

## SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Meeting held at North Sydney Council on Thursday 5 May 2016 at 5.00 pm

Panel Members: John Roseth (chair), David Furlong, Sue Francis, Michel Reymond and Melissa Clare

Apologies: None - Declarations of Interest: None

### Determination and Statement of Reasons

2015SYE096 – North Sydney - 260/15 - Berrys Bay Marina: Partial demolition and adaptive reuse of existing development and construction of an 84 berth marina, sewage pump out facilities, dry stack boat storage, adaptive reuse of two storey building and construction of two new buildings containing caretaker's apartment, yacht club, kiosk and non-residential tenancies, launch area for small craft, parking for 120 cars, landscaping and foreshore access works, and ancillary works and structures such as roads, infrastructure and amenities - Berrys Bay, Balls Head Road, Waverton as described in Schedule 1.

**Date of determination:** 5 May 2016

#### Decision:

The panel determined to accept the recommendation of the assessment report to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

#### Panel consideration:

The panel considered: the matters listed at item 6 as addressed in the Council Assessment Report, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1. The panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

#### Reasons for the panel decision:

The principal reason for the Panel's decision to refuse the application is the high intensity of the proposed use. The Panel accepts that a decision based on visual impact is subjective and that different minds may reasonably come to different conclusions on it; however, the Panel is unanimous in believing that the amount of marina proposed in this application is too much for the character of the Bay.

The Panel notes that the applicant has sought to amend its application by changing the access to the Dolphin Wharf section to be over water. The council has not accepted the amended application. As a consequence, the Panel could not grant consent without the deletion of the Dolphin Wharf section. However, the lack of access is not the main problem. In the Panel's opinion, the Dolphin Wharf part of the proposal, being in the smallest and most intimate part of the Bay, is also the visually most offensive.

The Panel accepts that, given the long industrial history of Berrys Bay, a marina would be an appropriate use in the main part of the Bay. The Panel accepts also that the application includes significant public benefit in the proposed park and the restoration of Woodley's boatshed. In the Panel's view, the Dolphins Wharf section should be deleted, the main section of the marina should be reduced and the size of boats further limited.

The Panel has considered the applicant's request to approve the proposal subject to conditions, compliance with which would reduce the size of the proposal. However, the Panel does not have sufficient information or advice to formulate conditions that would result in a satisfactory outcome.


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**Conditions:** Not applicable

**Panel members:**



**John Roseth (chair)**



**David Furlong**



**Sue Francis**



**Michel Reymond**



**Melissa Clare**

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### SCHEDULE 1

1	<b>JRPP Reference – LGA- Council Reference:</b> 2015SYE096 – North Sydney - 260/15
2	<b>Proposed development:</b> Berrys Bay Marina: Partial demolition and adaptive reuse of existing development and construction of an 84 berth marina, sewage pump out facilities, dry stack boat storage, adaptive reuse of two storey building and construction of two new buildings containing caretaker's apartment, yacht club, kiosk and non-residential tenancies, launch area for small craft, parking for 120 cars, landscaping and foreshore access works, and ancillary works and structures such as roads, infrastructure and amenities
3	<b>Street address:</b> Berrys Bay, Balls Head Road, Waverton
4	<b>Applicant/Owner:</b> Berrys Bay Marina Company Pty Ltd
5	<b>Type of Regional development:</b> General development with a Capital Investment Value of more than \$20 million
6	<p><b>Relevant mandatory considerations</b></p> <ul style="list-style-type: none"> <li>• North Sydney LEP 2013 - Zoning – Part IN4/RE1/E2</li> <li>• North Sydney DCP 2013</li> <li>• SEPP 55 – Remediation of Land</li> <li>• SEPP (BASIX) 2004</li> <li>• SREP (Sydney Harbour Catchment) 2005 – Zoning W1</li> <li>• Sydney Harbour DCP 2005</li> <li>• Waverton Peninsula Strategic Masterplan</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EPA Act or EPA Regulation.</li> <li>• The public interest, including the principles of ecologically sustainable development.</li> </ul>
7	<p><b>Material considered by the panel:</b></p> <p>Council Assessment Report Dated: 29 March 2016  Written submissions during public exhibition: 661  Verbal submissions at the panel meeting on 7 April 2016: In support: nil; Against: Sid French, Kevin Alker and David Chesterman on behalf of Waverton, Union and Lavender Bay Precincts, Trent Zimmerman MP, Geoff Hogbin, John Murray, Michael Stevens, Genia McCaffery, Mary Curran, Jeff Morris, Zoe Baker, Malcolm Saintly, Ian Dennis, Alison Handmer, John Molyneux on behalf of Friends of Sydney Harbour  On behalf of the applicant- Russell McCart, James Harrison and Crosbie Lorimer  Submission from the Waverton Precinct Committee dated 22 April 2016  Submission from the elected Councillors of North Sydney Council dated 28 April 2016  Email from North Sydney Council dated 18 April 2016 stating that they would not accept amended plans from the applicant.  Verbal submissions at the panel meeting on 5 May 2016: In support: nil; Against- Zoe Baker and Jeff Morris on behalf of elected Councillors of North Sydney Council, Bruce Donald on behalf of the Waverton Public Lands and Waters Protection Association Inc, Tully James, Margaret Petrykowski, Bruce Burns, Ann Pugh, Iain Bartholomew, Jilly Gibson, Geoff Hogbin, Bruce Handmer, Carl Braden, Eugene Oliver Joseph, Kenneth Robinson and Victor Twartz; On behalf of the applicant: James Harrison, Crosbie Lorimer and Russell McCart.</p>
8	<b>Meetings and site inspections by the panel:</b> Briefing Meeting on 16 September 2015, Site visit on 7 April 2016, Panel Meeting 7 April 2016 and Panel Meeting on 5 May 2016.
9	<b>Council recommendation:</b> Refusal
10	<b>Draft conditions:</b> Not supplied