

**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 for Urban Affairs and Planning approve the development application in Schedule 1 subject to the conditions in Schedule 2.

These conditions are necessary to:

- (i) Minimise any adverse environmental impacts associated with the development;
- (ii) Provide for the on-going environmental management of the development; and
- (iii) Provide for regular monitoring and reporting on the development.

Andrew Refshauge
Minister for Urban Affairs and Planning

Sydney,

26 September, 2001

File No: S01/00160

Schedule 1

Development Application:	DA No. 162-07-01.
Applicant:	Birkenhead Investments Pty. Ltd..
Consent Authority:	Minister for Urban Affairs and Planning.
Land:	Birkenhead Point Marina, Roseby Street, Drummoyne.
Proposed Development:	The proposed development involves the repair and renovation of the existing breakwaters, pontoons, access gangways, piles and marina services.
State Significant Development:	The Minister's declaration on marina development in 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 <i>Environmental Planning and Assessment Act 1979</i> .
Integrated Development:	The proposed development requires an additional approval from the Environmental Protection Authority under the <i>Protection of the Environmental Operations Act 1997</i> , and is therefore classified as Integrated Development under Section 91 of the <i>Environmental Planning and Assessment Act 1979</i> .
BCA Classification:	Marina Pontoons Class 10b

SCHEDULE 2 CONDITIONS OF CONSENT

DEFINITIONS

The Act	Environmental Planning and Assessment Act 1979
The Applicant	Birkenhead Investments Pty. Ltd.
BCA	Building Code of Australia
Council	City of Canada Bay
DA	Development Application
The Department	Department of Urban Affairs and Planning
The Director-General	Director-General of the Department of Urban Affairs and Planning, or her delegate.
EPA	Environmental 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. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA submitted to the Department by the Applicant, dated 3 July 2001;
 - (b) SEE, titled *Repair and Refurbishment Birkenhead Point Marina*, prepared by Planningenuity Pty. Ltd., dated 13 June 2001; and
 - (c) Conditions of this consent.
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 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.

Structural Adequacy

5. The Applicant shall ensure that all building work complies with the relevant requirements of the BCA and AS 3962-1991 - *Guidelines for the Design of Marinas*.
6. Before any construction work starts, the Applicant shall obtain a Construction Certificate for the proposed development from the Principal Certifying Authority.

Note: The Applicant will require an additional construction approval for the proposed development from the Waterways Authority under the Maritime Services Act 1935. To obtain this approval, the Applicant must submit suitable working drawings and specifications to the Waterways Authority, which comply with the relevant provisions in the Guidelines for Waterside Structures, and clearly describe the proposed works below the Mean High Water Mark. The Applicant shall not carry out any construction work before the Waterways Authority has approved these drawings and specifications in writing.

Compliance

7. Throughout the life of the development, the Applicant shall secure, renew, maintain, and comply with all the relevant statutory approvals for the development.
8. The Applicant shall ensure that its employees, contractors, sub-contractors, and lessees are aware of, and comply with the conditions of this consent.
9. Before carrying out any construction or demolition work, the Applicant shall certify in writing to the Director-General that it has obtained all the necessary statutory approvals for the marina's operations, and complied with all the relevant conditions of this consent and/or any other statutory requirements for the development.
10. After completing the proposed works, the Applicant shall certify in writing to the Director-General that these works have been completed in accordance with all the relevant conditions of this consent and/or any other statutory requirements for the development.

SPECIFIC ENVIRONMENTAL CONDITIONS

Limits on Operations

11. Upon completion of the works, the marina shall provide berths for a maximum of 187 vessels.

Noise

12. Unless the EPA agrees otherwise in writing, the Applicant shall ensure that all construction work associated with the development is carried out between 7am and 6pm Monday to Friday or between 8am and 1pm on Saturdays.
13. No construction work shall be carried out on Sundays and Public Holidays.
14. Unless the EPA agrees otherwise in writing, the Applicant shall not carry out impact piling.
15. Before starting any construction or piling activities, the Applicant shall advise, by letter drop, residents whose premises are likely to be affected by offensive noise levels. The letter must advise residents when they are likely to be affected by noise, state the reasons for the noise nuisance, and provide contact details to register complaints. The Applicant must record all noise complaints in a logbook, and make this logbook available on request to any officer from the EPA or the Department.

Waste Management

16. The Applicant shall completely remove the following structures from the from the Waterways Authority's land:
 - (a) All structures for the travel lift runway;
 - (b) The pontoons and associated gangways forming the existing arms A, B, C, D, H and L; and
 - (c) All existing pontoon restraining piles that are not required by the refurbished marina.
17. All piles that are proposed for removal shall be completely withdrawn from the bed of Parramatta River and not cut off.
18. The Applicant shall manage all demolition waste in accordance with the EPA's *Environmental Guidelines - Assessment, Classification and Management of Liquid and Non-Liquid Wastes*.

Water Quality

19. All demolition and construction works shall be carried out in a manner that minimises the potential for materials, including sediments and other pollutants, to enter the Parramatta River.
20. The Applicant shall remove any material that enters Parramatta River immediately.
21. A floating boom and silt curtain shall be made available at the construction site for deployment around areas where piling and berth structures are being removed and/or installed.
22. If a visible plume occurs, the Applicant shall deploy the floating boom and silt curtain. This must remain in place until the pile or berth structures have been removed or installed. The silt curtain is required to extend from the surface of the water to at least two metres below the surface.
23. The Applicant shall ensure that spillage equipment (such as absorbent pads, absorbent booms, and deployment facilities) shall be made available at the construction site to absorb any surface pollutants that may enter Parramatta River.
24. The Applicant shall ensure that the piling activities do not cause the total suspended solids (TSS) level within 1 metre from the pile to exceed the background TSS level by more than 50mg/l. Background levels must be established by taking a representative measurement within waters 25 metres from the piling activity. For the purposes of this condition, an indication of TSS levels may be established using a turbidity meter - readings less than 25 nephelometric turbidity units (NTU) shall be considered to be less than 50mg/l TSS.
25. The Applicant shall take two measurements to establish NTU levels within 1 metre from the pile during piling activities.
26. If any turbidity readings taken in accordance with the above two conditions exceed 25 NTU, the Applicant shall:
 - (a) Take a sample to analyse the TSS level;
 - (b) Record all NTU and TSS levels in a logbook that is made available to an officer of the EPA on request; and
 - (c) Report to the EPA any TSS levels found to be above 50mg/l within one week of the results being made available to the licensee.

Access

28. The Applicant shall ensure that the public has access to arm A of the marina during regular business hours.
29. The Applicant shall ensure that access to arm A of the marina is in general accordance with relevant provisions of the *Disability Discrimination Act 1992*.

30. The Applicant shall ensure that staff are available, whenever required, to provide direct assistance to any persons with disabilities using the ramp to arm A.
31. Before commissioning the berths on arm A, the Applicant shall erect and maintain a sign at the entrance to arm A. This sign shall advise that public access is permitted, and that assistance is available for anyone with impaired mobility who wants to use the ramp to arm A. It must also include the phone number of the marina attendant, and directions to the marina office.

Marina Compliance

32. No vessels are permitted to berth or moor to the North side of arm A or to the South East side of arm H at any time, except at the sewerage pump-out facility.
33. The Applicant shall erect signs, at no greater than 30 metre intervals, on the North side of arm A and the South East side of arm H which prohibit the berthing/mooring of vessels at any time, except at the sewerage pump-out facility.
34. The Applicant shall maintain each sign at all times, and illuminate each sign between sunset and sunrise.

ENVIRONMENTAL MANAGEMENT PLANS

Construction Management Plan

35. The Applicant shall prepare and implement a Construction Management Plan for the proposed development. This plan must:
- (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) Included a detailed:
 - Construction Erosion and Sediment Control Plan;
 - Construction Waste Management Plan;
 - Construction Noise Management Plan;
 - Construction Spill Management Plan;
 - Construction Traffic Management Plan.
36. 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.

Environmental Management Plan

37. The Applicant shall prepare and implement an Environmental Management Plan for the operations of the marina. This plan must:
- (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 marina'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 marina's operations; and
 - (g) Include a detailed:
 - Berthing Management Plan;
 - Noise Management Plan;
 - Water Quality Management Plan;
 - Waste Management Plan; and
 - Emergency Management Plan.
38. The Applicant shall submit this plan to the Director-General for approval within one month of completing the proposed construction works.
39. The Applicant shall make a copy of this Environmental Management Plan available to the public on request.
40. The Applicant shall review and update this Environmental Management Plan regularly, or as directed by the Director-General.

Annual Environmental Audit

41. Within twelve months of completing the repair and refurbishment of the marina, 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 marina. This audit must:
- (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 marina's operations, and its impacts on the surrounding environment;
 - (c) Assess whether the marina is complying with the relevant standards, performance measures and statutory requirements;
 - (d) Review the adequacy of the marina's Environmental Management Plan; and if necessary,
 - (e) Recommend measures or actions to improve the environmental performance of the marina, and/or the marina's Environmental Management Plan.
42. Within 1 month of commissioning the audit, the Applicant shall submit a copy of the Independent Environmental Audit report to the Director-General.