

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0951
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 5 DP 4689, 46 Prince Alfred Parade NEWPORT NSW 2106 Lot 6 DP 110670, 46 Prince Alfred Parade NEWPORT NSW 2106 Lot 262 DP 752046, 46 Prince Alfred Parade NEWPORT NSW 2106 Lot 329 DP 824292, 46 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Alterations and additions to the Royal Motor Club Broken Bay
Zoning:	RE2 Private Recreation W2 Recreational Waterways
Development Permissible:	Yes - Zone RE2 Private Recreation Yes - Zone W2 Recreational Waterways
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Royal Motor Yacht Club Broken Bay NSW NSW Government - Department of Industry - Lands
Applicant:	Royal Motor Yacht Club Broken Bay NSW
Application Lodged:	21/08/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Tourist
Notified:	28/08/2023 to 11/09/2023
Advertised:	28/08/2023
Submissions Received:	7
Clause 4.6 Variation:	4.3 Height of buildings: 54.1% 7.8 Limited development on foreshore area
Recommendation:	Approval
Estimated Cost of Works:	\$ 10,200,000.00

EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to the Royal Motor Yacht Club Broken Bay (RMYC), primarily involving a new two-storey addition to the west of the existing buildings and swimming pool area.

The application is reported to the Northern Beaches Local Planning Panel as it involves a variation of greater than 10% to the *Height of Buildings* development standard and a non-numerical variation to the *Limited Development on Foreshore Area* development standard under the Pittwater Local Environmental Plan 2014 (PLEP 2014).

The clause 4.6 request for the non-compliance with the building height development standard arises as a result of the proposed lift shaft with a height of 13.1m and the adjacent level 2 roof terrace where the balustrading (1 metre high) and glass screen (2 metres high) is above the building height with a max height of 9.9m, resulting in variations of 54.1% and 16.5% to the 8.5m building height control. Notwithstanding the extent of the variations proposed, these structures remain significantly below the height of the existing building to the east, are well setback from the facade of the buildings facing the water thereby have a minimal visual bulk in the context of the built form on the site and will not cause any material visual or amenity impacts.

The primary building addition is located predominately within the foreshore area, comprising an area of 659.9m² below the foreshore building line. Given that the foreshore area comprises a paved hardstand over reclaimed land and the proposed building footprint presently accommodates existing structures, the siting of the proposed additions below the foreshore building line is considered to be appropriate in the context of the subject site.

On balance, the Applicant's Clause 4.6 written requests are found to adequately demonstrate that the proposal achieves the objectives of the height of buildings and limited development on foreshore area development standards, and that there are sufficient environmental planning grounds to justify the departures from the standards.

The application was publicly exhibited in accordance with Council's Community Participation Plan, whereby the proposal was notified to 82 surrounding properties. In response to Council's exhibition, a total of 7 submissions were received, all of which were in objection to the proposal. The issues raised in the submissions are addressed in this report and broadly relate to vehicular and pedestrian safety, noise impacts and building aesthetics.

The safety and noise concerns are adequately addressed through the recommended conditions of consent in relation to hours of operation, patron capacity, acoustic treatment and construction and operational management plans. The issues raised with regard to the aesthetics of the existing building are not relevant to the subject application. No matters raised in the submissions would justify the refusal of the application in the public interest.

The proposal is considered to satisfy the relevant planning controls and has sufficient merit to be recommended for **approval** by the Northern Beaches Local Planning Panel, subject to the conditions included in the Recommendation of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the Royal Motor Yacht Club Broken Bay.

Generally, the works involve a new two-storey addition to the west of the existing building adjacent to the swimming pool and outdoor area, as well as internal and external alterations to the existing club building and a new roof terrace.

Specifically, the proposed development involves the following:

Ground floor

- Casual dining area adjacent to existing swimming pool
- Offices/yacht brokerage
- Cafe and deli
- Club entry and lobby/reception
- Gym, spa, sauna and yoga studio
- New lift and WC
- Refurbished swimming pool and terrace
- Playground
- Existing bar and gaming lounge retained
- Remainder of eastern ground floor layout unchanged

First floor

- Kitchen, bar and dining room
- Outdoor dining terrace
- New and refurbished WCs
- Remainder of existing layout unchanged

Second floor

- Roof terrace and lift lobby
- Internal alterations to provide a WC, store and fridge/freezer
- Remainder of existing layout unchanged

Third floor

- Existing layout unchanged

External

- New doors, windows and cladding
- New air-conditioning/mechanical units and PV panels to level 3 roof
- Altered pedestrian paths and accessible car parking spaces
- New landscaping across the existing hardstand car parking area

Patron Numbers

The proposal does not seek any change to the existing patron capacity of the premises (270 persons) imposed through the NSW Land and Environment Court. Given the increase in gross floor area and to provide certainty, a condition is recommended to limit the capacity of the premises to 270 in accordance with the existing development consent.

Hours of Operation

The proposed hours of operation are from 8:00am to 12:00am midnight, daily.

Car Parking

The proposal does not involve any change to the existing 282 car parking spaces on the site.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone RE2 Private Recreation

Pittwater Local Environmental Plan 2014 - Zone W2 Recreational Waterways

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

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

Pittwater 21 Development Control Plan - A4.15 Waterways Locality

Pittwater 21 Development Control Plan - B3.6 Contaminated Land and Potentially Contaminated Land

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

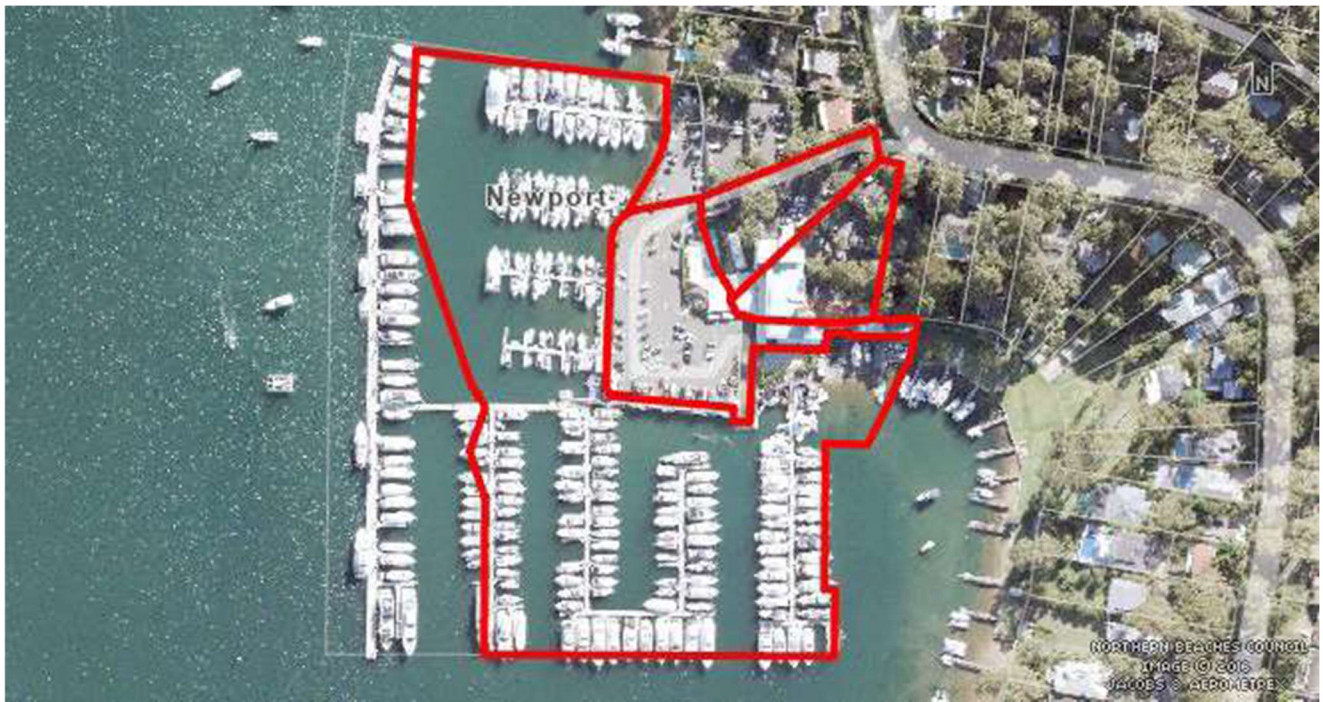
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C2.12 Protection of Residential Amenity

SITE DESCRIPTION

Property Description:	<p>Lot 5 DP 4689, 46 Prince Alfred Parade NEWPORT NSW 2106</p> <p>Lot 6 DP 110670, 46 Prince Alfred Parade NEWPORT NSW 2106</p> <p>Lot 262 DP 752046, 46 Prince Alfred Parade NEWPORT NSW 2106</p> <p>Lot 329 DP 824292, 46 Prince Alfred Parade NEWPORT NSW 2106</p>
Detailed Site Description:	<p>The RMYC site consists of eight (8) allotments located on the southern-western side of Prince Alfred Parade.</p> <p>The site is irregular in shape with a frontage of 49.515m along Prince Alfred Parade and a maximum depth of approximately 164m between the street frontage and the waterway. The site has a surveyed area of approximately 15,907.6m², excluding the waterway lot leased to the RMYC.</p> <p>The site is located within the RE2 Private Recreation zone. Existing development on the site comprises the primary buildings forming the RMYC (up to four storeys in height), a swimming pool and covered outdoor surrounds, a car park and various marina and boat berthing facilities.</p> <p>The site slopes steeply from north-east to south-west, with a fall of up to 23m between the street frontage and the car parking hardstand adjacent to the waterway.</p> <p>The site includes numerous native and exotic trees, generally in around the curtilage of the club buildings and throughout the upper car parking areas.</p> <p>The site is also affected by easements associated with the adjoining Sydney Water sewerage pumping station and Ausgrid substation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low-density residential development to the north and east of the site. The site adjoins the Pittwater waterway to the south and west.</p>

Map:



SITE HISTORY

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

N0379/15 for Alterations and additions to the Royal Motor Yacht Club marina, involving the removal of 28 existing berths and the incorporation of 67 new berths, resulting in a net increase of 39 berths. The proposal also involves the relinquishment of between 6 and 12 swing moorings (Designated and Integrated Development) - Approved by the NSW LEC on 12/5/2017.

N0320/10 for Minor alterations to the existing gaming level within the existing Royal Motor Yacht Club Approved 16/08/2010.

N0254/03 for refurbishment of Royal Motor Yacht Club Broken Bay, DA to be determined by State Government - Approved 13/04/2003.

N0900/00 for proposed bistro, open terrace lounge, single storey facilities - Approved 27/02/2001.

N0733/00 for Amenities shed for general storage in association - Approved 07/12/2000.

N0185/00 for Shade structure - Approved 26/07/2000.

N1224/99 for extension of existing southern jetty westward by approximately 45m to the existing lease boundary. Proposed jetty extension to match existing - Withdrawn.

N0862/99 for proposed new timber deck and skid ramp at the Royal Motor Yacht Club - Approved 13/10/1999.

N0069/99 for construction of a brokerage office in the marina area of the Royal Motor Yacht Club - Approved 26/03/1999.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in the form of amended plans and additional supporting information to address concerns raised by Council.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 28/08/2023 to 11/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mr David Charles Holmes	Po Box 297 CREMORNE JUNCTION NSW 2090
Mr Kevin Gordon Cullen	38 Prince Alfred Parade NEWPORT NSW 2106
Running Stars Healthy Living Ltd	30 Prince Alfred Parade NEWPORT NSW 2106
Mr John Samuel Ball	58 Cooyong Road TERREY HILLS NSW 2084
Ms Linda Carol Upton	32 Prince Alfred Parade NEWPORT NSW 2106
Mr Gavin Robert Butler	19 Belinda Place NEWPORT NSW 2106

Ms Christine Jeanne Josephine Ghislaine Bodart	30 Prince Alfred Parade NEWPORT NSW 2106
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The issues raised in the submissions are addressed as follows:

- **Vehicular and Pedestrian Safety**

The submissions raised concerns in relation to vehicular and pedestrian safety issues that are said to exist in the vicinity of the site and may be exacerbated by the proposed development.

Comment:

Council's Traffic section initially raised various concerns in relation to traffic and car parking, which have since been satisfactorily addressed by the applicant. It is noted that the proposal does not include any reduction in existing car parking provision or an increase in the approved number of patrons; a condition is recommended in relation to patron capacity. Further, the submitted Operational Plan of Management identifies that the lower parking level will be opened as overflow parking for visitors on peak trading days or when large events are held at the venue. Council's Traffic section is supportive of the proposed development subject to the recommended conditions of consent, including the provision of an amended Plan of Management further addressing the operational details of the car parking areas. The construction of a footpath, kerb and gutter along Prince Alfred Parade, as requested in multiple submissions, is considered beyond the scope of the proposed development. Conditions are recommended requiring the preparation of, and compliance with, demolition and construction management plans to minimise impacts during the construction phase.

These matters do no warrant refusal of the application.

- **Noise Impacts**

The submissions raised concerns in relation to the potential noise impacts cause by patrons and mechanical plant equipment.

Comment:

Council's Environmental Health section has reviewed the submitted Acoustic Report and are satisfied that the noise generated by the premises will comply with the applicable restrictions/controls, subject to the recommended conditions of consent. Conditions are also recommended to reinforce the existing patron capacity and hours of operation. Construction hours will be in accordance with Council's standard conditions.

These matters do no warrant refusal of the application.

- **Building Aesthetics**

The submissions raised concerns in relation to the condition/appearance of the existing building and requested the removal of the existing lift tower.

Comment:

Council's assessment is limited to the works proposed through the subject application. As such,

these matters are considered to be beyond the scope of this assessment.

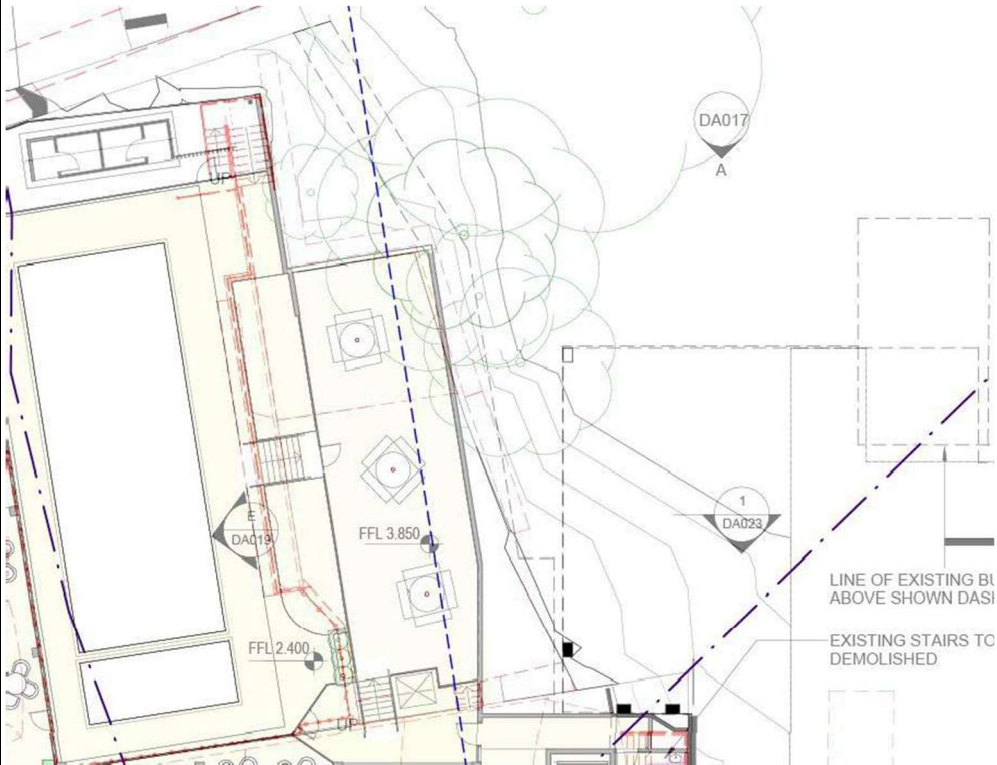
REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported with conditions.</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Acid Sulfate)	<p>Supported with conditions.</p> <p><u>General Comments</u></p> <p>This application is seeking consent for internal and external alterations and additions to the Royal Motor Yacht Club Broken Bay (RMYC) facilities located at 46 Prince Alfred Parade, Newport.</p> <p>Specifically, the proposal seeks to enlarge the footprint of the club premises with a two-storey extension located on the western side of the existing building that will wrap around the swimming pool and outdoor recreation area. The extension involves new dining facilities and lounge/bar area as well as a roof top terrace.</p> <p>Some minor excavation is proposed to provide the foundations for the extension to the building and this excavation will generally be located at a depth just below natural ground level apart from the excavation for the lift shaft which will extend to a depth of approximately 2 metres.</p> <p>The likely presence of Acid Sulfate Soils has been addressed in the PSI prepared by JKE. As the site is mapped as Class 5, it is very unlikely the development will lower the watertable below 1m AHD on adjoining Class 1-4 land.</p> <p>An Acid Sulfate Soils Management Plan was prepared by JK Environments dated 16 March 2023.</p> <p>Environmental Health recommends approval subject to conditions.</p>

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>Supported with conditions.</p> <p><u>General Comments</u></p> <p>This application is seeking consent for internal and external alterations and additions to the Royal Motor Yacht Club Broken Bay (RMYC) facilities located at 46 Prince Alfred Parade, Newport.</p> <p>Specifically, the proposal seeks to enlarge the footprint of the club premises with a two-storey extension located on the western side of the existing building that will wrap around the swimming pool and outdoor recreation area. The extension involves new dining facilities and lounge/bar area as well as a roof top terrace.</p> <p>Some minor excavation is proposed to provide the foundations for the extension to the building and this excavation will generally be located at a depth just below natural ground level apart from the excavation for the lift shaft which will extend to a depth of approximately 2 metres.</p> <p>A preliminary site investigation conducted by JK Environments dated 25 January 2023, ref:E35645Prpt, has stated the following:</p> <p><i>Potential contamination sources identified at the site and the immediate surrounds included:</i></p> <ul style="list-style-type: none"> • <i>Historic filling activities;</i> • <i>Use of pesticides beneath the buildings and/or around the site; and</i> • <i>Hazardous building materials within former and current structures.</i> <p><i>JKE is of the opinion that the site is suitable for the proposed development, from a contamination viewpoint.</i></p> <p>Overall, contamination was not identified. The Preliminary Site Investigation did not identify any triggers for remediation.</p> <p>Environmental Health recommends approval subject to conditions.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>Supported with conditions.</p> <p><u>General Comments</u></p> <p>This application is seeking consent for alterations and additions to the Royal Motor Yacht Club. The proposal seeks to enlarge the footprint of the club premises with a two-storey extension located on the western side of the existing building that will wrap around the swimming pool and outdoor recreation area. The extension involves new dining facilities and lounge/bar area as well as a roof top terrace.</p> <p>An acoustic Report has been provided for this development prepared by Acoustic Directions, Report ref: 230301 PMYCN v1.1 dated 1 March 2023 which indicates that noise associated with the club will comply with the project noise criteria provided the recommendations within the report are adhered to.</p> <p>Environmental Health recommends approval subject to condition.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported with conditions.</p> <p><u>General Comments</u></p> <p>This application is seeking consent for alterations and additions to the Royal Motor Yacht Club at 46 Prince Alfred Parade, Newport. In relation to food safety the following is proposed:</p> <p>Ground Floor (RL 2.5m)</p> <ul style="list-style-type: none"> • Casual dining area – approximately 12 tables • Café and deli <p>First Floor (RL 5.83m)</p> <ul style="list-style-type: none"> • Dining area – approximately 20 tables • Outdoor terrace – approximately 4 tables • Lounge area – approximately 14 tables • Bar • Kitchen • Refurbishment of existing amenities <p>Second Floor (RL 10.440m)</p> <ul style="list-style-type: none"> • Outdoor roof terrace – approximately 3 tables <p>The proposal involves the construction of a new two storey extension located to the west and north-west of the existing club building. The works will enclose the existing swimming pool on its southern and western sides.</p> <p>It is proposed to relocate the existing café located on the ground floor into the new extension. The area currently occupied by the café and dining area will become a health centre.</p>

	<p>The existing first floor of the club will be unchanged except for the refurbishment of the amenities adjacent to the club's lounge. A new accessible connection will be provided to the new restaurant/dining area that will be an area of approximately 201m² and seating area for approximately 60 patrons. A small outdoor seating area (43m², with capacity for 4 tables) will be provided at the northern end of the building.</p> <p>Environmental Health recommends approval subject to conditions</p>
Landscape Officer	<p>Supported with conditions.</p> <p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 27/03/24:</u> The amended reports and plans are noted.</p> <p>The Addendum to Arborist Report states that trees 1, 2, and 4 can be successfully retained subject to the tree protection measures set out by the Arborist. Landscape Referral supports the tree protection recommendations outlined by the Arborist, and a Project Arborist shall be engaged to supervise all work in the tree protection zone of trees to be retained.</p> <p>The amended landscape proposal is generally supported, and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. The Landscape Plan shows tree removals to the north of the lower carpark access driveway and no information is provided as to why these removals are required or what species these trees are. No approval is granted for the removal of any prescribed vegetation unless otherwise stated in the conditions of consent. No concerns are raised with the removal of the tree 5 as it is a small exotic species. Tree 3 can be supported for removal due to its Z4 rating, subject to the like-for-like tree replacement which shall be installed within the property boundaries of the site.</p> <p><u>Additional Information Comment 01/02/24:</u> The Arboricultural Impact Assessment (AIA) is noted.</p> <p>The AIA noted four trees for removal, trees 2, 3, 4, and 5. Tree 5 is exempt by height and as such can be managed or removed at the discretion of the applicant without consent. Tree 3 has been identified as medium significance, in decline, and not worthy of being a material constraint. The AIA identifies trees 2 and 4 as high significance and worthy of being a material constraint. It should be noted that trees 2, 3, and 4 are species from the Pittwater Spotted Gum Forest Endangered Ecological Community, and further comment on this matter is deferred to Council's Bushland and Biodiversity team.</p> <p>Pittwater DCP Section D10.18 states that the tree canopy shall be maintained and enhanced, and that development is to minimise the impact on existing significant vegetation.</p>

Internal Referral Body	Comments
	<p>Landscape Referral does not support the removal of trees 2 and 4. An overlay of the drawings Demolition - First Floor Plan (DA004) and Proposed Partial Site - Ground Floor Plan (DA008) shows that the proposed upper pool terrace area is mainly contained to the existing upper pool terrace area (see image below).</p>  <p>Any new retaining structures shall be wholly contained within the existing footprint of the upper pool terrace area, so as not to disturb existing trees 1, 2, and 4. The proposed service and fire egress pathway is labelled 'indicative location' on the plans. This pathway shall be located and designed in collaboration with the Arborist to ensure trees 1, 2, and 4 can be retained. The Arborist shall provide updated commentary on any design changes and to confirm the retention of trees 2 and 4.</p> <p><u>Original Comment Summary:</u> An Arboricultural Impact Assessment was requested, and it was noted that the property is identified as Pittwater Spotted Gum Forest EEC.</p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Supported with conditions.</p> <p><u>Biodiversity Referral (28 March 2024)</u> The additional information is noted. There are no further objections from a biodiversity perspective, subject to recommended biodiversity and landscape conditions.</p> <p><u>Biodiversity Referral (6 February 2024)</u> This updated referral is based on the following additional information:</p> <ul style="list-style-type: none"> • Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 9 November 2023) <p>The following biodiversity-related provisions apply to the subject site:</p> <ul style="list-style-type: none"> • SEPP (Resilience and Hazards) Coastal Environment • Area (particularly in relation to native coastal vegetation) • Pittwater LEP Clause 7.6 Biodiversity Protection • Pittwater DCP Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community <p>The arboricultural report identifies two high significance trees which will require removal under the proposal - Trees 2 and 4 which are Spotted Gums (<i>Corymbia maculata</i>) and are associated with a broader local occurrence of Pittwater Spotted Gum Forest Endangered Ecological Community (EEC). In accordance with applicable biodiversity controls, developments are to be designed and sited to avoid and minimise environmental impacts, including impacts to native vegetation and canopy trees. As it is considered that design amendments (e.g. could enable retention of these highly significant trees, the proposal cannot be supported in its current form. The applicant is encouraged to consider amending the proposal to retain Trees 2 and 4, for example by limiting any new retaining structures to within the existing upper pool terrace footprint.</p>

NECC (Coast and Catchments)	<p>Supported with conditions.</p> <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><u>Coastal Management Act 2016</u></p> <p>The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><u>State Environmental Planning Policy (Resilience & Hazards) 2021</u></p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & 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 Planning Ingenuity Pty. Ltd. Undated and also as assessed in the submitted Estuarine Risk Management Report prepared by Horton Coastal engineering Pty. Ltd. dated 26 April 2023, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p><u>Pittwater LEP 2014 and Pittwater 21 DCP</u></p> <p><u>Estuarine Risk Management</u></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 3.14m 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 0.05m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m. Based on updated analysis, design life of 60 years and factoring in distance from the foreshore edge, an EPL of 2.32m AHD has been assessed in the submitted Estuarine Risk Management Report prepared by Horton Coastal engineering Pty. Ltd. dated 26 April 2023.</p>
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Internal Referral Body	Comments
	<p>As assessed in the submitted Estuarine Risk Management Report prepared by Horton Coastal engineering Pty. Ltd. dated 26 April 2023, the ground floor level of 2.50m AHD for the proposed additions and alterations is above the applicable EPL for the site.</p> <p>The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><u>Development on Foreshore Area</u></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 enlargement of the footprint of the club premises with a two-storey extension located on western side of the existing building. All these proposed works are not consistent with Clause 7.8(2)(b).The applicant has argued that the proposed development is consistent with the Clause 7.8(2)(b) and also simultaneously submitted a Clause 4.6 variation request. The request has justified the extension. Moreover, it has been justified in the submitted Estuarine Risk Management Report prepared by Horton Coastal engineering Pty. Ltd. dated 26 April 2023 that extension of the building into the foreshores area has no effect on coastal processes.</p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p>The proposed alterations and additions to the Newport motor yacht club have been reviewed are supported with conditions.</p> <p>On site stormwater detention is not required given the proximity of the development to the point of discharge being the Pittwater, however stormwater quality controls have been provided in the form of filter cartridges.</p>
NECC (Riparian Lands and Creeks)	<p>Supported with conditions.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Water Management Act 2000; • Water Management (General) Regulation 2018; • Northern Beaches Water Management for Development Policy; and • Relevant LEP and DCP clauses <p>NECC Riparian Lands has no objection to the development application, subject to conditions</p>

NECC (Water Management)	<p>Supported with conditions.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>After review of the proposal NECC water management has no objection to the proposal.</p>
Parks, reserves, beaches, foreshore	<p>Supported with conditions.</p> <p><u>Additional Information Comment 28/03/24:</u> The amended reports and plans are noted.</p> <p>The additional planting to the west of the of the proposed club additions is supported, including some tree planting. The parking requirements and constraints are noted. No further issues are raised.</p> <p><u>Original Comment:</u> The property adjoins the Pittwater waterway downslope. The majority of the land-based property is identified as scenic protection category 1 under the PDCP which states that built form shall be secondary to the landscape, tree canopy shall be maintained and enhanced, minimise visual impact on the natural environment, and canopy trees are required between dwellings and boundaries facing waterways. Significant change is proposed to the existing condition, albeit the footprint remains relatively the same. It is suggested tree planting be incorporated into the proposal, to the west of the proposed club additions, which will help soften the visual bulk and dominance on the new works when compared to the existing.</p>

Traffic Engineer

Supported with conditions.

Further comments - March 2024

- It is noted that the applicant has provided amended architectural plans showing disabled parking spaces and trailer parking spaces. However, shuttle bus parking spaces are missing. As the shuttle bus requires parking and the bus was previously parking in designated accessible parking spaces, which is inappropriate, spaces for the shuttle bus, which would exceed the standard dimensions of a car parking space should be shown on the plans. This will be conditioned.
- It is noted that the amended architectural plans now show one-way directional arrows in the upper car parking area. These painted markings should also be supported by 'NO ENTRY' and 'ONE WAY' signage at appropriate locations. This will be conditioned.
- Page number 9 of the amended architectural plans has a note relating to the disabled spaces stating, "modification to pedestrian path and parking bays to suit proposed works". It looks like the building line has been pushed back to provide wider footpath in this area to accommodate a wheelchair. Further details regarding the proposed changes should be provided, this will be conditioned.

Plan of Management

- It is noted that an Operational Plan of Management has been submitted. In section 6.2 of the Operational Plan of Management, item 'c' states that "Some Access to the car park will be limited to Licence Plate Recognition (LPR) for members and a full-time security guard will be present during the hours of 9pm to 5am 7 days per week. There is plans to continue Licence Plate Recognition (LPR) to the whole car park in the future." Further clarification on this matter is required to ensure that it will not impact upon the ability of visitors to access parking.
- In the Operational Plan of Management, Section 6.2(d) states that, "Loading areas are to be solely for the purpose of loading and unloading of goods". This sentence must be amended as there is no loading area, neither existing nor proposed with the area currently used for loading/unloading of goods on a boat ramp which by definition means that the loading/unloading of goods could only occur when the ramp is not being used for the launching or retrieval of watercraft.
- It is noted that the Operational Plan of Management mentions opening of boom gate and use of signage to direct patrons and visitors to the lower parking area. However, the Plan or Management has not detailed what areas of the lower carpark will be made available for patrons and visitors to park. This is essential for clarity and to ensure that adequate provision is made for parking for events. If there are spaces that will remain unavailable these should be

shown on marked up plan. In addition, Council believes a 'parking marshal' should be present at the boom gate in addition to 'signage' to assist patrons unfamiliar the carpark and to provide guidance to the nearest available parking.

Amendment of the Plan of Management to address the above issues will be conditioned.

Further comments - February 2024

- It is noted that the applicant has provided responses to the council's initial comments. However, no additional work has been done in order to address those concerns, other than disputing the validity of the requests for additional information.
- It is noted that the response letter states a decline in membership, however the expansions works are obviously not being undertaken to cater for a reduced number of members but to attract new members. It is also obviously not the case that the only users of the club are members. As with any club non-member visitors make up a significant proportion of those who utilise the club facilities particularly for large events such as weddings when parking pressures would tend to be most pronounced. The reporting to date has provided insufficient information for Council to determine if the existing 282 parking spaces are adequate and if there will be adequate parking to cater for non-member visitors or indeed for members who are not boat owners.
- A site inspection carried out by Council's traffic engineer at 2:00pm on Thursday 22 February (not anticipated to be a busy time at the club) found almost 100% occupancy of parking in the upper levels of carparking (referred to as zones A & B in the developers parking occupancy surveys). It was also observed that several vehicles were parking in areas not designated for parking which impeded circulation and suggests that drivers of those vehicles had been unable to find parking elsewhere. By contrast parking in the lower levels of the carpark was less well utilised however the presence of boom gates and signage advising "Boat Owner members please wait here for green signal to access lower carpark" suggests that the lower levels of the carpark are not available for access by non-boat owner members or by visitors to the club. This requires clarification and if this is the case, it may be the case that opening up parking in this area for non-boat owner members and visitors may be sufficient to address the parking issues.

- It is noted that the response letter mentions the parking surveys undertaken on 6th and 8th of January are consistent with industry requirements to capture RMYC's parking demands during its peak trading period. The surveys were undertaken between 12pm and 4pm. Council believes that these surveys, undertaken only during the daytime, and only over two days are inadequate to gauge the parking impacts at peak times. In particular the absence of data for the early evening period, the absence of data captured during an event at the club and the absence of data obtained on a Saturday are notable omissions from the collected data. The data provided from 2016 is considered too old to be relevant now and is also considered inadequate as it does not differentiate between parking occupancy rates in the upper and lower carpark areas which appears to be a critical issue. It is noted that advice given at the pre-lodgement meeting relating to this development application was that "Parking occupancy surveys undertaken over several weekends at peak times (Spring/Summer weekend afternoons/early evening) should be used to determine existing average maximum parking levels on site with those parking demands adjusted to reflect increased demands generated by the proposed new or expanded facilities." The applicant appears to have chosen to disregard this advice.
- With regard to the referral comment requesting details on the loading/servicing arrangements. The applicant advises that these will be unchanged. There are no dedicated loading/servicing bays on site at present with deliveries appearing to be accommodated by parking in a vehicle circulation area blocking access to a boat ramp. With the expansion of dining and social areas it is expected that there will be an increased demand for deliveries. Information on the size of delivery/servicing vehicles, their frequency and the location and size of dedicated loading/servicing bays is required. Swept path plots demonstrating how the largest anticipated delivery vehicle can circulate through the site in a forward direction are required.
- Given the above, the proposal remains unsupported.

Original Comments - dated January 2024

Proposal description: Alterations & Additions to Existing Yacht Building at 46 Princes Alfred Parade, Newport

The traffic team has reviewed the following documents:

- Plans (Master Set) – Revision D, designed by MCHP Architects, dated 28/03/2023,
- Traffic Impact Assessment, prepared by Traffix, dated 01/02/2023 (Reference No. 22.628r01v01),
- The *Statement of Environmental Effects* prepared by Planning Ingenuity (Reference No. M220260).

Parking requirements and design:

- The Pittwater DCP applies to the subject site. The DCP does not provide a parking rate for Clubs however refers applicants to the TfNSW *Guide to Traffic Generation Developments*. This guide advises that parking must be provided to satisfy the average maximum demand and recommends that the characteristics of the proposed development be taken into account with comparisons drawn with similar clubs. As the developer is not proposing any change to existing membership levels, they have argued that there is no requirement for any additional parking. This argument is not supported. The increased floor area, which caters largely for additional dining and social facilities will attract greater levels of patronage from the existing membership and their guests and on-site parking capacity must be demonstrated to be adequate. The existing parking occupancy rates should either be factored up to cater for the additional floor space or additional parking provided drawn from rates for the uses of the expanded facilities eg. restaurant rates for the new dining area floor space i.e. the greater of 12 spaces per 100 m² of GFA or 1 space per 3 seats.
- The parking requirements for other uses such as yoga studio and gym should be addressed in the traffic report. In particular are these facilities available only to yacht club members or are they available to the general public. Such facilities will undoubtedly attract new members or attract existing members to visit the facility more often. This in turn will increase parking demands. How will this additional parking activity be catered for?
 - There is a conflict in the total GFA of the proposed extension. Traffic report mentions an additional GFA of 1,010 m² (page 10), whereas the Statement of Environmental Effects report mentions an additional GFA of 773 m² (page 29). The applicant must clarify which floor area increase is correct and amend the reports as appropriate to ensure a consistent floor area is quoted across all the reports. If the floor area increase in the traffic report is incorrect it must be amended, and the report updated to reflect the correct GFA and car parking requirements should be based on the correct GFA.
 - The traffic report mentions a total of 282 existing car parking spaces (page 7), whereas the Statement of Environmental Effects report mentions 290 car parking spaces (page 20). This discrepancy in total number of car parking spaces must also be resolved. In addition, the car parking spaces should be broken down into staff parking, visitor parking, member only, boat owner member parking etc i.e to clarify what parking spaces are available for what uses and at what times of the day. If some parking spaces are unavailable to some users of the Yacht Club this must be detailed, and such spaces clearly marked on the plans. The parking survey data would appear to suggest that some areas of the carpark are not available to all patrons, as some areas of the carpark are highly utilised (or in the case of area A1 parked beyond capacity), while other areas are poorly utilised eg Area D1. The reasons for this need to be explained and a more fine grained analysis of the parking occupancy data undertaken. Council's concern is that despite the clubs Car Parking Plan of Management

	<p>and the information in the parking surveys, the complete picture has not been revealed. Visitors to the club experience difficulty finding off street parking at present and there continues to be on-street illegal parking activity around the Motor Yacht Club which is not being effectively managed by the existing measures. Although no increase in member numbers is proposed it is never-the-less considered likely that the development will increase competition for parking and exacerbate on-street illegal parking problems.</p> <ul style="list-style-type: none"> • The traffic report presents surveys undertaken on January 6 & 8 2023 which show a maximum occupancy of 85% at 1:30pm-2pm on Sunday and suggests that this demonstrates that there is ample spare capacity on a typical Friday and Sunday. Making such assertions on the basis of two partial days of traffic data is not supported. Surveys should be undertaken over a range of weekends in spring and summer with the absence of any data for Saturdays or in the evening between 4:00pm and 8:00p.m concerning as this would generally be expected to be a time of high parking activity. It is therefore requested that further surveys be undertaken over several weekends at peak times (Spring/Summer weekend afternoons/early evening). <p>Council receives numerous complaints from the residents residing near the Yacht Club about illegal parking along Prince Alfred Parade during events hosted at the RMYC and infringements and warning notices are often issued by Council's Rangers. If off street parking is adequate such activity should not be occurring. The surveys must break down parking occupancy data into members parking, visitors parking, boat owner parking, staff parking and detail the utilisation of each category at the various surveyed times.</p> <ul style="list-style-type: none"> • The traffic report must provide details on additional staff as a result of the proposed extension and provide advice on where existing and proposed additional staff will park. It is noted that the staff parking area (13 spaces) is currently very under utilised which leads to questions about where staff are parking. The relatively isolated nature of the location does not lend itself to staff walking, cycling or catching public transport to work so how do staff travel and where do they park? • Further details with regard to longer term parking activity by members who might park and depart by boat is required and information on the number and location of spaces used for such activity. In addition, if there are any spaces allocated to specific members or staff the numbers, locations and utilisation of these must be assessed in the parking occupancy surveys. • The traffic report must provide details on additional staff as a result of the proposed extension and provide advice on where existing and proposed additional staff will park. It is noted that the staff parking area (13 spaces) is currently very under utilised which leads to questions about where staff are parking. The relatively isolated nature of the location does not lend itself to staff walking, cycling or catching public transport to work so how do staff travel and where do they park?
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- Further details with regard to longer term parking activity by members who might park and depart by boat is required and information on the number and location of spaces used for such activity. In addition, if there are any spaces allocated to specific members or staff the numbers, locations and utilisation of these must be assessed in the parking occupancy surveys.
- The development does not propose any additional parking however it is not accepted based upon the above comments that the adequacy of the existing parking has been demonstrated.
- If new spaces are proposed, they must be designed to comply with AS 2890.1 with provision made for disabled parking at a rate of 3% of the required parking for the new development work. Disabled parking spaces must be designed in compliance with AS 2890.6 and an accessible path of travel must be available from those spaces into and through the buildings via pathways and/or lifts.
- Motorcycle parking must be provided at a rate of 1 space per 100 motor vehicle spaces in accordance with the Pittwater DCP.
- Bicycle parking must be provided at a rate of 1 bicycle rack per 1000 m² GFA or a minimum of 4 bicycle racks, whichever is the greater in accordance with the Pittwater DCP.
- The issue of illegal parking activity at kerbside on Prince Alfred Parade has not been addressed in the traffic report. It merely advises that such parking activity is illegal however if there is "ample" off street parking why are users of the facility choosing to park illegally on-street.

The traffic report should be updated to add additional commentary on this issue.

Loading/Servicing

- The traffic report mentions there are no changes to the existing servicing arrangements (section 5.5, page 11) but provides no information to outline what these are. The plans also provide no information with regard to loading and servicing bay locations and size. With the proposed expansion works it is reasonable to assume that there will be an increase in servicing and delivery requirements and details must be provided on how existing and proposed deliveries will be managed.
- Details must be provided on the existing loading activities, the size of regular delivery and serving vehicles, the location and size of loading bays, and swept paths must be provided for access to and from these loading bays by the largest intended vehicle accessing the site. The applicant must demonstrate that there is adequate provision for off-street access for delivery vehicles together with adequate parking and turning areas for delivery and service vehicles on site within appropriate proximity to the buildings being served.

Internal Referral Body	Comments
	<p>Traffic Generation Impact</p> <ul style="list-style-type: none"> The traffic report mentions extensive surveys having been undertaken by the applicant's Traffic Consultant however no details on the type of development, their size and location or any data to support the nominated average traffic generation rate have been provided. The traffic report should be updated to provide the above details to enable and assessment of their validity. <p>Conclusion The application is not supported at this stage with further information as outlined above required prior to further consideration of the proposal.</p>
Waste Officer	<p>Supported with conditions.</p> <p><u>Waste Management Assessment</u> Supported, subject to conditions</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported with conditions.</p> <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>Supported with conditions.</p> <p>Artefact Heritage Services completed an Aboriginal Due Diligence Assessment for 46 Prince Alfred Parade Newport in October 2023.</p> <p>The Aboriginal Heritage Office agrees with the outcome and recommendations outlined in the report:</p> <ul style="list-style-type: none"> The study area does not contain and is not likely to contain any Aboriginal objects. It is recommended that no further Aboriginal heritage assessment or investigation are required, and the proposed works can proceed with caution. This Due Diligence assessment does not constitute consent to harm Aboriginal objects, nor it is a 'site clearance' mechanism to allow activities to occur in an area where Aboriginal objects are likely or known to be present. If Aboriginal objects are discovered during the proposed works, works must stop immediately, and an assessment must be undertaken in accordance with Part 6 of the National Parks and Wildlife Act 1974. If the activity cannot avoid harm to Aboriginal objects, works cannot proceed until an

	<p>Aboriginal Heritage Impact Permit has been issued.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
NSW Police - Licensing (Clubs, Hotels, Pubs)	<p>Supported with conditions.</p> <p>Police DO NOT OBJECT to the overall application. The NSW Police have a crucial interest in ensuring the safety of the community and their property. NSW Police hope that by using the recommendations contained in this document, criminal activity will be reduced, and the safety of the community and their property will be increased. It does, however, not guarantee that all risks have been identified or that the area evaluated will be free from criminal activity if its recommendations are followed.</p>
Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	<p>Supported with conditions.</p> <p><u>Planning Comments</u> DPE-Water raised no objection to the proposal, but recommended referral to Water NSW for consideration of dewatering matters. The extent of the proposed excavation is minimal and Council's Water Management section has included appropriate conditions of consent to apply in the event that any dewatering approval is required.</p> <p><u>DPE - Water Comments</u> The Department of Planning and Environment-Water has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WMAct), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary.</p> <p>ADDITIONAL COMMENTS The proposal identifies the potential for interactions with groundwater and dewatering. These matters should be referred to Water NSW for their consideration.</p> <p><u>Exemption</u> Water Management (General) Regulation 2018 Schedule 4, 31 - Activities on 1st ,2nd & 3rd order streams where the works are separated from the river by a) a public road, b) a hard stand space, c) a levee.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP (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 proposal has been reviewed by the relevant Council Natural Environment and Climate Change (NECC) sections, none of whom raised objection to the impacts of the proposal upon the natural environment. The proposal will not impact foreshore access or use of the surf zone. The proposal was also referred to the Aboriginal Heritage Office with no objections raised in relation to Aboriginal heritage values.

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

Comment:

The proposal is sited, designed and can be managed to avoid adverse impacts in relation to the matters referred to in subsection (1).

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,
 - v) Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and

- b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - 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 proposal will not cause any adverse impacts in relation to foreshore access, overshadowing, wind funnelling, loss of public views, visual and scenic values, or Aboriginal and built heritage values.

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 proposal is unlikely to result in increased risk of coastal hazards on the site or surrounding 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.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated 17 March 2023 prepared by JK Environments. In its conclusion, the investigation states:

"All analysis results were below the nominated site assessment criteria (SAC) and the PSI concluded that potential risks associated with contamination at the site were low in the context of the proposed development. However, the PSI noted that there was a potential for unexpected finds on site and this was to be managed via the development and implementation of a suitable UFP so that risks from potential contamination remained low and acceptable."

Council's Environmental Health section are satisfied that a detailed site investigation is not required given the lack of contamination identified in the PSI. A condition is recommended requiring compliance with the submitted Unexpected Finds Protocol.

Is the development permissible?	Zone RE2: Yes Zone W2: 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 RE2: Yes Zone W2: Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	Existing lift overrun: 20.0m (RL21.88)	N/A	No (existing)
		Existing L3: 13.1m (RL18.08)	N/A	No (existing)
		Existing L2: 12.6m (RL15.08)	N/A	No (existing)
		Proposed lift shaft: 13.1m (RL15.54)	54.1%	No
		Proposed L2 terrace: 9.9m (RL12.44)	16.5%	No
		Proposed GF & L1 addition: 8.3m (RL10.7)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	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	No
7.10 Essential services	Yes

Detailed Assessment

Zone RE2 Private Recreation

Consistency with Zone objectives

The proposal is assessed as being consistent with the objectives of the RE2 Private Recreation zone below:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To allow development of a scale and character that is appropriate to the nature of its recreational use, and is integrated with the landform and landscape.*

Comment:

The proposal maintains the existing use of the site as a registered club and facilitates various recreations uses of the site and the adjoining waterway. The design of the proposed development is compatible with the scale and character of the existing buildings on the site. The proposal is suitably integrated with the landform and landscape and will enhance the use of the surrounding natural environment.

Zone W2 Recreational Waterways

The proposal does not include any works on the part of the site zoned W2 Recreational Waterways.

4.6 Exceptions to development standards

4.3 Height of Buildings

Description of Non-compliance

Development standard:	Height of Buildings
Requirement:	8.5m
Proposed:	13.1m
Percentage variation to requirement:	54.1%

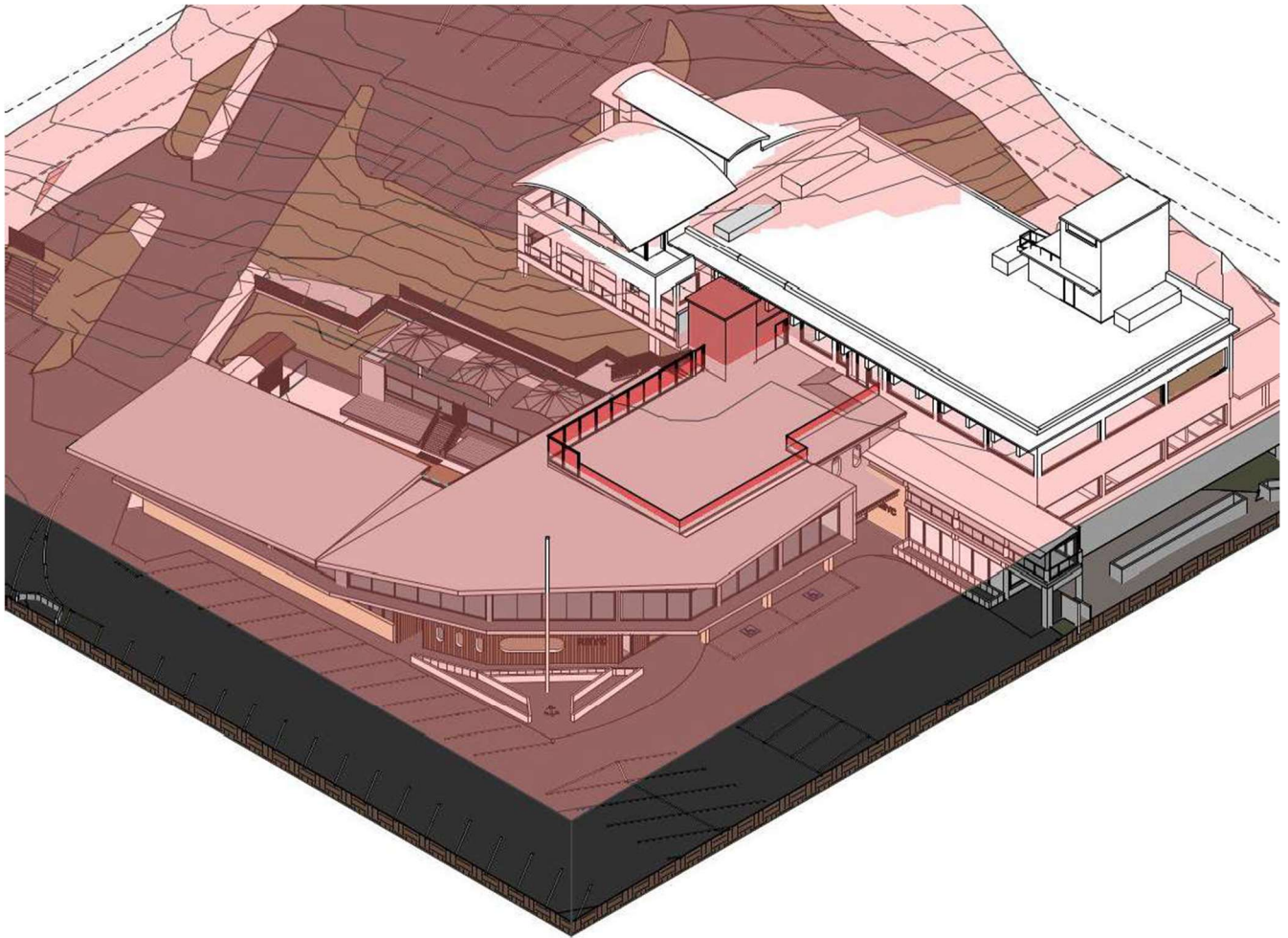


Figure 1 - Illustration of the approximate proposed building height breaches in relation to the lift shaft and balustrades (shaded red)

The above height plane diagram is not certified, however the portions of buildings projecting above the height plane (lift shaft and glass balustrades shaded red) are generally in alignment with measurements taken from the submitted plans and are presented in a more practical format than a two dimensional sectional drawing. On that basis, the diagrams are included for illustrative purposes. Figures 2 and 3 below indicate Council's calculation of the proposed maximum building height breaches.

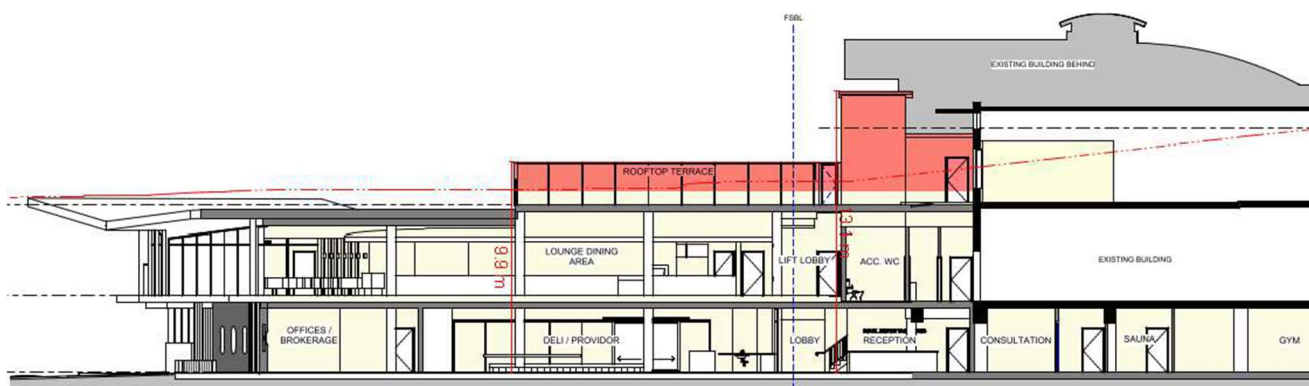


Figure 2 - Section 01 building height breach (shaded red).

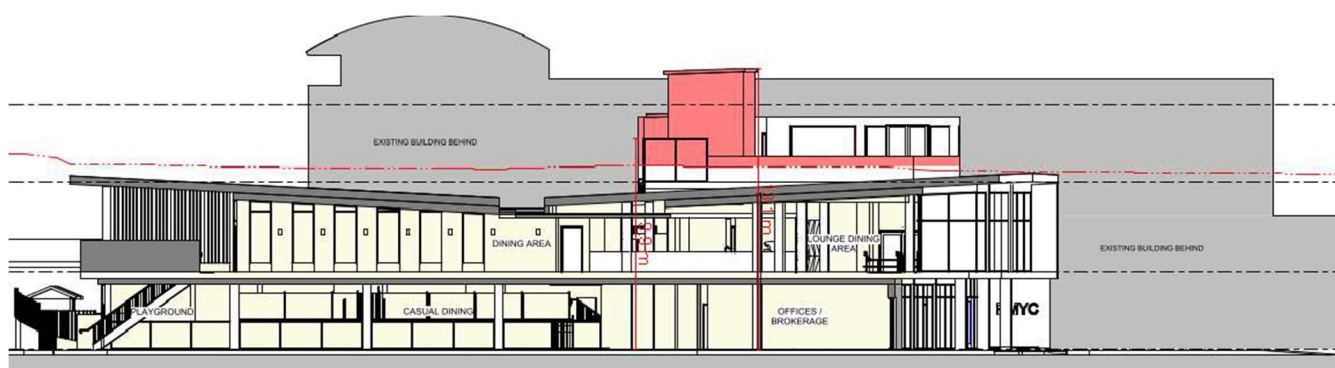


Figure 3 - Section 02 building height breach (shaded red)

Assessment of Request to Vary a Development Standard

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to Development Standards

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Secretary has been obtained.

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

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

1. ***That the height non-compliance associated with the proposed lift shaft will provide for disabled access between the ground floor and second floor***

Comment:

The provision of access for disabled patrons is accepted as a sufficient environmental planning ground in this case, noting the limited bulk and negligible impacts arising from the proposed lift shaft.

2. ***That the height of the proposed works remains below that of the existing building***
3. ***That the non-compliant elements of the proposed are located centrally within the building footprint***

Comment:

Despite the substantial numerical degree of the variation (54.1%), the three-dimensional volume of the lift shaft and balustrades that constitute the non-compliance are very minor in the context of the overall built form. Therefore, it is considered that the height-breaching elements are compatible with the overall form of the existing development and will not contribute to any adverse visual bulk or impacts.

4. ***That the proposed building height breach will not cause additional overshadowing, privacy or view impacts in relation to surrounding properties in comparison to a compliant height***

Comment:

It is agreed that there is an absence of material impacts arising from the proposal building height variation.

5. *That the proposal achieves the objectives of the height of buildings development standard and the RE2 zone*

Comment:

The consent authority must be satisfied that the proposed development will be consistent with the objectives of the development standard and the zone, pursuant to Cl. 4.6(4)(a)(i) and Cl. 4.6(4)(a)(ii). Notwithstanding that the proposal is considered to satisfy these requirements, consistency with the objectives of the standard and the zone are not identified as environmental planning grounds.

Given the particularly minor proportion of the built form that exceeds the height control and the absence of material visual or amenity impacts, grounds 1 to 4 above as advanced in the applicant's Clause 4.6 variation request are accepted as sufficient environmental planning grounds in the case.

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

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

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

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the RE2 Private Recreation zone. An assessment against these objectives is provided below.

Objectives of Development Standard

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

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

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

Comment:

The proposed building height breach does not result in significant additional bulk or scale and the proposal remains compatible with the height of the existing building. The proposal variation will not be contrary to the desired future character of the locality.

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

Comment:

The existing/proposed development is not commensurate to the height and scale of surrounding development, which is largely low-density residential development. However, as discussed above, the height of the proposed non-compliant built form is centrally located within the existing building footprint and is well-below the existing building height. The proposed non-compliant elements are suitably located and designed with regard to the existing development on the site and therefore achieve consistency with this objective.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposed lift shaft and balustrade structures will not cause any overshadowing of adjoining properties.

d) to allow for the reasonable sharing of views,

Comment:

The proposed lift shaft and balustrade structures will not cause any loss of views from adjoining properties.

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

Comment:

The proposed development responds appropriately to the topography of the site.

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

Comment:

The proposal is appropriately designed to avoid adverse visual impacts upon the surrounding natural environment. There are no listed heritage items or conservation areas in proximity to the site.

Zone Objectives

For the reasons detailed earlier in this report, the proposal is considered to be consistent with the objectives of the RE2 Private Recreation zone.

Having regard to the particular circumstances, namely the height and scale of the existing development, the minor additional bulk presented by the non-compliant lift shaft and balustrades and the absence of consequential impacts, it is considered that the proposed departure from the

development standard is acceptable, and it is reasonable that flexibility to the standard be applied.

Exception to Development Standards Conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development and it is therefore considered appropriate to allow flexibility in the application of the height of buildings development standard. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

7.8 Limited Development on Foreshore Area

Description of Non-compliance

Development standard:	Limited Development on Foreshore Area
Requirement:	No extension of building footprint within the foreshore area
Proposed:	659.9m ²
Percentage variation to requirement:	N/A (non-numerical)



Figure 4 - Illustration of the extent of the proposed building within the Foreshore Area (shaded red)

The applicant's written documentation suggests that the proposed works within the Foreshore Area are characterised as an extension and alteration of the existing buildings and structures that do not result in an extension of the development footprint further into the foreshore area. Consequently, the proposed works within the foreshore area would be permitted pursuant to PLEP 2014 - Clause 7.8(2) (a).

Council's position is that Clause 7.8(2)(a) permits the "like-for-like" rebuilding of existing structures within the foreshore area. As the proposal essentially seeks to replace a single-storey building and shade structures, low retaining walls and part of an at-grade car parking area with a substantial two-storey building addition, the proposed works are not permitted by the exceptions under Clause 7.8(2) (a) and instead require a Clause 4.6 variation to the foreshore building line development standard.

Despite the opposing views of the applicant and Council, a Clause 4.6 variation has been submitted and is assessed below.

Assessment of Request to Vary a Development Standard

The following assessment of the variation to 7.8 Limited development on foreshore area development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to Development Standards

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

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

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

Comment:

Clause 7.8 Limited development on foreshore area development standard is not expressly excluded from the operation of this clause.

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

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

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

(a) the consent authority is satisfied that:

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

Clause 4.6 (4)(a)(i) (Justification) Assessment

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the

development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

1. ***That the proposed works are ancillary to an existing recreation facility (outdoor) and are permitted by exception (2)(b) of Clause 7.8.***
2. ***That the proposed works do not increase the footprint of the development within the foreshore area and are permitted by exception (2)(a) of Clause 7.8, and that the area occupied by the proposed structures do not contribute to the natural environment or natural areas of the foreshore***

Comment:

The proposed works within the foreshore area are not permitted by exceptions (2)(a) or (b)

based on Council's interpretation of Clause 7.8. As such, grounds (1) and (2) are not identified as environmental planning grounds and are not accepted.

3. ***That the submitted Visual Impact Assessment (VIA) demonstrates that the proposal will positively contribute to the appearance of the site as viewed from the waterway and surrounding properties***

Comment:

The proposed additions are well-designed and successfully integrate with the existing club buildings. Specifically, the two-storey scale of the additions are subservient to the existing built form and facilitate a transition in bulk between the primary four-storey building and the at-grade car parking area. It is agreed that the VIA demonstrates a positive contribution to the appearance of the site and when taken together with the other accepted environmental planning grounds, ground (3) is sufficient to justify the proposed variation.

4. ***That the proposed works will not adversely impact the natural environment, surrounding land uses or native vegetation***

Comment:

The lack of adverse impacts to the natural environment, surrounding land uses or native vegetation in isolation is not sufficient to justify the variation sought, but does demonstrate that the location of the proposed works is the most appropriate available location on the site. Taken together with the other accepted environmental planning grounds, ground (4) is sufficient to justify the proposed variation.

5. ***That the proposed works are consistent with the existing character of the site and broader foreshore area***
6. ***That the proposed works will improve the level of amenity and facilities offered by the club and does not introduce facilities that are uncharacteristic of the established use of the relevant section of the foreshore area***
7. ***That the proposed works occupy a part of the foreshore already covered by fixed structures and hard surfaces and will not reduce the quantity or quality of landscaping within the site. Furthermore, that the proposal would improve the management and control of stormwater on the site***

Comment:

The foreshore area of the subject site is anomalous to the surrounding locality in that it is comprised of reclaimed land occupied by a large, paved hardstand and various existing buildings associated with a commercial use. In contrast, the foreshore area of residential properties to the north, east and south of the site are, to a greater extent, naturally vegetated and free of structures or significant modification.

It is agreed that the proposal is consistent with the existing foreshore character of the site and that the siting of the additions is generally consistent with that of the existing structures, albeit with a larger envelope. It is also agreed that the nature of the facilities proposed within the foreshore are generally compatible with those presently offered in the same location. It is noted that the Pittwater Waterway Strategy 2038 identifies that "*Potential opportunities for low-scale activation of the waterfront and public realm is likewise an important issue for the community with support for small-scale cafés and restaurants*"; while not specifically related to the subject site, the proposal does provide for the activation of the waterfront through its cafe/restaurant offering. Regarding the visual character of the development, the proposed additions are considered to make a positive contribution to the appearance of the site as discussed above. Collectively, grounds (5), (6) and (7) are sufficient to justify the proposed variation.

8. ***That the proposed works would not adversely impact the amenity of surrounding public or private properties in relation to views of the foreshore and waterway and solar access***
9. ***That the proposal will not reduce car parking provision within the site***

Comment:

While the lack of adverse amenity impacts resulting from the proposal contributes to the proposal's consistency with the objectives of the standard, this is not identified as an environmental planning ground. Likewise, the maintenance of the existing car parking provision on the site is a positive aspect of the development but is not an environmental planning ground that directly relates to the proposed departure from the standard. As such, grounds (8) and (9) are not accepted.

10. ***That there is an absence of significant material environmental, social and economic impacts upon the site and its users, adjoining properties or the locality***
11. ***That locating the works outside of the foreshore area would likely result in works on more elevated areas of the site, with potential increases in bulk and scale, visual impact and vegetation***
12. ***That the proposal is consistent with objects (c) and (g) within Section 1.3 of the EP&A Act.***

Comment:

The siting and design of the proposed works within the foreshore area are found to be appropriate in the context of the site and the existing development. In this case, it is agreed that the proposal achieves aims (c) and (g) of the EP&A Act and that the achievement of these aims constitute sufficient environmental planning grounds to justify the variation sought. Notwithstanding, grounds (10), (11) and (12) are not identified as environmental planning grounds in and of themselves and are not accepted.

Accordingly, the Environmental Planning Grounds (3), (4), (5), (6) and (7) advanced in the applicant's written request are sufficient to justify the variation to the limited development on foreshore area development standard in the specific circumstances, those being:

- The foreshore area within the subject site is comprised of a paved hardstand over reclaimed land and is largely devoid of natural features;
- The above mentioned character of the foreshore area within the subject site is unique and is not comparable to adjoining properties;
- The existing development on the subject site includes some structures/buildings within the foreshore area, in generally the same location as the proposed additions; and
- The proposed development will maintain and improve the visual appearance and character of the development relation to the foreshore area.

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

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

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

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the limited development on foreshore area development standard and the objectives of the RE2 Private Recreation zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 7.8 Limited development on foreshore area of PLEP 2014 are:

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

a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,

Comment:

As discussed above, the foreshore area of the subject site consists of paved reclaimed land and is not a natural landform. The proposed works are significantly separated from the waterway interface and is suitably designed to avoid impacts upon natural foreshore processes and the significance and amenity of the area. The application was referred to the relevant Council NECC sections with no objections raised in relation to natural environment impacts. The proposal considered to contribute positively to the setting and will not adversely impact the amenity of the locality.

b) to ensure continuous public access along the foreshore area and to the waterway.

Comment:

The proposal will maintain public access along the foreshore and to the waterway.

Zone Objectives

For the reasons detailed earlier in this report, the proposal is considered to be consistent with the objectives of the RE2 Private Recreation zone.

Having regard to the particular circumstances, namely the unique character of the site, the existing development/structures located within the foreshore area and the contribution of the proposal to the improved visual appearance of the site, it is considered that the proposed departure from the development standard is acceptable, and it is reasonable that flexibility to the standard be applied.

Exception to Development Standards Conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development and it is therefore considered appropriate to allow flexibility in the application of the limited development on foreshore area development standard. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. Given the variation to the non-numerical limited development on foreshore area development standard, the concurrence of the Secretary is assumed by the Northern Beaches Local Planning Panel.

5.10 Heritage conservation

The proposal was referred to the Aboriginal Heritage Office for assessment of the proposed development, including the submitted Due Diligence Assessment.

No objection was raised to the proposed development, subject to the conditions included in the recommendation of this report. There are no mapped built heritage items in the vicinity of the subject site.

As such, the proposal will not adversely impact the heritage value of the land or surrounding locality.

7.2 Earthworks

The proposed excavation work are relatively minor and are located centrally within the site. As such, the proposal is not anticipated to cause adverse impacts upon the natural environment or adjoining properties with regard to earthworks.

7.6 Biodiversity protection

Council's Biodiversity Officer raised no objection to the proposal, subject to the recommended conditions of consent.

7.7 Geotechnical hazards

The submitted geotechnical report advises that the proposal is not expected to affect the overall stability of the site or negatively influence any of the identified hazards, provided that the works are undertaken in accordance with the recommendations of the report, which are incorporated into the conditions of consent.

7.8 Limited development on foreshore area

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

- (a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*
(b) to ensure continuous public access along the foreshore area and to the waterway.

Comment:

Based on the below assessment, it is concluded that the proposal will not impact upon natural foreshore processes, the amenity of the area or continuous public access to and along the foreshore and waterway.

Accordingly, the proposed achieves the objectives of the control.

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:

- (a) 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,*
(b) 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 construction of a two-storey building to the west and south of the existing swimming pool will result in an extension of the footprint of the building located within the foreshore area and is therefore not permitted by exceptions (a) or (b). A further assessment of the proposed structures within the foreshore area is completed in this report under Clause 4.6. Notwithstanding, the proposal is also assessed against the provisions of this control below.

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

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 found to be consistent with the objectives of the RE2 Private Recreation zone. The proposed additions are considered to be well-designed and appropriately located to ensure compatibility with the character of the existing development on the site when viewed from the waterway and adjacent foreshore areas. The proposal 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 conflict with the use of the adjacent open space or waterway or impact 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 impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

The proposal was referred to Council's Biodiversity, Riparian Lands, Development Engineering, Coastal and Water Management sections for assessment, with no objections raised in relation to natural environment impacts.

(4) 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 or surrounding areas. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Conclusion

Notwithstanding that the proposed additions within the foreshore area are not permitted pursuant to this control, the proposal is found to be consistent with the objectives of the control and satisfies the relevant matters for consideration. The proposed variation to the control is considered further in this report against the provisions of Clause 4.6.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	3.5m	53.4m	N/A	Yes
Rear building line	N/A - See FSBL	N/A	N/A	N/A
Side building line	3.0m	N: 61.9m	N/A	Yes
		E: 3.2m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.15 Waterways Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	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
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes

C2.10 Pollution Control	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.14 Commercial Swimming Pools	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D15.1 Character as viewed from a public place	Yes	Yes
D15.2 Scenic protection - General	Yes	Yes
D15.3 Building colours and materials	Yes	Yes
D15.6 Front building line	Yes	Yes
D15.7 Side and rear building line	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes

Detailed Assessment

A4.15 Waterways Locality

The Desired Future Character (DFC) of the locality is detailed within Clause A4.15 Waterways Locality as follows:

- *The Waterway locality will remain primarily a recreational boating area. Waterfront businesses, yacht clubs and the like will meet the waterway recreational and boating needs of the community.*

Comment: The proposal will maintain and enhance the existing yacht club offerings to to meet the recreational and boating needs of the community.

- *Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

Comment: The proposal will not substantially increase the infrastructure demand of the premises, which is considered to be appropriately serviced at present.

- *Future development should ensure that access is available at all times to public boating facilities, such as launching ramps. Future development will not restrict public access adjoining the foreshore, or pedestrian access along the foreshore.*

Comment: The proposal relates to an existing registered club and does provide public boating facilities. The proposal will not alter existing public access to or along the foreshore.

- *Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development will be designed to be safe from hazards. Development will co-exist with adjoining residential areas. Development will not restrict public access adjoining the foreshore, and will not obstruct navigation within the waterway.*

Comment: The proposed building additions are generally below the height of the tree canopy and existing development on the subject site. The proposal includes new landscaping positioned across the hardstand area to the west of the yacht club buildings, including some small tree plantings. The proposed design and finishes of the additions are appropriate for the context, will positively contribute to the presentation of the site and complement the natural environment.

- *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors. Future development will include measures to ensure protection of the water quality and estuarine habitats of the locality, including mangroves, sea grasses, intertidal sand/mud flats, rocky shorelines, and beaches.*

Comment: The proposed works are largely within the footprint of existing structures on the site and will not require the removal of any significant vegetation. The application was referred to Council's NECC sections for assessment, with no concerns raised in relation to natural environment impacts, subject to the recommended conditions of consent.

- *Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

Comment: The proposal is not expected to adversely impact any known Aboriginal sites or listed built heritage items.

The proposed is considered to achieve a balance between the intended recreational use of the site and the natural characteristics of the surrounding environment and is therefore found to be consistent with the desired future character of the Waterways locality.

B3.6 Contaminated Land and Potentially Contaminated Land

Council's Environmental Health section has reviewed the submitted preliminary site investigation and raised no concerns with regard to site contamination.

B6.3 Off-Street Vehicle Parking Requirements

Council's Traffic section is satisfied that sufficient car parking is provided on the site to cater for the demand generated by the proposal, subject to the recommended conditions of consent.

B8.6 Construction and Demolition - Traffic Management Plan

Conditions are recommended requiring the preparation of and compliance with demolition and construction traffic management plans.

C2.12 Protection of Residential Amenity

The proposed additions and operation of the premises will not cause adverse amenity impacts to surrounding properties in relation to overshadowing, privacy or noise. The proposal does not include any increase to the patron capacity of the venue and a condition is recommended to limit the weekday (Monday-Thursday) operating hours to 8:00am to 10:00pm to minimise disturbance to surrounding properties.

The acoustic impacts of the development have been assessed by Council's Environmental Health section with no objection raised, subject to the recommended conditions of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$102,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$10,200,000.

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

Council is satisfied that:

- 1) The Applicant's written requests under Clause 4.6 of the Pittwater Local Environment Plan 2014

seeking to justify contraventions of Clause 4.3 Height of Buildings and Clause 7.8 Limited Development on Foreshore Area have adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

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

PLANNING CONCLUSION

The application seeks consent for alterations and additions to the Royal Motor Yacht Club Broken Bay, primarily involving a new two-storey addition to the west of the existing buildings and swimming pool area.

The design of the proposal responds appropriately to the characteristics of the site and the existing development, notwithstanding the proposed departures from the height of buildings and limited development on foreshore area development standards. In view of the specific circumstances discussed in this report, the applicant's Clause 4.6 written requests are successful in demonstrating that the proposal is consistent with the objectives of the development standards and provide sufficient environmental planning grounds for the variations.

Notwithstanding the resulting development standard variations, the proposed height, bulk and scale of the development is consistent with the intended use of the site for recreational purposes and the proposed additions will complement and improve the visual appearance of the existing development.

The issues raised in the submissions are addressed in detail in this report and are not considered to warrant further amendment or refusal of the application in the public interest.

The assessment concludes that the proposed development is acceptable, and the application is recommended for **approval**, subject to the conditions included in the recommendation.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits contraventions of clause 4.3 Height of Building and 7.8 Limited Development on Foreshore Area development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written requests have adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/0951 for Alterations and additions to the Royal Motor Club Broken Bay on land at Lot 5 DP 4689, 46 Prince Alfred Parade, NEWPORT, Lot 6 DP 110670, 46 Prince Alfred Parade, NEWPORT, Lot 262 DP 752046, 46 Prince Alfred Parade, NEWPORT, Lot 329 DP 824292, 46 Prince Alfred Parade, NEWPORT, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA003	G	Demolition - Ground Floor Plan	MCHP Architects	11 March 2024
DA004	C	Demolition - First Floor Plan	MCHP Architects	22 February 2023
DA005	C	Demolition - Second Floor Plan	MCHP Architects	22 February 2023
DA006	H	Proposed Overall Site - Roof Plan	MCHP Architects	11 March 2024
DA007	I	Proposed Partial Site - Roof Plan	MCHP Architects	11 March 2024
DA008	J	Proposed Partial Site - Ground Floor Plan	MCHP Architects	11 March 2024
DA009	J	Proposed - Ground Floor Plan	MCHP Architects	11 March 2024

DA010	H	Proposed - First Floor Plan	MCHP Architects	8 March 2024
DA011	F	Proposed - Second Floor Plan	MCHP Architects	8 March 2024
DA012	B	Proposed - Second Floor Plan 2	MCHP Architects	22 February 2023
DA017	E	Proposed - North Elevation	MCHP Architects	5 March 2024
DA018	E	Proposed - South Elevation	MCHP Architects	5 March 2024
DA019	D	Proposed - East Elevation	MCHP Architects	5 March 2024
DA020	D	Proposed - West Elevation	MCHP Architects	5 March 2024
DA021	E	Proposed - Section 01	MCHP Architects	8 March 2024
DA022	E	Proposed - Section 02	MCHP Architects	8 March 2024
DA023	E	Proposed - Section 03	MCHP Architects	8 March 2024
DA029	C	Finishes Schedule 1 - Materials and Colours	MCHP Architects	8 March 2024
DA030	C	Finishes Schedule 2	MCHP Architects	8 March 2024
DA031	C	Finishes Schedule 3	MCHP Architects	8 March 2024
DA-101	D	Landscape Plan	Landart	13 March 2024

Approved Reports and Documentation				
Document Title	Version Number	Prepared By	Date of Document	
Plan of Management - Operational	-	Planning Ingenuity	15 March 2024	
Acoustic Report	1.1	Acoustic Directions	1 March 2023	
Geotechnical Investigation Report	1	Douglas Partners	14 July 2023	
Acid Sulfate Soil Management Plan	-	JK Environments	16 March 2023	
Unexpected Finds Protocol	-	JK Environments	17 March 2023	
Preliminary Site Investigation and Acid Sulfate Soil Assessment	Final	JK Environments	25 January 2023	
BCA and DDA Compliance Statement	-	Blackett Maguire + Goldsmith	10 March 2023	
Estuarine Risk Management Report	-	Horton Coastal Engineering	26 April 2023	

Arboricultural Impact Appraisal and Method Statement	-	Naturally Trees	9 November 2023
Addendum to Arborist Report	-	Naturally Trees	18 March 2024
Waste Management Plan - Royal Motor Yacht Club	-	-	-
Operational Waste Management Plan	B	Elephants Foot Consulting	17 February 2023

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

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response - Underground Cables	29 August 2023
Ausgrid	Ausgrid Referral Response - Overhead Cables	29 August 2023
NSW Police	Referral - NSW Police - 46 Prince Alfred Parade Newport	5 December 2023

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

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

3. **Prescribed Conditions**

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

a telephone number on which that person may be contacted outside working hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall

be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$102,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$10,200,000.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

7. Construction, Excavation and Associated Works Security Bond(s)

The applicant is to lodge a bond with Council for the following:

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$25000

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Footing Design Near Trees to be Retained

a) footing structural layout plans for the works including the new retaining wall and service/egress pathway shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a non-destructive tree root investigation (if deemed necessary by the Arborist), complying with clause 3.3.4 of AS 4970-2009 Protection of trees on development sites, near existing tree(s) 2 and 4 to locate critical tree roots and recommend footing design and locations for the construction works.

b) the Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.

c) the Arborist shall submit certification to the Certifier that the locations of the footings are accepted.

d) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

9. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Stormwater shall be conveyed from the site to existing stormwater drainage system. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

Reason: To ensure appropriate provision for disposal of stormwater management arising from the development.

10. **Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods. The CEMP must identify and appropriately manage invasive species (e.g. *Caulerpa taxifolia*).

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

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

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

11. **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.

12. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the stormwater plan from Martens rev A 09.02.23 and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

13. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

14. **Vehicle Access & Parking**

Details must be provided for Council's review of the signposting of the upper car park to support the proposed one-way directional pavement arrows. 'NO ENTRY' and 'ONE WAY' signs must be provided at selected locations within the carpark to guide motorists.

The amended plans do not show any shuttle bus parking. Hence, the architectural plans must be updated to show dedicated locations for shuttle bus parking sized to accommodate the shuttle buses in use by the club.

page 9 of the architectural plans note that modification of the pedestrian path adjacent to the accessible parking spaces will be undertaken. Additional details for this work must be provided to ensure compliance with relevant standards.

Plans for the above must be provided to Councils Traffic Engineer for review and once approved submitted to the Principal Certifier prior to the issue of a Construction Certificate

Reason: To ensure adequate provision is made for parking safely, for manoeuvring, pedestrian access and parking of vehicles.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **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.

17. **Building Code of Australia & Disability Discrimination Act Upgrade requirements and Fire Safety Upgrade**

The Building Code of Australia and Disability Discrimination Act works and measures to upgrade the building as detailed and recommended in the Building Code of Australia Disability Discrimination Act Report prepared by Blackett Maguire & Goldsmith dated 10/3/2023, are to be considered as part of the assessment of the Construction Certificate.

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

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

18. **Mechanical Plant**

A suitably qualified acoustic consultant is to be engaged to assess and provide recommended acoustic treatments for all mechanical plant and equipment proposed for the rooftop prior to construction certificate. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To protect the noise amenity of the area.

19. **Mechanical ventilation Plans**

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Principle certifier that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

20. Pre-Commencement Dilapidation Report

The applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council’s infrastructure during construction.

21. Estuarine Hazard Design Requirements

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

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

22. Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 2.32m 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 2.32m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.32m AHD or waterproofed to this level; 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 2.32m AHD.
4. All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.32m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.32m AHD 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.

23. Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 26 April 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.

24. 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 60 years as justified and accepted by Council, the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 26 April 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

25. 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.

26. External Finishes to Roof

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.

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.

27. Glazing Reflectivity

All proposed west-facing glazing shall have a low reflectivity index.

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

Reason: To minimise glare and reflectivity impacts.

28. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

29. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

30. **Project Arborist**

a) a Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) the Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- i) tree protection measures under section 4 Arboricultural Method Statement (Plan TMP01 is outdated and as such on site arboricultural advice takes precedence), and Appendix 8 Schedule of works and responsibilities,
- ii) all works in the tree protection zone of trees 1, 2, and 4.

c) All tree protection measures specified 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.

d) the Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining

properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

31. **Tree Removal Within the Property**

a) this consent approves the removal of existing trees on the subject site as listed below:

i) tree 3 - *Corymbia maculata*, and tree 5 - *Plumeria rubra*.

b) 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.

32. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742

– “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

DURING BUILDING WORK

33. **Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan titled Acid Sulfate Soil Management Plan dated 16 March 2023 ref. no. E35645Plet-ASSMP prepared by JK Environments.

Reason: To ensure management of potential acid sulfate soils.

34. **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.

35. **Site Contamination - Acid Sulfate Soils**

All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by whom? for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997;
- ii) Environment Protection Authority, Waste Classification Guidelines (2014);
- iii) Water Quality Australia, National Acid Sulfate Soils Guidance (2018); and
- iv) Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

36. **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 AS 4970-2009 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 AS 4970-2009 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS 4970-2009 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 AS 4373-2007 Pruning of amenity trees,

xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

37. **Condition of Trees**

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

i) a general decline in health and vigour,

ii) damaged, crushed or dying roots due to poor pruning techniques,

iii) more than 10% loss or dieback of roots, branches and foliage,

iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

- v) yellowing of foliage or a thinning of the canopy untypical of its species,
 - vi) an increase in the amount of deadwood not associated with normal growth,
 - vii) an increase in kino or gum exudation,
 - viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
 - ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.
- b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.
- c) the owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

38. 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.

39. 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.

40. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

41. 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 report must be followed.

Reason: To protect the aquatic environment.

42. Dewatering Management

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Surface water and rainwater: A Council dewatering permit application must be made for expected multiple instances or continuous dewatering of the site sediment and erosion controls measures.
Groundwater: A permit from Council is required for any dewatering of groundwater.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

43. 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: Protection of the receiving environment.

44. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

45. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

46. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements: ◊ Work Health and Safety Act;
◊ Work Health and Safety Regulation;

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

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

47. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

48. Demolition Works - Asbestos

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

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

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

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

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

49. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

50. **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.

51. **Unexpected Finds Protocol**

The Unexpected Finds Protocol prepared by JKEvironments dated 17 March 2023, ref; E35645Plet2-UFP is to be complied with during the demolition and construction phase of the development.

Reason: To ensure unexpected finds are managed appropriately to minimize contamination.

52. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

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

Reason: Aboriginal Heritage Protection.

53. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

54. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

55. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which

confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

56. Acid Sulfate Soil Management Confirmation

Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan titled Acid Sulfate Soils Management Plan dated 16 March 2023 ref. no. E35645Plet-ASSMP prepared by JK Environmenta is to be submitted to the satisfaction of the principal certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

57. Mechanical Plant

All recommendations within the acoustic report prepared for the mechanical plant and equipment are to be implemented into the development according to the acoustic report.

All fans and ductwork in the kitchen must be resiliently hung with a static deflection exceeding 10 mm.

Kitchen supply and return ductwork must be lined with a minimum of 50 mm thick insulation (minimum 11 kg/m³).

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

Reason: To ensure mechanical plant has been acoustically treated to protect the noise amenity of the area.

58. Landscape Completion

a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing DA-101 Issue D by Landart dated 13/03/24), and inclusive of the following conditions:

- i) landscape works are to be contained within the legal property boundaries,
- ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- iii) one *Tristaniopsis laurina* shall be installed in Landscaped Area 3 (LA-3) and one *Tristaniopsis laurina* shall be installed in Landscaped Area 4 (LA-4),
- iv) one *Corymbia maculata* shall be installed within the property boundaries to replace tree 3,
- v) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- vi) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at minimum 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,

vii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,

viii) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

b) prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

59. Condition of Retained Vegetation

a) prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

60. 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.

61. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and the approved construction certificate stormwater management plans by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

62. Certification for the Installation of Stormwater Treatment Measures

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the approved construction certificate plans prepared. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation

Certificate.

Reason: Protection of the receiving environment.

63. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

64. Stormwater Treatment Measures Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings

- 3. Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measureMaintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

65. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

66. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

67. Operational Management Plan

An Amended Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- Vehicle access and egress.
- Through-site circulation of vehicle movements.
- Management of car parking areas.

- The location and content of directional signage.
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage the sequencing of the loading docks.
- Waste management.

The following changes to the submitted Operational Plan of Management are also required:

- provide further clarification on Section 6.2 (c) which states that, "Some access to the car park will be limited to Licence Plate Recognition (LPR) for members and a full time security guard will be present during the hours of 9pm to 5am 7 days per week. There is a plan to continue Licence Plate Recognition (LPR) to the whole carpark in the future." The purpose of the above to be outlined and confirmation that it will not impact upon the ability of visitors to access parking within the site.
- Section 6.2 (d) which relates to loading must be amended as there is no loading area, neither existing nor proposed, with the area currently used for loading/unloading of goods being sited on a boat ramp which by definition means that the loading/unloading of goods could only occur when the ramp is not being used for the launching or retrieval of watercraft.
- provide further clarification in the Plan or Management outlining which areas of the lower carpark will be made available for patrons and visitors to park. This is essential for clarity and to ensure that adequate provision is made for parking for events. If there are spaces that will remain unavailable these should be shown on marked up plan. In addition, Council requires that a 'parking marshal' should be present at the boom gate during events or other peak operating times in addition to 'signage' to assist patrons unfamiliar the carpark and to provide guidance to the nearest available parking.

An amended Plan of Management is to be lodged with Council for review and approval, and details demonstrating compliance with the above are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

68. 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.

69. 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.

70. Post-Construction Dilapidation Report (Major Development)

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to

demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

71. Construction Material - Acoustic Treatment

Barriers for the north-facing sections of the outdoor ground floor casual dining area, pool terrace, and rooftop terrace must be installed as specified in Section 5 and Figure 4 of the Acoustic Report dated 1 March 2023, Ref 230301 RMYCN v1.1, prepared by Acoustic Directions.

The barriers must be constructed of a solid material of not less than 12 kg/m². They can be transparent acrylic or glass as required. However, advice should be sought from a structural engineer in relation to wind loads and support.

Acoustic absorption at least 50 mm thick (minimum flow resistivity 7000 Rayls/m) must be fixed to the ceiling and wall areas of the ground-floor casual dining area and first-floor terrace as specified in Section 5 and Figure 4 of the above acoustic report, to reduce noise levels. Architectural finishes and mounting options can be discussed as required.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure the premises is suitably constructed to ensure the noise amenity of the area.

72. Kitchen Design, construction and fit out of food premises certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

73. Mechanical Ventilation certification

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- ◊ Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- ◊ Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

74. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water.

75. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

76. Noise Controls

Amplification for music on the rooftop terrace will be provided by a small portable system and will cease at **10:00 pm**. The musical content shall be background accompaniment rather than foreground i.e. music levels must not exceed 77 dB (LAeq) when measured at 10 m on axis to the loudspeaker.

The rooftop terrace loudspeaker must be positioned close to the internal function space, no higher than 2 m, and face due-south or west as specified in Section 5 and Figure 4 of the Acoustic Report prepared by Acoustic Directions, Report Ref.: 230301 RMYCN v1.1, dated 1 March 2023.

When the second-floor function room is being utilised, the doors are to be closed to minimise noise egress to the outdoor terrace, particularly if there is a live musician situated inside the function area.

The ground-floor casual dining area must not operate after **10:00pm**.

The doors between the internal area of the club and the outdoor and semi-outdoor areas are to remain closed except for ingress and egress of customers and staff.

Rubbish, especially glass, shall not be disposed externally between 10:00 pm and 7:00 am (8:00 am on Sundays and public holidays).

Reason: To ensure acoustic compliance in an operational situation.

77. Deliveries and waste service collections

Deliveries and waste service collections shall not occur after 10pm and before 6am on any day.

Reason: Reason: To minimise the impacts of noise on neighbouring premises.

78. Landscape Maintenance

a) if any landscape materials/components or planting under this consent fails, they are to be

replaced with similar materials/components.

b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) the approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

79. Maintenance of Stormwater Treatment Measures - Major

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

80. Patron Capacity

The number of patrons within the venue shall be limited to a maximum of 270 at any time.

Reason: To ensure that the operation of the premises is consistent with the proposed development.

81. Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 26 April 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

82. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Thursday – 8:00am to 10:00pm
- Saturday, Sunday and Public Holidays – 8:00am to 12:00am midnight

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease and no patrons shall be permitted entry. All patrons on the premises shall be required to leave within the following 15 minutes, with the exception of patrons waiting inside the venue (other than in any restricted area) for collection by a taxi or courtesy bus.

Reason: Information to ensure that amenity of the surrounding locality is maintained.