

## Statement of Environmental Effects

For: Northern Beaches Council

Site: No.1742 & 1744 Pittwater  
Road, BAYVIEW

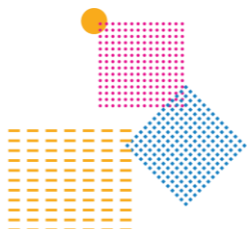
Date: 30 June 2022

Our Ref: 6966

Report  
Prepared: Gregory Stevens,  
Graduate Surveyor.

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## 1. PROPOSAL

The proposal is to construct a shared timber fixed-head jetty with stairs for 1742 & 1744 Pittwater Road, Bayview.

## 2. THE SITE

The site is located on the western shores of Pittwater just to the northwest of Gibson Marina in Maybanke Cove, Pittwater (see Figure 1) and faces Horseshoe Cove and Royal Motor Yacht Club Newport. Access to the site is via the Pittwater Waterway or the adjoining freehold land.

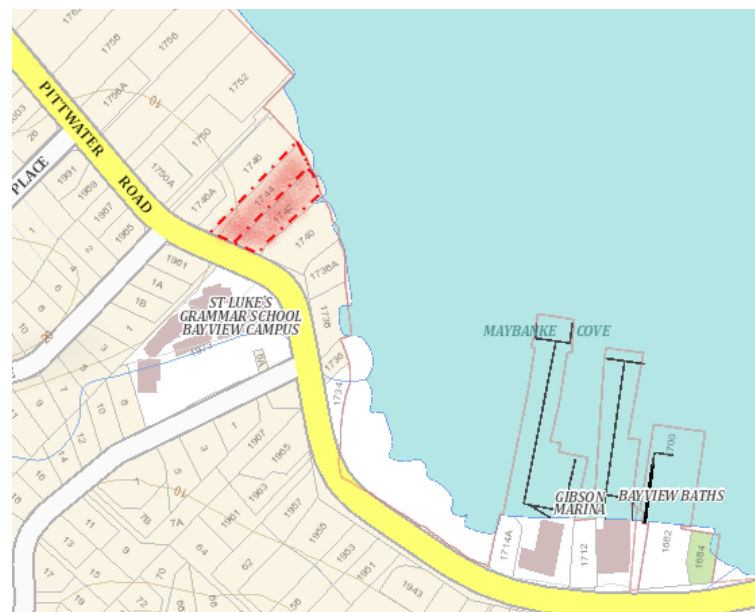


Figure 1 - Locality - maps.six.nsw.gov.au

Existing waterfront structures are for residential use only. They are noted in the Licence for No.1742 as LIC541498 being boatshed, skid ramp, stone seawall and reclamation, and in the Permissive Occupancy for No.1744 as PO16413 being seawall and reclamation. All structures existing below the Mean High Water (MHW) boundary are generally located in accordance with the Schedule 3 licence diagram and Permissive Occupancy diagrams mentioned above.

The freehold properties slope steeply from the waterfront for the first third, then gradually to Pittwater Road. The properties are moderately vegetated with various trees and shrubs, and both have erected buildings and structures typically associated with residential use.

Marine Pollution Research undertook a Marine Habitat Survey and found two main aquatic habitats at the site. Firstly intertidal sediment habitat comprises a mosaic of soft silty-sand patches inshore overlain with mobile and firm sand-drift sections offshore.

Secondly, rock habitat includes the intertidal surfaces of rock walls along the common boundary. Finer gravel plus rock fragments generally along the foot of the subject property seawall and exposed and fragmented basement rock habitat offshore from the property seawalls in the lower

intertidal. These latter reef fragments support an intertidal assemblage based around the brown algae Hormosira (Neptune's Necklace) and Oysters.

The lower sections of the sandstone rock wall at the site support oysters and a variety of gastropod molluscs. The fine gravel and rock fragment habitat at the toe of the wall does not support many oysters. Also, it has fewer molluscs, probably owing to the constant smothering and uncovering of this habitat by sand drifts.

In addition, small amounts of scattered shallow sub-tidal rock rubble well offshore supported Padinasp. Three grey mangrove seedlings were observed inshore along the seawall at 1744 west of the proposed location. Refer to the Marine Habitat Survey report for further details regarding the above.

Neighbouring properties have similar water recreation structures, including jetties, boatsheds, decks, walkways, seawalls, reclamations and skid ramps.

### 3. ZONING AND PLANNING COMPLIANCE

#### 3.1 PITTWATER LOCAL ENVIRONMENT PLAN 2014 (PLEP 2014)

The existing water recreation structures straddle councils E4 Environmental Living and W1 Natural Waterways Zones, and the proposed shared jetty is almost entirely in W1 (Figure 2). The proposed shared jetty is permissible with consent in zones E4 and W1. The proposed shared jetty is within zone W1 and also is in Area 23 (Additional permitted uses) (Figure 3). In light of the above, the proposal is therefore permissible with consent.

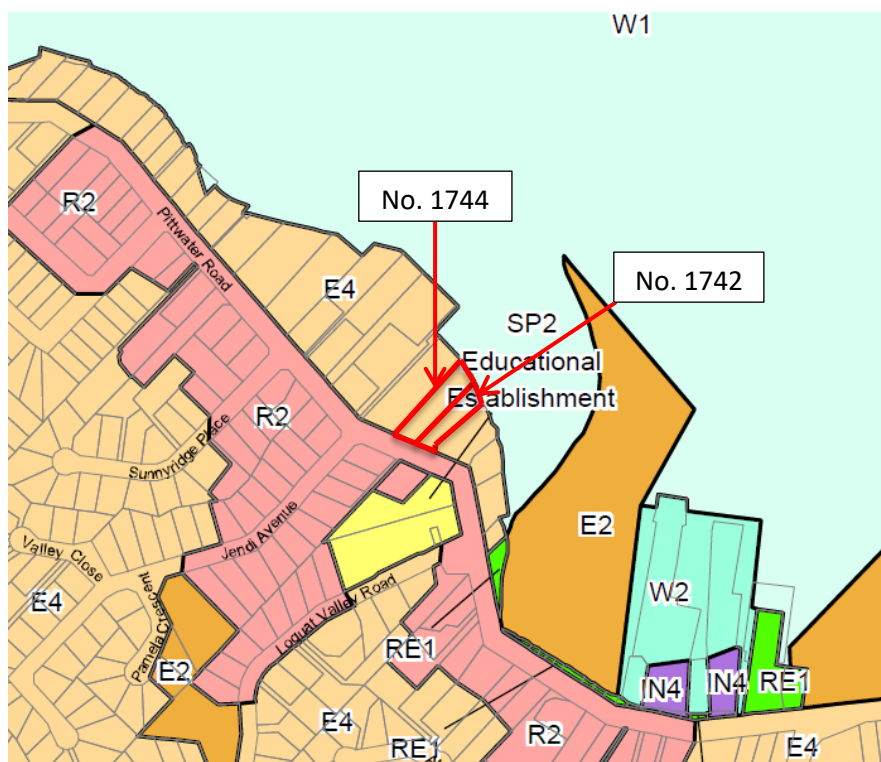


Figure 2 - Land Zoning Map - Sheet LZN\_011

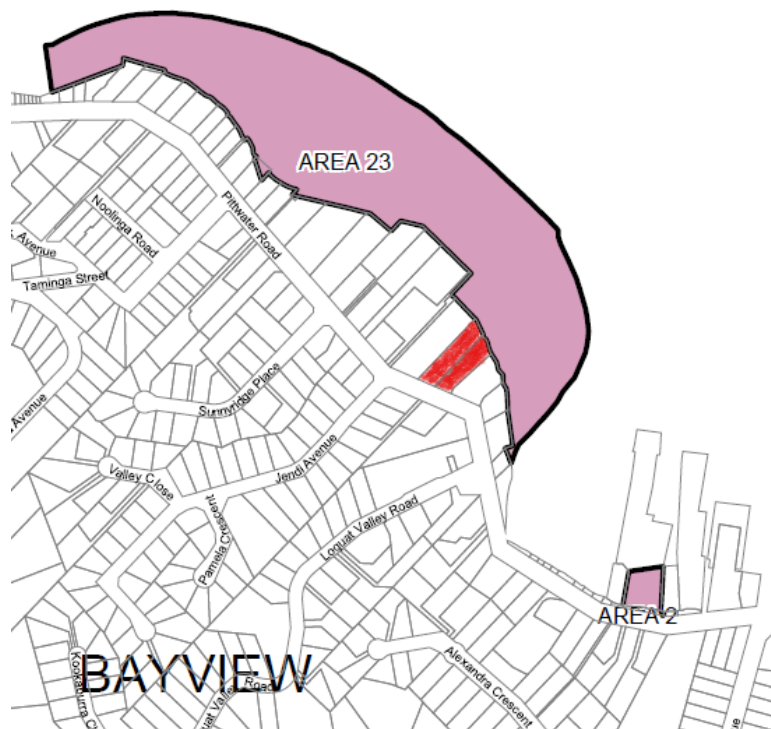


Figure 3 - Additional Permitted Uses Map - 6370\_COM\_APU\_011

The applicable sections of the PLEP relating to the proposal are as follows:

- (i) Foreshore building line
  - The proposed shared jetty is located partially within the Foreshore Building Line as indicated in Foreshore Building Line Map-FBL\_011 and is permissible under section 7.8(2)(b) of PLEP 2014
- (ii) Height of buildings (PLEP 4.3)
  - The Height of Building Map HOB\_011 indicates a maximum height of building located upon freehold land (above the MHW boundary) as 8.5m and upon Crown Land (below the MHW boundary) as 4m. The proposed shared jetty is below MHW and designed at 1.5AHD, and well under the 4m AHD height limit; therefore, the Height of the Building is not relevant.
- (iii) Development below Mean High Water Mark (PLEP 5.7)
  - See sections 3.2(xi)
- (iv) Heritage Conservation (5.10)
  - The Heritage Map HER\_011 indicates that the freehold land and the land below the MHW boundary is not located within a Heritage Conservation Area. The proposal does not require consent in accordance with section 5.10(2) of PLEP.

- (v) Acid Sulphate Soils (PLEP 7.1)
- The Acid Sulphate Soils Map ASS\_011 indicates part of the subject freehold land as Class 5 and part Class 2, and the land below the MHW boundary as Class 1. The proposal does not require consent in accordance with section 7.1(6) of PLEP as the proposal does not involve the disturbance of more than 1 tonne of soil for the reconfiguration of the corner of No.1742 seawall and access steps,
  - The Impacts of the proposal on Acid Sulfate Soils have been documented in the preliminary assessment of Acid Sulfate Soils for both properties and for the proposed shared jetty by White Geotechnical Group (reports enclosed).
- (vi) Earthworks (PLEP 7.2)
- As mentioned above, a minimal excavation is required above the current seawalls to reconfigure and lower the corner existing seawall of No.1742 to meet the proposed jetty and access steps. No excavation is proposed seaward of the existing seawall.
- (vii) Biodiversity Protection (PLEP 7.6)
- The freehold land and parts of the waterfront (below MHW) are noted on Councils Biodiversity Map BIO\_011. The proposal is below the MHW boundary and partially within an important aquatic Biodiversity area.
  - The proposal does not require the removal of any trees. The proposed shared jetty starts approximately 2.5 metres from the trunk of a mature spotted gum listed on the council's endangered ecological community register. The impact of the proposed shared jetty on the tree's root system will be negligible, as the required excavation is minimal by hand, and the reconfiguration of the seawall and access steps are in the same location as existing seawalls and stonework.
  - Arboricultural Impact Assessment & Tree Protection Plan was undertaken by Tree Survey Pty Limited dated the 23rd February, 2022. Note that two trees near the proposed boated will be impacted and subject to a major encroachment on the Tree protection zone; however, less than 20% can be achieved without significantly impacting the health or stability of these trees (report enclosed).
  - A Marine Habitat Survey was undertaken by Marine Pollution Research (report enclosed) and provides recommendations on how to protect the local marine habitat along with construction techniques to mitigate any potential damage that may occur during construction. The Marine Habitat Survey disclosed that the proposed facility would meet the aquatic ecological conservation requirements of the Fisheries Management Act(FMA) (1994) as contained in the DPI (2013) Fish Habitat Protection Guidelines. The project would not require any permits under the FMA as there is low risk of "harm to marine vegetation" and no activities are classified as "reclamation or dredging".
  - DPI Fisheries approved that the proposal does not include any dredging, reclamation, harm to marine vegetation, or blockage of fish passage, and therefore DPI Fisheries does not consider the proposal to constitute Integrated Development under s.91 of the Environmental Planning and Assessment Act 1979. (Approval enclosed)
- (viii) Geotechnical Hazard (PLEP 7.7)
- The Geotechnical Hazard Map GTH\_011 classifies that part of the freehold land between MHW and the foreshore building line as H1 and the land below the MHW boundary as "unclassified".

- The proposal is predominantly below the MHW boundary within an unclassified Geotechnical Hazard zone and therefore does not require a geotechnical risk assessment.
- The current seawall of No.1742 will be reconfigured, and the northwestern corner to be lowered and access steps to meet the proposed jetty. The earthwork and disturbance of soil are minimal by hand and within the existing footprint of the current seawall.
- White Geotechnical Group undertook a geotechnical investigation for both properties and for the proposed shared jetty. (reports enclosed)

(ix) Limited Development on Foreshore Area (PLEP 7.8)

- Permissible under section 7.8(2)(b) of PLEP 2014

### **3.2 NORTHERN BEACHES: PITTWATER 21 DEVELOPMENT CONTROL PLAN (PDCP21) 2004 (as amended 18/01/2021)**

Compliance to the relevant controls stated in PDCP21 relating to a proposal only are as follows;

**(i) Heritage Conservation(B1.1) & Aboriginal Heritage Significance (B1.4)**

Refer to Section 3.1(iv) above

**(ii) Landslip Hazard (B3.1)**

As mentioned above, a minimal excavation by hand is required for the reconfiguration of No.1744 seawall, and all proposed work is seaward of the current seawall.

**(iii) Controls Relating to the Natural Environment (B4.7, B4.15, B4.16, B4.19)**

- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community Refer to Section 3.1(vii) above.
- B4.15 Saltmarsh Endangered Ecological Community  
Refer to Section 3.1(vii) above and The Marine Habitat Survey enclosed.
- B4.16 Seagrass Conservation & B4.19 Estuarine Habitat  
Refer to Section 3.1(vii) above and The Marine Habitat Survey enclosed.

**(iv) Site Works Management (B8.1 & B8.3)**

- B8.1 Construction and Demolition - Excavation and Landfill Refer to Section 3.1 (v), (vi) & (viii) and 3.2 (ii). Minimal excavation by hand is required for the reconfiguration of No.1742 seawall, and all proposed work is seaward of the current seawall. Regarding sediment control upon the freehold land, a sediment barrier will be installed along the waterfront for the duration of the construction to mitigate any potential sediment runoff into the Pittwater Waterway. Refer to the Marine Habitat Survey report for construction recommendations to reduce turbidity.
- B8.3 Construction and Demolition - Waste minimisation construction practices to limit waste generated during building shall be reused by the builder on site or taken to the local Resource Recovery Centre for sorting and recycling where suitable.

**(v) Character as viewed from a Public Place (D4.1 & D15.1)**

The proposed shared jetty is not dissimilar in terms of scale, general design form, textures, materials, etc., to neighbouring properties and along the entire foreshore of the Pittwater Waterway. The proposal will, therefore, not adversely impact the local character.

**(vi) Scenic Protection (D4.2 & D15.2):**

The proposed shared jetty is not dissimilar in terms of scale, general design form, textures, materials, etc., to neighbouring properties and along the entire foreshore of the Pittwater Waterway. The proposal is in keeping with the local amenity.

**(vii) Building colours and materials (D4.3 & D15.3)**

The proposed shared jetty and supporting piles will be constructed with timber. The constructed materials and colours of the proposed structures are typical and will complement similar structures throughout Pittwater.

**(viii) Side and rear building line (D4.6 & D15.7):**

The proposal is permissible within the Foreshore Building line, as shown in PLEP 2014. The proposal is predominately below the MHW boundary, and therefore this section is not applicable.

It should be noted that current public access along freehold land is restricted between the neighbouring properties due to the boat ramp and pools (No.1740 & 1738A) to the south. There is a step in cadastral boundaries to the north No.1752, where reclamation area was incorporated into freehold land in 1981. The only public foreshore access is within the intertidal zone, which is tide-dependent. As part of this application, there is no opportunity to improve the current public foreshore access between the neighbouring properties. Current safe public foreshore access between numbers 1742 and 1746 is maintained if not improved.

**(ix) Fences (D4.11, D4.12 & D15.10):**

No fencing is proposed.

**(x) Waterfront Lighting (D15.11):**

No lighting is proposed.

**(xi) Development seaward of the Mean High Water Mark (D15.12):**

The proposed structures are predominantly located below the MHW boundary within the foreshore area. The proposed structures are all permissible within the land zones (see section 3.1) and under section 7.8(2)(b) of PLEP.

The Impacts of the proposal on the estuarine habitat have been documented in the Marine Habitat Survey undertaken by Marine Pollution Research (report enclosed), along with recommendations to mitigate any potential harm.

Public foreshore access along the site's frontage is within the rocky intertidal zone, which is tide dependent and unsafe for the public to access. As mentioned in section 3.2(viii), the proposed shared jetty will be integrated into the existing seawalls with a minor reconfiguration of the corner on No.1742 seawall. Current safe public foreshore access between numbers 1742 and 1746 is maintained if not improved.



**(xii) Lateral Limits (D15.13):**

The proposed shared jetty straddles the “division of waterway” limits (DOW) between No.1742 and No.1744, as shown on the plan. The “division of waterway” limits have been defined by survey and plotted in accordance with D15.13.

**(xiii) Minimum frontage for waterfront development (D15.14)**

The subject lots have a frontage to Pittwater of approximately 22.7m and 19.5m from corner to corner for No.1742 and No.1744, respectively. The proposal is permissible in accordance with this section.

**(xiv) Waterfront development (D15.15)**

The proposed shared jetty meets all the dimension requirements and is located in accordance with the controls outlined in D15.15.

An underwater survey of the seabed and underwater species has been carried out beneath the proposal. The report, carried out by Marine Pollution Research in February 2022, concludes that the aquatic ecological conservation requirements of Pittwater 21 DCP and the Fisheries Management Act would be complied with (report enclosed). A response from the Department of Primary Industries (fisheries) that gives draft consent to this proposal is also enclosed.

Roads and Maritime Services have carried out a navigational assessment of the proposal and have determined that there are no navigational issues with this proposal (report enclosed)

**(xv) Seawalls (D15.18)**

The proposal simply seeks to undertake maintenance on the existing seawall of No.1744 and to reconfigure the corner of No.1742 seawall to an extent that is deemed fit to join the shared jetty to the existing seawalls.

#### **4. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 (SRH21)**

The proposal is within the Coastal Environment (Division 3) and Coastal Use (Division 4) areas as outlined in SRH21. Assessment of the impacts of the proposal in accordance with Division 3 & 4 is as follows.

##### ***Division 3 Coastal environment area***

##### ***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,*



- The proposal has no impact the biophysical or hydrological environment. Impacts of the proposal on the local aquatic environment have been addressed in the Marine Habitat Survey report.

*b. coastal environmental values and natural coastal processes,*

- It is not envisaged that the proposal will have any additional impacts on the existing 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,*

- The proposal is not within a coastal lake. The proposal may have a short term impact on the local water quality and marine habitat, refer to Marine Habitat Survey report for details and recommendations.

*d. marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

- Impacts of the proposal on local marine vegetation and habitats have been investigated, refer to Marine Habitat Survey report.

*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,*

- Safe public foreshore access within the intertidal zone is limited to along the sandy foreshore in the vicinity of the proposal. This is due to the subjects and neighbouring water recreation structures. Structures, terrain and vegetation also limit public access upon the freehold land along this section of Bayview. The proposed shared jetty will adjoin the existing seawalls, and this section of public foreshore access will remain available in its current form.

*f. Aboriginal cultural heritage, practices and places,*

- The site is not indicated on the Heritage Map HER\_011 in the PLEP therefore it is envisaged that no Aboriginal cultural heritage, practices and places will be impacted by this proposal. It should be noted however that if during construction any Aboriginal objects are found, they will be preserved and further advice sought to protect the items.

*g. the use of the surf zone.*

- Not applicable to this proposal

*(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.*

- The proposal has no adverse environmental, cultural or public impacts. It has been designed and sited to avoid adverse impacts referred to in subclause (1) above. Similar waterfront structures are common throughout Pittwater which can achieve acceptable environmental, cultural and public outcomes therefore it is not unreasonable to expect similar outcomes from this proposal.

#### ***Division 4 Coastal use area***

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

*(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

*(a) has considered whether the proposed development is likely to cause an adverse impact on the following:*

*(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

- Safe public foreshore access within the intertidal zone is limited to along the sandy foreshore in the vicinity of the proposal. This is due to the subjects and neighbouring water recreation structures. Structures, terrain and vegetation also limit public access upon the freehold land along this section of Bayview. The proposed shared jetty will adjoin the existing seawalls, and this section of public foreshore access will remain available in its current form.

*(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*

- No public place nearby will be affected by view loss with this proposal. It is not envisaged that the proposal will create any additional wind funnelling if any exists at all. The proposed shared timber jetty will shade the areas of the intertidal zone and seafloor directly beneath them. The impacts of the shadowing have been considered and addressed in the Marine Habitat Survey, the design and the construction material.

*(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*

- The proposal will not create any additional unreasonable impacts in terms of appearance, it is in keeping with the nautical character of Pittwater and will complement the surrounding facilities.

*(iv) Aboriginal cultural heritage, practices and places,*

- The site is not indicated on the Heritage Map HER\_011 in the PLEP therefore it is envisaged that no Aboriginal cultural heritage, practices and places will be impacted by this proposal. It should be noted however that if during construction any Aboriginal objects are found, they will be preserved and further advice sought to protect the items.

*(v) cultural and built environment heritage, and*

- No cultural or built heritage exists at the subject site and therefore are not impacted upon by this proposal.

(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*
- The proposal has no adverse impacts on public access, views, scenic quality or aboriginal, cultural or built heritage. The proposed shared jetty will be consistent with water recreation structures not only locally but also throughout Pittwater.

(c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

- The proposed shared jetty is not dissimilar in terms of scale, general design form, textures, materials etc., to neighbouring properties and along the entire foreshore of the Pittwater Waterway. The proposal is in keeping with the nautical character of the Pittwater and will complement the surrounding facilities.

## **5. COASTAL MANAGEMENT ACT 2016 (CMA16)**

In accordance with Section 27 of CMA16 the proposal is permissible with consent. Clause 27 is as follows;

*Development consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that:*

(a) *the works will not, over the life of the works:*

- (i) *unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or*
- (ii) *pose or be likely to pose a threat to public safety, and*

(b) *satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:*

- (i) *the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works,*
- (ii) *the maintenance of the works.*

For Section 27(a), the works will not unreasonably limit public access to or use of a beach or headland. The intertidal zone is not an area generally used by the public. Access is restricted by tides and physically by adjoining waterfront structures and boundaries. The proposal has been designed to have an acceptably low risk of damage and pose an acceptably low threat to public safety.

For Section 27(b), the proposal is not expected to cause erosion to the beach or adjacent land. Given the low possibility of any damage to the structures, it is considered unnecessary to apply a maintenance condition as per Section 27(b)(ii) in this case. It should be noted that the proposed

shared jetty will be designed and monitored during construction by an appropriately qualified structural engineer to mitigate any potential damage to the structure.

## **6. CONCLUSION**

The proposal is in compliance with Pittwater LEP 2014 and PDCP 21 and satisfies the requirements of SRH21 and CMA16.

A Marine Habitat Survey report was prepared to investigate the impacts of the proposal on the local marine habitat. The report concludes that the aquatic ecological conservation requirements of Pittwater 21 DCP and the Fisheries Management Act would be complied with.

The proposal has consent from the Department of Primary Industries (Fisheries) and Roads and Maritime Services.

The proposal satisfies all zoning and planning objectives and is worthy of conditional consent to enable the construction of the proposed shared water recreation structures.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'G Stevens'.

Gregory Stevens  
Graduate Surveyor