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Olivia Ramage
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Dear Olivia,

Thanks for your email. We acknowledge the issues that Council has raised regarding DA2023/0181 for the construction of a Mooring Pen at 7 Florence Terrace Scotland Island. The matters stated in the letter requesting further information (D15.15 and D15.17) have already been thoroughly explained and justified in the Statement of Environmental Effects of the initial application. Note that according to the Environmental Planning and Assessment Act 1979, the purpose of Development Control Plans (DCP) is only to make provisions and are not statutory requirements. We would respectfully request that council are more flexible with the DCP controls and take into consideration the actual site conditions, being that it is a water access only site and that the berthing area is an essential requirement for water transportation to and from their property. The justifications below further re-iterate our arguments and justifies how the original application should be deemed acceptable and satisfactory.

D15.15 – Waterfront Development Controls – b) Berthing Areas

The Statement of Environmental Effects has already justified in Section 5.4 Variation Request the need for applicant to retain their swing mooring abutting their property due to the reasons below:

Water Only Access Site

The subject site on 7 Florence Terrace is a water access only site, meaning that the homeowners and their family members can only travel via boat to their home. The occupants require both a swing mooring and mooring pen to undertake different aspects of their day-to-day life, which emphasizes that the berthing area is required for essential travel and not only for recreation. Therefore, the extra mooring pen is important as it is a substitution to the need for a land vehicle, as there may be more than 1 vessel at site at any one time including visitors, commercial barge, deliveries, differing site attendance time frames etc.

Equitable ability to travel

Also, it should be noted that there are several members of the family. All family members should have an equitable ability to travel from their residence. One berthing area is insufficient to satisfy the travelling needs for all homeowners in the residence. Hence, it is crucial to have more than 1 mooring area to store their multiple modes of water transportation and ensure that the Millar family has access to equitable transit.

Crown Lands directive for all

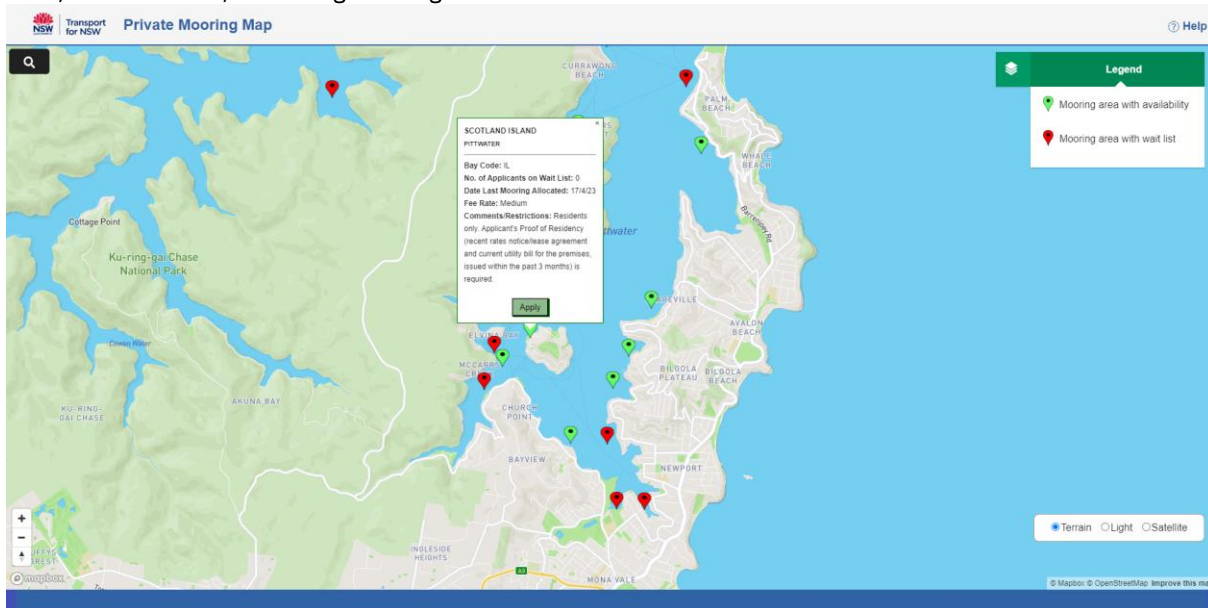
Furthermore, it is vital to highlight the recent directive from Crown Lands that all water access only properties are to have a Mooring Pen to legitimately berth the adjacent homeowner's vessel permanently. This emphasizes that the proposed Mooring Pen not only a priority, but a necessary requirement for the subject site. Due to the site being a water access only area and that there is an essential need for all family members to have equitable access for daily travel, it is justified that the proposed Berthing had to exceed the one of Council's numeric DCP controls, allowing the proponent to hold a swing mooring and have access to a Mooring Pen concurrently.

D15.17 – Moorings

In terms of clarifying Maximum Swing Mooring number in D15.17, as mentioned in the Statement of Environmental Effects, we have done the due diligence to research on the existing number of Swing Moorings in the Scotland Island and the Pittwater Area. Specifically, we have tried contacting both Maritime and the Northern Beaches Council but failed to obtain a definite result from both. Harbour Planning called Maritime on 24/1/23 to find out about the existing number of moorings. However, Maritime mentioned that they were only in charge of Swing Moorings, and that they did not have an accurate number of Mooring Pens in that area. Thereafter, Harbour Planning tried to contact Northern Beach Council on 25/1/23 regarding this matter as shown on the attached email. However, Daniel Robinson from Northern Beaches Council was unable to give us a numerical answer about the existing number of Mooring Pens and redirected us back to Maritime. Although a definitive number cannot be found, we are quite certain that the number of moorings will not exceed the maximum number in the Pittwater area

(refer to below paragraph). Now, we would respectfully like to ask Council to conduct the due diligence by helping us find out the number of moorings in the area and provide us with the answer.

In addition, as shown in the screenshot below from Maritime's Private Mooring Map dated 24/04/2023, the Scotland Island area is a Mooring Area with Availability and there are zero applicants on the waiting list for swing moorings. This indicates that there are further allotments for swing moorings. Therefore, the Scotland Island Mooring Area can accommodate the proposed mooring pen on the site whilst being under the combined quota (276) for Mooring Pens, Marina Berths, and Swing Moorings.



Despite the above, and in a worst-case scenario, being that marina berths, swing moorings and mooring pens are at the prescribed limit, section D15.17 Moorings of the Pittwater 21 DCP states that "restrictions for individual Mooring Areas may be increased if needed, with a subsequent reduction from other Mooring Areas where spare capacity exist". Hence our Crown Lands Land-owner's Consent. Given the water access only nature of the subject site, the proposed mooring pen is critical to the occupants of the site. It provides permanent berthing of their vessel which facilitates the only form of transport to and from their home. Further, it is also consistent with a recent directive from Crown Lands that all water access only properties are to have a Mooring Pen to legitimately berth the adjacent homeowner's vessel permanently.

We have undertaken our due diligence to contact both Council and Maritime but did not get a definitive answer. As the DCP is written by Council, we respectfully believe Council should have the responsibility to check the number of moorings or at least, provide a definitive method for the applicant to check. Finally, we want to emphasize that the DCP is only to make provisions and is not a Statutory Requirement, and we have justified in both the Statement of Environmental Effects and this email that due to the site being a water-access property, this proposal is required to allow the homeowners and their family to achieve an equitable use of the waterway, and they should not be required to relinquish the licence for a private swing mooring. This email and the Statement of Environmental Effects submitted initially to Council have both justified the need to seek variation to D15.15 and that we have done our due diligence but cannot find a definitive answer for D15.17. We respectfully request Northern Beaches council take into consideration the property's specific site conditions. Please contact our office on 9523 1455 should you have any enquiries or would like to discuss further.

Kind Regards,

Adrian Leung

Harbour Planning Pty Ltd