

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0137
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 72 DP 558694, 22 Bona Crescent MORNING BAY NSW 2105 Lot LIC 344162, 22 Bona Crescent MORNING BAY NSW 2105
<b>Proposed Development:</b>	Demolition works and construction of a boat shed and skid ramp
<b>Zoning:</b>	C3 Environmental Management
<b>Development Permissible:</b>	Yes - Zone C3 Environmental Management Yes - Zone W1 Natural Waterways
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Hightide Group Pty Ltd
<b>Applicant:</b>	Stephen Crosby & Associates Pty Ltd

<b>Application Lodged:</b>	22/02/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	28/02/2024 to 13/03/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	4
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Deferred Commencement Approval

<b>Estimated Cost of Works:</b>	\$ 82,500.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Construction of a boat shed; and
- Construction of a skip ramp.

It is noted that the site currently has a Building Information Certificate lodged with Council (BC2023/1189) for the unauthorised seawall.

As such, a Deferred Commencement Condition is recommended to ensure the Building Information Certificate for the seawall is obtained prior to the operational consent for the boat shed and skid ramp, as the proposed works are reliant on the authorisation of the seawall.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 2.5 Additional permitted uses for particular land  
Pittwater Local Environmental Plan 2014 - Zone C3 Environmental Management  
Pittwater Local Environmental Plan 2014 - Zone W1 Natural Waterways  
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
Pittwater 21 Development Control Plan - D8.3 Building colours and materials  
Pittwater 21 Development Control Plan - D8.6 Side and rear building line  
Pittwater 21 Development Control Plan - D8.9 Landscaped 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 - D15.14 Minimum frontage for waterfront development  
Pittwater 21 Development Control Plan - D15.15 Waterfront development

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 72 DP 558694 , 22 Bona Crescent MORNING BAY NSW 2105 Lot LIC 344162 , 22 Bona Crescent MORNING BAY NSW 2105
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment located on the northern/southern/eastern/western side of Bona Crescent.

The site is irregular in shape with a frontage of 19.905m along Bona Crescent and a maximum depth of 51.185m. The site has a surveyed area of 996m<sup>2</sup>.

The site is located within the C3 Environmental Management zone of PLEP 2014 and accommodates a dwelling house, and water tank currently on the site.

The site slopes upwards from the front northern boundary upwards to the rear southern boundary over approximately 13 metres.

The site contains trees, plantings, and lawn areas.

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

Adjoining and surrounding development is characterised by dwelling houses to the east and west. The site abuts Pittwater waterway to the north, and Ku-Ring-Gai Chase National Park to the south.

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:

#### **DA2021/0910**

Development Application for Alterations and additions to a Dwelling House.  
Approved on 17 September 2021.

#### CC2022/0796

Construction Certificate for Alterations and additions to a Dwelling House.  
Approved on 1 August 2022 by external Certifier.

#### BC2023/1189

Building Certificate for Seawall.  
Currently under assessment.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested from Council's Bushland and Biodiversity Officer, and Landscape Officer in relation to the proposed works and the Biodiversity Values Map. Subsequently, the applicant submitted an Arborist Report - Addendum.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this</p>

Section 4.15 Matters for Consideration	Comments
	<p>application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Hazard Solutions, dated 18 January 2024) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED



The subject application has been publicly exhibited from 28/02/2024 to 13/03/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mrs Robin Heather Marshall	27 Margaret Street FAIRLIGHT NSW 2094
Ms Lucinda Mills	11 Camera Street MANLY NSW 2095
Mrs Wendy Jane Chambers Brian Chambers	24 Bona Crescent MORNING BAY NSW 2105
Ms Jane Jobson	28 Bona Crescent MORNING BAY NSW 2105

The following issues were raised in the submissions:

- **Support of Development Application**
- **Boat Ramp (Skid Ramp)**
- **Location of Boat Shed**
- **View from Adjoining Property**
- **Boat Shed Roof Colour**
- **Barge Deliveries**
- **Arborist Report**
- **Character of the Location**
- **Excavation**
- **Height of Skid Ramp**

The above issues are addressed as follows:

- **Support of Development Application**

Three (3) submissions were submitted in support of the Development Application.

Comment:

The three (3) submissions detail the support of the proposal development.

- **Boat Ramp (Skid Ramp)**

The submissions raised concerns surrounding the boat ramp (skid ramp) stating there is no need for a skid ramp, and the skid ramp will impede on the public access below the Mean High Water Mark.

Comment:

A detailed assessment against Clause 15.15 Waterfront Development of Pittwater 21 Development Control Plan is contained within this report. In summary, the proposed boat ramp is considered appropriate to access the proposed boat shed. Furthermore, the boat ramp will not impede public access below the Mean High Water Mark, as the proposed boat ramp is

located north of the existing public foreshore area allowing for adequate public access.

- **Location of Boat Shed**

The submissions raised concerns that the proposed boat shed is located below the Mean High Water Mark, and that no part of the boat shed should be located below the Mean High Water Mark.

Comment:

The applicant has submitted Owners Consent from Crown Lands supporting the location of the boat shed below the Mean High Water Mark. Therefore, there are no concerns with the location of the boat shed, noting that boat shed will not result in any unacceptable impacts to the public access along the foreshore.

- **View from Adjoining Property**

The submissions raised concerns that the location of the boat shed will impact on the view from the adjoining property to the east (No.24 Bona Crescent).

Comment:

The proposed boat shed is of a single storey scale, and located over the western side boundary of No.24 Bona Crescent. It is considered that the proposed boat shed will not result in an unacceptable view impact, and appropriate view sharing will be retained.

- **Boat Shed Roof Colour**

The submissions raised concerns that the proposed boat shed roof colour should not be Windspray to minimise reflect of the sunlight.

Comment:

It is considered that Windspray is a suitable colour for the proposed roof as it obtains a Solar Absorbency of 0.60. A recommended condition has been included to ensure the roof colour is greater than 0.46, and that the proposed walls are of a dark, and earthy tones. It is considered that the recommended condition will ensure the proposed boat shed is of an appropriate colour that will not result in any adverse solar reflection or glare.

- **Barge Deliveries**

The submissions raised concerns that all barge deliveries are to be made west of the applicant's existing jetty.

Comment:

There is not restriction Council can impose to specify the use of the existing jetty. Notwithstanding, as detailed on the Erosion, Sediment, Stormwater Control & Waste Management Plan (Drawing No.DA013, Revision 3 prepared by Buck and Simple) the location of building material stockpile is located west of the jetty within the subject site.

- **Arborist Report**

The submissions raised concerns that concerns were raised by Council's Bushland and Biodiversity Officer regarding the removal of one tree.

Comment:

The applicant submitted an amended Arborist Report, and as such Council's Bushland and Biodiversity Officer and Landscape Officer provided amended comments in support of the proposal, subject to recommended conditions. The recommended conditions include the requirement for three (3) replacement canopy trees that will provide suitable plantings for the subject site.

- **Character of the Location**

The submissions raised concerns that the proposal does not meet the character of the area, and the extent of hard surfaces means the application will not meet the objectives of the C3 Environmental Management zone.

Comment:

A detailed assessment has been conducted against Clause D8.9 Landscaped Area of Pittwater 21 Development Control Plan, and against the objectives of the C3 Environmental zone of Pittwater Local Environmental Plan 2014 contained within this report. In summary, the proposal is considered to present compliance with the outcomes of the landscaped area control, and the proposal is consistent with the objectives of the zone. Furthermore, it is considered the proposal is consistent with the boat sheds located on the adjoining sites of No.20 Bona Crescent, and No.24 Bona Crescent.

- **Excavation**

The submissions raised concerns that there is insufficient information regarding the excavation required for the boat shed.

Comment:

The required excavation is detailed on the Sections Plan (Drawing No.DA300, Revision 3 prepared by Buck and Simple dated 28 January 2022). Furthermore, the accompanying Geotechnical Report (prepared by Crozier Geotechnical Consultants dated 19 December 2023) provides further information surrounding the required excavation for the proposed boat shed.

- **Height of Skid Ramp**

The submissions raised concerns surrounding the height of the skid ramp, and whether public access along the foreshore will be provided under the skid ramp.

Comment:

The height of the skid ramp is detailed on the Sections Plan (Drawing No.DA300, Revision 3 prepared by Buck and Simple dated 28 January 2022). The height of the boat ramp is consistent with the height of the existing jetty, and as such the public access will maintained to the north of the proposed boat shed, and to the south of the proposed skid ramp and existing jetty.

Concluding Comments:

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed application.

## REFERRALS



Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p><b>General Comments</b></p> <p>This application is seeking consent for a boat shed and skid ramp.</p> <p>The property lies within potential Class 5 Acid Sulfate Soils.</p> <p>An Acid Sulfate Soils assessment (without sampling) has been undertaken. There is to be minimal excavation onsite.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Unsewered Lands)	<p><b>General Comments</b></p> <p>This application is seeking consent for the installation of a boat shed and skid ramp. A review of the architectural drawings dated 28 January 2022, (Drawing DA013) identifies the building material stockpile, temporary shed and recycling skip to be located on or adjacent to the approved land application area for the wastewater system (septic tank with trench beds).</p> <p>No materials or items are to be laid on the land application area because there is the likelihood of affecting its efficiency going forward. Environmental Health will apply a condition of consent.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Landscape Officer	<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): B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; and D8 Lower Western Foreshores and Scotland Island Locality.</p> <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 Arborist Report is noted including the proposed removal of one native tree (tree 1 - <i>Allocasuarina littoralis</i>) that is impacted by proposed development works, and the recommendation for replacement with three native trees.</p>
NECC (Bushland and Biodiversity)	<p><b>Additional Biodiversity Comments (22/03/2024)</b></p> <p>An Addendum (Syncarpia Vegetation Management, 19/03/2024) to the Arborist Report was submitted in response to the below request for information. The Arborist states "I confirm that Tree 1 a mature</p>

Internal Referral Body	Comments
	<p>specimen of <i>Allocasuarina torulosa</i> (Forest Oak) in its entirety (Trunk, Branches &amp; Canopy) is located outside the Biodiversity Value Map Boundaries".</p> <p>It is noted that there are discrepancies between the lot boundaries identified on the submitted site survey and those identified on applicable spatial layers of the NSW Planning Portal; this should be investigated by the relevant officer, if required.</p> <p>In accordance with recommendations of the Arborist Report, the tree is to be replaced by three (3) <i>Allocasuarina torulosa</i> within the site.</p> <p>No further objections in relation to biodiversity, subject to conditions.</p> <p><b>Original Biodiversity Comments (29/02/2024)</b> Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• NSW Biodiversity Conservation Regulation 2017</li> <li>• Pittwater LEP 2014 cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> <li>• Planning for Bushfire Protection 2019 - Bushfire Prone Land</li> <li>• SEPP (Resilience and Hazards) 2021 cl. 2.10 Development within the coastal environment area</li> </ul> <p>Portions of the site are identified on the NSW Department of Climate Change, Energy, the Environment and Water Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>The Arborist Report (Syncarpia Vegetation Management, February 2024) submitted with the application recommends one native tree for removal (Tree 1 <i>Allocasuarina torulosa</i> (Forest Oak)). This tree is located within the BV Map and as such a BDAR is required to be prepared by an accredited assessor trained in application of the Biodiversity Assessment Method (BAM) and submitted with the application. Alternatively, amendments to the design to avoid impacting on native vegetation within the BV Map will remove the requirement for a BDAR.</p> <p>Upon receipt of a BDAR or amended plans, Council's Biodiversity Referrals team will recommence assessment of the application.</p>
NECC (Coast and Catchments)	The development application is for a new Boat shed and skid ramp, partially on Crown Land below the Mean High Water Mark.

Internal Referral Body	Comments
	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The application has also been assessed in consideration approval/support of:</p> <ul style="list-style-type: none"> <li>• Consent to lodge DA from the NSW Department of Planning and Environment – Crown Lands and Public Spaces dated 7 November 2023</li> <li>• No navigational Concerns from the Transport for NSW-Maritime Division dated 17 March 2022 enclosing stamped plans.</li> <li>• No Objection from the DPI-Fisheries, a division of the Department of Primary Industries dated 27 March 2022 enclosing stamped plans.</li> </ul> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby &amp; Associates Pty. Ltd. dated 13 February 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p>

Internal Referral Body	Comments
	<p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p><b>Estuarine Risk Management</b></p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.66m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0,06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby &amp; Associates Pty. Ltd. dated 13 February 2024 and also as assessed in the submitted Coastal Engineering Risk Assessment Report prepared by Stantec Australia Pty. Ltd. dated 20 December 2023, the ground floor level for the proposed boatshed is below the derived EPL for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><b>Development on Foreshore Area</b></p> <p>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA proposes construction of the water access and boatshed partly on foreshores area. All these proposed works are consistent with Clause 7.8(2)(b).</p>

Internal Referral Body	Comments
	<p>On internal assessment, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p><b>Waterfront Development</b></p> <p>Proposed construction of boatshed is partly located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section c) Boatshed 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 Stephen Crosby &amp; Associates Pty. Ltd. dated 13 February 2024, the DA satisfies requirements under the Section D15.15: Waterfront development, sub-section c) Boatsheds of the Pittwater 21 DCP.</p> <p>As such, it is considered that the application does comply with the requirements of the Section D15.15: Waterfront development, sub-section c) Boatsheds of the Pittwater 21 DCP</p>
NECC (Development Engineering)	<p>The Statement of Environment Effects, the Geotechnical report and other pertinent reports have been reviewed. Development Engineering raises no objections to the proposed development subject to the inclusion of the recommended engineering conditions of consent.</p>
NECC (Riparian Lands and Creeks)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• Relevant LEP and DCP clauses; and</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>The site abuts Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the estuary, or the quantity and quality of surface and ground water flows that it receives.</p>

Internal Referral Body	Comments
	<p>NSW DPI Fisheries does not consider the proposal to constitute Integrated Development as it does not include any dredging, reclamation, harm to marine vegetation, or blockage of fish passage. This determination by DPI Fisheries does not negate the Pittwater DCP section B4.19 requirement that a Marine Habitat Survey/Aquatic Ecology report be provided for all works below the Mean High Water.</p> <p>Council can exercise discretion on this requirement according to the nature of the proposal and the perceived level of risk to the aquatic environment. On review of the proposal, it is considered that in place of a full-scale Marine Habitat Survey/Aquatic Ecology Report, it would be acceptable for the applicant to provide a letter from a suitably qualified aquatic ecologist supporting that the proposal is acceptable in the context of the site and unlikely to have a significant impact on the aquatic environment.</p>
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>Proposal is for a new boat shed and skid ramp.</p> <p>On review of the proposal, no objections regarding water management.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p>Development Application No. DA2024/0137</p> <p>Description: Construction of a boat shed and skid ramp</p> <p>Address: 22 Bona Crescent MORNING BAY</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</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</p>



External Referral Body	Comments
	in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

#### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

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

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

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

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

#### **2.10 Development on land within the coastal environment area**

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

Comment:

The subject site is located within land identified as "coastal environment area". The proposed development is not likely to cause adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

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

Comment:

The proposed development has been designed, sited, and managed to avoid an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

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

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

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

Aboriginal cultural heritage, practices and places,  
cultural and built environment heritage, and

- b) is satisfied that:
  - i) the development is designed, sited and will be managed to avoid an
  - ii) adverse impact referred to in paragraph (a), or
  - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is located within land identified as "coastal use area". The proposed development is not likely to cause an adverse impact to items listed under Clause 2.11(1)(a)(i-v) inclusive. The proposal has been designed, sited, and managed to avoid any adverse impacts as detailed under Clause 2.11(1)(a)(i-v) inclusive.

**Division 5 General**

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

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

Comment:

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

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

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

Comment:

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

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 : Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	Yes
zone objectives of the LEP?	Zone C3 : Yes Zone W1 : Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*:	4m (W1 Zone)	3.1m	-	Yes
	8.5m (C3 Zone)	2.5m	-	Yes

\*Note: As the proposed boat shed is located partially within the C3 Zone, and W1 Zone, there are two applicable height of building development standards.

### Compliance Assessment

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

### Detailed Assessment

#### **2.5 Additional permitted uses for particular land**

Under Schedule 1 Additional permitted uses of Pittwater Local Environmental Plan 2014 the following applies:

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

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

A portion of the boat shed, and the water recreation structure (boat ramp) is located in the Zone W1 Natural Waterways and within "Area 23". As such, the proposal is permitted with development consent.

### Zone C3 Environmental Management

The subject site is located in land zoned as C3 Environmental Management of Pittwater Local Environmental Plan 2014.

An assessment against the objectives of zone has been conducted below:

- ***To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.***

Comment:

The proposal will appropriately protect, manage and restore areas with special ecological, scientific, cultural and aesthetics values.

- ***To provide for a limited range of development that does not have an adverse effect on those values.***

Comment:

The proposal will not result in adverse effects on any special ecological, scientific, cultural or aesthetic values.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent.***

Comment:

The proposal will continue to provide for residential development of a low density and scale integrated with the landform and landscape. The proposal is not considered to be visually prominent.

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

Comment:

The proposal will not result in any adverse impacts to the riparian and foreshore vegetation, and wildlife corridors.

- ***To ensure the continued viability of ecological communities and threatened species.***

Comment:

The proposal will ensure the continued viability of ecological communities, and threatened species.

### Zone W1 Natural Waterways

The proposal is partially located within Zone W1 Natural Waterways of Pittwater Local Environmental Plan 2014.

As detailed under Clause 2.5 Additional permitted uses for particular land of Pittwater Local Environmental Plan 2014, a portion of the works are located within "Area 23" that allows for development for the purposes of boat sheds, jetties or water recreation structures.

An assessment against the objectives of zone has been conducted below:

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

Comment:

The proposal will appropriately protect the ecological and scenic values of the natural waterways.

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

Comment:

The proposed development will not have an adverse effect on the natural values of waterways in this zone.

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

Comment:

The proposal is not for any fishing industries or recreational fishing activities. Therefore this objective is not relevant.

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

Comment:

The proposal will not adversely impact on the natural environment, or obstruct the navigation of the waterway.

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

Comment:

The proposal will provide private access to the waterway, and also maintain public access along the foreshore.

## 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 Class 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.

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

A Preliminary Acid Sulfate Soil Assessment has been undertaken by Paul Anink of Marine Pollution Research Pty Ltd, dated 5 December 2023. In the assessment, Paul Anink found that, *"as no soil is to be excavated for the piling project, there will be less than 1 tonne of PASS disturbed for the project, and the small amounts of PASS that could be disturbed and brought from the seabed surface would for the most part be returned to the estuarine waters to be dispersed and reincorporated into the seabed sediments with no exposure to air, and no opportunity to become ASS"*.

In this regard, Paul Anink advises that an Acid Sulfate Soil Management Plan (ASSMP) is not considered to be necessary for the development of the site. 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 Certifier of any new evidence of the presence of acid sulfate soils.

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

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

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

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

### Comment:

The proposed development is for a boat shed and a slipway (boat ramp). In this instance the proposed works are exceptions as detailed under Clause 7.8(2)(b) of Pittwater Local Environmental Plan 2014.

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 Zone C3 Environmental Management and Zone W1 Natural Waterways of Pittwater Local Environmental Plan 2014. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

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

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

Comment:

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

## Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
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Front building line	6.5m (South)	>6.5m	-	Yes
Rear building line	Foreshore Building Line	Below Foreshore Building Line	-	<b>No</b>
Side building line	2.5m (West)	14.5m	-	Yes
	1m (East)	0.9m-1.2m	10% (0.1m)	<b>No</b>
Building envelope	3.5m (West)	Within envelope	-	Yes
	3.5m (East)	Within envelope	-	Yes
Landscaped area	24% not Landscaped Area (239.04m <sup>2</sup> )	36.5% (363.5m <sup>2</sup> )	52.06% (124.46m <sup>2</sup> )	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	No	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	No	Yes
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.12 Companion animals	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.14 Parking management	Yes	Yes
D8.15 Site disturbance	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	No	Yes
D15.15 Waterfront development	Yes	Yes

#### Detailed Assessment

### **D8.3 Building colours and materials**

The proposal includes a Perspectives & Materials sheet (Drawing No.DA900, Revision 3 prepared by Buck and Simple dated 28 January 2022.

The proposed metal sheet roofing is "Windspray or similar", and the proposed exterior is "White Weatherboard Exterior".

Clause D8.3 Building colours and materials stipulates the following:

*External colours and materials shall be dark and earthy tones as shown below:*



*White, light coloured, red or orange roofs and walls are not permitted:*

 White X	 Light blue X	 Red X
 Orange X	 Light grey X	 Beige X

As such a recommended condition is included for a schedule of colours and materials to ensure the external colours and materials shall be dark and earthy tones. Subject to the recommended condition, the proposal will demonstrate compliance with the control.

## D8.6 Side and rear building line

### Description of non-compliance

Clause D8.6 Side and rear building line of the Pittwater DCP sets the setbacks of development to the side boundaries as 2.5 metres to one side and 1.0 metres to the other side. In this instance the 2.5 metres side building line has been applied to the western side building line, and 1.0 metres side building line has been applied to the eastern side building line. The rear setback is the foreshore building line set by the LEP under Clause 7.8, and this has been discussed elsewhere in this report.

The proposal is compliant with the western side building line requirement. However, the proposed boat shed presents a variation to the eastern side building line with a setback of 0.9 metres, presenting a variation of 10% (0.1m).

A detailed assessment has been conducted against the outcomes of the control as detailed below, and the minor variation is supportable in this circumstance.

### Merit consideration

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

- ***To achieve the desired future character of the Locality.***

#### Comment:

The proposed development is consistent with the desired future character of the Lower Western Foreshores and Scotland Island Locality.

- ***The bulk and scale of the built form is minimised.***

#### Comment:

The bulk and scale of the built form is minimised as the boat shed is limited to one storey, and will not present any unacceptable bulk and scale.

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

#### Comment:

The proposed boat shed will not result in any significant view or vista impacts to and/or from

public/private places.

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

Comment:

The proposal will preserve adequate view sharing through the location of the boat shed, that is of a single storey scale. The proposed boat shed is an appropriate design, that is surrounded by existing landscaping.

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

Comment:

The proposal will ensure an appropriate level of privacy, amenity, and solar access is provided within the development site, and maintained to adjoining residential properties.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment:

The proposal includes retention of mature tree canopies, and existing landscape that will present appropriately to Pittwater waterway.

- ***Flexibility in the siting of buildings and access.***

Comment:

The proposed boat shed is in an appropriate location to access Pittwater waterway, whilst still allowing access along the public foreshore area.

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

Comment:

The proposal largely retains the significant vegetation on site, and includes the retention of plantings, and trees to visually reduce the built form.

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

Comment:

The proposal is not located in a commercial zone, and therefore this outcome is not relevant.

## D8.9 Landscaped Area

### Description of non-compliance

The maximum area not provided as landscaped area shall be 24% (239.04m<sup>2</sup>) based on the site area being between 950-999m<sup>2</sup>.

The proposal presents a total of 36.5% (363.5m<sup>2</sup>) of not landscaped area, presenting a variation of 52.06% (124.46m<sup>2</sup>).



It is important to note, the site presents an existing non-compliance, and the proposed reduction in landscaped area is resultant of the proposed boat shed that accommodates 24.8m<sup>2</sup>.

Under Clause D8.9 Landscaped Area of Pittwater 21 Development Control Plan the following variations are permitted:

*Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:*

- i) impervious areas less than 1 metre in width (e.g. pathways and the like);*
- ii) for single dwellings on land zoned E3 Environmental Management, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

*Water tanks that provide reserve capacity and an approved adaptor for fire fighting purposes or waste water treatment systems that are not visible from Pittwater waterway can be included as landscaped area for the purpose of this control.*

As such, an additional 6% (59.76m<sup>2</sup>) is provided the landscaped area for the purpose of impervious landscape treatments as a result of the paved open space, and uncovered deck. Furthermore, the water tank located at the southern end of the site accommodates approximately 21.4m<sup>2</sup> and as such can be included as landscaped area. Therefore, an additional 81.16m<sup>2</sup> can be included as landscaped area, presenting a total of 28.35% (282.34m<sup>2</sup>) of not landscaped area reducing the the variation to 4.35% (43.3m<sup>2</sup>).

In this instance, a detailed assessment has been undertaken against the Outcomes of the Control, and the minor variation is acceptable in this circumstance.

#### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- ***To achieve the desired future character of the Locality.***

#### Comment:

The proposed development is consistent with the desired future character of the Lower Western Foreshores and Scotland Island Locality.

- ***The bulk and scale of the built form is minimised.***

#### Comment:

The proposed boat shed is single storey, and as such will not result in any unacceptable bulk and scale.

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

#### Comment:

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

- ***Vegetation is retained and enhanced within the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation including tree canopy.***

Comment:

The proposal does not result in the removal of any significant vegetation. The proposal is appropriately designed to ensure the appearance of the boat shed is secondary to the existing landscaping, vegetation, and tree canopies.

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

Comment:

The proposal will ensure appropriate stormwater runoff to prevent soil erosion, and siltation of natural drainage channels.

- ***To ensure the distribution of height and mass preserves, and enhances neighbourhood amenity and has regard to site characteristics and environmental constraints.***

Comment:

The proposal distributes height and mass appropriately, and the neighbourhood amenity is enhanced through the harmonious relationship to the site character and environmental constraints.

- ***To conserve significant natural features of the site and contribute to effective management of biodiversity.***

Comment:

As above, no significant vegetation is impacted, thereby conserving the natural vegetation and biodiversity within the site. Furthermore, Council's Bushland and Biodiversity Officer has reviewed the proposal, and is supportable subject to recommended conditions.

- ***The area of site disturbance is minimised.***

Comment:

The proposal minimises the site disturbance as the works are isolated to the boat shed location. It is considered that the boat shed will not result in any unacceptable disturbance to the site.

- ***Soft surface is maximised.***

Comment:

The proposal reduces the soft surfaces on site by approximately 24.8m<sup>2</sup> and the remainder of the site will retain the existing soft surfaces.

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

The proposal includes development seaward of the mean high water mark including a portion of the

boat shed, and the skid ramp.

Clause D15.12 of Pittwater 21 Development Control Plan stipulates the following:

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

The applicant has provide consent from the Department of Primary Industries (letter dated 27 March 2022), and Department of Planning and Environment (letter dated 7 November 2023) in relation to the works seaward of the mean high water mark. The letters have been included in a recommended condition, to ensure all recommendations detailed in the letters are adhered to.

Notwithstanding, the proposal has been assessed against the outcomes of the control, and in this instance the proposal is supportable.

#### Merit consideration

- ***To ensure minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater.***

##### Comment:

The proposal will ensure minimal adverse impacts on the water quality hydrodynamics, and estuarine habitat of Pittwater. Furthermore, the proposal has been reviewed by Council's Riparian Lands and Creek Officer, Bushland and Biodiversity Officer, Coast and Catchment Officer, and Water Management Officer who are all supportable of the proposal, subject to recommended conditions.

- ***To ensure new buildings are not susceptible to flooding.***

##### Comment:

The proposal development is not susceptible to flooding, and is located appropriately.

- ***To ensure public access is maintained and provided for along the foreshore.***

##### Comment:

The proposed works will not impact upon the existing public access along the foreshore, and existing access is maintained.

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

#### Description of non-compliance

The proposed skid ramp is located approximately 1.3m-1.5m from the eastern lateral limit lines to development. The proposal is more than compliant with the western lateral limit lines to development.

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

*Waterfront development shall be set back a minimum of 2.0 metres along the full length of the lateral limit lines to development to minimise conflict and the possibility of inaccurate location of structures*

during construction (Diagram 3). This may be varied where shared facilities are proposed where the adjoining property will benefit from the shared facility.

It is considered that the proposed variation to the lateral limit lines to the development is acceptable in this circumstances, and the location of the proposed skid ramp will not result in any adverse impacts to adjoining sites.

#### Merit consideration

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

- ***To ensure that fair and equitable enjoyment of the waterway is achieved between neighbouring waterfront landowners through restricting unreasonable encroachment of waterfront development in front of adjoining properties.***

#### Comment:

The proposed location of the boat shed and associated skid ramp is considered to be an appropriate location given the existing location of the existing jetty. It is important to note that No.20 Bona Crescent, and No.24 Bona Crescent obtain existing boat sheds, and jetties, and as such the proposed location of the boat shed, and skid ramp is considered acceptable, despite the minor variation to the lateral limit lines to development. It is considered that fair equitable enjoyment of the waterway is achieved between the neighbouring waterfront landowners given the existing boat sheds, and jetties of the adjoining sites.

### **D15.14 Minimum frontage for waterfront development**

#### Description of non-compliance

Clause D15.14 Minimum frontage for waterfront development stipulates the following:

*Facilities should be shared with neighbouring waterfront properties to minimise the density and visual impact of foreshore development. Where individual facilities are desired, the applicant must demonstrate, to the satisfaction of Council, that shared facilities are not appropriate and that the objectives of this part would not be compromised.*

It is noted that the adjoining sites of No.20 Bona Crescent, and No.24 Bona Crescent obtain individual existing jetties, and boat sheds. As such it is considered reasonable, and acceptable for the subject site to propose a boat shed and skid ramp, given the existing jetty. Furthermore, the location of the boat sheds, and jetties of No.20 Bona Crescent, and No.24 Bona Crescent are significantly distanced from the subject site.

A detailed merit assessment has been conducted, and it is considered that the proposed boat shed, and skid ramp is acceptable, and is consistent with the outcome of the control as detailed below.

#### Merit consideration

- ***To minimise the individual and cumulative visual impact of waterfront development.***

#### Comment:

The subject site obtains a frontage of approximately 19 metres to Pittwater waterway, and as such the proposed boat shed, and skid ramp will not result in any unacceptable visual impact of waterfront development. It is noted that the adjoining sites of No.20 Bona Crescent, and No.24 Bona Crescent obtain existing boat sheds, and jetties that are approximately 11 metres, and 13.6 metres respectively. Therefore, the addition of the proposed boat shed, and skid ramp will not result in any unacceptable visual clutter.

## **D15.15 Waterfront development**

### Description of non-compliance

The proposal includes a boat shed, and skid ramp.

As such the following controls apply as detailed under Clause D15.15 Waterfront development of Pittwater 21 Development Control Plan:

#### **c) Boatsheds**

*Boatsheds shall meet the following criteria:*

- i) Boatsheds shall be located above mean high water mark on freehold land, where practicable. Where this cannot realistically be achieved, as much of the proposed boatshed as is practical must be located above mean high water mark to minimise encroachment onto the littoral zone below mean high water mark.*
- ii) Boatsheds shall be one storey and no greater than 4.5 metres in building height above the platform on which it is built, 4.0 metres in width and 6.0 metres in length, as illustrated in Diagram 4. The use of lofts or similar design concepts shall not be permitted.*
- iii) Boatsheds shall not prevent or hinder public foreshore access. Alternative access must be provided where a proposed boatshed is likely to make existing foreshore access below mean high water mark difficult.*
- iv) Boatsheds cannot be used for any other purpose than the storage of small boats and/or boating equipment. The incorporation of any internal kitchen facilities, habitable rooms, shower or toilet facilities shall not be permitted. Roof areas of boatsheds shall not be used for recreational or observational purposes.*
- v) Boatsheds shall be constructed of low maintenance materials that are of a tone and colour which is sympathetic to the surrounding setting. Structures proposed along the western foreshores, McCarrs Creek, Horseshoe Cove, Salt Pan Cove, Refuge Cove, Clareville and Careel Bay are to have specific regard for the natural landscaped character of the area. Reflective materials and finishes for private boatsheds shall not be permitted.*
- vi) The minimum floor level for proposed boatsheds shall be in accordance with the B3 Estuarine Hazard controls for foreshore development around the Pittwater Waterway.*
- vii) Boatsheds shall be able to be entirely enclosed. Boatsheds which either partially or wholly do not incorporate appropriate wall cladding shall not be permitted, as such structures tend to become visually obtrusive when viewed from the waterway.*
- viii) All electrical equipment and wiring shall be water tight below the designed flood/tidal inundation level.*

*Boatsheds which cannot meet these criteria are considered out of scale and character with the type of residential foreshore development that exists around the Pittwater Waterway. Boats which cannot be accommodated in the recommended size boatshed are considered inappropriate and should be accommodated using alternative facilities.*

The proposed boat shed is consistent with the criteria as detailed above from i-viii inclusive. As detailed under criteria v) the proposed colours shall be of a sympathetic tone and colour. As detailed under Clause D8.3 Building colours and materials of Pittwater 21 Development Control Plan, a suitable condition has been recommended to ensure the colour and finishes are of earthy tones. Overall, it is considered that the proposed boat shed is consistent with the required criteria, and is therefore supportable.

**d) Slipways and Launching Ramps**

*Slipways and launching ramps are generally not favoured.*

Whilst slipways and launching ramps are generally not favoured, under Clause D15.15 Waterfront development of Pittwater 21 Development Control Plan the following variations are prescribed:

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

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

- i) Innovative design which incorporates slipping facilities with other existing or proposed structures is encouraged (Diagram 5).*
- ii) Structures, the storage of lightweight boats, and any winch equipment shall be entirely on private freehold land and shall not obstruct public foreshore access.*
- iii) Structures shall be at ground level, where possible. Slipways from boatsheds, or reclamation must be recessed into the subject structure or work to minimise the height of the sliprails or boat ramp above the bed of the Pittwater Waterway. (Diagram 6).*
- iv) Sliprails are to be in the form of two parallel rails, no more than 2 metres width apart, with either locking spreaders between the rails or bolted directly to the surface of the concrete without the use of spreaders or embedded in concrete to facilitate free access. (Diagram 7).*
- v) Timber construction is preferred for proposed boat ramps. Concrete ramps may be considered at bed level in certain locations such as at Crystal Bay, Winji Jimmi Bay, Palm Beach and Careel Bay or where it can be shown, to the satisfaction of Council, that the aims of this clause are not compromised. Other materials such as steel with bonded rust proof coating will also be considered.*

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

The proposed boat ramp is consistent with the criteria of i-v inclusive as detailed above as the proposed boat ramp will not obstruct public foreshore access, is of timber construction, and the height of the boat ramp is minimised. Therefore, the proposed boat ramp is acceptable.

Merit consideration

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

Comment:

The proposal has been reviewed by Council's Coast and Catchment Officer, Riparian Land and Creek Officer, and Bushland and Biodiversity Officer. It is considered that the proposal will not result in an adverse impact on the water quality, and estuarine habitat of Pittwater, subject to



the recommended conditions provided by the relevant internal officers.

- ***Public access along the foreshore is not restricted.***

Comment:

The proposal provides adequate public access along the foreshore area.

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

Comment:

The proposal will not encroach on navigation channels, or adversely affect the use of ferries and service vessels or the use of the waterway by adjoining landowners. The application is accompanied by a letter from Transport for New South Wales dated 17 March 2022, that states there are no navigational concerns regarding the designated proposal.

- ***Structures blend with the natural environment.***

Comment:

As per the recommended condition, the proposal will appropriately blend with the natural environment.

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

Comment:

The proposal will not result in detrimental impacts to the visual quality, water quality of estuarine habitat of the Pittwater waterway.

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

Comment:

The proposal is not a commercial waterfront development. This outcome is therefore not applicable.

- ***Waterfront development which does not comply with the outcomes of this clause are removed.***

Comment:

As detailed above, the proposed waterfront development complies with the outcomes of this clause, subject to the recommended condition for the proposed colour of the boat shed.

## 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**

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 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**

### **DEFERRED COMMENCEMENT APPROVAL**

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2024/0137 for

Demolition works and construction of a boat shed and skid ramp on land at Lot 72 DP 558694, 22 Bona Crescent, MORNING BAY, Lot LIC 344162, 22 Bona Crescent, MORNING BAY, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

## 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.

### DEFERRED COMMENCEMENT CONDITIONS

#### 1. Deferred Commencement - Building Information Certificate for Unauthorised Works

An application for a Building Information Certificate is to be lodged and approved for the unauthorised works to the seawall before this consent can become operational.

Reason: To regularise unauthorised development.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

### GENERAL CONDITIONS

#### 2. 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
DA010	3	Site Layout - Existing & Demo	Buck and Simple	28 January 2022
DA011	3	Site Layout & Site Analysis	Buck and Simple	28 January 2022

DA012	3	Site Elevation	Buck and Simple	28 January 2022
DA013	3	Erosion, Sediment, Stormwater Control & Waste Management Plan	Buck and Simple	28 January 2022
DA100	3	Boat Shed Plan - Proposed	Buck and Simple	28 January 2022
DA300	3	Sections	Buck and Simple	28 January 2022
DA400	3	Boat Shed Elevations - Proposed	Buck and Simple	28 January 2022

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Acid Sulfate Soils Report	-	Marine Pollution Research Pty Ltd	5 December 2023
Arborist Report	-	Syncarpia Vegetation Management	February 2024
Arborist Report - Addendum	-	Syncarpia Vegetation Management	19 March 2024
Bushfire Report	210845B	Bushfire Hazards Solution	18 January 2024
Coastal Engineer Risk Assessment Report	304501319	Stantec	20 December 2023
DPE Crown Lands Consent	MN80H956#01	NSW Department of Planning and Environment - Crown Lands and Public Spaces	7 November 2023
DPI Fisheries Consent	C22/126	NSW Department of Primary Industries	27 March 2022
Geotechnical Report	0	Crozier Geotechnical Consultants	19 December 2023
TfNSW Maritime Consent	-	Transport for NSW	17 March 2022
Waste Management Report	-	Stephen Crosby & Associates Pty Ltd	1 February 2024

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.

### 3. **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
Aboriginal Heritage Office	Referral - Aboriginal Heritage Office - 22 Bona Crescent Morning Bay	26 March 2024
Ausgrid	Ausgrid Referral Response - OH and UG Cables	27 February 2024

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

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

### 4. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a boat shed, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

***boat shed*** means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

### 5. **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.

## 6. 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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultants dated 19.12.2023 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 the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **9. Erosion and Sediment Control Plan**

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

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

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

Reason: Protection of the receiving environment.

### **10. Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in

respect of the subject site.

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

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

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

#### 11. **Aquatic Ecology Letter**

A letter must be provided from a suitably qualified aquatic ecologist supporting that the proposal is unlikely to have any adverse impacts on the aquatic environment. Any recommendations provided in the letter to prevent potential impacts must be incorporated into the construction plans.

The letter and documentation demonstrating compliance with its recommendations if any shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

#### 12. **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.

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

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

#### 13. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.66m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

1. All structural elements below 2.66m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located at least 1.0m above the boatshed floor; and
3. The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.66m AHD.
4. All interior power supplies (including electrical fittings, outlets and switches) must be located at least 1.0 m above the boatshed floor . All exterior power supplies (including

electrical fittings, outlets and switches) shall be located at least 2.0m above the ground level to avoid the likelihood of contact with splashing waves and spray.

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

**14. Compliance with Coastal Engineering Risk Assessment Report**

The development is to comply with all recommendations of the approved Coastal Engineering Risk Assessment Report prepared by Stantec Australia Pty. Ltd. dated 20 December 2023 and these recommendations are to be incorporated into construction plans and specifications and maintained over the life of the development.

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

**15. 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 25 years as justified 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 20 December 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

**16. 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.

**17. External Colours and Finishes**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted. Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

The external finish to the exterior walls shall be dark and earthy tones. White, light coloured, red or orange roofs and walls are not permitted.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development, and to ensure the colours and materials of the development harmonise with the natural environment, and natural landscapes of Pittwater.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

**18. Tree Removal Within the Property**

This consent approves the removal of existing prescribed trees on the subject site as identified in the approved Arboricultural Impact Assessment. A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

**19. 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

**20. 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.

**21. Wastewater Disposal Areas**

Proposed works shall not impact on any wastewater disposal (Land Application Areas) building materials and equipment shall not be stored within the wastewater disposal areas on site.

Reason: To protect land and infrastructure in the wastewater disposal area from damage and failure.

**22. 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/Project 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 as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

## 23. **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.

## 24. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

## 25. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development



activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment.

**26. 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 letter/report must be followed.

Reason: To protect the aquatic environment.

**27. 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.

**28. Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 2 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

**29. Survey Certificate**

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

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

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

**30. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**31. Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have



been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

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

Reason: Aboriginal Heritage Protection.

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

### **32. Replacement of Canopy Trees**

At least 3 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website. As per the Arborist Report, 3 x *Allocasuarina torulosa* are to be used as replacements.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

### **33. 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.

### **34. Waste Management Confirmation**

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

### **36. Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and

Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Acid Sulfate Soils Report	-	Marine Pollution Research Pty Ltd	5 December 2023
Arborist Report	-	Syncarpia Vegetation Management	February 2024
Arborist Report - Addendum	-	Syncarpia Vegetation Management	19 March 2024
Bushfire Report	210845B	Bushfire Hazards Solution	18 January 2024
Coastal Engineer Risk Assessment Report	304501319	Stantec	20 December 2023
DPE Crown Lands Consent	MN80H956#01	NSW Department of Planning and Environment - Crown Lands and Public Spaces	7 November 2023
DPI Fisheries Consent	C22/126	NSW Department of Primary Industries	27 March 2022
Geotechnical Report	0	Crozier Geotechnical Consultants	19 December 2023
TfNSW Maritime Consent	-	Transport for NSW	17 March 2022
Waste Management Report	-	Stephen Crosby & Associates Pty Ltd	1 February 2024

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

Reason: To ensure compliance with standards.

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

#### 37. 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 20 December 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

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 05/04/2024, under the delegated authority of:



**Anne-Marie Young, Acting Development Assessment Manager**