

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0550
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Responsible Officer:	Kelsey Wilkes
Land to be developed (Address):	Lot 58 DP 12749, 121 Florence Terrace SCOTLAND ISLAND NSW 2105
Proposed Development:	Modification of Development Consent DA2020/0174 granted for the construction of a boat shed, jetty and associated works
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Carrie Sheila Towers Scott Bradley Towers
Applicant:	Stephen Crosby & Associates

Application Lodged:	27/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/11/2020 to 17/11/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for modify DA2020/0174 for which consent was granted on 27 May 2020 for the construction of a boat shed, jetty, slip rails and associated works. The proposed modifications include:

- Minor modification to the the approved retaining wall
- Ancillary works relating to the approved structures including construction of recess for storage, waste and recycling, slipway winch and the approved water tank. The recess is proposed to be enclosed by timber doors and roofed with a concrete slab.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

SITE DESCRIPTION

Property Description:	Lot 58 DP 12749 , 121 Florence Terrace SCOTLAND ISLAND NSW 2105
Detailed Site Description:	<p>The subject site consists of one (1) allotment known as Lot 58 within DP 12749 and is located on the southern side of Florence Terrace, Scotland Island.</p> <p>The site is associated with Crown License LIC 597101 for development seaward of the Mean High Water Mark, of which is owned by the Department of Planning, Industry and Environment - Crown Lands and is located within the W1 Natural Waterways Zone.</p> <p>The site is irregular in shape, has a maximum depth of 64.01m and a surveyed area of 809.4m². The site is located within the E3 Environmental Management Zone and accommodates an existing residential dwelling and boat shed partially located on private land. The site can only be accessed via water.</p> <p>The site falls steeply from its frontage to Florence Terrace down towards the water (north west to south east) and at average gradient of approximately 20 to 25 degrees.</p> <p>The site is identified as containing Pittwater Spotted Gum Endangered Ecological Community and is located within</p>

Geotechnical Hazard Area H1.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential dwellings of varying ages, sizes and architectural styles within landscaped settings. Waterfront facilities such as boat sheds and jetties strongly characterise the surrounding area.

Map:



SITE HISTORY

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

DA2020/0174

Development Application for construction of a boat shed, jetty and associated works
Approved 27 May 2020

BC2020/0035

Building Information Certificate (149D Unauthorised) - Jetty 27.3m x 1.5m with 2 piles
Currently under assessment

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all

relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/0174, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p><i>While the application proposes a minor level of additional built form in the form of structures which are ancillary to the approved works, it is considered the works are minor to the extent that the environmental impact will be consistent with that already approved in terms of visual appearance, built form, amenity and context within the natural landscape. Furthermore, the application has been reviewed by relevant Council referral bodies who are satisfied the impact of the modification is minor and worthy of approval.</i></p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0174 for the following reasons:</p> <p><i>The proposed modifications relate to the construction of ancillary structures relating to that already approved. While minor additional built form will be added, the development will remain substantially the same as that already approved in terms of that mentioned above.</i></p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – 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)	<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 in the original consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original 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 clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original 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 in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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 (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.

Section 4.15 'Matters for Consideration'	Comments

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Ronald Coffey of Planning for Bushfire Protection, dated 20 December 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/11/2020 to 17/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Sean Mitchell O'Sullivan	119 Florence Terrace SCOTLAND ISLAND NSW 2105

The following issues were raised in the submissions and each have been addressed below:

- Boat ramp and slip rails

The matters raised within the submissions are addressed as follows:

- Concern is raised that the boat ramp and slip rails will be unsightly when viewed from the objectors property. The objector requests an alternative to these structures.
Comment:
This application is for a modification to the original being DA2020/0174. The boat ramp and slip rails have already been approved under this application. In short, the assessment found that the boat ramp and slip rails are permissible with consent within the zone and the development is consistent with the relevant outcomes of the PLEP 2014 and P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, the proposal was supported. This modification application makes no change to the approved boat ramp and slip rails.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following provisions:</p> <ul style="list-style-type: none"> - SEPP (Coastal Management) - Coastal Environment Area - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest EEC) - NSW Biodiversity Conservation Act 2016 <p>The proposed modification is located in the existing retaining wall and will not further impact the adjacent environment and complies with the relevant controls.</p>
NECC (Coast and Catchments)	<p>The application of modification 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>Further, this assessment has also considered the letter of consent with stamped maps from the Department of Planning, Industry & Environment - Crown Lands dated 22 September 2020</p> <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.</p> <p>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>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Modifications of the SEE report prepared by Stephen Crosby & Associates Pty. Ltd. dated 16 October 2020, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p>

Internal Referral Body	Comments
	<p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>No change in assessment made for the DA2020/0174</p> <p>Development on Foreshore Area</p> <p>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA modification proposes works on the boatshed and retaining walls are consistent with Clause 7.8(2)(b).</p> <p>On internal assessment the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p>Conditions</p> <p>Related conditions Nos, 2, 3, 4, 5 and 6 in Notice of Determination dated 27/5/2020 for DA2020/0174 stands valid for this modification application. However, within condition 7, existing maps DA 01 and DA 03 need to be replaced by updated maps DA 01A and DA 03A dated 5 August 2020.</p>
NECC (Development Engineering)	<p>The submitted Geotechnical report certifies that an acceptable risk is achievable for the development.</p> <p>No objection to approval, subject to conditions.</p>
NECC (Riparian Lands and	<p>The application for modifications to approved DA2020/0174 has been</p>

Internal Referral Body	Comments
Creeks)	<p>assessed against relevant legislation for the protection of waterways. The applicant must install standard sediment and erosion controls prior to commencement of works and are to only be removed once groundcover has been established. Due to the close proximity to the shoreline, the area of the proposed works may be influenced from groundwater variations resultant from normal tidal fluctuations. Normal ground water seepage is expected to move downslope through the soil profile along the interface with underling bedrock, or any impervious horizons in the profile such as clays.</p> <p>With the application of these conditions it is considered unlikely that the application will have an adverse impact on the integrity and resilience of the biophysical, ecological and hydrological ecosystem. It is therefore recommended for approval subject to these conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

Consideration of the above has found that the development is unlikely to cause an adverse impact on that listed in subclause (1).

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed development has been designed, sited and will be managed to avoid an adverse impact to that referred to in subclause (1).

14 Development on land within the coastal use area

(1)

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

Comment:

Consideration of the above including referral of the application to Council's Coast and Catchments Team has determined that the proposed modification is unlikely to cause adverse impact to that listed under (a) and that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a). Council is also satisfied that the proposal has been designed and sited with consideration to the surrounding coastal and built environment.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:

Council is satisfied that the proposed development is not likely to cause increased risk of coastal

hazards on that land or other land.

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	E3 Zone - 8.5m	Boatshed - 4.25m	Boatshed - Unchanged Recess - 2.6m	N/A N/A	Yes Yes
	W1 Zone - 4m	Boatshed - 4.28m	Boatshed - Unchanged	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

The proposed works included as part of this modification application relate to the realignment of the approved retaining wall and the construction of recess for storage, waste and recycling, slipway winch and relocation of the approved water tank. The recess is proposed to be enclosed by timber doors and roofed with a concrete slab. These proposed structures are located entirely within the foreshore area with their use intended to be ancillary to the structures approved under DA2020/0174.

While these works do not specifically constitute as that outlined under Part 7.8(2) of this clause which states:

Development consent must not be granted for development on land in the foreshore area except for the

following purposes:

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

Council may consider whether the works are reasonably ancillary to that which consent may be granted to within the foreshore area as listed above. In this case, consent has been granted under DA2020/0174 for the construction of a boat shed, jetty, slip rails and associated works. The applicant argues that the proposed works under this modification are ancillary as they support the primary activities of these approved structures. As such, Council has considered this with reference to parts 7.8(1), 7.8(3) and 7.8(4) of this clause.

(1) The objectives of this clause are as follows:

(a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,

Comment:

The application was referred to and assessed by the relevant Council referral bodies which has determined the proposed works will not impact on the natural foreshore processes or affect the significance and amenity of the area. The proposed recess is designed to maintain a visual appearance and bulk and scale equivalent of that already approved under DA2020/0174.

(b) to ensure continuous public access along the foreshore area and to the waterway.

Comment:

The works remain in the same location above the mean high water mark (MHW) as that already approved which maintains acceptable pedestrian access along the foreshore area and to the waterway.

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that:

(a) the development will contribute to achieving the objectives for the zone in which the land is located, and

Comment:

As the development is consistent in bulk and scale, visual appearance and environmental impact as that already approved under DA2020/0174 and the works support and are in association to that already approved, it is considered the objectives of the E3 Environmental Management Zone are achieved.

(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and

Comment:

The visual appearance of the recess will be minimal when viewed from the waterway due to its location behind the approved boatshed and the design which includes timber doors which will screen the structures and storage in their location behind the retaining wall. The works will remain a visual appearance consistent with that already approved which is considered to be compatible

with the surrounding area.

(c) the development will not cause environmental harm such as:

- (i) pollution or siltation of the waterway, or*
- (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- (iii) an adverse effect on drainage patterns, or*
- (iv) the removal or disturbance of remnant riparian vegetation, and*

Comment:

A full assessment of the application has determined that Council is satisfied the siting and design of proposal will not cause adverse or unreasonable environmental harm on that listed above.

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

Comment:

As mentioned, the proposal is located within the same location and is consistent in bulk and scale as that already approved and will therefore not cause congestion or generate conflict between people using open space areas or the waterway.

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

Comment:

As mentioned, the proposal is located within the same location and is consistent in bulk and scale as that already approved and will therefore maintain acceptable continuous public access along the foreshore and to the waterway. The modification will not compromise the approved arrangement.

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

Comment:

The siting and design of the modified works will have minimal visual and environmental impact in relation to that already approved and is therefore considered to maintain the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is located.

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

Comment:

The development does not involve the alteration or rebuilding of an existing building but is considered ancillary to the rebuilding of an existing structures located within the foreshore area

(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.

Comment:

The application was referred to Council's Natural Environment Unit for consideration of the above which has determined that the development will not impact the coastal characteristics listed and is therefore supported with regard to the above.

(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

Comment:

The development will not alter public access to and along the foreshore through or adjacent to the proposed development from that already approved which is considered acceptable.

(b) public access to link with existing or proposed open space,

Comment:

The site provides for suitable public access links. This is not impacted by the development.

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

Comment:

There are no covenants, agreements or other instruments required as a result of this development.

(d) public access to be located above mean high water mark,

Comment:

The development maintains suitable public access above the mean high water mark and is unchanged from that already approved under DA2020/0174.

(e) the reinforcing of the foreshore character and respect for existing environmental conditions.

Comment:

The design and siting of the development ensures the foreshore character is retained and the development responds sympathetically to the existing topography of the land and context within the surrounding environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the PLEP 2014 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	N/A	Unaltered	Yes
Rear building line	FSBL applies	Below FSBL	Below FSBL	Yes (see Part 7.8 for discussion)
Side building line	2.5m	5.6m (North East)	5m (South West)	Yes
	1m	3.1m (South West)	1.3m (North East)	Yes
Building envelope	3.5m	Within	Within	Yes
	3.5m	Within/Outside envelope	Within	Yes
Landscaped area	73% (591m ²)	>73%	Unaltered	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	Yes	Yes
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.16 Scenic Protection Category One Areas	Yes	Yes
D15.15 Waterfront development	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 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0550 for Modification of Development Consent DA2020/0174 granted for the construction of a boat shed, jetty and associated works on land at Lot 58 DP 12749,121 Florence Terrace, SCOTLAND ISLAND, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01, Revision A: DA Mod - Site Plan	5 August 2020	Stephen Crosby & Assoc. Pty. Ltd.
DA03, Revision A: DA Mod - Boat Shed Plan & Elevations	5 August 2020	Stephen Crosby & Assoc. Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arborist Letter	15 October 2020	Julia Stanton - Syncarpia Vegetation Management
Geotechnical Letter	16 October 2020	Ascent Geotechnical Consulting
Crown Land - Landowners Consent	22 September 2020	Laila Foster

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

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

B. Add Condition 21a Arborist Recommendations to be Implemented to read as follows:

Recommendations 1-7 outlined in Section 6.0 of the submitted arboricultural impact assessment (Syncarpia Vegetation Management, January 2020) are to be implemented at the appropriate stage of development. Compliance with this condition is to be certified by the consultant arborist and written evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To safely retain significant trees of the Pittwater Spotted Gum Forest endangered ecological community.

Add Condition 21b Road Reserve to read as follows:

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.

Add Condition 27 Geotechnical Report Recommendations have been incorporated into designs and structural plans to be read as follows:

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Ascent geotechnical consultant dated 16 October 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



Kelsey Wilkes, Planner

The application is determined on 06/01/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments