

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1561
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 162 DP 585877, 37 Beaconsfield Street NEWPORT NSW 2106 Lot LIC 187264, 37 Beaconsfield Street NEWPORT NSW 2106
Proposed Development:	Regularisation of existing waterfront structures, including a lengthened ramp, new mooring pile and new berthing area.
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Richard Henry Harper Roslyn Margaret Matthews
Applicant:	Nicholas Cassidy

Application Lodged:	16/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	11/01/2021 to 25/01/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 10,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the regularisation of existing waterfront structures, including a lengthened ramp, new mooring pile and new berthing area (9m x 5m).

NB: As indicated under Section 1.5 of the *Environmental Planning and Assessment Act 1979*, a development application should only be for the proposed use and any future works. This development application seeks approval for some existing works (lengthened ramp) which have already been constructed and these 'as built' works cannot be retrospectively approved by a development application.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways
Pittwater 21 Development Control Plan - D15.15 Waterfront development

SITE DESCRIPTION

Property Description:	<p>Lot 162 DP 585877 , 37 Beaconsfield Street NEWPORT NSW 2106</p> <p>Lot LIC 187264 , 37 Beaconsfield Street NEWPORT NSW 2106</p>
Detailed Site Description:	<p>The subject site relates to Crown land located below the Mean High Water Mark (MHW) of 37 Beaconsfield Street, Newport (legally referred to as Lot 162 DP 585877) and is subject to Crown License No. LIC 187264.</p> <p>Land held under license below MHW is zoned W1 Natural Waterways under the provisions of the Pittwater Local Environmental Plan 2014. This area falls within land identified as "Area 23" on the Additional Permitted Uses Map and therefore development for the purposes of jetties or water recreation structures are permitted with consent.</p> <p>No. 37 Beaconsfield Street is an regularly shaped allotment with a MHW frontage measured at 20m, a lot depth of up to 47.245m and an area of 903.7m². This site is located within the E4 Environmental Living zone and currently accomodates a dwelling house and a swimming pool. The existing jetty provides water access to Pittwater, with</p>

pedestrian and vehicular access gained via a right of carriageway to Beaconsfield Street.

The slope of the site is measured at 26.7%, falling approximately 17m from the front boundary to the MHWM. The site is of a modified landscape setting, with vegetation consisting of trees, palms and turf areas.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential dwellings within bushland/landscaped settings. Of those properties fronting Pittwater, most contain waterfront facilities including boat sheds and jetties.

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:

29 December 2008

Development Application No. N0581/08 for the alterations and additions to the existing dwelling was granted consent.

APPLICATION HISTORY

11 January 2021

Evidence received of the notification sign erected on site.

5 February 2021

Request for withdrawal letter sent to the Applicant raising concerns regarding the size and location of the proposed berthing area as well as insufficient information concerning the jetty/pontoon depth and vessel dimensions.

25 February 2021

Subject application is reallocated from the previous assessing officer.

9 April 2021

Site inspection undertaken by the Assessing Officer.

April - July 2021

Various calls and emails were made by the Assessing Officer to the Applicant in an attempt to resolve outstanding issues. On 14 April 2021, the Applicant supplied Council with the details of the current Crown License. On 18 May 2021, the Applicant details in an email that amended plans and additional information would be provided the following week. On 5 July 2021, there were various correspondence between the Assessing Officer and the Property Owner. The Property Owner was informed that the Development Application could not be supported in its current form without amendments.

9 July 2021

The Applicant submits amended plans reducing the size of the berthing area to address Council concerns. These plans were accepted and form the basis for the following assessment. In accordance with the *Northern Beaches Community Participation Plan*, re-notification is not required where the "changes result in a lesser or reduction of environmental impacts".

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was not formally requested, however in response to issues raised in the withdrawal letter, the applicant submitted amended plans addressing Council concerns.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. / This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/01/2021 to 25/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Martin Lloyd Payne	39 Beaconsfield Street NEWPORT NSW 2106
Mr Timothy Andrew Anderson	158 Crescent Road NEWPORT NSW 2106

A total of two (2) submissions were received in support of the development application. No objections or issues were raised in any of the submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's biodiversity referrals team have assessed the development application against relevant biodiversity legislation, policies and controls including the following:</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Coastal Management SEPP <p>No native terrestrial vegetation is required for removal as a result of the proposed development, therefore the application is considered to satisfy relevant biodiversity policies and controls as listed above.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The application has been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> • Consent of Landowner for lodgement from the Department of Crown Lands under the NSW Planning, Industries & Environment dated 29 June 2020. • No navigational Concerns from the Transport for NSW-Maritime Division dated 27 March 2018 enclosing dated and signed maps • No Objection from the DPI-Fisheries under the Department of Primary Industries dated 2 March 2018

Internal Referral Body	Comments
	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The proposed development site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Land Development Solutions Pty. Ltd. dated 15 November 2019, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>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 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>However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM).</p>

Internal Referral Body	Comments
	<p>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>While a number of development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM). However, the lengthened ramp which is proposed to be authorised is located on the foreshore area and is permissible under section 7.8(2)(b) of PLEP.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Land Development Solutions Pty. Ltd. dated 15 November 2019, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</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>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 SDG Land Development Solutions Pty. Ltd. dated 15 November 2019, 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</p>

Internal Referral Body	Comments
	<p>water quality or estuarine habitat of the Pittwater waterway</p> <p>To assess impact on estuarine habitat, the DA is accompanied by Marine Habitat Survey prepared by H2O Consulting Pty. Ltd. dated 27 January 2018. The report concluded that the endangered seagrass <i>Posidonia australis</i> was not observed at the subject site, or where any plants aligning with the endangered Coastal Saltmarsh Community. Impacted habitat is confined to silty subtidal areas that do not support seagrasses.</p> <p>Given no invasive species including the green alga <i>Caulerpa taxifolia</i> were observed in the vicinity of the subject site, it is unlikely the proposed works may introduce and/or facilitate the spread of invasive species.</p> <p>As such, it is considered that the application does comply with the requirements of the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation for the protection of waterways.</p> <p>Environmental safeguards are to be installed prior to commencement of works to prevent the release of turbid plumes into the aquatic environment during construction. All contractors must be familiar with the invasive alga <i>Caulerpa taxifolia</i> and the measures to be taken if it is found onsite.</p> <p>With the application of these conditions it is considered unlikely that the proposal will have an adverse impact on the integrity and resilience of the biophysical, ecological and hydrological environment. It is therefore recommended for approval subject to conditions.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

Comment:

The proposed development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or to marine vegetation native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The application is also supported by a response from the NSW Department of Primary Industries identifying 'no net loss of key fish habitats'. The proposed use of the timber ramp, new berthing area does not restrict on any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

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

impact.

Comment:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

14 Development on land within the coastal use area

(1)

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

Comment:

The proposed development is not likely to cause an adverse impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed development will also not have an adverse impact on the cultural and built environment heritage. As such, it is considered that the proposed development had been designed, sited and will be managed to

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

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

Comment:

It has been considered that the proposed development will not likely cause increased risk of coastal hazards on the subject site or other land.

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	4m (W1 Zone)	RL 2.63 (Top of Pile)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone W1 Natural Waterways

Development for the purposes of water recreational structures are not listed within the land use table as permissible development within the Zone W1 Natural Waterways Land Use Table of the PLEP 2014.

However, Clause 2.5 of the PLEP 2014 allows for additional permitted uses on particular land, as described or outlined in Schedule 1 of the PLEP 2014.

Schedule 1 Clause 23 states the following:

23 Use of certain land in Zone W1 Natural Waterways

- (1) *This clause applies to land identified as "Area 23" on the Additional Permitted Uses Map.*
 (2) *development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent.*

As the subject application is for water recreation structures located within "Area 23" on the Additional Permitted Uses Map, the proposed development is permissible with consent.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport 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
B4.15 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
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	No	Yes

Detailed Assessment

D15.15 Waterfront development

Berthing Area

The proposed berthing area configured parallel to the MHWM is non-compliant with the control requirement for vessels being berthed at right angles to the MHWM to minimise visual impact on the foreshore, where practicable. The control does however allow for the consideration of vessels berthed parallel to the MHWM provided that the parallel moored vessel does not restrict navigation.

Careful consideration was given to a berthing area at a right angle to the MHWM (to the east of the existing pontoon), however concerns were raised that there may not be a sufficient water depth for a typical vessel.

The application is supported by a response from NSW Roads and Maritime Services that advised an inspection/assessment conducted by the local Boating Safety Officer indicated there were no navigational concerns regarding the proposal. Further, the location of the proposed berthing area is not considered to unreasonably impact upon the equitable use of the waterways for neighbouring waterfront landowners. This is particularly relevant given there are no properties to the east of the site that have jetties or berthing areas.

The application has not provided details as to the vessel intended to be moored within the berthing area. Despite this, the proposed dimensions of the berthing area being 9m (L) x 5m (W) is compliant with the maximum dimensions as prescribed under this clause. Whilst there appears to be sufficient water depths in the proposed berthing area, conditions have been applied to ensure that any vessel accommodated meets the relevant criteria on this clause.

Based on the above, the proposal is considered to satisfy the outcomes of this clause and is supported on merit.

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 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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 DA2020/1561 for Regularisation of existing waterfront structures, including a lengthened ramp, new mooring pile and new berthing area. on land at Lot 162 DP 585877, 37 Beaconsfield Street, NEWPORT, Lot LIC 187264, 37 Beaconsfield Street, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet 1 of 1, Issue D	06/07/21	SDG Land Development Solutions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Marine Habitat Survey: 37 Beaconsfield Street, Newport	27 January 2018	H2O Consulting Group Pty Ltd

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

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

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

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
NSW Department of Primary Industries - Fisheries	Installation of one mooring pole to facilitate permanent berthing of vessel. Ref. C18/72	2 March 2018
NSW Road and Maritime Services	Re: Development application for proposed berthing area, one mooring pile & authorisation of ramp, pontoon & stabilisation piles (x2) for 37 Beaconsfield Street Newport. Ref. 7472	27 March 2018
Department of Planning, Industry & Environment - Crown Lands	Consent of Owner for lodgement of 1) Development Application and 2) Building Information Certificate Application. Ref. 20/00811	29 June 2020

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

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

3. **No Approval for the existing reclamation land, sea wall, jetty and pontoon**

This consent does not approve any existing works constructed without development consent such as the reclamation land, sea wall, jetty and pontoon.

Reason: To ensure that this consent grants approval only for the use of the ramp, berthing area and the proposed mooring pile.

4. **Prescribed Conditions (Crown Land Only)**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason: Legislative Requirement.

5. **General Requirements (Crown Land Only)**

(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) 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.

(c) 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.

(d) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(e) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(f) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(j) 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.

(k) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.northernbeaches.nsw.gov.au

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

6. **Compliance with Standards (Crown Land Only)**

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. **Environmental Health inspection before, during and after works**

Notification must be given in writing to Council's Environmental Health team, no later than seven (7) business days prior to the date of commencement of works. No works relating to the removal or installation of piles, construction or removal of any other structure within the area classified as Class 1 for acid sulfate soils, are to commence until Council's Environmental Health Officer is on site to conduct an inspection and has taken water and soil samples. Council's Environmental Health Officer must be permitted entry to the site for the purposes of inspection and to collect before, during and after construction water and soil samples.

Reason: To facilitate environmental monitoring for the purposes of environmental protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Prevention of *Caulerpa taxifolia* entering the site**

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

If any *Caulerpa* is found onsite, it must be removed from the waterway, 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.

9. **Aquatic sediment management**

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

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

Reason: Protection of surrounding environment.

10. **Requirement to Notify About New Acid Sulfate Soils Evidence**

Any new information revealed during works that has the potential to alter previous conclusions about Acid Sulfate Soils, shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: Protection of the environment.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**11. Vessel dimensions**

Any vessel berthed within the approved berthing area shall meet the following criteria:

- a) That there is sufficient depth of water below the vessel being 600mm depth at zero low tide; and
- b) The size of vessel must be accommodated wholly within the berthing area.

Reason: To ensure the vessel is of acceptable dimensions for the approved berthing area.

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

Signed



Kent Bull, Planner

The application is determined on 20/07/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments