

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1776
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<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot 1 DP 344054, 4 Cabarita Road AVALON BEACH NSW 2107 Lot LIC 190391, 4 Cabarita Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a boat shed, sea wall, pool terrace and associated works
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Shane Carolyn Gluskie
<b>Applicant:</b>	Shane Carolyn Gluskie

<b>Application Lodged:</b>	25/10/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	31/10/2022 to 14/11/2022
<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>	\$ 134,612.50
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### PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a residential dwelling, pursuant to the *Pittwater Local Environmental Plan 2014 (PLEP 2014)*, including the following works:

- Replacement of existing fibre cement cladding to the boat shed with FC weatherboard cladding
- Addition of side entry door and a timber louvred opening on each side elevation of the existing boat shed
- Low stone wall with bench seating, sited to the south-west of the existing swimming pool.
- Repair works and recapping of the existing sea wall to a level of RL1.675 and levelling of the waterfront lawn and paved terrace to a level of RL1.62

- Landscaping works to the north-west of the existing swimming pool
- Replacement of the existing swimming pool terrace paving and extension of the existing swimming pool paving by 1.2m to the west, and
- Replacement of the existing swimming pool fence in the same location.
- Construction of a 1.8 metre high fence to replace an existing fence to align with the timber jetty at 2 Cabarita Road.

## 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 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D1.15 Fences - General

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 1 DP 344054 , 4 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot LIC 190391 , 4 Cabarita Road AVALON BEACH NSW 2107</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Cabarita Road.</p> <p>The site is irregular in shape with a frontage of 12.19mm along Cabarita Road and a depth of 48.77m. The site has a surveyed area of 1682.0m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone and accommodates a two storey residential dwelling with a</p>

detached carport and garage within a residential setting, and direct access to the W1 Waterway zone.

The site has a southerly orientation toward Cabarita Road and a northerly orientation toward Pittwater Waterway. The site is located on a moderate fall across the site, and below the foreshore building line the site steeply falls from west to east.

The site is not known to have any threatened species.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by two and three storey residential dwellings within a landscaped setting, some with direct waterfront access to W1 Waterway zone.

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:

- **DA2018/0370** was lodged with Council seeking consent for landscape stabilisation works including new retaining walls and tree removal. This application was approved, subject to conditions, on 5 June 2018. A Construction Certificate (CC2018/1264) and a Notice of Commencement (NOC2018/1534) was submitted to Council.
- **DA2019/0910** was lodged with Council seeking consent for demolition works and construction of a boat shed, seawall, jetty and associated works. This application was withdrawn.
- **BC2022/0054** was lodged with Council for 6 mooring piles and 1 timber screen adjacent to the existing timber jetting, pontoon and ramp. This Building Information Certificate was approved on

12 December 2022.

- **DA2022/0777** was lodged with Council seeking consent for alterations and additions to an existing boat shed and pool area and associated works. This application was withdrawn.

## 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	There are no current draft environmental planning instruments.
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. No additional information was requested in this case.</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 clause is not relevant to this application.</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>

Section 4.15 Matters for Consideration	Comments
	Clause 69 of the EP&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.
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> <p>(iii) <b>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.</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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 31/10/2022 to 14/11/2022 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



Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> <li>• SEPP (Resilience and Hazards) 2021</li> <li>• Pittwater LEP 2014 - cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - cl. 4.7 Pittwater Spotted Gum Forest - Ecological Endangered B4.15 Saltmarsh Endangered Ecological Community / B4.16 Seagrass Conservation Estuarine Habitat</li> </ul> <p>The proposal seeks approval for alterations to an existing boat shed as well as the addition of a pool terrace and associated works. These works will take place in an already disturbed area and are unlikely to have an impact on native terrestrial flora and fauna.</p> <p>As per the Natural Environment Referral Response - Coastal, sediment controls and erosion management measures are required prior to commencement until all activities have been completed.</p>
NECC (Coast and Catchments)	<p>The DA is to renovate an existing boatshed and carry out associated works including level the waterfront terrace and constructing a timber pergola.</p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against the 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 Department of Crown Lands under the NSW Planning Environment dated 10 March 2022</li> <li>• No Objection from the DPI-Fisheries under the Department of Primary Industries dated 10 March 2022</li> </ul> <p><b>Coastal Management Act 2016</b></p> <p>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. The proposed development is in line with the requirements as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>Further, the applicant has proposed construction/modification of a seawall. Hence the proposed development has been assessed also against the requirements of the Section 27 of the <i>Coastal Management Act 2016</i>. As required, the impact &amp; risk associated with the construction/modification of a seawall has been assessed in an Estuarine Risk Management Report prepared by Horto Engineering Pty. Ltd. dated 14 August 2019.</p> <p>Based on the impact and risk identified, Council applies maintenance condition as per Schedule 2 of the DA approving this DA.</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 Zone' under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). The provisions 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p> <p><u>Comment:</u></p>

Internal Referral Body	Comments
	<p>On internal assessment and as assessed in the submitted Statement of Environmental E prepared by Symons Goodyer Pty. Ltd. dated April 2022 and also as assessed in an Estu Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August : satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H. As such, it i the application does comply with the requirements of the State Environmental Planning F &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 ti Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy fo Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Contro proposed development of the site.</p> <p>In accordance with the Estuarine Risk Management Report prepared by Horton Coastal I Ltd. dated 14 August 2019, an estuarine planning level (EPL) of RL 2.2m AHD for the bo 2.5m AHD would apply at the subject site.</p> <p>On internal assessment and as assessed in the submitted Estuarine Risk Management F Horton Coastal Engineering Pty. Ltd. dated 14 August 2019, the ground floor level for the boatshed is below the derived EPL for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estua management requirements of P21 DCP.</p> <p><b>Development on Foreshore Area</b></p> <p>A large section of the subject property is within the foreshore building line. Part 7, C development on foreshore area of the Pittwater LEP 2014 applies for any development v area.</p> <p>The DA proposes development works on the boatshed which is partly located on the for is consistent with Clause 7.8(2)(b).</p> <p>On internal assessment and as assessed in the submitted Estuarine Risk Management F Horton Coastal Engineering Pty. Ltd. dated 14 August 2019, the DA satisfies tl requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p><b>D15.18 Seawalls</b></p> <p>As a raised seawall is proposed, Section D15.18 of the Pittwater 21 DCP applies to thes of the DCP, it is stated that "seawalls shall not be permitted", with a variation that "Counc construction of seawalls where there is potential for erosion from coastal processes property is necessary".</p> <p>At the subject property, there is an existing vertical seawall, with vertical seawalls properties A seawall is thus necessary to maintain the existing foreshore infrastructure, z</p>

Internal Referral Body	Comments
	<p>existing use.</p> <p><u>Comment:</u></p> <p>On internal assessment and as assessed in the submitted Estuarine Risk Management F Horton Coastal Engineering Pty. Ltd. dated 14 August 2019, the DA satisfies requirement Section D15.18: Seawalls. As such, it is considered that the application does comply with of the Pittwater 21 DCP.</p> <p><b>Planner Note</b></p> <p>The proposed development no longer seeks consent to erect a timber pergola to the north existing swimming pool enclosure.</p>
NECC (Development Engineering)	<p>The development application is for alterations and additions to an existing boat shed and associated works, as described and illustrated in the reports and plans.</p> <p>No onsite stormwater detention (OSD) system is required. The submitted Geotechnical F the relevant DCP controls.</p> <p>No objections to the proposal subject to conditions as recommended.</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 Water Management for Development Policy</li> </ul> <p>The site abuts Pittwater estuary and as such the development must not significantly impact biophysical, hydrological or ecological integrity of Pittwater estuary, or the quantity and quality and ground water flows that it receives.</p> <p>Protections for the aquatic environment are required due to the nature of the proposal.</p> <p>The invasive marine alga <i>Caulerpa taxifolia</i> is present at this location and care must be taken to control this invasive algae. Seagrasses are present at this location and must not be damaged. No structures be placed on any seagrass beds.</p> <p>An Erosion and Sediment Control Plan (ESCP) must be prepared by an appropriately qualified person and implemented onsite prior to commencement. Environmental safeguards (e.g. silt curtains) during construction to prevent the escape of turbid plumes into the aquatic environment. The safeguards must be carefully placed and secured properly to ensure they do not drag over any nearby structures. The safeguards must be regularly maintained and removed once the works are complete.</p> <p>The assessment has found that the proposed development meets the requirements of the Environmental Planning Instruments and policies relating to waterways, riparian areas, and aquatic environments. The proposal can be supported, subject to conditions.</p>
NECC (Water Management)	NECC Water Management support the proposal, subject to conditions as recommended conditions).



Internal Referral Body	Comments		
Parks, reserves, beaches, foreshore	Upon investigation of the neighbouring properties, similar treatments are present for major foreshore, and as such Parks, Reserves and Foreshores raise no concerns with the development.		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the subject site adjoins a heritage item		
	'Finisterre' (house) - 2 Cabarita Road, Avalon Beach		
	Details of heritage items affected		
	Details of the item as contained within the Pittwater inventory is as follows:		
	<u>Statement of Significance</u> Finisterre's design features such as the stucco walls, terracotta Spanish tile roof, terracotta gate posts make this property architecturally significant in the Pittwater locality. The position at the end of Stokes Point contributes to the iconic charm of Finisterre.		
	<u>Physical Description</u> Built at a prominent location on Stokes Point. Large two storey residence with stucco walls and terracotta tile roof. Extensive terraces and driveway with formal planting of palms. Stucco gateposts.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Australia (NSW) Register		
	RAIA Register of 20th Century Buildings of Significance	No	
Other	N/A		
Consideration of Application			
The proposal seeks consent to reclad a boatshed, replace a fence, repair a seawall and the rear of the subject property and within Pittwater. The heritage item is located directly west of the site. There is a change in elevation between the site of the proposed work and a heritage house with a rocky and vegetated embankment in between. Given the physical change and change in elevation, the proposed works are considered to not impact upon the heritage item's significance.			
Therefore Heritage raises no objections and requires no conditions.			
Consider against the provisions of CL5.10 of PLEP.			

Internal Referral Body	Comments
	<p>Is a Conservation Management Plan (CMP) Required? No</p> <p>Has a CMP been provided? No</p> <p>Is a Heritage Impact Statement required? No</p> <p>Has a Heritage Impact Statement been provided? No</p>

External Referral Body	Comments
Aboriginal Heritage Office	<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.</p> <p>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 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.</p>

## 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 (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:

This Clause applies to the subject site. The proposed development application was reviewed by Council's Coast and Catchments Officer, who raised no objection to the proposal, subject to 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:

This Clause applies to the subject site. The proposed development application was reviewed by Council's Coast and Catchments Officer, who raised no objection to the proposal, subject to conditions.

## **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) foreshores,
    - iv) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - v) 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
- ii) impact referred to in paragraph (a), or
- iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or 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:

This Clause applies to the subject site. The proposed development application was reviewed by Council's Coast and Catchments Officer, who raised no objection to the proposal, subject to 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:

This Clause applies to the subject site. The proposed development application was reviewed by Council's Coast and Catchments Officer, who raised no objection to the proposal, subject to conditions.

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?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Boatshed: 2.955m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	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
23 Use of certain land in the W1 Natural Waterways Zone	Yes

### Detailed Assessment

#### **Zone C4 Environmental Living**

##### *Objectives of Zone*

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

##### Comment:

The proposed development is generally sited to the existing built form of the boat shed, swimming pool, and seawall. Council's relevant referral's have reviewed the proposed development and none have raised concerns regarding the proposed works seaward of the Mean High Water Mark (MHWM). In this instance, the proposed development is considered to provide for low-impact residential development in areas with special ecological, scientific, or aesthetic values.

The proposal **achieves** this objective.

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

##### Comment:

As above, the proposed development is not considered to result in adverse affects on any special ecological, scientific or aesthetic values on or nearby to the subject site.

The proposal **achieves** this objective.

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

##### Comment:

The proposed development continues the residential nature of the subject site, and maintaining the low density scale of the development that will be sufficient integrated into the natural landform and landscape.



The proposal **achieves** this objective.

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

Comment:

The proposed development does not substantially interfere with, or remove, riparian and foreshore vegetation, nor does the proposal seek to remove canopy trees or other vegetation of the like that could be used as wildlife corridors.

The proposal **achieves** this objective.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	FBL Applies	Outside of the Foreshore Building Area (located within Area 23 prescribed under the PLEP 2014)	N/A	Yes
Side building line	<b>North-west boundary</b> 1.0m	<i>Boatshed:</i> 13.89m <i>Pool Paving:</i> 3.48m <i>Stone wall:</i> 1.2m	N/A N/A N/A	Yes Yes Yes
	<b>North-east boundary</b> 2.5m	<i>Boatshed:</i> 12.2m	N/A	Yes
Building envelope	<b>North-west elevation</b> 3.5m	Within envelope	N/A	Yes
	<b>North-east elevation</b> 3.5m	Within envelope	N/A	Yes
Landscaped area	60% (1009.2m <sup>2</sup> )	39.7% (667.3m <sup>2</sup> ) (existing)	33%	No (existing)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	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
B5.13 Development on Waterfront Land	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
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
C1.17 Swimming Pool Safety	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.15 Fences - General	No	No
D1.20 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	Yes	Yes
D15.18 Seawalls	Yes	Yes

#### Detailed Assessment

#### **D1.14 Landscaped Area - Environmentally Sensitive Land**

The subject site, as existing, is numerically non-compliant with the 60% landscaped area requirement. The proposed development does not seek to reduce this existing non-compliance. In this instance, a detailed merit consideration of the existing non-compliance is not required to be undertaken.

## D1.15 Fences - General

### Detailed description of non-compliance

The proposed development seeks consent to construct a 1.8 metre high fence which will extend from the existing seawall to the existing inclinor landing. The location of this fence is sited seaward of the Mean High Water Mark (MHWM), which means that the proposed fence would be entirely located on Crown Lands, and obstruct public movement along the foreshore area, which cannot be supported. Notwithstanding this, it is noted that pursuant to Clause 7.8(2)(b) of the PLEP that a fence is a type of development that may occur within the foreshore area.

Regardless of how the proposed fence performs against the objectives and its position in the context of Clause 7.8 of the PLEP, a condition will be recommended to ensure the proposed 1.8 metre high fence is removed from all plans prior to the issue of the Construction Certificate.

### Merit consideration

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

#### Comment:

The proposed fence does not allow for continuous public access along the foreshore area. In this instance, the proposed fence cannot be consistent with the desired future character of the Avalon Beach locality.

The proposed fence **cannot** achieve this objective.

*To ensure fences compliment and conserve the visual character of the street and neighbourhood.*

#### Comment:

The proposed fence is not located along Cabarita Road, rather it is located seaward of the MWHM. Other properties with direct waterfront access and within the immediate vicinity have fences that extend along the side boundaries toward the water frontage. In this instance, the proposed fence would not complement the visual character of dwellings fronting Pittwater Waterway.

The proposed fence **cannot** achieve this objective.

*To define the boundaries and edges between public and private land and between areas of different function.*

#### Comment:

The proposed fence would extend along the side boundary toward the seawall at the water frontage. In this instance, the fence would not differentiate between public and private land, rather it would obstruct public access along and between the foreshore areas, which is not consistent with (1) of Clause 7.8 of the PLEP 2014.

The proposed fence **cannot** achieve this objective.

*To contribute positively to the public domain.*

#### Comment:

As detailed above, the proposed fence would not positively contribute to the public domain as it will obstruct public access along the foreshore area and to the waterway.

The proposed fence **cannot** achieve this objective.

*An open streetscape that allows casual surveillance of the street. (S)*

Comment:

As detailed above, the proposed fence is not sited to the street frontage. The existing front fence arrangement is not changing under this development application and, therefore, casual surveillance of the street is maintained.

The proposed fence **can** achieve this objective.

*Fences, where provided, are suitably screened from view from a public place. (S)*

Comment:

The proposed fence will not be screened from public space.

The proposed fence **cannot** achieve this objective.

*Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians. (S)*

Comment:

As above, the proposed fence is not located along the street frontage.

The proposed fence **can** achieve this objective.

*To ensure heritage significance is protected and enhanced. (S)*

Comment:

The proposed development has been reviewed by Council's Heritage Officer, who did not raise concerns regarding the proposed fence.

The proposed fence **can** achieve this objective.

*To ensure an open view to and from the waterway is maintained. (S)*

Comment:

Insufficient information has been provided regarding the proposed fence. Regardless, the erection of the proposed fence cannot be supported for the reasons outlined above.

The proposed fence **cannot** achieve this objective.

## **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 \$ 673 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 134,613.

## **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 DA2022/1776 for Alterations and additions to a boat shed, sea wall, pool terrace and associated works on land at Lot 1 DP 344054, 4 Cabarita Road, AVALON BEACH, Lot LIC 190391, 4 Cabarita Road, AVALON BEACH, subject to the conditions printed below:

### **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

#### **1. Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:



a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA02 Revision D Site Plan	22/6/21	Corben Architects
DA03 Revision D Demolition Plan	22/6/21	Corben Architects
DA04 Revision D Boatshed Level Plan	22/6/21	Corben Architects
DA05 Revision D Elevations	22/6/21	Corben Architects
DA06 Revision D Sections	22/6/21	Corben Architects
DA10 Revision D Finishes and Colour Scheme	22/6/21	Corben Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA09 Erosion & Sediment Control Plan	22/6/21	Corben Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Assessment (Ref: AG19067)	14 April 2022	Ascent Geo
Estuarine Risk Management Report (Ref: Irj0273-4 Cabarita Road Avalon Beach - v2.docx)	14 August 2019	Horton Coastal Engineering
Marine Habitat Survey	September 2019	Bio-Analysis Pty Ltd
Informal addendum correspondence re: Marine Habitat Survey Update	28 March 2022	Bio-Analysis Pty Ltd
Consent of Owner for Lodgement of Building Information Certificate and Development Application (Crown Lands reference: 20/02053#01)	10 March 2022	Department of Planning and Environment - Crown Lands
DPI Fisheries Consent (Ref: C19/604)	19 November 2019	Department of Primary Industries - Fisheries
Informal addendum correspondence re: DPI Fisheries consent ref: C19/604	28 March 2022	Department of Primary Industries - Fisheries

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

d) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA08 Revision D Landscaping Plan	22/6/21	Corben Architects

<b>Waste Management Plan</b>		

Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Not dated	Shane Carolyn Gluskie

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.

## 2. 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.

### 3. **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 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) 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.

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$673.06 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 \$134,612.50.

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.

### **5. 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.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 6. **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 AscentGeo, dated 14 April 2022 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.

### 7. **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 Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

### 8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The proposed 1.8 metre high fence which is seaward of the Mean High Water Mark (MHW) shall be removed from all plans prior to the issue of the Construction Certificate.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. **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.

10. **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.

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

Reason: To provide public and private safety.

11. **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.

12. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.3m AHD has been recommended through an Estuary Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 and adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.3m 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 2.3m 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 2.3m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.3m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.3m 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

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

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 and these recommendations are to be incorporated into construction plans.

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

**14. 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 for the seawalls and 25 years for the boatshed as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019.

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

**15. 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.

**16. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

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

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. **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.

19. **Wildlife Protection**

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

Reason: To protect native wildlife.

20. **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) 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: Protection of the receiving environment.

21. **Management of *Caulerpa taxifolia***

The invasive marine alga *Caulerpa taxifolia* is present on this site. Site personnel must be able identify *Caulerpa*. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site to prevent the spread of *Caulerpa* to other sites.

Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and lawfully disposed in general waste.

Reason: *Caulerpa taxifolia* is listed under the Biosecurity Act 2015 for all NSW waters.

22. **Aquatic sediment management**

Environmental safeguards (e.g. silt curtains) are to be used during construction to prevent the escape of turbid plumes into the aquatic environment. The silt curtains must be carefully placed

and secured to ensure they do not drag over any nearby seagrass beds.

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

Reason: Protection of seagrass.

23. **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.

24. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

25. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence



of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

**27. 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.

**28. Compliance with the recommendations of the Marine Habitat Survey Report**

The construction and development is to comply with all recommendations of the approved Marine Habitat Survey Report prepared by Bio-Analysis Pty. Ltd. dated September 2019. These recommendations are to be complied with during the construction period.

Reason: To ensure preservation of the estuarine habitat and environment

**29. 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 and Environment.

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 and Environment.

Reason: Aboriginal Heritage Protection.

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

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

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

**31. 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.

32. **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.

33. **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.

34. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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.

(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

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

35. **Seawall Structure to be Properly Maintained**

A maintenance program shall be prepared by the structural engineer, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life the seawall is maintained in a sound structural condition. The maintenance program shall be submitted to the Certifying Authority for approval prior to the release of the Construction Certificate. The seawall shall be repaired and maintained in accordance with the program and as may be required from time to time to ensure its structural integrity for its design life.

Reason: To ensure appropriate maintenance of the development and to fulfil maintenance requirements under clause 27(b)(ii) of the Coastal Management Act 2016.

**36. Boatshed Not for Habitation**

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

toilet facilities is not permitted.

Reason: To ensure compliance with Pittwater Estuarine Risk Management Policy.

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

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 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**



**Megan Surtees, Planner**

The application is determined on 15/12/2022, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**