

Relevant Information for Local Planning Panel

FILE: D/2022/473 **DATE:** 22 February 2023

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager Planning & Development

SUBJECT: Information Relevant To Item 4 – Development Application: 26-32 Pirrama Road, Pyrmont – D/2022/473

Alternative Recommendation

It is resolved that consent be granted to Development Application No D/2022/473, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 22 February 2023, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(18) PLAN OF MANAGEMENT

- (a) The Plan of Management, prepared by Environmental Dynamics, dated October 2022 is not approved.
- (b) A revised Plan of Management is to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate that addresses the conditions of this consent, including but not limited to the following:
 - (i) The hours of operation are limited to those permitted under Condition 17 (***noting that maritime operations must cease between 12 midnight and 7.00am, except for vessel arrival and departure from the facility***).
 - (ii) Embarking and/ or disembarking of passengers and patrons from commercial vessels is not permitted.
 - (iii) Speakers and/ or noise amplification equipment must not be installed and music must not be played in outdoor areas.
- (c) The Plan of Management must be signed and dated and submitted to Council prior to the commencement of the use.

- (d) The use must always be operated / managed in accordance with the Plan of Management approved by part (b) above. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

(24) COMMERCIAL BERTHAGE

Commercial berthage may only be occupied by vessels that have current permits, certificates, registrations and licenses issued by ~~NSW Maritime Authority~~ **Australian Maritime Safety Authority** (or its successor / *international equivalent*) that verify they are a “commercial vessel”. At no times are commercial berths permitted to be occupied or used for private purposes. Reason To ensure all vessels at the marina have the required permits.

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To ensure all vessels at the marina have the required permits.

Background

On 17 February 2023, the applicant wrote to Council officers following a review of the Assessment Report and Attachment A – Recommended Conditions of Consent prepared for the Local Planning Panel.

In that correspondence, the applicant provided additional information/ clarification in relation to two issues, outlined as follows:

Condition 17 and 18 (Hours of Operation)

Council's assessment

Council's Assessment Report includes an assessment of the proposed hours of operation at paragraphs 65-70.

While the general hours of operation of 7.00am to 12.00 midnight are supported by Council officers, concern was raised that the revised Plan of Management specified that vessels accessing marina berths would operate 24 hours, Mondays to Sundays.

The previous development consents for use of the marina did not include conditions of consent allowing vessels to access the marina berths 24/7 and consideration of this impact was not clear in the EIS. Therefore, Council officers recommended that the hours of operation for marina operations be limited to 7.00am to 12.00 midnight for consistency.

Applicant's response

In response to the above assessment, the applicant has provided the following clarifications:

- 24 hour vessel movements are currently permitted under the existing consent (MP09_0205). The hours listed in the conditions of consent (Condition F1) apply to

general operations of the facility and do not specifically prohibit vessel movements, which is instead addressed within the Plan of Management.

- The approved Operational Environmental Management Plan states that ‘that ‘all maritime operations will cease between 12 midnight and 7.00am. Except for vessel arrival and departure from the facility.’
- The original acoustic report accompanying MP09-0205 provided an assessment of vessel movements across the entire night period. It was concluded that such movements are not expected to cause a significant noise impacts to sensitive receivers.
- The acoustic assessment submitted with the current DA also assessed the night time period (10pm – 7am) which included a typical night time scenario of a large vessel docking/ leaving the facility. The report concludes that, ‘the predicted noise level is unlikely to be noticed by the surrounding receivers given the similar ambient noise level during the night period. On this basis, impacts to the nearest receivers are negligible and no mitigation is required.’
- Whilst the number of vessel movements in the night time period is generally low, this has always occurred at Jones Bay Wharf and is consistent with most other marinas on Sydney Harbour. Operationally, this is critical as commercial vessels require 24 hour access to the berths. 24 hour access to the marina for vessels is also an important safety feature to avoid navigation issues within the harbour and in the event of adverse weather conditions and/or poor visibility.

Given the above clarifications provided by the applicant, it is recommended that Condition 18(b)(i) be amended as per the alternative recommendation above. As is consistent with the previous approval (MP09_0205), the Plan of Management can address 24/7 vessel movements.

It is noted that Council officers recommend maintaining the current wording of Condition 17, as this is consistent with the previous approval (MP09_0205).

Condition 24 (Commercial Berthage)

The applicant has advised that NSW Maritime Authority are only concerned with recreational vessels and no longer issue permits, certificates, registrations and licences for commercial vessels. These are now issued by Australian Maritime Safety Authority.

Further, the current wording of Condition 24 does not cover international vessels visiting the marina. Internationally flagged superyachts that are either visiting or Australian owned and imported are mostly commercially registered. This means that they have satisfied their Flag State that the vessel is compliant to certain regulations under their legislation that they are suitable to operate commercially, or charter.

As such, it is recommended that this condition be amended to refer to the relevant authority and reference international vessels.

Prepared by: Samantha Kruize, Senior Planner

Approved

AJT

ANDREW THOMAS

Executive Manager Planning & Development