

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

**MODIFICATION (DA 150-06-01 MOD 4)
OF
DEVELOPMENT CONSENT (DA 150-06-01)**

BEROWRA WATERS EASTSIDE MARINA

**PURSUANT TO SECTION 80 AND SECTION 96(2) OF THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979**

(FILE NO. S00/01499)

I, Michael Woodland, Director, Metropolitan Projects, as delegate of the Minister for Planning, under Instrument of Delegation dated 25 January 2010, pursuant to Section 80 and Section 96(2) of the *Environmental Planning & Assessment Act, 1979*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.

The reasons for the modification of the consent are:

- (1) To modify the approved site plan.



Michael Woodland
Director
Metropolitan Projects

Dated this **28** day of **July**, 2010

SCHEDULE 1**PART A – TABLE**

Development Application:	DA No. 150-06-01
Applicant:	Cameron Brae Pty Ltd PO Box 373, Narellan NSW 2567
Consent Authority:	Minister for Planning
Land:	Lot 468 in DP 729619 & Special Lease No. 1989/3
Proposed Development:	<p>The Proposed development involves:</p> <ul style="list-style-type: none"> • Installing a new dry dock (19 metres x 8 metres); • Using the new dry dock and the unlawful dry dock (13 metres x 8 metres) for boat maintenance and repair work; • Replacing and using the two marina pontoons, which run east-west from the marina building (37.8 metres x 3 metres) with small pontoons at the western end of each pontoon (8 metres x 3 metres), to berth up to 29 vessels; • Using the unlawful dinghy storage pontoon (10 metres x 4 metres) to store dinghies that are used in association with the vessels on swing moorings in the adjoining waterway; and • Using the unlawful pontoon (20 metres x 3 metres) adjacent to the dinghy storage pontoon, which runs north-south from the marina building, to provide "short stay" berths at the marina.
State Significant Development:	The Minister's declaration of 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 <i>Environmental Planning and Assessment Act 1979</i> .
Development consent granted by:	Minister for Planning
On:	20 December 2001
As modified:	<p>DA 150-06-01 MOD 1, approved under s96(1A) of the Act by the Minister for Planning, on 7 June 2002.</p> <p>DA 150-06-01 MOD 2, approved under s96(1A) of the Act by the Minister for Planning, on 14 October 2002.</p> <p>DA 150-06-01 MOD 3, approved under s96(1A) of the Act by the Minister for Planning, on 23 December 2002.</p>

**PART B – NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT
DA 150-06-01 MOD 4*****Responsibility for other approvals / agreements***

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within **12** months after the date on which the Applicant received this notice.

Appeals – Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal Notices

Any advice or notice to the consent authority shall be served on the Director General.

PART C – DEFINITIONS

The definitions within this modification are consistent with the definitions in Schedule 2 of the consent to development application DA 150-06-01.

SCHEDULE 2

MODIFICATION (DA 150-06-01 MOD 4) OF DEVELOPMENT CONSENT TO DEVELOPMENT APPLICATION NO. DA 150-06-01

The development consent is modified as follows:

a) Amend Schedule 1 as follows;

Proposed Development

The proposed development involves:

- Installing a new dry dock (19 metres x 8 metres);
- Using the new dry dock and the unlawful dry dock (13 metres x 8 metres) for boat maintenance and repair work;
- Replacing and using the two marina pontoons, which run east-west from the marina building (~~37.8 metres x 3 metres~~) **(56.1 metres x 2 metres)** with small pontoons at the western end of each pontoon (~~8 metres x 3 metres~~) **with finger pontoons between dual berths (7 metres x 1 metre)**, to berth up to 29 vessels;
- ~~Using the unlawful dinghy storage pontoon (10 metres x 4 metres) to store dinghies that are used in association with the vessels on swing moorings in the adjoining waterways~~ **The storage of dinghies used in association with the vessels on swing moorings in the adjoining waterways;**
- Using the unlawful pontoon (~~20 metres x 3 metres~~) **(19 metres x 2 metres)** adjacent to the ~~dinghy storage pontoon~~, which runs north-south from the marina building, to provide "short stay" berths at the marina.

b) Amend Condition 2 as follows;

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:

- a) DA, dated 1 March 2000, submitted to Council by the Applicant, and modified by the:
 - Letter sent to Tony Moody by Peter Lean, dated 3 August 2000, outlining the changes to the location of the proposed dry dock; and
 - Fax sent to the Department by Peter Lean on 16 May 2001;
- b) SEE, titled "Berowra Waters Marina Pty. Ltd. Floating Pontoon Dry Dock Statement of Environmental Factors", prepared by CW Henstock & Associates Pty. Ltd.;
- c) **SEE, titled "Statement of Environmental Effects – Application to Modify Development Consent", prepared by Inspire Urban Design and Planning Pty Ltd.;**
- ~~e) d)~~ Plans accompanying the DA and SEE marked ~~CB200/4-A~~ **Berowra Waters Marina Eastside – Proposed Pontoon Layout (amended 22 April 2010)**; CB200/2 and CB200/3 (dated 30 September 1999) prepared by David Sheiles; and the drawings 99/016-1,2,3,4 and 5 prepared by C.W. Henstock & Associates; and
- ~~d) e)~~ Conditions of this consent.

3. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.

c) Amend Condition 11 as follows;

Limits on Operations

11. The Applicant shall comply with the following limits on the marina's operations:

- a) The marina pontoons (~~37.8 metres x 3 metres~~) **(56.1 metres x 2 metres)**, which run east-west from the marina building with small pontoons (~~8 metres x 3 metres~~) at the western end of each pontoon **with finger pontoons between dual berths (7 metres x 1 metre)**, shall only be used to berth a maximum of 29 vessels;
- b) ~~The unlawful dinghy storage pontoon (10 metres x 4 metres) shall only be used to store dinghies that are used in association with vessels on swing moorings in the adjoining waterway;~~ **The storage of dinghies within the site/lease boundaries of the marina shall be carried out in association with vessels on swing moorings in the adjoining waterway, and leased by the Marina. Dinghy storage facilities at the Marina must be provided for as long as the swing moorings in the adjoining waterway are in operation and associated with the Marina;**
- c) The unlawful pontoon (~~20 metres x 3 metres~~) **(19 metres x 2 metres)**, adjacent to the dinghy storage pontoon which runs north-south from the marina building, shall only be used to provide "short stay" berths¹ at the marina;
- d) The two dry docks shall not be used in tandem to repair or maintain vessels that are longer than 19 metres;
- e) No vessel of 25 metres or longer shall be maintained or repaired at the marina;
- f) No more than 4 vessels shall be maintained or repaired out of water at the marina (this includes the two dry docks at any one time, but this excludes boats that are being stored (but not maintained or repaired) on trailers at the marina;
- g) The dry docks shall only be used between 7am and 6pm Monday to Friday, and between 8am and 4pm on Saturdays, Sundays, or public holidays;
- h) No boat maintenance or repair work that could generate air emissions (mainly dust and spray) shall be carried out on the dry docks unless this work is fully enclosed, and the potential pollutants generated by this work are wholly contained within the enclosure; and
- i) No vessels shall be berthed adjacent to the dry docks at any time.

d) Add the following conditions;

Pontoon Construction

40. The main northern and southern pontoons and eastern (foreshore) pontoon must be constructed in accordance with the following requirements:

- a) Stockpiling, cutting and sanding must be performed a minimum of 10 metres from the shoreline and screened by sediment fencing.
- b) No alteration of the natural gradient or scouring of the shoreline.
- c) Works performed above the waterway must include preventative control measures (such as booms, silt curtains, dust bags, covers, aprons or barrier controls) to ensure dust and particulate pollutants are captured and contained and to prevent the escape of turbid plumes into the aquatic environment.

¹ "Short stay" berths are for vessels that are going to use the marina's facilities (particularly the chandlery, grocery, and liquor store) for short periods of time (up to 2 hours), and should not be used to berth boats for longer periods of time or overnight unless there is an emergency. These berths are different to "commuter" berths, which are used by residents in the surrounding area, who live on the waterway and rely on the public parking at Berowra Waters to park their cars. The "short stay" berths must not be used as "commuter" berths.

- d) *Piles must be well spaced to allow full tidal flushing, wave current and shall not alter flow patterns or impede fish passage.*
- e) *No outlying wires or obstructions to project outside the extremities of the pontoons.*

Environmental Impact Management

- 41. *Should it be determined that Acid Sulfate Soil conditions are present, an Acid Sulfate Soil management plan must be prepared and submitted to the Director General of the Department of Planning. The management plan preparation must be undertaken in accordance with the Acid Sulfate Soil Manual, Acid Sulfate Soil Management Advisory Committee, 1998.*
- 42. *The site must be managed in accordance with the publication 'Managing Urban Stormwater – Landcom' (March 2004) and the Protection of the Environment Operations Act 1997 by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.*
- 43. *All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).*

END OF MODIFICATIONS TO DA 150-06-01 MOD 4