





# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2021/1174
<b>Address</b>	End of Water Street BIRCHGROVE NSW 2041
<b>Proposal</b>	Replacement of dinghy launching facilities at Balmain Sailing Club
<b>Date of Lodgement</b>	17 December 2021
<b>Applicant</b>	Conrad Johnston
<b>Owner</b>	Inner West Council
<b>Number of Submissions</b>	Initial: 5
<b>Value of works</b>	\$68,000.00
<b>Reason for determination at Planning Panel</b>	Conflict of interest (Council is land owner)
<b>Main Issues</b>	Privacy impacts
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development



**LOCALITY MAP**

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for the replacement of dinghy launching facilities at Balmain Sailing Club at End of Water Street Birchgrove.

The application was notified to surrounding properties and 5 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Impacts in relation visual and acoustic privacy.

As discussed in later sections of the report, the proposal complies with the relevant privacy and planning controls applicable to the development, and therefore, the application is recommended for approval.

## 2. Proposal

The application seeks the construction of a floating pontoon to sit within the leased space that belongs to Roads and Maritime Services.

The pontoon is generally within the existing skid lease area and relies on existing piers, and therefore, there will be no disturbance underwater and to the seabed. The pontoon replaces an existing facility and does not seek an increase to the patron numbers and/or carparking.

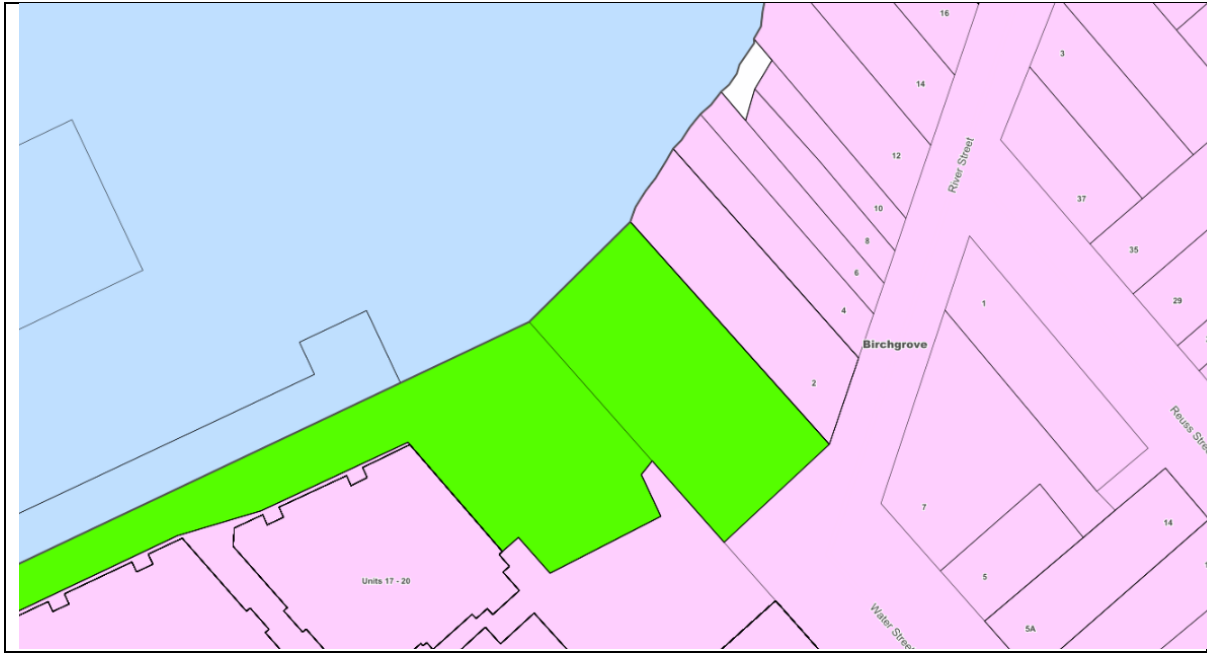
## 3. Site Description

The subject site is located at the end of Water Street to the northeast of the Water Street Reserve and the proposed works will be located in an area that is within a leased space that belongs to Roads and Maritime Services.

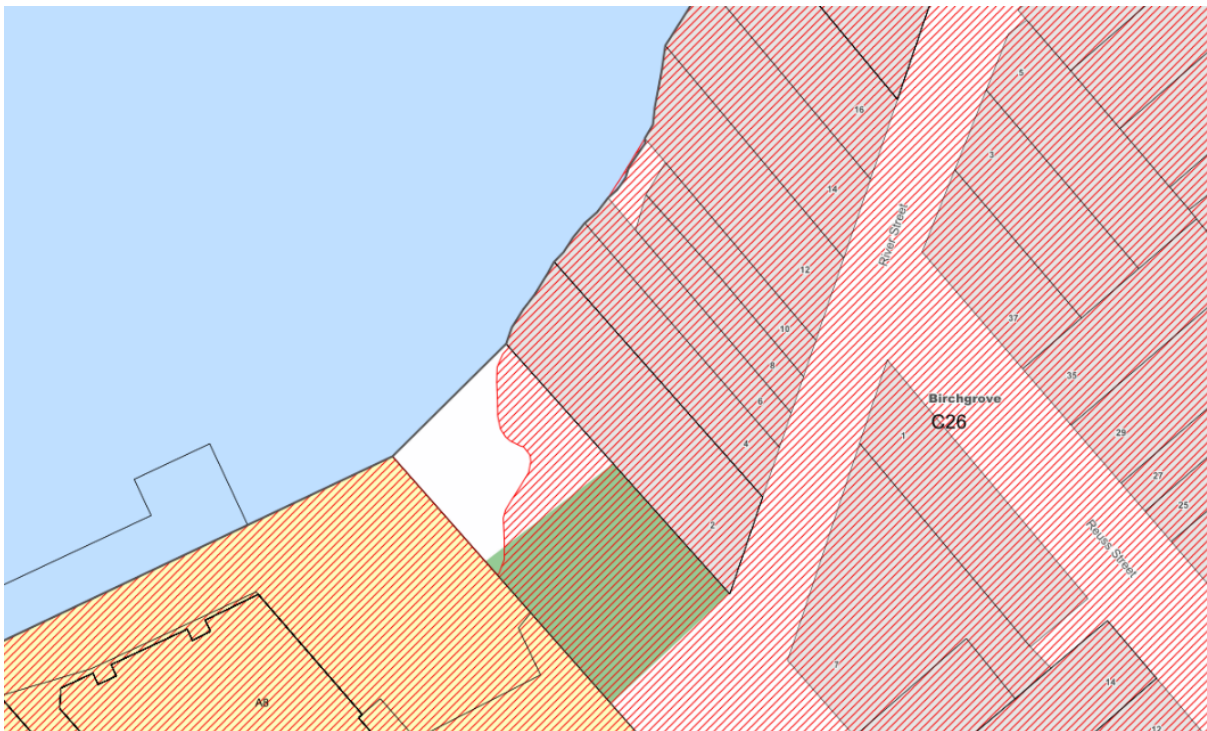
The Balmain Sailing Club is a 2 storey timber building with a timber wharf and timber access ramp into the water for small boats (dinghies). The sailing club is located behind a public park at Water Street and is accessed down a steep slope with stairs from Water Street. The Balmain Sailing Club currently has a "temporary" floating pontoon that is secured by tying it to the western side of the wharf of the sailing club.

The land based portion of the club has an area of approximately 430sqm and has no car parking provision.

To the east of the Balmain Sailing Club is a residential property that has waterfront access. To the west of the Balmain Sailing Club is a small public park which adjoins the Hopetoun Quays strata residential development and associated private marina. Between the Hopetoun Quays dwellings and marina is a public boardwalk and foreshore area which links to the small public park. Access to the park from Water Street is via stairs or a lift that is open to the public and maintained by the Hopetoun Quays development. The subject site does not have any direct frontage to any public roads.



Part of the subject site is located within the Birchgrove Heritage Conservation Area (see diagram below):





View of the existing skid and existing pier



View of the existing pier and the boat shed associated with 2/2A River Street.

## 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

**Subject Site**

<b>Application</b>	<b>Proposal</b>	<b>Decision &amp; Date</b>
BA/7853	Extension to lounge at licenced club premises on leasehold land Water Street Balmain for Balmain 12ft Sailing Club	Approved 1966
BA/9576	Erection of 2 storey extension to sailing club at Water Street, Balmain for Balmain and District 12' flying squadron.	Refused 1969.
A/2005/9	Activity Application – to operate as a Place of Public Entertainment (Balmain sailing club)	Approved 5 December 2006
D/2013/385	New pontoon and associated works.	Approved 08/04/2014
PDA/2021/0201	New floating pontoon to replace skid at Balmain Sailing Club	Issued 10/08/2021

**Surrounding properties****2 River Street, Birchgrove**

<b>Application</b>	<b>Proposal</b>	<b>Decision &amp; Date</b>
D/2004/480	Repair existing seawall under boat shed at 2 River Street. Seal face of shale seam at base of sandstone rock face at number 2, 4 and 6 River Street	Approved 4 March 2005

**4(b) Application history**

The following table outlines the relevant history of the subject application.

<b>Date</b>	<b>Discussion / Letter / Additional Information</b>
23/2/22	Applicant provided a draft amended design to address the submissions received where the proposed pontoon is shorter in depth / width to 13.9 metres (from 15.56 metres) and the pontoon located further towards the Sailing Club Building (the closest distance from approximately 24.5 metres to 22.8 metres)
19/4/22	Applicant provided a second amended design which maintains the shortened depth / width of the pontoon (i.e 13.9 metres) and relocated the pontoon so the closest distance to the Sailing Club Building is 23.9 metres. The amended plans were also amended to show the existing pier to be retained more accurately in regards to its position.  These amended plans form the basis of this assessment. The proposed amendments are considered to have the same or a lesser impact as the original application, and have been lodged in response to submissions received, and hence, the amended plans were not considered to require renotification in accordance with Council's Community Engagement Framework.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

#### 5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

##### Chapter 2 Coastal Management

The SEPP aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category.

The site is not categorised as a coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment, and a coastal use area under this SEPP.

The proposed development will not adversely affect any coastal processes or values.

##### Chapter 4 Remediation of Land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that 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*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

*5(a)(ii) State Environmental Planning Policy (Biodiversity and Conservation) 2021*

## Chapter 10 Sydney Harbour Catchment

The SEPP provides planning principles, development controls and matters for consideration which apply to the subject development proposal. The amended design was referred to the Transport for NSW (TfNSW) for comments and the following conclusion:

*“After consultation with our navigation and planning teams, I advise that the final pontoon design shown on revised plan A-112 by Studio Johnston dated 19/04/2022 is acceptable to TfNSW.”*

The application was also referred to the Natural Resources Access Regulator which provided the following comments on 31 January 2022:

*“The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary.”*

The site is located within the Sydney Harbour Catchment as shown on the Sydney Harbour Catchment Map. The proposed pontoon in association with the Balmain Sailing Club is defined as land/water interface development and therefore in accordance with Clause 10.4(1), Inner West Council is the consent authority for land-based and land/water interface development.

The proposed pontoon is considered acceptable with regard to Clause 2 – Aims of Plan.

In accordance with Part 10.2 Planning principles, the proposed pontoon is considered acceptable with regard to the planning principles for land within the Sydney Harbour Catchment; the planning principles for land within the Foreshores and Waterways Area and the planning principles for heritage conservation.

In accordance with Part 10.3 Foreshores and Waterways Area – the site is zoned W6 – Scenic Waters Active Use. The proposed pontoon is considered to meet the objectives of the zone. Recreational or club facilities are permitted with consent in the waterways.

The provisions under Division 2 Matters for consideration - are considered to be satisfactorily met by the proposed pontoon in association with the Balmain Sailing Club.

No special provisions apply under Division 4 Special provisions.

The site is not identified as a Strategic Foreshore Site in accordance with Part 10.4 Strategic foreshore sites.

With regard to Part 10.5 Heritage provisions, the proposed pontoon does not raise any issues with regard to the Heritage Provisions. The site is not identified as a heritage item.

In accordance with Part 10.6 Wetlands protection, the site is identified on the Wetlands Protection Area Map as a wetlands protection area. The application was also referred to Fisheries NSW who returned the concurrence referral on 14 January 2022, on the basis that concurrence was not required. Overall, the proposed pontoon is considered acceptable with regard to Part 6 – Wetlands protection of the SEPP.

*5(a)(iii) Leichhardt Local Environment Plan 2013 (LLEP 2013)*

The application was assessed against the following relevant clauses of *the Leichhardt Local Environmental Plan 2013 (LLEP 2013)*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 5.3 – Development near zone boundaries
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.7 - Development below mean high water mark
- Clause 5.10 - Heritage Conservation
- Clause 5.21 - Flood Planning
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management
- Clause 6.5 - Limited development on foreshore area
- Clause 6.6 - Development on foreshore must ensure access

(i) Clause 2.3 - Land Use Table and Zone Objectives

The location of the pontoon for the works proposed under this Development Application are entirely within the water, and therefore, are not located within the boundaries of Leichhardt LLEP 2013 and consequently the LLEP 2013 does not technically apply to the application. However, the proposed pontoon will adjoin and operate in conjunction with the Balmain Sailing Club premises. The land based part of the Balmain Sailing Club is located in the Leichhardt RE1 – Public Recreational zone.

The *LLEP 2013* defines the development as:

*Community facility means a building or place—*

- (a) owned or controlled by a public authority or non-profit community organisation, and*
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,*

*but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*



The development is permitted with consent within the land use table and is consistent with the objectives of the LRE1 zone.

Further:

- The proposal will result in minimal impacts on the Heritage Conservation Area and will meet the objectives of Clause 5.10 of the *LLEP 2013* – see assessment under *Part C1.4 - Heritage Conservation Areas and Heritage Items* – of the LDCP 2013 for further details;
- The proposal involves the rebuilding of an existing facility in the water that is permitted under Clause 6.5 of the *LLEP 2013*; and
- The proposed pontoon will allow access to the water for the general public which is considered to meet the requirements of Clause 6.6 of the LEP.

The proposal raises no issues that will be contrary to the relevant provisions of the *LLEP 2013*.

### 5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes

### 5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The proposal raises no issues that would be contrary to the relevant provisions of the Draft IWLEP 2020.

### 5(d) Development Control Plans

In accordance with Part A1.3 – Land to which this Plan applies, the proposed pontoon does not fall within the zone identified in *Figure A1: Land covered by this Development Control Plan*, as the works the subject of this application are located entirely within the water. As such, the LDCP 2013 does not technically apply to the proposal, however as the proposed pontoon is in association with the Balmain Sailing Club which is located on land within the LGA, the relevant controls of the LDCP 2013 have been reviewed and further addressed where appropriate below.

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013. The following provides discussion of the relevant issues:

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Not Applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not Applicable
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
C1.5 Corner Sites	Not Applicable
C1.6 Subdivision	Not Applicable
C1.7 Site Facilities	Not Applicable
C1.8 Contamination	Yes
C1.9 Safety by Design	Not Applicable
C1.10 Equity of Access and Mobility	No change
C1.11 Parking	Not Applicable
C1.12 Landscaping	Not Applicable
C1.13 Open Space Design Within the Public Domain	Not Applicable
C1.14 Tree Management	Not Applicable
C1.15 Signs and Outdoor Advertising	Not Applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not Applicable
C1.17 Minor Architectural Details	Not Applicable
C1.18 Laneways	Not Applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not Applicable
C1.20 Foreshore Land	Yes
C1.21 Green Roofs and Green Living Walls	Not Applicable
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.6 Birchgrove Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Not Applicable
C3.2 Site Layout and Building Design	Not Applicable
C3.3 Elevation and Materials	Not Applicable
C3.4 Dormer Windows	Not Applicable
C3.5 Front Gardens and Dwelling Entries	Not Applicable
C3.6 Fences	Not Applicable
C3.7 Environmental Performance	Not Applicable
C3.8 Private Open Space	Not Applicable
C3.9 Solar Access	Yes
C3.10 Views	Yes

C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes – see discussion
C3.13 Conversion of Existing Non-Residential Buildings	Not Applicable
C3.14 Adaptable Housing	Not Applicable
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes – see discussion
C4.6 Shopfronts	Not Applicable
C4.7 Bulky Goods Premises	Not Applicable
C4.8 Child Care Centres	Not Applicable
C4.9 Home Based Business	Not Applicable
C4.10 Industrial Development	Not Applicable
C4.11 Licensed Premises and Small Bars	Not Applicable
C4.12 B7 Business Park Zone	Not Applicable
C4.13 Markets	Not Applicable
C4.14 Medical Centres	Not Applicable
C4.15 Mixed Use	Not Applicable
C4.16 Recreational Facility	Not Applicable
C4.17 Sex Services Premises	Not Applicable
C4.18 Vehicle Sales or Hire Premises And Service Stations	Not Applicable
C4.19 Vehicle Repair Station	Not Applicable
C4.20 Outdoor Dining Areas	Not Applicable
C4.21 Creative Industries	Not Applicable
<b>Part D: Energy</b>	
Section 1 – Energy Management	Not Applicable
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Not Applicable
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Not Applicable
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not Applicable
E1.1.3 Stormwater Drainage Concept Plan	Not Applicable
E1.1.4 Flood Risk Management Report	Not Applicable
E1.1.5 Foreshore Risk Management Report	Not Applicable
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Not Applicable
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not Applicable

E1.2.4 Stormwater Treatment	Not Applicable
E1.2.5 Water Disposal	Not Applicable
E1.2.6 Building in the vicinity of a Public Drainage System	Not Applicable
E1.2.7 Wastewater Management	Not Applicable
E1.3 Hazard Management	Not Applicable
E1.3.1 Flood Risk Management	Not Applicable
E1.3.2 Foreshore Risk Management	Yes

The following provides discussion of the relevant issues:

#### C1.4 Heritage Conservation Areas and Heritage Items

##### **Heritage Listing:**

The subject site is listed as a heritage item under Schedule 5 of the Leichhardt LEP 2013, being '(Balmain) Birchgrove Colliery, including interiors' (A9).

It is also with the 'Iron Cove Heritage Conservation Area' (C6).

The statement of significance of this item from the Heritage NSW website is:

*The site is of historical significance as a former Colliery and coal mine that produced coal from 1897 until 1931 and natural gas until 1945. It remains the deepest coal mine ever to be sunk in Australia. The site is also significant for worker's industrial action and co-operative mining operations. Whilst no real evidence remains visible and shafts have been infilled, the site is of archaeological significance as part of a major technological undertaking and rare heavy industrial use close to the city.*

The statement of significance of the HCA is available on Council's website: <https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>

The proposal was referred to Council's Heritage Specialist who provided the following heritage comments and advice:

##### **Discussion**

*The proposal is for a new floating pontoon to replace a storm damaged slide which was demolished due to safety concerns. There is no disturbance to underwater and seabed.*

*Being the Sailing Club in an area marked as an archaeological item, concurrence with Heritage NSW should be required. However, I note that there the proposed development site is in the water (outside of the heritage map boundary) and that there is no proposed disturbance of the seabed.*

*The area demolished for safety concerns has not been assessed under the NSW criteria, however this not required since the assessment is for the replacing structure.*

*The proposed reduction in size of the pontoon is noted.*

*In this case, there are no heritage concerns associated with this development*

##### **Recommendation**

*The proposal is generally acceptable as it complies with relevant controls and policies.*

*Consent, no heritage conditions are required.*

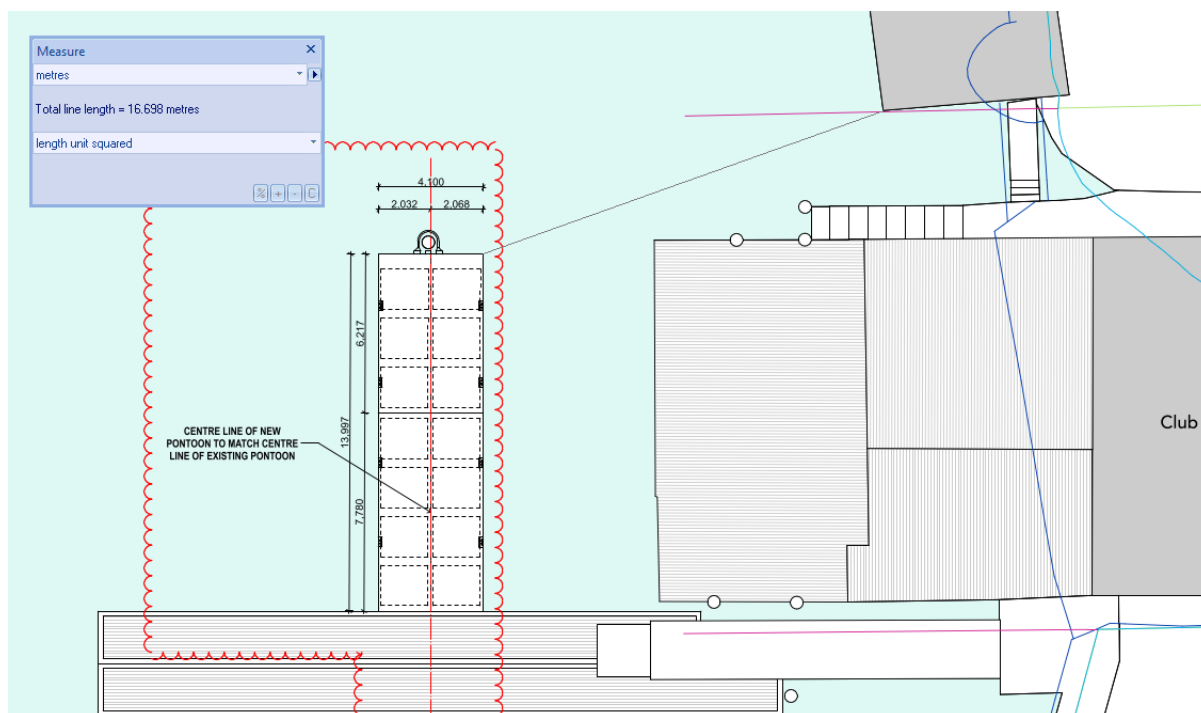
In summary, the proposal will be of form, size, scale, materials and general design that will not detract from the Heritage Conservation Area and will satisfy the heritage provisions prescribed in this part of the DCP as well as Clause 5.10 – *Heritage Conservation* - of the LLEP 2013.

C3.11 Visual Privacy and C3.12 Acoustic Privacy and C4.5 Interface Amenity



As shown on the overlay of the aerial photo above, the proposed floating pontoon is located entirely in the waterway and the boat sheds of 2 and 2A River Street are predominately located on an area that belongs to the Roads and Maritime Services.

As per the diagram below, the shortest distance between the proposed pontoon and the closest boatshed structure is approximately 16.7 metres.



The proposal is unique as the structures are located on the water way, and therefore, located a significant distance away from the boundaries of the site. It is noted that, generally with regard to visual privacy, the sightlines within 9 metres and 45 degrees of a new private open space (such as a new balcony or deck) would be restricted and sightlines outside this visual corridor are not protected. Notwithstanding it is noted that this pontoon replaces a previous pontoon which was located in closer proximity to the nearby boatsheds. As the closest distance between the proposed pontoon and the boat shed on the adjoining property is approximately 16.7 metres, it is considered this level of separation is satisfactory to provide adequate privacy. Notwithstanding it is noted that use as a boatshed would unlikely result in privacy impacts.

As the proposal will be located approximately 20 metres to the main dwelling at 2/2A River Street, it is also considered that there is sufficient distance of separation so that adverse acoustic impacts are unlikely to be generated from the proposed pontoon. However, a condition will be recommended to require a Plan of Management to ensure any noise impacts would be appropriately mitigated / managed.

### 5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

### 5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

## 5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. 5 submissions were received.

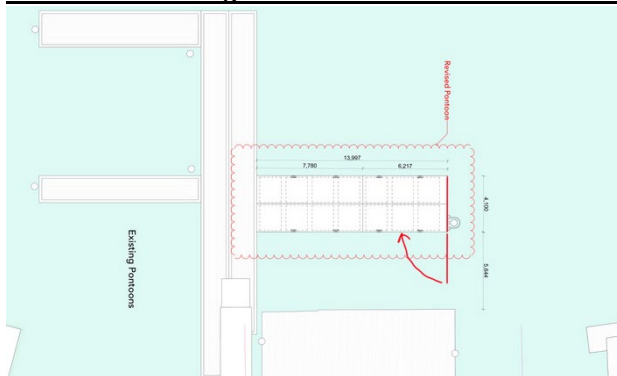
The following issues raised in submissions have been discussed in this report:

- Privacy implications from the proposed pontoon – see Section 5

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

The following issues were raised from the current adjoining neighbours at 2/2A River Street:

- No boat access from the East
- All Public (fishing, loading, swimming) and BSC pontoon use limited to Western access, as per original pontoon.
- No crossing of our Waterways line
- No possible interference/access issues with our future Permanent Birthing/Boat.
- We recommend relocating the proposed public access and deck launching facilities approximately 2 metres behind the proposed position towards the Club, that is, west of the current proposal.
- Provide a low barrier to prevent pedestrians or sailors/people embarking on the end of the new floating deck.
- In the interest of a fair & speedy resolution, we can accept the revised proposal with the addition of a gate as drawn on the attached diagram (bold red line).



- The gate would block boat access from the North (except allow for occasional emergency rubber dingy access, which BSC claims is the sole purpose of the additional pontoon Eastern bay).
- The gate could be locked/opened by the Club members only.

**Comment:** The applicant did not agree to the suggestions. It should be noted that the proposed pontoon and the jetties associated with 2/2A River are all entirely located within the waterway that is managed by Roads and Maritime Services and relies on leases from the Roads and Maritime Services which is under Transport for NSW (TfNSW). The amended design has been referred to the TfNSW for comment and the conclusion are:

*“After consultation with our navigation and planning teams, I advise that the final pontoon design shown on revised plan A-112 by Studio Johnston dated 19/04/2022 is acceptable to TfNSW.”*

As TfNSW had not raised any objections to the proposed pontoon which allows boats to be launched eastwards, it is considered that the proposed pontoon is acceptable in its functionality in its amended form.

Issues in relation to Change of use from Private to Public Access and teens misbehaving in the property adjoining BSC and Hopetoun Quays

Comment: Due to the nature of the proposal, it is unlikely that the pontoon will result in adverse amenity impacts to the surrounding properties. Notwithstanding, a condition in the recommendation that requires a Plan of Management that includes a complaints register.

Issues in relation to the proposed pontoon negatively impacts the water outlook from the property at 2 River St

Comment: The proposed pontoon, as amended, will be located approximately 16.7 metres to the boatshed structure and more than 20 metres to the main dwelling at 2 River Street and the nature of the proposed pontoon being a floating platform, the proposed pontoon will not adversely impact the water outlook from the property at 2 River Street.

#### 5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage – Refer to discussion in an earlier section of the report. No objections.
- Engineers – No objections
- Building – No objections

### 6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Primary Industries – returned.
- NRAR – Exemption given.
- TfNSW – Reviewed amended design and concludes that it is acceptable.



## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/1174 for the replacement of dinghy launching facilities at Balmain Sailing Club at End of Water Street, Birchgrove subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A - 111, Rev. A	Demolition Ground Plan	04/06/21	Studio Johnston
A - 112, Rev. B	Planned Development	19/4/22	Studio Johnston
Q10068 - 001, Rev. D	LAUNCH PONTOON	6.4.22	WALCON MARINE AUSTRALASIA PTY LTD

As amended by the conditions of consent.

#### FEES

##### 2. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

##### 3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of

carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

**Security Deposit:** Min \$8,432.00

**Inspection Fee:** \$241.50

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

#### **GENERAL CONDITIONS**

##### **4. Stormwater Drainage System – Simple**

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to Parramatta River in accordance with the RMS standard requirements.

Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the

drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

#### **PRIOR TO ANY DEMOLITION**

##### **5. Construction Traffic Management Plan**

Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained.

##### **6. Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

#### **PRIOR TO CONSTRUCTION CERTIFICATE**

##### **7. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

**DURING DEMOLITION AND CONSTRUCTION****8. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

**PRIOR TO OCCUPATION CERTIFICATE****9. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

**10. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

**11. Plan of Management**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Plan of Management for the operation of the licensed premises that addresses the following:

- a. Minimise noise emissions and associated nuisances from the pontoon; and
- b. Creation of a complaints register and effectively manage and respond to resident complaints.

**ON-GOING****12. Plan of Management - Operation**

The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

**ADVISORY NOTES****Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

**Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

**Toilet Facilities**

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

**Other works**

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

**Failure to comply with conditions**

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

**Obtaining Relevant Certification**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

**National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by



this consent must be carried out in accordance with the requirements of the National Construction Code.

#### **Notification of commencement of works**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
  - i. The name and licence number of the principal contractor; and
  - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
  - i. The name of the owner-builder; and
  - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

#### **Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

#### **Noise**

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

#### **Amenity Impacts General**

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

#### **Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where

children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Dial before you dig**

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm
	<a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20
	<a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>
	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100
	<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660
	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441
	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406
	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a>
	<a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a>
	Information on asbestos and safe work practices.

NSW Office of Environment and Heritage	131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)		<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>

Enquiries relating to work safety and asbestos removal and disposal.

#### Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

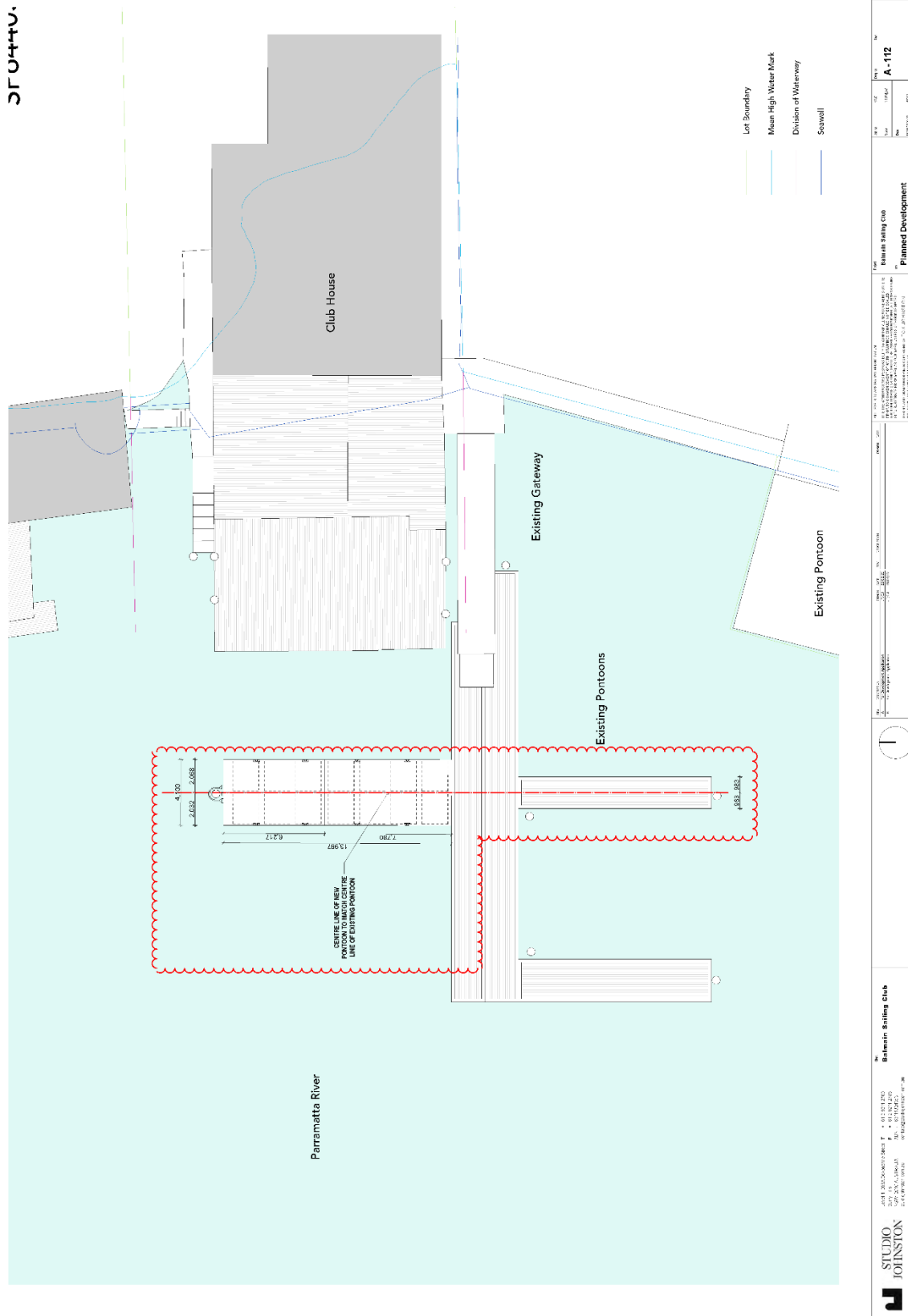
- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

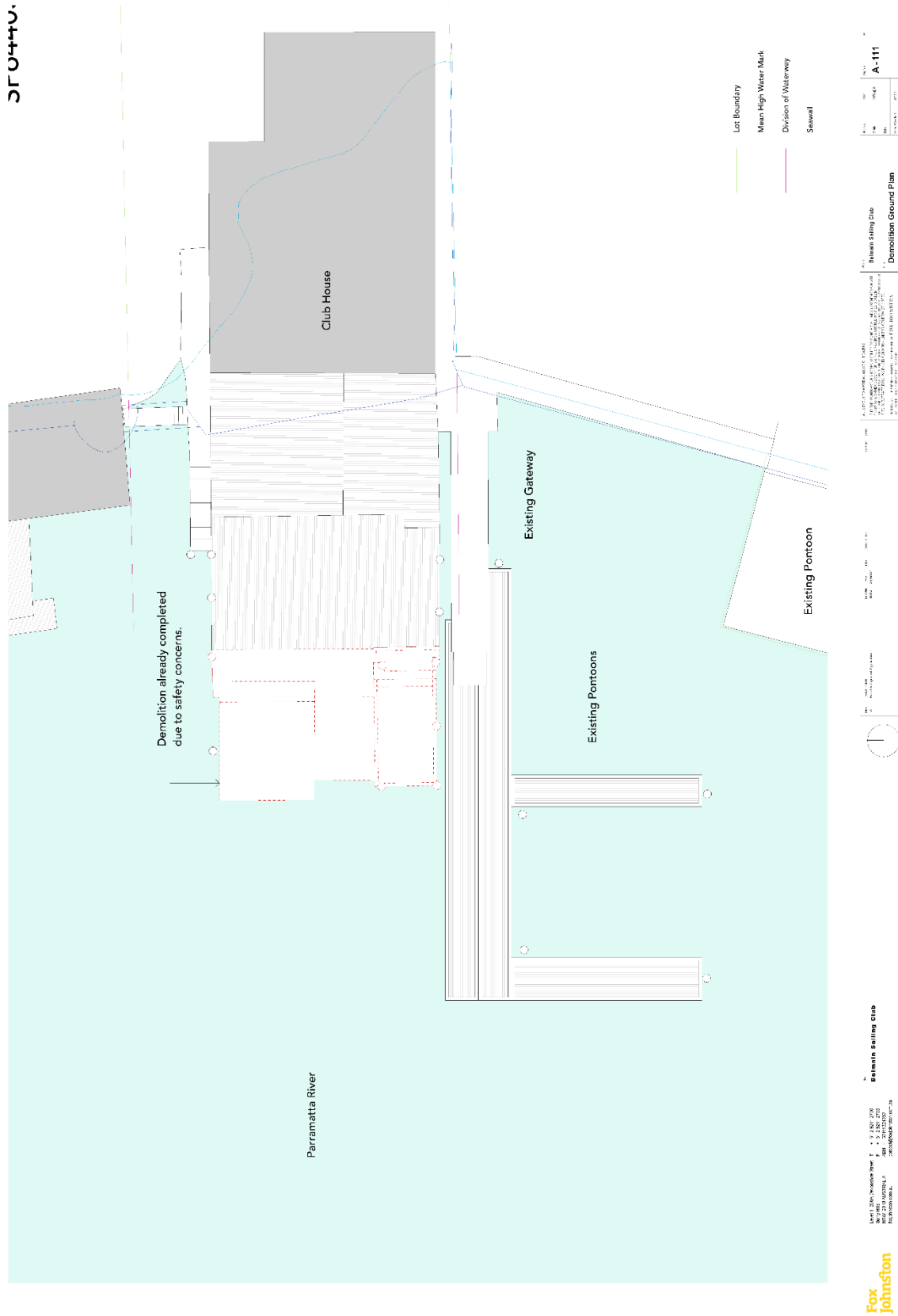
If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

**Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Attachment B – Plans of proposed development





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