

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0269
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<b>Responsible Officer:</b>	Grace Facer
<b>Land to be developed (Address):</b>	Lot 92 DP 12749, 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 406583, 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 363575, 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot 93 DP 12749, 43 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 363575, 43 Florence Terrace SCOTLAND ISLAND NSW 2105
<b>Proposed Development:</b>	Alterations and additions to an existing shared jetty including a ramp, pontoon and berthing area
<b>Zoning:</b>	C3 Environmental Management
<b>Development Permissible:</b>	Yes - Zone C3 Environmental Management Yes - Zone W1 Natural Waterways
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Kurt Steven James Hamann Kerry Elizabeth Hamann
<b>Applicant:</b>	Kerry Elizabeth Hamann

<b>Application Lodged:</b>	20/03/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	24/03/2023 to 07/04/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 25,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for alterations and additions to an existing shared jetty,

specifically comprising of the following works:

- Construction of a ramp, pontoon and berthing area with mooring piles

## 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

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater 21 Development Control Plan - D15.15 Waterfront development

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 92 DP 12749 , 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 406583 , 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 363575 , 45 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot 93 DP 12749 , 43 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 363575 , 43 Florence Terrace SCOTLAND ISLAND NSW 2105
<b>Detailed Site Description:</b>	The subject site relates to Crown land located below the Mean High Water Mark (MHW) of No.43 and No.45 Florence Terrace, Scotland Island and is subject to Crown License LIC 363575.  Land held under license below MHW is zoned W1 Natural

Waterways under the provisions of the Pittwater Local Environmental Plan 2014. No. 43 Florence Terrace (legally referred to as Lot 93 DP 12749) and No.45 Florence Terrace (legally referred to as Lot 92 DP 12749) are zoned C3 Environmental Management.

The existing shared water recreation structure is a timber jetty located along the boundary of the properties with sea stairs on the southern side. The proposed berthing area will be for the use of residents of No.43 Florence Terrace, whilst the stairs will continue to be used by No.45 Florence Terrace.

No.43 and No.45 Florence Terrace are mapped within the Pittwater Spotted Gum Forest Endangered Ecological Community, the Northern Beaches Bush Fire Prone Map 2020 and the Pittwater Geotechnical Hazard Map.

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

Adjoining and surrounding development is characterised by low-density residential development of varying architectural styles within bushland settings. Boat sheds and water recreation structures are commonly observed in the locality.

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:

**DA2022/1342**

Development Application for alterations and additions to a dwelling house at No.43 Florence Terrace  
Approved on 7 October 2022

**BC0045/17**

Building Certificate for steel stairway located on the northern side of the dwelling at No.45 Florence Terrace  
Issued on 3 July 2017

**N0063/10/S96/1**

Modification of Development Consent for N0063/10  
Approved on 26 August 2011

**N0063/10**

Development Application for Alterations and additions to the existing dwelling and a separately accessible structure at No.45 Florence Terrace  
Approved on 15 June 2010

**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 environmental planning instrument	There are no current draft environmental planning instruments.
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</p>

Section 4.15 Matters for Consideration	Comments
	<p>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>
<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>	<p>(i) <b>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>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The water surrounding Scotland Island is classified as vegetation buffer zone under the Northern Beaches Council’s Bushfire Prone Land Map. Consideration has been given that all works concerning this application are below Mean High Water Mark. *Planning for Bushfire Protection 2019* indicates that

there are no bush fire protection requirements for Class 10a buildings (non-habitable structures) that are located more than 6m from a dwelling on bush fire prone areas. In this instance, the proposal is for a ramp, pontoon and piles over water and located more than 6m from a dwelling. As such, the consent authority can be satisfied that the development conforms to the requirements of *Planning for Bushfire Protection 2019* and that bush fire risk assessment does not need to be submitted for this development application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/03/2023 to 07/04/2023 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Juha Havukainen	41 Florence Terrace SCOTLAND ISLAND NSW 2105
Ms Margaret Havukainen	41 Florence Terrace SCOTLAND ISLAND NSW 2105

As a result of the public exhibition of the application, one (1) submission was received from No.41 Florence Terrace, Scotland Island.

The following issues were raised in the submission:

- Manoeuvring of Vessels
- Visual Impact
- Proposed Pontoon

The above issues are addressed as follows:

- **Manoeuvring of Vessels**

The submission raised concerns that the proposed mooring pen provides insufficient room for the objectors to utilise their swing mooring IL 067 and the proposed berthing area piles will not enable efficient and safe manoeuvring of vessels for the applicant or neighbours.

Comment:

Council does not have any jurisdiction over navigational matters. The assessment of Transport for NSW Maritime found that “an inspection/assessment has been conducted by the local Boating Safety Officer and there are no navigational concerns regarding the designated proposal.” Therefore, Council is satisfied that the proposal will not result in any adverse navigational challenges to mooring or other structures in the waterway.

- **Visual Impact**

The submission raised concerns that the piles MP2 and MP3 will be a visual eyesore, and the addition of 5 piles will be severe and disruptive to outlook.

Comment:

The proposed height of the piles is compliant with the development control under *Clause D15.15 Waterfront development* of the Pittwater DCP, which prescribes 2.67m (AHD). It is also noted that the mooring pen will be located 6.8m from prolongation of the adjoining boundary/division of waterways which adjoins No.41 Florence Terrace. Furthermore, mooring pens are observed within the locality and are consistent with the character of Pittwater, therefore the proposed piles are not considered to result in any adverse visual impacts.

- **Proposed Pontoon**

The submission raised concerns that the proposed pontoon's location will make it difficult to approach No.41 Florence Terrace's pontoon from the south during NE winds and seaway. Additionally, the submission objected to the pontoon extending further out than the neighbouring structures.

Comment:

Whilst the proposal extends slightly beyond the pontoon line to the north, structures of similar lengths are observed to the south. As noted above, the application is accompanied by concurrence from Transport for NSW, which satisfies that the proposal will not result in any navigational issues. The application is also supported by Crown Lands and DPI Fisheries. Furthermore, the Marine Ecology Report prepared by Waratah Planning dated October 2022 notes that "the pontoon has been designed to reach 900mm of water at lowest astronomical tide (LAT) in accordance with NSW DPI Guidelines." Therefore, the pontoon's extension into the water in order to meet the minimum requirements for water depth is supported in this instance.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>General Comments</b></p> <p>Site area affected is classified as Acid sulfate class 1.</p> <ul style="list-style-type: none"> <li>• Class 1: Acid sulfate soils in a class 1 area are likely to be found on and below the natural ground surface.</li> </ul> <p>The Statement Of Environmental Effects (SEE) by Kerry Hamann Waratah Planning - Director BSc (Environmental Biology)PIA Assoc. dated 3/03/23 states:</p> <p>1.7.4. Acid sulfate soils</p> <p>The proposed works are below the MHWMM an area with a 'Class 1' Acid Sulfate Soil (ASS) classification.</p> <p>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 clause 7.1 the PLEP.</p> <p>A preliminary Acid Sulfate Soil Assessment has been prepared by Copley Marine Group (GMG) and is provided at Appendix 2.6. It should be noted that all piling works will be undertaken in a way that ensures disturbed soil remains in the water and therefore cannot oxidise (leading to ASS). Silt curtains, installed prior to works, will be utilised during pile driving operations. As such, soil and silt will not spread outside of the pile driving area.</p> <p>The development of a Construction Environmental Management Plan</p>

Internal Referral Body	Comments
	<p>(CEMP) will assist in limiting soil disturbance. It is considered the works would meet the objectives of clause 7.1 of the PLEP in that the development would not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>The Geotechnical assessment by Ascentgeo Consulting Geotechnical Engineers 15 July 2022 finds : "Based on the lack of earthworks being proposed, and the lack of the formational conditions required for the generation of Acid Sulfate Soils, no field Acid Sulfate Soils Test or Acid Sulfate Soils Management Plan is required."</p> <p>The preliminary Acid Sulfate Soil Assessment has been prepared by Copley Marine Group Pty Ltd (GMG) 3/3/2023 states: The piling works will be completed using a piling barge with washing facilities and silt curtains with no soil being removed from the water (or a wet environment) to start the oxidization process. While temporary turbidity of the water will occur, the piling works will be completed individually and hence the volume of disturbance will be limited and closely managed. Silt curtains, installed prior to works, will be utilised during pile driving and pile removal operations to limit the spread of soil outside of the existing pile driving/ removal area and assist in settling it back to the seabed quickly. The site Construction Environmental Management Plan will include these measures to assist in limiting the disturbance of soil. The preliminary assessment has found that potential ASS will not be oxidised and therefore an ASS Management Plan is not required (as per the Acid Sulfate Soils Manual 1998). In addition, it is considered the works meet the objectives of clause 7.1 of the PLEP in that the development would not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>Environmental Health supports the proposal subject to conditions</p>
Environmental Health (unsewered lands)	<p>The applicants are seeking development consent (from Council) to authorise a new ramp, pontoon and berthing area with mooring piles. Environmental Health believe the proposal does not impact on waste water treatment and disposal and support the proposal without conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for alterations and additions to an existing shared jetty including a ramp, pontoon and berthing area. The comments in this referral relate to the following controls and provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• NSW Biodiversity Conservation Regulation 2017</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Planning for Bushfire Protection 2019</li> <li>• Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> </ul> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>However, the submitted plans and documentation indicate that the proposed works are located outside of the BV Map area and therefore will not trigger entry into the BOS.</p> <p>No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>Impacts to native seagrasses and marine fauna will be assessed by the appropriate referral body.</p>
NECC (Coast and Catchments)	<p>Supported with Conditions</p> <p>The application has been assessed in consideration of plans and documents lodged in support of the DA, the Coastal Management Act 2016, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against the coastal relevant requirements of Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Assessment of the application has also considered:</p> <ul style="list-style-type: none"> <li>• Consent of landowner to lodge a DA from the Department of Planning, Industries &amp; Environment - Crown Lands, dated 2 March 2022.</li> <li>• No navigational concerns as a result of the proposed development from Transport for NSW Maritime Division, dated 22 November 2022.</li> <li>• No objection to the proposed development from the Department of Primary Industries - Fisheries, dated 12 December 2022.</li> </ul> <p><b>Coastal Management Act 2016</b></p> <p>The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</p>

Internal Referral Body	Comments
	<p><b>State Environmental Planning Policy (Coastal Management) 2018</b> The proposed development site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP R &amp; F). Hence, Divisions 3, 4 and 5 of SEPP R &amp; F apply to this DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Waratah Planning, dated 3 March 2023, the DA satisfies requirements under Divisions 3, 4 and 5 of the SEPP R &amp; F. As such, it is considered that the application does comply with the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021, subject to conditions.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b> <b>Estuarine Hazard Management</b> The subject property has 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 Estuarine Hazard Controls will apply to any proposed development of the site. As the Estuarine Planning Level (EPL) does not apply to jetties, bridging ramps and pontoons it is considered that the proposed development satisfies the relevant requirements of the Estuarine Risk Management Policy and B3.7 Estuarine Hazard Controls.</p> <p><b>Development Seaward of Mean High Water Mark</b> Proposed development works are located on Crown land below the Mean High Water Mark. Therefore, Part 5 Section 5.7 Development below mean high water mark in Pittwater LEP 2014 and Section D15.12: Development seaward of mean high water mark in Pittwater 21 DCP applies to the proposed development. DPI Fisheries has raised no objections to the development proposal and does not consider the proposal to constitute integrated development. On internal assessment the proposed development is unlikely to adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway and the DA is considered to be able to satisfy the requirements of the Section D15.12 Controls subject to conditions.</p> <p>No other coastal planning or development controls relevant to the subject DA were identified.</p>
NECC (Riparian Lands and Creeks)	<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>Riparian</p>

Internal Referral Body	Comments
	<p>The site is within the Pittwater Estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater, or the quantity and quality of surface and ground water flows that it receives.</p> <p>Sediment Management</p> <p>Silt curtains, as requested in the Aquatic Ecology Report and the CEMP , must be installed prior to any disturbance of estuarine sediments and must be maintained over the course of the works.</p> <p>CEMP and Caulerpa Management Plan</p> <p>The CEMP must include methods to minimise any disturbance of Caulerpa taxifolia and the spread of Caulerpa fragments out of the work area during the project.</p>

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><b>Conclusion / General Comments</b></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> <table border="1" data-bbox="518 1688 1439 1765"> <thead> <tr> <th colspan="2" data-bbox="518 1688 1439 1727">Recommendation</th> </tr> </thead> <tbody> <tr> <td data-bbox="518 1727 805 1765">APPROVAL</td> <td data-bbox="805 1727 1439 1765">Subject to Conditions</td> </tr> </tbody> </table>	Recommendation		APPROVAL	Subject to Conditions
Recommendation					
APPROVAL	Subject to Conditions				

### 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 (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:

The proposed development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or to marine vegetation native vegetation and fauna and their habitats. The application is also supported by a response from the NSW Department of Primary Industries identifying no adverse impact upon the key fish habitats. The proposal does not restrict on any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. The subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a recommended condition will be placed with the consent to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities are notified. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

- 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:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

**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 platform for members of the public, including persons with a disability,
    - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iv) 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 adverse

- ii) 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:

The proposed development is not likely to cause an adverse impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. As identified above, the site has not been identified to contain any Aboriginal cultural heritage, practices or places. The proposed development will also not have an adverse impact on the cultural and built environment heritage. As such, it is considered that the proposed development had been designed, sited and will be managed to avoid an adverse impact on the above mentioned cultural and environmental aspects.

**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 will not likely cause increased risk of coastal hazards on the subject site or other land.

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?	Zone C3 : Yes Zone W1 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone C3 : Yes Zone W1 : Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	4m	2.67m (top of piles)	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
5.7 Development below mean high water mark	Yes
7.1 Acid sulfate soils	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes

### Detailed Assessment

#### Zone W1 Natural Waterways

Whilst mooring pens are listed as permissible development within the Zone W1 Natural Waterways Land Use Table of the Pittwater Local Environment Plan 2014 (PLEP 2014), development for the purposes of water recreational structures are not listed within the land use table

However, Clause 2.5 of the PLEP 2014 allows for additional permitted uses on particular land, as described or outlined in Schedule 1 of the PLEP 2014. Schedule 1 Clause 23 states the following:

#### **23 Use 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 structures is permitted with development consent.

As the subject application is for a ramp, pontoon and berthing area located within "Area 23" on the Additional Permitted Uses Map, the proposed development is permissible with consent.

#### **7.7 Geotechnical hazards**

The proposed works are located beyond the mean high watermark of the site, and with the exception of the installation of the piles will have no contact with the slope or seabed. The application is accompanied by a Geotechnical Assessment Letter which notes that the proposed works are not considered to pose a significant hazard to property or life and will have no substantive effect on the ongoing stability of the site. Therefore, the existing site conditions and proposed development are considered to constitute an "Acceptable" risk to life and a "Low" risk to property.

#### **Pittwater 21 Development Control Plan**

### 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
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.2 Safety and Security	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.15 Site disturbance	Yes	Yes
D8.16 Scenic Protection Category One Areas	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

## Detailed Assessment

### **D15.15 Waterfront development**

#### Description of non-compliance

The proposal presents the following non-compliances with the design criteria outlined within Clause 15.15:

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

*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.*

#### Comment

The proposed ramp is considered to generally meet the required design criteria specified by this control, notwithstanding its additional length. The pontoon has been designed to reach 900mm of water at lowest astronomical tide (LAT) in accordance with NSW DPI Guidelines. Notably, the proposed structure is similar in length to surrounding structures to the south. The application is supported with a response from Transport for NSW raising no navigational concerns. The proposal has been reviewed by Council's Coastal Officer, Bushland and Biodiversity Officer and Riparian Lands Officer who have

raised no objection to the works and associated impacts to the surrounding natural environment. Whilst the proposal results in a minor variation in relation to the length of the proposed pontoon, the width of the pontoon is significantly smaller than the maximum width demonstrated in Diagram 2B of the Design Guidelines for Conventional Jetty, Ramp and Pontoon Structure. As such, the proposal is not considered to result in any adverse visual impacts or result in unreasonable bulk or scale. The configuration of the proposal is also consistent with the requirements of this Clause.

### Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- ***Waterfront development does not have an adverse impact on the water quality and estuarine habitat of Pittwater.***

#### Comment:

The development application was referred to Department of Primary Industries (Fisheries) with no objection raised subject to conditions. Council's Bushland and Biodiversity, Riparian Lands, and Coast and Catchments Officers have also reviewed the proposal having regard to water quality and habitat and have raised no objections subject to conditions included in the recommendation of the report. Therefore, the proposal will not have an adverse impact on the water quality or estuarine habitat of Pittwater.

- ***Public access along the foreshore is not restricted.***

#### Comment:

Public access along the foreshore will not be restricted as the development does not involve any works along the foreshore.

- ***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.***

#### Comment:

The application is accompanied by a referral letter from Transport for NSW which confirms that an inspection/ assessment has been conducted by the local Boasting Safety Officer and that there are no navigational concerns regarding the proposal.

- ***Structures blend with the natural environment.***

#### Comment:

The proposal is consistent with other structures on the waterway and the proposed use of natural colours and hardwood timber 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.***

#### Comment:

The proposed development is not considered to be detrimental to the visual quality, water

quality or estuarine habitat of the Pittwater Waterway as the structures proposed are comparable to other waterfront developments in the area.

- ***To promote a mix of commercial waterfront development for the accommodation of boats, their repair and maintenance, and for organised waterfront development.***

Comment:

The proposal is not a commercial waterfront development, therefore this outcome is not applicable.

- ***Waterfront development which does not comply with the outcomes of this clause are removed.***

Comment:

The proposed waterfront development complies with the outcomes of this clause and is considered to be supportable.

Having regard to the above assessments, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **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**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **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 DA2023/0269 for Alterations and additions to an existing shared jetty including a ramp, pontoon and berthing area on land at Lot 92 DP 12749, 45 Florence Terrace, SCOTLAND ISLAND, Lot LIC 406583, 45 Florence Terrace, SCOTLAND ISLAND, Lot LIC 363575, 45 Florence Terrace, SCOTLAND ISLAND, Lot 93 DP 12749, 43 Florence Terrace, SCOTLAND ISLAND, Lot LIC 363575, 43 Florence Terrace, SCOTLAND ISLAND, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LOC1 - Existing Site Plan Revision A	22 September 2022	Copley Marine Group
LOC2 - New Works Plan Revision A	22 September 2022	Copley Marine Group
LOC3 - Section 1 (Ramp & Pontoon) Revision A	22 September 2022	Copley Marine Group
LOC4 - Section 2 (Mooring Pen) Revision A	21 October 2022	Copley Marine Group

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	10 March 2023	Copley Marine Group

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**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:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	4 April 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 (Crown Land Only)**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason: Legislative Requirement.

**4. General Requirements (Crown Land Only)**

(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) 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.

(c) 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.

(d) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(e) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(f) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(j) 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.

(k) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

5. **Compliance with Standards (Crown Land Only)**

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

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

6. **Estuarine Hazard Design Requirements**

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure on surrounding properties and on public foreshore lands; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes. Public foreshore access must be retained.

Reason: To minimise risk associated with coastal hazards for development in an estuarine environment.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

An executed licence agreement from the relevant NSW government agency governing the use and occupation of Crown land is required to be obtained prior to the issue of a construction certificate.

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.

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

Sediment and erosion controls such as silt curtains or booms are to be used during construction, to ensure that there is no escape of turbid plumes into the marine environment, and shall remain in proper operation until all development activities have been completed. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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

Any new information revealed during excavation works or pile driving 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.

11. **Acid sulfate soils**

All excavation, pile driving and construction and associated works must be conducted in accordance with the Acid Sulfate Soil Assessment prepared by Copley Marine Group Pty Ltd

(GMG) 3/3/2023.

Reason: To ensure management of potential acid sulfate soils.

12. **Management of Caulerpa taxifolia**

The invasive marine alga *Caulerpa taxifolia* is present on this site. Site personnel must be able identify *Caulerpa*. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site to prevent the spread of *Caulerpa* to other sites.

Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and lawfully disposed in general waste.

Reason: *Caulerpa taxifolia* is listed under the Biosecurity Act 2015 for all NSW waters.

13. **Aquatic environment protection**

Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the aquatic ecology report must be followed.

Reason: To protect the aquatic environment.

14. **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.

15. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

16. **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.

17. **Pollution Control**

Any excess materials such as timber offcuts, paint and building debris as well as any water and solvents from cleaning tools must be disposed of in accordance with the waste management plan and applicable regulations and must not enter receiving waterways.

Reason: To ensure that building associated waste and pollutants don't enter the surrounding environment.

18. **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 and Environment.

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 and Environment.

Reason: Aboriginal Heritage Protection.

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

19. **Acid Sulfate Soil Management Confirmation**

Details demonstrating compliance with the Acid Sulfate Soil Assessment as prepared by Copley Marine Group Pty Ltd (GMG) 3/3/2023 is to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

20. **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**



**Grace Facer, Planner**

The application is determined on 05/05/2023, under the delegated authority of:



*Findlay*

**Steven Findlay, Manager Development Assessments**