



13028
23 April 2014

Sydney East Joint Regional Planning Panel
Hand-delivered at meeting of 23 April 2014

Dear JRPP Members

**APPLICATION FOR PRE-GATEWAY REVIEW
20 WATERVIEW STREET, PUTNEY**

I refer to the Pre-Gateway Review Information Assessment and Recommendation Report prepared by NSW Planning & Infrastructure on 21 March 2014 (the **Assessment Report**), in respect of the Planning Proposal for 20 Waterview Street, Putney (the **Site**) and the application for Pre-Gateway Review.

The Assessment Report concludes that the proposal has strategic merit and should proceed, subject to the following information forming part of the public exhibition material:

1. Detailed site investigations (as recommended in the Stage 2 environmental site assessment [Martens Engineering Consultants June 2012]) to inform a remediation action plan verifying the site can be remediated to support the proposed residential and commercial uses;
2. A review of Acid Sulphate soils that assesses the appropriateness of the change of land use given the presence of acid sulphate soils on the site;
3. A heritage review that addresses: the archaeological potential of the site given it was the location of the Malting Shovel Inn and brewery constructed by James Squire in 1798; and the impact of the proposal on the former Naval Refit Centre, identified as heritage item under the Sydney Harbour Catchment REP 2005;
4. Further assessment regarding:
 - inconsistencies with section 117 Directions 1.1 Business and Industrial Zones, 2.3 Heritage Conservation, 4.1 Acid Sulphate Soils and 7.1 Implementation of the Metropolitan Strategy for Sydney;
 - consideration of alternate zones rather than use of Schedule 1 by rezoning the site to: part R2 Low Density Residential (proposed townhouses adjacent to Waterview Street); part R3 Medium Density Residential (proposed residential flat building in south-eastern corner of the site); and part IN4 Working Waterfront zone for the boat shed, car park and immediate environs;
 - measures to manage the potential conflict of proposed residential and commercial uses in and adjacent to the IN4 zone.

The purpose of this letter is to address Item 4. The applicant is in the process of engaging a consultant to address Items 1 and 2. In relation to Item 3, a draft heritage report has been prepared and can be made available to the Panel prior to its determination, if requested.

1.0 SECTION 117 DIRECTIONS

1.1 Direction 1.1 Business and Industrial Zones

- This direction requires a Planning Proposal to retain the areas and locations of existing industrial zones and not reduce the total potential floor space area for industrial uses in industrial zones. The objectives of this direction are to:
 - encourage employment growth in suitable locations,
 - protect employment land in business and industrial zones, and
 - support the viability of identified strategic centres.
- The Assessment report states that the proposal is partially consistent with this direction as it will allow for further employment generating uses through the proposed additional permitted uses for food and drink premises, business premises, shops and kiosks; and does not propose to create uses that would compete with surrounding centres.
- However, the Assessment Report states that the introduction of additional permitted uses will have the effect of reducing the total *potential* floor space area for employment uses, specifically boat building and repairs, representing a minor inconsistency with this direction.
- Currently:
 - the boat building and repairs use occupies approximately one-third of the main shed. The rest of the shed is used for storage of old boats, boat parts and scrap.
 - very few people are employed on the Site. The head lessee has informed us that 12-15 people are employed on the Site full-time, however JBA has visited the Site three times and has never observed more than 5 or 6 people working there.
- We estimate that the proposal has the potential to employ approximately 52-55 people on the Site, based on the numbers in the table below. The proposal therefore has the capacity to employ more people than currently work on the Site now.

Use	Area (no. or m ²)	Employment rate	Employees
Commercial/retail/restaurant	1,860m ²	1 / 40m ² *	47 employees
Marina berths and dry boat storage	50 wet berths 100 dry berths	Unknown	5-8 people (estimate)
TOTAL			52-55 employees

* Ryde Development Contributions Plan 2007

- In relation to the proposal's effect of reducing the total *potential* floor space area for the boat building and repairs use, it is unlikely that the current use will ever be intensified on the Site. That is because the demand for waterfront industrial land for repair and maintenance facilities has declined over the past 5 years. Since 2001, 12 sites in Sydney Harbour have ceased operating as boat repair and maintenance facilities.¹ Current market evidence is that maintenance and repair facilities are

¹ 1. All Craft Boats 32 St Georges Crescent Drummoyne (2 slipways)

2. Hendersons Slipways 30 St Georges Crescent Drummoyne (3 very large capacity slipways)

3. Woodleys, Waverton (3 very large capacity slipways)

4. Blues Point Slipways, Henry Lawson Avenue McMahon's Point (2 slipways)

5. Double Bay Marina (1 slipway)

6. Rose Bay Marina (1 slipway)

7. Cruising Yacht Club of Australia, New Beach Road, Rushcutters Bay (2 slipways)

8. Greenwich Slipway, Richard Street Greenwich (1 large capacity slipway)

9. D'Albora Marina, The Spit, Mosman (1 slipway)

10. Joels Boatshed, Julian Street Mosman (1 slipway)

concentrating into a smaller number of specialist operators on large sites on the Harbour, such as Noakes Boat & Shipyards at North Sydney, Sydney City Marine at Rozelle, Woolwich Dock and Berry's Bay.

- Reasons for the decline in demand for boat maintenance and repair facilities include:
 - Removal of the in-shore fishing industry from Sydney Harbour due to environmental and operational issues;
 - Relocation of repair and maintenance facilities to non-waterfront locations where rents are cheaper;
 - The costs to comply with environmental controls for these sites and the penalties for noncompliance are prohibitive;
 - The 12 sites noted are too small to achieve economies of scale to compete with newly developed or redeveloped sites such as Noakes Boat & Shipyards at North Sydney and Sydney City Marine at Rozelle;
 - The nature of maritime industrial facilities (grit blasting, water blasting, spray painting, fibre glassing and welding) precludes the ability to carry out other, more financially feasible activities such as marinas, cafes, retail premises, boat brokerage and residential.
- Accordingly, the policy of retaining the existing IN4 Zone no longer reflects market trends. It is clear that the proposal has the potential to generate more employment than the current use of the Site. What is evident, however, is the need for boat storage as evidenced by the Draft Sydney Harbour Boat Storage Policy (2013) released by Transport for NSW in April 2013 which identifies demand for storage of an additional 5,000 vessels by 2021.

1.2 Direction 2.3 Heritage Conservation

- This direction requires a Planning Proposal to contain provisions that facilitate the conservation of items of environmental heritage significance.
- The Assessment Report states that further detailed heritage studies are required to support the proposal and to address its consistency with the objectives of this direction. In particular, the proposal needs to address the archaeological potential of the Site and the impact of the proposal on the former Naval Refit Centre.
- The applicant has engaged a heritage consultant who is in the process of assessing the Planning Proposal's impact on the heritage significance of the Site in more detail. The report is nearing completion and can be made available to the JRPP ahead of its determination, if requested.

1.3 Direction 4.1 Acid Sulphate Soils

- This direction states that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils.
- The Site is classified as 'Class 5' on the Ryde LEP 2010 Acid Sulphate Soils Map, which is the least sensitive class.
- The applicant has engaged a consultant who is in the process of preparing an acid sulphate soils study assessing the appropriateness of the proposal. The study can be made available to the JRPP ahead of its determination, if requested.

1.4 Direction 7.1 Implementation of the Metropolitan Strategy for Sydney

- This direction states that planning proposals shall be consistent with the NSW Government's Metropolitan Plan for Sydney 2036 published in December 2010 (the Metropolitan Plan).

11. D'Albora Marina Cabarita (1 slipway)

12. Smiths Spit Boatshed (1 slipway)

In summary, 19 commercial slipways on Sydney Harbour have been closed in the past 10 years at 12 different sites.

- The Assessment Report states that the proposal is partially consistent with this direction in that it will facilitate the delivery of residential and employment generating floor space, providing uses which contribute to the vitality of the subject site. However, the introduction of additional permitted uses will impede on the site's ongoing use for industrial (maritime related) activities, representing an inconsistency with the objective of the strategy to retain the strategically important employment lands for industrial uses.
- Action E3.2 of the Metropolitan Plan is to identify and retain strategically important employment lands. The Metropolitan Plan does not actually identify where those strategically important employment lands are located. It notes that the previous practice of categorising industrially zoned land in Subregional Strategies may restrict the ability of localities to adjust to changing economic conditions. Consequently, the categories and potential future roles will no longer be included in the new Subregional Strategies, which will instead assess the strategic importance of employment lands. This will be guided by a strategic assessment checklist to provide a more consistent approach and common set of criteria to consider a site's strategic importance.
- Given that the Metropolitan Plan does not identify the Site as strategically important employment lands, it is incorrect to say that the proposal is inconsistent with it in this regard.
- The Draft Metropolitan Strategy for Sydney to 2031 has an Industrial Lands Strategic Assessment Checklist for rezoning of existing industrial land to other uses. Our assessment of the Site against the checklist below suggests that the Site should not be considered strategically important employment lands.

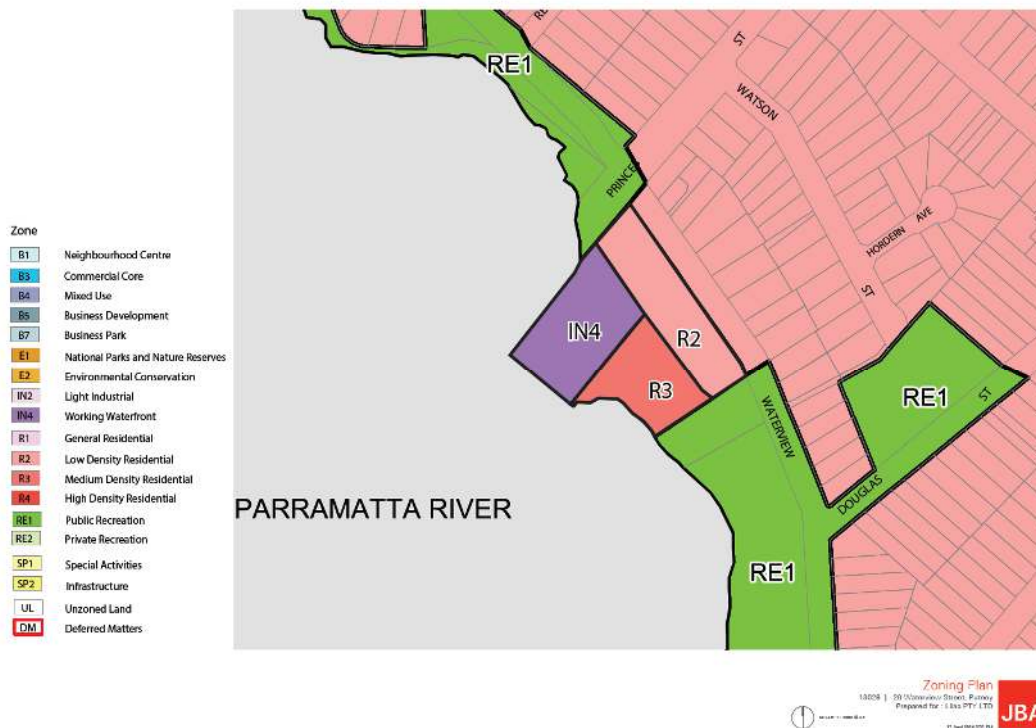
Industrial Lands Strategic Assessment Checklist Criteria	Assessment
Is the proposed rezoning consistent with State and/or council strategies on the future role of industrial lands?	Yes. The Draft Metropolitan Strategy aims to encourage clusters of high performing businesses and industries. The Draft Strategy states that the greatest economic benefits come from employment focused in Strategic Centres and Specialised Precincts. The Site is in neither a Strategic Centre, Specialised Precinct, nor in an industry cluster. The Strategy is directed at protecting employment. The Planning Proposal has the potential to generate more jobs than currently exist on the Site now. Therefore it is consistent with this aim.
Is the site: - near or within direct access to key economic infrastructure? - contributing to a significant industry cluster?	No. The Site is an isolated industrial site and is not located in an industry cluster, let alone a significant one.
How would the proposed rezoning impact the industrial land stocks in the subregion or region and the ability to meet future demand for industrial land activity?	The Employment Lands Task Force Report 2012 states that as at January 2011, the Ryde LGA had 31.9 hectares of employment lands stock, of which the subject site comprised 1.6 hectares (only 5%). The Planning Proposal seeks to either: ▪ Retain the existing IN4 Zone, in which case the industrial land stock would not change; or ▪ Retain the existing IN4 Zone over the shed area only (see section 2.0 below), in which case the area to be rezoned would comprise less than 5% of the overall employment land stock in the Ryde LGA, which is very minor. In addition, we reiterate that the demand for industrial land to accommodate boat repair activity has declined in recent years. Therefore the planning proposal does not adversely impact the ability of the Site to meet future demand for industrial maritime activity.
How would the proposed rezoning impact on the achievement of the subregion/region and LGA employment capacity targets and employment objectives?	The proposal has a much greater ability to contribute to employment capacity targets than the current use.
Is there a compelling argument that the industrial land cannot be used for an industrial purpose now or in the foreseeable future and what opportunities may exist to redevelop the land to support new forms of industrial land uses such as high-tech or creative industries?	The Draft Metropolitan Strategy aims to encourage clusters of high performing businesses and industries. Given the relatively small size of the Site and its isolation from other employment lands, it is not considered optimum land to accommodate high-tech or creative industries. We note that the Macquarie Park Corridor within the Ryde LGA has significant potential to accommodate uses of this nature.
Is the site critical to meeting the need for land for	No.

Industrial Lands Strategic Assessment Checklist Assessment Criteria

an alternative purpose identified in other NSW Government or endorsed council planning strategies?

2.0 ALTERNATE ZONES RATHER THAN USE OF SCHEDULE 1

- We have prepared an alternate zoning plan as suggested by the Assessment Report (see below and provided under separate cover).
- However, this approach would still require the use of Schedule 1 to permit a marina, residential flat buildings (for the dwellings in the main shed), food and drink premises, business premises, shops and kiosks in the IN4 Zone.



3.0 MEASURES TO MANAGE POTENTIAL LAND-USE CONFLICTS

- The applicant has engaged Renzo Tonin & Associates (acoustic consultant) and Steve Watson & Partners (BCA consultant) to provide a preliminary assessment of the proposed scheme and advise what measures would be required to manage the potential conflict of proposed residential and commercial uses in and adjacent to the IN4 zone. The consultants have each provided advice which is appended to this letter.
- Renzo Tonin & Associates concluded that there is sufficient scope to develop an appropriate design response for the Site that will provide an acceptable outcome for both residential and non-residential uses. The report provides examples such as using separating walls and floors and high acoustically performing materials, and applying limited hours of operation to non-residential uses.
- Steve Watson & Partners concluded that the proposed concept design for the Site is capable of complying with the 'deemed-to-satisfy' and performance provisions of the BCA. The report lists a number of measures in this regard.

- A further potential land use conflict is traffic. The preferred concept plan submitted with the Planning Proposal demonstrates an ability to mitigate traffic conflicts through the use of separate vehicle accesses for the residential and non-residential uses.
- It is important to note that, should the Site be rezoned, a Stage 1 DA will need to be lodged for the redevelopment of the Site, as required under *Sydney Harbour Regional Environmental Plan 2005*.² This means there will be multiple DAs lodged for the proposed scheme. Consequently, there will be ample opportunity to resolve land-use conflicts over multiple DA stages. The fact that there may be amenity issues to be managed is not a reason to reject a Planning Proposal when those potential conflicts can be addressed.
- Examples of approved mixed use developments involving marinas and/or dry boat storage in close proximity to residential uses include:
 - Shell Cove Boat Harbour Precinct: Concept Plan approval for a dry boat storage facility, residential, commercial, retail, hotel and business park uses, and open space and wetlands (MP07_0027). The boat storage facility will be located adjacent to low and medium density residential development. The Director-General's assessment report acknowledged that potential impacts of the development can be assessed and resolved at future application stages. The Concept Plan approval imposed a number of conditions specifying further environmental assessment requirements. For example, one condition required a detailed Noise Management Assessment identifying appropriate mitigation measures for the design and layout of stages affected by the dry boat storage and marina activities as well as by truck noise from a nearby Quarry Haul Road. A similar approach could be applied to the Putney proposal when a Stage 1 DA is lodged.
 - Woolloomooloo Finger Wharf: This project involved the adaptive re-use of a heritage wharf to accommodate a mix of uses, including the ground floor W Hotel (now Blue Hotel), retail/restaurants with late night trading, a hotel with 104 guestrooms and residential apartments, all within the same building. A marina adjoins the wharf to the west. Potential land use conflicts between residential and non-residential uses were resolved through appropriate design measures and conditions of development consent.
 - St George Motor Boat Club: Project approval (MP09_0035) for the expansion of the existing approved marina from 128 berths to 229 berths, adjacent to low density residential properties separated only by a road. Condition E11 of the Project Approval required the proponent to implement a Marina Noise Management Plan and for that management plan to include (among other things) procedures for notifying residents in advance of any events at the marina that are likely to affect their amenity. A similar approach could be applied to the Putney proposal at the DA stage.

4.0 ADDITIONAL ARGUMENTS

- Lilac Pty Ltd has owned the Site since 1998 and the current operation of the site has been financially unviable for many years. Our clients expended significant funds over a number of years to obtain the adopted 2010 Master Plan, only for the planning regime over the land to change and all of the uses (except for boat repairs) to become prohibited. In addition, Lilac Pty Ltd has since been advised that the master plan uses do not provide an economic return on the land as the high costs associated with the construction of the facility and land remediation costs make it difficult to create a viable outcome.
- There is a dilapidated timber wharf that extends out across the water from the south-east corner of the site. On 23 May 2011, the (then) NSW Maritime issued a notice to Lilac Pty Ltd requiring the jetty to be closed off immediately in the interests of public safety. This further emphasises that the site cannot operate in its current guise.
- Accordingly, Lilac Pty Ltd has been in discussions with the City of Ryde Council and its officers since 2011 about redevelopment opportunities for the Site. In total, the applicant has developed four (4) schemes which are shown in the Planning Proposal. To date, no decisions have been made enabling

² The REP requires a Master Plan for the subject Site. A requirement for a Master Plan can be satisfied by the lodgement and approval of a Staged DA.

our client to proceed with any redevelopment opportunities. This creates uncertainty for and places financial pressure on Lilac Pty Ltd as the current use of the land is not providing any economic return.

- Continued delay and uncertainty are not in the public interest, preventing the orderly and economic development of the land and significant community benefits to be provided.
- Lilac Pty Ltd has obtained advice from a feasibility consultant in relation to the economic feasibility of each of the four redevelopment options investigated in the Planning Proposal and considered over the last 10 years. The advice concluded that, owing partially to the substantial cost of remediating the Site (in the order of \$3 million) redevelopment of the Site is only feasible if it includes a suitable quantum of residential dwellings. Three of the schemes included residential uses, but only two of those were considered feasible.
- The scheme that is currently being pursued is a respectful proposal, considered to be the most suitable having regard to urban design considerations and compatibility with and impacts on the surrounding area.
- The Planning Proposal will facilitate extensive improvements to the existing site and public domain, and will provide an opportunity to open the site up for the public's enjoyment. Key public benefits of the proposal include:
 - Enabling the land to be 'unlocked' thereby facilitating a much needed addition to marina, boating and dry storage facilities on the Parramatta River;
 - The opportunity to remediate a currently contaminated site, reducing the risk of leaching of pollutants into surrounding sensitive uses including the Parramatta River;
 - Improved public access and connectivity between the existing parks, by providing through site linkages and public pedestrian access to the Parramatta River foreshore;
 - Enhancing the public appreciation of the site's maritime heritage significance through the inclusion of an historical interpretative facility in the development;
 - Improving the quality of the public domain;
 - Improving the urban form and visual amenity of the site when viewed from the Parramatta River; and
 - Improving the urban form and amenity of the locality with high quality, well designed development.
- The Sydney Harbour REP identifies a limited number of sites for active maritime uses, this being one of them. The Planning Proposal seeks to maximise the development potential of the Site by proposing uses that are primarily of a maritime nature but are supported by related functions to foster improved access to and along the foreshore. The opening up of the Site, through the provision of a pedestrian link, and introduction of uses such as residential, business premises, and retail uses will further activate the waterfront as a maritime recreation precinct. Redevelopment of the Site will increase public access and encourage the non-boating community to use and frequent the waterfront.
- The Planning Proposal is consistent with the Draft Sydney Harbour Boat Storage Policy (2013) relating to dry storage by seeking to contribute to the boating storage requirements established by that policy.

Should you have any queries about this matter, please do not hesitate to contact me on 9956-6962 or jharrison@jbaurban.com.au.

Yours faithfully

James Harrison
Director