

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/0126
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<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 2 DP 584315, 2 Portions Lovett Bay LOVETT BAY NSW 2105
<b>Proposed Development:</b>	Use of two (2) berthing areas
<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>	Suzanne Lee Plater
<b>Applicant:</b>	Stephen Crosby & Associates

<b>Application Lodged:</b>	11/02/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	22/02/2022 to 08/03/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for two berthing areas to an existing unauthorised jetty and pontoon.

A Building Information Certificate is under assessment for the regularisation of the unauthorised jetty and pontoon structure.

### 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 - 7.6 Biodiversity protection  
Pittwater 21 Development Control Plan - D15.15 Waterfront development

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 584315 , 2 Portions Lovett Bay LOVETT BAY NSW 2105
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the northern side of Lovett Bay.</p> <p>The site is irregular in shape with a frontage of 37.51m along Lovett Bay and a maximum depth of 41.3m. The site has an area of approximately 1,397m<sup>2</sup>.</p> <p>The site is located within the C3 Environmental Management zone and accommodates a two-storey detached dwelling house known as 'Corymbia', a detached studio, a cabana, and an existing jetty with pontoon. The proposed berthing areas are located within the W1 Natural Waterways zone.</p> <p>The site steeply slopes approximately 10m from north-east (rear) to the mean high water mark of Lovett Bay to the south. The site is heavily vegetated.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low density residential development to the north and east, Ku-Ring-Gai Chase National Park to the west, and Lovett Bay to the south.</p>

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:

- Building Certificate BC2022/0015 for the existing unauthorised jetty, ramp, pontoon, and seawall is currently under assessment.

## 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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 Matters for Consideration	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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</p>	<p>The site is considered suitable for the proposed development.</p>

Section 4.15 Matters for Consideration	Comments
of the site for the development	
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions have been received in relation to this application.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection. No physical works are proposed under this application, so no specifications or requirements apply.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/02/2022 to 08/03/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	Council's Biodiversity and Planning team have assessed the proposal against relevant planning controls within the Pittwater 2014 LEP and DCP. It is noted that the structure is already existing and that no trees or native vegetation are proposed for removal.
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The application has been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> <li>• Consent to lodge DA from the Department of Crown Lands under the NSW Planning, Industries &amp; Environment dated 21 January 2022.</li> <li>• No navigational Concerns from the Transport for NSW-Maritime Division dated 13 December 2021 enclosing dated and signed maps.</li> <li>• No Objection from the DPI-Fisheries under the Department of</li> </ul>

Internal Referral Body	Comments
	<p>Primary Industries dated 14 December 2021.</p> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <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 (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby &amp; Associates Pty. Ltd. dated 28 January 2022, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p><b>Estuarine Hazard</b> The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping.</p> <p>However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM).</p> <p>The proposed development is therefore not required to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><b>Development on Foreshore Area</b> A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM).</p> <p>Therefore, the proposed development is not required to satisfy the relevant Clause 7.8 –Limited development on foreshore area of the</p>

Internal Referral Body	Comments					
	<p>Pittwater LEP 2014.</p> <p><b>Waterfront Development</b> Proposed development of berthing areas are located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP applies to proposed development.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby &amp; Associates Pty. Ltd. dated 28 January 2022, the DA satisfies requirements under the Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP. The maximum dimension for berthing areas perpendicular to shore shall be 5 metres x 9 metres. The berths applied for with this application are 3.0m x 5.0m, 15m<sup>2</sup>, complying with the DCP.</p> <p>As such, it is considered that the application does comply with the requirements of the Section D15.15: Waterfront Development sub-section b) Berthing areas of the Pittwater 21 DCP</p>					
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. The proposal is within Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the estuary, or the quantity and quality of surface and ground water flows that it receives.</p> <p>This application is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Pittwater estuary.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1"> <tr> <td data-bbox="520 1420 1439 1464"><b>HERITAGE COMMENTS</b></td> </tr> <tr> <td data-bbox="520 1464 1439 1509">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1509 1439 1675"> <p>The proposal has been referred to Heritage as the subject site adjoins a heritage item</p> <p><b>Stone Retaining Wall - 2,3,4,5 and 6 Portions, Lovett Bay</b></p> </td> </tr> <tr> <td data-bbox="520 1675 1439 1720">Details of heritage items affected</td> </tr> <tr> <td data-bbox="520 1720 1439 2134"> <p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u> The Stone Retaining Wall is associated with the first development works at Lovett Bay. The sandstone retaining wall is aesthetically distinctive as having been constructed during a very early phase of development in Pittwater.</p> <p><u>Physical Description</u> Sandstone retaining wall.</p> </td> </tr> </table>	<b>HERITAGE COMMENTS</b>	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject site adjoins a heritage item</p> <p><b>Stone Retaining Wall - 2,3,4,5 and 6 Portions, Lovett Bay</b></p>	Details of heritage items affected	<p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u> The Stone Retaining Wall is associated with the first development works at Lovett Bay. The sandstone retaining wall is aesthetically distinctive as having been constructed during a very early phase of development in Pittwater.</p> <p><u>Physical Description</u> Sandstone retaining wall.</p>
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Internal Referral Body	Comments		
	<b>Other relevant heritage listings</b>		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	<b>Consideration of Application</b>		
	<p>The proposal seeks consent for the use of part of the Pittwater waterway for two berthing areas. No physical works are proposed, only the use. The heritage item is the stone retaining wall which runs along the reclamation area in front of the property benefiting from the proposal (2 Portions) and the adjoining privately owned properties. As no physical works are proposed, there is considered to be no impact to the item.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No            Has a CMP been provided? No            Is a Heritage Impact Statement required? No            Has a Heritage Impact Statement been provided? No</p>		
	<b>Further Comments</b>		
COMPLETED BY: Brendan Gavin, Principal Planner			
DATE: 20 February 2022			

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP 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 did not require referral to Ausgrid.

### **SEPP (Coastal Management) 2018**

The site is classified as coastal use area and coastal environment area under the State Environmental Planning Policy (Coastal Management) 2018. Accordingly, an assessment under the SEPP has been carried out as follows:

#### **13 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:*
- 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 (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,*
  - 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 for use of two berthing areas adjacent to an existing jetty and pontoon. No physical works are proposed. As such, the proposed development is not considered to cause any adverse impact to the above matters.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (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:

The proposed development is for use of two berthing areas adjacent to an existing jetty and pontoon. No physical works are proposed.

**14 Development on land within the coastal use area**

- (1) (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,*
  - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) *Aboriginal cultural heritage, practices and places,*
  - (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
  - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) *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 for use of two berthing areas adjacent to an existing jetty and pontoon. No physical works are proposed. As such, the proposed development is not considered to cause any adverse impact to the above matters.

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

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

*coastal hazards on that land or other land.*

Comment:

The proposed development is for use of two berthing areas adjacent to an existing jetty and pontoon. No physical works are proposed. As such, the proposed development is not considered likely to cause increased risk of coastal hazards.

As such, the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

**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

There are no principal development standards to consider under Part 4 of the PLEP 2014 as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
7.6 Biodiversity protection	Yes

Detailed Assessment

**7.6 Biodiversity protection**

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on

the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

*(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

*(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

## Pittwater 21 Development Control Plan

### Built Form Controls

There are no built form controls to consider under the P21 DCP as part of this assessment.

### 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
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	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
C1.13 Pollution Control	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8.2 Scenic protection - General	Yes	Yes
D15.15 Waterfront development	No	Yes

### Detailed Assessment

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

The proposal includes two berthing areas, both of which extend beyond the seaward face of the related pontoon, in contradiction to this control. This is as a result of the configuration of the existing jetty and pontoon. To require berthing areas to be behind the seaward face of the existing pontoon would unreasonably restrict the size of vessels using the pontoon. The underlying outcomes of the control are addressed as follows:

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

Comment:

The proposal does not include any physical works, so will not impact upon the water quality or estuarine habitat of Pittwater.

*Public access along the foreshore is not restricted.*

Comment:

The proposal does not include any physical works, so will not impede public access 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 proposal does not include any physical works, so will not encroach upon navigation channels or adversely affect others' use of the waterway.

*Structures blend with the natural environment.*

Comment:

The proposal does not include any physical works.

*Structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway.*

Comment:

The proposal does not include any physical works.

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

Comment:

Not applicable. The residential use of the site is retained.

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

Comment:

The proposal does not include any physical works.

## **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 2021**

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 2000;
- 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
- Inconsistent 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 DA2022/0126 for Use of two (2) berthing areas on land at Lot 2 DP 584315, 2 Portions Lovett Bay, LOVETT BAY, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01 Site Plan and Section	November 2020	Stephen Crosby & Associates

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

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a wharf or boating facility in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

*Wharf or boating facilities means a wharf or any of the following facilities associated with a wharf or boating that are not port facilities—*

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,*
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,*
- (c) wharves for commercial fishing operations,*
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,*
- (e) sea walls or training walls,*
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. **No Approval for Physical Works**

No approval is granted under this Development Consent for any physical works.

Reason: To ensure compliance with the relevant Local Environmental Plan.

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

**Signed**



**Claire Ryan, Principal Planner**

The application is determined on 31/03/2022, under the delegated authority of:



**Phil Lane, Acting Development Assessment Manager**