

### **Proposed works do not meet mandatory objectives of the West Basin Precinct Code**

We note that the works application is to be assessed against loosely described criteria in the National Capital Plan and associated policy documents which are designed to allow a mixed-use infill in West Basin.

In this regard, the works application for Phase 2 has significant shortcomings.

Firstly, it is merely an extension of Henry Rolland Park, a pocket park whose main features are a bland public promenade, outdoor gym equipment and a barbecue area guarded by a police camera surveillance system.<sup>7</sup>

Phase 2 is to be a continuation of the insipid Phase 1 design for a further 500m at a cost of \$30 million, creating an 8m wide cantilevered promenade, topped by street furniture in the style of Constitution Avenue, and backed on the landward side by a potted tree nursery. The whole proposal is engineering focussed, with almost no consideration to environment, landscape, heritage or how real people will use the area.

Amazingly, the WAA shows no commitment to designing for a more extreme climate (e.g. water sensitive urban design as required in the West Basin Precinct Code), no regard to the fauna that use the existing riparian environment, no consideration of the impact on nearby residents, and no sensitivity for the lake’s heritage save for a dubious ‘marketing spin’ on the Griffin legacy.

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<sup>7</sup> <https://www.canberratimes.com.au/story/6595622/acts-new-camera-technology-can-hunt-a-suspect-through-its-network/>

**We submit that the Phase 2 Works Application does not meet the objectives of the West Basin Precinct Code. Notably, it is below the standard required for a ‘vibrant’ public waterfront (Objective 2) and for ‘environmental sustainability, including energy efficient and water sensitive urban design measures’ (Objective 11).<sup>8</sup>**

**Guardians’ identified deficiencies in the Works Application that need to be addressed prior to approval:**

1. **The promenade design does not respect the NCA’s West Basin Guidelines for public space and landscape**, which require the use of “elegant simple and bold designs, using soft and hard treatments in the promenade and waterfront”.<sup>9</sup> Rather than a 500m extension of an existing hard edged design, the foreshore should contain a wildlife friendly mix of soft and hard-edged riparian margins as an imaginative upgrade to the present degraded shoreline while providing sufficient areas for public use.
2. **The works approval application does not address contemporary challenges**, including designing for safety against ‘Bourke Street incidents’; designing for more extreme climactic events; water sensitive urban design; and the need for greater social distancing. There should at least be statements in the Works Application as to how the proposed works are designed to meet these challenges.
3. **The design does not reflect community input** from two CRA-initiated Hames Sharley place design workshops in late 2019.<sup>10</sup> For example, participants expressed a strong preference for a variety of treatments at the water edge (not just a continuation of the promenade) and high quality public spaces behind it (not just a tree nursery).
4. **Elements of the promenade design are likely to be unsafe.** The cantilevered promenade overhangs water up to 5.5m deep, with a rock armour wall extending on the lake bed beyond the margin of the promenade. While some design elements address this (e.g. life buoys, grab bars, climbing rails), there is residual risk of drowning which we believe should be ameliorated through greater use of barriers. Similarly, there appears to be no provision for depth markers along the edge of the promenade. Water depths will likely range between 2.5m and 5.5m, with a variable rocky armoured bed, so the apparent absence of markers could contribute to risk of death or serious injury to people diving into uneven depths.
5. **Commuter rider and pedestrian safety will be compromised during construction.** Acton Park is a commuter highway for cyclists and pedestrians. Currently, its narrow paths are unsafe. The proposed temporary 3m asphalt path diversions east and west at the south end of the Parkes Way pedestrian overpass will be dangerous, as is the planned permanent diversion of the narrow high-speed path where it is met by the northern end of the new promenade. The temporary diversion into Kuttabul Place/ Barrine Drive is also dangerous, because street crossings and choke points will lead to conflict between users and heavy haulage vehicles, despite temporary traffic control. Many commuters use this area in early morning and evening. Yet there appears to be no plan to increase lighting on the path at the northern end of Kuttabul Place. So, this area will be unsafe at night, particularly for pedestrians moving between Marcus Clarke St and the carparks.
6. **Pedestrians and cyclists will come into conflict after construction.** Lack of separated pedestrian and cycling infrastructure in Phase 2 will inevitably lead to cyclist-on-pedestrian incidents on the narrow boardwalk and access paths. While separated cycling infrastructure

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<sup>8</sup> Consolidated National Capital, 4.7.3 Objectives for West Basin Precinct

<sup>9</sup> West Basin Guidelines, p35.

<sup>10</sup> Works Approval Application, West Basin Ph 2, para 3.1.4 West Basin Review.

might be an element of later stages, cyclist and pedestrian safety will be compromised for the two years between finalisation of construction and settlement of the wet fill because commuter cyclists will inevitably use the promenade deck as a short cut.

7. **No impact assessment of heavy haulage traffic on road safety.** No consideration appears to have been given to the impact of heavy haulage and earthmoving vehicles on traffic safety in Commonwealth Avenue, particularly at the Albert and Corkhill St intersections. There is no indication of how many heavy truck loads will be required for the infill (80,000 tonnes minimum) or how this will be managed to ensure adequate safety for road users and cyclists on Commonwealth Avenue.
8. **Lack of an accompanying works approval application for the Parkes Way stormwater diversions.** The WAA states: 'The stormwater diversion works will be submitted as a separate Works Approval (application) subject to funding. Stormwater will be managed by temporary works during the Phase 2 work until the stormwater diversion is constructed.'<sup>11</sup> Not only does the works application not provide for water saving urban design, or irrigation through the field of temporary trees (albeit in containers) but the current stormwater drains will be removed and a separate application has yet to be approved for diversions along Parkes Way. Given the increasing likelihood of extreme weather events during construction, these works should surely not be allowed to proceed until there is an approved engineering solution to stormwater across the site and along Parkes Way.
9. **Destruction of trees.** The Tree Assessment and Report is inadequate in its lack of specialist presentation of the West Basin vegetation history and commentary/recognition of any potential historic trees, such as those from Weston's plantings and associated with Lord Stonehaven in the vicinity.<sup>12</sup> The works application requires the destruction of 120 trees, including two Ponderosa or Bull Pines, and all the trees between the existing cycle path and the lakeshore. We submit that the two 18m Ponderosa Pines are complementary to the Grenfell Ruddock memorial in Acton Park and must be preserved. [While their condition is reflective of the general deterioration of the area under ACT Government management, it is better than some of the trees in Commonwealth Park.] The River Sheoaks identified as Tree Group 19 are in good condition and should be retained, as they are an established planting of Casuarinas assessed to have high urban amenity.<sup>13</sup>
10. **Lack of a proper environment impact assessment.** The works application contains the extraordinary statement that a Construction Environment Management Plan will be prepared prior to works approval and submitted to Environment ACT for their Review.<sup>14</sup> The 'concept' sediment erosion control plans and a dot point summary of the environmental control measures applying to the works appear to be insufficient. We are concerned that the works application does not reference the presence of heavy metals from the former Captains Flat Mine and the possible potential for disturbance due to works affecting the lake bed. Surely a proper environment impact assessment inside and outside the works area is required and it must be approved by the NCA, not just the ACT.
11. **Lack of adequate heritage impact assessment.** The provided Heritage Impact Assessment from 2015 does not adequately assess the heritage values contributed by West Basin to the heritage values of the entire Lake and its foreshore, and the related impacts of the proposed

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<sup>11</sup> Works Approval Application, West Basin Ph 2, 3.1.5 Parkes Way Stormwater Diversion Works Approval Submission, p 6.

<sup>12</sup> Gray, J (1997) *The Historical and Cultural Background of Selected Urban Parks in Canberra - Volume 2*.

<sup>13</sup> Works Approval Application, West Basin Ph 2. Spacelab tree assessment, 25 March 2020, Drawing 092. Also Tree Assessment Plan Arboricultural Assessment Sheet 2

<sup>14</sup> Works Approval Application, West Basin, Ph 2, 6.4, p 17.

developments, including the apartment estate, although it does acknowledge contribution to the values. Nor is there any heritage assessment provided for the NCDC-era Modernist features, such as the Boat House/Ferry facility which it is noted was required by the NCA in their comments. The Lake and its foreshore are possibly the largest Modernist landscape in Australia in the iconic, designed heart of the planned national capital. These features may have been outside the Phase 1 Works area but they are to be demolished in Phase 2. See also the Guardians' 2015 response to the first stage works approval application.<sup>15</sup>

12. **Lack of consideration of impacts on native fauna.** The works application does not consider disturbance of native wildlife known to frequent West Basin, including rakali, platypus, and swans, ducks and other waterfowl. Almost all Lakeside fauna require a shoreline with a gradation from deep water flora through to a wide dryland flora to provide a habitat for self-sufficient wildlife. Hard edges do not provide any support for wildlife. This shortcoming needs to be addressed via a professionally conducted environmental impact report prior to works approval.
13. **Potential impacts on flooding, water quality and algal blooms.** The works application provides no information which would enable a judgment to be made about the likely impact of the new promenade on water quality, movement and turbidity or algal blooms during normal or climactic events. It appears that during Phase 1, the NCA required 'detailed hydraulic modelling of the upstream catchment during design development for future works approval submissions'.<sup>16</sup> It is unclear in the Phase 2 application that this has been done or what the outcomes are with regard to flooding, water circulation, quality etc. The application seems to make no reference to the potential impact of the works on toxic algal blooms in West Basin.<sup>17</sup> Similarly, no reference is made to the potential presence and disturbance of heavy metal pollutants on the lake bed from past mining upstream.
14. **Questions about permanent public toilets.** Currently the only public toilets at West Basin are adjacent to the jetty/boatshed and planned for demolition. An accompanying Access Review states: "There are no toilets provided in the scope of works. National Capital Authority must ensure that a compliant accessible toilet is provided near the promenade as the existing toilet building is being demolished as part of these works and will leave the whole of West Basin and the Henry Rolland Park recreation areas without any toilet facilities. Given that recreational facilities are provided in the adjacent park, which encourage people to spend some time here, the lack of toilets is a concern for people with disabilities as their journey to a facility is often slower and not as easily managed."<sup>18</sup> It appears temporary toilets will be established near the futsal slab. Permanent toilets to national standards should be included in Phase 2 works.
15. **Lack of a community engagement strategy for the construction phase.** As the works will be immediately adjacent to the New Acton residential precinct, one would expect to see some commitment from the CRA to informing residents and foreshore users about the project and responding to concerns regarding construction noise, timing and duration, and access to the lakefront.

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<sup>15</sup> Works Approval Application 20108 'City to the Lake' - Construction of the West Basin Foreshore Stage 1A, Lake Burley Griffin Guardians submission, 13 Oct 2015. See: Attachment 2, below.

<sup>16</sup> Works Approval Application, West Basin Phase 2, p33 NCA response summary table WA074.

<sup>17</sup> Office of the ACT Commissioner for Sustainability and the Environment Investigation into the State of Lake Burley Griffin and Catchment Water Quality Assessment, 2012  
[http://www.environmentcommissioner.act.gov.au/\\_data/assets/pdf\\_file/0007/590857/Investigation\\_into\\_the\\_state\\_of\\_Lake\\_Burley\\_Griffin\\_and\\_catchment\\_Water\\_quality\\_assessment.pdf](http://www.environmentcommissioner.act.gov.au/_data/assets/pdf_file/0007/590857/Investigation_into_the_state_of_Lake_Burley_Griffin_and_catchment_Water_quality_assessment.pdf)

<sup>18</sup> Works Approval Application, West Basin Phase 2, Appendix 5.

### **Summary recommendations regarding Guardians' identified deficiencies 1-15**

- A Master Plan must be produced for the entire West Basin project before any development is approved.
- A revised works approval application must be prepared which addresses the design, safety and environmental concerns identified above.
- A revised Tree and Cultural Landscape Survey must be prepared with the two Ponderosa Pines retained and treated for fungus, and the grove of River Sheoaks kept.
- A revised, current, heritage (historic, natural and Indigenous) impact assessment must be prepared, taking into account the findings of the recommended West Basin HMP, relating to the entire West Basin Project, including the specific area of direct impact, and indirect and adjacent impacts on the Lake Burley Griffin and Foreshore heritage values.
- The CRA needs to provide adequate permanent public toilet facilities at West Basin to replace those proposed to be demolished.
- The NCA and CRA should commit to much improved community engagement in future and not continue the farce of short notice inadequate Works Application Approvals.

### **Conclusion**

The Lake Burley Griffin Guardians oppose the West Basin infill development for good reasons and will continue to do so until the National Capital Authority and the ACT Government can demonstrate they have the capacity, imagination and vision required to honour the development of this important part of Lake Burley Griffin which belongs to all Australians.

**Authorised by the Lake Burley Griffin Guardians Inc.**

**22 May 2020**

### **Attachments (supporting this submission):**

1. **West Basin Charter**, Lake Burley Griffin Guardians, 18 Aug 2016.
2. **West Basin Values Principles for Development and Acceptable Proposals**, Lake Burley Griffin Guardians, 12 Feb 2019.
3. **WA 20108 'City to the Lake' - Construction of the West Basin Foreshore** (submission regarding Phase 1 Works Approval Application), Lake Burley Griffin Guardians, 13 Oct 2015.