

JRPP No:	2010SYE090
DA No:	DA09/1128-1
PROPOSED DEVELOPMENT:	Additonal 2 berths to proposed Marina - s96 Application - 2C Margret Street Hunters Hill
APPLICANT:	Lesley Anne Newton
REPORT BY:	Kerry Smith, Hunters Hill Council

Assessment Report and Recommendation

DEVELOPMENT APPLICATION NO : DA09/1128-1

PROPOSAL : DEMOLITION OF PART OF EXISTING BERTHING STRUCTURE AND MOORING PILES, CONSTRUCTION OF A 30 BERTH FLOATING MARINA STRUCTURE & PROVISION OF ASSOCIATED SERVICES – S.96 – TWO ADDITIONAL BERTHS ON NORTHERN SIDE OF NORTHERN ARM

PROPERTY : 2C MARGARET STREET, WOOLWICH

APPLICANT : LESLEY ANNE NEWTON

OWNER : NSW MARITIME

DATE LODGED : 1 OCTOBER 2010 & 22 NOVEMBER 2010

BUSINESS PROGRAM : DEVELOPMENT CONTROL

REPORTING OFFICER : KERRY SMITH

FILE : 1455/2C & DA2009-1128

1. SUMMARY

Reasons for Report

The proposal, being designated development, is subject of a decision by the Joint Regional Planning Panel (JRPP), as the consent authority, and Council is required to forward its submissions to that Panel.

The application is one of integrated development as approval is required from the NSW Office of Water under the Water Management Act 2000 and from the Department of Industry and Investment (Fisheries) under the Fisheries Management Act 1994.

2. DESCRIPTION OF PROPOSAL

Approved Development Application

- It is proposed to demolish part of the existing fixed timber berthing structure (currently holding 20 berths) and mooring piles
- It is proposed to relinquish ten (10) commercial swing moorings (currently holding twenty (20) swing moorings) held under a lease through NSW Maritime.
- It is proposed to construct a new thirty-two (32) berth floating marina structure, including breakwater pontoons and holding spaces for rigging and slipping
- Various services on the berthing structure
- A public sewage pumpout facility on the floating marina

The redeveloped marina would accommodate power vessels as well as yachts (as it does at the present time) up to 18 metres in length.

No dredging is proposed and no works are proposed to the existing slipways. Fuel will not be sold to boat owners.

A formal meeting of the JRPP to decide on the application was held on Wednesday 21 April 2010 at Hunter's Hill Council chambers. At that meeting conditional 'deferred commencement' approval was granted subject to the deletion of two (2) berths.

Modifications Proposed

To reinstate the two (2) berths Nos.7 and 8, which were deleted from the original consent dated 27 May 2010 by way of condition No.2. This will make a total of thirty-two (32) berths.

In support of the application, a detailed report and plans were submitted on behalf of the applicant. A copy of this report and plans are **attached**.

NSW Maritime has submitted a letter to the applicant, which accompanied the application giving permission to make an application to Council to modify a development consent.

A letter from the Office of Water dated 17 November 2010 has been received giving General Terms of Approval.

3. DESCRIPTION OF SITE AND LOCALITY

The area, subject to redevelopment only, is that on the water and below mean high watermark. It is subject of a current lease (No.RP5298) with NSW Maritime that is being re-negotiated for a larger area of the River at this location.

4. PROPERTY HISTORY & BACKGROUND

The proposal was subject of a preliminary DA meeting held on 2 December 2009 with Council's Development Control Unit. Advice was given as to the necessary documentation required for a DA, the JRPP process and the timing of public notification.

The original development application was presented to the JRPP for their determination, as the development is a designated development application.

As the proposal is an integrated development application, the consent of the NSW Office of Water and the NSW Department of Industry and Investment were required before a consent could be issued. Both of these departments gave their consent to the original application.

A formal meeting of the JRPP to decide on the application was held on Wednesday 21 April 2010 at Hunter's Hill Council chamber. At that meeting conditional 'deferred commencement' approval was granted subject to the deletion of two (2) berths.

This s.96 application will be this Council's second involvement with the Panel. The Panel members for Hunter's Hill Council consist of Councillor Richard Quinn, as a Councillor delegate, Brian McDonald as community representative and Mayor Councillor Susan Hoopmann, as alternate Councillor delegate.

A Code of Conduct has been issued by the Department of Planning for the information of the members of the JRPP. The Council members of the Panel are then invited under the standard practice and procedures to make and submit their own separate report to the Panel.

A Construction Certificate was issued by a private certifier on 6 August 2010. No date was given for the commencement of this work.

A copy of the integrated development consent issued on 27 May 2010 is **attached**.

Condition Nos.1 and 2 that are relevant to this application are as follows:

1. *The development consent No.2009-1126 relates to the plans prepared by Worley Parsons drawing Nos.6557-01-001 Issue B dated 9 Dec.2009 & 6557-01-002 Issue E dated 7 Dec.2009, as received by Council on 11 December 2009, except where amended by conditions of this consent.*
2. *This application permits the construction of a floating Marina for the provisions of 30 Berths. Berth Nos.7 and 8 shall be deleted from the development in order to provide for a safer navigation of waters for users of the Margaret Street public ramp. The walkway section between the northern arm and the southern end of the existing floating structure to be retained in the proposed development is to be relocated west. The plans are to be amended to reflect this change and to include a site plan to be fully dimensioned, sections and elevational details of the Marina and pontoon structure and to be submitted to Council.*

This s.96 application was also referred to NSW Planning, Manufacturing and Rural Industries and the NSW Industry and Investment (Aquatic habitat Protection unit).

Objections

This application for modification was advertised and placed on public exhibition for a period of one (1) month terminating on 19 November 2010. During that period, one (1) letter of objection was received from a resident of No.68b Woolwich Road, Woolwich. The basis for the objection was that inadequate parking is available for this change to the water borne operation. A copy of the letter is **attached**.

PRESENT CONSIDERATION

The s.96 application was referred to the Foreshores and Waterways Planning and Development Advisory Committee at its meeting of 5 November 2010. A copy of the advice given by that Committee is **attached**.

The above-mentioned Committee advised in part that the applicant has to demonstrate that the additional berths will not compromise the existing and future utility and viability of the slipway and the parking issue is to be resolved. The requirements of that Committee are set out as additional condition No.21.

These matters were referred to the applicant and a response from her planning consultant produced details in relation to the slipway access, which are set out in the letter dated 18 November 2010, which is **attached**. Within such response letter is a quote from their traffic engineer who stated that such additional parking space can be absorbed by the on-street parking facilities in the area.

As the consent bodies have responded to this application to date, formal s.96 approval can be granted by the panel. Conditions from those bodies are included in the conditions of consent as set out in the recommendation.

The requirement of the modification to give two (2) additional berths for the marina over that recently approved will be for Council to require one (1) additional off-street parking space for the development. It is recommended that such space be provided in the grounds of the marina, known as No.2C Margaret Street Woolwich, which services the new berthing arrangements and not rely on on-street parking in Margaret Street to satisfy such need. To achieve this, one (1) additional off-street parking space on the premises, known as No.2C Margaret Street Woolwich, would require the necessary planning consent to be issued prior to the issuing of the required Construction Certificate for this proposed floating Marina currently before the Panel.

A draft pre-assessment report on this s.96 application was forwarded by Council to the Panel for its information in late December 2010. This preliminary report formed the basis for this report presently before Council.

The JRPP meeting to consider this application has been tentatively set for 9am on Wednesday 2 March 2011 in the City.

ASSESSMENT

This application for modification to the original development consent as issued by the JRPP has been recommended by Council officers for approval to the Panel for reasons that it is reasonable having regard to:

1. it is permissible
2. it complies with the relevant planning objectives contained in the planning instruments and Development Control Plan; *and*
3. it will not have adverse effects on the amenity of adjoining and nearby properties.

5. CONCLUSION – THE PUBLIC INTEREST

It is considered that it is reasonable for Council to note the separate detailed report on this agenda as the technical response to the JRPP from Council staff which is part of the required process for the Panel decision making responsibilities. This report can also be used by Councillors to form a basis for their separate submission to the Panel should they so wish. The time frames are set out under the background heading of this report.

FINANCIAL IMPACT

There is no direct financial impact on Council's adopted budget as a result of this report.

RECOMMENDATION

That the s.96 modification to development application No. 2009-1128-1 for the addition of two (2) berths to the approved construction of a floating marina structure plus the provision of associated services at No. 2C Margaret Street, Woolwich, be **approved**, by altering condition Nos. 1 and 2 and adding new condition Nos. 16 to 21 to read as follows.

1. The development consent No.2009-1126 relates to the plans prepared by Worley Parsons drawing Nos.6557-01-001 Issue B dated 9 Dec.2009 and 6557-01-002 Issue F dated 24 May 2010, as received by Council on 1 October 2010, except where amended by conditions of this consent.
2. This application permits the construction of a floating Marina for the provision of 32 Berths. The plans are to include a site plan to be fully dimensioned, sections, elevational details of the Marina and pontoon structure and the surveyed mean high water mark for the marina to be submitted to Council prior to release of stamped approved plans by Council.
16. The NSW Office of Water being notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional 'works' on waterfront land (i.e. in or within 40 metres from the top of the highest bank of a watercourse, foreshore, or lake). Once notified, the NSW Office of Water will ascertain if the amended plans require review of variation/s to the GTA. This requirement applies even if the proposed 'works' are part of Council' proposed consent conditions and the 'works' do not appear in the original documents.
17. The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
18. Compliance with the General Terms of Approval of the Office of Water (ref.10 ERM2009/1311) in respect of the subject application.
19. Three (3) channel marker piles with water depth gauges attached are to be installed in the locations shown on a plan provided to Council By TLB Engineers. The water depth gauges to be on the seaward sides of the piles so that they are visible to the vessel masters.
20. The movement in and out of the slipway to be scheduled for high tide times only.
21. One (1) additional off-street car parking space being permanently provided on the premises, known as No.2C Margaret Street Woolwich, based on a s.96 application to be submitted to Council for consideration and approval with the relevant plans and documentation, prior to the issuing of the required Construction Certificate for this proposed floating Marina.

ATTACHMENTS

1. Locality Map
2. Proposed Plans & document
3. Integrated development consent
4. Minutes from Foreshores & Waterways Planning & Development Advisory C'ttee
5. Letter from Worley Parsons dated 18 Nov. 2010
6. Letter of objection