



Statement of Environmental Effects

Improvements to existing domestic waterfront facilities

41 Robertson Road, Scotland Island 2105



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1. Improved water recreation structures

1.1 Introduction

This Statement of Environmental Effects (SEE) has been prepared by Copley Marine Group (CMG) in support for landowners' consent (LoC) from NSW Crown Lands and subsequent development application (DA) to Northern Beaches Council (Council) for improvements to the existing water recreation structures at 41 Robertson Road Scotland Island (also Lot 301 in DP 514985).

This application relates to alterations and additions to the existing structures on Crown Land below the deed Mean High Water Mark (M.H.W.M). The owners of the Site have provided Copley Marine Group (GMG) with the authority to act on their behalf. This application and SEE, prepared by CMG, seeks landowners consent (LoC) for alterations and improvements to the existing structures.



Figure 1 - existing structures

The proposal has been designed to provide improved stability and therefore safer access to the water access only property for the owners, who support a child with physical and mental disabilities. It will also improve local amenity by the removal of the existing, unsightly wave attenuator (that currently protects the approved berthing area from the prevailing winds).

The proposal will reduce the existing structure footprint over the water by 20m² – from 209m² to 189m².

This proposal is exempt from a controlled activity approval under the *Water Management (General) Regulation 2018* (refer to Schedule 4, Clauses 18 and 32).

Importantly:

- NSW DPI Fisheries has considered the proposal against the provisions of the *Fisheries Management Act, 1994* and provided written support on 7 September 2023 (see **Appendix 2.3**).
- Transport for NSW (TfNSW) has reviewed the proposal with regard to safety and navigation and provided written support on 17 July 2023 (see **Appendix 2.4**).
- Crown Lands provided landowners consent (LoC) to lodge a development application on 19 March 2024. The LoC letter is provided at **Appendix 2.5**.

1.2 Site and foreshore description

Scotland Island is an offshore island, and one of the 'Coastal Communities' within the Pittwater Waterway (see **Figures 2 and 3**). Scotland Island predominantly contains low density residential development with high coverage of tree canopy. There are 750 dwellings in the Coastal Communities that are accessible only by boat and/or public ferry. These dwellings are typically one and two-storey homes on 600 -1,300 square metre allotments. The foreshore homes are a mix of architectural styles that step down the slopes, preferably subdued in external finishes and located amongst the Pittwater Spotted Gum Forest. Boat sheds and water recreation structures are common. Scotland Island is not serviced by sewage infrastructure.

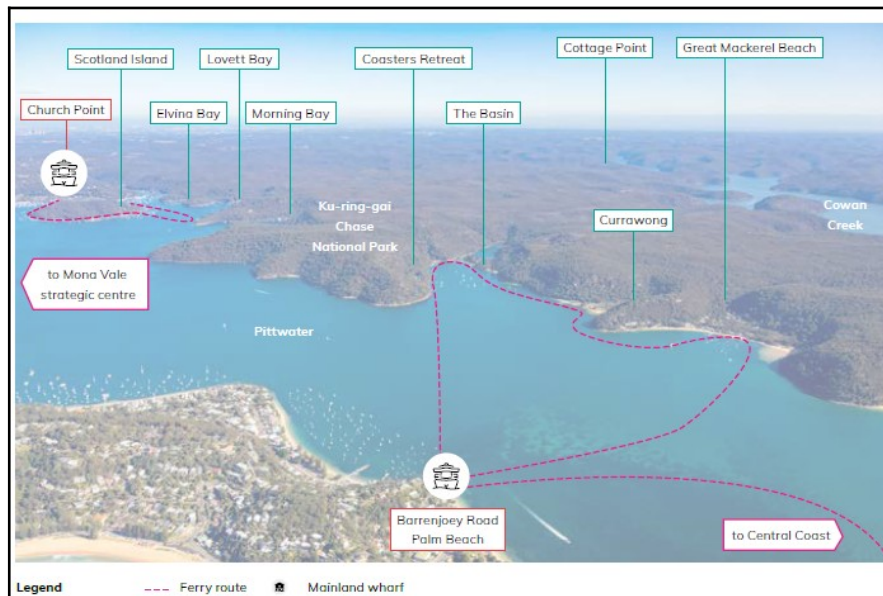


Figure 2 -Coastal Communities of the Northern Beaches

Towards the west of the Island is Elvina Bay and Ku-ring-gai Chase National Park, towards the south is Church Point and to the east is Clareville and Avalon.

1.3 Site condition and improvements

As identified in Figures 2 to 8 below, the existing structures below the M.H.W.M. include:

- Seawall
- Reclamation
- Concrete jetty
- Timber jetty
- Ramp
- Pontoon
- 2 x Piles
- 1 x Berthing area
- Steps
- Wave attenuator on the northwestern side.

Except for the small pontoon to the east side of the jetty, it appears that the existing structures have been licenced in the current configuration since at least 1990 (see licence plan in **Figure 4**, 201794 dated 1990). Photographs of the existing structures are shown at **Figures 5-9**.



Figure 3 - site location

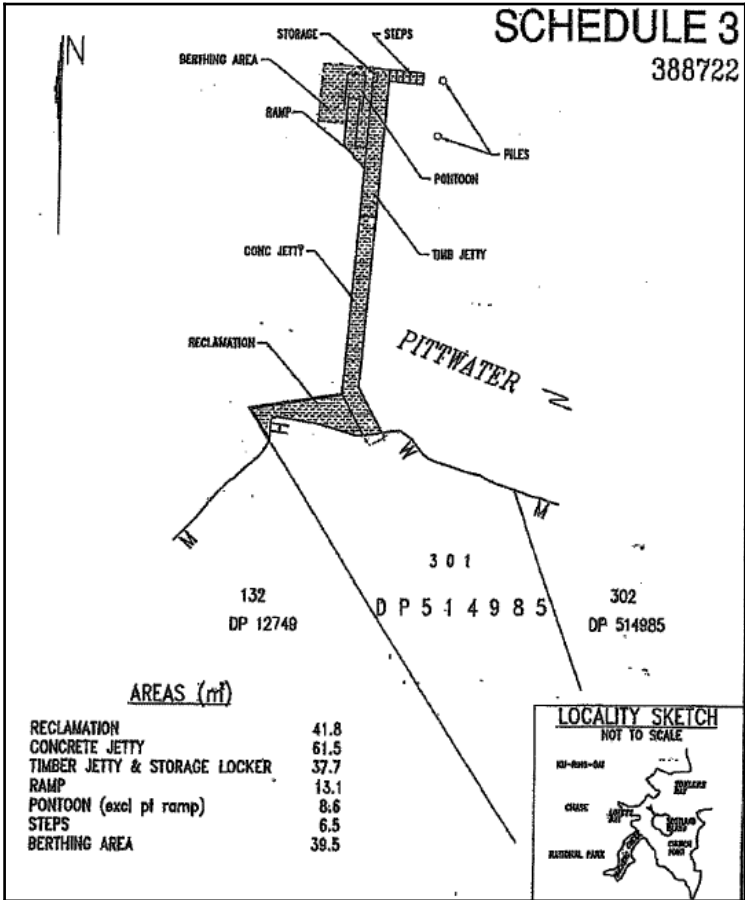


Figure 4 –Crown Lands licence 388722



Figure 5 – berthing area on NW side



Figure 6 – stairs, pontoon and mooring piles to the east



Figure 7 – western neighbours' facility

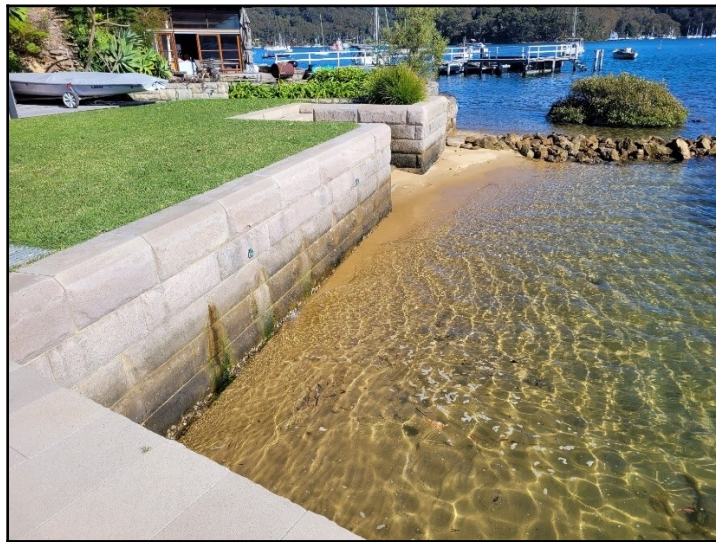


Figure 8 – seawall and foreshore stairs



Figure 9 - view of wave attenuator from the west

1.4 Planning and approval history

CMG has approached Council for access to building and planning information and records relating to the jetty structures. Council's 'access to information' team has confirmed that there are no specific jetty records available.

The owner has provided the below photographs of the jetty structures taken in the 1980's and 90's (**Figures 10 and 11**). In addition, a copy of the Crown Lands licence from 1995 (Licence 201794) indicates that the *licenced* structures have remain unchanged since 1995. It is acknowledged that the existing pontoon on the north-east of the jetty is unauthorised. The owner intends to remove and replace this pontoon as part of the proposed development.



Figure 10 – aerial photo dated early 80's



Figure 11 - Bush fires circa 1994

1.5 Proposed domestic waterfront facilities

The applicant is seeking development consent for the demolition of most of the structure north of the existing solid concrete jetty and installation of a new ramp and T-shaped low profile pontoon structure with two designated berthing areas in mooring pens (see **Figure 13**). The berthing areas will suit the Applicants small commuter vessels and provide greatly improved accessibility for the owners. The proposal utilises some of the footprint of the existing structures, including the stone jetty and part of the timber jetty, while also retaining two jetty piles and two mooring piles at the site.

The proposed works include:

- Removal of all existing fixed timber wave attenuators and associated piles,
- Removal of existing ramp, pontoons and stairs, and associated piles,
- Modification of by partial removal of existing timber jetty to connect to new timber ramp,
- Construction of new timber ramp (2.0 x 6.0 m) connecting existing timber jetty to new pontoon,
- Construction of new T-shaped pontoon (67.65 m²) with four new timber piles;
- Berthing area – 6.15m x 4.7m;
- Berthing area – 9.7m x 3.87m;
- 4 new pontoon stabilising piles, while using two existing piles for berthing.

The full CAD set is attached at **Appendix 2.1**. Note the existing (left) and proposed structures (right) below the MHWL are identified below in **Figures 12**. New structures are also detailed in **Figures 13 and 14**.

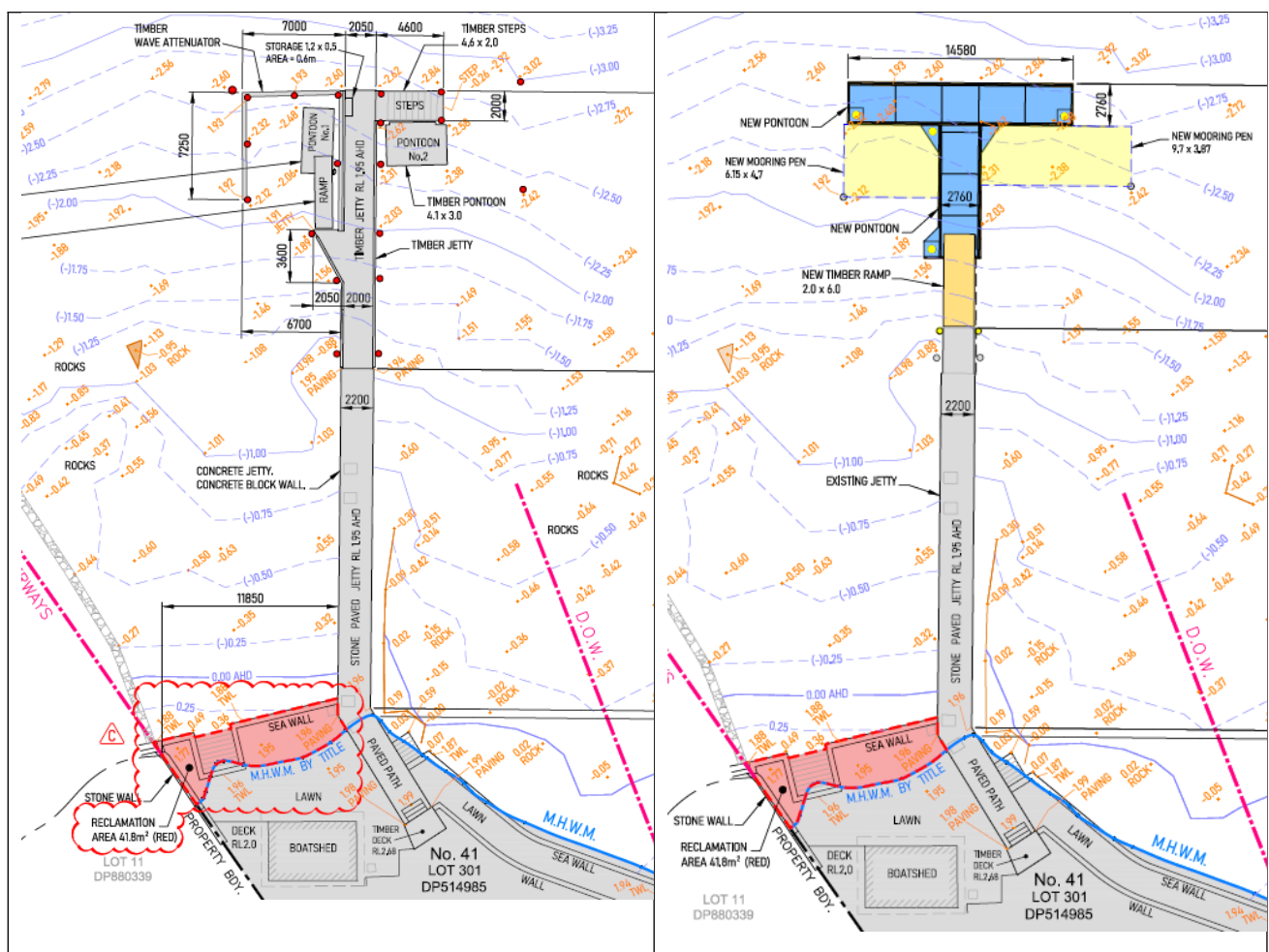


Figure 12 - existing and proposed structures

1.6 Environmental Planning

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the statutory framework for planning in NSW. The consent authority is required to take into consideration the matters listed under Section 4.15 of the EP&A Act when determining the DA.

Section 4.15(1)(a) of the EP&A Act requires consideration of the provisions of any environmental planning instrument and development control plan. The site in question is subject to the zoning, objectives and provisions of the following EPIs:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Pittwater Local Environmental Plan (PLEP) 2014*

Pittwater 21 Development Control Plan (DCP) is also applicable, specifically sections D15.12, D15.13 and D15.15 relating to this type of development. These controls provide for appropriate planning outcomes having regard to the scale of the development contemplated, the relationship with adjoining development, and the character of the surrounding area.

Section 4.15(1) of the EP&A Act also requires the consent authority to consider:

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations (for Council to review);
- (e) the public interest.

These matters have been considered within Section 1.5.1, 1.6 and 1.7 of this report.

The *Policy and Guidelines for Fish Habitat Conservation and Management 2013* has also been considered in the preparation of the Marine Habitat Survey (**Appendix 2.2**).

1.6.1 Pittwater Local Environmental Plan 2014 (PLEP)

The subject site is zoned *C3 – Environmental Management* under PLEP 2014. Land held under licence below the MHWL is zoned *W1 Natural Waterways* under PLEP (refer to **Figure 15**).



Figure 15 –land zoning and additional permitted uses area (shaded purple)

The proposed structures are classified as '**water recreation structures**'. Under PLEP, **water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

The proposed **water recreation structures** are permissible in the W1 zone in accordance with the additional permitted uses listed in Schedule 1 of PLEP.

Acid Sulfate Soils – Clause 7.1 of PLEP

The land below the MHWL to which this application relates is mapped as containing potential Class 1 Acid Sulfate Soils (ASS). Construction management methods will ensure that soil is not oxidised (refer to **section 1.5.2** of this report), which leads to the creation of ASS.

1.6.2 Pittwater Development Control Plan 2013

The development control plan (DCP) applicable to Scotland Island is the Pittwater 21 Development Control Plan (PDCP).

The relevant objectives of chapter 15 (Waterfront Development) are detailed in the table below.

Chapter 15 Objectives		Comment
1.	Waterfront development does not have an adverse impact on the water quality and estuarine habitat of Pittwater. (En).	Complies – refer to MHS at Appendix 2.2.
2.	Public access along the foreshore is not restricted. (S)	Complies - there would be no change to existing public access.
3.	Waterfront development does not encroach on navigation channels or adversely affect the use of ferries and service vessels or use of the waterway by adjoining landowners. (S, Ec) Structures blend with the natural environment. (S)	Complies - TfNSW has reviewed the proposal. Its letter of support is at Appendix 2.4.
4.	Structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway. (En, S)	Complies - the structures are an improvement to Pittwater's visual qualities.

The proposal fully complies with the objectives for waterfront development.

The proposal has also been considered against Chapter 15.12- “Development seaward of the MHW”, Chapter 15.13 Lateral limits to development seaward of the MHW and Chapter 15.15 – “Waterfront Development”. Development controls relating to this chapter are addressed below.

CHAPTER 15.12 – DEVELOPMENT SEAWARD OF THE MEAN HIGH WATER MARK CHAPTER 15.13 – LATERAL LIMITS TO DEVELOPMENT SEAWARD OF THE M.H.W.M. CHAPTER 15.15. – WATERFRONT DEVELOPMENT DEVELOPMENT OUTCOMES	
15.12 Controls	Response
To ensure minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater. (En)	<p>The LoC and DA is accompanied by a Marine Habitat Survey prepared by H2O Consulting and dated June 2023. This report has been attached at Appendix 2.2. DPI Fisheries support for the proposal is provided at Appendix 2.3.</p> <p>The report noted potential impacts from the proposed development will be confined to some short-term disturbances of the seabed during installation and removal of piles. This may result in short-term, localised sedimentation. In addition, habitat may be disturbed during removal of the existing wave attenuators. No seagrass impacts are expected.</p> <p>Mitigation measures have been proposed for implementation during construction.</p>
To ensure new buildings are not susceptible to flooding. (S)	Not applicable.
To ensure public access is maintained and provided for along the foreshore (En)	This works will have no impact on foreshore public access.
15.12 CONTROLS	Response
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)	Complies. The proposal will not encroach onto navigation channels. Transport for NSW’s local Boating Safety Officer has assessed the proposal and concluded there are no navigational concerns or unreasonable encroachment of waterfront development in front of adjoining properties. (Refer to TfNSW Navigation assessment at Appendix 2.4).
15.15 CONTROLS	Response
Waterfront development does not have an adverse impact on the water quality and estuarine habitat of Pittwater. (En)	<p>Complies, subject to implementation or recommended mitigation and management measures. There is some Posidonia near the proposal, as described in the Marine Habitat Survey. This report has been attached at Appendix 2.2.</p> <p>DPI – Fisheries has provided support for the proposal, subject to compliance with this SEE and the MHS. Refer to the letter at Appendix 2.3.</p>
Public access along the foreshore is not restricted. (S)	Complies. Public access remains unchanged by the proposal.
Waterfront development does not encroach on navigation channels or adversely affect the	Complies. The overall structure length is no longer than the existing structure and meets the requirements in the <i>Crown Lands Domestic</i>

use of ferries and service vessels or use of the waterway by adjoining landowners. (S, Ec)	<p><i>Waterfront Licences - Guidelines</i> in that the lengths of the proposed structures do not generally protrude further into the waterway than existing structures in the immediate vicinity.</p> <p>The proposal will not encroach onto navigation channels. Transport for NSW's local Boating Safety Officer has assessed the proposal and concluded there are no navigational concern for other waterway users including ferries. (Refer to TfNSW Navigation assessment at Appendix 2.4).</p>
Structures blend with the natural environment. (S)	Complies. Natural colours and timber will be used which will assist in the structures blending into the natural environment.
Structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway. (En, S)	Complies. The proposal is for amended structures that will improve visual amenity and reduce structure clutter in the immediate and surrounding area. No significant impacts to estuarine vegetation in proximity to the proposed site are expected (refer Marine Habitat Survey attached as Appendix 2.2).
To promote a mix of commercial waterfront development for the accommodation of boats, their repair and maintenance, and for organised waterfront development. (Ec)	Not applicable.
Waterfront development which does not comply with the outcomes of this clause are removed. (En, S, Ec)	Not applicable.

CHAPTER 15.12 – DEVELOPMENT SEAWARD OF THE MEAN HIGH WATER MARK DEVELOPMENT CONTROLS

15.12 CONTROLS	Response
All new buildings are to be located landward of mean high water mark.	Not applicable.
Only structures associated either with the accommodation, servicing or provision of access to boats shall be permitted seaward of mean high water mark.	The application is for structures for the provision of access to boats.
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.	Not applicable.
Developments are required to ensure that public access is maintained and provided for along the foreshore.	Public access remains unchanged by the proposal.

CHAPTER 15.13 – LATERAL LIMITS TO DEVELOPMENT SEAWARD OF MEAN HIGH WATER MARK DEVELOPMENT CONTROLS

15.13 CONTROLS	Response
Waterfront development shall be constructed perpendicular to the shoreline and within the defined lateral limit lines to development, regardless of the orientation of waterfront properties, where practicable. This is to maximise equitable access to the waterway.	The proposed development is located within the defined lateral limit lines to the development.
Waterfront development shall be set back a minimum of 2.0 metres along the full length of the lateral limit lines to development to minimise conflict and the possibility of inaccurate location of structures during construction (Diagram 3). This may be varied	The proposal meets the DCP minimum 2 metre lateral limit setbacks. The proposal has the support of Transport for NSW's local Boating Safety Officer (refer to TfNSW Navigation assessment at Appendix 2.4).

where shared facilities are proposed where the adjoining property will benefit from the shared facility.	
This setback shall also apply to any vessel that is to be berthed at a wharf or boating facility, marina, water recreation structure or the like. Vessels which cannot meet this criterion are considered to be inappropriate for the site and should be accommodated elsewhere.	For consideration by the consent authority. The above justifications apply.

CHAPTER 15.15. – WATERFRONT DEVELOPMENT DEVELOPMENT CONTROLS a) FOR JETTIES, RAMPS AND PONTOONS	
CONTROL/GUIDELINE	Response
Ramp and pontoon structures are preferred in place of jetties, where practicable.	The ramp and pontoon are a necessary addition to the jetty for greatly improved access at low tide. The structure meets the minimum water depth required for a floating pontoon (being a minimum clearance of 0.9m between its base and the substrata at lowest astronomical tide (in accordance with NSW DPI guidelines)).
Jetties, ramps and pontoons shall meet the following criteria:	
<ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> o 600mm at zero tide in the case of a pontoon (as per NSW Department of Primary Industries) o 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 	<ul style="list-style-type: none"> i. A handrail is located on one side of the ramp only (east side). ii, iii. DPI Fisheries guidelines require 0.9m between a pontoon base and the substrata at lowest astronomical tide. This proposal meets the current NSW DPI criteria. iv. The jetty will remain the same length as the existing structure, which does not affect safe navigation around this north western corner of Scotland Island. v. Whilst the proposal complies with the DCP objectives, it does not comply with this specific control. However, the existing jetty is a T-shaped configuration that does not comply with current controls. This application seeks to make improvements to an existing approved development. The proposal supports two, protected berths over a similar, but reduced structural footprint. The proposal will remove an unsightly wave attenuator and provide a lower profile pontoon in the same location. The proposal has been designed by experts to withstand local conditions and maximise use of the existing approved footprint. Refer to additional justification at Section 1.7.1. vi. The existing approved structure contains a storage module. This is proposed to be included in the updated design.

<p>supported on piles. Solid fill structures such as groynes, or similar, shall not be permitted.</p> <p>ix. The finished jetty deck height shall be a maximum height of 1 metre above mean high water mark or 1.5 metres AHD.</p> <p>x. The materials used for construction should not be deleterious to marine life, for example antifouling paints or treated woods must not be used.</p> <p>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). Exemptions may include:</p> <p>i. works that are clearly in the public interest (e.g. safe access points for boating or swimming, State significant development),</p> <p>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,</p> <p>iii. where property access is only available by water and no other alternative sites exist.</p> <p>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;</p> <p>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.</p>	<p>vii. no gates are proposed.</p> <p>viii, ix– the existing hard fill jetty is to be retained, with the existing jetty being retained at the existing deck height of approx. 1.95m AHD.</p> <p>x. Natural hardwood timbers will be used (no antifouling or treated timber will be used). Piles for pontoon stability are likely to be steel, however this will depend on cost and availability versus timber piles.</p> <p>xi. New structures will not be located over Posidonia (as per the MHS at Appendix 2.2).</p> <p>xii. Not applicable.</p> <p>xiii No watercraft are proposed to be stored on the new structure.</p>
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**CHAPTER 15.15. – WATERFRONT DEVELOPMENT
DEVELOPMENT CONTROLS b) BERTHING AREAS**

CONTROL/GUIDELINE	Response
<p>Vessels shall be berthed at right angles to the mean high-water mark to minimise visual impact on the foreshore, where practicable. Where this configuration may restrict navigation, vessels may be berthed parallel to mean high water mark provided such vessels are no greater in length than the maximum length of the distance between the lateral limits of the property less 4 metres, and provided that the parallel moored vessel does not restrict navigation. The Department of Primary Industries will generally not approve berthing areas over seagrass.</p> <p>The maximum dimension for berthing areas perpendicular to shore shall be 5 metres x 9 metres in accordance with Diagrams 3A and 3B.</p>	<p>The proposed berthing areas provides for vessels to be berthed perpendicular to the M.H.W.M. Both DPI Fisheries and TfNSW have approved the berthing areas from a marine habitat and navigation/safety perspective.</p> <p>The proposal would not restrict local vessel navigation, as per the TfNSW letter of support at Appendix 2.4.</p> <p>The size of the berthing areas is 6m x 4m which complies with maximum dimension for berthing areas in this control (being 5 metres x 9 metres). It is requested to retain the two existing berthing areas, albeit in a modified layout.</p> <p>The berthing areas do not extend beyond the seaward face of the related pontoon. The owner's vessels are no longer than 6m long and can be accommodated wholly within in the proposed berthing areas.</p> <p>The proposed has adequate clearance in relation to the D.O.W and</p>

<p>Mooring licences for a private swing mooring shall be relinquished by any person seeking approval for a berthing area. This is to promote a more equitable use of the waterway's resources.</p> <p>Where provided, berthing areas shall meet the following criteria:</p> <ul style="list-style-type: none"> xiv. The proponent must demonstrate that they do not already hold, or cannot obtain, a swing mooring, marina berth or boat shed where they could reasonably store their boat. xv. That there is sufficient depth of water below the vessel being 600 mm depth at zero low tide (-1.53 AHD); xvi. That it does not extend beyond the seaward face of any related pontoon, piles or jetty steps; xvii. That there is sufficient clearance from prolongation of adjoining boundaries (i.e. a minimum of 2.5 metres) xviii. That it be designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours; and xix. The size of vessel must be accommodated wholly within the lease area. 	<p>has been designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours - and is supported by TfNSW.</p>
d) Piles	
Structures shall not have a height greater than indicated in the following table (being 2.67 AHD).	Pontoon piles will be 2.575 AHD.
Structures should be positioned at least 2 metres away from any Posidonia seagrass.	There is Posidonia nearby (10-12m away) as per the MHS at Appendix 2.2 . DPI Fisheries has no concerns or objections to the proposal (refer to Appendix 2.3).

1.6.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Part 2.2 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP), applies to the proposal. Specifically, Division 3 clause 2.10 'Development on land within the coastal environment area'; Division 4 clause 2.11 'Development on land within the coastal use area' and Division 5 of the Resilience and Hazards SEPP apply. A response to these provisions is provided below.

RESILIENCE AND HAZARDS SEPP PART 2.2 DIVISION 3 COASTAL ENVIRONMENT AREA CLAUSE 2.10 - DEVELOPMENT ON LAND WITHIN THE COASTAL ENVIRONMENT AREA	
Does the proposal have an adverse impact on:	Response
1(a) the integrity and resilience of the biophysical, hydrological and ecological environment,	The proposed works do not require any reclamation or dredging and will not have adverse impact to the biodiversity, hydrological and ecological environment as confirmed in the Marine Habitat Survey at Appendix 2.2 .
1(b) coastal environmental values and natural coastal processes,	The proposal will not affect coastal values or processes.
1(c) impacts on water quality within the marine estate	Not applicable.
1(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There is no reclamation or dredging. No impacts on marine vegetation are expected subject to the management and mitigation measures within the Marine Habitat Survey at Appendix 2.2
1(e) access to existing public open space and safe access	Public access is unchanged by the proposal.
1(f) Aboriginal cultural heritage, practices and places,	A basic search using the Aboriginal Heritage Information Management System (AHIMS) found no recorded Aboriginal sites recorded within 50m of the subject site.
1(g) the use of the surf zone.	Not applicable.
2(a) the development is designed, sited and managed to avoid the adverse impacts outlined above.	The proposed works will have no adverse impact.

RESILIENCE AND HAZARDS SEPP
PART 2.2 DIVISION 4 COASTAL USE AREA
CLAUSE 2.11 DEVELOPMENT ON LAND WITHIN THE COASTAL USE AREA

Clause 2.11 1(a) Consent must not be given unless consideration has been given to impacts on:	Response
(i) existing, safe access to the foreshore,	Public access is unchanged by the proposal. There will be no alteration of the natural ground level of the foreshore.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposed structure is commensurate with the nature and scale of the existing jetty structure on the property.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The proposal is consistent with the character and scenic qualities of Pittwater. It will not result in any significant additional visual impact on the coastal foreshore. Nor will result in significant loss of views from a public place to the coastal foreshore.
(iv) Aboriginal cultural heritage, practices and places,	A basic search using the Aboriginal Heritage Information Management System (AHIMS) found no recorded Aboriginal sites recorded within 50m of the subject site.
(v) cultural and built environment heritage.	The proposed structure is in line with historical waterfront structures around the area and neighbouring properties.
Clause 2.11 1(b) Consideration must be given to whether:	Response
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in (a).	The proposed works will have no adverse impact, therefore clauses 1(b) (ii) and (iii) are not applicable.

RESILIENCE AND HAZARDS SEPP DIVISION 5 GENERAL	
Clause	Response
<p>Cl. 2.12 Development in coastal zone generally — development not to increase risk of coastal hazards</p> <p>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.</p>	<p>The proposed works will not increase any coastal hazards.</p>
<p>Cl. 2.13 Development in coastal zone generally — coastal management programs to be considered</p> <p>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</p>	<p>For consent authority to review.</p>
<p>Cl. 2.14 Other development controls not affected</p> <p>Subject to section 2.5, for the avoidance of doubt, nothing in this Part—</p> <p>(a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or</p> <p>(b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.</p>	<p>The applicant is seeking development consent for the domestic waterfront facilities which are permissible with consent under the relevant planning instrument (PLEP 2014).</p>
<p>2.15 Hierarchy of development controls if overlapping</p> <p>If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency—</p> <p>(a) the coastal wetlands and littoral rainforests area,</p> <p>(b) the coastal vulnerability area,</p> <p>(c) the coastal environment area,</p> <p>(d) the coastal use area.</p>	<p>Not applicable.</p>

1.7 Potential impacts of the development

The provisions of Section 4.15(b) of the EP&A Act require an assessment of the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The proposal will result in positive social and economic impacts, noting:

- employment during the construction phase of the works;
- economic benefits, arising from the investment in improvements to the land;
- social (and environmental) benefits arising from the orderly development of sites foreshore including improved boat storage capacity and accessibility.

The potential environmental impacts and proposed mitigation measures have been considered below.

1.7.1 Marine Ecology

Pittwater is a beautiful and distinctive feature of the Northern Beaches identity. Within the waterway are many valuable estuarine habitats including mangroves, coastal saltmarshes, intertidal mud flats, beaches and rocky shorelines. Pittwater also has great significance to the traditional Aboriginal owners and custodians of this land.

DPI has policies and guidelines in place to protect the marine environment, aimed at maintaining and enhancing fish habitat in accordance with the objectives of the *Fisheries Management Act 1994*. The application is accompanied by a marine habitat survey (MHS) and report prepared by H2O Consulting (refer to **Appendix 2.2**), which has been prepared with reference to the *Policy and guidelines for fish habitat conservation and management 2013*. The specific policies for private pontoons relate to the protection of seagrass. In relation to such protections, the guideline recommends that pontoons should generally not be greater in size than 3.6m x 2.4m and have a minimum clearance of 0.9m between their base and the substrata at lowest astronomical tide. **Figure 16** identifies marine habitat near the subject site, as per the MHS.

The pontoon will be located at an appropriate depth, well clear of marine vegetation. The presence of the pontoon with two berths will ensure that visiting or resident vessels avoid anchoring in nearby seagrass beds.



Figure 16 - Marine habitat near the subject site

It is noted that the proposed pontoon is larger than that generally permitted by DPI and Council. **Figure 12** identifies the size of the existing structures and licence footprint. The CAD plans (DA2 – new works plan) at **Appendix 2.1** detail existing and new areas which are comparable in footprint. An explanation and justification for the larger pontoon is as follows:

- The enlargement of the pontoon in this location has been recommended by Copley Marine Group (CMG) and pontoon manufacturer (MDS Marine¹) to provide a suitable and robust structural support for the pontoon. The site faces northeast, which is the prevailing wind direction in summer, with waves of significant height due to the long fetch in this area of approx. 4.5 km (see **Figure 17**).
- The owners have a child with physical and mental special needs and require a stable, safe and robust floating platform for access to and egress from the water during all weather conditions.

¹ MDS Marine were engaged by Northern Beaches Council to design the new Carols Wharf structures on Scotland Island and can design pontoon structures to withstand local environmental conditions. The site is also exposed to the same winds affecting Carols Wharf from the South West.

- iii. The removal of the unsightly timber wave attenuator (refer to **Figure 9**) from the site will provide improvements to visual amenity as the proposal has a substantially lower profile floating pontoon.
- iv. This application reduces the current structural footprint below the MHWM by **19.7m²**.
- v. The design outcome is suitable for the site, providing greater stability and accessibility for the owners.
- vi. No seagrass will be harmed as a result of the proposal as outlined in the MHS.
- vii. An increase to the approved berthing area has been sought as part of this application. The proposed second berthing area will be used to berth two commuter vessels, the current licenced area only contains one berthing area.

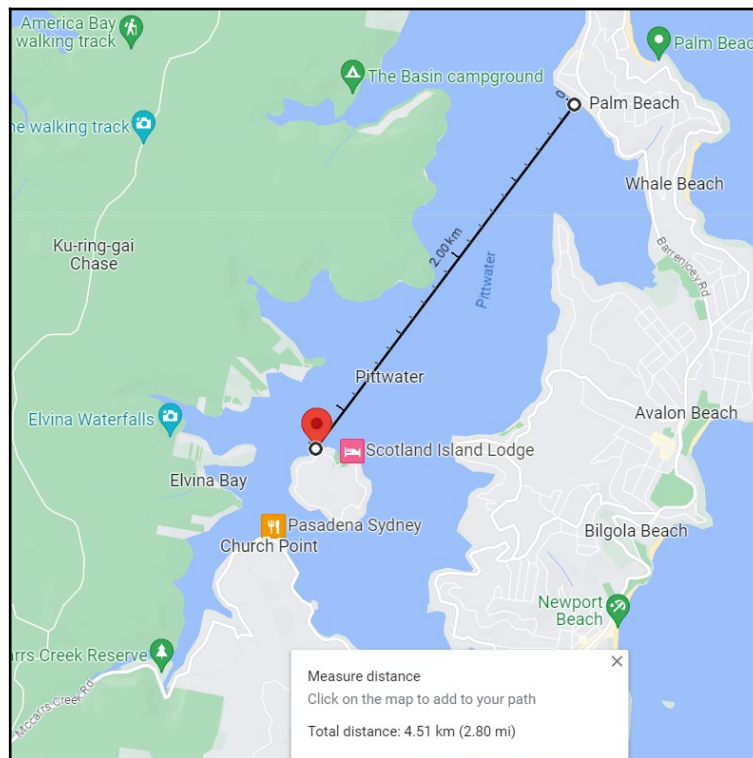


Figure 17 - Fetch at the site

The MHS recommends the following measures to protect the environment during the works phase:

- Hydrocarbon booms should be in place to contain any unplanned spills from construction barges or other mechanical equipment used on the site.
- Construction equipment should be washed down and thoroughly cleaned prior to mobilisation and de-mobilisation from the site.
- A pre-construction inspection of the structures to be removed for any potential Endangered White's Seahorses or other cryptic protected fishes should be undertaken prior to removal.
- Piling should include a soft start procedure to allow marine fauna such as fish to move away from the areas safely. This should consist of a start at 50% piling impact energy increased gradually over 10 minutes.
- No materials should be stored or placed on the seabed.
- All materials, debris and rubbish should be removed from the site at the end of construction works.
- All construction equipment should be checked regularly for leaks, a spill kit should be kept on site.

Subject to the implementation of the recommended management and mitigation measures, the proposal is unlikely to cause an adverse impact on the local environment.

1.7.2 Navigation, Siting and Design

The proposed works include a new berthing areas and pontoon. The berthing areas will provide improved access and secure boat storage for the owners. The berthing areas will only be used for a domestic purpose and private recreation.

The structures have been designed to ensure safe access for the applicant between the waterway and the residential dwelling, including improved access for the owner's child with special needs.

The design ensures a minimum of 900mm clearance under the berthing area at low tide, in accordance with NSW DPI guidelines. It will not impact any vessel traffic or navigational lines for safe traffic movement.

There will be no change to public access to Crown Land.

The design complies with Crown Lands guidelines in that waterfront facilities (including berthing areas) do not obstruct navigation and comply with requirements of TfNSW (a copy of TfNSW correspondence on this matter is provided at **Appendix 2.4**). TfNSW is satisfied that the proposed development would not impact on the safe navigation of Pittwater.

In addition, the berthing areas do not extend outside of the water division prolongation of the benefitting property and does not impede access or use of any existing domestic waterfront facilities or deter future domestic waterfront facility development.

1.7.3 Construction and Waste Management

All works will be completed via a contracted commercial barge operator. All waste will be disposed of in accordance with best practice waste and recycling guidelines via barge and the nearest licensed Resource Recovery Centre. Refer also to the Waste Management Plan at **Appendix 2.7**.

1.7.4 Preliminary Acid Sulfate Soils Assessment

The proposed works are in an area with a 'Class 1' Acid Sulfate Soil (ASS) classification (blue area in **Figure 18**). The potential for the generation of ASS is high and therefore an assessment of the associated risk of the works and the potential impact to the environment is required in accordance with the Pittwater LEP. The preliminary ASS assessment is at **Appendix 2.6**.



Figure 18 -ASS map

1.8 Site suitability and public interest

The provisions of Section 4.15(c) and (e) of the EP&A Act require an assessment of the suitability of the site for the proposal, and consideration of whether the proposal is in the public interest.

The waterfront structures are consistent with the objectives of the land zoning and designed and sited to achieve compatibility with existing development and the character of the locality. This report has demonstrated that the development will not compromise safe navigation of Pittwater or impact on scenic values, fish habitat nor impact on public access along the foreshore.

The footprint of the proposal does not contain estuarine macrophytes and the proposal is not expected to have any ecological impacts on marine habitat. There is no additional reclamation or dredging required to facilitate the proposal and the implementation of a construction management plan will ensure the development will not generate pollutants.

An adopted planning strategy is the most reliable expression of the 'public interest' for a place – and should be used as the primary means for interpreting whether a departure from a development standard is justified in achieving the place outcomes sought. Despite the existing and proposed structure being a minor departure from the current standards for pontoons, the proposal would have no impact on water quality and will improve on existing scenic amenity. As such, it is consistent with Councils *Local Strategic Planning Statement- Toward's 2040*.

Having regard to this SEE, the proposal does not result in any unreasonable impacts on surrounding properties, the public or the environment. It is also consistent with the zoning and objectives of the relevant DCP, LEP & EPI's. As such, the proposal is suitable for the site and in the public interest.

1.9 Conclusion

The proposed mooring pen and berthing area will enable the applicant to safely access their vessel and residence in all conditions. The site is entirely suitable for the proposed development, and the proposed development is permissible with consent and consistent with the relevant planning objectives and government guidelines. The proposal will not adversely affect other waterway users. The removal of the unsightly timber wave attenuator from the site will provide a reduced visual impact as the proposal has a substantially lower profile floating pontoon. In addition, the proposal will provide a safer structure for the Applicants. CMG requests that Council provide a positive response in this application for development consent.

2. Appendices

2.1. CAD Drawings

2.2. Marine Habitat Survey

2.3. DPI Fisheries Referral Support Letter

2.4. Transport for NSW – Navigational ‘No Objection’ Letter

2.5. LoC letter

2.6. Preliminary Acid Sulfate Soils Assessment

2.7. Waste Management Plan

