

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0392
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<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot 301 DP 514985, 41 Robertson Road SCOTLAND ISLAND NSW 2105 Lot LIC 509288, 41 Robertson Road SCOTLAND ISLAND NSW 2105
<b>Proposed Development:</b>	Alterations and additions to a water recreation structure
<b>Zoning:</b>	C3 Environmental Management
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Peta Jean Crafter
<b>Applicant:</b>	Alister Copley

<b>Application Lodged:</b>	12/04/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	19/04/2024 to 03/05/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 175,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for alterations and additions to the existing jetty structure, comprising:

- Removal of all existing fixed timber wave attenuators and associated piles
- Removal of existing ramp, pontoons and stairs, and associated piles
- Partial removal of existing timber jetty to connect to new timber ramp
- Construction of a new timber ramp (2.0 metres x 6.0 metres) connecting existing timber jetty to the new pontoon

- Construction of a new T-shaped pontoon (67.65m<sup>2</sup>) with four (4) new timber piles
- Berthing area - 6.15 metres x 4.7 metres
- Berthing area - 9.7 metres x 3.87 metres
- Four (4) new pontoon stabilising piles, while utilising two (2) existing piles for berthing

## ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Assessment - DPI Fisheries - Marine Estate Management Act 2014, s56 - Development affecting marine parks and aquatic reserves

Pittwater Local Environmental Plan 2014 - 2.5 Additional permitted uses for particular land

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

Pittwater 21 Development Control Plan - D15.13 Lateral limits to development seaward of mean high water mark

Pittwater 21 Development Control Plan - D15.15 Waterfront development

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 301 DP 514985 , 41 Robertson Road SCOTLAND ISLAND NSW 2105 Lot LIC 509288 , 41 Robertson Road SCOTLAND ISLAND NSW 2105
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment located on the north side of Robertson Road.

The site is irregular in shape with a frontage of approximately 10.2 metres along Robertson Road and a maximum depth of 76.3 metres to the mean high water mark (MHWM). The site has a surveyed area of 1378.0m<sup>2</sup>.

The site is located within the C3 Environmental Management zone within the *Pittwater Local Environmental Plan 2014* (PLEP 2014) and accommodates a two (2) storey residential dwelling within a landscaped setting. The site also has a jetty and pontoon under Lot Licence 509288.

The site has a southerly orientation toward the road frontage, and a northerly orientation toward the waterway. The site is situated on a slope of approximately 16.6% (or 12.69 metres).

The site is not known to have any threatened species.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by residential dwellings within a landscaped setting, some properties are waterfront with water recreation structures such as jetties, wharves and pontoons.

Map:



#### **SITE HISTORY**

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **N0168/12.** This development application sought consent for the demolition of a majority of the existing dwelling, construction of a new dwelling and boatshed, new waste water system and site landscaping. This application was approved, subject to conditions, on 18 October 2012. A Construction Certificate was provided to Council on 7 November 2012. And an Occupation Certificate was provided to Council on 21 June 2016.
- **N0244/12.** This development application sought consent for alterations and additions to the existing sea walls, construction of a new seawall, access stairs and a skid. This application was approved, subject to conditions, on 17 December 2012. A Construction Certificate was provided to Council on 22 February 2013. A Final Occupation Certificate was obtained and provided to Council on 30 November 2018.
- **N0168/12/S96/1.** This modification application sought to modify N0168/12. This application was approved, subject to conditions, on 15 August 2013.
- **N0168/12/S96/2.** This modification application sought to modify N0168/12 and N0168/12/S96/1. This application was approved, subject to conditions, on 15 July 2014.
- **DA2023/1908.** This development application sought consent for alterations and additions to a dwelling house. This application was withdrawn from Council on 22 April 2024.
- **DA2024/0351.** This development application sought consent for alterations and additions to a water recreation structure. This application was not formally accepted by Council and was returned to the Applicant in the absence of missing information (being a Bushfire Report).

## APPLICATION HISTORY

### Transport for NSW

The development application was referred to Transport for NSW prior to lodgement, and the following comment was provided:

*I refer to your email to Transport for NSW Maritime dated 2 August 2023 regarding assessment of the above proposal.*

*We advise that an inspection/assessment has been conducted by the local Boating Safety Officer and there are no navigational concerns regarding the designed proposal.*

### DPI - Fisheries

By way of written correspondence dated 7 September 2023 (Reference: C23/553), DPI - Fisheries provided advice that the proposal was not considered to include any dredging, reclamation, harm to marine vegetation or blocked of fish passage and therefore it is not considered by them to constitute Integrated Development pursuant to the *Environmental Planning and Assessment Act 1979*. Accordingly, subject of this advice, the application has not been formally referred to them.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic</p>



Section 4.15 Matters for Consideration	Comments
	impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection. However, the scope of works are classified as a Class 10b Structure. The Planning for Bush Fire Protection document stipulates that certain structures do not add to bushfire risk if the structure is 6.0 metres or further from a habitable dwelling. The proposed works to the existing jetty and pontoon is sited approximately 41.3 metres to the mean high water mark, therefore the habitable dwelling is sited beyond the required 6.0 metres.

A Planning for Bushfire Protection 2019 review was submitted with the application (prepared by Copley Marine Group, dated 9 April 2014) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 19/04/2024 to 03/05/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p><b>General Comments</b></p> <p>This application is seeking consent for the following:</p> <ul style="list-style-type: none"> <li>• Removal of all existing fixed timber wave attenuators and associated piles,</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Removal of existing ramp, pontoons and stairs, and associated piles,</li> <li>• Modification of by partial removal of existing timber jetty to connect to new timber ramp,</li> <li>• Construction of new timber ramp (2.0 x 6.0 m) connecting existing timber jetty to new pontoon,</li> <li>• Construction of new T-shaped pontoon (67.65 m2) with four new timber piles; and</li> <li>• Construction of two new berthing areas (4.0 x 6.0 m each).</li> </ul> <p>The Acid Sulfate Soils Preliminary Assessment states: <i>The development would not involve the removal of more than 1 tonne of soil and would not lower the water table. As there will be no removal of soil from the water and any disturbance will further be controlled in water, there will be minimal risk of any exposure of the soil to the air to trigger any oxidation process and any formation of sulfuric acid. The overall analysis returns a “low” risk level for any pollutants associated with ASS.</i></p> <p>Environmental Health considers the risk of Acid Sulfate Soils disturbance low given the type of works proposed and its location.</p> <p>Environmental Health recommends approval subject to conditions.</p>
NECC (Coast and Catchments)	<p><b>SUPPORTED SUBJECT TO CONDITIONS</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports including:</li> <li>• Marine Habitat Survey by H2O Consulting Group dated 23 June 2023</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• Relevant LEP and DCP clauses; and</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>The application has also been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> <li>• Consent to lodge DA from the NSW Department of Planning, Housing and Infrastructure – Crown Lands and Public Spaces dated 19 March 2024</li> <li>• No navigational Concerns from the Transport for NSW-Maritime Division dated 7 August 2023 enclosing dated and signed maps; and</li> <li>• No Objection with conditions from the DPI-Fisheries, a division of the Department of Primary Industries dated 7 September 2023.</li> </ul> <p><b>State Environmental Planning Policy (Resilience and Hazards) 2021</b></p>

Internal Referral Body	Comments
	<p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.10, 2.11 and 2.12 of the SEPP (R &amp; H) apply for this DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Copley Marine Group dated March 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of SEPP R&amp;H.</p> <p>As such, it is considered that the application can comply with the provisions of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 subject to conditions.</p> <p><b>Pittwater 21 DCP</b></p> <p><b>Estuarine Hazard Management</b></p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7-B3.10 Estuarine Hazard Controls will apply to any proposed development of the site. The Estuarine Hazard Controls do not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.</p> <p>Development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHW). The proposed development is therefore not required to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b> <b>Development on Foreshore Area</b></p> <p>The subject properties are affected by the foreshore building line and Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. Proposed development works are located seaward of land below the foreshore building line and the proposed jetty is a permitted land use within the foreshore area. The proposed development is not contrary to the objectives of the zone, is unlikely to cause significant environmental harm or have an adverse impact on the amenity or appearance of the foreshore. It is therefore considered that the development proposal satisfies the objectives and requirements of Clause 7.8 – Limited development on foreshore area of Pittwater LEP 2014, subject to conditions.</p> <p><b>D15. Waterways Locality</b></p> <p><b>D15.12 Development seaward of mean high water mark</b></p> <p>Proposed development works are located on crown land below the</p>



Internal Referral Body	Comments
	<p>Mean High Water Mark. Hence, Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP applies to proposed development.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Copley Marine Group dated March 2024, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway</p> <p>On estuarine habitat, a Marine Habitat Survey by H20 Consulting Group, dated 3 March 2022 has assessed that the works are not expected to directly impact on sensitive marine habitat such as seagrasses. Those impacts that do occur will be confined to some short-term disturbance to areas of rock, rubble and silty sediment vegetated with common macroalgae, and artificial habitat. However, there remains some potential for disturbances of biota associated with the existing structures and seagrasses that occur adjacent to the proposed works during construction, thus adoption of measures identified in this report can minimise and mitigate any further potential additional impacts on aquatic habitat and species.</p> <p>Increased permanent and temporary shading of benthic habitat from the enlarged footprint of the jetty and mooring pens. Habitat within the footprint of the proposal is restricted to unvegetated silty soft sediment and common macroalgal stands, which are less susceptible to shading impacts. The new footprint is not expected to increase shading of nearby seagrass beds, given it uses in most part the footprint of existing structures at the subject Site.</p> <p>No other coastal issues identified.</p>
NECC (Riparian Lands and Creeks)	<p>Supported subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>- Supplied plans and reports;</li> <li>- Coastal Management Act 2016;</li> <li>- State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>- Relevant LEP and DCP clauses; and</li> <li>- Northern Beaches Council Water management for development policy.</li> </ul> <p>This proposal is supported. Details below.</p> <p>Riparian</p> <p>The site is located adjacent to Pittwater Estuary and as such proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater or the</p>

Internal Referral Body	Comments
	<p>quantity and quality of surface and ground water flows that it receives.</p> <p>Seagrass Posidonia australis seagrass is identified as occurring in shallow waters in nearby the jetty of 41 Robertson Road Scotland Island in the DPI Posidonia australis endangered population maps and the provided Marine Habitat Survey. The recommendations from the Marine Habitat Survey must be followed. Seagrass must not be damaged when moving vessels and equipment to and from the jetty.</p>
Parks, reserves, beaches, foreshore	Park Reserves and Foreshore Referral in review of the submitted reports and plans consider that the proposed development is not detrimental to the character of the waterway, and as such Parks Reserves and Foreshores raise no concerns with the development proposal.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many

provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP (Sustainable Buildings) 2022**

A BASIX Certificate is required for any development where a new dwelling is proposed, where alterations and additions to an existing dwelling is valued at \$50,000 or more, or where a swimming pool (or spa) is proposed with a capacity of 40,000 litres or more. In this instance, the scope of works under this development application do not trigger the need for a BASIX Certificate in accordance with the *State Environmental Planning Policy (Sustainable Buildings) 2022*.

### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

### **SEPP (Resilience and Hazards) 2021**

#### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 3 Coastal environment area**

##### **2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and no concerns were identified with the proposal. As such, the above matters have been considered against the proposal and the assessment has found that the proposed development satisfies these matters.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and no concerns were identified with the proposal. As such, the above matters have been considered against the proposal and the assessment has found that the proposed development satisfies these matters.

## **Division 4 Coastal use area**

### **2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:

- i) existing, safe access to and along the foreshore, beach, headland or rock
    - ii) platform for members of the public, including persons with a disability,
    - iii) overshadowing, wind funnelling and the loss of views from public places to
    - iv) foreshores,
    - v) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - Aboriginal cultural heritage, practices and places,
  - cultural and built environment heritage, and
- b) is satisfied that:
- i) the development is designed, sited and will be managed to avoid an
  - ii) adverse impact referred to in paragraph (a), or
  - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and no concerns were identified with the proposal. As such, the above matters have been considered against the proposal and the assessment has found that the proposed development satisfies these matters.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	



aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	4.0m	1.63m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

### 2.5 Additional permitted uses for particular land

Schedule 1 Additional Permitted Uses of the *Pittwater Local Environmental Plan 2014*, the following applies:

#### 23 Uses of certain land in Zone W1 Natural Waterways

- (1) *This Clause applies to land identified as "Area 23" on the Additional Permitted Uses map.*  
 (2) *Development for the purposes of boat sheds, jetties or water recreation structure is permitted with development consent.*

#### Comment:

The proposed development is sited entirely within the Zone W1 Natural Waterways. Therefore, Area 23 of the PLEP 2014 Additional Permitted Uses applies. In this instance, the proposed ramp, pontoon, mooring pens, and pontoon piles (all considered as *water recreation structures*) are permissible within the Zone W1 Natural Waterways, with consent.

#### Zone W1 Natural Waterways

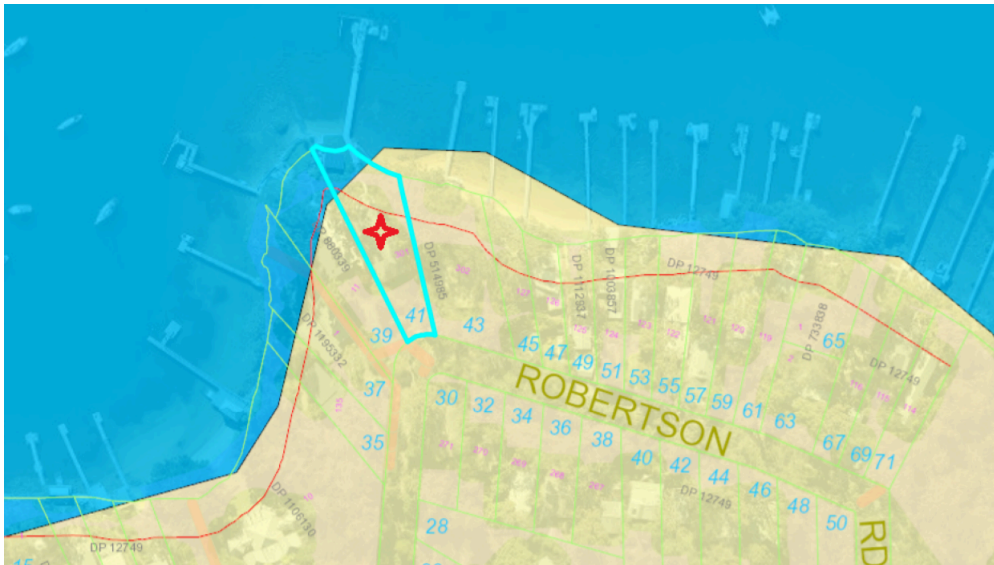
The proposed development is sited entirely within Zone W1 Natural Waterways. However, as detailed in the above section ***Additional Permitted Uses for Particular Land***, Area 23 applies to land seaward of the Mean High Water Mark (MHWM).

Therefore, the proposed works are permitted within the Zone W1 Natural Waterways, with consent.

#### 7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The subject site is located in both Class 1 and Class 5 Acid Sulfate Soils, as indicated in the figure below.



The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment:

As detailed in the Preliminary Acid Sulfate Soils, the method of drive piles does not require excavation.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment:

The proposed development will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment:

As detailed in the Preliminary Acid Sulfate Soils, the method of drive piles does not require excavation.

*(f) the likelihood of disturbing relics*

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

Comment:

The subject site is located on Pittwater Waterway, with the proposed development being sited entirely seaward of the MHW. The proposed development has been referred to Council's Environmental Health (Acid Sulfate) Officer, Riparian Lands and Creeks Officer, Coast and Catchments Officer and Council's Parks, reserves, beaches and foreshore Officer - none of whom raised concern regarding

the proposal, subject to recommended conditions. Compliance with these recommended conditions will ensure that there are no unreasonable impacts upon the waterway and environmentally sensitive area.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

Conditions are included in the recommendation of this report that will minimise the impacts of the development.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment:

The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## Pittwater 21 Development Control Plan

### Built Form Controls

There are no built form controls that are relevant to the proposed development. Consideration of setbacks are done so under controls D15.12 Development seaward of mean high water mark and D15.13 Lateral limits to development seaward of mean high water mark.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.12 Development seaward of mean high water mark		
D15.13 Lateral limits to development seaward of mean high water mark	No	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	No	Yes

#### Detailed Assessment

#### **D15.12 Development seaward of mean high water mark**

This control stipulates the following:

- *All new buildings are to be located landward of mean high water mark.*
- *Only structures associated either with the accommodation, servicing or provision of access to boats shall be permitted seaward of mean high water mark.*
- *In instances where it is proposed to alter, extend or rebuild existing buildings seaward of mean high water mark, any further encroachment of such buildings onto the waterway is to be minimised. Where development seaward of mean high water mark is proposed to occur, especially during the refurbishment of existing structures, proponents need to ensure that the structure will not harm marine vegetation, and must consult with the Department of Primary Industries.*
- *Developments are required to ensure that public access is maintained and provided for along the foreshore.*

#### Comment:

The proposed development does not seek to construct a new building. The proposed works are entirely seaward of the MHW, including alterations and additions to the existing jetty, pontoon and piles. The existing water structure (when measured from the timber ramp) has an area of 88.6m<sup>2</sup>, and the proposed development will have an area of 77.2m<sup>2</sup> (see figures below) and, therefore, does not seek a further encroachment into the waterway. Furthermore, the proposed development includes a referral response from the Department of Primary Industries - Fisheries (DPI - Fisheries), which supports the proposed development. The referral from DPI - Fishers has been included within the recommendations of this report.





The plans provided appears to indicate the proposed pontoon and new mooring pen extends beyond the eastern lateral limit in (as indicated in the figure below).

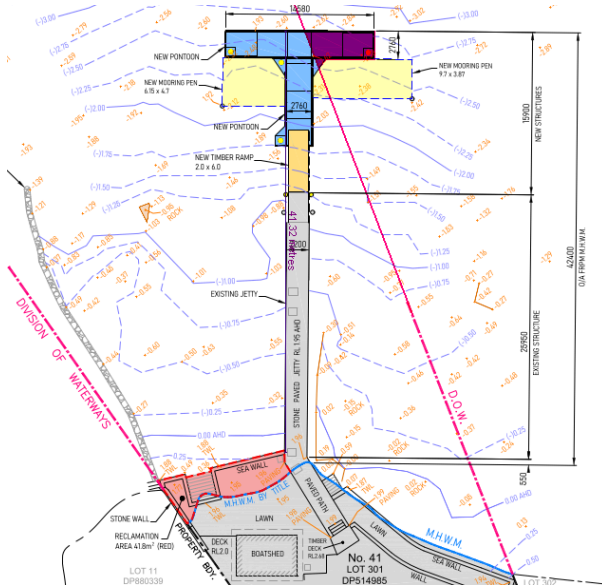


Figure 4. Extent of breach beyond the lateral limit line (indicated by purple shading).

The proposal is compliant to the western lateral limit line, as indicated above.

The existing jetty and pontoon structure is beyond the eastern lateral limit line, as indicated in the figure below.

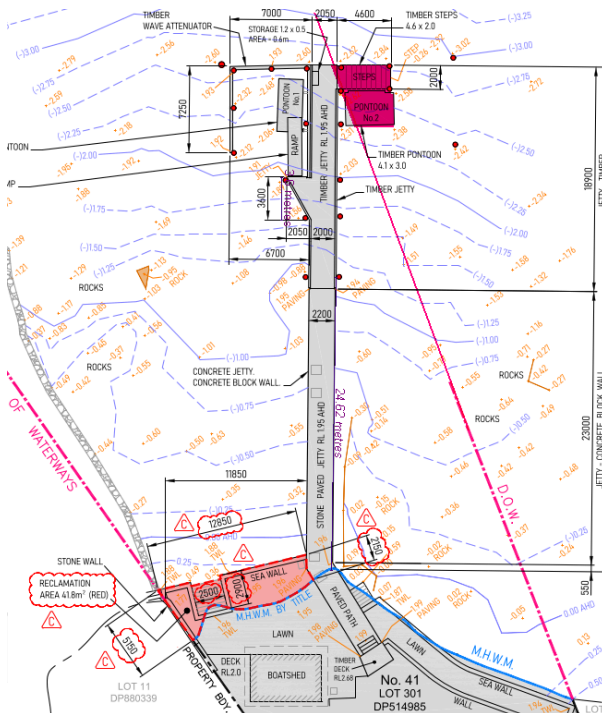


Figure 5. Existing jetty and pontoon structures beyond the eastern lateral limit line (extent of breach indicated by pink shading).

### Merit consideration

- *To ensure that fair and equitable enjoyment of the waterway is achieved between neighbouring waterfront landowners through restricting unreasonable encroachment of waterfront development in front of adjoining properties. (S)*

Comment:

Notwithstanding the extent of breach to this control, the variation is considered reasonable given the context of the site, and the location of the new jetty and pontoon structures are of a lesser encroachment, thus resulting in a better outcome than the existing arrangement. Further, there are no adverse or unreasonable impacts upon the adjoining jetty (including its use) at 43 Robertson Road, Scotland Island (located to the east of the subject site) due to the substantial spatial separation between the two water recreation structures, which at it's closest points are a distance of 32.1 metres. Based on this, the proposed development will continue to provide for the fair and equitable enjoyment of the waterway.

## **D15.15 Waterfront development**

### **a) Jetties, Ramps and Pontoons**

Where jetties, ramps and/or pontoons are proposed, this control stipulates the following:

- i. *Handrails are to be located only on one side of the structure.*
- ii. *Structures shall be located where at a maximum permissible water depth of 2.5 metres at low tide*
- iii. *The minimum depth at the end of a jetty/pontoon should be:*  
  - 600mm at zero tide in the case of a pontoon (as per NSW Department of Primary Industries)*
  - 600mm at mean low tide minimum in the case of a fixed jetty end (i.e. no pontoon)*
- iv. *Structures shall generally be no greater in length than existing structures, and shall not impede general navigation or equitable access or use of the waterway by adjoining landowners. The length of any jetty is to be minimised. (Diagrams 2A and 2B)*
- v. *The construction of " L " or " T " ends or other types of elongations or steps at right angles to jetties shall not be permitted.*
- vi. *The erection of structures above the finished surface of a jetty, ramp or pontoon, including sheds, overhead light fittings, benches and sinks, shall not be favoured, other than a small self contained service modules incorporating low voltage, low level lighting.*
- vii. *Gates and like devices shall not be permitted across structures where public access around the foreshore is obstructed, or where such devices are visually obtrusive.*
- viii. *Where considered appropriate, jetties shall be supported on piles. Solid fill structures such as groynes, or similar, shall not be permitted.*
- ix. *The finished jetty deck height shall be a maximum height of 1 metre above mean high water mark or 1.5 metres AHD.*
- x. *The materials used for construction should not be deleterious to marine life, for example antifouling paints or treated woods must not be used*
- xi. *Structures over Posidonia seagrass or over Zostera, Heterozostera, Halophila and Ruppia species of seagrass beds greater than 5 square metres in area will generally not be permitted unless special circumstances exist. Exemptions may include:*
  - i. *works that are clearly in the public interest (e.g. safe access points for boating or swimming, State significant development),*
  - ii. *proposed works that, by virtue of design and location, are unlikely to have a significant impact, and where the proponent is willing to undertake works to compensate for any aquatic habitat*

liable to be lost or damaged,

iii. where property access is only available by water and no other alternative sites exist.

- xii. Where applicable, pontoons are to be positioned beyond the outer edge of the seagrass and the portion of the jetty, ramp or pontoon crossing seagrass is to be meshed or constructed of a similar material that transmits light to the seafloor. There is to be no covering on top of the mesh.
- xiii. Watercraft are not to be moored over or anchored within seagrass beds, and are not to be stored on the jetty, ramp or pontoon.

#### Comment:

A handrail is proposed to the eastern elevation of the jetty and ramp only. The proposed development was referred to Department of Primary Industries - Fisheries (DPI - Fisheries) for comment, and no issues were raised. The proposed works result in a similar length to the existing water structure. The proposal was referred to Transport for NSW, and no navigational concerns were raised. The proposal does not include the construction of a jetty (as the jetty is existing), and the proposed ramp and pontoon will result in an elongated T shape that is perpendicular to the land, which is generally consistent with the shape of the existing timber ramp and pontoons. No additional structures are proposed on the ramp or pontoon. No gate is proposed on the ramp and/or pontoon. A groyne is not proposed, however four (4) new stabilising piles are proposed, in addition to the retention of two (2) stabilising piles. DPI have not raised concern regarding the stabilisation pile and it is, therefore, considered appropriate. A jetty is not proposed, however the proposed timber ramp will align with the existing stone paved jetty of RL1.95 AHD, then slope downwards to meet the pontoon at -RL0.33 AHD. As this aligns with the existing ramp and pontoon, the non-compliance with the height can be supported. The Statement of Environmental Effects (SEE) indicates that the proposed materials will be natural hardwood timbers (with no anti-fouling or treated timber to be used). The piles for pontoon stability are likely to be steel, however the proposed plans indicate the stabilising piles will be timber. Notwithstanding the discrepancy, DPI - Fisheries have not raised concern regarding the proposed materials. The Marine Habitat Survey notes that the proposed works will not adversely or unreasonably impact upon surrounding or nearby seagrass. The Marine Habitat Survey indicates that there are no mangroves in the vicinity of the proposed works, but acknowledged that there was 'one Grey mangrove was present on the adjacent property, approximately 15m to the west of the proposal footprint' (H2O Consulting Group, 2023, p. 10).

Diagram 2A: Design Guidelines for Conventional Jetty, Ramp and Pontoon Structure - Elevation View

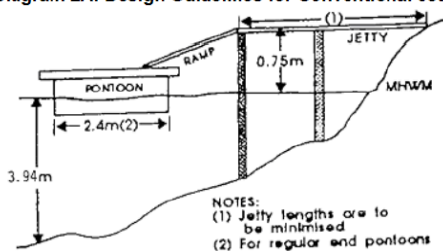


Figure 6. Diagram 2A extracted from Control D15.15 of P21DCP.

Diagram 2B: Design Guidelines for Conventional Jetty, Ramp and Pontoon Structure - Plan View

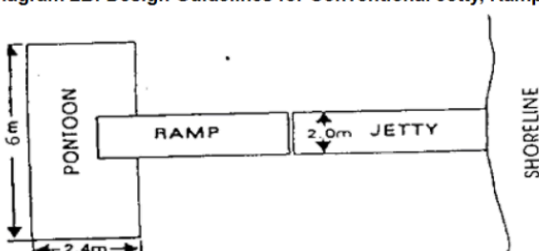


Figure 7. Diagram 2B extracted from Control D15.15 of P21DCP.

The above diagrams indicated a jetty, ramp and pontoon arrangement. The existing jetty will be retained and the proposed works are consistent with diagram 2. The proposed pontoon is accessed from the proposed timber ramp which is to be affixed to the existing paved jetty. The height of the ramp where it meets the existing paved jetty is 2.78AHD, and is 1.18AHD where it meets the pontoon. The proposed pontoon does not meet the required dimensions, as detailed within Diagram 2B, with the length being 14.580 metres, and a width of 2.75 metres. Notwithstanding the extent of non-compliance to the proposed pontoon, the proposal does not impact upon navigational channels, nor does it restrict the use of adjacent pontoons and berthing areas to adjoining properties. Further, as detailed above, the proposal has been reviewed by DPI - Fisheries and Transport for NSW, neither of which raised concern with the proposal. In this instance, the proposed pontoon can be supported.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 875 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 175,000.

### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:



- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/0392 for Alterations and additions to a water recreation structure on land at Lot 301 DP 514985, 41 Robertson Road, SCOTLAND ISLAND, Lot LIC 509288, 41 Robertson Road, SCOTLAND ISLAND, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA2	A	Existing & New Works Plan	Copley Marine Group	27 July 2023
DA3	C	New Works Plan	Copley Marine Group	30 May 2023
DA4	C	Section 1	Copley Marine Group	12 April 2023
DA5	C	North Elevation	Copley Marine Group	12 April 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Preliminary Acid Sulfate Soil Assessment	-	Copley Marine Group	28 March 2024
Marine Habitat Survey	-	H2O Consulting Group	23 June 2023

Planning for Bushfire Protection 2019 Review	-	Copley Marine Group	9 April 2024
Waste Management Plan	-	Copley Marine Group	28 March 2024
Land Owners Consent: LOC No. 642756	-	Department of Planning, Housing and Infrastructure	19 March 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	7 May 2024
Department of Primary Industries - Fisheries	Report - DPI Fisheries Letter	7 September 2023
Transport for NSW	Report - Transport for NSW Letter	7 August 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been

completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of

jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.



## **FEES / CHARGES / CONTRIBUTIONS**

### **5. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$875.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$175,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### **6. Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **7. Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**8. Compliance with Marine Habitat Survey**

The development is to comply with all safeguard recommendations of the approved Marine Habitat Survey prepared by H2O Consulting Group, dated 23 June 2023 and these recommendations are to be incorporated into construction plans and specifications and maintained over the life of the development.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

**9. Lawful Authority to Use and Occupy Crown Land or Waterway**

An executed license agreement from the relevant NSW government agency governing the use and occupation of Crown land in accordance with Condition #5 of the Crown Land's letter of landowner's consent dated 19 March 2024, is required to be obtained prior to the issue of a construction certificate. Evidence demonstrating compliance is to be provided to the certifying authority for approval.

Reason: To ensure that lawful authority under the Crown Land Management Act 2016 to use and occupy Crown land or waterway is obtained before construction commences.

**10. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**11. Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

## DURING BUILDING WORK

12. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

13. **Use of equipment and vessels in the vicinity of seagrass**

No equipment is to be placed on any seagrass beds.

Inshore infrastructure for mooring vessels and plant must be used where suitable. Where mooring lines or cables are required, they shall be suitably buoyed prior to laying and kept buoyed once laid to prevent cable drag or swing damage (scalping). Where this is impractical, contractors should use a floating rope.

Vessels must have adequate clearance over seagrass beds, including allowance for tidal movement, swell/wind wave heights and vessel propulsion.

Reason: Protection of seagrass.

14. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

15. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

16. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 17. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Megan Surtees, Planner**

The application is determined on 18/06/2024, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**