

**DETERMINATION OF A DEVELOPMENT APPLICATION
UNDER SECTION 80
OF THE
*ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979***

Under section 80 of the *Environmental Planning and Assessment Act 1979*, I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) approve the development application in Schedule 1 subject to the conditions in Schedule 2.

These conditions are necessary to:

- (i) Minimise the impacts of the development on the environment of the area; and
- (ii) Protect the environment and amenity of the area while construction works are in progress.

Craig Knowles MP
**Minister for Infrastructure and
Planning
Minister for Natural Resources**

Sydney,

2003

File No: S02/01726

Schedule 1

Development Application:	DA-133-3-2003-i.
Applicant:	Royal Motor Yacht Club Broken Bay
Consent Authority:	Minister Assisting the Minister for Infrastructure and Planning (Planning Administration).
Land:	Lots 329 and 330 DP 824292, Lots 2 and 3 DP 225339, Lots 5 and 7 DP 4689, Lot 6 DP 110670 and Lot 262 DP 752046, 46A Prince Alfred Parade, Newport
Proposed Development:	The refurbishment and minor additions to part of the existing marina, involving the removal of the fixed walkways and berths and replacement with floating pontoon marina berths, an increase in the number of berths from 204 to 218, an additional fuel facility, and 11 additional car parking spaces.
State Significant Development:	The Minister's declaration on marina development in the Sydney region, which was gazetted on 6 April 2001, applies to the proposed development. Consequently, it is classified as State significant development

under section 76A(7)(b)(iii) of the *Environmental Planning and Assessment Act 1979*.

Integrated Development:

The proposal requires an additional approval from the Environment Protection Authority under the *Protection of the Environment Operations Act 1997*.

Consequently, it is classified as Integrated Development under Section 91 of the *Environmental Planning and Assessment Act 1979*.

BCA Classification:

Marina structures - Class 10b

Note:

- (1) To ascertain the date upon which this consent becomes effective, refer to section 83 of the Act.
- (2) To ascertain the date upon which this consent is liable to lapse, refer to section 95 of the Act.
- (3) If the Applicant is dissatisfied with this determination, section 97 of the Act grants him or her right of appeal to the Land and Environment Court, which is exercisable within 12 months of receiving notice of this determination

SCHEDULE 2

CONDITIONS OF CONSENT

DEFINITIONS

The Act	Environmental Planning and Assessment Act 1979.
The Applicant	Royal Motor Yacht Club – Newport.
AS	Australian Standard.
Council	Pittwater Council.
DA	Development Application.
The Department	Department of Infrastructure, Planning and Natural Resources.
The Director-General	Director-General of the Department of Infrastructure, Planning and Natural Resources, or delegate.
EPA	Environment Protection Authority.
SEE	Statement of Environmental Effects.

GENERAL

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent or minimise harm to the environment during the construction and operation of the development

Terms of Approval

2. ¹The Applicant shall carry out the development generally in accordance with the:
 - (a) Development Application (DA- 133-3-2003-i) lodged with the Department on 28 March 2003;
 - (b) SEE, titled *Refurbishment & Additions Royal Motor Yacht Club Prince Alfred Parade Newport* prepared by Planning Ingenuity Pty Ltd dated 26 March 2003;
 - (c) Marina Layout Plan numbered 01001/L11 dated March 2003 prepared by Docker Smith Pty Ltd;
 - (d) Letter dated 30 May 2003 from Planning Ingenuity Pty Ltd (reference 0029/02lt9) to Planning NSW; and
 - (e) Letter dated 9 July 2003 from Planning Ingenuity Pty Ltd (reference 0029/02lt13) to the Environment Protection Authority; and
 - (f) Conditions of this consent.

Compliance

3. If there is any inconsistency between the above, or between these conditions and any previous conditions of consent for the marina, the conditions of this consent shall prevail to the extent of the inconsistency.
4. The Applicant shall ensure that all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent
5. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) Any report, plan or correspondence submitted in accordance with the conditions of this consent; or
 - (b) The implementation of any actions or proposal contained in these reports, plans, or correspondence
6. Prior to the construction and occupation of the development, the Applicant shall provide to the Director-General and Council the following:
 - (a) Written notification of the appointment of a Principal Certifying Authority;
 - (b) Copies of all Construction Certificates issued for the development;
 - (c) Written notification of the intention to commence construction work, to be received at least two working days prior to the commencement of construction. In the event that more than one Construction Certificate is issued, notification shall be provided prior to the commencement of construction the subject of each Certificate;
 - (d) Copies of all Occupation Certificates issued for the development; and

¹ Incorporates EPA General Term of Approval

- (e) Written notification of the intention to occupy the development, to be received at least two working days prior to occupation. In the event that more than one Occupation Certificate is issued, notification shall be provided prior to the occupation the subject of each Certificate.
- 7. The Applicant shall provide all information necessary for the Principal Certifying Authority to determine that the development will comply with:
 - (a) The *Building Code of Australia* and *AS 3962-2001 – Guidelines for the Design of Marinas*; and
 - (b) All relevant provisions of the Act, including the payment of a long service levy under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*.

Integrated Approvals

- 8. No works are to commence at the site prior to a Licence under the *Protection of the Environment Operations Act 1997* being obtained from the EPA.
- 9. A copy of the Licence from the EPA shall be submitted to the Director-General prior to the issue of the construction certificate by the Principal Certifying Authority.

Limits on Operations

- 10. Upon completion of the works, the marina shall provide berths for a maximum of 218 vessels.
- 11. Screw piles are to be limited to areas of rock seabed. Piles shall be driven in areas that have softer (sediment) substrates.

Note: NSW Fisheries must be contacted to obtain a Permit if any underwater use of explosives or electrical devices is required to undertake this activity.
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Relocation of Swing Moorings

- 12. The Applicant shall consult the Waterways Authority in relation to the relocation of swing moorings that are affected by the development. Any swing moorings that are required to be relocated shall be at the expense of the Applicant.

Construction Hours of Operation

- 13. ²All pile driving works shall only be conducted between 9.00AM and 3.00PM, Monday to Friday and at no time on Saturdays, Sundays or Public Holidays.
- 14. ³All other construction work associated with the development, including the delivery of material to and from the site, shall only be carried out between the following hours:
 - (a) Between 7.00AM and 6.00PM, Monday to Friday inclusive;
 - (b) Between 8.00AM and 1.00PM on Saturdays; and

² EPA General Term of Approval

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(c) At no time on Sundays and Public Holidays

15. ⁴This condition does not apply to the delivery of material outside the hours of operation permitted by conditions 13 and 14 of this consent, if that delivery is required by the Police or other authorities for safety reasons, and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of an emergency.
16. ⁵The hours of operation specified in conditions 13 and 14 of this consent may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Demolition

17. All demolition work shall be carried out in accordance with *AS 2601-2001 The Demolition of Structures*.

Noise Limits

18. ⁶An Acoustical Report and Noise Mitigation Plan shall be prepared and implemented. The Plan shall include, but not necessarily be limited to, an assessment of the current acoustical environment, a description of the likely noise impacts from construction works, identification of sensitive noise receptors and a detailed proposal of attenuation measures to be adopted during construction activities.
19. ⁷The report referred to in condition 18 of this consent shall be submitted to the EPA at least six weeks prior to the proposed commencement of the works.

Note: The EPA will assess the report and impose noise measures according to the findings of the report.

Notification of Impact Piling Activities

20. ⁸Prior to commencement of impact piling activities, all residents whose premises are predicted to be affected by noise levels above an LA max level of 70 dB(A) shall be advised by letter drop. The advice shall indicate that the residents may be subjected to noise nuisance. It shall state the reasons for noise nuisance and shall also give the name and phone number of a contact who is authorized to respond to complaints and take appropriate steps to address the residents' concerns. Any complaints to the licensee shall be recorded in a logbook and shall be made available to any EPA officer on demand.

⁴ EPA General Term of Approval

⁵ EPA General Term of Approval

⁶ EPA General Term of Approval

⁷ EPA General Term of Approval

⁸ EPA General Term of Approval

21. ⁹A copy of the letter required by condition 20 of this consent shall be provided to the EPA.

Vibration Management

22. ¹⁰A Vibration Management Protocol shall be prepared in relation to the development and implemented. The protocol shall include, but not be limited to the following matters:
- (a) Compliance standards;
 - (b) Mitigation measures;
 - (c) Remedial action;
 - (d) Monitoring methods and programs;
 - (e) Measures to protect underground utilities (eg. Rising mains, subsurface telecommunication and electric cables) nearby; and
 - (f) Notification procedures for neighbors prior to undertaking activities which will potentially result in decreased amenity.

Parking

23. The Applicant shall provide 11 additional car parking spaces in accordance with *AS 2890.1 1993 Parking Facilities - Off-Street Car Parking*.
24. The parking areas shall be made available to all users of the expanded marina and licensed club during its operational hours.

Pollution of Waters

25. ¹¹Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation of the development, section 120 of the *Protection of the Environment Operations Act 1997* shall be complied with in and in connection with the carrying out of the development.
26. ¹²To avoid any doubt, this condition does not authorize the discharge or emission of any other pollutants.
27. ¹³Unless otherwise agreed in writing by the EPA, dredging and piling activity shall not cause the total suspended solids (TSS) level within one metre of the outside of the silt curtain to exceed the background TSS level by more than 50mg/L. For the purpose of this condition, an indication of TSS levels may be established using a turbidity meter. Readings of less than 25 nephelometric turbidity units (NTU) shall be considered to be less than 50 mg/L TSS.

Monitoring Records

28. ¹⁴The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the*

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¹⁰ EPA General Term of Approval

¹¹ EPA General Term of Approval

¹² EPA General Term of Approval

¹³ EPA General Term of Approval

¹⁴ EPA General Term of Approval

Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol shall be recorded and retained as set out in conditions 29 and 30.

- 29.** ¹⁵All records required to be kept by the licence shall be:
- (a) In a legible form, or in a form that can readily be reduced to a legible form;
 - (b) Kept for at least four years after the monitoring or event to which they relate took place; and
 - (c) Produced in a legible form to any authorized officer of the EPA who asks to see them.
- 30.** ¹⁶The following records shall be kept in respect of any samples required to be collected:
- (a) The date(s) on which the sample was collected;
 - (b) The time(s) at which the sample was collected;
 - (c) The point at which the sample was taken; and
 - (d) The name of the person who collected the sample.
- 31.** ¹⁷Three measurements shall be taken to establish the NTU levels within one metre from the outside of the silt curtain. The samples shall be taken during any dredging or piling operations. Background NTU levels shall be established by taking representative measurements 25 metres from any dredging or piling activities.
- 32.** ¹⁸If any turbidity readings taken in accordance with conditions 27 and 31 of this consent exceed 25 NTU then a sample shall be collected and analysed for TSS. The NTU and TSS levels shall be recorded in a logbook and made available to any EPA officer on request. Any TSS levels found to be above 50 mg/L shall be reported to the EPA within one week of the results being made available to the licensee.

Sediment Control – Construction Phase

- 33.** ¹⁹The removal of the existing structures shall be carried out in a manner that minimizes disturbance to the seabed.
- 34.** ²⁰Unless otherwise agreed to in writing by the EPA, a floating boom and silt curtain shall be installed and maintained around the areas where any dredging activities are carried out as well as where the new piling and berth structure is being installed. The floating boom and silt curtain shall remain in place until the piling has been completed. The silt curtain shall extend from the surface of the water to the seabed.
- 35.** ²¹The Applicant shall prepare a spill management plan that shall be implemented in the event of any spillage of liquid wastes, in particular

¹⁵ EPA General Term of Approval
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¹⁸ EPA General Term of Approval
¹⁹ EPA General Term of Approval
²⁰ EPA General Term of Approval
²¹ EPA General Term of Approval

hydraulic oils, during the works. The Applicant shall ensure that all staff, contractors, sub-contractors and agents involved with the works are familiar with the spill management plan and are properly trained to use spillage equipment. The spill management plan shall be made available to any EPA officer on demand.

- 36.** ²²The Applicant shall ensure that spillage equipment such as absorbent booms and deployment facilities are in a convenient position for quick response and cleanup.
- 37.** ²³A Soil and Water Management Plan required under condition 45(h) of this consent shall be prepared and implemented. The Plan shall describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities, with particular reference to measures to be undertaken to minimise disturbance of sediments during pile driving and removal operations. The Plan shall be prepared in accordance with the requirements for such plans outlined in the Department of Housing's *Managing Urban Stormwater: Soils and Construction" Manual* (1998) and other relevant documents.

Water Quality

- 38.** All soil and/or vegetation disturbed or removed from the site shall be disposed of to, or stored at, an appropriate location where it cannot be washed off the site.
- 39.** The Applicant shall ensure that all construction vehicles exiting the site shall not deposit soil and debris onto the public roads.
- 40.** The Applicant shall ensure that the drainage system is capable of collecting and treating (where necessary), all the stormwater runoff from the reconfigured parking areas.

Waste

- 41.** All wastes generated on the site during demolition, construction and operation shall be classified in accordance with the EPA's *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* and be disposed of to a facility that may lawfully accept the waste.

Air Quality

- 42.** The Applicant shall design, construct, operate and maintain the development in a manner that minimises dust emissions from the site.

Lighting

- 43.** The Applicant must ensure that all external lighting associated with the development is mounted, screened, and directed in such a manner so as not

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to create a nuisance to surrounding properties or roads. The lighting shall be the minimum level of illumination necessary and shall comply with AS 4282 1997 - *Control of the Obtrusive Effects of Outdoor Lighting*.

Water Clearance

- 44.** A minimum of 600mm shall be maintained between the underside of the pontoon floats and the substrate at Zero Tide Gauge Fort Denison (ZTGFD) which is 0.94mm below Australian Height Datum (AHD).

Construction Management Plan

- 45.** The Applicant shall prepare and implement a Construction Management Plan for the proposed development. This plan shall:
- (a) Describe the proposed construction works;
 - (b) Outline the proposed construction program;
 - (c) Set standards and/or performance measures for the relevant environmental issues associated with the construction work;
 - (d) Describe what actions and measures will be implemented to mitigate the potential impacts of these construction works, and ensure that these works will comply with the relevant standards and/or performance measures;
 - (e) Describe what procedures will be implemented to:
 - Register, report, and respond to any complaints during the construction works; and
 - Ensure the operational health and safety of construction workers;
 - (f) Identify the key personnel who will be involved in the construction works, and provide contact numbers for this personnel;
 - (g) Explain how the environmental performance of the construction works will be monitored, and what actions will be taken if any non-compliance is detected;
 - (h) Include a detailed:
 - Construction Soil and Water Management Plan;
 - Construction Waste Management Plan;
 - Construction Noise Management Plan; and
 - Construction Spill Management Plan
- 46.** The Applicant shall not carry out any site works, demolition works, or construction works on the site before the Director-General has approved the Construction Management Plan for the proposed development.

Operational Environmental Management Plan

- 47.** The Applicant shall prepare and implement an Operational Environmental Management Plan for the operation of the development. This plan shall:
- (a) Describe the marina operations;
 - (b) Identify all the relevant statutory requirements that apply to these operations;
 - (c) Set standards and/or performance measures for each of the relevant environmental issues;
 - (d) Describe what actions and measures will be implemented to mitigate the potential impacts of the development's operations, and to ensure that these operations meet the relevant standards and/or performance measures;

- (e) Describe what measures and procedures will be implemented to register, report, and respond to complaints during operations;
- (f) Describe the role, responsibility, authority, and accountability of all key personnel involved in the proposed development's operations; and
- (g) Include a detailed:
 - Berthing Management Plan;
 - Noise Management Plan;
 - Water Quality Management Plan;
 - Waste Management Plan; and
 - Emergency Management Plan.

- 48.** The Applicant shall submit this plan to the Director-General for approval within one month of completing the proposed construction works.
- 49.** The Applicant shall make a copy of this Environmental Management Plan available to the public on request.
- 50.** The Applicant shall review and update this Environmental Management Plan regularly, or as directed by the Director-General.

Annual Environmental Audit

- 51.** Within twelve months of the date of this consent, and annually thereafter, unless the Director-General directs otherwise, the Applicant shall commission, and pay the full cost of an independent environmental audit of the development. This audit shall
 - (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General before the audit starts;
 - (b) Assess the environmental performance of the development, and its impacts on the surrounding environment;
 - (c) Assess whether the development is complying with the relevant standards, performance measures and statutory requirements;
 - (d) Review the adequacy of the Environmental Management Plan for the operation of the development; and if necessary
 - (e) Recommend measures or actions to improve the environmental performance of the development, and/or the Environmental Management Plan for the operation of the development.
- 52.** Within 1 month (or such other period as agreed by the Director-General) of commissioning the audit, the Applicant shall submit a copy of the Independent Environmental Audit report to the Director-General.