

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0669
Responsible Officer:	Danielle Deegan (Independent Planning Consultant)
Land to be developed (Address):	Lot 7005 DP 1117451, 1193 Barrenjoey Road, Palm Beach Lot 7002 DP 1117592, 1193 Barrenjoey Road, Pam Beach Lot 298 DP 721522, 1191 Barrenjoey Road, Palm Beach
Proposed Development:	Demolition works and construction of a new restaurant, car parking, and associated uses, including a Voluntary Planning Agreement
Zoning:	<ul style="list-style-type: none"> • E2 Environmental Conservation • RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	NSW Government - Department of Industry - Lands
Applicant:	London Lakes Partnership
Application Lodged:	31 May 2021
Integrated Development:	Yes (DPI Water & Fisheries)
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	9 June 2021 to 9 July 2021
Advertised:	9 June 2021
Submissions Received:	21
Clause 4.6 Variation:	4.3 – Height of Buildings (99%)
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$4,056,729.00

Executive Summary

The application seeks to demolish existing buildings and construct a new two storey building and ancillary structure for use as a café, boat hire business and seaplane charter business, with associated car parking and landscaping.

The application is 'Integrated Development' as approval is required under Section 201 of the *Fisheries Management Act 1994*. The application has been referred to the Department of Primary Industries – Fisheries and General Terms of Approval have been granted for the proposal and are to be included as conditions in any consent issued.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the development proposes a departure from the building height development standard of more than 10%, the application has received more than 10 unique submissions objecting to the proposal, and the site is Crown land with a portion managed by the Northern Beaches Council.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), the provisions relevant Environmental Planning Instruments including *Pittwater Local Environment Plan 2014* (PLEP), *Pittwater Development Control Plan 2014* (PDCP), the *Governor Phillip Plan of Management* (POM), the *Draft Governor Phillip Park Conservation Management Plan* (Draft CMP) and the relevant codes and policies of Council. In consideration of the proposal and the merit consideration the development is:

- Consistent with the objects specified in Section 1.3 of the EP&A Act.
- Consistent with the relevant EPI's.
- Consistent with the zone objectives of the PLEP 2014.
- Consistent with the aims of the PLEP.
- Consistent with the objectives of the P21DCP.
- Consistent with the objectives of the Governor Phillip Park Plan of Management.
- Consistent with the objectives of the Draft Governor Phillip Park Conservation Management Plan.

The public exhibition of the proposed development resulted in twenty-two unique submissions, consisting 14 letters of objection and seven (7) letters of support. The issues raised in the submissions are addressed in the "Public Notification" section of this report.

The proposed demolition of the existing building and replacement with a building of similar design, scale and use is supported. While the proposed building is 1.7 metres higher than the existing building, the additional height is needed to satisfy the required flood levels and BCA requirements. While the new building is higher, it remains confined to the existing building footprint and lower than surrounding vegetation. The building height non-compliance is therefore supported.

The proposed development will maintain the existing historic uses on the site and does not propose to increase the current capacity of the restaurant or hours of operation. The proposal is acceptable subject to the recommended conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The development is for the demolition and reconstruction of the existing premises known as The Boathouse Palm Beach (the Boathouse) as well as external works on adjoining public land.

Specifically, the proposed development comprises:

- Demolition of the existing structures on Lot 298 (excluding the existing wharf).
- Replacement of existing piles with taller supporting piles.
- Construction of a two-storey building, with a raised floor level, for continued use of a café, boat hire and seaplane office. The café and boat hire business will be accommodated on the ground floor, with the seaplane booking office and café staff amenities located on the first floor.

- Four (4) x building identification signage as follows:

Elevation	Dimensions	Wording
North	2.4 x 0.8m	Alf's Bait Shop
North	1 x 0.9m	Barrenjoey Boating Services
East	1 x 0.8m	The Boathouse
East	1.4 x 0.3m	Sydney by Seaplane Harbour & Beaches Scenic Flights

- Construction of a new ancillary building, replacing the existing outbuildings south-east of the Boathouse building, for use as bathroom amenities (open to the public), store room and waste storage room.
- Raise the upper level of the seaward decking.
- Landscaping and associated works within the adjacent leased land within Governor Phillip Park.
- Addition of further landscaping south of loading bay and north of parking bays, including dune stabilisation works.
- Enlargement of parking bays to the north of the building to achieve compliance with the relevant Australian standards.
- Install a pedestrian path running north from eastern side of Boat House to the Barrenjoey Beach.

The proposed hours of operation for in-house dining, takeaway meals and refreshments are 7.00am to 4.00pm, 7 days a week.

The proposed hours of operation for functions are 4.00pm to 10.00pm on Fridays and Saturdays during summer periods.

The proposed maximum number of patrons is 152.

A separate Voluntary Planning Agreement (VPA) for the refurbishment of 10 existing public car parking spaces within Governor Phillip Park is also proposed.

Figure 1 below shows a photomontage of the proposed development as viewed from the public wharf.



Figure 1. Photomontage of the proposal as viewed from the public wharf (source: Deneb design)

Figures 2 and 3 assist in the identification of the location of the proposed works within the site.

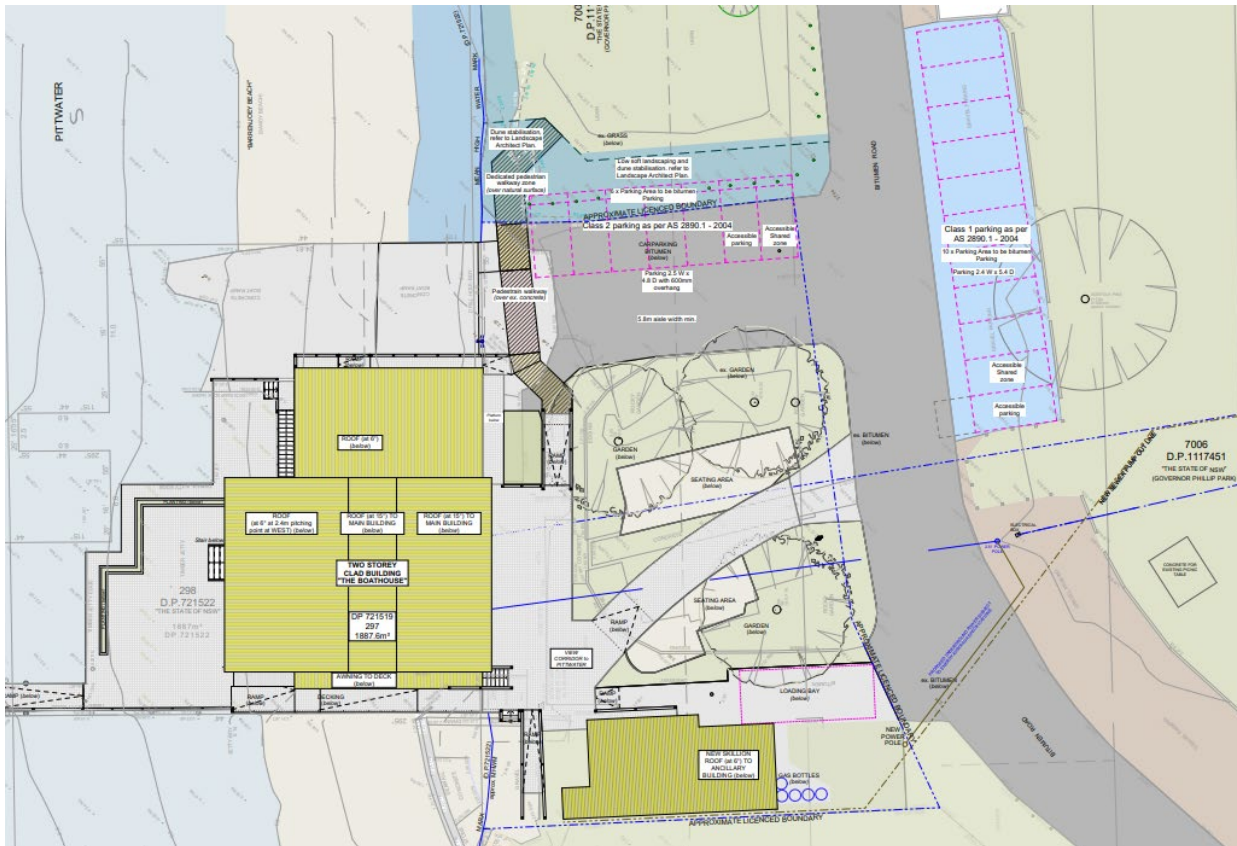


Figure 2. Site plan (source: Canvas Architecture)

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

- Assessment - Integrated Development – DPI Fisheries - Fisheries Management Act (s201 Circumstances in which a person (other than a public or local government authority) may carry out dredging or reclamation)
- Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to Development Standards.
- Pittwater Local Environmental Plan 2014 – 5.10 Heritage Conservation.
- Pittwater Local Environmental Plan 2014 - 7.1 Acid Sulfate Soils.
- Pittwater Local Environmental Plan 2014 - 7.2 Earthworks.

- Pittwater Local Environmental Plan 2014 - 7.3 Flood Planning.
- Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity Protection.

SITE DESCRIPTION

<p>Property Description:</p>	<ul style="list-style-type: none"> • Lot 298 in DP 721522, No. 1191 Barrenjoey Road, Palm Beach. • Lot 7005 in DP 1117451, No. 1193 Barrenjoey Road, Palm Beach. • Lot 7002 in DP 1117592, No. 1193 Barrenjoey Road, Palm Beach.
<p>Detailed Site Description:</p>	<p>The site containing the existing Boathouse Café structure is located adjacent to Governor Phillip Park, at Nos. 1191 to 1193 Barrenjoey Road, Palm Beach on Station Beach and fronts Pittwater on the isthmus that links the Barrenjoey Headland and Palm Beach.</p> <p>The site of the proposed works extends over the following three (3) allotments and is subject to a split zoning:</p> <p>Lot 298, in DP721522,(containing the existing Boathouse Café) is on the seaward side of Mean High Water Mark (MHW) and is zoned E2 Environmental Conservation. Crown Land is managed by the Department of Industry – Crown Lands.</p> <p>Lot 7005, in DP1117451 (comprising the licenced area) extends from the MHW easterly for approximately 25 metres, generally in line with Barrenjoey Beach and the foreshore and is zoned RE1 Public Recreation. Crown Land is part managed by the Department of Industry – Crown Lands and part managed by Council</p> <p>Lot 7002, in DP1117592 is the most eastern portion of the site and generally covers street frontage of the site, the street and the adjacent access road car park, and is zoned RE1 Public Recreation. Crown Land is managed by Northern Beaches Council.</p> <p>The existing two-storey building and deck structure on the site, accommodates three businesses including the predominant use on site (being the Boathouse café), a boat hire business and the offices of a seaplane charter operator, Sydney by Seaplane. Seating associated with the use of the café continues onto the outdoor rear deck and into the front Licenced Area. A two bedroom caretakers unit occupies the first floor.</p> <p>A wharf extends from the Boathouse building into Pittwater and is publicly accessible from Governor Phillip Park with mooring facilities for multiple boats and sea planes.</p> <p>Vehicular access to the site is via the Governor Phillip Park loop road extending from Barrenjoey Road.</p> <p>The site is predominantly flat with a slight fall from the east</p>

to the west. There is a landscaped area to the east of the Boatshed including 3 x Norfolk Pines.

Description of Surrounding Development

Directly to the west of the site is Pittwater, to the east of the site is the Barrenjoey Road accessway, providing vehicular access to Barrenjoey Head, and to Governor Phillip Park.

To the north of the site is Station Beach which leads to Barrenjoey Head. To the south of the site Station Beach continues leading to Observation Point.

Governor Phillip Park is characterised by natural areas, pathways, parking areas, cafes, recreational uses and community facilities.

Map:



Figure 3. Aerial photograph showing site location

SITE HISTORY

The land has been used for boat hire, sea plane charter and café use for an extended period of time. A search of Council's records has revealed the following relevant history:

- On 25 November 2008, the ground floor of the building was partly used as a café called 'Carmel's by the Sea'. The café had indoor seating for 16 people and outdoor seating for 60 people.
- On 15 January 2009, Council's Food Premises Inspection Notes indicate that the premises was renamed '*The Boathouse Palm Beach*'.
- On 11 February 2015, a Pre-Lodgement meeting was held with Council staff with regard to the re-development of the site to provide for an enlarged café with an open plan function space upstairs and a kiosk within the Licenced Area.
- On 27 April 2015, Council's Compliance Department investigated alleged unauthorised pop-up stalls and other structures within the Licenced Area.

- On 7 March 2018, Development Application N0302/17 for alterations and additions to 'The Boathouse' including change of use of first floor to a restaurant office, demolition of ancillary buildings, new external services building, seawall protection measures and an altered carpark with associated landscaping was refused by Council. The reasons for refusal were:
 1. *The proposal is not in the public's interest, as it is inconsistent with the adopted Plan of Management for Governor Phillip Park, the Draft Conservation Management Plan for Governor Phillip Park, and Crown Lands 'Food and Beverage Outlets on Crown Reserves – Policy Position'.*
 2. *The proposal facilitates an increase in the GFA and capacity of the café, attributing to a significant intensification on the demand for parking that has not been adequately considered and is not satisfied by the proposed development. The proposal is non-compliant with the numerical requirements and outcomes of clause B6.3 (Off-street Parking Facilities) of P21 DCP and places an unreasonable level of reliance upon parking within the adjacent public reserve.*
 3. *The proposal is supported by conflicting and insufficient information, particularly with respect to:*
 - a) *All necessary works within the Licenced Area and the potential impacts upon the significant Norfolk Island Pines to the east of the Boathouse building,*
 - b) *The existing capacity of the building, in consideration of the provision of on-site amenities,*
 - c) *The capacity of the proposal in consideration of wastewater management,*
 - d) *The design and management of the facility with respect to the estuarine hazard,*
 - e) *The design of car parking within the Licenced Area and compliance with AS2890.1 and AS2890.6,*
 - f) *Acoustic impacts associated with an intensified capacity, extended trading hours and the use of the site for functions and events, and*
 - g) *The design of the front Licenced Area and the adopted Landscape Plan, referenced in the Licence and the adopted Plan of Management for Governor Phillip Park.*
 4. *Until the Draft Pittwater Local Environment Plan 2014 is gazette, the Panel is not satisfied that it can issue a consent in relation to the sea plane and boat hire businesses.*

APPLICATION HISTORY

On 31 March 2020, a Pre-Lodgement meeting (PLM2020/0137) was held with Council officers to discuss key issues associated with the proposed development of the site.

On 31 May 2021 the subject development application was lodged with Council.

On 27 August 2021, a letter was sent to the applicant requesting additional information to address deficiencies in the plans, flood levels, work outside the licenced area, urban design issues and the voluntary planning agreement.

On 16 September 2021, amended plans and additional information were submitted to Council.

The additional information was subsequently assessed by the relevant Council experts and consultant planner engaged to carry out this assessment. The proposed development was not required to be re notified as the changes did not result in additional environmental impacts and the development remained substantially the same as original notified.

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	<p>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.</p> <p>The subject site has been used for recreational and commercial purposes for an extended period of time. The proposed development retains the use of the site and is not considered a contamination risk.</p>
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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested on 27 August 2021.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&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>
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>(i) <u>Environmental Impact</u> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater LEP section in this report.</p> <p>(ii) <u>Social Impact</u> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <u>Economic Impact</u> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

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

CROWN LAND MANAGEMENT ACT 2016 AND LOCAL GOVERNMENT ACT 1993

The land is owned by the Crown and is part managed by Council and part managed by the Department of Industries - Crown Lands.

Under section 3.21 of the *Crown Land Management Act 2016*, Council, as Crown Land Manager, is authorised to classify and manage the land as if it were public land within the meaning of the Local Government Act 1993.

Section 35 of the *Local Government Act 1993* identifies that Community land is required to be used and managed in accordance with:

- The plan of management applying to the land;
- Any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land; and
- Division 2 of the *Local Government Act 1993*.

The *Governor Phillip Park Plan of Management* (‘the POM’) and the *Draft Governor Phillip Park Conservation Management Plan* (‘Draft CMP’) apply to the RE1 zoned land.

While the Boathouse building is on land zoned E2 Environmental Conservation and not within the Governor Phillip Park boundary, the Boathouse activities and operations extend into the RE1 Public Recreation zone. Access to the Boatshed building is over public Reserve land. The POM includes the key objective to “*conserve and enhance the Park’s natural, historical and cultural environment whilst providing a diverse range of quality informal passive recreational opportunities in a unique and relatively undeveloped setting.*”

The POM requires future uses within Governor Phillip Park to satisfy Section 2.8.1 ‘Permissible uses’, which include to: *encourage public use and enjoyment of appropriate Crown land; encourage public use and enjoyment of appropriate Crown land; optimise public access and use of coastal Crown lands; and encourage the rehabilitation of degraded coastal Crown lands.*

The POM provides recommendations for the lower western picnic and parking area where the external areas are adjacent to the existing Boathouse, and these are also interpreted in the Concept Masterplan referenced as Landscape Master Plan within the *Governor Phillip Park Plan of Management*. The recommendations for this area include a series of small defined car parking areas to cater for the needs for the adjoining picnic areas and protect existing trees and turfed areas, and picnic and recreation upgrades.

The proposal comprises works within Governor Phillip Park, including access pathways, outdoor furniture, car parking, landscaped gardens, and dune stabilisation works. The area will remain accessible and useable to the general public. The proposed works will benefit the general public. Subject to recommended conditions of consent, the proposed development satisfies the key objective and principles of the POM.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited between 9 June 2021 and 9 July 2021 in accordance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, and Council's *Community Participation Plan*.

As a result of the public exhibition, council received 21 submissions from:

Name:	Address:
Mr Peter Eric Giblin	7 Beach Road, Palm Beach
Mr Mark Richard Phillips Ms Caroyln Louise Darragh	69 Binburra Avenue , Avalon Beach
India Turner	6 Joseph Street, Avalon Beach
Mr Michael Anthony Henry	59 Dress Circle Road, Avalon Beach
Mr Dennis Leslie Wright	12 Park Avenue, Avalon Beach
Mr Mark Francis Horton	2 Elwyn Close, Mona Vale
Suzanne Richards	Address Unknown
Mr Jacqueline Susan Rees	1 Boanbong Road, Palm Beach
Anonymous	Address unknown
Michael Gibson Mills	1167 Barrenjoey Road, Palm Beach
Joyce Parker	79 Cabarita Road, Avalon Beach
Steve Jacobs	Address Unknown
Stephen Jones	3 Waratah Road, Palm Beach
Mr Rodger Alan Morton	1041 Barrenjoey Road, Palm Beach
Peter Brockhoff Mr John Oatley Brockhoff	14 Waratah Road, Palm Beach
Mr Robert William Gerard Johnson	296 Hudson Parade, Clareville
Mr Mark Richard Willcocks	PO Box 1332, Mona Vale
Mr Simon Olding	PO Box 375, Wahroonga
Mr Nicholas Burton-Taylor	Hillgrove Young Road, Boorowa
Mr Shane Douglas Oxenham	2 Livistona Lane, Palm Beach
Mr Nicholas Kenneth Martin Allen	20 Bishops Avenue, Randwick

Fourteen (14) submissions objected to the proposal raising the following issues:

- ***Demolition of existing small scale historic building and construction of a large car park is detrimental to the character of Palm Beach.***

Comment

The proposed works are within the existing building footprint. Subject to conditions, Council's Heritage Officer is supportive of the proposal concluding that the proposed development will ensure the continuation of the long-established café use and the water based recreational uses (boat hire and see plane charter), both of which contribute to the significance of the building to the context and historical use of Governor Philip Park. The proposed enlargement to the car parking area to the north of the building brings the parking area into compliance with AS 2890.1 – 2004 as part of the site improvements and is considered a reasonable response to address site parking. The improvements to the existing public parking spaces to the east of the site are not considered detrimental to the character of the area and the surface treatment is subject to the requirements of Council's Heritage Officer and Parks and Reserves team to ensure the works a sympathetic to the locality.

On balance, it is considered that the proposed increase in height is acceptable from a heritage

point of view and is consistent with the character of Palm Beach.

- ***The proposed enlargement of the restaurant to cater to 300 diners is excessive and does not benefit the public.***

Comment

The proposal does not propose to increase the capacity of the restaurant. Recommended conditions of consent will impose a cap of 152 patrons and will prohibit the use of the first floor for function or restaurant dining use.

- ***The site is Crown land and commercial uses should be restricted.***

Comment

The Boathouse has a lease for the building and the adjacent licenced area within Governor Phillip Park. The proposal will result in an overall increase in the areas accessible to the public. The proposed development and the lease is consistent with the Governor Phillip Park POM.

- ***Public access to Station Beach is blocked by this proposal.***

Comment

The proposed development maintains public access through the site, to the public wharf and to Station Beach.

- ***Environmental impacts arising from expanded restaurant, car parking and encroachment on public land, specifically:***
 - ***Objection to more car parking in public open space.***
 - ***The loss of a strip of public space to the north of the boat ramp driveway resulting from the extension of the seven (7) parking spaces.***
 - ***The bitumen parking spaces (as per VPA) should be accommodated entirely inside the subject lands (within the licenced area) south of the existing timber bollards.***

Comment

The overall site coverage is not increasing. The recommended deferred commencement condition of consent will require that the proposed refurbishment of the ten (10) existing parking spaces to the east of the Boatshed building (the subject of the VPA) be constructed from pervious material, thereby minimising stormwater run-off. These ten (10) car spaces will be available for public use.

The extension of the seven car spaces to the north will enable these car spaces to comply with the minimum dimensions for car spaces. The expanded area will be subject to a recommended condition of consent requiring an extension to the lease area.

The proposal will result in a net increase in both landscaped area and land accessible to the public. The environmental impacts arising from the proposal have been assessed by Council's technical staff. Subject to conditions to mitigate any environmental effects, the proposal is satisfactory.

- ***Noise impacts on residents at No. 3 Waratah Road.***

Comment

The Environmental Noise Impact Assessment, prepared by Day Design Pty Ltd, concludes that the proposed operation of the site will meet the Liquor and Gaming NSW and EPA's noise level requirements at all nearby residential, active recreation and commercial locations, and will therefore be acceptable.

A Operational Plan of Management for the restaurant has also been submitted in support of the proposed development. This document details hours of operation and noise management procedures. In the event of approval, this document will form part of the approval documents. The

administrative noise controls include the following:

- No amplified music between 10.00pm and 7.00am.
- Amplified music restricted to a maximum of L10 level 94dBA at 1m from any speaker between 7.00am and 10.00pm.
- Noise monitoring or use of a noise limiter while using amplified music or an in-house sound system.
- Orientation of speakers towards Pittwater.

Given the spatial separation of the site (approximately 600m) from the nearest residential properties and recommended noise management conditions, the proposal is assessed as satisfactory concerning noise impacts.

The seven letters of support include the following comments:

- *The existing building is in very poor condition and needs renovation or rebuilding. The proposal is a sympathetic solution.*
- *The proposal represents a tasteful redevelopment embodying the heritage qualities that the existing building possesses.*
- *The proposal reflects the style of the existing building while bringing the facilities up to a better standard.*
- *While the proposed building envelope is higher than the existing building, this is necessary to increase the floor levels.*
- *The patron numbers have been scaled back from a previous proposal and are less than the existing seating numbers.*

REFERRALS

Internal Referral Body	Comments
Building Assessment (Fire and Disability upgrades)	Supported subject to conditions The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to the approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Environmental Health (Acid Sulphate)	Supported without conditions No objection was raised by Council's Environmental Health (Acid Sulfate) team. No conditions were imposed.
Environmental Health (Industrial)	Supported subject to conditions No objection was raised by Council's Environmental Health (Industrial) team subject conditions to control noise, waste and chemicals on the site.
Environmental Health (Commercial Use)	Supported subject to conditions No objection was raised by Council's Environmental Health (Commercial Use) team subject conditions.
Environmental Health (Unsewered Lands)	Supported subject to conditions No objection was raised by Council's Environmental Health (Unsewered Lands) team subject conditions.
Environmental Health	Supported subject to conditions

Internal Referral Body	Comments
(Contaminated Lands)	No objection was raised by Council's Environmental Health (Contaminated Lands) team subject conditions.
Landscape	<p>Supported subject to conditions</p> <p>Council's Landscape Referral is assessed against the adopted Plan of Management for Governor Phillip Park, the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation. • C1.1 Landscaping. <p>The development application includes a Landscape Plan for areas to the east of the Boathouse premises that are proposed to remain in public use. It is noted that the existing landscape setting of this area has been significantly altered such that it appears as land that is occupied and managed by the Boathouse, with elements such as signage, enclosed landscaped areas, and furniture styled to match the interiors of the Boathouse but located within the public domain. To any visitor it is obvious that the existing arrangement is perceived to be that the area is part of the Boathouse, and any visitor may feel uncomfortable in utilising the area for recreational activities such as a picnic or sitting.</p> <p>The landscape works, as shown on the proposed Landscape Plan removes much of the landscape elements typically installed to style the landscape open space to match the theme of the Boathouse, whilst retaining some elements. Concern is raised in regard to the planting scheme that simply is replacing the existing exotic planting with native planting that includes planting able to achieve a screening height to re-establish enclosure of open space areas to appear to be part of the Boathouse. The proposal does not refer to the intent of the existing signage (x 2) placed at the junction of the roadway and the Boathouse lease alignment, and removal of the signage to the building face would better represent that the open space area within the Reserve belongs to the public and is useable by the public, without fear of encroaching.</p> <p>The planting scheme is recommended to be of a low height to allow for clear visual interpretation and connection of the open space area with the public to enable unhesitating use, and the proposed tall shrubs (<i>Leptospermum</i>) and small trees (<i>Banksia</i>) along the roadway should be removed from the scheme, and conditions of consent shall be imposed requiring an Amended Landscape Plan to be approved at Construction Certificate stage, should the development application be approved.</p> <p>Foreshore native planting for dune stabilisation is included in the Landscape Plan and is supported. If the development is approved, the biodiversity management and mitigation measures as recommended in the Ecological Assessment and Biodiversity Management Plan shall be implemented in association with the proposed landscape works that will assist in mitigating the erosion to the foreshore north of the existing building / boat ramp and north of the existing unmarked car parking spaces.</p> <p>An Arboricultural Impact Assessment is provided with the application and includes specific tree protection measures to preserve the existing three (3) Norfolk Island Pines within the current Boathouse lease area, including tree protection fencing, removal of non-porous surfaces in the structural root zone of the trees and planting of native species with non-invasive roots. All three appear to be vigorous with no apparent setbacks or decline in crown cover and branch structure, and based on the relatively medium to long Useful Life Expectancy and high visual prominence and cultural landscape</p>

Internal Referral Body	Comments
	<p>significance of each tree, each is accorded a high retention value and shall be protected and preserved.</p> <p>The Arboricultural Impact Assessment concludes that provided the recommendations of the report are adopted, adverse impacts on tree vigor and structural condition of the Norfolk Island Pines will not decline as a result of the development proposal, and subject to adherence to the strict tree protection guidelines and protocols as recommended to ensure disturbance to the trees is avoided or minimised. As recommended in the report an experienced and qualified arboriculturist is to be engaged should the development application be approved, with acceptance from the developer and builder that a high level of supervisory and advisory input is maintained during all stages of the development, including the demolition of existing pavers and structures, excavations and construction.</p> <p>The recommendations of the Arboricultural Impact Assessment can be supported subject to conditions of consent.</p> <p>Landscape (subject to conditions of consent for an amended Landscape Plan) raise no objection to the proposed landscape works.</p>
NECC (Bushland and Biodiversity)	<p>Supported subject to conditions</p> <p>Council's Natural Environment Unit - Biodiversity team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 (BC Act). • State Environmental Planning Policy (Coastal Management). • Coastal Environment Area. • Pittwater Local Environmental Plan (PLEP): <ul style="list-style-type: none"> ○ Clause 7.6 Biodiversity Protection. <p>The application seeks approval for the proposed demolition and reconstruction of the existing premises.</p> <p>The following documents relating to biodiversity impact are noted within the submission:</p> <ul style="list-style-type: none"> • Ecological Assessment and Biodiversity Management Plan (Kingfisher 2021). • Arboricultural Impact Assessment (Urban Forestry Australia 2021). • Landscape Plan (Selena Hannon Landscape Design 2021). • Bushfire Hazard Assessment Report (Firstfield Environmental 2020). <p>A review of the Aquatic Ecology Report (Cardno 2021) was also undertaken however NEU-Biodiversity defer to Council's Coast & Catchments referral team for comment on possible seagrass impacts.</p> <p>To facilitate the construction of the proposal, no tree removal is proposed or required (Urban Forestry Australia 2021). Native, terrestrial vegetation is absent from within the construction footprint, and nearby biodiversity values are unlikely to be impacted by the proposal (Kingfisher 2021). Additionally, proposed native landscaping (Selena Hannon Landscape Design 2021) intends to reinstate locally native species.</p> <p>The submitted Bushfire Hazard Assessment is noted (Firstfield</p>

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	<p>Environmental 2020). No native vegetation is present within the subject lot, and therefore no clearing would be proposed to establish Asset Protection Zones (APZ). As the site (Lot 298) is located outside of Bushfire Prone Land, no clearing for APZ establishment would be supported by NEU-Biodiversity, however is irrelevant in this case.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
<p>NECC (Coast and Catchments)</p>	<p>Supported Subject to conditions</p> <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/supportof:</p> <ul style="list-style-type: none"> • Consent to lodge DA from the Department of Crown Lands under the NSW Planning, Industries & Environment dated 01 April 2021. • No Objection from the DPI-Fisheries under the Department of Primary Industries dated 16 April 2021. <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>Further, the applicant has proposed construction of wave baffle wall, replacement of existing piles with taller piles. Hence the proposed development has been assessed also against the requirements of the Section 27 of the <i>Coastal Management Act 2016</i>. As required, the impact & risk associated with the construction/modification of the seawall has been assessed in the submitted Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021. Based on the impact and risk identified, Council applies maintenance condition as per Section 27(b)(ii) in approving this DA.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 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><u>Comment</u> On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Doyle Consulting Group Pty. Ltd dated April 2021, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p><u>Estuarine Risk Management</u> The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7-B3.10 Estuarine</p>

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	<p>Hazard Controls will apply to any proposed development of the site.</p> <p>In accordance with an analysis, presented through the Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021, a site-specific estuarine planning level (EPL) of RL 2.75m AHD has been recommended and applied at the subject site for a design life of 50 years.</p> <p>On internal assessment and as assessed in the submitted Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021 and Flooding and Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated May 2021, the floor level for the proposed additions and alterations sites are at one place below and at others above the recommended EPL for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><u>Development seaward of Mean High Water Mark (MHWM)</u> A number of proposed development works are located on Crown land below the MHWM. Hence, Section D15.12: Development seaward of mean high-water mark of the Pittwater 21 DCP applies to proposed development.</p> <p><u>Comment</u> On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Doyle Consulting Group Pty. Ltd dated April 2021 and Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway</p> <p>The applicant has also submitted Aquatic Ecology Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 30 August 2021. The report has assessed the impacts of proposed developments and recommended elaborate measures.</p> <p>These measures will be conditioned in the granting of an approval.</p>
<p>NECC (Development Engineering)</p>	<p>Supported subject to conditions</p> <p>The proposed development does not require OSD. The proposed stormwater outlet to the proposed new seawall must be assessed and approved by Council's Coast and Catchment Team.</p> <p>The VPA for the proposed parking area is to include the construction approvals required from Council's Parks and Reserves Team.</p> <p>No objection to approval, subject to conditions as recommended.</p>
<p>NECC (Riparian Lands and Creeks)</p>	<p>Supported subject to conditions</p> <p>Subject to conditions, the development is compliant with Council's riparian lands requirements. Note that Development Engineering have conditioned that the applicant is to submit Stormwater Engineering Plans indicating all details relevant to the collection and disposal of stormwater and that Stormwater shall be conveyed from the site to a slotted pipe suspended under the existing jetty to disperse stormwater into Pittwater. This is</p>

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	supported by the Riparian referral, as stormwater would bypass the beach to Pittwater and reduced risk of erosion of sand.
NECC (Flood)	<p>Supported subject to conditions</p> <p>A detailed site specific Flood Impact Assessment has been undertaken for the site prepared by Cardno (NSW/ACT) Pty Ltd dated 16 August 2021. The Flood Study identifies that the floor levels for the proposed ground floor of the Boathouse, sewer tank/grease arrestor and male and female toilets have an appropriate freeboard in a Probable Maximum Flood event. The Boat Hire General Storage and Bin Room are located marginally below the Probable Maximum Flood level and conditions are included to ensure that these buildings are flood proofed to reduce potential flood damages.</p>
NECC (Water Management)	<p>Supported subject to conditions</p> <p>The extension of the car park adjacent to the boat ramp will result in additional impervious area, however, this has been offset with the use of permeable pavers in the outdoor dining/sitting areas as shown in the landscape plan. Permeable surfaces or Water Sensitive Urban Design (WSUD) are recommended for the extension of the parking areas to encourage more natural hydrology and reduce water pollutants entering Pittwater and seagrass habitats. Subject to conditions, the development is compliant with Council's water management requirements.</p>
Parks, Reserves, Beaches, Foreshore	<p>Supported subject to conditions</p> <p>The Development Application is for the demolition and reconstruction of the existing premises known as the Boathouse Palm Beach as well as external works east of the Boathouse upon public Reserve land. A separate Voluntary Planning Agreement (VPA) for the refurbishment of 10 existing public car parking spaces within Governor Phillip Park is proposed and the works are documented as part of the Development Application.</p> <p>Amended plans and reports are provided for consideration to address the concerns raised in the previous Parks Referral. The previous concerns were as follows:</p> <ul style="list-style-type: none"> • lack of information on the public access and use of the proposed ancillary amenities structure/building with toilets upon Reserve land beyond operating hours; • lack of information on the intent of the existing signage that maintains a territorial barrier for the general public; and • exclusion of the public from the 10 existing car parking spaces that are currently utilised by the public to access the recreational facilities of Governor Phillip Park. <p>Council's Parks Referral is assessed against the adopted Plan of Management for Governor Phillip Park and the Pittwater Local Environmental Plan under RE1 Public Recreation. Although the Boathouse building is not within the park boundary, the Boathouse activities and operations extend into the RE1 Public Recreation zone and access to the premise is over public Reserve land. The Plan of Management for Governor Phillip Park includes a key objective to "conserve and enhance the Park's natural, historical and cultural environment whilst providing a diverse range of quality informal passive recreational opportunities in a unique and relatively undeveloped setting.</p> <p>The adopted Plan of Management permits future uses within Governor Phillip Park to satisfy section 2.8.1 Permissible uses, which include to: encourage public use and enjoyment of appropriate Crownland; for a public</p>

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	<p data-bbox="545 286 1422 371">purpose, in public ownership; optimise public access and use of coastal Crown lands; and encourage the rehabilitation of degraded coastal Crown lands.</p> <p data-bbox="545 409 1414 629">The objectives of LEP zone RE1 Public Recreation include to: enable land to be used for public open space or recreational purposes; protect and enhance the natural environment for recreational purposes; allow development that does not substantially diminish public use of, or access to, public open space resources; and provide passive and active public open space resources, and ancillary development, to meet the needs of the community.</p> <p data-bbox="545 667 1442 1010">The Plan of Management provides recommendations for the lower western picnic and parking area where the external areas are adjacent to the existing Boathouse and these are also interpreted in the Concept Masterplan referenced as Landscape Master Plan within the Governor Phillip Park Plan of Management, and for this area recommendations include a series of small defined car parking areas to cater for the needs for the adjoining picnic areas and protect existing trees and turf areas, that is now occupied within the lease for the Boathouse; and picnic and recreation upgrades. It is noted that the intent for small car parking areas under the Concept Masterplan exists as outdoor food services areas utilised by Boathouse within the current lease area.</p> <p data-bbox="545 1048 1442 1267">The Development Application proposal includes landscape works within the Reserve that is accessible and useable to the general public such as access pathways, outdoor settings containing picnic tables, table and chairs, and landscaped gardens, and includes dune stabilisation works as indicated in the Landscape Plan and the Biodiversity Management Plan, and these works benefit the general public and satisfy the intent of the Plan of Management and LEP clause RE1 Public Recreation zone.</p> <p data-bbox="545 1305 1433 1361">The following issues of concern have been resolved by the amended plans and reports, including:</p> <ul data-bbox="545 1400 1442 2188" style="list-style-type: none"> <li data-bbox="545 1400 1442 1518">• The proposed amenities with toilet facilities is confirmed in the amended reports including the 'letter - Parks and Reserves response' to remain open to the public as required under the Plan of Management, during Boathouse operating times and as such provides a public benefit. <li data-bbox="545 1525 1442 1744">• The existing signage placed at the junction of the roadway and the Boathouse lease alignment is confirmed in the amended reports including the 'letter - Parks and Reserves response' to be removed within the licence area of the Reserve and thus the proposed external works and character is able to be represented as public space useable by the public without fear of encroachment. Any Boathouse signage is to be part of the building facade. <li data-bbox="545 1751 1442 1971">• The amended plans continue to note the ten (10) existing carparking spaces as a bitumen surface finish and this is not supported. The amended reports including the 'letter - Parks and Reserves response' nominates that the applicant shall adhere to the requirements as determined by Council, and as such a permeable surface finish shall be provided and designed to avoid ponding of water onto the existing roadway. <li data-bbox="545 1977 1442 2188">• Additionally, the amended report 'letter - Parks and Reserves response' confirms that the existing ten (10) car parking spaces are not proposed for the exclusive use of the Boathouse workers, visitors or any other related party, as incorrectly stated in the Traffic Management and Car Parking Solutions report by GTK Consulting on page 15. As such public use of these spaces is not altered nor restricted and the intent of the Plan of Management and LEP clause RE1 Public Recreation zone for

Internal Referral Body	Comments
	<p>public access is maintained.</p> <ul style="list-style-type: none"> The proposal to extend the alignment of the existing northern car parking spaces further into the Reserve and over the licence alignment is subject to the requirements to comply with Australian Standard / NZS 2890.1:2004 Parking facilities - Off street car parking, and spatial layout is restricted by the location of the heritage listed Norfolk Island Pines, and thus to comply the car parking is extended in alignment, and by a 34.2m² area. It is noted that the proposal includes 'reclaimed landscape areas' within the licence area to compensate. The spatial extension shall not exceed the minimum requirement for car spaces and maneuvering area under the requirements for Class 2 parking as per AS / NZS 2890.1:2004, and the existing timber bollards shall be re-installed appropriately or replaced with like for like. <p>It is noted that the proposal includes works beyond the current licence agreement boundary and this matter requires the granting of a licence to cover the extent of the proposal, and this part shall be in accordance with the directions, authorisation or otherwise from Council's Property Assets team.</p> <p>Parks Referral raise no further concerns and the proposal is able to satisfy the intent of the Plan of Management and LEP clause RE1 Public Recreation zone, subject to conditions of consent.</p> <p>The Development Application includes landscaped areas to the east of the Boathouse premises that are proposed to remain in public use. It is noted that the existing landscape setting of this area has been significantly altered such that it appears as land that is occupied and managed by the Boathouse, with elements such as signage, enclosed landscaped areas, and furniture styled to match the interiors of the Boathouse but located within the public domain. To any visitor it is obvious that the existing arrangement is perceived to be that the area is part of the Boathouse and not for public use. Parks Referral advise that this public land area shall clearly be perceived as public land and that the landscape proposal submitted with the Development Application is to achieve this outcome, and Parks Referral defer to Landscape Referral on this matter.</p>
Property Management and Commercial	<p>The proposal seeks to marginally extend the existing car parking spaces at the northern end of the existing licenced area, in order to ensure compliance with the Australian Standards for car parking.</p> <p>As such, the applicant will be required to enter into an additional licence with Council for the use of this land and a condition has been included to this effect.</p>
Strategic and Place Planning (Urban Design)	<p>Supported</p> <p>The amended proposal dated September 2021 has addressed the issues brought up previously:</p> <ol style="list-style-type: none"> The ground floor to ceiling height has been increased to 2.67m. The entry corridor width to the jetty is restricted by the lease boundary. The proposed entry width is similar to the jetty corridor width and will be used mainly to access the jetty as the restaurant has a separate entry point. As such, the proposed entry corridor width to the jetty is acceptable. <p><u>Previous Comments</u></p> <p>The proposal seek consent for the demolition of the existing structures except for the existing wharf. A new two storey replacement structure will be built consisting of ground floor café, boat hire and seaplane booking office,</p>

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	<p>and on first floor, office and staff facilities. New toilets and store rooms will be relocated to a new ancillary structure.</p> <p>Provision of disabled access will be provided to the ground floor area. The new cafe' will have seating capacity, for 152 patrons, for both indoor and outdoor. A previous development application was refused due to concerns over the potential impact of traffic and parking generation figures based on the seating capacity of 300 persons for the café.</p> <p>The proposed built form is similar in bulk and scale to the existing Boathouse structure and the new ancillary block will consolidate and tidy up the series of existing sheds. The proposed structure will take into account of the potential sea level rise reflected in the Estuary Planning Level. As such the breach of building height control can be supported.</p> <p>However the following issues should be addressed to improve the proposal further:</p> <ul style="list-style-type: none"> • The proposed ground floor area has a low ceiling height of about 2.4m. This should be increased to 2.7m clear to be more appropriate for a restaurant café by reducing the floor to ceiling height of the upper floor to ensure the overall height of the current built form is maintained. The additional ceiling height to the café will allow better natural ventilation and daylight access. <p>The main entry corridor to the jetty should be made less constricted by relocating the new stairs to the upper floor.</p>
Strategic and Place Planning (Heritage)	<p>Supported Subject to conditions</p> <p>This application has been referred as the site is partly located within the C1 - Barrenjoey Heritage Conservation Area, which is listed within Schedule 5 of Pittwater Local Environmental Plan 2014. The conservation area covers Governor Phillip Park, Palm Beach Golf Course and Barrenjoey Headland. The Boathouse building itself is not listed as a heritage item however is located adjacent to the Golf Course and partly within Governor Phillip Park.</p> <p>It is also located within the vicinity of a number of local heritage items (Picnic Shelter Sheds, Memorial cairns) and State heritage items (Barrenjoey Headland light station and 2 cottages) and a number of local archaeological heritage sites (Grave, Stone Path (former access road, site of former customs house). Most of these are located some distance from the Boathouse building.</p> <p><u>Consideration of application</u></p> <p>This application proposes to demolish the existing Boathouse building and rebuild in a similar style and scale. It proposes to accommodate the existing uses (which are currently a cafe, boat hire business and sea plane business) into the new building. The cafe, boat hire business and seaplane booking office will be accommodated on the ground floor, with office and staff facilities on the first floor. An ancillary structure is also proposed south-east of the Boathouse building, to house toilets and storerooms, replacing existing outbuildings. The proposal also includes landscaping works in the front of the Boathouse building and the formalisation of existing parking spaces. 10 parking spaces within the adjacent Governor Phillip Park are proposed to be sealed with bitumen with another 7 spaces to the north of the building also sealed. It is noted that the 10 proposed sealed parking spaces within Governor Phillip Park are the subject of a VPA.</p> <p>The application is supported by a Heritage Impact Statement prepared by City Plan, dated February 2021, which has been reviewed. In addition, the proposal has been reviewed in relation to the draft Governor Phillip Park</p>

Internal Referral Body	Comments
	<p data-bbox="539 277 1449 340">Conservation Management Plan by Thompson Berrill Landscape Design Pty Ltd, dated November 2009.</p> <p data-bbox="539 376 1449 676">The Boathouse building has been part of the recreational community use of Governor Phillip Park since the building was first constructed in 1947. Boat hire and seaplane uses have been a feature of this building since 1975. The existing building has been altered and changed over time and is in need of maintenance. It is considered that the building is a contributory item within the Barrenjoey Heritage Conservation Area (which includes Governor Phillip Park), but the structure is not of enough significance to warrant retention as a heritage item. Its significance is embodied in its provision of recreational uses, and their continued provision for the users of Governor Phillip Park and Pittwater since 1947.</p> <p data-bbox="539 712 1449 1079">Having reviewed all available documentation, from a heritage point of view, there is no objection to this building being demolished and replaced with a building of similar design, character and purpose. The proposed building, while of similar design, is 1.7 metres higher than the existing building, which will increase its scale within its setting. However, the new higher building will still remain lower than surrounding vegetation and will not interrupt any significant views to and from the water. The three mature Norfolk Island Pine trees largely screen the existing building from the park area to the east and the proposed increase in building height will not change this situation. The change in height will be more readily visible from the north and when viewed from the water, however the amount of increase is not considered to be out of character with its setting and can be supported at its current level.</p> <p data-bbox="539 1115 1449 1482">A large part of the significance of the Boathouse building is its provision of a range of water-based recreational uses, which are directly related to the context and historical use of Governor Phillip Park. These uses, including the long established cafe use, attract visitors to the Park, reinforcing and enhancing visitor experience of the heritage of the Park and its surrounds. Based on this, it is essential from a heritage point of view that the building and its uses are maintained. This proposal will therefore ensure the continuation of these uses, and a new building will ensure that this is secured for the future users of Governor Phillip Park. Therefore, on balance, an increase in height is acceptable from a heritage point of view and no objections are raised to the new building, subject to additional details of exterior materials and colours being submitted for approval.</p> <p data-bbox="539 1518 1449 1608">No heritage objections are raised to the new amenities building as it removes existing ad hoc structures and consolidates services into a more aesthetically pleasing structure in the context of the Conservation Area.</p> <p data-bbox="539 1644 1449 1912">Also, no heritage objections are raised to the proposed landscape works, however measures must be implemented to ensure that the three mature Norfolk Island Pine trees, immediately to the east of the building, are protected at all times during construction. Norfolk Island Pines are an important part of the landscape of Governor Phillip Park and Palm Beach more generally, and their health must not be affected by the proposed works. It is understood that Landscape conditions to this effect have been recommended and heritage supports the inclusion of these conditions in any consent.</p> <p data-bbox="539 1948 1449 2188">However, concerns are raised in relation to the proposal to formalise 10 parking spaces located within Governor Phillip Park, to be sealed with bitumen. The draft Governor Phillip Park Conservation Management Plan (2009) contains specific policies in relation to the road system and parking within the Park. These are contained within Inventory Sheet 06 and include that an asphalt surface should only be applied to the road and that the current informal character of the associated parking be retained. Further it recommends that roadside parking areas should remain as gravel in high</p>

Internal Referral Body	Comments
	<p>use areas, and reinforced grass in overflow/low use areas, to retain the important informal park character.</p> <p>On this basis it is considered that the hard paving of 10 car parking spaces would be out of character with the existing and historical, informal parking character of Governor Phillip Park and is not supported from a heritage point of view. Formalisation of these parking spaces would be acceptable if crushed gravel or some form of reinforced grass surface or similar treatment was used.</p> <p>Therefore, no objections are raised on heritage grounds to the new building, ancillary building and associated works/landscaping, subject to a number of conditions. However, heritage does not support the hard bitumen paving 10 parking spaces within Governor Phillip Park. Alternative options should be considered to formalise these spaces, and a condition has been proposed to this effect.</p> <p><u>Proposed conditions</u></p> <ul style="list-style-type: none"> • A photographic archival record of the existing building and context, be prepared and submitted to Council; • Details of all external materials and colours be submitted to Council's heritage advisor for approval; • Norfolk Island Pine trees adjacent to Boathouse are to be protected at all times during construction; • Formalisation of car parking areas with bitumen is not approved. Formalisation with crushed granite, reinforced grass surface or similar would be acceptable. Details to be submitted to Council for approval.
Strategic and Place Planning (Development Contributions)	<p>Supported subject to conditions</p> <p>At its meeting of 7 September 2021, the Development Contributions Committee considered a report on the offer to enter into a planning agreement at 1191 and 1193 Barrenjoey Road Palm Beach. At this meeting the Committee resolved that:</p> <ol style="list-style-type: none"> 1. The Development Contributions Committee support in-principle the Offer to Enter into a Planning Agreement, subject to following conditions: <ul style="list-style-type: none"> • The 10 parking spaces are to be paved with pervious materials. • The works are designed to avoid ponding of water in the roadway. • The works including the materials selection demonstrates that the informal character of the area is retained. 2. If Recommendation 1 is agreed, the applicant be requested to submit the following additional information: <ol style="list-style-type: none"> a) A Plan of the proposed works that: <ul style="list-style-type: none"> • detail the schedule of materials/finishes of the pervious pavers, • demonstrate that the works are designed to avoid ponding of water in the roadway, and • ensures the informal relaxed character of Governor Phillip Park is retained. b) A heritage assessment of the pervious paving to Council. This assessment must demonstrate that the works retain the informal character of the area and identify how they meet the objectives of the Conservation Management Plan. c) A heritage assessment of the pervious paving to Council. This

Internal Referral Body	Comments
	<p>assessment must demonstrate that the works retain the informal character of the area and identify how they meet the objectives of the Conservation Management Plan.</p> <p>d) A valuation of the works proposed provided by a Quantity Surveyor.</p> <p>3. The Executive Manager Development Assessment be advised of the Committee's decision.</p> <p>4. When finalised, the updated Planning Agreement is circulated to the Development Contributions Committee for their consideration before it is reported to Council with a request to place it on public exhibition.</p> <p>Should the application be approved, a Deferred Commencement condition is to be included that the applicant is to enter into a voluntary planning agreement pursuant to section 7.4 of the Environmental Planning and Assessment Act 1979. The condition as follows:</p> <p><u>Deferred Commencement Condition - Voluntary Planning Agreement</u></p> <p><i>The applicant shall enter into a Planning Agreement (PA) with Northern Beaches Council pursuant to section 7.4 of the Environmental Planning and Assessment Act 1979. The PA is to be generally consistent with the offer made by the applicant on 26 May 2021 and the Decision of Council's Development Contributions Committee at its meeting of 7 September 2021.</i></p> <p><i>Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.</i></p>
Traffic Engineer	<p>Supported subject to conditions</p> <p>The proposal involves the demolition of existing structures and construction of replacement two storey structure with café, boat hire and seaplane booking office on ground floor, office and staff facilities. The existing car parking area on the north of the site accommodating (6 spaces including 1 space for persons with a disability) is proposed to be moved slightly to the north.</p> <p>The relocated parking spaces and 10 parking spaces within Governor Phillip Park are proposed to be sealed in accordance with a Voluntary Planning Agreement (VPA).</p> <p><u>Assessment</u> Given that the proposal results in no increase in the size of the restaurant and offices, no concern is raised on the parking and traffic generation of the site.</p> <p>In view of the above, the proposal can be supported subject to conditions.</p>

External Referral Body	Comments
Integrated Development (DPI Fisheries)	<p>Supported subject to General Terms of Approval</p> <p>The application is 'Integrated Development' as approval is required under Section 201 of the <i>Fisheries Management Act 1994</i>. The application has</p>

External Referral Body	Comments
	been referred to the Department of Primary Industries – Fisheries and General Terms of Approval have been granted for the proposal and are to be included as conditions in any consent issued.
Ausgrid (SEPP Infrastructure)	<p>Supported subject to conditions</p> <p>Ausgrid has no objection to this development application.</p> <p>Advice has been provided relating to work near overhead powerlines and special care should be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath.</p>
Aboriginal Heritage Office	<p>Supported subject to conditions</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Under the <i>National Parks and Wildlife Act 1974</i> (NPW Act) all Aboriginal objects are protected. Should anything thought to be Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office be contacted. In line with our normal advice for sandy areas, the Aboriginal Heritage Office recommends that the development conditions should provide for stop work provisions (unexpected discovery protocol) in the unlikely event that human remains are uncovered. Should human remains be uncovered, works must cease and the NSW Police must be contacted.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, NSW Heritage, and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
Transport for NSW – Maritime Division for comment	<p>Supported</p> <p>The application has provided correspondence from Transport for NSW (Formally Roads and Maritime Services) which advises that the local Boating Safety Officer has no navigation concerns regarding the proposed development.</p> <p>In this regard, the proposal is acceptable from a marine navigation perspective.</p>
Concurrence - Relevant Crown Department or Authority (Crown Development)	<p>Supported</p> <p>The application is accompanied by owners consent from Crown Lands to lodge the development application. The applicant has provided a copy of the owner's consent to lodge the development application with the letter dated 1 April 2021.</p>

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 and State Regional Environmental Plans

SEPP No. 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 recreational and restaurant purposes for a significant period of time with no prior land uses. Adjacent to the Boatshed (adjacent to the southern boundary) are several ancillary buildings. A small central building is used to store petroleum products. A Stage 2 Detailed Site Investigation, prepared by EBG Environmental Geoscience has been prepared in support of the proposal. The report concludes that the site is suitable for the proposed development, subject to conditions.

Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as recommended conditions at the end of this report.

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 was referred to Ausgrid. No response has been received within the 21-day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is subject to SEPP 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,*
- 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 proposal is supported by several expert reports relating to Coastal Engineering, Ecology and Landscape. The development is sited on the area occupied by the existing Boatshed building and ancillary buildings. The application has been reviewed by Council's technical officers with regards to biodiversity, coastal impacts, flooding, landscape and land contamination with no objections raised by these technical officers. In summary, the proposal satisfies this matter for consideration.

The proposal satisfies the requirements of Clause 13.

- (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 sub-clause (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 minimized - the development will be managed to mitigate that impact.*

Comment

The proposal will have no impacts referred to in sub-clause (1)

14. 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,*
 - 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 minimized - 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 will maintain the existing foreshore access. Pedestrian access is currently available between the waterway and site by means of an informal walking path at the south of the existing building. The proposed development will not restrict pedestrian access along the foreshore. The realignment of the public path to the east of the Boatshed building will direct pedestrians to the public wharf access and the connection to Station Beach.

The proposal does not result in any overshadowing of residential properties or significant

overshadowing to adjoining public open space. Views from public places to the foreshore are maintained as the building is below the tree canopy and generally located within the same building footprint as the existing Boatshed and ancillary buildings.

The proposal satisfies the requirements of Clause 14.

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:

As identified above, the Ecology Report and Coastal Engineering report identifies that the proposed works will not have an adverse impact on the coastal process.

Palm Beach is an official Urban Dark Sky Place and has a committee assisting with projects in this area. The Dark Sky Lighting plan, prepared by Ecological Consultants Australia, dated 10 May 2021 concludes that the proposed lighting plan is consistent with the requirements for waterfront lighting.

Council’s Natural Environment Unit officers have considered the likely impacts on drainage regimes and find the proposal acceptable.

The proposal satisfies the requirements of Clause 15.

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)

Clauses 8 and 13 of SEPP 64 states that a consent authority must not grant development consent to an application to display signage unless the advertisement of advertising structure:

- a) Is consistent with the objectives of this policy as set out in clause 3(1)(a);
- b) Has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impact; and
- c) Satisfies any other relevant requirement of this Policy.

The application seeks approval for 4 x business identification signs. The details of the signs are listed in the table below:

Elevation	Dimensions	Wording
North	2.4 x 0.8m	Alf's Bait Shop
North	1 x 0.9m	Barrenjoey Boating Services
East	1 x 0.8m	The Boathouse
East	1.4 x 0.3m	Sydney by Seaplane Harbour & Beaches Scenic Flights

The proposed signs have been assessed using the assessment criteria in Schedule 1 as presented in the table below:

Control	Proposal	Compliance
1 Character of the Area		
<ul style="list-style-type: none"> • Is the proposal compatible with the character of the area or locality in which it is proposed to be located? • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	The proposed building identification signage is compatible with the character of the boatshed building, which contains 3 businesses, and is compatible with the maritime theme of the site.	Yes

Control	Proposal	Compliance
	The proposed signs are classified as a 'building identification sign' and not advertising. The proposal is not located near surrounding advertisements.	
2 Special Areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal is consistent with the visual characteristics of the site. They are located on the northern and eastern elevations.	Yes
3 Views and vistas		
<ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	No important views are impacted by the proposed signage.	Yes
4 Streetscape, Setting or Landscape		
<p>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p> <p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p> <p>Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The proposed signs are of a comparable scale, form and proportion to the walls on which they are to be installed.</p> <p>The proposed signs will contribute to the visual amenity of the site and surrounding area.</p> <p>The proposed signage does not protrude beyond the walls on which it is to be installed.</p> <p>The proposed low vegetation will not obscure the signage and therefore will not trigger the need for ongoing vegetation management.</p>	Yes
5 Site and building		
<p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building or both, on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposed signage is compatible with the scale and proportion of the building on which it is to be located.</p> <p>The signage is located close to the entry of each of the business. This is important to the function and features of the building.</p> <p>The signage is compatible with the maritime location.</p>	Yes
6 Associated Devices and Logos with Advertisements and Advertising Structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No, not required.	Yes
7 Illumination		

Control	Proposal	Compliance
Would illumination result in unacceptable glare?	There is no illumination of the signage proposed at this stage.	Yes
8 Safety		
<ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>The proposed signage will not be illuminated and is setback from the road.</p> <p>The signage will not be a risk to drivers, pedestrians or cyclists.</p>	Yes

Overall, the proposed sign location and size is compatible with the desired amenity and visual character of the area.

The potential impacts are considered to be acceptable and consistent with the requirements and underlying objectives of the SEPP.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 - Height of Buildings	4m + HAT* = RL 5.17m	RL 10.296 (or 5.126m above requirement)	99%	No

* Highest Astronomical Tide (HAT) = 1.17m AHD.

Compliance Assessment

Clause	Compliance with Requirements
1.9A - Suspension of covenants, agreements and instruments	Yes
2.5 - Additional permitted uses for particular land	Yes
2.7 - Demolition requires development consent	Yes
4.3 - Height of Buildings	No
4.6 Exceptions to development standards	Yes
5.10 - Heritage conservation	Yes
7.1 - Acid Sulfate Soils	Yes
7.2 - Earthworks	Yes
7.3 - Flood Planning	Yes
7.6 - Biodiversity Protection	Yes
7.10 - Essential Services	Yes
19 - Use of certain land at 1191 Barrenjoey Road, Palm Beach	Yes

Zoning and Permissibility

As shown in the extract of the Land Zoning Map in **Figure 4** below, the site is zoned part RE1 Public

Recreation and part E2 Environmental Conservation under PLEP 2014.



Figure 4. Extract of PLEP 2014 Zoning Map.

RE1 Public Recreation

The RE1 Public Recreation zone allows for the following uses:

Centre-based child care facilities; Community facilities; Environmental facilities; Information and education facilities; Kiosks; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Signage; Take away food and drink premises; Water recreation structures

The proposal includes the construction of a separate building (for storage and amenities) on the RE1 zoned land. These uses are 'ancillary' facilities for the café and are therefore permissible with consent. Restaurants and cafes are permissible with consent in the RE1 zone. Similarly, the proposed car parking works are considered ancillary to the café use of the site and are therefore permissible with consent.

E2 Environmental Conservation

The proposed Boathouse building is below MHWL and within the E2 Environmental Conservation zone. The proposed uses, for a café, boat hire business and sea plane charter business are permissible with consent by virtue of Clause 2.5 (Additional permitted uses for particular land) and Clause 19 of Schedule 1 of PLEP.

Clause 4.3 - Height of Buildings

Clause 4.3 of the PLEP establishes a maximum building height of 4m above the highest astronomical tide (HAT). This equates to RL 5.17m for the E2 zoned land. The proposal has a maximum building height of RL 10.296 and therefore exceeds the building height development standard by 5.126m.

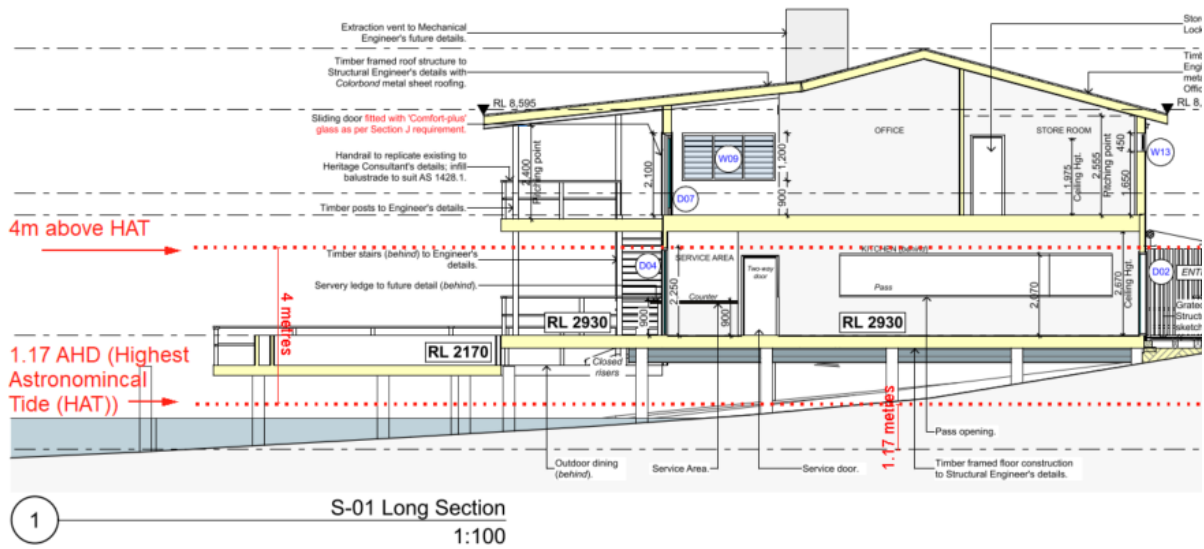
It is noted that the existing building breaches the height limit with a ridge height of RL 8.73m. The proposed replacement building seeks a further exceedance building height by an additional 1.57m representing a non-compliance with the maximum 4m + HAT building height development standard.

Clause 4.6 - Exceptions to development standards

Description of non-compliance

Development standard:	cl4.3 - Height of Buildings
Requirement:	4m + HAT* = 5.17m AHD
Proposed:	RL 10.296
Percentage variation to requirement:	5.126m or 99%

* Highest Astronomical Tide (HAT) = 1.17m AHD





Assessment of request to vary a development standard

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

- 1) *The objectives of this clause are as follows:*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
- a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3).

There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and***

Comment:

The applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.***

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

"As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Section 1.3 of the EP&A Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c) *to promote the orderly and economic use and development of land,*
- d) *to promote the delivery and maintenance of affordable housing,*

- e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g) *to promote good design and amenity of the built environment,*
- h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request argues, in part:

- *The subject proposal is consistent with the objectives under the E2 Environmental Conservation zone due to its sensitive location being on the existing building footprint and the replication of the existing architectural form, which is respected due to its history and value to the community.*
- *The proposal seeks a replacement structure with a raised floor level to safeguard against future storm events and additional height to comply with the National Construction Code.*
- *The proposal is consistent with the Governor Phillip Park Plan of Management with no visual impact on the identified view toward Barrenjoey Headland from Station Beach.*
- *The proposal has no detrimental environmental impacts and provides a beneficial landscaping regime; the proposal provides sufficient environmental planning grounds for this Clause 4.6 request to be supported*

The applicant's written request has demonstrated sufficient environmental grounds to enable the Clause 4.6 request to be supported.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3(c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6(3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E2 Environmental Conservation zone. An assessment against these objectives is provided below.

Objectives of the development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of Buildings' of the PLEP 2014 are:

1) The objectives of this clause are as follows:

- a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.**

Comment:

The non-compliance is located solely within the Waterways Locality.

The desired future character for the Waterways Locality is prescribed by Clause A4.15 (Waterways Locality) of PDCP and aims to ensure that future development is maintained below the tree canopy, utilising façade modulation and shade elements to minimise bulk and scale. Whilst the height of the existing building is proposed to be increased by up to 1.7m, the scale of the existing building remains the same, with the balcony to the waterway retained.

The height and scale of the building is consistent with the existing built form, and the desired character of the locality.

- b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.**

Comment:

There are no other buildings within the visual catchment of the Boathouse building.

The proposed building is a similar scale to the existing development on the site, with the increase in height attributable to the need to comply with the appropriate flood planning level and minimum floor to ceiling heights. When viewed from a distance, the proposal is compatible with the height and scale of nearby development.

- c) to minimise any overshadowing of neighbouring properties.**

Comment:

The proposal does not result in any unreasonable overshadowing.

- d) to allow for the reasonable sharing of views.**

Comment:

The proposed development is below the tree canopy and will have a similar impact on public views towards Pittwater and Barrenjoey Headland as the existing building.

The proposal allows for the reasonable sharing of views.

- e) to encourage buildings that are designed to respond sensitively to the natural topography.**

Comment:

The proposed development has been designed to have a floor level higher than existing in order to comply with the required flood planning level.

- f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.**

Comment:

The existing building is located within Governor Phillip Park, which is located within the Barrenjoey Heritage Conservation Area and covered by the Draft CMP.

The building is also in the vicinity of individual items of heritage significance. The proposal has been reviewed by Council's Heritage Officer who is supportive of the proposal subject to conditions.

Zone objectives

The non-compliance is located solely within E2 Environmental Conservation zone. The underlying objectives of the E2 Environmental Conservation zone are:

- ***To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.***

Comment:

The proposal has been designed to protect the sensitive marine habitat below and around the existing building. Inappropriate landscape species will be replaced with locally endemic species to integrate with the objectives for Governor Phillip Park.

The proposal is consistent with this objective, despite the non-compliance with the 4m building height development standard.

- ***To prevent development that could destroy, damage or otherwise have an adverse effect on those values.***

Comment:

The proposed height of the development will not unreasonably impact on the significance of the waterway or foreshore.

- ***To ensure the continued viability of ecological communities and threatened species.***

Comment:

The proposal will not impact ecological communities or threatened species. Subject to mitigation measures, there will be negligible impact on the aquatic environment. Beds of seagrass will remain unaffected by the proposal.

- ***To protect, manage, restore and enhance the ecology, hydrology and scenic values of riparian corridors and waterways, groundwater resources, biodiversity corridors, areas of remnant native vegetation and dependent ecosystems.***

Comment:

The Ecological Assessment Report submitted in support of the proposal concludes that there will be a net environmental benefit as a result of this proposal.

Measures to improve the terrestrial environment include planting with native species and increased integration with surrounding native plant areas.

Subject to conditions, the proposal will ensure the ecology, hydrology and scenic values of the waterway, and dependent ecosystems are maintained.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E2 Environmental Conservation zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the

Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Clause 5.10 - Heritage Conservation

The site is within the C1 - Barrenjoey Heritage Conservation Area (Local Significance) which is listed within Schedule 5 of the *Pittwater Local Environmental Plan 2014*. The Boathouse is not a heritage listed item.

Subject to conditions, Council's Heritage Advisor supports the proposal (refer to detailed comments under 'Referrals').

Clause 7.1 - Acid Sulfate Soils

Clause 7.1 requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is mapped Class 1 and Class 3 on Council's Acid Sulfate Soils Map.

The report titled '*Geotechnical Investigation into Acid Sulfate Soils*' (prepared by Crozier Geotechnical Consultants, dated 19 April 2021) identified that no acid sulphate soils were discovered in the investigation despite being Classed 1 and 3 on Council's mapping.

The report was also reviewed by Council's Environmental Health team who did not raise any objection nor impose any conditions.

Therefore there is no requirement for an Acid Sulphate Management Plan.

Clause 7.2 - Earthworks

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

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

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

Comment:

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

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

Comment:

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

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

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

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

Comment:

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

e) the source of any fill material and the destination of any excavated material.

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

f) the likelihood of disturbing relics.

Comment:

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

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

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

Comment:

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

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

Comment:

The proposed minor earthworks will have no impact on the significance of the heritage conservation area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Clause 7.3 - Flood Planning

Clause 7.3 aims to minimise the flood risk to life and property associated with the use of land, allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, and avoid significant adverse impacts on flood behavior and the environment.

Clause 7.3 requires the consent authority to be satisfied of the following prior to granting consent for development:

a) is compatible with the flood hazard of the land, and

- b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *incorporates appropriate measures to manage risk to life from flood, and*
- d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

A detailed site-specific Flood Impact Assessment has been undertaken for the site prepared by Cardno (NSW/ACT) Pty Ltd dated 16 August 2021.

The Flood Study identifies that the floor levels for the proposed ground floor of the Boathouse, sewer tank/grease arrestor and male and female toilets have an appropriate freeboard in a Probable Maximum Flood event.

The Boat Hire General Storage and Bin Room are located marginally below the Probable Maximum Flood level and conditions are recommended to ensure that these buildings are flood proofed to reduce potential flood damages.

Clause 7.6 - Biodiversity Protection

The site is mapped as having biodiversity significance.

Clause 7.6 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.*

Comment:

The proposed development has been assessed by Council's Biodiversity Team, who raise no objections to approval.

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 can also be 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 raise 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 minimized - the development will be managed to mitigate that impact.*

Comment:

The development has been assessed by Council's Biodiversity Team, who raise 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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.15 Waterways Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.14 Commercial Swimming Pools	N/A	N/A
C2.15 Car/Vehicle/Boat Wash Bays	N/A	N/A
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C2.24 Take-away Food Premises	Yes	Yes
C5.11 Third Party Signage	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.20 Liquor Licensing Applications	Yes	Yes
C5.22 Environmental Sustainability	Yes	Yes
D15.1 Character as viewed from a public place	Yes	Yes
D15.2 Scenic protection - General	Yes	Yes
D15.3 Building colours and materials	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
watermark		
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes
D15.19 Dredging	Yes	Yes
D15.20 Commercial waterfront development - pollution prevention	Yes	Yes
D15.21 Charter boat facilities	Yes	Yes

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

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of **\$40,567.29** is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of **\$4,056,729**.

SUMMARISED 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 2014;
- Pittwater 21 Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other expert technical reports supporting the application and public submissions. The proposed development does not result in any unreasonable impacts on the significance of the heritage conservation area, residential properties or the natural environment subject to the conditions contained within the recommendation.

The proposed development has been sited on the location of the existing building and therefore minimises potential impacts with regards to existing flora and fauna, drainage and visual impacts. The proposed materials and finishes replicate those of the existing building. While the exceeds the 4m building height limit, the additional height is necessary to satisfy the probable maximum flood event and minimum floor to ceiling requirements.

The proposal will provide a public benefit in the form of safe, functional building that maintains the historic uses on the site, provides additional native planting, additional public car parking and amenities for public use.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, the provisions relevant Environmental Planning

Instruments including *Pittwater Local Environment Plan 2014*, *Pittwater 21 Development Control Plan*, the Governor Phillip Park Plan of Management and the relevant codes and policies of Council. In consideration of the proposal and the merit consideration the development the proposal is:

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

- Consistent with the objects of the Environmental Planning and Assessment Act 1979.
- Consistent with the objectives of the relevant EPIs.
- Consistent with the aims of the LEP.
- Consistent with the zone objectives of the LEP.
- Consistent with the objectives of the DCP.
- Consistent with the Governor Phillip Park Plan of Management.
- Consistent with the Draft Governor Phillip Park Conservation Management Plan.

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2021/0669 for demolition works and construction of a new restaurant, carparking and associated uses, including a Voluntary Planning Agreement on land at Lot 7005 DP 1117451,1193 Barrenjoey Road, PALM BEACH, Lot 7002 DP 1117592,1193 Barrenjoey Road, PALM BEACH, Lot 298 DP 721522,1191 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred Commencement - Voluntary Planning Agreement

The applicant shall enter into a Planning Agreement (PA) with Northern Beaches Council pursuant to section 7.4 of the Environmental Planning and Assessment Act 1979. The PA is to be generally consistent with the offer made by the applicant on 26 May 2021 and the Decision of Council's Development Contributions Committee at its meeting of 7 September 2021.

Evidence required to satisfy the deferred commencement condition must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01(A) Sediment Control Plan	06/08/2021	Canvas Architecture and Design
DA02 Site Plan	06/08/2021	Canvas Architecture and Design
DA03 Demolition Plan	06/08/2021	Canvas Architecture and Design
DA04 Site and Ground Plan	06/08/2021	Canvas Architecture and Design
DA05 Site and Ground Plan 1:200	06/08/2021	Canvas Architecture and Design
DA06 Ground Floor Plan – A3	06/08/2021	Canvas Architecture and Design
DA07 Ancillary Buildings Ground Floor Plan	06/08/2021	Canvas Architecture and Design
DA08 First Floor Plan	06/08/2021	Canvas Architecture and Design
DA09 North/East Elevations	06/08/2021	Canvas Architecture and Design
DA10 South/West Elevations	06/08/2021	Canvas Architecture and Design
DA11 The Boathouse Long and Cross Section	06/08/2021	Canvas Architecture and Design
DA12 Public Access on Crown Lease Land	undated	Canvas Architecture and Design
DA13 Waste Management Plan	06/08/2021	Canvas Architecture and Design
DA14 New and Existing Services	06/08/2021	Canvas Architecture and Design

Engineering Plans		
Drawing No.	Dated	Prepared By
Excavation, Sediment & Erosion Control Plan and detailing CIV2 DA-Rev C	01/09/2021	Barrenjoey Consulting Engineers
General Notes CIV1 DA-B	27/08/2021	Barrenjoey Consulting Engineers
Ground Floor Plan Drainage Services	03/08/2021	ADCAR Consulting
Structural Drawings S00, S01, S10, S20, S30, S40 and S50	04/03/2020	McKee & Associates Pty Ltd
Storm Erosion Protection Wall EPW01 and EPW02	21/02/20	McKee & Associates Pty Ltd
Hydraulic Services H-100C and H-101C,	20/03/2020	Adcar Consulting
Hydraulic Services H-101D	08/02/2021	Adcar Consulting
Hydraulic Services H-102B	09/02/2021	Adcar Consulting
Hydraulic Services 103A	24/01/2021	Adcar Consulting
Hydraulic Services H-300A	03/08/2020	Adcar Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Letter of Response to Council's Parks Reserves and Foreshores	10 September 2021	Blue Pacific Constructions
Construction Environmental Management Plan	August 2021	Blue Pacific Constructions Pty Ltd and Ecological Consultants

Reports / Documentation – All recommendations and requirements contained within:		
		Australia Pty Ltd
Stage 2 Detailed Site Investigation	9 February 2021	EBG Environmental Science
Hydraulic Services Waste Water Management Report	16 April 2021	ADCAR Consulting Pty Ltd
Hydraulic Services Stormwater Report	16 April 2021	ADCAR Consulting Pty Ltd
Ecological Assessment and Biodiversity Management Plan	February 2021	Kingfisher
Aquatic Ecology Report	30 August 2021	Cardno
Flooding and Estuarine Risk Management Report	30 August 2021	Cardno
Flood Impact Assessment	16 August 2021	Cardno
Coastal Engineering Assessment and Estuarine Risk Management Report	26 August 2021	Cardno
Aquatic Ecology Report	30 August 2021	Cardno
Construction Noise and Vibration Management Plan	30 August 2021	Day Design Consulting Acoustical Engineers
Environmental Noise Impact Assessment	5 February 2021	Day Design Pty Ltd
Noise and Vibration Letter	August 2021	Lucus Maloy
Assessment Report – Dangerous Goods Advice	08/02/2021	TFA Project Group
BCA Assessment Report	17 February 2021	GRS Building Reports Pty Ltd
Access Review	17 February 2021	Morris Goding Access Consulting
Performance Solution Report Upper Level Access 1	10 February 2021	Morris Goding Access Consulting
Structural Plan Review	20 October 2020	Barrenjoey Consulting Engineers
Geotechnical Investigation Into Acid Sulfate Soils	25 September 2020	Crozier Geotechnical Consultants
Report on Geotechnical Site Investigation	19 April 2021	Crozier Geotechnical Consultants
Bushfire Hazard Assessment Report	3 April 2020	Firstfield Environmental
Heritage Impact Statement	10/02/2021	City Plan
Plan of Management	24 September 2020	ArtisanOz Consulting
Arboricultural Impact Assessment	February 2021	Urban Forestry
Dark Sky Lighting Plan	10 May 2021	Ecological Consultants Australia Pty Ltd
Fire Engineering Report	16 February 2021	Minerva
Memo – Fire Engineering Report Updates	16 February 2021	Minerva
National Construction Code (NCC) 2019 Section J – JV3 Assessment Report	18 February 2021	Eco Engineering Group
Car Parking Assessment	April 2020 (updated February 2021)	GTK Consulting

- b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.
- c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By

Landscape Plan LP-01D	22 February 2021	Selena Hannan Landscape Design
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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.

3. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
DPI Fisheries	General Terms of Approval - DPI Fisheries Ref: IDA21/68	22 June 2021
Aboriginal Heritage Office	Referral Response - Aboriginal Heritage Office	1 June 2021

(**Note:** For a copy of the above referenced document/s, please see Application Tracking on Council's website 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.

4. 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 uses identified in Schedule 1 'Additional Permitted Uses' of the Pittwater Local Environmental Plan 2014, being:

'Business Premises (but only those associated with use of the waterway), charter and tourism boating facilities, kiosks or restaurants or cafes'

A **Restaurant or Cafe** being "a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided."

As indicated on the approved plans the use of the first floor is restricted to offices, staff amenities and storage. The first floor is not to be used for functions or restaurant seating.

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.

5. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

Reason: Legislative requirement.

6. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following; Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of **\$40,567.29** is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of **\$4,056,729.00**.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid

(whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

8. **Security Bond**

A bond (determined from cost of works) of **\$10,000** and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. **Amended Landscape Plan**

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- (i) remove the nominated tree / tall shrub planting (*Banksia integrifolia* and *Leptospermum laevigatum*) under the existing Norfolk Island Pines, and replace with either low shrubs capable of attaining a maximum of 1 metre only or otherwise groundcovers,
- (ii) all planting within the open space area occupied by the Norfolk Island Pines shall be limited to a natural growth height of 1 metres,
- (iii) all landscape works and dune stabilisation works shall comply with the Amended Landscape Plan and the Biodiversity Management Plan.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity and maintain visual public access across open space areas.

10. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to a slotted pipe suspended under the existing jetty to disperse stormwater into Pittwater.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

11. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Probable Maximum Flood level of 2.93m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Flood Proofing

The floor levels of the Boat Hire General Storage and Bin Room must be wet flood proofed up to the Probable Maximum Flood level of 2.93m AHD.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW

Government policy.

12. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the Ecological Assessment and Biodiversity Management Plan (Kingfisher 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

13. **Waste Management Plan**

A Waste Management Plan (WMP) must be prepared in accordance with Northern Beaches Council, Waste Management Guidelines, dated October 2016, and must be kept in the site office.

The WMP must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To minimise waste and protect the environment.

14. **Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Aquatic Ecology Report, Sediment and Erosion Plan and conditions of consent, and must be kept in the site office.

An induction plan for site personnel must be prepared that addresses the CEMP.

The CEMP and site induction plan must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife, habitats and receiving waterways.

15. **Stormwater outlet revetment (Pittwater Waterway)**

If stormwater is discharged to an outlet on the foreshore, rip rap for the revetment must be sized to the following specifications and laid in an interlocking pattern:

D90 =	250mm
D50 =	100mm
D10 =	40mm

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Improve stability of the revetment to high flows and wave action.

16. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours.
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application).
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities).
- Existing and proposed drainage patterns with stormwater discharge points.
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

17. **Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the NSW Office of Environment & Heritage (OEH).

This record must be submitted and approved by the Certifying Authority prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

18. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site or in allocated zones, at all

times

- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and
- type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven(7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

19. **Treatment of parking areas**

Prior to the issue of a Construction Certificate, details demonstrating the treatment of the car parking spaces to the east of the subject site are in accordance with the requirements of the Voluntary Planning Agreement.

The car parking spaces to the north the site are to consist of "open graded asphalt to provide a semi-permeable surface". Details shall be provided to Council’s Traffic Team for approval, prior to the issue of a construction certificate.

Evidence of written approval from Council's traffic team is to be provided to the Principle Certifying Authority with the construction certificate application.

Reason: To ensure the finishes of parking areas are suitable and consistent with the character of the area.

20. Building Code of Australia Upgrade requirements and Fire Safety Upgrade

The Building Code of Australia works and fire safety measures as detailed and recommended in the Building Code of Australia Assessment Report prepared by GRS Building Reports Pty Ltd, dated 17/2/2021, are to be considered as part of the assessment of the Construction Certificate, with particular reference to the need for Building (Alternative Solutions) and Fire Engineering Reports.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

21. Access and Facilities for Persons with a Disability

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1.

In this regard the AccessReview DA6 Report prepared by Morris Goding Access Consulting, dated 17/2/2021 is to be considered as part of the assessment of the Construction Certificate.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

22. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

23. Minimum Permeable Area

The area of permeable paving and gardens must not be less than as shown in the Landscape Plan dated 22/02/21 (or subsequent plan approved by Council). Pavers in the area must be

permeable with an infiltration rate equal or greater than the underlying natural sand/soils. These permeable areas must not be lined so as to allow stormwater to infiltrate to the below natural sands and groundwater.

Reason: The protection of the catchment's receiving aquatic environment.

24. Groundwater Dewatering

An assessment must be undertaken by a suitably qualified professional to determine if the excavation for the septic tank will require dewatering.

You may be required to submit a dewatering management plan and make an application for interference with an aquifer to the Natural Resources Access Regulator. A permit from WaterNSW may be required if large quantities of groundwater are to be removed.

If dewatering is expected, a Dewater Management Plan must be prepared to ensure compliance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy, legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997 and any General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable).

Reason: Protection of the environment.

25. External materials and colours

Details of external materials and colours are to be submitted to Council's Heritage Advisor for approval, prior to the issue of a Construction Certificate.

Reason: To ensure that the exterior of the building will not have an adverse visual impact on the Heritage Conservation Area.

26. Formalisation of parking spaces - Governor Phillip Park

The formalisation of 10 parking spaces within Governor Phillip Park must be in accordance with the requirements of the voluntary planning agreement. Details to be submitted to Council for approval.

Reason: To ensure that the historical informal nature of parking areas within Governor Phillip Park is maintained.

27. Plans of Kitchen Design, construction and fit out

Prior to any Construction Certificate being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

28. Plans of Mechanical Ventilation

Prior to any Construction Certificate being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

29. **Approval to Install an On-site Sewage Management System**

Prior to the release of the Construction Certificate, the applicant must receive an 'Approval to Install an On-Site Sewage Management System' from Council.

Details demonstrating compliance are to be submitted to the Certifying Authority. Reason: To fulfil the requirements under Section 68 of the Local Government Act 1993

30. **Environmental Management Plan**

An Environmental Management Plan (EMP) shall be prepared for the approved development. The plan shall be prepared by a suitably qualified person and shall be to the satisfaction of Council and shall address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

- Hazardous Substances.
- Water.
- Air.
- Noise.
- Vibration.
- Waste & Litter.
- Land.
- Community.
- Environmental Protection objectives and control strategies.
- Environmental conditions using measurable indicators and standards.
- Emergency Response Plan.
- Environmental monitoring and reporting plan.

Reason: To ensure the appropriate operation and management of the approved use.

31. **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 in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

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

32. **Estuarine Planning Level Requirements**

A site-specific Estuarine Planning Level (EPL) of 2.75m AHD has been recommended and accepted by Council for the proposed development and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.75m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.75m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.75m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.75m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.75m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

33. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Coastal Engineering and Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021 and Flooding & Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 30 August 2021 and these recommendations are to be incorporated into construction plans.

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

34. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 50 years as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021 and Flooding and Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 30 August 2021.

Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

35. **Engineers Certification of Plans**

The structural design shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

36. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Ecological Assessment

and Biodiversity Management Plan (Kingfisher 2021).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>); or
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

37. Compliance with the recommendations of the approved Aquatic Ecology Report

The development is to comply with all recommendations of the approved Aquatic Ecology Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 30 August 2021 and these recommendations are to be incorporated into construction plans.

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

38. Compliance and Certification of Piling Design

Certification that the piling works have been designed in accordance with the approved Coastal Risk Management Report (Amended) prepared by Cardno (NSW/ACT) Pty.

Ltd. dated 26 August 2021 shall be provided to the Principal Certifying Authority (Form No. 2 of the Coastline Risk Management Policy for Development in Pittwater – Appendix 6 of P21 DCP) and shall be prepared and signed by a structural engineer who is a registered professional engineer with chartered professional status (CP Eng) and who has an appropriate level of professional indemnity insurance.

Reason: To ensure deep foundation piling is designed in accordance with the Coastal Risk Management Report and by an appropriately qualified professional

39. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

40. Project Arborist

A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment including:

- section 3.4 Analysis of Proposed Works within the Tree Protection Zones, 3.4.1 Tree 1, 3.4.2 Tree 2, and 3.4.3 Tree 3,
- section 3.5 Landscaping Works within the Tree Protection Zones,
- section 5 Recommendations,
- section 5.1 Tree Protection,
- section 5.1.1 Minimising Impacts on Trees 1-3,
- section 5.1.2 General Tree Protection Recommendations,
- section 5.1.3 Breaking up and/or removal of bitumen surfaces in Tree Protection Zone,
- section 5.1.4 Breaking up and/or removal of concrete surfaces in Tree Protection Zone,
- section 5.2 Post Construction Tree Care,
- Appendix E - Tree Protection Plan.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) listed above have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

Reason: Norfolk Island Pines tree protection.

41. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

42. **Works on Land Owned or Managed By Council**

No works are to be carried out on land owned or managed by Council without owners consent.

Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a "Working and Access on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Details demonstrating Permit approval are to be submitted to the Certifying Authority.

Reason: Public safety and the protection of Council infrastructure.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

43. **Construction Management Plan - Council Assets**

Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- i) access to and from the site during construction and demolition,
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- iii) methods of loading and unloading machinery and building materials,
- iv) location of storage materials, excavation and waste materials,
- v) methods to prevent material being tracked off the site onto surrounding roadways,
- vi) erosion, sediment and dust control measures, and
- vii) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.

During works the site management measures set out in the above must remain in place and be maintained until the completion of works.

Construction materials must not be stored on land owned or managed by Council. Safe pedestrian access, free of trip hazards, must be maintained at all times on or adjacent to any public access routes connected to land owned or managed by Council.

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

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

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

45. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of the adjacent car park for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

46. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
 - (i) all trees and vegetation within the site (licenced area),
 - (ii) all trees and vegetation located on adjoining open space areas within Governor Phillip Park,
 - (iii) all road reserve trees and vegetation.

- b) Tree protection shall be undertaken as follows:
 - (i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - (ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - (iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - (iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - (v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - (vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - (vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - (viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - (ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - (x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - (xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent

for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

47. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

48. **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.

49. **Dredging works**

A permit from Council and the Department of Primary Industries (Fisheries) is required prior to conducting any dredging.

Reason: Protection of the environment.

50. **Installation and Maintenance of Sediment and Erosion Controls**

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

51. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

52. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossings, paths, grass verge, open space and associated elements such as

furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

53. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

54. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

55. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

56. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- b) At ground level to ensure the finished floor levels are in accordance with the approved

- levels, prior to concrete slab being poured/flooring being laid.
- c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

57. **Protection of Norfolk Island Pine trees**

The three mature Norfolk Island pine trees immediately to the east of the proposed building, are to be protected at all times during demolition and construction.

Reason: To ensure that works do not have any impact upon the health of these Norfolk Island Pine trees.

58. **Recommendations of Aquatic Ecology Report**

The following recommendations of the Aquatic Ecology Report dated 30 August 2021 by Cardno Pty Ltd, must be complied with:

- Land based piling must be completed on the lowest possible tide (i.e. piling areas not inundated) and during dry weather to avoid potential run-off of excavated material.
- Piling via barge is only to be completed on high tide and in suitable weather conditions. The barge must be only moved into position upon a high tide of at least 1.6m allowing sufficient water above the shallower areas adjacent to the northern pontoon. The boundaries of mapped areas of Posidonia shall be marked clearly at the water's surface without harm to the seagrass (i.e. Exclusion Zones) so that all vessels would avoid these areas during the barge escort. A minimum of 0.5 m above the seabed in any areas required as a precaution to avoid damage to the seabed or any marine flora or fauna occurring at the time of mobilisation. Once into proximity (near the four existing berthing piles) the barge can then be maneuvered into position during the high tide by ropes.
 - Once in position the barge must be securely tied off and can remain over the bare sediment while the works progress. On completion of the works, the barge must only be removed out at high tide.
- During the installation of the piles by barge (approx. seven piles), continuous visual monitoring of turbidity must be conducted. If water with higher turbidity than the surrounding existing water body reaches the nearby seagrass patches, then piling activities must cease and adjustments made to ensure turbid water does not reach the seagrass.

Reason: Protection of the aquatic environment.

59. **Dewatering Management**

Discharge of any groundwater or tailwater must achieve the following water quality targets in addition to any conditions/ documentation of this consent, any requirements of the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

- Water Quality (<one hour of planned discharge)
- Oil and grease, not visible

- pH, 6.5-8.5
- Total Suspended Solids (TSS), <50mg/L NTU from a meter/grab sample

NOTE: The correlation between NTU and TSS must be established by a NATA accredited laboratory prior to the commencement of dewatering activities.

All records of water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

60. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

61. **Condition of Retained Norfolk Island Pines - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing Norfolk Island Pines required to be retained, including the following information:

- (i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- (ii) extent of damage sustained by vegetation as a result of the construction works,
- (iii) any subsequent remedial works required to ensure the long term retention of the Norfolk Island Pines.

Reason: Tree protection.

62. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

63. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the Biodiversity Management Plan (Kingfisher 2021).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

64. **Protection of Habitat Features – Certified by Ecologist**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

65. **Certification of Ongoing Work**

A bushland management contract for implementation of all post-occupation biodiversity-related measures, as specified in these conditions of consent and the approved ecological report and Biodiversity Management Plan (Kingfisher 2021), is to be entered into.

Evidence of engagement in accordance with this condition is to be certified by the Project Ecologist and provided to Principal Certifying Authority and Councils Biodiversity Manager prior to issue of any Occupation Certificate.

Reason: To protect and maintain native vegetation and wildlife habitat.

66. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Selena Hannon Landscape Design 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

67. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

68. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect reserve amenity and public safety.

69. **Installation of Fuel Tanks**

Certification shall be provided from a suitably qualified professional that the fuel tanks have been installed in accordance with Australian Standard 1940. A copy of the Workcover NSW Dangerous Goods Licence must be submitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure the proper installation of fuel tanks.

70. Waste Water System

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

71. Registration of Food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

72. Licence for use of carparking

Prior to the issue of the Occupation Certificate, the applicant shall enter into a licence with Council for the proposed extension of the existing carparking spaces.

Reason: To ensure management of the land in accordance with the Crown Lands Management Act 2016.

73. Mechanical Ventilation certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

74. Kitchen Design, construction and fit out of food premises certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements.

75. Kitchen Design, construction and fit out of food premises

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

76. Mechanical Ventilation certification

Prior to the issuing of any Occupation Certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

77. Waste Water System

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

78. Mechanical ventilation

Where Mechanical ventilation is required to be installed in the food premises it must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" Prior to any Occupation Certificate (OC) being issued, certification is to be provided by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

79. Certification of adequate bunding of oils, fuels and chemicals

Prior to Occupation certificate being issued, certification is to be provided that the bunded area for oils, fuels and chemicals on this site has been correctly installed to hold all fluids without leaks and complies with AS1940-2017

Reason: To ensure correct storage of oils, fuels and chemicals can be managed once in operation.

80. Chemical Spills

A spill kit must be kept onsite. A spill prevention and clean up procedure in accordance with industry standards must be prepared and kept on site.

Reason: Protection of the Environment.

81. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

82. **Car parking areas to be sealed and signposted**

The car parking areas to the east of the subject site accommodating the total of 10 parking spaces are to be completed in accordance with the requirements of the Voluntary Planning Agreement. Also, 4 Hour parking limit is to be signposted for the 10 public parking spaces on the eastern side of the premises.

The car parking spaces to the north the site are to consist of "open graded asphalt to provide a semi-permeable surface" and in accordance with the details approved by Council's traffic team as part of the construction certificate.

Details demonstrating compliance are to be submitted to Council prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards and agreed arrangements.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

83. **Fuel-Filling Area**

The fuel filling area shall be operated in accordance with all relevant Codes and Manuals including the Australian Institute of Petroleum's Code of Practice for the Design, Installation Operation of Underground Petroleum storage systems (CP22-1994).

Reason: To provide for the correct disposal of liquid wastes.

84. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

If any planting required under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Amended Landscape Plan and any conditions of consent.

A Landscape Maintenance schedule shall become an operational requirement under any licence within the licence area and the landscape works shall be maintained at regular intervals.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

85. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

86. Maintenance of Asset Protection Zones

Vegetation clearing for ongoing APZ maintenance must only occur within Lot 298 DP721522. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

87. Pervious Area Restriction

Pervious areas including permeable pavers and gardens as shown in the Landscape Plan dated 22/02/21 (or subsequent plan approved by Council) must be maintained for the life of the development. This includes reinstating new permeable pavers with an infiltration rate equal or greater than the underlying natural sand/soils if/when the pavers become clogged overtime.

Reason: The protection of the catchment's receiving aquatic environment.

88. Environmental Audit

Within 12 months after the submission the Notice of Commencement being forwarded to Council, the person entitled to act upon this development consent shall carry out a comprehensive Environmental Audit of the premises.

This audit shall be carried out in accordance with the appropriate standards at the company's expense by a duly qualified independent person or team. Further, the company shall, at its own expense, comply with any reasonable requests of Council in respect of the implementation of any measures arising from the approval, within such time as Council may agree. Further audits will be required every 12 months from the due date or such longer period as may be agreed by Council.

Reason: Protection of the Environment.

89. Tanker Delivery

Delivery tankers shall be parked wholly within the site during unloading. Tankers shall enter and exit the site in a forward direction and tankers shall only remain on-site during unloading operations. All tanker deliveries shall only be made during the approved hours of operation outside peak usage periods.

Reason: To protect the amenity of the surrounding neighbourhood.

90. Food business to comply with Food Safety Standard 3.2.2 and 3.2.3

The food business is to maintain the premises and any area used by the food business in a condition that complies with Food Safety Standards 3.2.2 and 3.2.3.

Reason: To ensure food is stored, processed and serviced in a safe manner to ensure safety and health of customers.

91. **Plant and other equipment noise**

No noise from plant equipment and other motors on this premises are to be audible within any habitable rooms in any residential premises (regardless of if the window and doors are open) in the area at any time of the day.

Reason: To ensure noise from plant equipment and other motors from the business or premises do not have a negative impact on surrounding residents.

92. **Amplified music**

Music and any amplified equipment including microphones are to be restricted to the conditions as set out in the "Environmental Noise Impact Assessment Reconstruction of the Station Beach Boat House Palm Beach 1191 Barrenjoey Road, Palm Beach, NSW" report number 6953-1.1R Rev B including restriction of music to between 7am and 4pm, 7 days and only Friday and Saturday nights between 4pm and 10pm between the months of October and March. No music is to be audible within any habitable rooms in any residential premises in the area.

Reason: To ensure music and use of microphones used within the business does not have a negative impact on surrounding residents.

93. **Waste management**

All waste material generated by the business are to be maintained within the bin room in bins that have the lids maintained closed and pest control measures are maintained for both rodents and insects within this room. A spill kit is to be maintained within access of the bin room to contain spills.

Reason: To ensure waste is correctly contained within closed containers within the bin room to reduce issues of smell and pests.

94. **Pontoons**

As per plans and the Aquatic Ecology Report, pontoons north of the jetty cannot be reinstated without approval of the relevant authority.

Reason: Protection of the aquatic environment.

95. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Coastal Engineering and Estuary Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 26 August 2021 and Flooding and Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty. Ltd. dated 30 August 2021 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment
To fulfil the obligations and requirement under maintenance condition as per Section 27(b)(ii) of the Coastal Management Act 2016

96. **Hours of Operation**

The hours of operation outside of daylight saving are to be restricted to:

- Monday to Saturday – 7.00am to 4.00pm
- Sunday and Public Holidays – 7.00am to 4.00pm

The hours of operation during daylight saving are to be restricted to:

- Monday to Thursday – 7.00am to 4.00pm
- Friday and Saturday – 7.00am to 10.00pm
- Sunday – 7.00am to 4.00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

97. **Capacity**

The maximum capacity of the restaurant is 152 patrons.

Reason: To maintain the amenity of the adjoining parkland and nearby residential properties

98. **Amenities building**

The proposed amenities building with toilet facilities is to remain open to the public as required under the Plan of Management, during the restaurant operating times.

Reason: To provide a public benefit consistent with the Governor Phillip Park Plan of Management.

99. **Removal of signage**

The existing signage placed at the junction of the roadway and the Boathouse lease alignment is confirmed in the amended reports including the 'letter - Parks and Reserves response' to be removed within the licence area of the Reserve and thus the proposed external works and character is able to be represented as public space useable by the public without fear of encroachment.

Reason: To maintain the perception of public accessibility to the area landscaped garden east of the restaurant.

100. **Washing of vehicles**

Washing of vehicles/boats/trucks/buses etc is to be conducted in a car wash bay, which is roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under a Trade Waste Agreement from Sydney Water. Alternative water management and disposal options may be possible where water is recycled, minimised or re-used on the site. Any such alternative option is to comply with all relevant Standards.

Note: The following Standards applied at the time of determination:

- Environment Protection Authority's Environment Protection Manual for Authorised Officers: Technical Section Small Business (Car Washing Waste)
- Environment Protection Authority's Environment Protection Manual for Authorised Officers -

Technical Section Water (Bunding and Spill Management)

Reason: To ensure that wastewater is disposed of in a manner that is not harmful to the environment