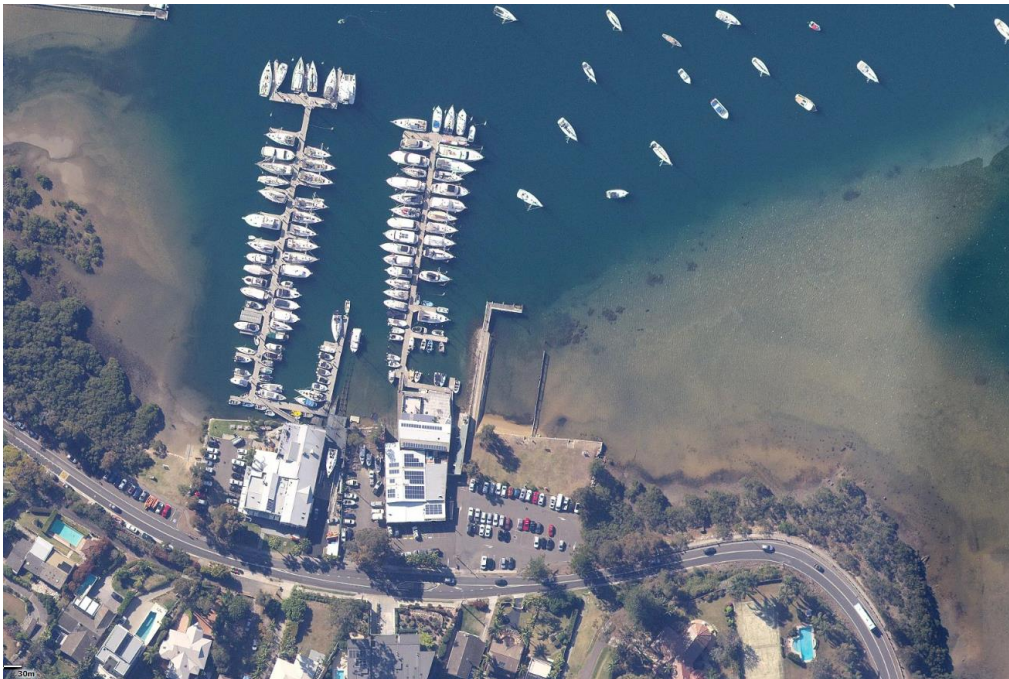




**1170 PITTWATER ROAD,
BAYVIEW
8 Knotts Café – Gibson Marina**

**MODIFICATION OF DA 2019/1279 TO ALLOW FOR
ADDITIONAL HOURS OF OPERATION AT CAFÉ**



Report prepared for
8 Knotts Cafe
August 2020

1.0 Introduction

- 1.1 This is a statement of environmental effects for an extension of hours to operate until 9pm on Fridays and Saturdays at an existing café at 6/1710 Pittwater Road, Bayview.
- 1.2 The report describes how the application addresses and satisfies the objectives and standards of the Pittwater Local Environmental Plan 2014, the Pittwater 21 Development Control Plan and the heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).
- 1.4 This statement of environmental effects has been prepared with reference to the following:
- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
 - Pittwater Local Environmental Plan 2014
 - Pittwater Development Control Plan
 - the heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).
 - Site visit
 - Architectural drawings prepared by Turnbull Planning (submitted with DA258/14
 - DA2019/1279 approving the use as a cafe
- 1.5 The proposed development is fully compliant with the objectives of Council controls, considerate of neighbouring residents and streetscape and results in improved facilities for the users of the existing marina. It is an appropriate development worthy of Council consent.

2.0 The site and its locality

- 2.1 The site is located on the northern side of Pittwater Road in Bayview on the Pittwater waterfront and adjacent the Council parking area and Bayview Baths.
- 2.2 It is an irregular shaped lot which extends from Pittwater Road over reclaimed land and over the waterway extending the length of the existing marina. The site is currently occupied by a single storey commercial marina structure incorporating 15 leased office/ commercial spaces, 50 berth marina and 50 moorings and associated parking. 8 Knotts Cafe is situated on the south eastern corner of the building facing Pittwater Road.
- 2.3 The site is surrounded by similar marina and waterfront activities on the foreshore and detached residential dwellings and some medium density residential uses on the southern side of Pittwater Road.
- 2.4 The site is in close proximity to Mona Vale shopping Centre approximately 2 km to the south.

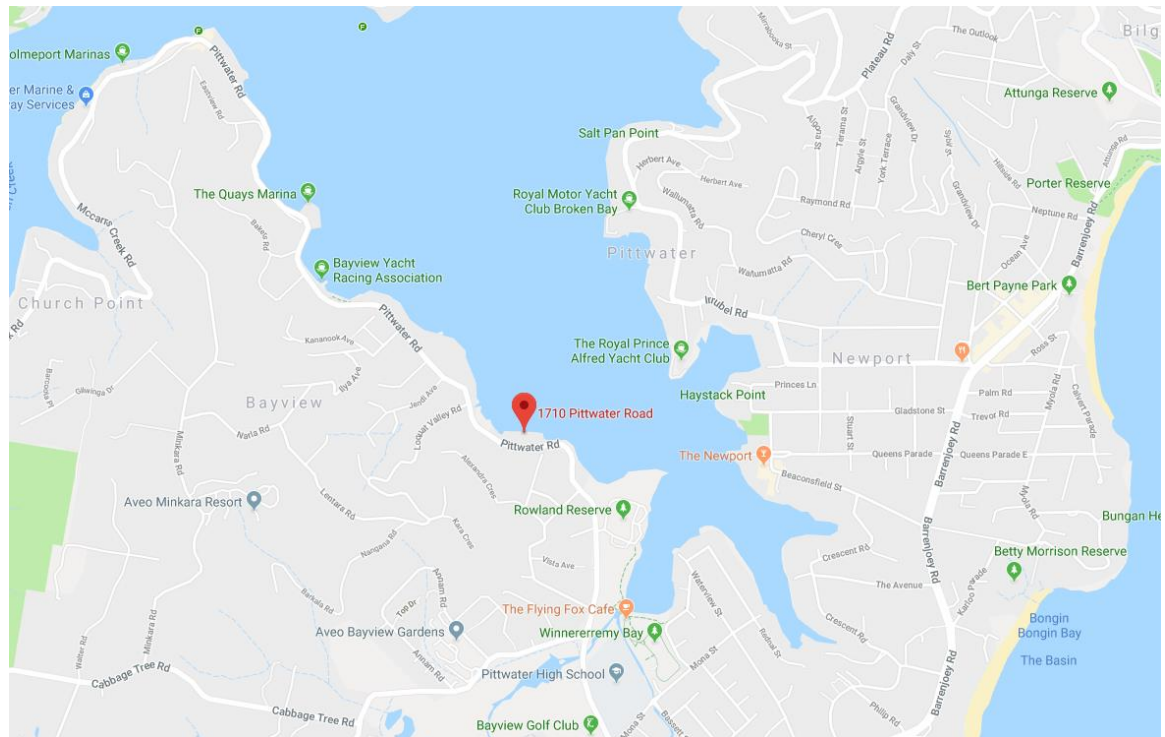


Figure 1. Location of the subject site

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Figure 3 The marina viewed from the street with 8 Knotts Café at the corner.

3. Proposed Development

- 3.1 The existing café has consent to operate from 7am to 3.30pm seven days per week. It is proposed to alter these hours to allow for additional hours on Friday and Saturdays as follows:

	Existing	Proposed
Monday	7am – 3.30pm	7am – 3.30pm
Tuesday	7am – 3.30pm	7am – 3.30pm
Wednesday	7am – 3.30pm	7am – 3.30pm
Thursday	7am – 3.30pm	7am – 3.30pm
Friday	7am – 3.30pm	7am – 9pm
Saturday	7am – 3.30pm	7am – 9pm
Sunday	7am – 3.30pm	7am – 3.30pm

- 3.2 The additional hours will complement the use of the marina, with people using the marina facility finishing up later on these days and keen to use the café facilities until later in the day.
- 3.3 The additional hours will allow for the kitchen to operate up until 8 pm, with all patrons having left the site by 9pm.
- 3.3 No physical works are proposed.
- 3.4 No change in the approved number of tables and patrons is proposed and accordingly no intensification of the use is proposed.
- 3.5 No change is proposed to the number of deliveries approved by the original DA for the café use.
- 3.6 No disturbance to the local amenity will occur, with the café setback from the street, ample parking on site and key users of the facility already on site.

- 3.6 The café will not have music playing and there will be no acoustic concerns for residential neighbours.
- 3.7 Surrounding restaurants have similar operating hours including:

ADDRESS	HOURS
The Marina Café 1856 Pittwater Road Church Point	Open for dinner Wednesday to Saturday
Bayview Anchorage & Blue Pearl 1714 Pittwater Road Bayview	Open for dinner Tuesday to Sunday

This demonstrates precedent and that the extended hours are appropriate within location and not to the detriment of the local community.

4. Zoning

- 4.1 The zoning under the provisions of the Pittwater LEP 2014 is IN4 Working Waterfront.



Figure 6 Extract from PLEP2014 zoning map

- 4.2 A marina, and ancillary uses including the approved café, is a permissible use with Development Consent.

Permitted with consent

*Aquaculture; Boat building and repair facilities; Boat launching ramps; Charter and tourism boating facilities; Environmental protection works; Industrial retail outlets; Jetties; Kiosks; Light industries; **Marinas**; Roads; Signage; Water recreation structures; Wharf or boating facilities*

5. Statutory Framework

5.1 Section 4.55 of Environmental Planning and Assessment Act 1979

5.1.1 Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (as amended) (the Act) provides that a consent authority may modify the consent if:

- (a) It is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) It has notified the application in accordance with:*
 - (i) The regulations, of the regulations so require, or*
 - (ii) A development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*
- (d) It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

4.1.2 The proposed modifications will have minimal environmental impact as demonstrated in this document. The development to which the consent, as modified, applies is substantially the same development, as the development granted consent in Development Consent DA2019/1279, notwithstanding the proposed modifications.

4.1.3 S96(3) of the Act requires Council to consider those matters referred to in Section 4.15(1) of the Act that are of relevance to the development the subject of the application. It is not believed that the minor modifications proposed will alter the favourable assessment provided to the original Development Consent. In particular, the site and surrounding built and natural environments will remain essentially the same and the amenity for the local residents will be maintained.

5.2 Pittwater Local Environmental Plan 2014

The relevant clauses of the Pittwater Local Environmental Plan 2014 are addressed below.

Zoning

The site is zoned IN4 Working Waterfront pursuant to the provisions of the Pittwater Local Environmental Plan 2014. The existing café is approved as an ancillary component of the marina.

Minimum Lot Size

A minimum lot size does not apply to the site. Additionally, no subdivision is proposed.

Height

The LEP restricts the height of any development on the subject site to 8.5 metres. No physical works are proposed. The existing structure remains compliant.

Floor Space Ratio

The floor space ratio development standard has not been adopted for the subject site and no change in gross floor area is proposed.

Acid Sulphate soils

The site is located in an area nominated as Acid Sulphate soils Class 5. No additional information is required for the proposed development as no physical works are proposed.

Flood Planning

The site is not located in a draft flood area.

Geotechnical Hazard

The site is not located within the geotechnical hazard zone mapped by Council's LEP.

Biodiversity

The site is not nominated on the biodiversity maps within the Pittwater LEP.

Development Below the mean high water mark

The subject tenancy is not located below the MHW.

Limited Development on foreshore area

No physical works are proposed.

5.3 Pittwater Development Control Plan

The relevant sections of the DCP are addressed below.

Objectives

The proposed development is entirely consistent with the ecologically sustainable, environmental, social and economic objectives as specified in the DCP. The proposed development is appropriate to the site and the locality and has been designed with fulfilment of these objectives as essential criteria.

Part A Localities

Church Point and Bayview Locality

The site is located within the Church Point and Bayview Locality. The proposed development results in no physical works and accordingly the proposal retains the character of the area and the existing marina use.

Part B General Controls

Heritage Conservation

The site is not located in a heritage conservation area or immediately adjacent any heritage items.

Aboriginal heritage Significance

The site is not known or anticipated to be home to any aboriginal relics. No works are proposed and accordingly no issues will arise.

Water management

The site is connected to the sewer system.

No construction works are proposed, and no additional waste will result as a result of the minor extension of hours.

Access and parking

No additional patrons are anticipated from the extended hours as patrons are primarily users of the marina.

Site works and management

No works are proposed.

Part C Design Criteria for Other development**Landscaping**

No changes to the existing approved landscape is proposed.

Safety and Security

The extended hours will not have any impact on safety and security with users parked in the associated parking, easily accessible to the café.

Waste and Recycling Facilities

These will remain as required by Council.

Part D – Waterways & Bayview Locality

No physical works are proposed, and the development is appropriate retaining the same physical form as existing and approved.

6. Section 4.15 Considerations

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended). Guidelines to help identify the issues to be considered have been prepared by the former Department of Urban Affairs and Planning. The relevant issues are:

6.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed land use is complimentary and compatible with adjoining development. The proposal achieves the aims of the Pittwater LEP and DCP.

The development remains permissible in the IN4 zone as an ancillary use to the existing marina.

6.2 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context and Setting

What is the relationship to the region and local context in terms of:

- the scenic qualities and features of the landscape?
- the character and amenity of the locality and streetscape?
- the scale, bulk, height, mass, form, character, density and design of development in the locality?
- the previous and existing land uses and activities in the locality?

These matters have been discussed in detail in the body of the statement.

What are the potential impacts on adjacent properties in terms of:

- relationship and compatibility of adjacent land uses?
- sunlight access (overshadowing)?
- visual and acoustic privacy?

- views and vistas?
- edge conditions such as boundary treatments and fencing?

The proposed development includes no physical works.

Access, transport and traffic

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- travel demand?
- dependency on motor vehicles?
- traffic generation and the capacity of the local and arterial road network?
- public transport availability and use (including freight rail where relevant)?
- conflicts within and between transport modes?
- traffic management schemes?
- vehicular parking spaces?

Traffic will be unaffected by the proposed development. Parking will be unchanged.

Public domain

The proposed development includes no physical works and accordingly the public domain will remain unchanged.

Utilities

There will be no impact on the site, which is already serviced.

Flora and fauna

There will be no impact.

Waste

There will be no impact.

Natural hazards

There will be no impact.

Economic impact in the locality

The minor extension of hours within the larger marina facility is to the benefit of the entire facility encouraging users of the marina to the site.

Site design and internal design

Is the development design sensitive to environmental conditions and site attributes including:

- size, shape and design of allotments?
- the proportion of site covered by buildings?
- the position of buildings?
- the size (bulk, height, mass), form, appearance and design of buildings?
- the amount, location, design, use and management of private and communal open space?
- landscaping?

The proposed development includes no physical works.

How would the development affect the health and safety of the occupants in terms of:

- lighting, ventilation and insulation?
- building fire risk – prevention and suppression/
- building materials and finishes?
- a common wall structure and design?
- access and facilities for the disabled?
- likely compliance with the Building Code of Australia?

There is no impact to the existing complying development through the minor extension of hours of operation.

Construction

What would be the impacts of construction activities in terms of:

- the environmental planning issues listed above?
- site safety?

The proposed development includes no physical works.

6.3 The suitability of the site for the development

Does the proposal fit in the locality?

- are the constraints posed by adjacent developments prohibitive?
- would development lead to unmanageable transport demands and are there adequate transport facilities in the area?
- are utilities and services available to the site adequate for the development?

The adjacent development does not impose any unusual development constraints. In fact, it is considered to be supportive of the use with 2 restaurants and cafés, located at the neighbouring marina, which have hours of operation extending to dinner on weekend nights.

Are the site attributes conducive to development?

The use is existing, and the minor extension of hours will be appropriate to the site.

6.4 Any submissions received in accordance with this Act or the regulations

It is envisaged that the consent authority will consider any submissions made in relation to the proposed development.

6.5 The public interest

It is considered that the proposal is in the public interest as it allows for the café use to be more financially viable and better serve the needs of the occupiers of the marina.

Section 4.15(1) of the Environmental Planning and Assessment Act has been considered and the development is considered to fully comply with all relevant elements of this section of the Environmental Planning and Assessment Act 1979.

7.0 Expected impacts of the proposed modifications

- 7.1 The revisions will have a positive impact on the existing marina without being to the detriment of neighbours or the environment.

8.0 Suitability of the site

- 8.1 The proposed modifications do not raise any additional issues relating to the suitability of the site.

9.0 Development substantially the same

- 9.1 The alterations proposed by virtue of the modification request do not render the development different in terms of its essential character.

In a comparison of the development as currently approved and as proposed to be modified, the development will remain essentially and materially the same, with only minimal changes proposed. As such the development will be substantially the same notwithstanding the modifications that are sought.

10.0 Conclusion

- 10.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent 2019/1279. The proposed modifications will have no significant environmental impact.

The proposed modifications to the development do not raise any additional issues relating to the relevant provisions of:

1. Pittwater Local Environmental Plan 2014
2. Pittwater Development Control Plan 2014

3. The heads of consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.
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- 10.2 Considering all the issues, the fully compliant development is considered worthy of Council's consent.