



NOTICE OF MOTION

COURT DETAILS

Court Land and Environment Court
Class 1
Case number 10840 of 2012

TITLE OF PROCEEDINGS

Applicant ROSE BAY MARINA PTY LIMITED
ACN 090 790 533
Respondent WOOLLAHRA MUNICIPAL COUNCIL

FILING DETAILS

Filed for Applicant
Legal representative King & Wood Mallesons
Legal representative reference DST:MAJ: 02-5505-5462
Authorised agent reference
Contact name and telephone Marc Jaku 9296 2315

PERSON AFFECTED BY ORDERS SOUGHT

RESPONDENT

HEARING DETAILS

This motion is listed at 9.30am on Friday, 24 August 2012.

225 Macquarie St Sydney
(WINDEYER CHAMBERS)

To:

Woollahra Municipal Council
536 New South Head Road
Double Bay NSW 2028

A copy of this document
must be served

by..... 20 AUG 2012

ORDERS SOUGHT

- 1 The Applicant be granted leave to rely upon the following amended plans in the proceedings:
- a. Drawing 4204-SK5/F, Proposed Layout Option A, Rose Bay Arm C, prepared by International Marina Consultants dated 19 April 2012; and
 - b. Drawing 4204-SK6/D, Original Proposed Layout with Option A Overlay, Rose Bay Arm C, prepared by International Marina Consultants dated 23 April 2012.
- 2 Such further or other orders as the Court sees fit.

SIGNATURE

Signature of legal
representative



Name

Debra Jean Townsend
By her employed solicitor
Marc Jaku

Capacity

Solicitor on the record

Date of signature

17 August 2012

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

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Level 4, 225 Macquarie Street, Sydney NSW 2000

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GPO Box 3565, Sydney NSW 2001

Telephone

(02) 9113 8200

FURTHER DETAILS ABOUT APPLICANT**Applicant**

Name Rose Bay Marina Pty Limited
Address c/- King and Wood Mallesons
Level 61
Governor Phillip Tower
1 Farrer Place
SYDNEY NSW 2000

Legal representative for applicant

Name Debra Jean Townsend
Firm King and Wood Mallesons
Telephone (02) 9296 2000
Fax (02) 9296 3999
Email marc.jaku@au.kwm.com

FURTHER DETAILS ABOUT RESPONDENT**Respondent**

Name Woollahra Municipal Council
Address 536 New South Head Road
Double Bay NSW 2028



AFFIDAVIT OF MARC NATHAN JAKU

17 August 2012

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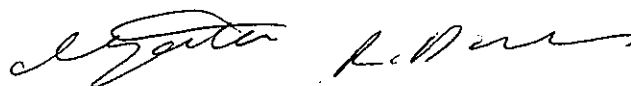
A handwritten signature in black ink, appearing to read "Marc Jaku", followed by a flourish.

AFFIDAVIT

Name **Marc Nathan Jaku**
Address King and Wood Mallesons
Level 61
Governor Phillip Tower
1 Farrer Place
SYDNEY NSW 2000
Occupation Employed solicitor
Date 17 August 2012

I affirm:

- 1 I am a solicitor in the employ of Debra Jean Townsend of King and Wood Mallesons, solicitor on the record for the applicant. I presently have day to day carriage of this matter.
- 2 On or about 2 April 2012, the applicant lodged Development Application No. 136/2012/1 ("**the Application**") with the respondent for an extension to the Rose Bay Marina, including:
 - a. The addition of a new marina arm (Arm C) which is proposed to be a floating pontoon system that incorporates 37 x 15m berths;
 - b. An additional 9 x 10m berths on Arm A;
 - c. A new walkway connecting Arms B and C and incorporating a viewing platform and bench seat; and
 - d. Removal of 46 commercial swing moorings and the retention of 24 commercial swing moorings.
- 3 Copies of the plans lodged with the Application are annexed to this affidavit and marked "**A**".
- 4 I am instructed by the applicant and verily believe that the applicant seeks to amend its plans in order to reduce the visual impact of the Application by seeking consent to alter the position of the proposed new arm (Arm C) described in paragraph 2(a) above, in accordance with the plans annexed to this affidavit and marked "**B**".



- 5 The granting of leave to amend the Application will promote the just, quick and cheap resolution of the proceedings by reducing the number of issues that could be raised in the proceedings by the respondent.
- 6 Further, I am instructed by the applicant and verily believe that the amended plans comprising annexure "B" to this affidavit are responsive to a submission lodged in objection to the Application by Mr Rolfe on behalf of the Sydney Harbour Association. A copy of Mr Rolfe's submission is annexed to this affidavit and marked "C".
- 7 In addition, the assessment report prepared by an officer of the respondent for the meeting of the Sydney East Joint Regional Planning Panel of 13 September 2012 acknowledges on page 39 that such an amendment would further reduce the visual impacts of the Application.
- 8 Since Mr Rolfe took part on behalf of the Sydney Harbour and Foreshores Committee in the two earlier proceedings of **Addenbrooke Pty Ltd v Woollahra Municipal Council** [2008] NSWLEC 190 and **Addenbrooke Pty Ltd v Woollahra Municipal Council (No 2)** [2009] NSWLEC 134, relating to different proposals involving the same site, granting leave to rely on the amended plans is likely to not only reduce the issues in contention but may also reduce the number of objectors and the number of parties to these proceedings.

AFFIRMED at

1 FARRER PLACE, SYDNEY

Signature of deponent



Signature of witness



Name of witness

RUTH DAWES

Address of witness

1 Farrer Place
SYDNEY NSW 2000

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent.
- 2 I have confirmed the deponent's identity using the following identification document:
Original current driver licence. 12 844 621

Signature of witness

