DEVELOPMENT APPLICATION ASSESSMENT

Application No: D/2018/933
Date of Lodgement 15-Aug-2018
Applicant THE OWNERS - STRATA PLAN NO 70335
Application Site: MARINA - 19B HICKSON ROAD, DAWES POINT NSW 2000
Proposal: Integrated Development for the repair/replacement of piles for the existing marina. The proposal also includes the installation of 802 square metres of 2.2 wide floating pontoon stabilising beams to the existing marina.
Cost of Works: $2,849,320
Zoning: The site is located within the Walsh Bay Waterway Zone under Sydney Regional Environmental Plan No 16—Walsh Bay. Mooring Facilities are permitted with consent within the zone.

SITE AND SURROUNDING DEVELOPMENT

A site visit was carried out on 28 August 2018.

The subject site is a finger wharf constructed over the water at Walsh Bay. The wharf is part of a group of four finger wharves. The subject wharf is commonly known as Wharf 6/7.

The group of wharves was constructed between 1906 and 1922, Wharf 6/7 was completed in 1918. The wharf has since been converted to residential premises.

The proposal relates to the marina structure which flanks the eastern and western sides of the wharf. The marina was completed around 2003.

The site forms part of the broader Walsh Bay precinct which is notable for its historic maritime infrastructure, much of which has been converted into artistic and residential uses.

Photos of the site and surrounds are provided below:
Figure 1: Aerial image of subject site and surrounding area

Figure 2: Typical existing marina structure
Figure 3: Larger pontoon structure at the north-western corner of the site

Figure 3: Damaged pontoon which is proposed to be repaired
PROPOSAL

The proposal seeks consent for the repair/replacement of piles for the existing marina. The proposal also includes the installation of 2.2m wide floating pontoon stabilising beams to the existing marina.

The works to the piles includes the replacement of 28 existing piles and the in-situ repair of 13 piles.

The floating pontoon proposed to be installed has a total area of 802m² and is intended to increase the stability of the existing marina structure.

The application is characterised as repair/maintenance work to the previously approved structure. The application is not seeking consent for a new marina structure.

The location of the site between Sydney Cove and Darling Harbour means that it is subjected to a high level of passing vessel wake action. This combined wave action has resulted in partial destruction of marina infrastructure with piles dislodged or broken and pontoons partially destroyed.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

Development Application 294-08-00 was determined by the then Minister for Planning, Andrew Refshauge, on 16 October 2002. The DA approved the construction of a private mooring facility including 49 berths, water taxi drop off point and sewage pump out facilities around Pier 6/7, Walsh Bay.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

(a) Environmental Planning Instruments and DCPs.


The application is Integrated Development under the Fisheries Management Act 1994.

The application was referred to NSW Department of Primary Industries who advised of no objection to the development, no conditions of consent were recommended.

Heritage Act 1977

While the Wharf 6/7 structure is located within the Walsh Bay Wharves Precinct which is listed as a state heritage item, the pontoon structure is specifically identified as not being within the state heritage listing.

The proposal results in no additional heritage impact in comparison to previously approved marina structure.
Sydney Regional Environmental Plan No 16—Walsh Bay

The site is located within the Walsh Bay Waterway Zone under the SREP, mooring facilities and pontoons are permitted with consent within the zone.

The objectives of the zone are stated below with a response to the proposal’s compliance with the objective provide in *italics*.

(a) to control the use of the waterway between the wharves to ensure that any activities associated with any development are compatible with the commercial shipping and navigational requirements in Sydney Harbour.

*The proposal does not alter the existing marina’s impact on commercial shipping and navigational requirements in Sydney Harbour.*

(b) to ensure that the Harbour and Harbour foreshore is recognised as a community asset, and

*The proposal is not inconsistent with this objective and does not reduce access to the foreshore in comparison to the current site configuration, noting that the existing marina is not publicly accessible.*

(c) to limit mooring facilities for private vessels used by the lessees and tenants of property in Zone 1.

*The requirement was imposed as part of 2002 approval for the marina and will continue to be in effect.*

The proposal is consistent with the objectives of the Walsh Bay Waterway Zone.

Clause 16 of the SREP identifies matters for consideration when determining a development application. With regard to these matters the proposal will not impact on the commercial use, recreational boating or navigational issues on the harbour; the proposal does not impact on the existing public access arrangement around the wharf apron; and, will not result in an increase in traffic generation to adversely impact the amenity of the adjoining residential area.

The proposed development is consistent with the requirements of the SREP.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)**

The site is located within the Sydney Harbour and is subject to the provisions of the above SREP.

The site is located within the Foreshore and Waterways Area under the SREP. The site is also located within the W1 – Maritime Waters zone under the SREP.
Foreshore and Waterways Area

The planning principles of the Foreshore and Waterways Area are stated below with a response to the proposal’s compliance with the principles provided in *italics*.

(a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,

*The proposal does not significantly impact on the natural assets and unique environmental qualities of the harbour. The applicant has provided an aquatic ecology report which notes that the site does not contain any significant intact marine vegetation habitats only “unvegetated silty-sand” and “rock rubble with kelp”. The main areas of marine habitats are restricted to the existing pontoons and piling, particularly in areas of shade. As the pontoons are to be kept in the marine waters the aquatic biota on wetted surfaces will not be disturbed to any great degree. The report concludes that the remediation works can be undertaken with a low risk of impact on aquatic habitats. It is recommended that a Construction Environmental Management Plan (CEMP) be submitted and approved prior to the commencement of the works. The CEMP would include the recommendations of the aquatic ecology report.*

Accordingly, the project would meet the aquatic ecology conservation requirements of the SREP (Sydney Harbour Catchment) 2005 and would meet the aquatic ecology and fish habitat conservation requirements of the Fisheries Management Act (FMA) 1994 and NSW DPI Fisheries Guidelines (Fisheries NSW 2013). Furthermore, the proposed works will not require a permit to harm marine vegetation under the FMA.

(b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,

*The proposal has no impact on the access to the foreshore, watercourses, wetlands, riparian lands or remnant vegetation.*

(c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,

*The proposal maintains access to the waterway for recreation purposes.*

(d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,
The proposal generally repairs or replaces exiting works resulting in a negligible visual impact. The addition of the floating pontoon beams has an acceptable visual impact. A discussion of this impact is contained with the Issues section of this report.

(e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,

Not applicable – the existing marina is not used for working purposes.

(f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes,

The wharf apron is not publicly accessible currently.

(g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes,

Not applicable.

(h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront,

Not applicable.

(i) the provision and use of public boating facilities along the waterfront should be encouraged.

Not applicable – the marina is not a public boating facility.

W1 Zone Objectives

The objectives of the W1 zone are stated below with a response to the proposal’s compliance with the objectives provided in italics.

(a) to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,

The proposal has no impact on the movement of vessels within the harbour.

(b) to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,
The proposal has no impact on the movement of vessels within the harbour.

(c) to promote equitable use of the waterway, including use by passive recreation craft.

The proposal promotes the use of the harbour by passive recreation craft by providing an improved facility for access to the harbour.

Matters for Consideration

The SREP identifies a range of matters to be considered in the assessment of development applications, these matters are listed below with a response provided in italics.

(a) Biodiversity, ecology and environment protection

The proposal has negligible environmental impact and is supported by NSW Department of Primary Industries.

(b) Public access to, and use of, foreshores and waterways

The existing wharf apron is not publicly accessible currently, the proposal does not seek to alter this arrangement.

(c) Maintenance of a working harbour

The proposal will not impact on the use of the harbour or the adjoining foreshore for commercial purposes.

(d) Interrelationship of waterway and foreshore uses

The proposal does not alter the expected traffic levels either on the foreshore in comparison to the current approval on the site. Additionally the proposal does not increase the potential for conflict between the waterborne Marina use and the adjacent foreshore uses in comparison to the existing approval.

(e) Foreshore and waterways scenic quality

The proposal generally repairs or replaces exiting works resulting in a negligible visual impact. The addition of the floating pontoon beams has an acceptable visual impact. A discussion of this impact is contained with the Issues section of this report.

(f) Maintenance, protection and enhancement of views

The proposal does not detract from views to or from the harbour. A discussion of this impact is contained with the Issues section of this report.
(g) Boat storage Facilities

The site is not a boat storage facility.

Foreshores and Waterways Planning and Development Advisory Committee

The application falls within Schedule 2 of the SREP and was referred to Foreshores and Waterways Planning and Development Advisory Committee. The Committee raised no specific issues in relation to the proposed development and as such did not wish to make any comment.

The proposal is consistent with the objectives and provisions of the SREP.

Sydney LEP 2012

The LEP does not apply to the site.

Sydney DCP 2012

The marina structure is located outside of applicable area of the DCP.

ISSUES

Visual Impact and Views

The addition of the stabilising pontoon has the potential for additional visual and views impacts.

The stabilising pontoon is proposed to be constructed along either side of the wharf. The proposed pontoon is shown in the figure below.

![Figure 4: Site plan of wharf showing proposed stabilising pontoons (in blue)](image-url)
Reference images of the existing marina structure are provided below.

**Figure 5:** View of western side of wharf, for reference the approximate location of the proposed pontoon is marked in red for one section of the site (noting that it is proposed to continue the length of the site)

**Figure 6:** View of eastern side of wharf

The proposed floating pontoon is located at the water level which is below the height of the adjacent wharf apron. Additionally, the proposed pontoon is located at the rear of the existing pontoons and underneath the existing access gangways.

If it were to be installed the addition of the proposed pontoon would not be easily apparent and would visually integrate into the existing, approved marina structure.
Particularly when viewed from the surrounding wharves and the broader harbour. The proposed pontoon is 2.2m wide and has a simple form which would not have a visually detracting or dominate appearance when viewing the wharf from the numerous publicly accessible from which it can be viewed.

From within the site, the proposed simple form of the pontoon will have an inoffensive appearance. While the pontoon will cover part of the harbour reducing the total amount of water visible from some locations, the reduction in the total amount of water available to view from almost all vantage points would be minute. Beyond this view of the water immediately adjacent to the wharf, the proposed pontoon will have no impact on views from the site.

The proposed pontoon has an acceptable visual and view impact.

(b) Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

(c) Suitability of the site for the Development

The proposal is considered to be suitable for the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

(d) CONSULTATION

Internal Referrals

The conditions of other sections of Council have been included in the proposed conditions.

External Referrals

The application was referred to the Foreshores and Waterways Planning and Development Advisory Committee as well as NSW Department of Primary Industries. As noted above neither of these bodies objected to the proposed development.

NOTIFICATION, ADVERTISING AND DELEGATION (Submission(s) received)

The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification there was one submission received.

(a) The operation of the marina results in unreasonable noise impacts

Response - The marina on the site has already been approved and its on-going operation is not a matter for consideration under this application. The proposed addition of the pontoon is not anticipated to result in a significant increase in noise impacts in comparison to the already approved development on the site.
(b) **The installation of the pontoon will result in unacceptable visual and view impact**

**Response** – As discussed in the Issues section of this report the installation of the pontoon results in a negligible visual and view impact.

(c) **There is inadequate documentation to support the proposed works**

**Response** – The application is supported with a comprehensive Statement of Environmental Effects, a Heritage Impact Statement, an Aquatic Ecology Report and detailed plans of the proposal. All this documentation has been reviewed and considered sufficient to support the proposed works.

(d) **The marina is not compatible with the adjoining residential land uses**

**Response** - The construction and use of the marina on the site has already been approved. The proposed works are not anticipated to result in a significant increase in impacts in comparison to the existing approval for the site.

(e) **The site is in a severe wave environment and not suitable for the marina**

**Response** - The construction and use of the marina on the site has already been approved. The subject application is for repair and maintenance work to the marina. The current application is not making an assessment of the site’s suitability as a site for a marina.

(f) **The proposal includes wave mitigation breakwaters outside of the site boundary**

**Response** – Consent has been provided by owners of the affected land.

(g) **The proposed pontoons are not safe due to the extent of movement caused by waves**

**Response** – The applicant has stated that the addition of the proposed pontoons will assist in a reduction in the movement of the marina due to waves caused by passing watercraft. It is noted that the access to the boat moorings on the marina is not dependant on the proposed pontoons. If the movement of the pontoons becomes unsafe then the existing, approved arrangement (i.e. individual gangways from the wharf apron) will continue to be available for access.

(e) **Public Interest**

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

**FINANCIAL IMPLICATIONS**

The development is not subject to a contribution.
CONCLUSION

Having regard to all of the above matters, it is considered that the proposal for the repair/replacement of piles for the existing marina and the addition of floating pontoon stabilising beams to the existing marina generally satisfies the relevant strategy, objectives and provisions of the various environmental planning instruments which apply. The proposal is acceptable and is recommended for approval subject to conditions as shown in the attached Decision Notice.

*The application is approved under delegated authority of Council.*

The undersigned declare, to the best of their knowledge that they have no interest, pecuniary or otherwise, in this development application or persons associated with it and have provided an impartial assessment.

**Report Prepared by:**

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**Application determined by:**

Andrew Rees  
Area Planning Manager