



Our reference: DOC15/130936-03

Mr Ben Eveleigh
Department of Planning and Environment - Planning Services
GPO Box 39
Sydney NSW 2001

Dear Mr Eveleigh

Sydney Super Yacht Marina Pty Ltd (MP09_0165 MOD 1) -Section 75W Modification Application – Sydney Superyacht Marina Development, Rozelle Bay

I refer to the letter and accompanying documentation from Department of Planning and Environment dated 17 April 2015 received by the Environment Protection Authority (“EPA”) on 22 April 2015 requesting input into the modification application of s75W of the Environment Planning and Assessment Act 1979 for Sydney Super Yacht Marina located at 2 Maritime Court Rozelle. Sydney Superyacht Marina Pty Ltd is the proponent.

Under Schedule 1 of the Protection of the Environment Operations Act (“POEO Act”), marina and boat repairs are defined as:

"boat construction/maintenance (dry/floating docks)" , meaning the use of dry docks or floating docks for the construction, repair and maintenance of vessels.

"boat construction/maintenance (general)" , meaning the use of facilities (whether water-based or land-based) for the construction, repair and maintenance of vessels (other than dry docks, floating docks and facilities not having frontage to a waterway).

"boat mooring and storage" , meaning the use of pontoons, jetties, piers or other structures (whether water-based or land-based) designed or utilised to provide moorings or dry storage (other than swing moorings and facilities not having frontage to a waterway).

(2) Each activity referred to in Column 1 of the Table to this clause is declared to be a scheduled activity if it meets the criteria set out in Column 2 of that Table.

Table

Column 1	Column 2
Activity	Criteria
<i>boat construction/maintenance (dry/floating docks)</i>	<i>capacity to handle vessels 25 metres or longer</i>
<i>boat construction/maintenance (general)</i>	<i>capacity to handle more than 5 vessels longer than 5 metres (excluding rowing boats, dinghies and other small craft) at any time</i>

boat moorings and storage

capacity to handle more than 80 vessels (excluding rowing boats, dinghies and other small craft) at any time

Based on the information that has been provided, the EPA is not in a position to determine whether an environment protection licence for the scheduled activity of marina and boat repairs will be required if the proposal is approved. This is because the EPA cannot ascertain whether there will be any boat construction and maintenance works at the premises nor could the EPA find any detail on the size of the tender boats at the premises.

The EPA is concerned that if any maintenance is undertaken on the premises or if the size of the tender boats will exceed the rowing boats/dinghies and small craft definition, this may then trigger the need for an Environment Protection Licence. Under the POEO Act, it is an offence to carry out a scheduled activity without holding an appropriate Environment Protection Licence. It is the responsibility of the proponent to determine whether a licence is required and the EPA requests that the Department of Planning and Environment facilitate further discussions with the proponent on this matter. The EPA is more than willing to assist all parties in resolving this question.

If an Environment Protection Licence is required for the modified activity (if approved), the proponent will be need to apply for a licence. The licence application will need to be supported by a thorough environmental assessment, particularly focussing on noise management, stormwater management, fuel management, sediment disturbance and mobilisation of heavy metals within Rozelle Bay and pollution incident response management. The EPA advises that the information that has been provided to support the proposed modification will need to be supplemented by additional assessments if a licence is required.

If you have any questions regarding this matter please contact Susan Fox on (02) 9995 5789.

Yours sincerely



28 May 2015

JAMES GOODWIN
Unit Head Sydney Industry
Environment Protection Authority



Sydney Superyacht Marina Pty Ltd
PO Box 436, Rozelle, NSW 2039
Marina Office – James Craig Road
Rozelle Bay, NSW
ABN 94 127 177 904

3 August 2015

Your Ref: DOC15/130936-03

Environment Protection Authority
Attention Mr James Goodwin/Ms Susan Fox
PO Box 668
Parramatta NSW 2124

By email: susan.fox@epa.nsw.gov.au

Dear Sir/Madam

**RE: SYDNEY SUPERYACHT MARINA PTY LTD (MP09_0165 MOD 1)
SECTION 75W MODIFICATION APPLICATION
SYDNEY SUPERYACHT MARINA DEVELOPMENT, ROZELLE BAY**

We refer to your letter addressed to Mr Ben Eveleigh of the Department of Planning and Environment – Planning Services dated 28 May 2015 as part of the exhibition and submissions relating to Sydney Superyacht Marina's (SSM) above mentioned modification application.

In that letter the Department has advised that it is not in a position to ascertain whether an Environment Protection Licence will be required by SSM, principally due to the uncertainty of whether there will be any boat construction and maintenance works at the premises. More information is also about the tender boats. SSM makes the following comments to clarify our proposal.

Activities on site

The activity proposed at the marina as part of MOD 1, will continue carry on the same marina operation at the site, but with an increased number of smaller vessels, limited to 79 vessels in total. SSM's principal activity is to moor and store boats, and to provide services associated with the operation of the marina, including sewage pumpout, waste, concierge, management, provision of water, power etc, and security services. The area of the marina will not change.

The approved land based uses supporting the marina are marine offices, a yacht club and ancillary restaurants, cafes and carparking. The modification requests that there be space for more marine uses, and marine storage. The marina currently does not, nor proposes to undertake boat construction and major maintenance. That activity is conducted elsewhere in the harbour by specialists such as at Sydney City Marine.

As with any marina, cleaning and minor running repairs are conducted at the marina as part of the ancillary activities that accompany any boat mooring and storage facility. Such ancillary activities form part of the normal activity of mooring and storing boats and do not constitute a boat construction/ maintenance facility as envisaged by Schedule 1 of the POEO Act.

A pennant crane has been approved on the eastern side of the marina. The Statement of Commitments comprising part of the existing approval includes *"The maximum size of the crane will be 5.1 metres from existing ground level with a maximum hoisting capacity of 5000kg"*. It is intended that it be used to launch small tenders and watercraft. It is not large enough to lift any sizeable boat into or out of the water.

In respect of the definitions under Schedule 1 which are referred to in your letter we do not consider that the activities proposed on site fall with either definition of "boat construction/maintenance" and therefore not a scheduled activity.

The definition of *boat mooring and storage* is one which most appropriately describes the existing Superyacht Marina. The principal activity is the use of pontoons and other structures on water or land which are designed or used to provide moorings or dry storage. The application requests up to 43 vessels of 15 metres or more, with up to 36 tenders. The application does not seek to moor or store any more than 79 vessels including tenders at any time.

Tenders

The proposed tender boats will be of varying sizes. Some are what would be described as "dinghies and other small craft", some of which will be stored on the moored vessels. However some tenders are larger and may not fall within that definition. Notwithstanding the sizes of the tenders the proposed modification seeks approval for up to 36 tenders associated with the moored vessels, providing for a total of 79 vessels.

It is therefore considered that the modification application, if approved, will not trigger the provisions relating to scheduled activities and therefore the requirement for an Environment Protection Licence.

We request the EPA's confirmation that it concurs with our determination based on the additional information provided. Please do not hesitate to contact me should you wish to discuss further or require more information.

Many thanks
Kind Regards,



Justin James
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Ros Read

From: Susan Fox <Susan.Fox@epa.nsw.gov.au>
Sent: Tuesday, 8 September 2015 6:06 PM
To: ben.eveleigh@planning.nsw.gov.au; Justin James
Cc: James Goodwin; ros@urbanperspectives.com.au
Subject: FW: Exhibition of Section 75W Modification Application, Sydney Superyacht Marina, Rozelle Bay (MP09-0165 MOD 1)
Attachments: DOC15 130936-03 Metropolitan Branch - Sydney Industry Section - Submission to Letter to Department of Planning and Environment - Sydney ~ 28 May 2015.PDF; 3651_001.pdf
Importance: High

Dear Ben and Justin,

I refer to the email received on 24 August 2015 in reference to the application for the Sydney Superyacht Marina Development at Rozelle Bay. Based on the information provided in the email clarifying the number of tender boats to be moored at the proposed development, I can confirm that the Environment Protection Authority will **not** be the appropriate regulatory authority for this proposal.

The number of boats at the premises will be below the threshold as defined in the Schedule 1 (Marinas and boat repairs) of the *Protection of the Environment Operations Act, 1997*, therefore an Environment Protection Licence is not required.

If you have any questions regarding this matter please do not hesitate to contact me.

Regards

Susan Fox

Susan Fox

Senior Operations Officer | Regulation Unit (South) Sydney Industry Section | **NSW Environment Protection Authority**
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Please note that I work Tuesday-Friday

From: Fox Susan
Sent: Thursday, 28 May 2015 3:46 PM
To:
Cc: Goodwin James
Subject: Exhibition of Section 75W Modification Application, Sydney Superyacht Marina, Rozelle Bay (MP09-0165 MOD 1)
Importance: High

Hi Ben,

As discussed apologies for the delay in sending through the EPA's submission. If you have any questions please do not hesitate to call.

Regards

Susan Fox

Susan Fox

Senior Operations Officer | High Risk Facilities Unit – Sydney Industry Section | **NSW Environment Protection Authority** |

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Please note that I work Tuesday-Friday

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