



Office of Environment & Heritage

Your reference : MP08_0046
Our reference: : DOC11/12574 & LIC09/1320
Contact : Rod Fox, 9995 6839

Mr M Woodland
Director, Metropolitan & Regional Projects South
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Woodland

RE: Major Project MP08_0046 – Part 3A - to Expand d'Albora Marina, Western Side of Spit Road, The Spit, Mosman

Issued pursuant to Section 75H (4) Environmental Planning and Assessment Act 1979

I refer to the Project Application, Environmental Assessment (EA) and accompanying information provided for the expansion of the d'Albora Marina, at Mosman Environment protection Licence No. 111211 received by Department of Environment, Climate Change and Water (now Office of environment and Heritage) on 9 March 2011.

Office of Environment and Heritage (OEH) of Department of Premier and Cabinet has reviewed the information provided and is of the view that the proponent has not provided/addressed the following to adequately assess the proposal:

1. The proponent has not provided appropriate technical details to demonstrate that the construction and operation of the proposed slip way will comply with Section 120 of the Protection of the Environment Operations act 1997 (POEO Act) at all times.
2. The proponent has not demonstrated that the excess waste water proposed to be discharged to the waterway will fully comply with Section 120 of POEO Act.
3. The Air Impact Assessment did not take into account the potential for dust, odour or spray painting drift to be emitted to the atmosphere from the repair and maintenance of sea craft on the slip way.

Section 1 of Attachment A provides background into the reasoning behind the above determination.

It is recommended that the proponent be required to provide additional information to address the concerns specified in Section 1 of Attachment A and that OEH be provided with a further opportunity to review any new information and/or the modifications before this project proceeds to the determination stage.

The Department of Environment, Climate Change and Water is now known as the Office of Environment and Heritage, Department of Premier and Cabinet

If you have any questions, or wish to discuss this matter further please contact Rod Fox on 9995 6839.

Yours sincerely

 13 APR 2011

GISELLE HOWARD
Director Metropolitan
Environment Protection and Regulation
Office of Environment and Heritage
Department of Premier and Cabinet

Attachment A Comment on the Proposed Expansion of d'Albora Marina

1. Construction and Operation of the Proposed Slipway.

The Office of Environment and Heritage (OEH) notes that the proponent intends to demolish the existing slipway facility and install a new facility. The proposed facility will be an improvement on the existing one however, the proponent has failed to demonstrate that the facility will fully comply with Sections 120 and 124 to 129 of the Protection of the Environment Operations Act 1997 (POEO Act) for the following reasons:

a) Proposed First Flush System to Serve the Slipway

As part of the upgrade of the slipway the proponent intends to install a first flush system to capture and store the first 15 mm of rainwater falling on the slipway. The captured water will be treated and reused for the cleaning and washing down of the slipway. A first flush system incorporates a stormwater bypass mechanism that allows stormwater to be discharged to the stormwater system when first flush storage capacity is reached.

The main issue of concern is that if the slipway is used during wet weather potentially contaminated waste material generated whilst boats are being worked on would enter the stormwater system/Middle Harbour (thus polluting waters) when the system reaches its design capacity and is bypassing to stormwater system/bay. It should be noted a first flush system is only appropriate when first flush is not used during wet weather.

To address the above the proponent needs to provide the design specification and layout drawings of the first flush system and the stormwater bypass mechanism. In addition the proponent must also provide detailed explanation on how they are going to prevent contaminated rainwater entering the stormwater system/Middle Harbour if they intend to use the slipway during wet weather.

b) Water Cycle Management

It was noted that when there is an excess in the treated stormwater the proponent intends to discharge the water to Middle Harbour. The proponent has not addressed the possibility of chemicals, heavy metals etc or any other pollutants being entrapped in the water to be discharged to Middle Harbour. The proponent must demonstrate that the treated water will comply with Section 120 of the POEO Act at all times. If the water cannot comply with Section 120 it cannot be discharged to waters and should be tankered offsite to an appropriate waste facility for disposal. Until this issue has been addressed to the satisfaction of OEH and it is shown that the water to be discharged can comply with Section 120 of the POEO Act, it cannot be discharged to Middle Harbour.

In addition to the above the proponent has not outlined any procedures as to how it plans to manage or dispose of the water when it becomes overloaded/contaminated. This issue also needs to be addressed.

c) Relocation of the Refuelling Facility

The Environmental Assessment states that the refuelling berth will be relocated. However the assessment did not detail the environmental protection controls (bundling roofing of the fuel bowzers area etc) that will be installed on or around the refuelling berth. Further it is unclear if the refuelling will be undertaken outside of hours when the marina's staff are not attendance. The issue also needs to be clarified.

d) Dust and Odour Assessment

The Air Impact Assessment did not take into account the potential for dust, odour or spray painting drift to be emitted to the atmosphere from the repair and maintenance of sea craft on the slip way. The proponent must undertake a further air impact assessment to address this issue to demonstrate compliance with Sections 124 to 129 of the POEO Act. The assessment must also include

measures to control/eliminate dust, odour and spray drift being emitted from the activities conducted on the slipway.

2. Geotechnical, Acid Sulphate Soil and Stage 2 Contamination Assessment Report

- **Soils**

The investigation by Martens Consulting Engineers was limited and there are a number of issues with the Geotechnical, Acid Sulphate Soil and Stage 2 Contamination Assessment report (ref P0701675JR02_v2 May 2010). However, provided that the site will be completely covered with hardstand and buildings as part of the proposed development, further investigations are not required as the potential exposures to site users from contamination that may be present will be limited.

- **Ground Water**

The groundwater monitoring which was undertaken as part of the investigation indicated elevated concentrations of toluene, total xylenes, arsenic, copper, lead and zinc.

The source of the metals detected is unknown but could be due to regional factors. The toluene and total xylenes detected are possibly associated with a minor leak from the Underground Storage Tanks (USTs) or a small fuel spillage. The USTs will be removed and replaced as part of the proposed development at the site and, if the USTs are the source of the toluene and total xylenes detected in the groundwater, these works will result in the removal of the contamination source.

- **Sediments**

The information provided regarding the sediments at the site is very limited, therefore it is not possible to assess the sediment contamination status. If the sediments are contaminated, a risk to the environment and/or human health is only likely to occur if they are disturbed, either as part of the construction works for the new development, or due to the movement of boats with significant enough draft to disturb the bed of the harbour.

The Environmental Assessment written by Hamptons Property Services states that 'All construction works within the Middle Harbour shall be done within a containment boom and silt net surrounding the works area' (section 8.2 page 94) to reduce sedimentation disturbance.

However, it is noted that the proposed marina will accommodate vessels ranging in size from 12 – 30 metres in length. Information regarding the potential for sedimentation disturbance from the draft of these vessels should be supplied. If sedimentation disturbance is likely to occur as part of the proposed marina operations, further investigations of the sediments may be required.

- **Removal of Underground Storage Tanks**

The Underground Storage Tanks (USTs) will be removed and replaced as part of the proposed development at the site. The UST removal must be undertaken in accordance with Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 which requires that the site is investigated and a validation report is produced.

It should be noted that if further contamination issues come to light during the removal of structures or construction at the site, further investigations may be required and the remediation requirements reviewed accordingly.

3. The Aboriginal Archaeological Assessment Report

The Aboriginal Archaeological Assessment Report included in the Environment Assessment (EA) for the above proposal was prepared by Cosmos Archaeology in May 2010. The assessment seeks to identify any Aboriginal heritage issues pertaining to the expansion and redevelopment of Alhora Marina at The Spit, Mosman.

The Aboriginal archaeological assessment was undertaken to meet the Director General Requirements (DOP DGRs) for the current project which states that *"During the environmental assessment, you should consult the relevant local, state and commonwealth government authorities, service providers, community groups or affected landowners. In particular you must consult with:*

- The Office of Environment and Heritage (OEH);

The consultation process and the issues raised must be described in the Environmental Assessment (EA).

The Aboriginal archaeological assessment includes a detailed environmental and historical overview as well as a thorough archaeological review of the greater Sydney Region and of the Pearl Bay / The Spit Middle Harbour Region. There were 19 Aboriginal sites identified and registered on the Aboriginal Heritage Information Management System (AHIMS) within 1km of the study area. The predominate site types recorded are rock shelters, middens and open camp sites respectively. Aboriginal sites in this locality are restricted to particular land form units – elevated alluvial flats and lower slopes, rock platforms, and sandstone outcrops/overhangs. No Aboriginal sites or objects have been recorded on low lying, sandy beaches. There are no recorded Aboriginal archaeological sites, items or places situated within the current study area.

OEH supports the assertion that no previously identified Aboriginal sites or items occur within the study area and that the impact of past reclamation and previous development of the subject lands is likely to have disturbed, removed or buried any archaeological evidence. Therefore, OEH supports the view that the proposed development is unlikely to impact Aboriginal archaeological site, items or deposits is highly unlikely. OEH further supports the view that no aboriginal sites, items or places – submerged or on land – are known or predicted to occur within the boundaries and scope of the current development footprint.

One of the management recommendations which form the *Statement of Commitments* relating to the proposed development in relation to potential Aboriginal cultural heritage requires OEH comment.

- *Recommendation 2 – Archaeological monitoring and documentation during certain components of the proposed development.*

While OEH generally supports the management recommendations in the *Statement of Commitments*, it is recommended that there are clearly stated actions in the event that Aboriginal objects are located during monitoring.

OEH recommends that any Aboriginal objects located during monitoring are lodged with the Australian Museum. OEH recommends that this issue be formally be resolved and specified as a condition of consent. This option does not preclude the local Aboriginal community applying for a Care and Control permit from OEH at a later date should Aboriginal objects be recovered.

4. Noise impact Assessment

Notwithstanding Point 1 above the Office of Environment and Heritage (OEH) could support the proposal with additional construction time limits to be placed on the existing Environment Protection Licence No. 11211 for construction activity and no change to the existing operational activity. The licence condition for operational noise is based on offensive noise and this together with appropriate approved hours of operation should suffice.

Regarding construction noise OEH could add to the EPL time limits on construction activities between 7:00am to 6:00pm Monday to Friday with construction permitted on Saturdays from 8:00am to 1:00pm; and no construction activities on Sundays and Public Holidays. Activities that may take place outside these hours are:

- Delivery of oversize loads etc as required by Police, or other such authorities;

- To prevent harm to persons, property or the environment, and;
- As otherwise agreed prior with OEH

Should the Department of Planning and Infrastructure (DPI) issue approval for the expansion of the marina the above conditions should be included in Project Approval Conditions (PAC). PAC should also included specific noise conditions where impact piling operations generate significant noise impact levels greater than 75dBA at any noise sensitive receiver (including any appropriate modification factors). During pile driving activities the licensee shall implement respite periods to provide respite to the surrounding community.

OEH also recommend DPI condition approved hours of operation, as per those in Section 2.1 of the Noise Impact Assessment (although they might want to check the stated start time of 9am for workshop activities – this seems very late for these types of activities, which usually start around 7am).