
Sent: 13/02/2023 4:59:31 PM
Subject: DA 2022/2152 - 122,126,128 CRESCENT ROAD AND 55 AND 57 THE AVENUE NEWPORT
Attachments: 122 CRESCENT ROAD NEWPORT SUBMISSION .pdf;

Please see attached a submission on behalf of the owner of 118 and 120 Crescent Road Newport.

Kind regards

LANCE DOYLE

B.AppSc (UWS), M.Plan (UTS), RPIA, EPLA

REGISTERED PLANNER

0414747395

DOYLE CONSULTING GROUP



Doyle Consulting Group

Planning and Development Services

ABN: 55278784425

Lance@doyleconsulting.com.au

Mob 0414747395

13th February 2023

The General Manager

Northern Beaches Council

By email council@northernbeaches.nsw.gov.au

ATTN Adam Croft

Re DA 2022/2152 - Subdivision - Demolition works and subdivision of land into
9 lots including tree removal and infrastructure work

122,126,128 Crescent Road, 55 and 57 The Avenue Newport

Dear Sir,

I am writing to you on behalf of Mr Simon Cole, the registered owner of two adjoining properties namely 118 and 120 Crescent Road.

These two sites are located directly adjacent to the subject site, containing single dwellings and will be materially impacted by the proposal and any future dwellings or similar structures erected thereon.

In preparing this submission to Council, I have attended my clients sites and the surrounding locality and have examined the submitted documentation under the cover of the above Development Application.

My examination of the submitted documentation including subdivision plans, Statement of Environmental Effects and associated consultants' reports leads me to conclude that the proposal is incomplete and is unable to be assessed by Council due to the insufficient site examinations carried out and the inadequate assessment of the proposal within the Statement of Environmental Effects.

The two most concerning components of the proposal are –

- Inadequate site analysis carried out as required under **P21DCP C4.7 AMENITY AND DESIGN.**
- Inadequate examination of the site, both land based and water based in terms of likely site contamination due to its historical use as a marina in

order to address the relevant provisions of **STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

The following provides details of the above concerns. (Emphasis added)

P21DCP C4.7 AMENITY AND DESIGN.

The provisions of the above control are very specific in that they state that a proposed subdivision *should be designed to ensure that **all properties, both existing and proposed, achieve/retain a level of amenity commensurate with the locality and the desired character of the area;***

the impact on the environment of the completed development (including buildings to be constructed on the proposed lots) has an acceptable impact on the environment.

A comprehensive site analysis taking into account the following characteristics is to be carried out as part of the subdivision design process. This analysis should take into account the final development which will occur on the site as a result of the subdivision. The analysis and resultant subdivision design should address the following issues:-

the slope, topography and any natural features (e.g. creeklines);

trees and vegetation (particularly trees worthy of retention);

viewlines from within the proposed lots and from adjoining properties;

solar access to the subdivision site;

the side, rear and front setbacks of future dwellings and structures in relation to the proposed new boundaries and development on adjoining properties;

the visual impact of built development which will occur as a result of the subdivision process (building height, bulk and scale, visual impact of buildings);

the provision of vehicular access to the future buildings on the proposed lots;

the provision of landscaping and/or recreation space for each proposed lot;

the provision of onsite car parking on each proposed lot;

the provision of services to each lot, including sewerage, water, electricity, communications and gas (where available);

the provision of emergency services to each (bushfire, fire brigade, ambulance).

In order to address these issues, a building envelope area is to be nominated on each proposed lot within which any future building is to be contained. The

application should clearly demonstrate that a building envelope can be built on site that has regard for the following:

*retention of trees and bushland,
vehicular access,
provision of services,
provision of emergency services,
and safety from hazard,*

A building which achieves the desired character of the area and is commensurate with the amenity standards of surrounding development, and does not overly impact on the environment, and can be erected within that envelope.

In this regard, an assessment of the buildings which will be erected as a result of the proposed subdivision is to be carried out demonstrating that the requirements and outcomes of the controls in this DCP which will apply to those buildings will be able to be complied with.

The owner of 118 and 120 Crescent Road is significantly concerned over the lack of any meaningful consideration of the provisions of the Pittwater 21 DCP and the lack of any meaningful investigation into the juxtaposition of any future developments on the subject site and its impacts upon amenity of the surrounding locality, particularly the above two sites.

No meaningful analysis has been carried out which is evidenced in the architectural plans which do nothing more than demonstrate the provision of boxes demonstrating compliance with the maximum building height control.

This is not a meaningful assessment, and the applicant is required to address the provisions of the DCP in a proper manner.

The following photograph taken from the decking adjacent to the living area of 120 Crescent Road across the existing marina building on the subject site demonstrates the critical view corridor across the subject site.



VIEW ACROSS SUBJECT SITE FROM LIVING AREA DECK AT 120 CRESCENT ROAD

The architectural plans appear to entirely ignore the constraints surrounding the subject site as the provision of an 8.5 m high box is illustrated in the architectural plans would obliterate valuable views across the subject site.

The importance of this concern cannot be overstated as the risk to the existing view corridor from the living area and deck of 120 Crescent Road could be significantly impacted by an insensitive design for any dwelling in the location of the existing marina building in the south west corner of the subject site.

This risk to the view corridor is heightened by the current Foreshore Building Line which, as expressed within the LEP, “wraps around” the current marina building which, if extended in height, could result in devastating view loss.

The available remedies for Council are firstly to recognise the inconsistency in the FSBL location which was imposed to recognise the necessity for a marina building to be closer to the waterway than a residential dwelling. This is able

to be remedied by removing this inconsistency with the FSBL and reconfiguring the site layout.

Should Council not support this remedy, it is formally requested that the applicant be directed to reflect the view corridors and necessity for solar access to my clients' sites as required under the provisions of the Pittwater 21 DCP and to reflect the assessment criteria under the same DCP for view sharing.

These constraints are required to be clearly and specifically reflected within the DA documentation and any conditions of consent should Council be minded to grant consent to the proposal.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

The following provision of the P21DCP requires a detailed analysis of the site as The proposal incorporates physical works below the mean high water Mark along with a change of use from a commercial marina to a residential marina and as such the entire site, including Crown leasehold land is required to be correctly examined for contamination in accordance with the relevant SEPP and EPA requirements prior to any further consideration being given to the proposal.

The following components of the DCP are clear as the works will disturb land below the mean high water mark and these works along with the change of use will trigger the following relevant components of the DCP.

5.7 Development below mean high water mark

The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.

Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

B3.6 Contaminated Land and Potentially Contaminated Land

Controls

Council shall not consent to the carrying out of any development on land unless it has considered State Environmental Planning Policy No. 55 Remediation of Land.(Now State Environmental Planning Policy (Resilience and Hazards) 2021)

In particular, Council shall consider:

whether the land is contaminated; and

if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; and

if the land requires remediation, whether the land will be remediated before the land is used for that purpose.

Where a development would involve a change of use on land listed below, Council must consider a preliminary investigation report prepared in accordance with the contaminated land planning guidelines.

The land concerned is land:-

on which development for a purpose referred to in the table below is being, or is known to have been, carried out; or

on which it is proposed to carry out development for residential, educational, recreational or child care purposes, or for the purposes of a hospital, and there is no or incomplete knowledge as to whether development for a purpose referred to in the table below has been carried out, and on which it would have been lawful to carry out; or

that is within an investigation area (as declared under Division 2 Part 3 of the Contaminated Land Management Act 1997).

NOTE- In reference to the Table quoted above, the subject site has been used for the purposes of engine works, storage and use of chemicals (anti fouling for example) and storage of fuel, all of which jointly or separately are potentially uses that historically result in contaminated soil and waterways.

The comment in the Statement of Environmental Effects appears to set aside a fundamental component of the assessment by stating that –

No works are currently proposed below mean high water mark, with any future works to be subject to a separate DA with detailed ecological analysis and assessment.

Preliminary assessment has determined that no marine protected works occur within or near to the site and will not be impacted by the proposed works;

The relevant provisions of B3 .6 of the DCP are clear and require a **comprehensive assessment of any likely contamination of land within the entire site** prior to any assessment of the proposal as a fundamental component such as this cannot be set aside as it is triggered by physical works and a change of use, both of which individually would trigger this component being invoked.

TRAFFIC AND CARPARKING AND UNCERTAINTY OVER FUTURE MARINA

The proposal is stated as *Subdivision - Demolition works and subdivision of land into 9 lots including tree removal and infrastructure work.*

The question that must be asked is – what is proposed to become of the existing marina berths and hardstand area?

It is difficult to reconcile a subdivision proposing nine residential lots with (as stated in the Traffic Report) carparking to “be provided at the time of the separate Development Applications for each of the individual lots” in conjunction with berthing for over 20 vessels within the leasehold component.

The Development Application document is silent regarding the future of the existing berthing area. Will the berths be for the use of residents of the nine residential lots or will the berthing area be available for boat storage and maintenance for other persons? This aspect of the future of the marina berths is an important question and requires a suitable answer to enable the consent authority to make an informed assessment as to the certainty of the marina berths.

This uncertainty is compounded by the proposed right of way to the berthing area and boat ramp as shown on the architectural plans and traffic report. Will the commercial berthing area continue to operate? The traffic report states (page 8) that the existing commercial marina is to be removed. The Demolition plan AD-DA902 does not include this component as being demolished. Please have the applicant advise of the future proposed use of the commercial marina and hardstand.

The proposed subdivision and likely loss of more than 10 marina berths will result in an expanded demand for berths throughout Pittwater waterway. The potential impacts upon berthing availability in a waterway that is restrictive in terms of available moorings and berths is a likely impact that has not been addressed within the DA.

The DA documentation clearly states that no works are proposed within the marina area apart from minor works to provide drainage outlets. The DA documentation however also contains a PLAN OF SITE AND PROPOSED MARINA, dated 10.02.2022.

I also note that the subdivision pattern includes a “handle” from each site to a proposed marina berth. Again, this requires certainty as to intentions for the marina.

As this area is subject to a Crown Lease, has Crown Lands through its Land and Asset Management Division, granted consent to the abandonment and conversion of the existing marina? This requires resolution as the proposal will have off site impacts not addressed within the DA.

With regard to carparking, the lack of on street carparking in the vicinity of the subject site is a current concern for residents. The proposed shared Right of Way within the subject site is designated as a shared zone, thereby preventing any parking for vehicles servicing or visiting the proposed allotments once dwellings are constructed thereon.

To summarise, the proposal ignores a number of fundamental components of the locality namely safeguarding the amenity of the surrounding locality by carrying out a meaningful assessment of potential impacts while also carrying out a proper assessment of the likelihood of site contamination to be present and if present, a site remediation action plan put in place to protect the environment and its occupants.

The conflicting statements between the SEE and submitted plans highlight uncertainty over the future use of the existing marina berths as this component will have significant onsite and offsite impacts.

The significant lack of suitable vehicular access and parking is a critical component as the internal access roadways are designed for "largest passenger vehicle", thereby limiting access for service vehicles such as tradespersons, moving vehicles and emergency vehicles such as fire and ambulance.

The above concerns require resolution as a detailed examination of the proposal has generated significant questions requiring answers prior to further consideration.

Thank you for the opportunity to provide this submission on behalf of my client.

Please advise of a suitable time for you to attend my clients' sites to enable you to understand the concerns raised in this letter so that you are able to seek appropriate investigations and considerations by the proponent prior to any further assessment being carried out.

LANCE DOYLE

M.Plan (UTS), B.AppSc (UWS),RPIA

Lance@doyleconsulting.com.au

Mob-0414747395

