

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

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| DATE OF DETERMINATION | 1 September 2020 |
| PANEL MEMBERS | Peter Debnam (Chair), Clare Brown, Brian Kirk, Stephen Barbour |
| APOLOGIES | Virginia Waller, Kevin Alker |
| DECLARATIONS OF INTEREST | Ken Robinson declared a conflict of interest as he made a personal submission opposing the application. |

Public meeting held by teleconference on 1 September 2020, opened at 1pm and closed at 4pm.

MATTER DETERMINED

2019SNH021 – North Sydney – DA57/19 at 6 John Street McMahons Point for a floating dry dock (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel notes the site has a long history of use for boat repair, the business has operated with significant community support and the current zoning of the land and waterway permit this use. While acknowledging this current use, the proposal before the Panel represents a significant expansion of the facility's capacity and operations.

The Panel concurred with the Independent Assessor's view that the proposal failed to adequately demonstrate it could be undertaken without an adverse impact on the surrounding environment. Accordingly, the Panel determined to refuse the application for the reasons outlined in the Independent Assessor's Report as outlined below:

1. The application has failed to adequately address the potential air quality and noise impacts of the proposal as detailed in the letter from the Environment Protection Authority (EPA) dated 5 June 2020. In the absence of EPA's General Terms of Approval for the application, pursuant to Section 4.47 of the Environmental Planning and Assessment Act, development consent cannot be granted;
2. The application does not satisfy the requirements of Schedule 2 of the Environmental Planning and Assessment Regulation 2000 in that the submitted Environmental Impact Statement (EIS) does not adequately address the Planning Secretary's Environmental Assessment Requirement's (SEAR's). In this regard, the requirements of the EPA have not been satisfied and the required consultation with all the relevant authorities referred to in the SEAR's has not been undertaken;
3. In the absence of adequately demonstrating adverse air quality and acoustic impacts, the proposal is contrary to the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment), 2005 Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005 and North Sydney Local Environmental Plan 2013;
4. The application fails to adequately address the requirements of State Environmental Planning Policy No 33—Hazardous and Offensive Development in that a Preliminary Hazard Analysis has not been undertaken; and

5. The proposal is not in the public interest as it has not adequately demonstrated that the potential air quality impacts, acoustic impacts and impacts from hazardous materials, can be suitably mitigated.

The current DA had been under assessment for the last eighteen months while the Applicant sought to resolve the above outstanding issues. The FDD was also the subject of a previous DA submitted in January 2018 and withdrawn by the Applicant in December 2018.

The Panel considered the Applicant's request to defer determination but the Panel considered the outstanding issues too significant and unlikely to be quickly resolved.

CONDITIONS



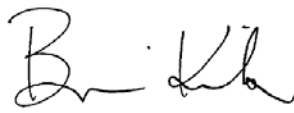

Not applicable

CONSIDERATION OF COMMUNITY VIEWS

Council had received 332 community submissions in early 2019 with 44 in support and 288 against the proposal. When the proposal was renotified in 2020, Council received 185 submissions with 14 in support and 171 against the proposal. In coming to its decision, the Panel considered the written submissions made during public exhibition and also heard from all those wishing to address the Panel during the public meeting.

Issues of concern included:

- Visual impacts
- Impacts on property prices
- Excessive noise/acoustic issues
- Excessive pollution
- Construction impacts
- Private benefit, public loss of access and amenity
- History of EPA infringements
- Impacts on biodiversity
- Cultural, character and heritage impacts
- Greater waste generation
- Environmental harm
- Inappropriate zoning according to REP
- Inconsistencies, distortions, errors and lack of detail in DA, EIS and supporting documentation
- Danger of accidents and risk to residents and users of small craft such as kayaks
- Inconsistency with Greater Sydney Commissions proposal of Green Grid
- Parking problems and traffic issues
- Economic justification
- Applicant's lack of experience operating a Floating Dry Dock (FDD)
- Lack of evidence about safety and licensing of FDD
- Over industrialisation of the precinct
- Precedent
- Impact of wash
- Poor/lack of consultation with community

| PANEL MEMBERS | |
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|  Peter Debnam (Chair) |  Clare Brown |
|  Brian Kirk |  Stephen Barbour |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2019SNH021 – North Sydney – DA57/19 |
| 2 | PROPOSED DEVELOPMENT | Demolition of existing water-based structures and installation and use of a new floating dry dock (FDD) for maintenance and repair of maritime vessels up to 750T in association with the existing boat building and repair facility. |
| 3 | STREET ADDRESS | 6 John Street, McMahons Point |
| 4 | APPLICANT/OWNER | Stannard Marine Pty Ltd / Road and Maritime Services |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Designated development - marina or other related land and water shoreline facilities |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.33 – Hazardous & Offensive Development State Environmental Planning Policy No.5 – Remediation of Land State Environmental Planning Policy (Coastal Management) 2018 State Environmental Planning Policy (Infrastructure) 2007 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) North Sydney Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> North Sydney Development Control Plan 2013 Sydney Harbour Foreshore and Waterways Area Development Control Plan 2005 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: State Environmental Planning Policy (Coastal Management) 2018 The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council assessment report: 21 August 2020 Applicant memo: 26 August 2020 Written submissions during public exhibition: 517 Late submissions: 6 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Members of community – Sid French on behalf of the Waverton Precinct, Bruce Hodgkinson on behalf of The Waterman Owners Corporation, Robert Stitt on behalf of the Lavendar Bay Precinct Committee, Mary Curran, Genia Maccaffery on behalf of Edward Precinct, Kathrina Doran and John Molyneux on behalf of the Friends of Sydney Harbour, Leon Reardon, Alan El-Kadhi, David Hannan, Ron Blombery, John Battersby, Christian Adams, Bruce Donald, Ian Dennis, Michael Stevens, Karen Foster, Julie-anne Lackow, Bronwyn Muir, Ken Martin, Debbie Blombery on behalf of Belinda Campbell, Merilee Symons, Clr Ian Mutton, Peter Morcom, Gregory Johnston, Council assessment officer – Brett Brown (consultant planner for |

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| | | <p>Council), George Youhanna</p> <ul style="list-style-type: none"> ○ On behalf of the applicant – Kristy Hodgkinson |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Briefing: 8 July 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Julie Savet Ward ○ <u>Council assessment staff</u>: George Youhanna, Brett Brown (consultant planner for council) • Final briefing to discuss council's recommendation: 1 September 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Clare Brown, Brian Kirk, Stephen Barbour ○ <u>Council assessment staff</u>: George Youhanna, Brett Brown (consultant for council) |
| 9 | COUNCIL RECOMMENDATION | Refusal |
| 10 | DRAFT CONDITIONS | None provided |