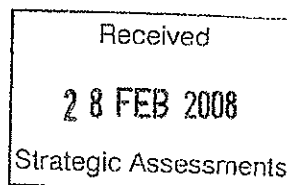
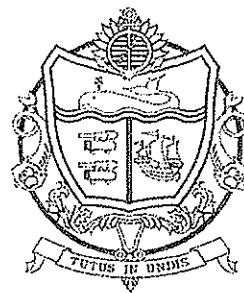


MOSMAN MUNICIPAL COUNCIL

Sarah Winnacott

22 February 2008

NSW Department of Planning
Att. Ann-Maree Carruthers
Email: ann-maree.carruthers@planning.nsw.gov.au
GPO Box 39
Sydney NSW 2000



Dear Madam

Re: Proposed upgrade and Expansion of the d'Albora Marina, The Spit, Mosman

The following is a response to your correspondence dated 7 February 2008 wherein you requested that Council provide input to the Director General's requirements for the proposed upgrade and expansion of the d'Albora Marina proposed by Macquarie Leisure Operations Limited.

Council questions why the application is being considered under Part 3A of the Environmental Planning and Assessment Act given that the use is long established and permitted.

Council considers that key to the environmental assessment of the proposal will be:

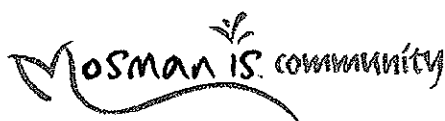
- **Traffic, access and parking**

Careful consideration should be given to traffic, access and parking associated with the proposed development. No on-site parking is proposed and the proposal does not appear to allow for the forward movement of service/delivery vehicles. No evidence is provided of how traffic, access and parking will be managed.

The addition of a further entry to Spit Road is contrary to strategies of Council and the RTA to have access to the Spit Reserves limited to the traffic signals at the intersection of Spit and Parriwi Roads. The proposal would add an additional entry/egress to an already highly congested section of road.

The site is currently constrained in relation to traffic, access and parking. The arterial road location, the narrow driveway between Spit Road and the site, poor sight lines and inability for large vehicles to turn and exit in a forward direction and the conflict of vehicles with pedestrians and cyclists make the existing situation problematic.

Given the scale and nature of the proposal current standards relating to vehicular access and manoeuvring should be mandated so the safety and efficient use of the adjoining main road is not prejudiced.



PROUD TO BE MOSMAN PROTECTING OUR HERITAGE PLANNING OUR FUTURE INVOLVING OUR COMMUNITY

Mosman Municipal Council, Civic Centre, Mosman Square, Mosman, NSW 2088 Australia DX9301 MOSMAN

Telephone (02) 9978 4000 Facsimile (02) 9978 4132 ABN 94 414 022 939

Correspondence to: General Manager PO Box 211 Spit Junction 2088 <http://www.mosman.nsw.gov.au> E-mail council@mosman.nsw.gov.au

It is Council's position that the redevelopment of the existing marina should resolve issues of access, preferably within the site boundaries.

- **Traffic management during construction**

Consideration should be given to traffic management during construction should any proposal proceed.

- **Loss of public open space**

The driveway and turning circle proposed to the south of the marina is on Crown land currently reserved for public recreation and currently used extensively for that purpose. The land is zoned 6(a) public recreation under Mosman LEP. The plans incorrectly identify this land as a reserve for parking. Parking is permitted in the zone but only where it is ancillary to another permissible use. Being on another parcel of land this would not apply.

The location of these works on this land will diminish the quality of public open space near the foreshore. This is not consistent with SREP (Sydney Harbour Catchment) 2005.

The driveway and turning circle proposed to the south of the marina does not appear sufficient in size to accommodate large rigid body trucks. Such trucks have typically been used in the past to deliver fuel to the site.

The applicant in its submission indicates it would be willing to enter into a planning agreement to facilitate improvements in Spit Reserve. Council does not consider that the parking/access area would constitute improvements for the purpose of the Reserve.

- **Foreshore pedestrian access**

Whether the proposal maintains and improves public access to and along the foreshore is an issue. Drawing No. DA02 Issue C does not identify unobstructed public access along the foreshore.

SREP (Sydney Harbour Catchment) 2005 requires that development should maintain and improve public access to and along the foreshore and identifies the undesirability of boardwalks as a means of access across or along land below the mean high water mark.

Council considers this an opportunity to link The Spit Reserve with Ellery Park specifically given the unsafe and less appealing route via The Spit Road frontage. Such access could also tie in with Council's foreshore pathway project which involves a combined cycleway pathway adjacent to the foreshore in The Spit Reserve.

- **Biodiversity, ecology and environmental protection**

Consideration should be given to the impact of the proposed development on biodiversity, ecology and environmental protection.

- **Maintenance of a working harbour**

SREP (Sydney Harbour Catchment) 2005 requires that foreshore sites should be retained so as to preserve the character and functions of a working harbour.

Consideration should be given to whether an increase in land based facilities unrelated to marine activities is appropriate. A major component of the additions appears to be related to commercial office space/restaurant. Consideration should be given to whether this is appropriate and commensurate with the remainder of the proposed development.

- **Character**

Consideration should be given to the compliance of the proposed development with the desired character of the area and the appropriateness of the height proposed.

SREP (Sydney Harbour Catchment) 2005 requires that commercial water-dependent development be allowed but only where it is demonstrated that it results in a visual outcome that harmonises with the planned character of the locality.

SREP (Sydney Harbour Catchment) 2005 also requires that the scale and size of development are appropriate to the locality.

- **Intensification of use**

The appropriateness of an intensification of a marina facility. The facility is located on the western side of the Spit Bridge. The provision of additional berthing areas must be assessed having regard to its likely impact on the use of the Reserve and the potential for increased traffic and access conflicts with the adjoining Spit Road.

SREP (Sydney Harbour Catchment) 2005 requires that development on foreshore land should minimise excessive congestion of traffic in the waterways.

- **Noise and amenity impacts**

Noise and amenity impacts resulting from the intensification of use, including the outdoor dining associated with the restaurant.

- **Alterations and additions**

The plans provided are unclear in terms of the extent to which the existing building is being altered or built anew. Generally, any plans submitted for exhibition should be of a more appropriate scale and with greater detail (e.g. survey levels) to enable clear understanding of the proposal.

- **Impact on trees within Spit Reserve**

The proposal will impact on the trees located within The Spit Reserve.

- **Acid sulfate soils and contamination**

Appropriate investigation should be undertaken in relation to acid sulfate soils, site contamination and the use of hazardous materials (fuel).

- **Accessibility**

Disabled access should be provided in accordance with the relevant Australian Standard.

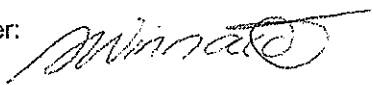
- **Signage**
Consideration should be given to the appropriateness of any signage proposed.
- **Heritage**
The statement in the Preliminary Environmental Assessment at page 14 that the proposed works will not be visible from the Spit Bridge is incorrect. Spit Bridge is a State Heritage Item and the relationship should be properly investigated.

Please do not hesitate to contact Sarah Winnacott should you have any questions in relation to the above.

Yours faithfully,

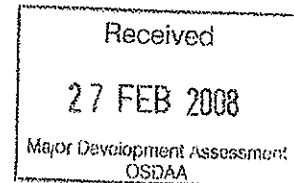
V H R MAY
GENERAL MANAGER

Per:



(Sarah Winnacott, Executive Town Planner)

Our reference : DOC08/5548
Contact : Debbie Cole, 9995 6816



Ann-Marree Carruthers
Department of Planning NSW
GPO Box 39
SYDNEY NSW 2001

Dear Ms Carruthers

**RE: PROPOSED UPGRADE AND EXPANSION OF THE d'ALBORA MARINA,
THE SPIT, MOSMAN LGA - PRELIMINARY ENVIRONMENTAL ASSESSMENT**

I refer to your letter dated 7 February 2008 requesting the Department of Environment and Climate Change (DECC) key issues and assessment requirements for the Director-General's Environmental Assessment Requirements (DGRs) for the above proposal.

The DECC has a licensing role for activities listed in Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act), responsibilities for the protection and care of aboriginal objects and places and the protection and care of native flora and fauna under the *National Parks and Wildlife Act 1974* (NPW Act) and responsibilities under the *Threatened Species Conservation Act 1997* (TSC Act).

The DECC notes that the d'Albora Marina, The Spit, currently holds an environment protection licence. Based upon the information provided to the DECC, that the premises will be used in part to cater for maintenance work of five or more vessels at any one time, it appears that the proponent will still be undertaking activities classified as "Marinas and Boat Repair Facilities" under Schedule 1 of the POEO Act. The proponent will require an environment protection licence variation to carry out scheduled development work and subsequently carry out scheduled activities, and will need to make a separate application to the DECC to obtain this licence. Any such licence will be issued in the name of the Environment Protection Authority (EPA).

The final environmental impact assessment (EIA) for the proposal must provide sufficient information for the DECC to be able to fully assess the development in so far as impacts related to the DECC's licensing role. Specifically the requirements of section 45 of the POEO Act must be addressed.

In summary, the DECC's key information requirements for the proposal are:

1. sufficient information to allow DECC to access the requirements of section 45 of the POEO Act;

The Department of Environment and Conservation NSW is now known as
the Department of Environment and Climate Change NSW

PO Box 668, Parramatta NSW 2124
Level 7, 79 George St, Parramatta NSW
Tel: (02) 9995 5000 Fax: (02) 9995 6900
ABN 30 841 387 271
www.environment.nsw.gov.au

Department of **Environment and Conservation** NSW



2. a detailed description of the project, including maps and drawings detailing the site location and proposed layout;
3. a detailed assessment of water, air, and waste management issues. The assessment should include but not be limited to details on the bulk fuel storage, vessel refuelling, fuel/sewage pump out berths and the protection measures to be adopted during the construction and operation of the facilities;
4. a detailed description of the piling techniques and the impact on the sea floor;
5. provide details of the proposed wharf demolition methods as well as the management of demolition waste;
6. a detailed assessment of noise sources from the development, including both the construction and operation phases;
7. details of community consultation to be undertaken for the project, including the provision of a complaints handling procedure and a 24-hour telephone contact number;
8. the preparation and implementation of detailed Environmental Management Plans for the project; and
9. emergency response plans to be initiated in the event of an environmental incident during the construction and operation of the facilities.

The proponent should be aware that any commitments made in the EIA may be formalised as requirements of the DECC's general terms of approval. Consequently pollution control or conservation measures should not be proposed if they are impractical, unrealistic or beyond the financial viability of the development.

The DECC requests that the applicant provide three hard copies and one CD-ROM copy, if available, of the DA / EIA when requesting comments on, or seeking General Terms of Approval for, the project from the DECC. These documents should be sent to:

The Manager
Metropolitan Infrastructure
Department of Environment and Climate Change
PO Box 668
PARRAMATTA NSW 2124

If you have any queries regarding this matter please contact Debbie Cole on 9995 6816.

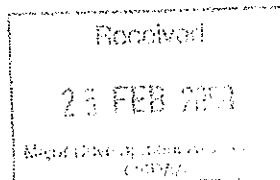
Yours sincerely

Handwritten signature of Gillian Reffell in black ink, with the date '25-2-08' written next to it.

Gillian Reffell
Unit Head, Metropolitan Infrastructure
Environment Protection and Regulation



NSW DEPARTMENT OF
PRIMARY INDUSTRIES



Our ref: MM08-08-3676

Your ref:

Ms Ann-Maree Carruthers
Department of Planning
PO Box 39
SYDNEY NSW 2001

Re: Directors-General's requirements for the Environmental Assessment of d'Albora Marina redevelopment.

Thank you for your letter requesting Director-Generals requirements from NSW Department of Primary Industries (DPI) for the proposal cited above. The information listed below may be of some assistance in the preparation of the Environmental Assessment (EA) for this proposal.

In particular management of turbidity and sediment from piling removal and replacement should be carefully considered so as to minimise any negative impacts on the surrounding environment.

A detailed assessment of seagrass present within the study site should be undertaken and plans to remediate any impact on affected seagrass beds detailed.

Definitions

The definitions given below are relevant to these requirements:

Fish means any part of marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead). Fish include oysters and other aquatic molluscs, crustaceans, echinoderms and beachworms and other aquatic polychaetes.

Marine vegetation means any species of plant that at any time in its life must inhabit water (other than fresh water).

Waters refers to all waters including tidal waters below mean high water mark as well as flowing streams, irregularly flowing streams, gullies, rivers, lakes, coastal lagoons, wetlands and other forms of natural or man made water bodies on both private and public land.

Useful Information

To help you in the preparation of an EA, the publication "*Guidelines for the Assessment of Aquatic Ecology in EIA*" (Draft 1998) produced by the Department for Urban Affairs and Planning may prove useful in outlining appropriate procedures and methodologies for conducting aquatic surveys.

Should you require any further information on these requirements please contact the Aquatic Habitat Protection Unit at Port Stephens on 4916 3931.

Yours sincerely

James Sakker
Conservation Manager

Matters to be Addressed

1. General Requirements

The EIA must include the information outlined below:

A topographic map of the locality at a scale of 1:25 000 should be provided. This map should detail the location of all component parts of the proposal, any areas locally significant for threatened species (such as aquatic reserves), and areas of high human activity (such as townships, regional centres and major roads).

A recent aerial photograph (preferably colour) of the locality (or reproduction of such a photograph) should be provided, if possible. This aerial photograph should clearly show the subject site and indicate the scale of the photograph.

GENERAL REQUIREMENTS

- Area which may be affected either directly or indirectly by the development or activity should be identified and shown on an appropriately scaled map (and aerial photographs).
- All waterbodies and waterways within the proposed area of development are to be identified.
- Description of aquatic vegetation, snags, gravel beds and any other protected, threatened or dominant habitats should be presented.
- Area, density and species composition should be included and mapped.
- Identification of recognised recreational and commercial fishing grounds, aquaculture farms and/or other waterways users.
- Presented maps or plans
- Description of proposal and study area
- Details of the location of all component parts of the proposal, including any auxiliary infrastructure, timetable for construction of the proposal with details of various phases of construction
- Size of the area affected
- Aspects of the management of the proposal, both during construction and after completion, which relate to impact minimisation eg Environment Management Plans
- Plan of study area
- Locations and types of landuses present
- Locations of streams and other waterbodies
- Land tenure details for all land parcels
- For each freshwater body identified on the plan, the plan should include, either by annotation or by an accompanying table, hydrological and stream morphology information such as: flow characteristics, including any seasonal variations, bed substrate, and bed width
- For each marine or estuarine area identified on the plan, the plan should include, either by annotation or by an accompanying table, hydrological and stream morphology information such as: tidal characteristics, bed substrate, and depth contours

DREDGING AND RECLAMATION ACTIVITIES

- Purpose of works
- Type(s) of marine vegetation in the vicinity of the proposed works
- Distance of adjacent marine vegetation from the outer boundary of the proposed works
- Method of dredging to be used
- Duration of dredging works
- Time of dredging works
- Dimension of area to be dredged
- Depth of dredging activities
- Nature of sediment to be dredged, including Acid Sulphate Soil

- Method of marking area subject to works
- Environmental safeguards to be used during and after works
- Measures for minimising harm to fish habitat under the proposal
- Spoil type and source location for reclamation activities
- Method of disposal of dredge material
- Location and duration of spoil stockpiling, if planned
- Volume of material to be extracted or placed as fill

ACTIVITIES THAT DAMAGE MARINE VEGETATION

- Type of marine vegetation to be harmed
- Amount of marine vegetation to be harmed, map distribution of marine vegetation
- Reasons for harming marine vegetation
- Methods of harming marine vegetation
- Construction details
- Duration of works/activities
- Measures for minimising harm to marine vegetation under the proposal
- Environmental measures to be employed, if necessary
- Method and location of transplanting activities or disposal of marine vegetation

ACTIVITIES THAT BLOCK FISH PASSAGE

- Type of activity eg works in a stream that change flow or morphological characteristics
- Length of time fish passage is to be restricted
- Timing of proposed restriction
- Remediation works

THREATENED SPECIES

- Threatened aquatic species assessment (Section 5c, EP&A Act 1979)
- Seven Part Test

2. Initial Assessment

A list of threatened species, endangered populations and endangered ecological communities must be provided. In determining these species, consideration must be given to the habitat types present within the study area, recent records of threatened species in the locality and the known distributions of these species.

In describing the locality in the vicinity of the proposal, discussion must be provided in regard to the previous land and water uses and the effect of these on the proposed site. Relevant historical events may include land clearing, agricultural activities, water abstraction/diversion, dredging, de-snagging, reclamation, siltation, commercial and recreational activities.

A description of habitat including such components as stream morphology, in-stream and riparian vegetation, water quality and flow characteristics, bed morphology, vegetation (both aquatic and adjacent terrestrial), water quality and tide/flow characteristics must be given. The condition of the habitat within the area must be described and discussed, including the presence and prevalence of introduced species. A description of the habitat requirements of threatened species likely to occur in the study area must be provided.

In defining the proposal area, discussion must be provided in regard to possible indirect effects of the proposal on species/habitats in the area surrounding the subject site: for example, through altered hydrological regimes, soil erosion or pollution. The study area must extend downstream and/or upstream as far as is necessary to take all potential impacts into account.

Please Note: Persons undertaking aquatic surveys may be required to hold or obtain appropriate permits or licences under relevant legislation.

For example:

Fisheries Management Act 1994

- Permit to take fish or marine vegetation for research or other authorised purposes (Section 37)
- Licence to harm threatened (aquatic) species, and/or damage the habitat of a threatened species (Section 220ZW).

Animal Research Act 1985:

- Animal Research Authority to undertake fauna surveys.

It is recommended that, prior to any field survey activities taking place, those persons proposing to undertake those activities give consideration to their obligation to obtain appropriate permits or licences which may be required in the specific context of the proposed survey activities.

3. Assessment of Likely Impacts

The EIA must:

- describe and discuss significant habitat areas within the study area;
- outline the habitat requirements of threatened species likely to occur in the study area;
- indicate the location, nature and extent of habitat removal or modification which may result from the proposed action;
- discuss the potential impact of the modification or removal of habitat;
- identify and discuss any potential for the proposal to introduce barriers to the movement of fish species; and
- describe and discuss any other potential impacts of the proposal on fish species or their habitat.

For all species likely to have their lifecycle patterns disrupted by the proposal to the extent that individuals will cease to occupy any location within the subject site, the EIA must describe and discuss other locally occurring populations of such species. The relative significance of this location for these species in the general locality must be discussed in terms of the extent, security and viability of remaining habitat in the locality.

4. Ameliorative Measures

The EIA must consider how the proposal has been or may be modified and managed to conserve fisheries habitat on the subject site and in the study area.

In discussing alternatives to the proposal, and the measures proposed to mitigate any effects of the proposal, consideration must be given to developing long term management strategies to protect areas within the study area which are of particular importance for fish species. This may include proposals to restore or improve habitat.

Any proposed pre-construction monitoring plans or on-going monitoring of the effectiveness of the mitigation measures must be outlined in detail, including the objectives of the monitoring program, method of monitoring, reporting framework, duration and frequency.

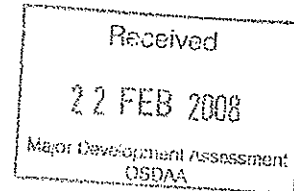
In the event of a request for concurrence or consultation with the Director of NSW DPI, one (1) copy of the EIA should be provided to NSW DPI in order for the request to be processed.

It should be noted that NSW DPI has no regulatory or statutory role to review draft EIAs unless they are accompanied by or are requested as part of a licence application under Part 7A of the FM Act. However, NSW DPI is available to provide advice to consent and determining authorities regarding DPI's opinion as to whether the requirements have been met if requested, pending the availability of resources and other statutory priorities.

21 February 2008

File W92/1969/26

Ms Ann-Maree Carruthers
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001



Dear Ms Carruthers

**Macquarie Leisure Operations Limited Proposed Expansion and
Redevelopment of d'Albora Marina The Spit, Mosman LGA**

I refer to your email dated 7 February 2008 requesting NSW Maritime's comments on matters to be addressed in the environmental assessment of the above proposal for the purposes of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

As you know, NSW Maritime's interest in relation the proposal arises due to its role as land owner of the bed of Middle Harbour and the principal navigation authority and regulator for the state.

The Department may wish to note that the *Rivers and Foreshores Improvement Act 1948* has been repealed and NSW Maritime does not have a role under the equivalent controlled activity provisions of the *Water Management Act 2000*. These approvals, where required, are now administered by the Department of Water and Energy.

In view of the draft Director-General's requirements forwarded in the email, NSW Maritime advises that it has no further key issues to add for the Project's Environmental Assessment. However, it is recommended that the proponent's assessment in relation to the 'navigation and safety' issue also address any potential impacts on existing swing moorings or adjacent water based infrastructure as a result of the proposed expansion as well as the potential impacts on water based traffic.

NSW MARITIME

James Craig Road Rozelle Bay NSW 2039
Locked Bag 5100 Camperdown NSW 1450

T 02 9563 8511 F 02 9563 8530 www.maritime.nsw.gov.au

To facilitate NSW Maritime's consideration, the plans and drawings for the proposed marina should comply with NSW Maritime's guidelines "Depths in Berths and Fairways" and relevant engineering standards. In this regard, the plans and drawings for the proposed marina should include all existing and proposed development including the total number and size of vessels to be berthed at the facility, all berths being numbered serially and existing and/or proposed depth contours shown. These guidelines and standards are available on NSW Maritime's website www.maritime.nsw.gov.au.

As the Department is aware, the proponent will require NSW Maritime's consent as land owner to lodge the Project Application under Part 3A of the EP&A Act. At this time, an application has not been received for NSW Maritime's consideration as land owner. NSW Maritime notes that the proponent will be seeking its consent in due course which will include negotiations for an agreement to enter into a new lease.

Thank you for consulting NSW Maritime. If you have any questions in relation to this letter please call me on (02) 9364 2176 or email prougellis@maritime.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P. Rougellis', with a long horizontal flourish extending to the right.

Persephone Rougellis
Manager Property Planning
Maritime Property Division