

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0168
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot B DP 390788, 1744 Pittwater Road BAYVIEW NSW 2104 Lot PO 164136, 1744 Pittwater Road BAYVIEW NSW 2104 Lot LIC 628424, 1744 Pittwater Road BAYVIEW NSW 2104 Lot LIC 644552, 1744 Pittwater Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Construction of a boat skid ramp and reconstruction of seawall
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes - Zone C4 Environmental Living Yes - Zone W1 Natural Waterways
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Helen Marie Bragg
<b>Applicant:</b>	Gregory Stevens

<b>Application Lodged:</b>	07/03/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	13/03/2024 to 27/03/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 106,700.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Construction of a mesh skid ramp;
- Construction of a concrete and stone tile transition ramp;
- Construction of stone steps; and
- Repair, replace and raising of the existing seawall.

## 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 C4 Environmental Living

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

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

Pittwater 21 Development Control Plan - D4.6 Side and rear building line

Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

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

Pittwater 21 Development Control Plan - D15.13 Lateral limits to development seaward of mean high water mark

Pittwater 21 Development Control Plan - D15.15 Waterfront development

Pittwater 21 Development Control Plan - D15.18 Seawalls

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot B DP 390788 , 1744 Pittwater Road BAYVIEW NSW 2104</p> <p>Lot PO 164136 , 1744 Pittwater Road BAYVIEW NSW 2104</p> <p>Lot LIC 628424 , 1744 Pittwater Road BAYVIEW NSW 2104</p> <p>Lot LIC 644552 , 1744 Pittwater Road BAYVIEW NSW 2104</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the north-eastern side of Pittwater Road.</p> <p>The site is regular in shape with a frontage of 19.45m along</p>

Pittwater Road and a maximum depth of 91.62m. The site has a surveyed area of 1559m<sup>2</sup>.

The site is located within the C4 Environmental Living zone from PLEP 2014 and accommodates a dwelling house, detached garage, swimming pool, and boatshed currently on the site.

The site slopes from the front south-western boundary downwards to the rear north-eastern boundary over approximately 12 metres.

The site contains lawn, garden beds, trees, and vegetation.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by one and two storey dwelling houses varying in architectural style and design. Directly abutting the site to the north-east is Pittwater Waterway.

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:

##### **T0309/16**

Development Application for Tree Removal  
Approved on 20 July 2016.

##### **PLM2021/0310**

Pre-Lodgement Meeting for Construction of a dwelling house.

Meeting held on 14 December 2021.

The meeting notes concluded: *Generally, the design of the dwelling and layout is supportable. However, the bulk and scale will need to be mitigated slightly in order to ensure the building is in keeping with its surrounding environment and does not negatively impacts on surrounding views and vistas.*

#### **DA2022/0374**

Development Application for Demolition works and construction of a dwelling house including a swimming pool and boat shed.

Approved on 29 June 2022.

#### **CC2022/0908**

Construction Certificate for Demolition works and construction of a dwelling house including a swimming pool and boat shed.

Approved on 26 August 2022 by external Certifier.

#### **DA2023/0721**

Development Application for Construction of a jetty, stairs and associated works.

Approved on 24 August 2023.

### **APPLICATION HISTORY**

Following the preliminary assessment of the application, Council's Coast and Catchment Officer requested further information in relation to a Risk Management Report. Subsequently, the applicant submitted an Estuarine and Coastal Risk Management Report. The additional documentation did not alter the environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

#### Department of Primary Industries - Fisheries

By way of written correspondence dated 22 August 2022 (Reference: C22/186), Department of Primary Industries - Fisheries provided the following advice:

*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. DPI Fisheries does not need to be consulted at the development application stage unless there are amendments to the proposal.*

Accordingly, subject of this advice, the application has not been formally referred to them.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
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	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested from Council's Coast and Catchment Officer in relation to a Risk Management Report. Subsequently, the applicant submitted an Estuarine and Coastal Risk Management Report.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>



Section 4.15 Matters for Consideration	Comments
	<b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/03/2024 to 27/03/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<b>General Comments</b>  This application is seeking consent to construct a mesh skid ramp, concrete and stone tile transition ramp and stone steps. In addition, to repair, replace and raise the existing seawall for 1744 Pittwater Road, Bayview.  A report prepared by White Geotechnical Group dated 5 April 2022 determined <i>no acid sulfate soils were identified in the test holes. The preliminary assessment indicates that an Acid Sulfate Soils management plan is not required for the proposed works.</i>  Environmental Health recommends approval subject to conditions.
Landscape Officer	The proposal is to construct a mesh skid ramp, concrete and stone tile transition ramp and stone steps. In addition, to repair, replace and

Internal Referral Body	Comments
	<p>raise the existing seawall.</p> <p>No existing trees are impacted by the proposed works under this development application.</p>
NECC (Bushland and Biodiversity)	<p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• Biodiversity Conservation Act 2016</li> <li>• SEPP (Resilience and Hazards) 2021 - Coastal Environment Area</li> <li>• Pittwater LEP - Clause 7.6 Biodiversity Protection</li> <li>• Pittwater DCP - Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community</li> </ul> <p>The proposal would take place in a previously disturbed area and will not require the removal of any native vegetation. Impacts to the marine environment will be assessed by the appropriate referral body.</p> <p>No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>This Development Application is to seek consent to construct a mesh skid ramp, concrete and stone tile transition ramp and stone steps. In addition, the proposal is to repair, replace and raise the existing seawall.</p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The application has been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> <li>• Consent to lodge DA from the NSW Department of Planning, Housing and Infrastructure – Crown Lands and Public Spaces dated 31 July 2023.</li> <li>• No navigational Concerns from the Transport for NSW-Maritime Division dated 28 January 2022 enclosing dated and signed maps</li> <li>• No Objection from the DPI-Fisheries, a division of the Department of Primary Industries dated 22 August 2022.</li> </ul> <p><b>Coastal Management Act 2016</b></p> <p>The subject site has been identified as being within the coastal zone</p>

Internal Referral Body	Comments
	<p>and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b></p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Pty. Ltd. dated 1 September 2022 and also as assessed in the submitted Estuarine and Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p><b>Estuarine Risk Management</b></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>In accordance with the submitted Estuarine and Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024, an estuarine planning level (EPL) of RL 2.49m AHD would apply at the design life of 60 years, The Report also indicated the proposed development are adversely affected by estuarine processes. The development will be at an acceptably low risk of being adversely affected by estuarine processes of recommended mitigation measures contained in Section 7 of the report are adopted.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p>The Estuarine Hazard Controls do not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore</p>



Internal Referral Body	Comments
	<p>edge.</p> <p><b>Development on Foreshore Area</b> 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 proposes concrete and stone tile transition ramp and stone steps are partly within the foreshore area. All these proposed works are consistent with Clause 7.8(2)(b).</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Pty. Ltd. dated 1 September 2022 and also as assessed in the submitted Estuarine and Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p><b>Development seaward of mean high water mark</b></p> <p>Proposed development works are located on crown land below the Mean High Water Mark. Hence, Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP applies to proposed development.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Pty. Ltd. dated 1 September 2022, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway.</p> <p>The applicant has also submitted an Aquatic Ecology Assessment prepared by Marine Pollution Research Pty. Ltd. dated 23 February 2022. It is concluded that the development works can be undertaken with no significant impact on marine vegetation or other aquatic habitats in the locality provided that the construction safeguards outlines in the report is adopted.</p> <p>As such, it is considered that the application does comply, subject to conditions, with the requirements of the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP.</p> <p><b>Waterfront Development</b> The concrete and stone tile transition ramp, stone steps, and mesh</p>

Internal Referral Body	Comments
	<p>skid ramp are located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP applies to proposed development of berthing areas.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Pty. Ltd. dated 1 September 2022, the proposed development meets all the dimension requirements with the controls outlined in D15.15. The DA satisfies requirements under the Section D15.15: Waterfront development.</p> <p>As such, it is considered that the application does comply with the requirements of the Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p>The proposed development is in a geotechnical hazard zone. A geotechnical report has been provided. Vehicle crossing construction is not proposed. On-site detention is not required. Development engineering raises no objections to the proposed development, subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>- Supplied plans and reports;</li> <li>- Coastal Management Act 2016;</li> <li>- State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>- Relevant LEP and DCP clauses; and</li> <li>- Northern Beaches Council Water management for development policy.</li> </ul> <p>This proposal is supported. Details below.</p> <p><i>Riparian</i></p> <p>The site abuts Pittwater Estuary and as such proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater or the quantity and quality of surface and ground water flows that Pittwater receives.</p> <p><i>Sediment Management</i></p> <p>Sediment and erosion controls must be installed prior to any disturbance of sediment and maintained until all work is complete .</p> <p><i>Seagrass beds</i></p> <p>As per Pittwater DCP B4.16, no filling, dredging or other disturbance shall be undertaken within a 50m buffer area of seagrass beds. There is a small seagrass bed approximately 180m from the existing seawall. These seagrass beds provide numerous ecological processes and the planning and execution of works must not have any negative impact on local seagrass beds.</p>

Internal Referral Body	Comments
	<p><i>Aquatic ecology</i></p> <p>The aquatic ecology/marine habitat report notes that the two main habitats at the site are intertidal sediments and rock rubble habitat, as well as some mangrove saplings (which are not yet mapped on the DPI Fisheries map). The recommendations of the aquatic ecology report must be followed allow the works to be undertaken with no significant impact on the marine vegetation or other aquatic habitats local to the site.</p>
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>The proposal is for a mesh skid ramp, concrete and stone tile transition ramp, stone steps, and to repair, replace and raise the existing seawall.</p> <p>No objections regarding water management.</p>
Parks, reserves, beaches, foreshore	<p>The development site adjoins Pittwater waterway that is located downslope of the property.</p> <p>The proposed development is not detrimental to the landscape and aquatic character of the adjoining waterway, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>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.</p>
Aboriginal Heritage Office	<p>Development Application No. DA2024/0168</p> <p>Description: Construction of a boat skid ramp and reconstruction of seawall</p> <p>Address: 1744 Pittwater Road BAYVIEW</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease</p>

External Referral Body	Comments
	in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	The proposal was referred to Transport for New South Wales (TfNSW) who provided a response on 11 March 2024 stating the following: <i>Based on the documents provided the DA does not involve any civil works on Pittwater Road. As such, the DA does not require concurrence of TfNSW under s138 of the Roads Act.</i>  Therefore, the application is supported without conditions.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

##### Ausgrid

Section 2.48 of Chapter 2 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

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

##### **2.10 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 subject site is located within land identified as "coastal environment area". The proposed development is not likely to cause adverse impact to items listed under Clause 2.10(1)(a-g) inclusive. Council's Coast and Catchment Officer has reviewed the proposal, and is supportable subject to recommended conditions.

- 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 subsection (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 managed to avoid an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

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

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



- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iii) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, 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 subject site is located within land identified as "coastal use area". The proposed development is not likely to cause an adverse impact to items listed under Clause 2.11(1)(a)(i-v) inclusive. The proposal has been designed, sited, and managed to avoid any adverse impacts as detailed under Clause 2.11(1)(a)(i-v) inclusive. Council's Coast and Catchment Officer has reviewed the proposal, and is supportable subject to recommended conditions.

## **Division 5 General**

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

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

Comment:

The proposed development is not likely to cause an increased risk of coastal hazards on the land or other land.

### **2.13 Development in coastal zone generally—coastal management programs to be considered**

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

There is no certified coastal management program applicable to the land.

### **2.16 Coastal protection works**

**(1) Coastal protection works by person other than public authority**

Development for the purpose of coastal protection works may be carried out on land to which this Chapter applies by a person other than a public authority only with development consent.

**(2) Coastal protection works by public authority**

Development for the purpose of coastal protection works may be carried out on land to which this Chapter applies by or on behalf of a public authority—

- (a) without development consent—if the coastal protection works are—
  - (i) identified in the relevant certified coastal management program, or
  - (ii) beach nourishment, or
  - (iii) the placing of sandbags for a period of not more than 90 days, or
  - (iv) routine maintenance works or repairs to any existing coastal protection works, or
- (b) with development consent—in any other case.

**Comment:**

The proposed reconstruction of the seawall constitute coastal protection works as per the above definition prescribed by the Coastal Management Act 2016. As such, the proposed reconstruction of the seawall works are permissible with development consent under the Resilience and Hazards SEPP 2021.

**Coastal Management Act 2016****27 Granting of development consent relating to coastal protection works**

(1) 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.

**Comment:**

The proposed reconstruction of the seawall will not unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, but rather will improve public access and public safety along the waterway.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone C4 : Yes Zone W1 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone C4 : Yes Zone W1 : Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	4.0m (W1 Zone)*	1.73m (Seawall)	-	Yes

\*Note: Height of buildings measured from 1.17 AHD which is the Highest Astronomical Tide where the development is located below the MHWL.

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	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

#### Zone C4 Environmental Living

The subject site is located in Zone C4 Environmental Living of Pittwater Local Environmental Plan 2014.

The proposal has been assessed against the objectives of zone as detailed below:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.***

#### Comment:

The proposal will continue to provide for low-impact residential development in areas with special ecological, scientific, or aesthetic values.

- ***To ensure that residential development does not have an adverse effect on those values.***

Comment:

The residential development will not have any adverse effects on the special ecological, scientific or aesthetic values.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape.***

Comment:

The proposal will continue to provide a development of a low density and scale that will integrate with the landform, and landscape.

- ***To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.***

Comment:

The development will not impact upon any riparian, foreshore vegetation, or wildlife corridors.

## **Zone W1 Natural Waterways**

Under Clause 2.5 Additional permitted uses for particular land of Pittwater Local Environmental Plan 2014, the following applies:

### **23 Use of certain land in Zone W1 Natural Waterways**

(1) *This clause applies to land identified as "Area 23" on the Additional Permitted Uses Map.*

(2) *Development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent.*

Comment:

The structures located in the Zone W1 Natural Waterways are within land identified as "Area 23". As such, the water recreation structures that include the boat ramp are permitted with consent.

The proposed reconstruction of the seawall is permissible with consent as it constitutes coastal protection works under Clause 2.16 Coastal protection works of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

## **7.1 Acid sulfate soils**

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 2 and Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works below the natural ground surface and/or works by which the watertable is likely to be lowered

within a Class 2 acid sulfate soil area are required to be assessed to determine if any impact will occur.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 0.4m below the natural ground level. As such, a Acid Sulfate Soil Assessment has been undertaken by White Geotechnical Group dated 14 February 2024. In the assessment, White Geotechnical Group found that, *"The clays encountered near the lower boundary are in situ and derived from the Newport Formation Shales. This formation is Middle Triassic in age and is much older than the Holocene sediments from which acid sulphates are generally derived from on the east coast. Additionally, Newport Formation Shale does not contain high concentrations of sulphides which can provide the required iron concentrations for acid generation in older bedrock."*

In this regard, White Geotechnical Group advise that an Acid Sulfate Soil Management Plan (ASSMP) is not considered to be necessary for the development of the site. The Geotechnical Report was referred to Council's Environmental Health Officer (Acid Sulfate) who concurred with the findings and imposed a condition which requires the applicant to notify the Principal Certifier of any new evidence of the presence of acid sulfate soils.

This condition and the recommendations made in the Preliminary Assessment have been included in the recommendation of this report.

## **7.8 Limited development on foreshore area**

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

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

### Comment:

The proposed development is for a slipway, and waterway access stairs that are located in the foreshore area, and as such are excepted.

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

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
  - *pollution or siltation of the waterway, or*
  - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
  - *an adverse effect on drainage patterns, or*



- *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *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*
- *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*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

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:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

## Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building	6.5m (South-West)	>6.5m	-	Yes

line				
Rear building line	Above Foreshore Building Line (North-East)	Below Foreshore Building Line	-	<b>No</b>
Side building line	2.5m (North-West)	12.3m	-	Yes
	1m (South-East)	0.7m (Stairs)	30% (0.3m)	<b>No</b>
Building envelope	3.5m (North-West)	Within envelope	-	Yes
	3.5m (South-East)	Within envelope	-	Yes
Landscaped area	60% (935.4m <sup>2</sup> )	53.85% (839.5m <sup>2</sup> ) 6% impervious (93.54m <sup>2</sup> ) 59.85% (933.04m <sup>2</sup> )	0.25% (2.36m <sup>2</sup> )	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview 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
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	Yes	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	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	Yes	Yes
D15.15 Waterfront development	No	Yes
D15.18 Seawalls	No	Yes

#### Detailed Assessment

#### **D4.6 Side and rear building line**

##### Description of non-compliance

Clause D4.6 Side and rear building line of Pittwater 21 Development Control Plan, requires a side setback of 2.5 metres to one side and 1.0 metres to the other, and a rear setback of the foreshore building line. For this assessment, the 1.0 metres side building line is applied to the south-east boundary and the 2.5 metres side building line applied to the north-west boundary. The proposal is compliant with the 2.5m side building line control.

A detailed assessment has been conducted under Clause 7.8 Limited development on foreshore area of Pittwater Local Environmental Plan 2014 for the rear building line control.

The proposed stone steps are located 0.7m from the south-eastern side boundary line, presenting a variation of 30% (0.3m) to the required 1.0m control.

A detailed assessment has been conducted below, and it is considered the proposed variation is acceptable as the proposal meets the outcomes of the control.

##### Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying Outcomes of the Control as follows:

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The proposal is consistent with the desired future character of the Church Point and Bayview Locality.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment:

The stone steps are of minimal bulk and scale, and therefore the built form is minimised.

- ***Equitable preservation of views and vistas to and/or from public/private places. (S)***

Comment:

The stone steps will not impact any views or vistas to and/or from public/private places.

- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment:

The proposal will encourage view sharing through the siting of the buildings, design, and position of existing landscaping.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)***

Comment:

The proposal will present a reasonable level of privacy, amenity, and solar access to the development site and adjoining sites.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)***

Comment:

There are no significant changes to the landscaping or streetscape as a result of the proposal.

- ***Vegetation is retained and enhanced to visually reduce the built form. (En)***

Comment:

The proposal largely retains the existing vegetation on site that is enhanced to visually reduce the built form.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment:

The subject site does not adjoin any commercial zones, therefore this outcome is not relevant.

#### **D4.10 Landscaped Area - Environmentally Sensitive Land**

##### Description of non-compliance

Under Clause D4.10 Landscaped Area - Environmentally Sensitive Land of Pittwater 21 Development Control Plan, the total landscaped area shall be 60% (935.4m<sup>2</sup>) of the site area.

The proposal presents a numerically non-compliant landscaped area of 53.85% (839.5m<sup>2</sup>), with 6% (93.54m<sup>2</sup>) impervious landscape treatment resulting in a 0.25% (2.36m<sup>2</sup>) variation to the control.

DA2022/0374 approved a total of 60.2% landscaped area inclusive of the 6% impervious area concession. It is important to note, this application reduces the landscaped area by 5.5m<sup>2</sup> as a result of the proposed stone steps. Therefore, it is considered the minor reduction in landscaped area is acceptable, and the variation is supportable.

A detailed merit consideration has been undertaken against the controls that has found the proposal to meet the outcomes, and as such the proposal is supportable.

#### Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying Outcomes of the Control as follows:

- ***Achieve the desired future character of the Locality. (S)***

##### Comment:

The proposal will achieve the desired future character of the Church Point and Bayview Locality.

- ***The bulk and scale of the built form is minimised. (En, S)***

##### Comment:

The proposal will not result in an unacceptable level of bulk and scale.

- ***A reasonable level of amenity and solar access is provided and maintained. (En, S)***

##### Comment:

The proposal will provide an acceptable level of amenity, and solar access that will be provided and maintained.

- ***Vegetation is retained and enhanced to visually reduce the built form. (En)***

##### Comment:

Vegetation is largely retained, albeit the minor reduction for the purpose of the stone steps. The steps are at ground level, and therefore will not result in any unreasonable built form.

- ***Conservation of natural vegetation and biodiversity. (En)***

##### Comment:

The proposal is unlikely to have any adverse impacts on native vegetation or biodiversity. Furthermore, the application has been reviewed by Council's Bushland and Biodiversity team who have found the proposal to be supportable, subject to recommended conditions.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)***



Comment:

The site will retain ample soft surface areas that will assist in the prevention of soil erosion and siltation of natural drainage channels.

- ***To preserve and enhance the rural and bushland character of the area. (En, S)***

Comment:

The proposal will appropriately preserve and enhance the rural and bushland character of the area.

- ***Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.(En, S)***

Comment:

The proposal will retain sufficient pervious surfaces that will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

#### **D15.12 Development seaward of mean high water mark**

The proposal is for the construction of a mesh skid ramp, construction of a concrete and stone tile transition ramp, construction of stone steps, and repair, replacement and raising of the existing seawall. These proposed structures are all located seaward of the Mean High Water Mark.

Under Clause D15.12 Development seaward of mean high water mark the control stipulates the following:

*All new buildings are to be located landward of mean high water mark.*

*Only structures associated either with the accommodation, servicing or provision of access to boats shall be permitted seaward of mean high water mark.*

*In instances where it is proposed to alter, extend or rebuild existing buildings seaward of mean high water mark, any further encroachment of such buildings onto the waterway is to be minimised. Where development seaward of mean high water mark is proposed to occur, especially during the refurbishment of existing structures, proponents need to ensure that the structure will not harm marine vegetation, and must consult with the Department of Primary Industries.*

*Developments are required to ensure that public access is maintained and provided for along the foreshore.*

Comment:

The proposal includes structures that are associated with the servicing, and provision of access to boats. As such, the proposed development is considered acceptable seaward of the mean high water mark.

The proposal is accompanied by a letter from the Department of Primary Industries (Reference: C22/186) dated 22 August 2022. The letter states that, "DPI Fisheries has reviewed the proposal in light of these provisions and has no objections".

Furthermore, the application is accompanied by a letter Owners Consent from Department of Planning

and Environment - Crown Lands (Reference: 22/06064#01) dated 31 July 2023. The letter states that, *"After consideration of your application, consent is granted to the lodgement of a development application under the Environmental Planning and Assessment Act 1979, and other associated applications required under other legislation, for the proposal described above".*

Both of the letters will be included as recommended conditions of consent.

### **D15.13 Lateral limits to development seaward of mean high water mark**

Clause D15.13 Lateral limits to development seaward of mean high water mark of Pittwater 21 Development Control Plan stipulates the following:

*Waterfront development shall be constructed perpendicular to the shoreline and within the defined lateral limit lines to development, regardless of the orientation of waterfront properties, where practicable. This is to maximise equitable access to the waterway.*

*Waterfront development shall be set back a minimum of 2.0 metres along the full length of the lateral limit lines to development to minimise conflict and the possibility of inaccurate location of structures during construction. This may be varied where shared facilities are proposed where the adjoining property will benefit from the shared facility.*

*This setback shall also apply to any vessel that is to be berthed at a wharf or boating facility, marina, water recreation structure or the like. Vessels which cannot meet this criterion are considered to be inappropriate for the site and should be accommodated elsewhere.*

The proposed mesh skid ramp is setback more than 2.0m from the lateral limit lines, and is therefore compliant with the control.

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

#### Description of non-compliance

Under Clause D15.15 Waterfront development of Pittwater 21 Development Control Plan the following is outlined:

#### **d) Slipways and Launching Ramps**

*Slipways and launching ramps are generally not favoured.*

However under Variations of the control the following is outlined for slipways and launching ramps:

#### **a) Slipways and Launching Ramps**

*Council may consider slipways and launching ramps where structures are unlikely to detract from the visual character of the foreshore, will not affect marine vegetation and will not restrict public foreshore access.*

*In such instances, the following criteria shall apply:*

- i. Innovative design which incorporates slipping facilities with other existing or proposed structures is encouraged (Diagram 5).*
- ii. Structures, the storage of lightweight boats, and any winch equipment shall be entirely on private freehold land and shall not obstruct public foreshore access.*
- iii. Structures shall be at ground level, where possible. Slipways from boatsheds, or reclamation must be recessed into the subject structure or work to minimise the height of the sliprails or boat ramp*

above the bed of the Pittwater Waterway. (Diagram 6).

iv. Sliprails are to be in the form of two parallel rails, no more than 2 metres width apart, with either locking spreaders between the rails or bolted directly to the surface of the concrete without the use of spreaders or embedded in concrete to facilitate free access. (Diagram 7).

v. Timber construction is preferred for proposed boat ramps. Concrete ramps may be considered at bed level in certain locations such as at Crystal Bay, Winji Jimmi Bay, Palm Beach and Careel Bay or where it can be shown, to the satisfaction of Council, that the aims of this clause are not compromised. Other materials such as steel with bonded rust proof coating will also be considered.

*Proposed boat launching and retrieval facilities should not adversely restrict public foreshore access below mean high water mark. In this regard, where an existing structure restricts such access or where a proposed structure is likely to adversely impact upon any existing access, Council may require the applicant to provide alternative means to ensure that such access is maintained after also considering public safety.*

The proposal is for a proposed concrete and stone tile transition ramp and proposed mesh ramp. In this instance it is considered that the proposal is acceptable, and will not detract from the visual character of the foreshore, affect marine vegetation nor restrict public foreshore access.

A detailed assessment has been conducted against the outcomes of the control, and it is considered the the proposed ramps are supportable.

#### Merit consideration

With regards to the consideration for a variation, the development is considered against the underlying Outcomes of the Control as follows:

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

#### Comment:

The proposal will not have an adverse impact on the water quality and estuarine habitat of Pittwater.

- ***Public access along the foreshore is not restricted. (S)***

#### Comment:

The proposal will not restrict public access along the foreshore area.

- ***Waterfront development does not encroach on navigation channels or adversely affect the use of ferries and service vessels or use of the waterway by adjoining landowners. (S, Ec)***

#### Comment:

The proposal is accompanied by a letter from Transport for NSW that confirms the proposal will not result in any impacts on navigation channels, or use of the waterway by adjoining landowners.

- **Structures blend with the natural environment. (S)**

Comment:

The structures will appropriately blend in with the natural environment.

- **Structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway. (En, S)**

Comment:

The proposed structures will not detract from the visual quality, water quality or estuarine habitat of the Pittwater Waterway.

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

Comment:

The proposal is for residential use, and as such does not require a mix of commercial waterfront development.

- **Waterfront development which does not comply with the outcomes of this clause are removed. (En, S, Ec)**

Comment:

The proposal is compliant with the outcomes of the clause, and is therefore supportable.

## D15.18 Seawalls

### Description of non-compliance

Clause D15.18 Seawalls of Pittwater 21 Development Control Plan stipulates the following:

*Seawalls shall not be permitted.*

Notwithstanding, variations can be made where there is potential for erosion from coastal process and protection of property is necessary.

It is important to note, the proposal is for the reconstruction of the existing seawall to increase the height to align with the seawall of the adjoining site at No.1742 Pittwater Road. Seawalls are Coast Protection Works under the Resilience and Hazards SEPP. Council's Coast and Catchment Officer has reviewed the proposal, and it is considered that the proposal is acceptable subject to recommended conditions.

A detailed merit assessment has been conducted, and it is considered that the seawall is supportable in this circumstance.

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying

Outcomes of the Control as follows:

- ***Any adverse impact upon the marine flora, fauna or water quality of the locality is minimised. (En)***

Comment:

The proposal is accompanied by a Marine Habitat Survey Report (prepared by Marine Pollution Research dated 23 February 2022) that details the proposal will not result in any adverse impact upon the marine flora, and fauna. The proposal is not likely to result in adverse impacts to the water quality.

- ***Development has due regard for other existing water based activities in the locality, particularly those which have recreational, residential or economic significance. (S, Ec)***

Comment:

The proposal will not impact upon any existing water based activities in the locality. The proposal is accompanied by a letter from Transport for NSW Maritime that states there are no navigational concerns regarding the designated proposal.

- ***Alienation of public foreshore land below mean high water mark is minimised. (S)***

Comment:

The proposal will not result in the alienation of public foreshore land below mean high water mark. The proposed seawall reconstruction maintains the existing footprint, and will be increased in height to align with the adjoining site.

- ***The impact of development may on the physical processes acting in the locality is minimised. (En)***

Comment:

The proposal will not result in any significant impact upon the physical processes in the locality. Council's Coast and Catchment Officer has reviewed the proposal, and is supportable subject to recommended conditions.

- ***Development is sympathetic to the natural character of the Pittwater Waterway. (En, S)***

Comment:

The proposed development is sympathetic to the natural character of the Pittwater Waterway and surrounding development.

- ***The occurrence of dredging in the Pittwater Waterway other than for general navigation purposes is minimised. (En)***

Comment:

The proposal does not include any dredging.

## 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 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 534 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 106,700.

## **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 2021;
- 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 DA2024/0168 for Construction of a boat skid ramp and reconstruction of seawall on land at Lot B DP 390788, 1744 Pittwater Road, BAYVIEW, Lot PO 164136, 1744 Pittwater Road, BAYVIEW, Lot LIC 628424, 1744 Pittwater Road, BAYVIEW, Lot LIC 644552, 1744 Pittwater Road, BAYVIEW, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
1 of 3	B	Plan Showing Existing Waterfront Structures, Proposed Skid Ramp, Seawall & Boatshed	SDG Pty Ltd	15 January 2024
2 of 3	B	Plan Showing Existing Waterfront Structures, Proposed Skid Ramp, Seawall & Boatshed - Detail	SDG Pty Ltd	15 January 2024
3 of 3	B	Section A - A & Eastern Elevation	SDG Pty Ltd	15 January 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Report	2	Tree Survey	2 February 2022
Crown Land Consent	22/06064#01	Department of Planning and Environment - Crown Land	23 July 2023
Estuarine and Coastal Risk Management Report	-	Horton Coastal Engineering Pty Ltd	14 June 2024
Fisheries Consent	C22/186	Department of Primary Fisheries	22 August 2022
Geotechnical Report - Amended	J5356	White Geotechnical Group	14 February 2024
Marine Habitat Survey Report	-	Marine Pollution Research Pty Ltd	23 February 2022

Transport of NSW Maritime Consent		Transport for NSW	28 January 2022
Waste Management Report	-	Gregory Stevens	28 November 2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	27 March 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work

relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative requirement.

#### 4. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

#### 5. **No Approval for Shared Timber Jetty and Boatshed**

No approval is granted, or implied, under this Development Consent for the following works:

- Shared Timber Jetty; and



- Boatshed

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **6. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$533.50 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$106,700.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

### **7. Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier 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](http://www.northernbeaches.nsw.gov.au)).

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

**8. No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

**9. Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

**10. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 14.02.2024 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**11. Erosion and Sediment Control Plan**

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

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

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

Reason: To protect the receiving environment.

12. **Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Aquatic Ecology Report/Waterway Impact Statement and must be kept in the site office. The CEMP must identify and appropriately manage invasive species (e.g. *Caulerpa taxifolia*).

An induction plan for site personnel must be prepared and implemented that addresses the CEMP. Induction records must be maintained and available onsite at all times.

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

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

13. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

14. **Estuarine Hazard Design Requirements**

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes.

Reason: To minimise risks associated with coastal hazards for development in an estuarine environment.

15. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.49m AHD has been adopted for the subject site and shall be applied to all development proposed below this level as follows:

1. All structural elements below 2.49m AHD shall be of flood compatible materials;
2. All structures must be designed and constructed so that they will have a low risk of damage and instability due to wave action and tidal inundation,

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

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

The development is to comply with all recommendations including measures outlined in Section 7 of the approved Estuarine & Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024 and these recommendations and measures are to be incorporated into construction plans and specifications and maintained over the life of the development.

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

17. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 60years as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine & Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024.

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

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

18. **Lawful Authority to Use and Occupy Crown Land or Waterway**

An executed license agreement from the relevant NSW government agency governing the use and occupation of Crown land in accordance with Condition #5 of the Crown Land's letter of landowner's consent dated 31 July 2023, is required to be obtained prior to the issue of a construction certificate. Evidence demonstrating compliance is to be provided to the certifying authority for approval.

Reason: To ensure that lawful authority under the Crown Land Management Act 2016 to use and occupy Crown land or waterway is obtained before construction commences.

19. **Preparation and adherence to Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Aquatic Ecology Assessment prepared by Marine Pollution Research Pty. Ltd. dated 23 February 2022 and must be kept in the site office.

The CEMP must identify and appropriately manage invasive species (e.g. *Caulerpa taxifolia*).

An induction plan for site personnel must be prepared and implemented that addresses the CEMP. Induction records must be maintained and available onsite at all times.

Reason: To protect estuarine vegetation, wildlife, habitats.

20. **Compliance with Standards**

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

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

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

**21. Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

## **DURING BUILDING WORK**

**23. Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

**24. Wildlife Protection**

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

Reason: To protect native wildlife.

**25. Road Reserve**

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

Reason: Public safety.

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

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

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

Reason: To protect the receiving environment.

**27. Aquatic environment protection**

Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the aquatic ecology report must be followed.

Reason: To protect the aquatic environment.

**28. Use of equipment and vessels in the vicinity of seagrass**

No equipment is to be placed on any seagrass beds.

Inshore infrastructure for mooring vessels and plant must be used where suitable. Where mooring lines or cables are required, they shall be suitably buoyed prior to laying and kept buoyed once laid to prevent cable drag or swing damage (scalping). Where this is impractical, contractors should use a floating rope.

Vessels must have adequate clearance over seagrass beds, including allowance for tidal movement, swell/wind wave heights and vessel propulsion.

Reason: Protection of seagrass.

**29. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**30. Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.



**31. Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

## **BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

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

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

**33. Stormwater Disposal**

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

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

**34. Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

**35. Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

The development is to comply with all recommendations of the approved Estuarine & Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 June 2024 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 24/06/2024, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**