

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1043
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Responsible Officer:	Nick Armstrong
Land to be developed (Address):	Lot 121 DP 12749, 57 Robertson Road SCOTLAND ISLAND NSW 2105
Proposed Development:	Alterations and additions to an existing boat shed
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Ricardo Russo
Applicant:	Ricardo Russo

Application lodged:	20/06/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/06/2018 to 10/07/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval

Estimated Cost of Works:	\$ 6,500.00
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ASSESSMENT INTRODUCTION

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

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

determination);

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

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

Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

Pittwater 21 Development Control Plan - D15.14 Minimum frontage for waterfront development

Pittwater 21 Development Control Plan - D15.15 Waterfront development

SITE DESCRIPTION

Property Description:	Lot 121 DP 12749 , 57 Robertson Road SCOTLAND ISLAND NSW 2105
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Robertson Road.</p> <p>The site is regular in shape with a frontage of 10.06m along Robertson Road and a depth of 69.495m. The site has a surveyed area of 790.4m².</p> <p>The site is located within the E3 Environmental Management zone and accommodates one and two storey split level block and fiber cement residence located towards the road frontage. A boatshed, jetty and associated waterfront facilities are located adjacent to the site in the Pittwater Waterway.</p> <p>The site falls 20m from the road frontage to the water frontage with a slope of approximately 29.8%.</p> <p>The site contains numerous canopy trees which are located primarily within the setback to the dwelling from the waterway.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings located within heavily landscaped allotments.</p>

Map:



SITE HISTORY

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

29/05/2018

Development Application DA2018/0893 for alterations and additions to the dwelling was lodged.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to an existing boatshed. In particular the proposal includes:

- Raising the floor level of the boatshed from 1.38m AHD to 1.70m AHD
- Adjusting the existing skid ramp to compensate for the raising of the floor level

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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	None applicable.

Section 4.15 Matters for Consideration'	Comments
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)(iiiia) – 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>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.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</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 clause is not relevant to this application.</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 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&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	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control</p>

Section 4.15 Matters for Consideration'	Comments
locality	Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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.

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 Coffee, dated March 2018) 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 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 2 submission/s from:

Name:	Address:
Steven Speter	PO Box 250 CHURCH POINT NSW 2105
Mr Stephen Crosby	13/1-3 Mandolong Road MOSMAN NSW 2088

***Note:** Council's automated system picked up two submissions being received from Stephen Crosby, who is the applicant for the subject application. These 'submissions' were actually letters prepared in

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments	
Environmental Health (Acid Sulphate)	Was sufficient documentation provided appropriate for referral?	YES
	Are the reports undertaken by a suitably qualified consultant?	N/A
	What class is the site in on the PLEP 2014 Acid Sulfate Soils Map?	Class 1
	Is there risk of acid sulfate soil disturbance?	NO
	Will the excavations exceed the depth determined in the risk map?	N/A
	Does the report adequately address acid sulfate risk mitigation?	N/A
	Have you considered disposal of water during excavation, pump out etc.	N/A
	Have you considered disposal of contaminated soil.	N/A
	General Comments Proposal is only to use existing piers and raise the level of boat shed.	
	Recommendation	APPROVAL - no conditions
Environmental Health (unsewered lands)	Comments completed by: Anthony Foy EHO	
	Date: 3.7.2018	
	Was sufficient documentation provided appropriate for referral?	YES
	Are the reports undertaken by a suitably qualified consultant?	N/A
	Is there a proposed on site sewage management system or an impact to existing onsite sewage management system?	N/A
	For residential applications have you considered AS1547 and Environmental Health & Protection Guidelines?	N/A
	For commercial applications have you	N/A



Internal Referral Body	Comments												
	<table border="1"> <tr> <td data-bbox="520 315 1155 427">considered Guidelines for Management Private Recycled Water Schemes and applied the residential guidelines where applicable?</td><td data-bbox="1155 315 1426 427"></td></tr> <tr> <td data-bbox="520 427 1155 539">Are separate land application areas provided for pool water, waste water from the premises and storm water?</td><td data-bbox="1155 427 1426 539">N/A</td></tr> <tr> <td data-bbox="520 539 1155 730">Is approval to install and approval to operate applicable? - if so, recommend the DAO refer commercial waste water systems to Department of Energy & Water.</td><td data-bbox="1155 539 1426 730">N/A</td></tr> <tr> <td colspan="2" data-bbox="520 730 1426 875"> General Comments Proposal is to raise the floor level of an existing boat shed. No impacts on Waste Water are proposed. </td></tr> <tr> <td data-bbox="520 875 1155 987">Recommendation</td><td data-bbox="1155 875 1426 987">APPROVAL - no conditions</td></tr> <tr> <td colspan="2" data-bbox="520 987 1426 1111"> Comments completed by: Anthony Foy Date:3.7.2018 </td></tr> </table>	considered Guidelines for Management Private Recycled Water Schemes and applied the residential guidelines where applicable?		Are separate land application areas provided for pool water, waste water from the premises and storm water?	N/A	Is approval to install and approval to operate applicable? - if so, recommend the DAO refer commercial waste water systems to Department of Energy & Water.	N/A	General Comments Proposal is to raise the floor level of an existing boat shed. No impacts on Waste Water are proposed.		Recommendation	APPROVAL - no conditions	Comments completed by: Anthony Foy Date:3.7.2018	
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Comments completed by: Anthony Foy Date:3.7.2018													
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following DCP Natural Environment controls:</p> <ul style="list-style-type: none"> - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community - B4.15 Saltmarsh Endangered Ecological Community - B4.16 Seagrass Conservation - B4.19 Estuarine Habitat - B4.20 Protection of Estuarine Water Quality <p>The proposed development will not require the removal of vegetation and is within the existing development footprint. It is considered that, subject to conditions, the proposal can achieve consistency with the controls.</p>												
NECC (Coast and Catchments)	<p>The property at 57 Robertson Road, Scotland Island has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. 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>Based upon the survey plan provided in support of the DA, the foreshore edge treatment type for the subject property appears to be a rocky foreshore with a crest height at approximately RL 1.0m AHD. As such, in accordance with the Pittwater Estuary Mapping of Sea</p>												

Internal Referral Body	Comments
	<p>Level Rise Impacts Study (2015), an estuarine planning level (EPL) of RL 2.73m AHD has been adopted by Council for this property.</p> <p>The DA proposes to raise the existing boat shed to achieve a FFL of RL 1.70m AHD. As the proposed FFL is still significantly below the EPL, the boat shed (including full height glazing to seaward facing doors on the northern and western elevations) is likely to be exposed to periodic inundation and wave impact forces during the design life of the structure including but not limited to:</p> <ul style="list-style-type: none"> vertical uplift forces caused by waves propagating under the boat shed, jetty deck and skid ramp; horizontal (wave slamming) forces on the boat shed and glazed doors; horizontal forces on piers supporting the boat shed and jetty; and potential buoyancy effects and debris loadings. <p>In accordance with the B3.7 Hazard Controls the applicant should demonstrate through an appropriate assessment of the relevant coastal hazards (prepared with input as necessary from a coastal engineer as defined by the Estuarine Risk Management Policy for Development in Pittwater) that the boat shed (including seaward facing glazed doors) can be structurally designed to withstand the likely forces caused by periodic wave action and tidal inundation for the design life of the development. Conditions requiring consistency with the control have been included within the draft consent attached to this assessment below.</p>
NECC (Development Engineering)	The proposed boat shed is to be raised on the existing piers. No Development Engineering objection is raised to the proposed development subject to the piers being certified by a structural engineer.
NECC (Riparian Lands and Creeks)	<p>There are no objections to this application on the basis of water quality.</p> <p>The waterfront land is Coastal and will be dealt with by another officer.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
NSW Department of Planning (SEPP 71 - Coastal)	<p>No response has been received from the Department of Planning and Environment within 28 days of the application being notified.</p> <p>Therefore an assessment of the relevant assessment criteria found within SEPP (Coastal Management) 2018 (formerly SEPP 71) has been carried out within the relevant section further within this report.</p>

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 (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:

The application includes the raising of the floor level of the existing boatshed, with no additional impact to the surrounding waterway or natural environment.

- (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:

Impact will be minimised as not additional works to the bed of the estuary or land itself will be required to be carried out within the context of the subject development.

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

Comment:

The proposed alterations to the existing boatshed is consistent with similar development within the surrounding area. The raising of the floor level of the boatshed, which results in the entire structure being raised by 320mm, will not contribute to a degradation of 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.

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
DA2018/1043				

Height of Buildings:	4m	4.46m	11.5%	No
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Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone W1 Natural Waterways

Boatsheds and skid ramps are not identified within the W1 Natural Waterways zone as being permissible development. However, under Schedule 1 Additional Permitted Uses Section 23 of PLEP 2014, boatsheds, jetties and water recreation structures are permitted with development consent.

4.3 Height of buildings

See Clause 4.6 below for further discussion.

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	4m
Proposed:	4.46m (above 1.17m AHD)
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	11.5%

***Note:** 1.17m AHD refers to the Highest Astronomical Tide which is assessed as being the most relevant reference point for measuring the height of development within the waterway.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the PLEP 2014. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the PLEP 2014 is a development standard.

What are the underlying 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 proposed alterations to the boatshed will raise the overall height of the existing structure by 320mm to a maximum height of 5.63m AHD. Boatsheds are common development not just within the Lower Western Foreshores and Scotland Island Locality, but also in the wider Pittwater Estuary. The style of the boatshed is consistent with the design parameters for waterfront development identified within control D15.15 of P21 DCP.

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

Comment:

The height of neighbouring boatsheds have been measured at 5.46m AHD (51 Robertson Road), 5.35m AHD (61 Robertson Road) and 5.95m AHD (69 Robertson Road) which result in an average height of approximately 5.59m (AHD). The proposed alterations to the existing boatshed results in a 4cm difference in the average height of similar neighbouring development. The development is therefore considered to be consistent with the height and scale of similar development in the surrounding area.

c) to minimise any overshadowing of neighbouring properties

Comment:

The development will not adversely impact upon the solar access of neighbouring properties.

d) to allow for the reasonable sharing of views

Comment:

Whilst the development is located adjacent to the waterway and is likely to be able to be viewed from neighbouring properties, the alterations to the boatshed is unlikely to contribute to a loss of views beyond a negligible amount.

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

Comment:

The design of the boatshed is unchanged and is consistent with similar development within the neighbouring area. The boatshed is located directly above the bed of the estuary with a slight fall from the property boundary towards the waterway. The boatshed is located on piles which are intended to be retained so as to not cause any further disturbance to the bed of the estuary.

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

Comment:

The development is not located within a heritage conservation area or within the vicinity of a heritage item. As no changes to the building footprint of the existing boatshed are proposed the development will not cause any additional impact to the natural environment.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the W1 Natural Waterways zone.

The underlying objectives of the W1 Natural Waterways zone

- *To protect the ecological and scenic values of natural waterways.*

Comment:

The development does not intend to alter the existing ecological or scenic value of the natural waterway as all changes proposed are above the existing building footprint. The development is consistent with the character of similar development within the nearby surrounding area and the wider Pittwater Waterway.

- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*

Comment:

The subject development poses no additional threat or impact to the natural value of the waterway.

- *To provide for sustainable fishing industries and recreational fishing.*

Comment:

Not impact on fish passages or recreational fishing areas.

- *To ensure that development does not adversely impact on the natural environment or obstruct the navigation of the waterway*

Comment:

No loss of vegetation or impact to the bed of the estuary beneath the existing boatshed. No changes to navigation of the waterway.

- *To provide opportunities for private access to the waterway where these do not cause unnecessary impact on public access to the foreshore*

Comment:

The residents of the subject site's access to the foreshore is unaffected. Concerns have been raised regarding the storage of building materials behind the boatshed, preventing public foreshore access. Conditions have been included to ensure that these materials are removed and that the decking behind the boatshed is to remain obstruction free so as to not prevent continuous public foreshore access.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the PLEP 2014?

(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.

Comment:

The 4m height limit for development within the waterway is recognised to be restrictive, especially with rising sea levels due to climate change creating additional constraints to development within the waterway. The development in this case does not seek to alter the existing design of the boatshed, but rather raise the entire structure 320mm to limit the potential of inundation caused at higher tides and storm events.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The location of the boatshed is unchanged. The structure was originally located seaward of the Mean High Water Mark as the topography of the adjacent property created difficulties in locating the boatshed on freehold land. The raising of the boatshed does not unreasonably impact upon the built environment character of the surrounding area, where boatsheds of varying heights and designs are common. The increased floor level of the boatshed is intended to combat rising sea levels, creating an improved outcome for the residents.

(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.

(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.

Comment:

The applicant has provided the following reasoning for seeking a request to the contravention of the height of buildings development standard:

- The proposed development is to raise the floor level of the existing 3.93m high boatshed by 320mm to protect the structure from rising sea levels.
- The height of the boatshed is entirely in accordance with P21 DCP D15.15 'Boatsheds shall be no greater than 4.5m in building height above the platform which it is built'.
- The nominated Highest Astronomical Tide (1.17m AHD) has been unchanged in Council's assessment for 30 years and does not take into account sea level rise or more recent (Cardno 2015) report into sea levels in Pittwater. The report puts a sea level rise of 0.42m at 2078 (relative to 2010), giving a tide of 1.59m AHD, with the 1 in 100 year ARI still water level at 1.94m AHD.
- The proposed boatshed floor level is entirely consistent in form and height with the guidelines for boatsheds as shown in P21 DCP D15.15, with the ridge level similar to many of these structures built over the last 20 years in Pittwater
- Many of the boatsheds on Scotland Island and in Elvina and Lovett Bays, are similar in height and scale
- There are no overshadowing issues affecting neighbouring properties
- Views from the neighbouring properties are unaffected as a result of the proposal
- The proposed raising of the boatshed will not affect public access along the foreshore

(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 subclause (3), and

Comment:

The applicant's request for the variation to the height of buildings development standards has successfully addressed all relevant criteria required for consideration under Clause 4.6.

(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:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the W1 Natural Waterways zone in the PLEP 2014.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General 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 Director-General for the variation to the Height of buildings Development Standard is assumed.

7.8 Limited development on foreshore area

Technically the development is subject to the assessment of Clause 7.8 Limited development on foreshore area as the development is located forward of the Foreshore Building Line (FBL).

Boatsheds are indicated as being permissible development under subclause (2)(b) of CI 7.8. Consideration of the relevant assessment criteria as listed under CI 7.8 (3) and (4) are as follows:

(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

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

(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

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

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

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

(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

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

Comment:

The development in question involves the alteration of the existing boatshed by means of raising the entire structure 320mm as the floor level of the current structure is regularly inundated the Pittwater Waterway. The works do not increase the existing building footprint of the development within the foreshore area and maintain consistency with similar boatsheds in the area and the general design

guidelines for boatsheds under P21 DCP D15.15 Waterfront Development. The only concern raised is the storage of building and construction materials on the timber deck to the south of the boatshed preventing continuous access to the foreshore. Conditions have been recommended to be included, should consent be granted, to ensure that public foreshore access is maintained at all times and that no construction materials are to be stored on the decking adjacent to the boatshed.

(4) In deciding whether to grant consent for development in 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,*
- (b) public access to link with existing or proposed open space,*
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) public access to be located above mean high water mark,*
- (e) the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

As stated previously, conditions have been recommended to be included to ensure that all building materials are removed from the decking associated with the boatshed in order to provide continuous public foreshore access.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	No	Yes
D15.15 Waterfront development	Yes	Yes

Detailed Assessment

D15.12 Development seaward of mean high water mark

Development does not propose any further encroachment into the waterway.

D15.14 Minimum frontage for waterfront development

The subject site has a water frontage of approximately 13.77m which is below the minimum 15m requirement for multiple water front facilities below Mean High Water Mark. The existing site contains multiple facilities including a boatshed, skid ramp and jetty. As no additional facilities are proposed, this arrangement is considered acceptable.

D15.15 Waterfront development

The proposed alterations to the boatshed and skid ramp is consistent with the general design guidelines as listed under the control. Concerns were raised in relation to the use of the boatshed as a habitable structure, although conditions have been included to ensure that the boatshed is not used for these purposes and prohibiting the installation of internal kitchen, shower and toilet facilities.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Pittwater Section 94 Development Contributions Plan

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 Development Consent to DA2018/1043 for Alterations and additions to an existing boat shed on land at Lot 121 DP 12749, 57 Robertson Road, SCOTLAND ISLAND, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Boat Shed Not to be Used for Habitable Purposes**

At no time shall the boat shed be utilised or converted to provide for habitation. The boat shed must not be used for any other purpose than the storage of small boats, light watercraft and boating and marine equipment. The incorporation of any internal kitchen facilities, habitable rooms, shower or toilet facilities is not permitted.

Reason: To minimise risk to life associated with estuarine hazards for development in the coastal zone. (DACNEBOC2)

2. **Building materials, sedimentation**

No building materials or other materials are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or foreshore vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

3. **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 - Site Plan, Section and Elevations	April 2018	Stephen Crosby & Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report, Ref. 1246	01/04/2018	Planning for Bushfire Protection

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

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

4. **Prescribed Conditions (Crown Land Only)**

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

Reason: Legislative Requirement (DACPLB09)

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

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(c) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

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

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

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

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

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

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

(j) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

Note: Systems can be registered at www.northernbeaches.nsw.gov.au

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

6. Compliance with Standards (Crown Land Only)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

7. Unauthorised Works

This consent only relates to the raising of the boatshed by 320mm and alterations to the skid ramp. This consent does not include any works which have been carried out prior to this approval being issued including, but not limited to:

- Changes to window and door openings of the existing boatshed
- Internal fit out of the existing boatshed

A Building Certificate is required to be lodged to Council for any construction work that has previously commenced for which approval has yet to be issued.

FEES / CHARGES / CONTRIBUTIONS

8. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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. Estuarine Hazard Design Requirements

The following applies to all development:

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 can be achieved 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 risk associated with estuarine hazards for development in the coastal zone.

10. Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 2.73m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.73m 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 2.73m 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 2.73m AHD.
- All interior power supplies for the boatshed (including electrical fittings, outlets and switches) must be located at or above or raised to 2.73m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above or raised to 3.23m AHD to avoid the likelihood of contact with splashing waves and spray. A residual current device must be installed in the electricity system to cut electricity supply if immersion occurs.

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

11. 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 the development is able to withstand the wave impact forces and loadings as a result of periodic inundation and wave action.

Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings and the potential effects of corrosion processes on structural components should be considered.

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

12. Engineers Certification of Plans

The structural design for the development 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.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Signage – No work / storage within dripline

The project manager is to erect signs advising all contractors and visitors to the site that no
DA2018/1043

works or storage are to take place within the dripline of existing trees.

Reason: To protect and retain trees proposed for retention.

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

14. **Certification for the concrete piers**

An appropriately qualified and practicing Structural Engineer shall certify the existing concrete piers with the raised shed is structurally stable for its design life to the Principal Certifying Authority.

Reason: Compliance with this consent

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

15. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

16. **Dead or Injured Wildlife**


If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

17. **Public Foreshore Access**

Continuous public access along the foreshore via the decking to the south of the boatshed is to be maintained at all times. No building, construction or any other material that would prevent public foreshore access is to be stored in this location.

ATTACHMENT A









Notification Plan	Title	Date
 2018/380688	Plan - Notification	21/06/2018

ATTACHMENT B


No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/379370	Plans - Survey	02/04/2018
 2018/379377	Letter - Crown Lands	19/06/2018
 2018/379374	Report - Statement of Environmental Effects	19/06/2018
 2018/379371	Report - Covering Letter	19/06/2018
 DA2018/1043	57 Robertson Road SCOTLAND ISLAND NSW 2105 - Development Application - Alterations and Additions	20/06/2018
 2018/375704	DA Acknowledgement Letter - Ricardo Russo	20/06/2018
 2018/379368	Plans - External	21/06/2018
 2018/379369	Plans - Master Set	21/06/2018
 2018/583636	DDP Panel Plans	21/06/2018
 2018/379367	Fee Form	21/06/2018
 2018/379376	Applicant Details	21/06/2018
 2018/379378	Development Application Form	21/06/2018
 2018/379435	Email - Estaurine Planning Level	21/06/2018
 2018/380690	File Note	21/06/2018
 2018/380688	Plan - Notification	21/06/2018
 2018/381847	Environmental Health (unsewered lands) - Assessment Referral - DA2018/1043 - 57 Robertson Road SCOTLAND ISLAND NSW 2105	21/06/2018
 2018/381849	Environmental Health (Acid Sulphate) - Assessment Referral - DA2018/1043 - 57 Robertson Road SCOTLAND ISLAND NSW 2105	21/06/2018
 2018/382569	DA Acknowledgement Letter (not integrated) - Ricardo Russo	22/06/2018
 2018/382854	Notification Map - DA2018-1043 - 57 Robertson Road Scotland Island	22/06/2018
 2018/382689	Notification Letter - DA	22/06/2018
 2018/387287	Natural Environment Referral Response - Water Quality and Riparian - 57 Robertson Rd Boatshed	25/06/2018
 2018/393250	Submission - Speter	25/06/2018
 2018/395690	Submission Acknowledgement Letter - Steven Speter - SA2018/393250	28/06/2018
 2018/402596	Environmental Health Referral Response - unsewered land	03/07/2018
 2018/402604	Environmental Health Referral Response - acid sulfate soils	03/07/2018
 2018/407809	Online Submission - Crosby	03/07/2018
 2018/442727	Natural Environment Referral Response - Coastal	11/07/2018
2018/458374 DA2018/1043	Request for Withdrawal of Development Application -	19/07/2018

		Ricardo Russo	
	2018/562249	CL 4.6.pdf	23/07/2018
	2018/475217	Natural Environment Referral Response - Biodiversity	27/07/2018
	2018/492746	Invoice - Pink Water Taxis - P0047649	03/08/2018
	2018/497600	Submission - Boatshed - Bluebird Designs	07/08/2018
	2018/560389	Bushfire Certificate.pdf	29/08/2018
	2018/560392	Bushfire Report	29/08/2018
	2018/559775	Development Engineering Referral Response	29/08/2018

PANEL PLANS

	Document	Title	Date
 Link	2018/583636	DDP Panel Plans	21/06/2018