

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0913
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 3 DP 22826, 14 The Chase LOVETT BAY NSW 2105 Lot LIC 378742, 14 The Chase LOVETT BAY NSW 2105 Lot 4 DP 22826, 15 The Chase LOVETT BAY NSW 2105 Lot LIC 367042, 15 The Chase LOVETT BAY NSW 2105
Proposed Development:	Replacement of existing jetty, ramp and pontoon, and two berthing areas, construction of seawalls and minor reclamation works
Zoning:	C3 Environmental Management
Development Permissible:	Yes, under SEPP (Resilience and Hazards) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Barbara Ann Messerle Henry Edward Curry-Hyde
Applicant:	Stephen Crosby & Associates Pty Ltd

Application Lodged:	13/07/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/10/2023 to 09/11/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 269,885.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of the replacement of the existing jetty, ramp and pontoon, along with two new berthing areas. The proposal also involves the construction of seawalls and minor reclamation works.

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

Assessment - Integrated Development - DPI Fisheries - Fisheries Management Act, s201 -
Circumstances in which a person (other than a public or local government authority) may carry out dredging or reclamation

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

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

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

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

Pittwater 21 Development Control Plan - D15.15 Waterfront development

SITE DESCRIPTION

Property Description:	Lot 3 DP 22826 , 14 The Chase LOVETT BAY NSW 2105 Lot LIC 378742 , 14 The Chase LOVETT BAY NSW 2105 Lot 4 DP 22826 , 15 The Chase LOVETT BAY NSW 2105 Lot LIC 367042 , 15 The Chase LOVETT BAY NSW 2105
Detailed Site Description:	<p>The subject site consists of two (2) allotments located at the north-western end of Little Lovett Bay.</p> <p>The site is irregular in shape and has a surveyed area of 1410m². The rear of the site is bound by the Mean High Water Mark (MHW). </p> <p>The site is located within the C3 Environmental Management Zone under the PLEP 2014, but the proposed works are sited entirely below the MHW within the W1 Natural Waterways Zone. The site is currently occupied by a two storey dwelling with a boat shed, jetty, ramp, pontoon</p>

and seawalls.

The site slopes steeply down from the northern boundary towards the southern water frontage.

The site is densely vegetated with canopy trees, shrubs and lawn areas.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential dwellings with similar waterway structures including jetties, boat sheds and pontoons.

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:

- **N0028/01** - New single dwelling. Approved 19/01/2001.
- **N0603/00** - alterations and additions to dwelling. Approved: 24/11/2000.
- **DA2022/1368** - Alterations and additions to dwelling house, installation of an incline passenger lift and replacement of the on-site wastewater treatment system. Approved 15/02/2023 by the Northern Beaches Local Planning Panel.
- **Mod2023/0119** - Modification of Development Consent DA2022/1368 granted for alterations and additions to dwelling house, installation of an incline passenger lift and replacement of the on-site wastewater treatment system. Made under Section 4.55(1) of the EPA Act 1979, concerning correction of an error or mis-description within DA2022/1368. Approved 15/03/2023.

- **Mod2023/0238** - Modification of Development Consent DA2022/1368 granted for alterations and additions to dwelling house, installation of an incline passenger lift and replacement of the on-site wastewater treatment system. Refused 16/08/2023 by the Northern Beaches Local Planning Panel.
- **BC2023/0188** - Building Information Certificate (149D Unauthorised) - Existing stone seawalls. At the time of preparing this report, this application is still under assessment by Council.

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)(iiia) – 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&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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Riparian Lands and Creeks and Coast and Catchments.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent</p>

Section 4.15 Matters for Consideration	Comments
	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) 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.

Under Section 8.3.2 Class 10 Structures of Planning for Bush Fire Protection *‘the NCC defines a Class 10 building as a nonhabitable building or structure such as a: a. Class 10a – a non-habitable building being a private garage, carport, shed or the like; or b. Class 10b – a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool, or the like; or c. Class 10c – a private bush fire shelter. There is no bush fire protection requirements for Class 10a buildings located more than 6m from a dwelling in bush fire prone areas. Where a Class 10a building is located within 6m of a dwelling it must be constructed in accordance with the NCC.’*

The proposed works constitute non-habitable structures located further than 6m of a dwelling and therefore are not subject to any bush fire protection requirements.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 26/10/2023 to 09/11/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p>General Comments</p> <p>Acid Sulfate impacted site.</p> <p>Marine Pollution Research Pty Ltd ASS Assessment 30 My 2023 states in part :</p> <p>With respect to ASS impact assessment, the works require:</p> <ul style="list-style-type: none"> • Removal of 28 jetty support piles with suitable piles cleaned and reused for the realigned jetty that also requires 28 piles. • Removal of marine sandy sediments in the high intertidal to expose basement rock and cutting of a 150mm deep key way 0.5m wide in the basement rock to accommodate the two new 11.5m long block sandstone seawalls. • Removal and rebuilding of the existing block sandstone seawall along 26m of shoreline <p>and</p> <p>Recommended Pile Removal and Placement Management Plan</p> <p>The following Pile Removal and Placement Plan is intended to mitigate any residual environmental risk from the small amounts of sediments adhering to pulled piles:</p> <ol style="list-style-type: none"> 1. Pile removal and cleaning works are to be undertaken during a high tide to ensure sufficient water depth for pile cleaning residues to sink through the water column directly back to the seabed. 2. Pile removal and placement works are to be enclosed using a floating silt curtain to facilitate rapid dispersal of disturbed sediments back to the seabed. 3. All seabed sedimental material on pulled piles that are to be re-used is to be hosed off into the silt curtain area as each pile is being pulled - where this is possible. 4. If pulled piles with adhered sub-surface seabed sediment cannot be cleaned immediately but need to be stored exposed to air prior to cleaning and disposal off site, they must be washed and hosed off into high tide estuarine waters contained by the floating silt curtain as soon as practicable with a maximum exposure time of 18 hours. 5. For any pile or other demolition material with adhered sediment

Internal Referral Body	Comments
	<p>that cannot be cleaned immediately, the operator/contractor must keep a log book entry of the time of extraction out of the water, the manner and place of storage of the material and the time, manner and placement of hosed off material (in accordance with point 4 above).</p> <p>Environmental Health supports the proposal with conditions.</p>
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p>Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan 2014 zone C3 Environmental Management, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D8 Lower Western Foreshores and Scotland Island Locality <p>The site is within zone C3 Environmental Management, and the following objectives are to be achieved and/or maintained by development: protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent; encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors; and ensure the continued viability of ecological communities and threatened species.</p> <p>The Arboricultural Impact Assessment (AIA) identified seven trees of which all will be retained, supported by the Arborist's findings. Trees to be retained shall be protected in accordance with the recommendations in the AIA, subject to the imposed conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for alterations and additions to a jetty and associated works.</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Conservation Regulation 2017 • Planning for Bushfire Protection 2019 • SEPP (Resilience and Hazards) 2021 - Coastal use area • Pittwater LEP - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme</p>

Internal Referral Body	Comments
	<p>(BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). However, the submitted plans and documentation indicate that the proposed works are located outside of the BV Map area and therefore will not trigger entry into the BOS.</p> <p>The proposal has been submitted with an Arboricultural Impact Assessment that has assessed a total of 7 trees and confirmed that no trees will have to be removed for the proposed works to take place. Tree protection measures have been recommended and will have to be adhered to.</p> <p>No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>Supported on Conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports including: Coastal Engineering Risk Assessment Report by Stantec Australia Pty. Ltd. dated 27 June 2023 Aquatic Ecology Survey & Impact Assessment Report by Marine Pollution Research Pty. Ltd. dated 3 March 2022 • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The application has also been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> • Consent to lodge DA from the NSW Department of Planning and Environment – Crown Lands and Public Spaces dated 18 April 2023; • No navigational Concerns from the Transport for NSW-Maritime Division dated 30 March 2022 enclosing dated and signed maps; and • No Objection with conditions from the DPI-Fisheries, a division of the Department of Primary Industries dated 5 June 2022. <p>The proposal includes land reclamation and new seawalls, and replacement of existing jetty with stairs, ramp and pontoon with piles. The site abuts Pittwater estuary and contains a watercourse. The existing marine structures, including the jetty, ramp and pontoon</p>

Internal Referral Body	Comments
	<p>are currently in a declining state of disrepair, particularly the existing piers, at the end of their expected structural lifespan. The structures are deteriorating to the point where safety of use is a concern.</p> <p>Coastal Management Act 2016</p> <p>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</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 Coastal Management Act 2016. As required, the impact & risk associated with the construction/modification of the seawall has been assessed in a Coastal Engineering Risk Assessment Report by Stantec Australia Pty. Ltd. dated 27 June 2023</p> <p>Based on the impact and risk identified, Council applies maintenance condition as per Section 27(b)(ii) in approving this DA</p> <p>State Environmental Planning Policy (Resilience and Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the SEPP (R & H) apply for this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd. dated November 2023 and also as assessed in the submitted Coastal Engineering Risk Assessment Report prepared by Stantec dated June 2023, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of SEPP R&H.</p> <p>As such, it is considered that the application can comply with the provisions of the State Environmental Planning Policy (Resilience & Hazards) 2021 subject to conditions.</p> <p>Pittwater 21 DCP</p> <p>Estuarine Hazard Management</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-B3.10 Estuarine Hazard Controls will apply to any</p>

Internal Referral Body	Comments
	<p>proposed development of the site. The Estuarine Hazard Controls do not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.</p> <p>Development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHW). The proposed development is therefore not required to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p>Development on Foreshore Area</p> <p>A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHW).</p> <p>Therefore, the proposed development is not required to satisfy the relevant Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014.</p> <p><u>D15. Waterways Locality</u></p> <p>D15.12 Development seaward of mean high water mark</p> <p>Proposed development works are located on crown land below the Mean High Water Mark. Hence, Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP applies to proposed development.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd. dated November 2023, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway</p> <p>On estuarine habitat, Aquatic Ecology Survey & Impact Assessment Report by Marine Pollution Research Pty. Ltd. dated 3 March 2022 has assessed that the proposal would likely result in permanent loss of seagrass as the configuration of the proposed jetty would shade Zostera seagrass and piling would result in a direct loss of seagrass.</p>

Internal Referral Body	Comments
	<p>This loss could be partially offset by regrowth of Zostera seagrass in the previously shaded Zostera seagrass areas under the jetty to be removed. The report has recommended the necessity of Part 7 permit and other mitigation measures.</p> <p>As such, it is considered that the application does comply, on condition with the requirements of the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP.</p> <p>D15.15 Waterfront Development</p> <p>Proposed development of berthing areas are located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section a) Jetties, Ramps and pontoon of the Pittwater 21 DCP applies to proposed development.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd. dated November 2023, the DA satisfies requirements under the Section D15.15: Waterfront development, sub-section a) Jetties, Ramps and pontoon</p> <p>As such, it is considered that the application does comply with the requirements of the Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP</p>
NECC (Riparian Lands and Creeks)	<p>Referral Updated 08/12/2023</p> <p>An updated Statement of Environmental Effects (SEE) has been provided.</p> <p>On review of the additional information and justification, this referral has no further objections provided conditions are adhered to.</p> <p>Proposal is subject to the General Terms of Approval from the NSW Department of Planning and Environment – Water.</p> <p>Original referral 06/10/2023</p> <p>Not Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The site abuts and includes Pittwater estuary, and also contains a</p>

Internal Referral Body	Comments
	<p>watercourse.</p> <p>The proposal includes land reclamation, new seawalls, and replacement of an existing jetty with stairs, ramp and pontoon with piles.</p> <p>A referral letter from NSW DPI Fisheries has been provided and contains no objections provided specific conditions are adhered to. An Aquatic Ecology Survey and Impact Assessment has been provided.</p> <p>State Environmental Planning Policy (Resilience and Hazards) 2021 The site is mapped as within the coastal management area, coastal environment area and coastal use area. The development must not have an adverse impact on the features of the coastal environment listed in the SEPP including but not limited to a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment. The proposal has not sufficiently addressed this requirement. Details are provided below.</p> <p>Water Management Act 2000 & Water Management (General) Regulation 2018 The proposal is within 40 metres of a watercourse mapped under the Water Management (General) Regulation 2018 Hydro Line spatial data and so is on waterfront land. The proposal includes an activity on the bed, or land lying between the bed and the mean high watermark of any estuary and so a controlled activity permit may be required from the Department of Planning and Environment (DPE) – Water. The development application is integrated and a referral to the NSW Department of Planning and Environment – Water is required.</p> <p>Pittwater 21 DCP Section B4.19 Estuarine Habitat Section B4.19 includes the following outcomes: To protect and enhance foreshore habitats that comprise the estuarine habitat of Pittwater. (En); To result in estuarine habitat being retained or enhanced with respect to that development. (En); The physical, chemical and biological processes of estuarine habitats in Pittwater are improved, maintained or restored. (En). Variation can be considered where the proposal demonstrates that the outcomes can be met. Approximately 11 square metres of zostera seagrass bed could be lost due to the jetty proposal. It is anticipated that this may be offset by an equivalent area becoming vacant for seagrass colonisation, but this is not a guarantee of recolonisation or that the total area of seagrass will not be reduced. Therefore, Council requires information supporting that the jetty design process considered all options to avoid or minimise potential seagrass loss, and that the proposed solution is optimal.</p> <p>Section B5.13 Development on Waterfront land; The proposal is on waterfront land. Any waterfront land (as defined in</p>

Internal Referral Body	Comments
	<p>the Water Management Act 2000) on a property shall be retained in their natural state to: carry stormwater/flood flows, maintain aquifers, retain stability, and provide habitat functions. Waterfront land in a degraded state, should be restored and rehabilitated. The proposed seawall must meet current design criteria for waterfront land and so provide habitat function. Refer to D15.18 Seawalls for guidance.</p> <p>Section D15.18 Seawalls Seawalls are not permitted except where there is potential for erosion from coastal process and protection of property is necessary. Where a variation applies, the criteria listed under this section of the DCP must be adopted into the design. The proposed seawall has not adequately adopted the design criteria listed under this section of the DCP. The design must be revised to integrate ecological value and habitat function. This can be achieved, for example, by adopting a more horizontal slope and using boulders. Refer to Environmentally Friendly Seawalls – A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries (2009) available at the Office of Environment & Heritage website.</p>
Parks, reserves, beaches, foreshore	The property adjoins Pittwater Waterway downslope. Upon investigation of the neighbouring properties, similar treatments are present for majority of the foreshore, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</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</p>

External Referral Body	Comments
	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.
Integrated Development - DPI Fisheries - Fisheries Management Act, s205 - Marine vegetation—regulation of harm	The application was referred to the NSW Department of Primary Industries (Fisheries) for concurrence. DPI Fisheries has reviewed the proposal in light of these provisions and has no objections, subject to the proponent meeting the General Terms of Approval that follow. As per s.4.47(3) of the Environmental Planning and Assessment Act 1979, any consent issued by Council must be consistent with these GTAs.
Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	The application was referred to the Department of Planning and Environment - Water for concurrence. A response was provided stating that the proposed works are located entirely on Crown Land and are considered exempt under Schedule 4, 18 of the Water Management (General) Regulation 2018. This exemption is subject to obtaining a lease, licence or permit from Crown Lands.

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:

The proposed development is not considered likely to cause adverse impacts on the above matters. The proposal has been reviewed and supported by Council's Coast and Catchments Officer.

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

Comment:

The proposal is accompanied by supporting technical reports affirming that the proposal is designed, sited and will be managed to avoid adverse impacts on the coastal environment area.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - 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

if that impact cannot be minimised—the development will be managed to mitigate that impact, and

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

Comment:

The proposed development has been designed to improve safe access to and along the foreshore and improve visual amenity. As such, the proposal is designed, sited and will be managed to avoid adverse impacts on the coastal use area.

Division 5 General

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

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

Comment:

The proposed development is not likely to cause increased risk of coastal hazards.

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

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

Comment:

The proposal has been reviewed with regard for all relevant legislation and policies.

2.16 Coastal Protection Works

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

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

Note—

Section 4 (1) of the [Coastal Management Act 2016](#) defines coastal protection works to mean—

- (a) beach nourishment activities or works, and
- (b) activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to) seawalls, revetments and groynes.

Section 27 of the [Coastal Management Act 2016](#) also contains provisions dealing with the granting of development consent to development for the purpose of coastal protection works.

Comment:

The proposed seawall and associated land reclamation works constitute coastal protection works as per the above definition prescribed by the Coastal Management Act 2016. As such, the proposed seawall and associated land reclamation works are permissible with development consent under the

Resilience and Hazards SEPP 2021.

Coastal Management Act 2016

27 Granting of development consent relating to coastal protection works

(1) Development consent must not be granted under the [Environmental Planning and Assessment Act 1979](#) to development for the purpose of coastal protection works, unless the consent authority is satisfied that—

(a) the works will not, over the life of the works—

(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or

(ii) pose or be likely to pose a threat to public safety, and

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

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

(ii) the maintenance of the works.

Comment:

The proposed seawall and land reclamation works will not unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, but rather will improve public access and public safety along the waterway. Suitable conditions are recommended pertaining to the maintenance of the works and avoidance of erosion and adverse impacts on the waterway.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone C3 : Yes Zone W1 : No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone C3 : Yes Zone W1 : Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
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Height of Buildings:	4.0m (above 1.17 AHD)	2.67 AHD	N/A	Yes
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* Height of buildings measured from 1.17 AHD which is the Highest Astronomical Tide where the building is located behind the MHWL.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
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
23 Use of certain land in the W1 Natural Waterways Zone	Yes

Detailed Assessment

Zone W1 Natural Waterways

The proposed berthing areas fit the definition of 'mooring pen' under the PLEP 2014 and are therefore permissible within the W1 Natural Waterways Zone.

Schedule 1 Section 23 of the PLEP 2014 allows for additional permitted uses within the W1 Natural Waterways Zone. Development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent. As such, the proposed jetty, ramp and pontoon are permitted with development consent under this clause.

The proposed seawalls are permissible with consent as it constitutes coastal protection works under Clause 2.16 of the State Environmental Planning Policy (Resilience and Hazards) 2021. The land reclamation works are ancillary to the proposed seawalls and are therefore permissible.

7.1 Acid sulfate soils

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

The site is located in an area identified as Acid Sulfate Soil Class 1 and 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Any works within a Class 1 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 150mm below the natural ground

level. The proposal also involves piling removal and placement works in an intertidal marine silty-sand seabed and shallow sub-tidal marine silty-sand seabed. As such, a Preliminary Acid Sulfate Soil Assessment has been undertaken by Marine Pollution Research dated 30 May 2023. In the assessment, Marine Pollution Research found that:

In sum, no potential or actual Acid Sulfate soil is to be excavated for this piling and seawall project and the only possible disturbed PASS or ASS would be sediments adhered to piles being extracted which under worst case modelling could only result in between 114 to 132kg sediment brought to the surface, and the small amounts of PASS that would be disturbed and brought from the seabed surface 14-15 The Chase ASS Assessment MPR1407 Marine Pollution Research Pty Ltd would for the most part be returned to the estuarine waters to be dispersed and re-incorporated into the seabed sediments with no exposure to air. and no opportunity to become ASS. Accordingly, the project would meet both provisions of Pittwater LEP Clause 7.1 (6) and thus the project should not require development consent under Section 7.1 (2), and there is no requirement for the preparation of an ASS Management Plan as per Clause 7.1 (3).

In this regard, Marine Pollution Research advise that an Acid Sulfate Soil Management Plan (ASSMP) is not considered to be necessary for the development of the site, however, has recommended a pile removal and placement management plan.

The Preliminary Assessment was referred to Council's Environmental Health Officer who concurred with the findings and imposed a condition which requires the applicant to notify the principal certifying authority of any new evidence of the presence of acid sulfate soils.

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

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is located in the vicinity of a watercourse and is supported by a referral from the Department of Planning and Environment - Water.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.8 Limited development on foreshore area

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

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development in part is for a sea retaining wall which is permitted development within the foreshore area. The proposal also includes minor land reclamation works and fill which is ancillary to support the sea retaining wall and is permitted within the foreshore area. The remaining works for the new jetty, ramp, pontoon and berthing areas are below the MHWL and are outside the foreshore area.

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

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C3 Environmental Management zone and W1 Natural Waterways zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*

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

Comment:

The proposed development will retain continuous public access to and along the foreshore and in part, improve it. The proposed development does not adversely impact upon any public access, rather improves it. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

There are no built form controls relevant to this application.

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
B3.6 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
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
C1.2 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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes
D15.19 Dredging	Yes	Yes

Detailed Assessment

D15.12 Development seaward of mean high water mark

The proposed development consists of the replacement of the existing jetty, ramp and pontoon, two berthing areas and the construction of seawalls, all of which is located below the MHW. The works are associated with the provision of access to boats which is permitted by this clause. The proposal involves a very minor extension further into the waterway. The proposal has been reviewed by the Department of Primary Industries - Fisheries and is supported by a Coastal Engineering Risk Assessment Report and an Aquatic Ecology Survey and Impact Assessment Report. The proposal has also been reviewed and supported by Council's Coast and Catchments Team, Riparian Lands and Creeks Team and the Parks, reserves, beaches and foreshore Team.

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

The proposed development encroaches the lateral limit on the eastern side of the jetty. However, it is noted that the replacement jetty is orientated away from the adjoining eastern jetty providing a greater separation distance to improve navigational space. As such, the proposed development is considered acceptable in this instance.

D15.15 Waterfront development

Jetties, ramps and pontoons

Where provided, jetties, ramps and pontoons shall meet the following criteria:

- i. Handrails are to be located only on one side of the structure.
- ii. Structures shall be located where at a maximum permissible water depth of 2.5 metres at low tide
- iii. The minimum depth at the end of a jetty/pontoon should be:
 - 600mm at zero tide in the case of a pontoon (as per NSW Department of Primary Industries)
 - 600mm at mean low tide minimum in the case of a fixed jetty end (i.e. no pontoon)
- iv. Structures shall generally be no greater in length than existing structures, and shall not impede general navigation or equitable access or use of the waterway by adjoining landowners. The length of any jetty is to be minimised. (Diagrams 2A and 2B)

- v. The construction of " L " or " T " ends or other types of elongations or steps at right angles to jetties shall not be permitted.
- vi. The erection of structures above the finished surface of a jetty, ramp or pontoon, including sheds, overhead light fittings, benches and sinks, shall not be favoured, other than a small self contained service modules incorporating low voltage, low level lighting.
- vii. Gates and like devices shall not be permitted across structures where public access around the foreshore is obstructed, or where such devices are visually obtrusive.
- viii. Where considered appropriate, jetties shall be supported on piles. Solid fill structures such as groynes, or similar, shall not be permitted.
- ix. The finished jetty deck height shall be a maximum height of 1 metre above mean high water mark or 1.5 metres AHD.
- x. The materials used for construction should not be deleterious to marine life, for example antifouling paints or treated woods must not be used;
- xi. Structures over Posidonia seagrass or over Zostera, Heterozostera, Halophila and Ruppia species of seagrass beds greater than 5 square metres in area will generally not be permitted unless special circumstances exist. Exemptions may include:
 - i. works that are clearly in the public interest (e.g. safe access points for boating or swimming, State significant development),
 - ii. proposed works that, by virtue of design and location, are unlikely to have a significant impact, and where the proponent is willing to undertake works to compensate for any aquatic habitat liable to be lost or damaged,
 - iii. where property access is only available by water and no other alternative sites exist.
- xii. Where applicable, pontoons are to be positioned beyond the outer edge of the seagrass and the portion of the jetty, ramp or pontoon crossing seagrass is to be meshed or constructed of a similar material that transmits light to the seafloor. There is to be no covering on top of the mesh;
- xiii. Watercraft are not to be moored over or anchored within seagrass beds, and are not to be stored on the jetty, ramp or pontoon.

Comment:

The proposed jetty does not include handrails, but neither does the existing jetty. The maximum water depth is generally above 2.5m at low tide and the minimum depth of the jetty is at least 600mm. The proposed structures involve a minor extension into the waterway but allow for improved navigation compared to the existing jetty. The pontoon at the end of the jetty does not provide L or T ends. No structures are proposed above the finished surface of the jetty or pontoon and no gates are proposed. The proposed jetty is supported on piles and is at 1.5m AHD. The jetty decking is to be hardwood for the first 19m then mesh decking to allow for light penetration to the seafloor to support seagrass growth in accordance with the DPI Fisheries requirements. The site is only accessible by water and is appropriately sited within the context of surrounding structures.

Berthing Areas:

Vessels shall be berthed at right angles to the mean high water mark to minimise visual impact on the foreshore, where practicable. Where this configuration may restrict navigation, vessels may be berthed parallel to mean high water mark provided such vessels are no greater in length than the maximum length of the distance between the lateral limits of the property less 4 metres, and provided that the parallel moored vessel does not restrict navigation. The Department of Primary Industries will generally not approve berthing areas over seagrass.

The maximum dimension for berthing areas perpendicular to shore shall be 5 metres x 9 metres in accordance with Diagrams 3A and 3B.

Mooring licences for a private swing mooring shall be relinquished by any person seeking approval for a berthing area. This is to promote a more equitable use of the waterway's resources.

Where provided, berthing areas shall meet the following criteria:

- a. The proponent must demonstrate that they do not already hold, or cannot obtain, a swing mooring, marina berth or boat shed where they could reasonably store their boat;
- b. That there is sufficient depth of water below the vessel being 600 mm depth at zero low tide (-1.53 AHD);
- c. That it does not extend beyond the seaward face of any related pontoon, piles or jetty steps;
- d. That there is sufficient clearance from prolongation of adjoining boundaries (i.e. a minimum of 2.5 metres)
- e. That it be designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours; and
- f. The size of vessel must be accommodated wholly within the lease area.

Comment:

The proposed berthing areas are at right angles to the MHWL, have dimensions of 6m x 3m and do not extend beyond the face of the pontoon. There is sufficient depth of water below the vessel and sufficient clearance from adjoining structures. The proposal is supported by a letter from Transport for NSW Maritime confirming that there are no navigational concerns regarding the proposal.

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 \$2,699 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$269,885.

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 DA2023/0913 for Replacement of existing jetty, ramp and pontoon, and two berthing areas, construction of seawalls and minor reclamation works on land at Lot 3 DP 22826, 14 The Chase, LOVETT BAY, Lot LIC 378742, 14 The Chase, LOVETT BAY, Lot 4 DP 22826, 15 The Chase, LOVETT BAY, Lot LIC 367042, 15 The Chase, LOVETT BAY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA01	B	Site Plan	Stephen Crosby & Associates Pty Ltd	6 June 2022
DA02	-	Sections	Stephen Crosby & Associates Pty Ltd	June 2022

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
ASS Assessment	-	Marine Pollution Research Pty Ltd	30 May 2023
Aquatic Ecology Survey & Impact Assessment	-	Marine Pollution Research Pty Ltd	3 March 2022
COASTAL ENGINEERING RISK ASSESSMENT REPORT – 14 AND 15 THE CHASE, LOVETT BAY	-	Stantec	27 June 2023
Tree Assessment	-	Julia Stanton	June 2023
Geotechnical Assessment	1	AscentGeo Geotechnical Consulting	4 May 2023
Waste Management Plan	-	Stephen Crosby & Associates Pty Ltd	3 May 2023

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

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response - Underground Cables	Undated
Ausgrid	Ausgrid Referral Response - Overhead Powerlines	Undated
Department of Primary Industries - Fisheries	DPI Fisheries Referral Response	8 August 2023
Aboriginal Heritage Office	AHO Referral Response	19 July 2023
DPE Water	NSW DPE - Water Referral Response	12 April 2024

(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.

3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and

- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to

legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,698.85 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 \$269,885.00.

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

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

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

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

6. **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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

8. **Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Aquatic Ecology Survey and Impact Assessment prepared by Marine Pollution Research Pty Ltd dated 03 March 2022, and must be kept in the site office. The CEMP must identify and appropriately manage invasive species (e.g. *Caulerpa taxifolia*).

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

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

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

9. **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 referenced in Condition 1 of this consent 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 Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. Estuarine Hazard Design Requirements

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

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

11. Structural Engineering for Estuarine Risk

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life, taken to be 30years as recommended and accepted by Council, the development is able to withstand the wave impact forces and loadings identified in the approved Coastal Engineering Risk Assessment Report prepared by Stantec Australia Pty. Ltd. dated 27 June 2023.

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

12. Fisheries Management Act Permit and Habitat Protection Requirements

Part 7 of the Fisheries Management Act 1994 (FMA) sets out the conditions under which permits are required for various construction activities, and the conditions under which a permit may be granted are specified in the NSW DPI Policy and Guidelines (Fisheries 2013).

The present proposal includes two small land reclamations. • The proposal would likely result in permanent loss of seagrass as the configuration of the proposed jetty would shade *Zostera* seagrass and piling would result in a direct loss of seagrass. This loss could be partially offset by regrowth of *Zostera* seagrass in the previously shaded *Zostera* seagrass areas under the jetty to be removed. On the basis that the project would result in a loss of seagrass and as land reclamation is part of the proposal, it is concluded that the proposal will require permits as per Part 7 of the FMA.

Reason: Permits are required for reclamation or dredging works and for the taking or harming of marine vegetation:

13. Low Level Estuarine Inundation Risk Design

All development must be designed and constructed to achieve a low risk of damage and instability due to coastal inundation, wave impact and foreshore erosion hazards.

Reason: Relevant estuarine hazards to be accommodated in the design of affected

development.

14. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Installation and Maintenance of Sediment and Erosion Control

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

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

DURING BUILDING WORK

16. Acid Sulfate Soils

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan titled Marine Pollution Research Pty Ltd ASS Assessment 30 My 2023

Reason: To ensure management of potential acid sulfate soils.

17. Requirement to notify about new Acid Sulfate Soils evidence

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

Reason: To protect the environment.

18. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

19. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- a) a general decline in health and vigour,
- b) damaged, crushed or dying roots due to poor pruning techniques,
- c) more than 10% loss or dieback of roots, branches and foliage,
- d) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- e) yellowing of foliage or a thinning of the canopy untypical of its species,
- f) an increase in the amount of deadwood not associated with normal growth,
- g) an increase in kino or gum exudation,
- h) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- i) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

20. **Wildlife Protection**

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

Reason: To protect native wildlife.

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 environment protection**

Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the Aquatic Ecology Survey and Impact Assessment prepared by Marine Pollution Research Pty Ltd dated 03 March 2022 must be followed.

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

Reason: To protect the aquatic environment.

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. **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.

25. 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.

26. Site Filling - Virgin Excavated Natural Material (VENM)

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in The Protection of the Environment Operations Act 1997.
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.

The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifier for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

27. Acid Sulfate Soil Management Confirmation

Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan titled Marine Pollution Research Pty Ltd ASS Assessment 30 May 2023 is to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate and/or completion of works.

Reason: To ensure management of potential acid sulfate soils.

28. No Weeds Imported On To The Site

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

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

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

29. 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.

30. 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.

31. Development of a Maintenance Plan for the new seawall

A Maintenance Plan is prepared before occupation and submit the Plan to Principal Certifier.

The owners will be required to maintain the new seawall in a sound condition.

Hence, they will need to undertake, among others, the following tasks:

- Annual inspections of the wall at low tide to check for damaged/dislodged stone blocks.

Replace any dislodged stone-work

- Similarly, inspection should be undertaken following a 'severe' storm that leads to seawater and wave splash over the wall crest

- Inspect the seawall toe to ensure that any scour is not putting the seawall at structural risk, notably at storm water discharge points

- Inspect the immediate landside of the seawall for sink-holes, loss of sediment and replace with gravel or sand - annually

Reason: The seawall is maintained throughout its design life and does not cause damage to estuarine environment.

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

32. Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.


33. Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Coastal Engineering Risk Assessment Report prepared by Stantec Australia Pty. Ltd. dated 27 June 2023 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment and to comply with the Section 27 of the Coastal Management Act.

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

Signed



Olivia Ramage, Planner

The application is determined on 17/04/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments