

ASSESSMENT REPORT

DEVELOPMENT APPLICATION (DA 152-06-01): PROPOSED CARPARK AT 69-73 BAY ROAD, BERRILEE



Department of
Urban Affairs and Planning

File No: S00/01863

Please note that the figures referred to in the report do not appear in this electronic version. To view copies, please contact the Department of Urban Affairs and Planning Development and Infrastructure Assessment branch on 02 9762 8155.

1. SUMMARY

Cameron Brae (the Applicant) is proposing to construct and use a car park on land at 69-73 Bay Road, Berrilee in the Hornsby local government area.

The proposed development involves:

- Constructing and using a car park with 34 car parking spaces and two bus spaces;
- Erecting a 2 metre high black chain fence around the new car park with locked gates;
- Constructing a B-type intersection from Bay Road to the property;
- Constructing a driveway from the new entry/exit on Bay Road to the car park;
- Constructing a new drainage line (with a detention basin, trash-rack, and oil separator) from the car park to the existing dam on the property; and
- Landscaping the site.

On 15 October 1999, the Applicant lodged a development application (DA) for the proposal with Hornsby Council.

Hornsby Council subsequently exhibited the DA in accordance with the requirements in Division 7, Part 6 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

During the exhibition period, Council received 113 submissions on the DA: 2 from public authorities, and 111 from the general public.

The public authorities - the Department of Land and Water Conservation and Roads and Traffic Authority - do not object to the proposal.

Nevertheless, 104 out of the 111 submissions from the general public object to the proposal. These objections included submissions from several community groups, including the Association for Berowra Creek, the Berowra Waters Progress Association, the Berrilee Progress Association, and the Galston Area Residents' Association.

Most of these objections claim that the proposal is inappropriate for a rural area, and would not alleviate the current parking problems at Berowra Waters.

The main issues raised in the submissions were:

- The apparent lack of consistency between the proposal and the parking strategy in the Berowra Waters Plan of Management;
- Traffic safety impacts;
- Fauna and flora impacts; and
- Visual impacts.

Because it is associated with the DA to expand and regularise the operations at Berowra Waters Marina (DA 148-06-01), Council has subsequently forwarded this DA to the Minister so that it can be assessed and determined at the same time as the Berowra Waters Marina DA (see separate Assessment Report).

The Department recommends that the Minister formalise this arrangement, by calling in the DA under Section 88A of the *Environmental Planning and Assessment Act 1979* (the Act).

This would make the proposal State Significant Development, and the Minister the consent authority for the DA.

Hornsby Council recommends that the Minister approve the DA subject to conditions.

The Department has assessed the DA, the submissions, and Council's proposed conditions, and recommends that the Minister grant a "deferred commencement" consent to the DA, subject to conditions.

This "deferred commencement" consent is necessary to encourage the Applicant to provide the additional parking required by the Berowra Waters Marina adjacent to the marina in accordance with *the Berowra Waters Plan of Management* rather than at this remote location in Berrilee (see Assessment Report for DA 149-06-01).

2. THE EXISTING SITUATION

The site is located at 69-73 Bay Road, Berrilee, about 2 kilometres from Berowra Waters (see Figure 1).

The site covers an area of about 12.7 hectares, and contains a dwelling, a shed, and a small disused quarry, which is now used as a dam. It is generally flat, but slopes gently northwards to the dam on the property.

In the past, the site was used as a sandstone quarry. Consequently, most of the site has been cleared, and is now covered by grassland, which includes a mixture of native and exotic grasses, weeds, and a few isolated exotic trees, including several fruit trees and a single line of Mexican Pine Trees.

However, there is still a small area of remnant bushland on the south-western corner of the property along the Bay Road frontage, which is a typical example of Hawkesbury Sandstone Ridgetop Woodland.

Bay Road, which connects Galston to Berowra Waters, runs past the site, and falls gradually from east to west as it passes the site.

The site is surrounded by rural development.

Figure 1: The Location of the Proposed Car Park In Relation to Berowra Waters

3. THE PROPOSED DEVELOPMENT

The Applicant is proposing to construct and use a car park on land at 69-73 Bay Road, Berrilee.

The proposed development involves:

- Constructing and using a car park with 34 car parking spaces and two bus spaces;
- Erecting a 2 metre high black chain fence around the new car park with locked gates;
- Constructing a B-type intersection from Bay Road to the property;
- Constructing a driveway from the new entry/exit on Bay Road to the car park;
- Constructing a drainage line (with a detention basin, trash-rack, and oil separator) from the car park towards the existing dam on the property;
- Landscaping the site, and
- Running a courtesy bus/shuttle or valet service between the new car park and the Berowra Waters Marina.

According to the Applicant, the new car park would mainly provide "long stay parking" for boat users at Berowra Waters, but could also provide "overflow" parking for customers of the Berowra Waters Marina during peak periods, and bus parking for the buses that would service the proposed charter ferry service at Berowra Waters Marina. However, perhaps more importantly, it would also enable the Applicant to satisfy the conditions of its original consent for the Berowra Waters Marina (DA 112/80).

To justify the proposal, the Applicant conducted surveys of the use of the public car park on the western side of Berowra Waters and the car park at Berowra Waters Marina over a long weekend in June 1997.

According to these surveys, anywhere between 21 and 89 vehicles were staying overnight in the car parks, with about 9 vehicles staying for 3 nights, and 43 vehicles for 2 nights. In other words, a significant proportion of the parking at Berowra Waters is being used by people who park their vehicles for extended periods.

The Applicant argues that the proposed car park would remove some of these vehicles from the western side of Berowra Waters, and consequently reduce some of the parking pressure in the area during peak periods.

The Applicant lodged a DA for the proposal with Council on 15 October 1999.

This proposal is similar to earlier proposals for the site. In 1995, the Applicant lodged a DA to Council for a car park and shed (to satisfy conditions of consent for the expansion of the Boatshed Marina at Berowra Waters (DA 635/95). Council refused this application in November 1996. Following this refusal, the Applicant lodged an amended DA with Council for a car park (with 6 car/trailer spaces), shed, and water tank, which was refused by Council in April 1997. The Applicant then lodged an appeal with the Land and Environment Court, which refused the DA on traffic safety grounds.

This proposal has been amended to take into account the traffic safety concerns of the Court's Assessor.

Figure 2: The Proposed Development

Because it is associated with the DA to expand and regularise the operations at Berowra Waters Marina, Council has subsequently forwarded this DA to the Minister so that it can be assessed and determined at the same time as the Berowra Waters Marina DA (see Assessment Report for DA 149-06-01).

4. STATUTORY FRAMEWORK

Permissibility

Under the *Hornsby Shire Local Environmental Plan 1994* (LEP), the land is zoned Rural A, although part of the road frontage is zoned Special Uses B (Transport Corridor) Zone.

The Special Uses B (Transport Corridor) Zone is linked to a road widening proposal, which was rescinded in Government Gazette No. 134 on 17 September 1991, and therefore has no impact on the proposal.

Car parking is prohibited in the Rural A zone, but in 1995, Council amended the LEP to specifically allow "parking" on the land at 69-73 Bay Road, Berrilee.

Consequently, the proposed development is permissible with consent.

State Significant Development

Because this proposal is associated with the DA to expand and regularise the operations at Berowra Waters Marina (DA 148-06-01), which is classified as State Significant Development because of the marina declaration, Council has subsequently forwarded this DA to the Minister so that it can be assessed and determined at the same time as the Berowra Waters Marina DA (see separate assessment report).

This does not automatically make the Minister the consent authority for this DA.

Because of its association with the Berowra Waters Marina DA, it could be argued that this DA should be classified as State Significant Development, under Section 76A(8)(b) of the Act, because it "comprises development part of which is State Significant Development."

While there is no doubt that these the two proposals are related, the DA's are not formally linked, and the one proposal could theoretically be developed without the other. In other words, they do not depend on one another. Consequently, the Department believes it would be wrong to classify this proposal as State Significant development under Section 76A(8)(b) of the Act.

Under Section 88A of the Act, however, the Minister may call in a DA if, **having regard to matters that in the Minister's opinion are of significance for State or regional environmental planning, the Minister considers it is expedient in the public interest to do so.**

This DA is related to three other DAs at Berowra Waters that are classified as State Significant Development. Together, these DAs cover most of the commercial activities at Berowra Waters, which is a significant tourist destination in the Sydney region; and they have generated significant opposition, mainly within the local community.

The Minister is currently the consent authority for 3 of the 4 DAs. However, it is widely acknowledged that, for consistency, the 4 DAs should be determined by the same consent authority, partly because they are all related to one another, but also because they deal with the future development of the Berowra waters area, which is a significant recreational and tourist destination.

This has been acknowledged by Hornsby Council, which has forwarded this DA to the Minister for determination with the other DAs.

The Department believes the Minister should formalise this arrangement by formally “calling in” the DA under Section 88A of the Act. This would make the proposal State Significant Development under Section 76A(7)(c) of the Act, and the Minister the consent authority for the DA.

Integrated Development

The DA was submitted and exhibited as Integrated Development, as the Applicant thought the proposal would require an additional approval from the Department of Land and Water Conservation under the *Rivers and Foreshores Improvement Act 1948*.

The Department of Land and Water Conservation has subsequently advised Council that the proposed works are minor, and unlikely to affect any nearby waterbodies; and that consequently, no approval is required under the *Rivers and Foreshores Improvement Act 1948*.

Nevertheless, if the Minister becomes the consent authority for the DA, the Applicant will require an additional approval for the proposed B-type intersection on Bay Road from Council under Section 138 of the *Roads Act 1997*, with the concurrence of the Roads and Traffic Authority (RTA).

Consequently, the proposal would be classified as Integrated Development under Section 91 of the Act.

Relevant Planning Instruments

The following planning instruments are relevant to the proposal:

- *State Environmental Planning Policy No. 44 - Koala Habitat Protection*;
- *Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2- 1997)*;
- and
- *Hornsby Shire Local Environmental Plan 1994*.

The proposal has been assessed against the relevant provisions in these planning instruments in Section 6 and Appendix A.

This assessment concludes that the proposal is consistent with the relevant aims and objectives of these instruments, and satisfies the relevant assessment criteria.

Relevant Policy Documents

- *Berowra Waters Plan of Management*;
- *Hornsby Council Car Parking DCP*;
- *Hornsby Council Rural Lands Interim DCP*; and
- *Hornsby Council Heritage DCP*.

The proposal has been assessed against the relevant provisions in these plans in Section 6 and Appendix A.

5. CONSULTATION

The Applicant lodged the DA for the proposal with Hornsby Council on 15 October 1999.

Council subsequently:

- Notified the surrounding land owners and relevant State Government agencies;
- Advertised the exhibition of the DA in the local newspaper;
- Put up public notices about the DA on the site; and
- Exhibited the DA between 30 March 2000 and 29 April 2000.

This satisfies the requirements for public participation in Division 7, Part 6 of the Regulation.

During the exhibition period, Council received 113 submissions on the DA, 2 from public authorities, and 111 from the general public.

The public authorities - the Department of Land and Water Conservation and Roads and Traffic Authority - do not object to the proposal.

With regards to the general public, however, 104 out of the 111 submissions objected to the proposal. These objections included submissions from several community groups, including the Association for Berowra Creek, the Berowra Waters Progress Association, the Berrilee Progress Association, and the Galston Area Residents' Association.

Most of these objections claim that the proposal is inappropriate development for a rural area, and would not alleviate the parking problems at Berowra Waters.

The main issues raised in the submissions were:

- The apparent lack of consistency between the proposal and the parking strategy in the Berowra Waters Plan of Management;
- Traffic safety impacts;
- Fauna and flora impacts; and
- Visual impacts.

On 6 September 2000, Council resolved to recommend that the Minister approve the DA subject to conditions; and on 12 October 2000, Council forwarded this recommendation to the Department with copies of the DA, plans, submissions, and its recommended conditions of consent.

Since then the Department has held several discussions about the proposal with Council, the Applicant, and the relevant government agencies to resolve a number of issues.

6. CONSIDERATION OF ISSUES

The Department has assessed the DA, the submissions, and Council's recommendations, and believes that the following issues require further consideration.

Strategic Justification

Critics of the proposal generally argue that:

- The car park would not be in keeping with the rural character of the surrounding area;
- The proposal is contrary to the parking strategy in the Berowra Waters Plan of Management; and
- The proposal would not solve the current parking problems at Berowra Waters.

It is worth addressing these arguments one by one.

Out of Character with the Surrounding Rural Area

The Department agrees that, to some extent, the car park would not be in keeping with the rural character of the surrounding area. However, the visual impact of the car park could be greatly reduced with good landscaping and a greater setback; and within a few years, it is likely to be fully screened from the Bay Road, and indistinguishable from the rest of the landscape.

In addition, it should be remembered that Council's LEP specifically provides for car parking on the site, and that this rezoning was made with the express purpose of trying to alleviate some of the current parking problems at Berowra Waters during peak periods.

While it is acknowledged that Council resolved to rezone the site to prohibit car parking on 1 September 1999, it has not acted on this resolution, and has recommended that the Minister approve this proposal subject to conditions. This decision would appear to confirm that in strategic terms the Council is satisfied with both the current zoning and the current proposal, despite the significant opposition from the local community.

Contrary to the Berowra Waters Plan of Management

Numerous submissions argue that the proposal is contrary to the Berowra Waters Plan of Management. This is correct.

The Plan says:

Whilst remote parking is not a preferred solution to parking problems in Berowra waters, it is recommended that it should only be pursued in the event that other options do not proceed within a reasonable period.

The preferred solution for the western foreshore of Berowra Waters is summarised in Figure 4 below.

Figure 4: The Parking Strategy in the Berowra Waters Plan of Management for the Western Foreshore.

On the western foreshore, the parking strategy is to:

- (a) Introduce fees to modify behaviour;
- (b) Convert 20 car/trailer spaces to car spaces to reflect current demand (would create up to 48 car spaces at a cost of about \$50K);
- (c) Reconfigure public car park and provide decked parking at the rear (would create up to 115 spaces at a cost of about \$ 2 million; and
- (d) Improve/maximise road side parking on Bay Road.

The Department supports this strategy, and would prefer to see the parking generated by activities at Berowra Waters Marina accommodated at Berowra Waters.

Consequently, the Department believes the Applicant should be encouraged to provide parking next to the marina in accordance with the parking strategy in the *Berowra Waters Plan of Management* instead of being allowed to build and operate this remote car park in Berrilee (see Assessment Report for DA 149-06-01 for a detailed discussion of this matter).

While the Applicant agrees that this would be the best outcome, and is prepared to provide this parking next to the marina, it is concerned by the fact that it has no direct control over the implementation of the parking strategy, and would need to rely, to a significant extent on the cooperation of Hornsby Council and DLWC, and that the implementation of the strategy could consequently be delayed for an unreasonable period.

Based on an assessment of what needs to be done to implement the strategy, the Department accepts that the implementation of the strategy could be delayed for an unreasonable period.

Consequently, it believes that if, after 18 months of the granting of the Berowra Waters Marina consent (see DA 149-06-01), the Applicant can demonstrate that it has taken all reasonable measures to provide the car parking adjacent to the Berowra Waters Marina in accordance with the *Berowra Waters Plan of Management*, but has been unable to provide this parking, then with the Minister's approval, the Applicant should be allowed to construct the car park in Berrilee in general accordance with this DA.

This arrangement is generally consistent with the parking strategy in the Berowra Waters Plan of Management, which indicates that remote parking should only be provided **in the event that other options do not proceed within a reasonable period.**

The Ineffectiveness of the Car Park

The Department agrees that the proposed car park would not solve the parking problems at Berowra Waters, but the Applicant does not claim that it would do this.

According to the Applicant, the new car park would mainly provide "long term" parking for boat users at Berowra Waters, but could also provide "overflow" parking for customers of the Berowra Waters Marina during peak periods, and bus parking for the buses that would service the proposed charter ferry service at the marina.

Based on an assessment of the surveys, the Department is satisfied that with some advertising and good management, the car park could attract some long term parking away from Berowra Waters, particularly since the new car park would be more secure than the existing car parks at Berowra Waters.

However, the Department thinks the new car park would be less effective at attracting traffic away from the car parks at Berowra Waters during peak periods, and believes that it is only likely to be used as a last resort once the other car parks are saturated, unless parking fees are introduced at these car parks.

If fees are introduced, however, as proposed in the Berowra Waters Plan of Management, then the proposed car park is likely to be much more effective during peak periods.

Consequently, the Department believes that Council should be encouraged to introduce fees in the car park (once it secures the lease for the land), and that the Applicant should be required to prepare and implement a detailed Car Parking Management Plan for the operation of the car park, which clearly describes how the car park would be managed in association with the Berowra Waters Marina.

Traffic Safety

The proposed site for the new car park is located on the northern side of Bay Road, which connects Galston to Berowra Waters.

Bay Road is a 2 lane road, with a carriageway width of 5.5 metres, and gravel shoulders. Although Bay Road climbs relatively steeply from Berowra Waters to the site, and passes through a number of relatively tight curves, it is generally flat in the vicinity of the site. During peak periods, the two way traffic flow on Bay Road averages about 140 vehicles per hour, which equates to about 2 or 3 vehicles a minute.

While the speed limit on Bay Road is set at 70km/hr, traffic surveys at the proposed site suggest that the 85th percentile speed of vehicles travelling downhill to Berowra Waters is 78km/hr, and uphill to Galston is 64km/hr.

The current design of the Bay Road curves gently, and generally limits drivers' sight distance.

To address this, the Applicant is proposing to widen Bay Road to provide an exclusive right turn bay for vehicles travelling uphill from Berowra Waters and turning into the new car park.

The main issue is whether this intersection would be safe enough for drivers to observe any possible conflict and take any necessary evasive action.

In December 1997, the Land and Environment Court refused a similar proposal for a car park on the site because the "public benefit in providing the parking area at the subject land is such as would not outweigh the risk (even if it is a low risk) to public safety from the presently proposed intersection."

In his judgment, however, Assessor Nott noted that the potential traffic safety impacts of the proposed intersection could be reduced significantly if it was moved about 20 metres further to the south-west, as this would increase the sight distance for vehicles travelling down to Berowra Waters, and allow vehicles travelling up from Berowra Waters to pass any vehicles turning right into the site in the outside lane.

The current proposal differs from the earlier proposal in that the proposed intersection has been moved, as suggested by Assessor Nott, further to the south-west, and therefore maximises the sight lines of the intersection.

The RTA *Road Design Guide* recommends a design speed of 60km/hr for rolling rural terrain. However, given the current 70km/hr speed limit and the 85th percentile speeds measured at the site, a design speed of 70km/hr is considered more appropriate.

In the following table, the design of the proposed intersection is compared against the recommended design for speeds of 80km/hr and 60km/hr:

	Actual		Design	Design
	Western Approach	Eastern Approach	80 km/hr R 1.5sec	60km/hr R 1.5sec
Safe Intersection Sight Distance	265m	158m	160m	105m
Approach Sight Distance	265m	78m	100m	60m
Horizontal Alignment Curve Radius	R 147.75		R 240-320	R 90-140

From this table, it is clear that the geometry of the proposed intersection is generally in accordance with the requirements in the RTA *Road Design Guide* for an 80km/hr design speed, except for the design radius which complies with the 60km/hr design speed, and almost complies with the 70km/hr design speed (R 150).

While this is not ideal, it should be noted that the existing design radius of Bay Road in this location is for a design speed of between 60km/hr and 70km/hr, so the proposed intersection would have little or no impact on the current arrangement.

Consequently, the Department is satisfied that the design of the proposed intersection is satisfactory, and that it would be safe enough to allow drivers to observe any possible conflict, and take any necessary evasive action.

Under Section 138 of the *Roads Act 1993*, the Applicant requires an approval for the proposed works on Bay Road from Council, with the concurrence of the RTA. The RTA has not objected to the proposal, and Council has granted its General Terms of Approval for the proposed road works.

The Department has incorporated these General Terms of Approval into the proposed conditions of consent.

Figure 3: The Plan for the Proposed B-Type Intersection

Fauna and Flora Impacts

The site contains two types of vegetation:

- Disturbed vegetation associated with the previous activities on site; and
- Remnant vegetation on the south-western corner of the site.

The majority of the site is covered by disturbed vegetation, which is dominated by grassland. This grassland includes a mixture of native and exotic grasses, weeds, and herb species; and contains several isolated exotic trees, including a few fruit trees and a single line of Mexican Pine Trees along the Bay Road frontage.

The remnant bushland on the south-western corner of the site is classified as Hawkesbury Sandstone Ridgetop Woodland, and contains a mixture of Grey Gum, Scribbly Gum, and Red and Yellow Bloodwood Trees.

The most significant fauna and flora impacts of the proposal are likely to be associated with the proposed driveway for the new car park, which is expected to run through the middle of the remnant bushland. This driveway would result in the removal of up to 30% of the remnant bushland, including 2 trees that are considered to be "significant", and 5 trees that are considered to be "worthy of retention".

The DA includes several reports which assess the potential fauna and flora impacts of the proposal, including a Flora and Fauna Assessment prepared by LesryK Environmental Consultants (dated June 1996), a preliminary Flora and Fauna Assessment prepared by Ecosearch Environmental Consultants (dated 20 December 1999), a Threatened Frog Report prepared by H.G. Cogger (dated 27 May 1997) with supplementary information (dated 17 December 1999).

These investigations did not find any habitat on the site that is significant for the conservation of any threatened species, population, or ecological community; nor did they find any threatened species on the site, although they acknowledged that threatened species may use the site from time to time. Consequently, these studies concluded that the proposal would not have any significant fauna or flora impacts.

The Department agrees with this conclusion, as most of the site is comprised of degraded grassland, and the remnant woodland is ultimately a small representative of the woodland in the surrounding reserves, and has little or no connective value. In order to minimise the potential flora and fauna impacts of the proposal, however, these studies suggest that the Applicant should be required to:

- Prepare a detailed Erosion and Sediment Control Plan for the proposal;
- Limit the removal of mature trees and remnant vegetation;
- Salvage and relocate large tree hollows (> 20cm in diameter) during construction;
- Provide compensatory planting, comprising of native species, preferably from seeds that are collected locally;
- Remove the weeds on the site, and minimise any weed invasions in the future;
- Use native soils in the proposed landscaping works; and
- Use sterile crushed sandstone for the road base of the driveway.

Figure 5: Photo of the Site From Bay Road

Visual Impact

Certain aspects of the proposal could have adverse visual impacts on the surrounding area, particularly the removal of vegetation, the construction of the car park in a predominantly rural area, and the installation of external lighting.

Loss of Vegetation

While the removal of up to 30% of the remnant vegetation on the site is unlikely to have any significant flora or fauna impacts, it is expected to have an adverse impact on the Bay Road streetscape. In particular, it would result in the removal of 2 of the 5 trees that are considered to be “significant” and 5 of the 21 trees that are considered to be “worthy of retention”.

Given the design requirements of the new exit/entry to the site (to minimise the potential traffic safety impacts of the proposal), the Department is satisfied that the Applicant has tried to keep the removal of significant trees and remnant vegetation to a minimum.

In addition, the Applicant is proposing to provide additional landscaping on the site to compensate for the loss of this vegetation, and minimise the potential visual impacts of the proposal. This landscaping would eventually screen the new car park, and improve the appearance of the Bay Road streetscape.

The DA includes a Landscape Plan for an earlier scheme on the site, which is not strictly relevant to the current proposal. Nevertheless, the Department believes that the general principles of this plan are satisfactory, and is satisfied that a suitable plan could be developed to minimise the potential visual impacts of the proposal.

Nevertheless, the Applicant should be required to:

- Retain and protect trees numbered 3006, 3098, 3092, 3035, 3059, 3032, 3037, 3063, 3062, 3034, 3089, 3091, 3090, 3099, 3094, 3113, 3108, 3109, 3107, and 3110 on plan 49531.03.P03;
- Remove - and dispose of - all the weeds and/or noxious plants from the area surrounding the car park using appropriate bush regeneration methods;
- Keep the area surrounding the car park free of weeds and/or noxious plants throughout the life of the development; and
- Prepare and implement a Landscape Management Plan for the proposed development, which includes a:
 -) Tree, Vegetation, and Weed Removal Plan;
 -) Tree and Vegetation Protection Plan; and
 -) Site Rehabilitation and Landscaping Plan.

Setback

The proposed car park is currently only setback 20 metres from Bay Road, as opposed to the 30 metres required in Council’s *Rural Lands Development Control Plan*.

Consequently, the Department believes that Applicant should be required to increase the setback of the proposed car park to at least 30 metres.

This, in conjunction with the proposed landscaping of the site, would help to reduce the potential visual impacts of the proposal.

Lighting

The Applicant is proposing to install lighting at the car park. Unless properly managed, this lighting could have an adverse impact on the surrounding semi-rural area.

The DA does not contain any details on the proposed lighting for the new car park. The Applicant should therefore be required to:

- Ensure that any external lighting associated with the development:
 -) Uses the minimum level of illumination necessary; and
 -) Is mounted, screened, and directed in such a manner that it does not create a nuisance to surrounding land uses; and
- Submit details on any external lighting to the Director-General for approval with the Construction Management Plan.

Soil and Water Management

The construction and operation of the car park could have potential soil and water quality impacts.

The DA includes a Report on Soil and Water Quality Management on an earlier scheme, which was prepared by Patterson Britton and Partners (dated 10 November 1997). Although this report is not strictly relevant to the proposal, it demonstrates that the potential soil and water quality impacts of the proposal could be adequately mitigated or managed.

In general terms, the stormwater from the car park would be conveyed by a grass swale to a detention basin adjacent to the disused quarry on site. The new stormwater system would have a trash rack and an oil separator to capture any litter or oil from the car park. During storm events, the water would flow from the detention basin to the disused quarry, where it would remain in the dam for long enough to allow the sediment to settle out of suspension, and for natural processes to reduce the nutrient loads.

The Department is generally satisfied with this proposal, but believes the Applicant should be required to prepare and implement a detailed:

- Erosion and Sediment Control Management Plan for the proposal in accordance with the Department of Housing's guidelines *Managing Urban Stormwater: Soils and Construction*; and
- Stormwater Management Scheme for the proposal, which can satisfactorily drain rainfall intensities for an average recurrence interval of 20 years, in accordance with Council's *Civil Works and Construction Specifications 1999*.

Noise Impacts

The proposal could generate noises which may disturb residents in the surrounding area, such as the banging of car doors, starting of car engines, etc..

A noise impact assessment of an earlier scheme for the site concluded that these noises would not cause any unreasonable disturbance to residents in the surrounding area. The Department agrees with this assessment, but believes the Applicant should be required to:

- Restrict the use of the car park to between 7am and 9pm, although vehicles may be stored overnight in the car park; and
- Ensure that the development does not generate any offensive noise during operations.

This will ensure that the noise generated by the car park operations would generally be heard against the other day-time background noises, including the traffic noise on Bay Road.

Heritage Impacts

The proposal is unlikely to have any impact on the heritage significance of the large property on the eastern side of Bay Road, opposite the site, which has been listed as a heritage item in Council's LEP, and by the National Trust.

Construction Management

The proposal involves very little construction work, and the impacts associated with this work are expected to be minimal.

Nevertheless, the Applicant should be required to:

- Carry out all construction work during regular construction hours;
- Prepare and implement a detailed Construction Management Plan for the proposed development.

Environmental Management

To ensure that the development's operations are carried out efficiently and effectively, the Applicant should be required to:

- Prepare and implement a detailed Environmental Management Plan for the car park's operations, which includes a detailed management plan explaining how the new car park would operate in association with the operations at Berowra Waters Marina;
- Keep detailed records of the use of the car park;
- Submit an Annual Environmental Report to the Director-General on the development; and if necessary,
- Commission and pay the full cost of an independent environmental audit of the development.

7. SECTION 79C CONSIDERATION

Section 79C of the Act sets out the matters that a consent authority must take into consideration when it determines a DA.

The Department has assessed the DA on its merits against these heads of consideration (see Section 6 and Appendix A), and is satisfied that the proposal is generally consistent with the provisions of the relevant planning instruments, that the potential impacts of the proposal could either be mitigated or managed.

However, the Department believes that it would generally be in the public interest to provide this parking, which is required by the Berowra Waters Marina, at Berowra Waters in accordance with the parking strategy in the *Berowra Waters Plan of Management*, rather than at Berrilee.

Consequently, the Department recommends that the Minister grant a "deferred commencement" consent to this DA.

8. RECOMMENDED CONDITIONS OF CONSENT

The Department has prepared a set of draft conditions for the proposal. These conditions include Council's proposed conditions, and the suggested conditions of certain government agencies.

These conditions are required to:

- Modify details of the proposal;
- Ensure consistency with the *Berowra Waters Plan of Management*;
- Minimise any adverse environmental impacts associated with the proposal;
- Provide for the on-going environmental management of the proposal; and
- Provide for regular auditing and reporting on the proposal's operations.

The Applicant has reviewed and accepted these proposed conditions.

9. CONCLUSION

The Department has assessed the DA, the submissions on the proposal, and Council's proposed conditions.

While the Department is satisfied that this proposal would help to reduce the existing parking problems at Berowra Waters by providing secure "long stay" parking for boat users, particularly if parking fees are introduced at the public car park on the western foreshore of Berowra Waters as proposed by the *Berowra Waters Plan of Management*, the Department believes that it would be better to provide this parking next to the marina in accordance with the parking strategy in the *Berowra Waters Plan of Management*.

Consequently, it believes the Minister should grant a "deferred commencement" consent to the DA subject to conditions.

This would ensure that the Applicant takes all reasonable measures to provide the parking next to the Berowra Waters Marina in accordance with the parking strategy in the *Berowra Waters Plan of Management*, but if after 18 months the Applicant has taken all these measures and has been unable to provide the parking, then with the Minister's approval, it would allow the Applicant to construct and build the car park at Berrilee in general accordance with this DA.

10. RECOMMENDATION

It is recommended that the Minister:

- (a) Consider the findings and recommendations of this report;
- (b) Determine that the proposed development concerns matters that are of significance for State or regional environmental planning, and that it is expedient in the public interest to call in the application under Section 88A of the Act;

- (c) Grant a “deferred commencement” consent to the DA subject to conditions under Section 80(3) of the Act; and
- (d) Sign the attached Instrument.

Endorsed:

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A/Senior Environmental Planning Officer

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Executive Director

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