
From: Michael Gray
Sent: 4/11/2024 1:31:17 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: DA2024/1409 - 122A Crecent Road Newport Residential Jetty Facilities
Attachments: 241027_DA2024_1409 122A The Crescent (Jetty) Submission Gray.pdf;

Good Afternoon Nic,

Please find attached my submission on the above application.

Any questions please call or email.

Regards,

Michael Gray


Michael Gray
Rednal Street
MONA VALE NSW 2103

4th November 2024

Nick England
Development Assessment
Northern Beaches Council
Strategic Planning and Place

By email; council@northernbeaches.nsw.gov.au

**RE: DA2024/1409 – 122A Extension of Jetty Facilities CRESCENT ROAD NEWPORT – THE MOORINGS, NEWPORT
SUBMISSION MICHAEL AND MARIAN GRAY – 38 REDNAL STREET, MONA VALE**

Summary

This objection is lodged due to

1. Inadequate Consultation with the Community and Traditional Owners by the Applicant
2. The proposal is not in keeping with the character of the area due to its size
3. The proposal will adversely impact the environment due to its size
4. The proposal will be an ongoing operation and maintenance burden on the community and Council
5. The proposal is completely inconsistent with Local Council Controls
6. The ownership and granting of a lease over this area is without precedent for residential jetties in Pittwater

Whilst I object to the application in its current form I would welcome and provide complete support for residential jetties for this subdivision which comply with council planning controls.

Introduction

Thank you for the opportunity to provide comment on this development application. My wife and I can confirm that we object to the application as lodged with the specific reasons detailed below.

Consultation

Whilst I appreciate the opportunity afforded me to comment, it is my view this application could impact not only residents but also the broader community including aboriginal groups, sporting and surf clubs and commercial barge operators etc. It is my opinion that formal consultation on this application should be extended beyond the local residents.

Although the applicants own supporting studies recommend an ACHAR (Aboriginal Cultural Heritage Assessment Report), none has been completed (see excerpt below from the applicants studies recommending an ACHAR which would also require consultation with local aboriginal communities). Without this work completed the application appears incomplete and unable to be assessed.

Recommendations

In accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010b), it is recommended that further archaeological and cultural assessment is necessary in the form of an ACHAR, as the proposed development zone is located within 200m of waters. Dependent on the design and location of development activities within the study site, archaeological test excavation may be required in accordance with Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010a).

- Further assessment is required in the form of a full Aboriginal Cultural Heritage Assessment Report, including full Aboriginal community consultation in accordance with Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010c).
- A program of archaeological investigation may be required. This should be guided by a methodology produced within an ACHAR which should include a site survey to identify areas of archaeological potential and may result in a recommendation for systematic, subsurface archaeological test excavation in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010a), or an AHIP if appropriate to establish the nature and extent of any archaeological objects and/or deposits that are/may be present.

Compatibility with Waterway Character

I object to the application as it appears completely non-compliant with the standards all development on the Pittwater Foreshore is required to meet. I have attached an aerial photo from nearmap which clearly shows the waterway and the extents of the existing residential jetties (in white). These are quite uniform in their extents and leave an appropriate navigation and recreational space which naturally narrows as you progress upstream. The proposed jetty extents which are the subject of this application are depicted in red and are considered excessive, not in keeping with the area and a nuisance to recreational and commercial waterway users.



Environment

The application adopts a minimum depth at the jetties of 300mm under keel and states that for soft bottom waterways this is “generally consistent” with AS3962, however the Australian Standard also requires an appropriate allowance be added where siltation and bed disturbance is likely to occur (Council DCP requiring min 600mm)

DPI (Fisheries) raised concerns regarding tides and water quality (e-folding). Here the application ignores the impact of berthed boats in the assessment of impact on the waterway area. Assuming the jetties are 50% occupied at any particular tide this would result in an additional reduction of the waterway of 13% increasing the overall impact to over 20% of the available waterway area, well in excess of the 10% stated as minimal in the application. This is particularly significant and is likely to have adverse impact on water quality further into the bay.

Responsibility and Continued Maintenance

The applicant and their actions to date do not bode well for a good development outcome. The applicant appears to have ignored important advice provided at the pre DA meeting with Council, the applicant has proven to be poor at implementing industry standards such as soil and erosion protection of the waterway during construction, they appear to have failed to protect the environment from contamination in the demolition of the existing dwellings and they permit boats to remain at the old Marina despite the fact that it does not have any infrastructure to support this use.

Given the above and the nature of this application it will be left to Council and local residents to maintain the burden which will be left if this application is approved.

This application will lead to;

- Changes to the seabed
- Deterioration of a sea wall with no clear owners responsibility
- Significant reduction in commercial barge access

I see no clear responsibility as to who will repair a sheet pile seawall and maintain waterway depth. The applicants own support documents recommend the structural integrity of the sheet pile sea wall be investigated (see snippet from the exec summary of the structural report below), this has NOT been completed. Here also, my concern is that with a wall such as this it is not clear to a future home owner who has the responsibility for maintenance and repair of any section. Indeed, the nature of such a walling system means that if any of the clutches fail substantial sections of the wall will need to be removed and rebuilt. In my view this type of walling should not be allowed to remain, the wall type should be consistent with the council DCP for residential jetties and the remainder of the waterfront in this area (ie sandstone block wall)

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- ❖ There appear to be sheet piling along the sea wall as shown in Figure 2. Due to limited access, we were unable to verify the existence of a permanent wall. Therefore, confirmation of the sheet piling being a sacrificial wall is crucial as it appears to be deteriorated. Otherwise, assessment of the sheet piles will be required to determine its remaining useful life.

Compliance with Council DCP

Based upon my review of the submission documentation, as it is currently on the Council website, it appears as though the applicant considers it sufficient to compare the proposed development to the existing. Using this rationale the applicant seeks to justify numerous inadequacies or non-compliances in the application by judging the proposal against an historic land use approved under different planning controls many years previous.

The facts are that

- The applicant for the development at 122A Crescent Road decided to develop the land they purchased as Residential Lots
- They applied for and were granted approval for residential
- There is no longer a "Marina" nor approval of same

The proposed "Marina" is in fact a series of residential Jetties and must be assessed as such. Based on the application lodged my concerns are;

- The application is excessive and inconsistent with residential controls and the character of the area
- From the Pre DA meeting minutes, the applicant appears to have largely ignored the advice of Council Officers
- The proposed non-compliance with the residential jetties DCP also raises concerns regarding lighting which may be proposed. This is undisclosed and a deficiency in the application. There should be no lighting of these Jetties. In my view the jetties MUST comply with the Council DCP for residential Jetty's
- I have reviewed the relevant DCP and the application does NOT comply in almost every area;
 - It encroaches on the navigation channel
 - The vessel size will mean continuous disturbance of the seabed (leading to required dredging)
 - The vessel clearances to the seabed are incorrectly calculated (ie wave fetch is greater than assumed)
 - Structures do not blend in with the natural environment (size, scale and they intend to retain the sheet piling wall in lieu of sandstone)
 - Structures will adversely affect the use of the waterway by other owners and the general public (eg surf clubs, dragon boats, paddleboarders etc)
 - Structures will be detrimental to the visual quality of the waterway
 - Structures are a greater length than all other jetty's in the bay
 - Structures do not provide equitable access
 - Structures form a T – not permitted
 - There is no detail on any proposed lighting or power (there should be none under council DCP)
 - The maximum dimension for berthing areas to be less than 5m x 9m
 - Depth of water below boat to be 600mm
 - No berth within 2m of an extension of the property line

Ownership and Crown Land Consent

Part of the area which is the subject of this application is described as Lot 295 in DP 820302. This lot was the subject of Crown Lease to Bitova Pty Ltd (LE 460611 as a commercial marina operator. This is consistent with other commercial waterway lease areas in Pittwater. However, an application seems to have been made and approved to transfer the existing lease and extend the lease area to a residential developer who then intends to subdivide this lease area. This seems without precedent in Pittwater.

As the proposed extension to the lease area extends beyond the land lot frontage to the frontage of The Avenue (a public road) it would seem that this extended lease area should have been the subject of public consultation and if deemed appropriate by the community, it should have been offered by public tender.

Crown Lands state the following overriding principles in deciding whether a use should go to a competitive process or direct negotiation.

- The lease must be fair and equitable (here I would argue that this lease area is in no way equal to other residential lease areas).
- The lease must demonstrate that it offers the best value for money (this is unknown)
- The lease holder must be able to comply with the procurement code of practice (given these will be individual residential lease holdings with unknown owners this could not be known)

Other factors to be considered include;

1. Aboriginal land claims (here the applicants own reports confirm the requirement for an ACHAR as part of this application however none has been submitted indicating that specific consultation with the local aboriginal communities has not been undertaken).
2. Development Consent (here Crown Lands appears to have granted lease areas and owners consent to residential jetties which in no way comply with the local council DCP)
3. Community Engagement (none undertaken to my knowledge)

I have lodged a GIPA act request with Crown Lands for information relating to how this process was followed.

In Conclusion

Again, thank you for the opportunity to comment on this application. I do not believe this application is complete and should not be approved based on the size and scale proposed. The applicant is entitled to residential jetties in keeping with the Council development controls and the local character. If the application was modified to comply then the above objections would be withdrawn. I would welcome the opportunity to discuss this application and the outcomes of consultation and assessment further with Council staff. Should you have any questions you can contact me on 0425 343 672 or email; michael.gray@g-w.com.au.

Regards,

Michael and Marian Gray
BE, Meng Sc MIE CPEng (Rt)
Rednal Street, Mona Vale

CC – Jacquie Scruby (State Member Pittwater)