

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0174
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Responsible Officer:	Kelsey Wilkes
Land to be developed (Address):	Lot 58 DP 12749, 121 Florence Terrace SCOTLAND ISLAND NSW 2105
Proposed Development:	Construction of a boat shed, jetty and associated works
Zoning:	E3 Environmental Management
Development Permissible:	Yes - Zone E3 Environmental Management Yes - Zone W1 Natural Waterways
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Carrie Sheila Towers Scott Bradley Towers
Applicant:	Stephen Crosby & Associates

Application Lodged:	26/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	06/03/2020 to 20/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 7%
Recommendation:	Approval

Estimated Cost of Works:	\$ 286,460.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following:

- Demolition of existing boat shed, jetty and slip rails
- Construction of a boat shed with access decking
- Construction of skid ramp and slip rails
- Construction of a jetty, ramp, pontoon and berthing piles
- Reclamation and seawall remediation
- Construction of a retaining wall

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

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

Pittwater 21 Development Control Plan - D15.15 Waterfront development

SITE DESCRIPTION

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

down towards the water (north west to south east) and at average gradient of approximately 20 to 25 degrees.

The site is identified as containing Pittwater Spotted Gum Endangered Ecological Community and is located within Geotechnical Hazard Area H1.

Detailed Description of Adjoining/Surrounding Development

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

Map:



SITE HISTORY

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

BC2020/0035

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

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

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following provisions:</p> <ul style="list-style-type: none"> - SEPP (Coastal Management) - Coastal Environment Area - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest EEC) - NSW Biodiversity Conservation Act 2016 <p>The property is mapped as containing Pittwater Spotted Gum Forest Endangered Ecological Community (EEC). While the proposal will result in the removal of several trees diagnostic to this community, the trees proposed to be removed have been assessed by the consultant arborist as exempt by size, species and/or condition. Accordingly, the proposal can be supported subject to measures to safely retain significant trees.</p>
NECC (Coast and Catchments)	
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>This assessment also acknowledges additional information/report received on 9 March 2020</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p>

Internal Referral Body	Comments
	<p>Comment:</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby & Associates Pty. Ltd. dated 2 February 2020 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>Estuarine Risk Management</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.69m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>The Estuarine Planning Level, however, does not apply to Jetties, Bridging Ramps or Pontoons, as proposed, located on the seaward side of the foreshore edge</p> <p>Assessment of the proposed development were made in the submitted Coastal Engineering Report prepared by Cardno Pty. Ltd. dated 3 February 2020 and Geotech Report prepared by Ascent Geotechnical Consultants Ltd. dated 20 December 2020. Council</p>

Internal Referral Body	Comments
	<p>sought further information and clarifications. Supplemental information was provided through Boatshed & seawall letter dated 6 March 2020 accompanied by a detailed seawall design (DA 05) by Stephen Crosby & Association Pty. Ltd dated March 2020; Council accepts the recent assessments.,The ground floor level for the proposed boatshed is 1.85m AHD and is below the EPL for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>
NECC (Development Engineering)	<p>The submitted Geotechnical report addresses the relevant DCP controls and certifies that an acceptable risk is achievable for the development. No objection to approval, subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against:</p> <p>State Environment Planning Policy (Coastal Management) 2018 Part 2, Division 3, Clause 13 Development on land within the</p> <p>Pittwater 21 Development Control Plan B8.2 Erosion and Sediment Management B4.16 Seagrass Conservation B4.19 Estuarine Habi B4.20 Protection of Estuarine Water Quality</p> <p>This application proposes development of a new skid ramp, slip rails, jetty, ramp, pontoon and berthing area. The marine habitat survey conducted by Waterfront Surveys Australia on the 16th August 2018 noted the presence of <i>Zostera capricorni</i> on either side of the proposed works, however not in the general footprint of the proposed works. Furthermore, aquatic vegetation mapping shows the occurrence of <i>Posidonia australis</i> (endangered under the Fisheries Management Act) seaward of the proposed works. To prevent the turbid plumes which may smother the seagrass environmental safeguards (i.e silt curtains) are to be used and maintained throughout the duration of the works.</p> <p>The invasive green alga, <i>Caulerpa taxifolia</i> is present on site and as such all tools and machinery must be cleaned thoroughly before leaving the site to prevent the spread of the alga. Care must be taken when constructing the jetty as not to disturb the seagrass through scouring from the construction vessels or barges, additionally no anchoring or placement of items is to take place on the seagrass beds at any point in time.</p> <p>This application is recommended for approval subject to conditions.</p>
External Referral Body	Comments

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response in an email stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW

Codes of Practice. These recommendations will be included as a condition of consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

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

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

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

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse*

impact on the following:

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

Comment:

The development is unlikely to cause an adverse impact on that listed under (a) and Council is satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a). Council is also satisfied that the proposal has been designed and sited with consideration to the surrounding coastal and built environment.

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

15 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment:

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone E3 : 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 E3 : Yes Zone W1 : Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
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Height of Buildings:	E3 Zone - 8.5m	4.25m	N/A	Yes
	W1 Zone - 4m	4.28m	7%	No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
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 W1 Natural Waterways

Development for the purposes of boat sheds, jetties or water recreation structures is not identified as permissible development within the W1 Natural Waterways Zone. However, Clause 2.5 of the PLEP 2014 allows for additional permitted uses on particular land, as prescribed within Schedule 1, Section 23 of the PLEP 2014. This schedule states that boat sheds, jetties and water recreation structures are permitted with development consent in Zone W1 Natural Waterways for land identified as 'Area 23' on the Additional Permitted Uses Map.

The subject land is sited within Area 23 and the proposed development is therefore permitted with consent.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	4m
Proposed:	4.28m (above 1.17 AHD)*
Percentage variation to requirement:	7%

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

Assessment of request to vary a development standard:

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

NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- Despite the height non-compliance when measured from the highest astronomical tide, the height of the boat shed complies with Section D15.15 Waterfront Development of the P21DCP which states that *boat sheds shall be no greater than 4.5 meters in building height above the platform which it is built.*
- The nominated HAT of 1.17m AHD has been unchanged for over 30 years and does not take into account rising sea levels or the 2015 Cardno report into sea levels in the Pittwater.
- The proposal is consistent with form and height requirements specified in Part D15.15 of the P21DCP and that of the surrounding locality.

- The amenity of neighbouring properties will be unaffected by the proposal.
- The visual appearance of the proposal will be compatible with existing natural and built environment and the desired character of the Pittwater Waterway.

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

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

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

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the W1 Natural Waterways zone. An assessment against these objectives is provided below.

Objectives of development standard

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

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

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

Comment:

Notwithstanding the height non-compliance, the proposed height, scale and design of the boat shed is consistent with surrounding boat shed development and also achieves consistency with the desired future character of the locality. The proposed boat shed is articulated and incorporates colours and materials which will ensure the structure blends into the natural environment. It should be noted that while the proposal does not achieve compliance with the LEP height requirement, it achieves the height requirement specified under Part D15.15 of the P21DCP and this assists in ensuring that the structure will not be visually obtrusive in terms of height when viewed from the Waterway or surrounding localities. It is therefore considered that the structure, by virtue of its height and scale, is consistent with the desired character of the

locality.

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

Comment:

As mentioned above, the proposed boat shed is consistent with the height and scale of surrounding and nearby boat shed development and this has been confirmed by an inspection of the site and surrounding area and review of recently approved boat shed development in the locality. Council can therefore be satisfied that the proposed height is not out of character and will achieve continuity with surrounding structures.

c) to minimise any overshadowing of neighbouring properties,

Comment:

Due to the orientation of the site, topography of the land and the proposed location partially forward of the mean high water mark, the proposal will not adversely or unreasonably impact solar access obtained neighbouring properties. The height non-compliance will not impact this. Council is therefore satisfied that any overshadowing has been minimised.

d) to allow for the reasonable sharing of views,

Comment:

The proposed boat shed will replace an existing boat shed within the same location. While the proposed boat shed is higher than existing, an inspection of the site and surrounding foreshore area has confirmed that the development and associated height non-compliance will not unreasonably impact views. It is considered that the proposal has been designed and sited to maximise views to and from public and private spaces.

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

Comment:

The proposal will be constructed above an existing concrete slab, within the same location as the existing boat shed to be demolished. Siting the structure does not require significant excavation and will not impact native vegetation. It is therefore considered that the structure has been designed to respond sensitively to the natural topography.

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

Comment:

No heritage items are located in the vicinity of the proposal and the site is not within a conservation area.

As mentioned, the proposal features an articulated design with colours and materials that are compatible with the surrounding natural environment. The proposal will add visual attractiveness to that part of the foreshore area and is compatible with the height and scale of boat shed development within the surrounding locality. The minor height breach is therefore not considered to have an adverse or unreasonable impact on the natural environment.

Zone objectives

The underlying objectives of the W1 Natural Waterways zone are:

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

Comment:

The development has been designed and sited in a way which allows for the protection of the ecological and scenic values of natural waterways.

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

Comment:

The proposal has been reviewed by the relevant Council referral bodies of which have included their comments and conditions within this report. In short, Council is satisfied that the development will not adversely effect the natural values of waterways within this zone.

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

Comment:

The proposal will not impact on fishing industries or recreational fishing areas.

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

Comment:

Letter of consent has been provided by DPI Fisheries and RMS who have raised no concerns regarding impact to the natural environment or navigation of the waterway as a result of the proposal. Council's relevant referral bodies have also assessed any impact the proposal may have on the natural environment and are satisfied that the proposal achieves the relevant requirements which aim at preserving this.

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

Comment:

The proposal has been designed to allow for private access to the waterway and public access along the foreshore.

Conclusion:

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	N/A	N/A	N/A
Rear building line	Foreshore Building Line applies	Below FBL	N/A	Yes
Side building line	2.5m (North East)	5.6m	N/A	Yes
	1m (South West)	3.1m	N/A	Yes
Building envelope	3.5m (North East)	Within	N/A	Yes
	3.5m (South West)	Within	N/A	Yes
Landscaped area	73% (591m ²)	N/A	N/A	N/A

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

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

Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
B8.3 Construction and Demolition - Waste Minimisation	No	No
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
C1.12 Waste and Recycling Facilities	No	No
D8.1 Character as viewed from a public place	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	Yes	Yes
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.15 Site disturbance	Yes	Yes
D8.16 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	No	Yes
D15.18 Seawalls	Yes	Yes

Detailed Assessment

D15.12 Development seaward of mean high water mark

The control states that all new buildings are to be located landward of the mean high water mark (MHWM) and that only structures associated either with the accommodation, servicing or provision of access to boats shall be permitted seaward of the MHWM. The proposed boat shed is located across the MHWM and is therefore partially within private land and the Pittwater Waterway. This boat shed will extend no further forward of the MHWM than the existing boat shed to be demolished. The associated structures proposed to support the accommodation of boats are all located forward of the MHWM. There will be no harm to marine vegetation and this has been supported by a letter of consent from the Department of Primary Industries. The proposed boat shed and associated structures therefore satisfy the requirements of this clause.

D15.15 Waterfront development

a) Jetties, ramps and pontoons

Part ix requires the finished jetty deck height to be a maximum height of 1 metre above mean high water mark or 1.5 meters AHD. The proposed jetty deck height is 1.65 meters AHD and is a minor 10% variation. The non-compliance will not have an impact on the water quality or estuarine habitat of the Pittwater Waterway and due to the minor variation is not considered to be of a height or scale that would unreasonably or adversely impact the visual quality of the locality or waterway. Furthermore, the application is accompanied by a Letter of Consent from the NSW RMS stating their assessment has not identified any navigational concerns regarding the proposal. The non-compliance is therefore supported on merit as it meets the objectives of the clause.

b) Berthing Areas

The clause states that vessels shall be berthed at right angles to the mean high water mark to minimise visual impact on the foreshore where practicable. The proposed berthing area is located parallel to the mean high water mark and extends beyond the seaward face of the related pontoon. The proposed berthing area therefore does not comply.

The proposed berthing area has been located parallel to the MHW and extends beyond the seaward face of the related pontoon as siting a berthing area at a right angle to the MHW would not allow the required minimum 600mm clearance between the bottom of the vessel and sea bed at zero low tide. This is demonstrated within architectural plans DA01 and DA02 which show that a 9m berthing area at a right angle to the MHW would have a maximum seabed depth of -1.3m AHD, and therefore only allow approximately 400mm of clearance at a maximum low tide. In order to comply with the 600mm requirement and provide a suitable place to berth the vessel, the berthing area has been located parallel to the MHW and beyond the seaward face of the proposed pontoon. This location has been reviewed by the NSW RMS who do not raise concerns regarding navigation.

While the location of the berthing area does not comply, consideration of existing constraints has found that the proposed location is supported on merit as it is most suitable given the clearances mentioned above and will not result in navigational issues. Given the associated works which allow storage of vessels, Council is satisfied that visual impact of the boat within the waterway can be minimised and will not result in an adverse or unreasonable impact on the character of the waterway.

c) Boatsheds

Part ii requires that boat sheds shall be no greater than 4 meters in width and 6 meters in length. The proposed boat shed measures 6 meters in width and 4 meters in length and therefore fails to comply. While the proposed boat shed does not comply with the specified dimensions, it does cover the same footprint area while also achieving a design which is of acceptable bulk and scale and consistent with the character of adjoining and surrounding boat sheds. The non-compliance is therefore supported on merit.

d) Slipways and Launching Ramps

The clause states that slipways and launching ramps are generally not favoured. The proposed slipramps will replace the existing slipramps and the launching ramp will provide direct access from the boat shed to the waterway.

The proposed slipramps consist of two parallel rails, 1.2 meters apart in width and are consistent with variation iv outlined. While the slipramps are not recessed into the subject structure, it is considered that compliance with variation iv will ensure the design is of minimal visual impact when viewed from the Pittwater Waterway. The applicant has provided confirmation that locating a boat out of water on the slipramps will not obstruct public foreshore access, which is provided along the deck, forward of the mean high water mark and is 1.3 meters in width. As such, it is considered that the relevant variations have been achieved and while slipways are generally not favoured, the proposed is supported on merit.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,865 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$286,460.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;

and

- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Buildings development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0174 for Construction of a boat shed, jetty and associated works on land at Lot 58 DP 12749, 121 Florence Terrace, SCOTLAND ISLAND, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

2. **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;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

3. **Estuarine Hazard Design Requirements**

The following applies to all development:

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

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

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

4. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.69m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.69m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.69m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.69m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.69m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.69m AHD to avoid the likelihood of contact with splashing waves and spray.

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

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

The development is to comply with all recommendations of the Boatshed & Seawall Letter prepared by Ascent Geotechnical Consultants Ltd. dated 6 March 2020, a detailed seawall design (DA 05) by Stephen Crosby Associates Pty. Ltd. dated March 2020 and these recommendations are to be incorporated into construction plans. Further, the development is to comply with recommendations made in the Coastal Engineering Report prepared by Cardno Pty. Ltd dated 3 February 2020 and Geotech Report prepared by Ascent Geotechnical Consultants Ltd. dated 20 December 2019.

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

6. **Engineers Certification of Plans**

The structural design shall be prepared by and each plan/sheet signed by, a registered

professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

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

7. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Site Plan	June 2018	Stephen Crosby & Assoc. Pty. Ltd.
DA02 Section	June 2018	Stephen Crosby & Assoc. Pty. Ltd.
DA03 Boat Shed Plan & Elevations	September 2018	Stephen Crosby & Assoc. Pty. Ltd.
DA05 Seawall Details	March 2020	Stephen Crosby & Assoc. Pty. Ltd.
Schedule of Exterior Finishes	16 December 2019	Stephen Crosby & Assoc. Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report AG 19236	20 December 2019	Ascent Geotechnical Consulting
Geotechnical Report AG 19236B	6 March 2020	Ascent Geotechnical Consulting
Arborist Report	31 January 2020	Julia Stanton
Bushfire Risk Assessment	20 December 2019	Ronald Coffey
Bushfire Risk Assessment Certificate	20 December 2019	Ronald Coffey
Coastal Engineering Report	3 February 2020	Cardno (NSW/ACT) Pty Ltd
Marine Habitat Survey	16 August 2018	Waterfront Surveys Australia Pty Ltd
Coast and Estuary	20 September 2018	Paul Hardie

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

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

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

8. **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	Response Ausgrid Referral	26 March 2020
Department of Planning, Industry and Environment - Crown Lands	Landowner's consent for lodgement of applications relating to development on crown land	25 February 2020
Department of Primary Industries	Replacement of existing jetty and slip rails, installation of new pontoon, skid ramp and 3 mooring piles (Revision 1)	24 September 2018
New South Wales Roads and Maritime Services	Development application for proposed replacement jetty with pontoon, replacement slip rails, new boat shed with skid ramp at 121 Florence Terrace Scotland Island Lot 58 DP 12749 for S & C Tower	19 July 2018
New South Wales Roads and Maritime Services	Development application for proposed replacement jetty with pontoon, replacement slip rails, new boat shed with skid ramp at 121 Florence Terrace Scotland Island Lot 58 DP 12749 for S & C Tower	28 February 2020
Department of Primary Industries	Replacement of existing jetty and slip rails, installation of new pontoon, skid ramp and 3 mooring piles (Revision 1)	27 February 2020

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

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

9. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

10. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

dangerous to persons or property on or in the public place

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 2008
- (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.

11. **Use of boat shed**

The boat shed shall not be used for residential purposes at any time.

Reason: To ensure compliance with relevant planning controls.

12. **Compliance with Standards**

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

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

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

13. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Environmental Safeguards**

Environmental safeguards (e.g. silt curtains) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms. The silt curtains must be carefully placed and secured properly to ensure they do not drag over the nearby seagrass beds and damage the seagrass

The safeguards must be regularly maintained and removed once the works are completed.

Reason: Protection of seagrass

17. **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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. **Dredging works**

Dredging is not included in this application and as such an application is to be made to council and an integrated development referral to Department of Primary Industries (fisheries) if dredging is required.

Reason: Protection of the environment.

19. **Preventing the spread of invasive alga**

The invasive marine alga, *Caulerpa taxifolia*, is present at the work site. This alga must not be removed from the work site. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site. Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and disposed in general waste. *Caulerpa* is listed under the *Biosecurity Act 2015* for all NSW waters. It is illegal to possess or sell the alga and heavy fines apply.

Reason: Protection of the environment

20. **Environmentally sensitive construction**

Seagrass meadows comprised of *Zostera capricorni* are located either side of the development and the endangered *Posidonia australis* is located seaward of the proposed development. To prevent damage to the seagrass no anchoring or placement of objects is to occur on the seagrass. Furthermore boats and barges must ensure the impact from the movement of the barges and boats, particularly from the propeller, does not damage the seagrass meadows (especially during low tide).

Reason: Protection of seagrass

21. **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 Certifying Authority.

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

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

22. **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 Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

23. **Arborist's recommendations to be implemented**

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

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

24. **Post Construction Coastal certificate**

Prior to the issue of the Occupation Certificate, a Post Construction Coastal Certificate shall be submitted to the Principal Certifying Authority (Form No. 3 of the Coastline Risk Management Policy for Development in Pittwater - Appendix 6 of P21 DCP) that has been prepared and

signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and coastal engineering as a core competency and who has an appropriate level of professional indemnity insurance.

Reason: To ensure the development has been constructed to the engineers requirements

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

25. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

26. **Dead or Injured Wildlife**

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

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

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

Signed



Kelsey Wilkes, Planner

The application is determined on 27/05/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments