

# Statement of Environmental Effects

Sirsi Marina, Newport

122-128 Crescent Road, Newport NSW 2106 and Part of Winji Jimmi Bay

Submitted to Northern Beaches Council  
on behalf of 57 The Avenue Pty Ltd



**'Gura Bulga'**

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



**'Dagura Buumarri'**

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



**'Gadalung Djarri'**

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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Version No.	Date of issue	Prepared by	Approved by
1.0 (DRAFT)	09/07/2024	MC/AH	
2.0 (DRAFT v2)	20/07/2024	MC	
3.0 (DRAFT v3)	09/08/2024	MC/SG	
4.0 (FINAL)	23/08/2024	MC/SG	SG
5.0 (REVISED)_v2	27/09/2024	MC/SG	SG
6.0 (REVISED – FINAL)	15/10/2024	MC/SG	SG

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## Appendices

Appendix	Author
A. Architectural Plans	Scott Carver
B. Survey and Layout Plans	Boxall
C. Navigation Impact Assessment Advice	Royal HaskoningDHV
D. Subdivision Plans	Boxall
E. Survey Plan	Boxall
F. Aquatic Ecology and Sediment Assessment	Ocean Ecology
G. Stormwater Report and Water Impact Statement	BG&E
H. Estuarine Risk management Report	Horton Coastal Engineering
I. Detailed Site Investigation	Aargus
J. Acid Sulphate Soils Assessment and Management Plan	EI Australia
K. Due Diligence Aboriginal Cultural Assessment Report	AMAC Archaeological
L. Construction Waste Management Plan	57 The Avenue Pty Ltd
M. Transport Statement (Parking)	JMT Consulting
N. Marina Condition Assessment (Structure)	Paragon Engineering
O. Transport for NSW – Maritime - Letter	Transport for NSW
P. DPI Fisheries - Correspondence	DPI Fisheries

# 1.0 Introduction

This Statement of Environmental Effects (SEE) is submitted to Northern Beaches Council in support of a Development Application (DA) for the reconfiguration of the existing marina to a nine (9) berth marina and subdivision into eight (8) lots at 122-128 Crescent Road, Newport (otherwise known as 122A Crescent Road, Newport) and part of Winji Jimmi Bay (Pittwater) being part of the waterway below MHWMM - adjoining western end of Lot 21 DP545339, within the Northern Beaches Local Government Area (LGA)

Specifically, the proposal includes the following:

- Concept building envelopes for boat sheds on proposed Lots 5 and 6;
- associated landscaping and demolition;
- removal of existing vertical slipway and boat ramp and extension to an existing seawall; and
- subdivision of the site.

This SEE has been prepared by Ethos Urban on behalf of Essex Development Pty Ltd, and is based on the Architectural Plans provided by Boxall (see **Appendix A**) and other supporting technical information appended to the report (see **Table of Contents**).

This report describes the site, its environs and the proposed development, and provides an assessment of the environmental impacts and identifies the steps to be taken to protect or lessen the potential impacts on the environment. The application is recommended for approval given the following reasons:

- The proposed development is permissible with consent and is consistent with all the relevant strategic policies, environmental planning instruments and controls;
- The proposal removes a use that has environmental and amenity impacts to adjoining properties and the waterway, adaptively reusing existing structures and significantly improving the visual setting of the site and waterway character.
- The environmental risks associated with the construction and operation of proposed development can be appropriately mitigated;
- The facilities have been sited and orientated to enable safe navigation for vessels in Winji Jimmi Bay and Pittwater and those berthed at the marina;
- The proposal addresses the significant demand for additional vessel berthing facilities in the area, and also aligns with the strategic intent for these facilities to not 'clutter' the waterways.
- The assessment of the proposal has demonstrated that the development will not result in any environmental impacts that cannot be appropriately managed and consistent with the relevant planning controls for the site.
- The proposal is consistent with the principles of ecological sustainable development as defined by Schedule 2(7)(4) of the *Environmental Planning and Assessment Regulation 2021*.
- The site is suitable for the development, and it is in the public interest.

The DA is Integrated Development under section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and requires approval from the Water NSW under Section 91 of the *Water Management Act 2000* for works within 40m of the Pittwater Waterway (Controlled Activity Approval) and Section 201 of the *Fisheries Management Act 1994*.

The proposal is not separately categorised as Designed Development under the Environmental Planning and Assessment Regulation 2021.

# 2.0 Background

## 2.1 Development Consent – Subdivision and site works (land)

A Development Consent for demolition works and subdivision of land into 8 lots including tree removal and infrastructure work at the subject site was approved by the Northern Beaches Local Planning Panel on 6 December 2023 (DA/2022/2152). This DA applies to the C4 Environmental Zoned residential land immediately to the east of the subject site and will use the proposed marina.

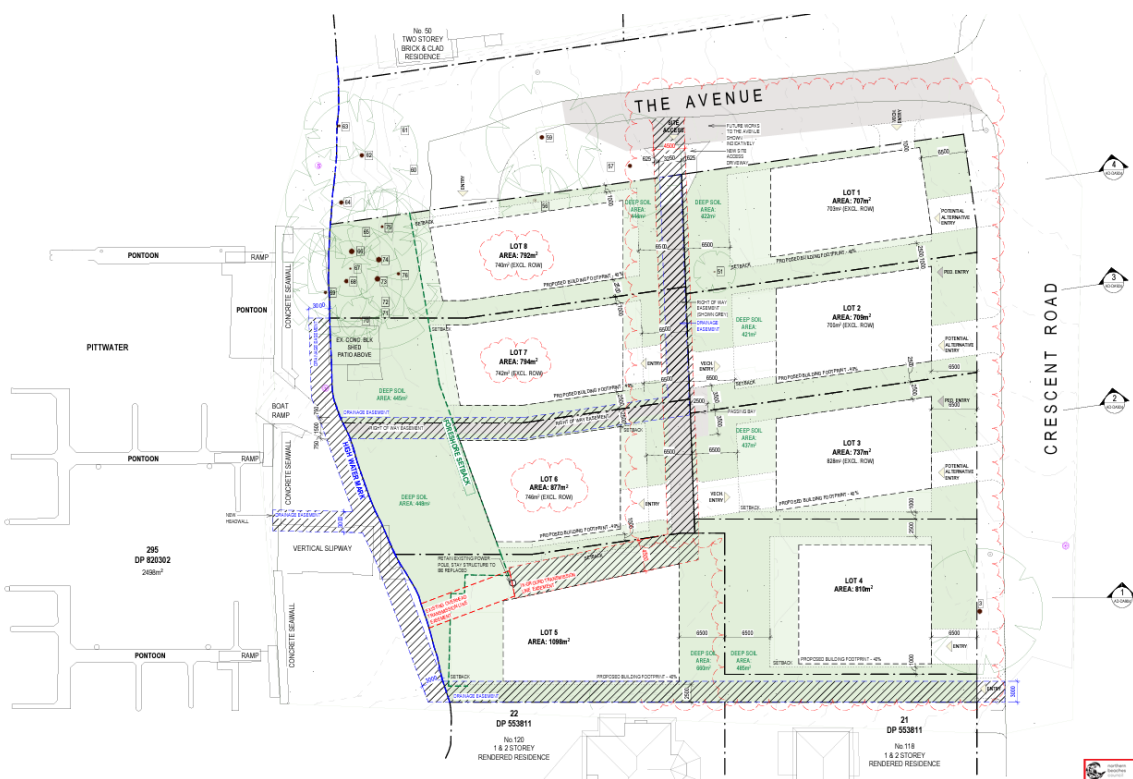
Specifically, the DA sought approval for the following:

- Demolition of the existing commercial and residential structures on site above the mean high water mark; • Subdivision of the site into eight residential lots;
- Removal of 46 exempt, dead or hazardous trees on site; and
- Associated servicing and stormwater drainage works, including:
  - Undergrounding existing high voltage electricity lines above part of the sites;
  - Driveway and access works for each lot, including easements and Right of Way;
  - Easements and works for sewer, stormwater, and gas; and
  - Communications / NBN servicing.

No residential dwellings were proposed under DA/2022/2152 as these will be subject to a future detailed DA.

Development Consent DA/2022/2152 included the demolition of all structures above mean high water mark, while the demolition of structures below mean high water mark will be subject of this current DA.

The approved residential lots under DA/2022/2152 will all have access to the proposed residential marina berths through a 'right of way' to the waterfront. An extract of the approved plan showing proposed lot layout ins included in **Figure 1**.



**Figure 1** Approved Subdivision Plan (DA2022/2152)

Source: Scott Carver

Notably, as part of the strategic planning review of Council it was recognised that the proposed residential land use is the primary anticipated land use within the zone, and that the retention of the commercial marina land use that is subject to Additional Permitted Use provisions, should not preclude the proposed residential subdivision and change of use and conversion of the water-based marina facilities to residential use.

## 2.2 Marina DA - Pre-Lodgement Meeting – Northern Beaches Council

A pre-DA meeting with the Northern Beaches Council was attended by the Applicant on 5 March 2024 to discuss the waterside/marina proposal to replace the existing commercial marina. The key feedback received from the Council on 15 March 2024 is provided in **Table 1** and has been addressed in this Development Application.

**Table 1** Pre-Lodgement Meeting Feedback

Council Feedback
<b>Planning Considerations</b>
<b>Pittwater Local Environmental Plan 2014</b> <ul style="list-style-type: none"><li>Part 2 Zoning and permissibility</li><li>Part 4 – Principal Development Standards</li></ul>
<b>Pittwater Development Control Plan 21</b> <ul style="list-style-type: none"><li>Part D15 – Waterways Locality</li></ul>
<b>Specialist Advice</b>
<b>Riparian Lands and Water management</b> <ul style="list-style-type: none"><li>Coastal Management Act 2016;</li><li>State Environmental Planning Policy (Resilience and Hazards) 2021;</li><li>Water Management Act 2000;</li><li>Water Management (General) Regulation 2018;</li><li>Northern Beaches Water Management for Development Policy; and</li><li>Relevant LEP and DCP clauses.</li></ul>
<b>Coasts and Catchments</b> <ul style="list-style-type: none"><li>Pittwater 21 Development Control Plan</li><li>Pittwater Local Environmental Plan 2014</li><li>Pittwater Estuary Mapping of Sea Level Rise Impact Study (Cardno 2015)</li><li>Coastal Management Act 2016</li><li>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</li><li>Estuarine Risk Management</li><li>Development on Foreshore Area</li><li>Development seaward of mean high water mark</li><li>Lateral Limits to development seaward of mean high water mark</li><li>Waterfront Development</li></ul>
<b>Biodiversity</b> <ul style="list-style-type: none"><li>SEPP (Resilience and Hazards) 22021 - Chapter 2: Development within the coastal environment</li><li>Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li><li>Pittwater 21 DCP - Clause B4.6 Wildlife Corridors</li></ul>
<b>Traffic</b>
<b>Parks, Reserves and Foreshore</b>
<b>Environmental Health</b>
<b>Development Engineering</b>
<b>Deliverables</b>
<b>Provisions of Deliverables</b>

## 2.3 Consultation with Crown Land

In preparation for the Development Application, consultation was undertaken with NSW Department of Planning & Environment - Crown Lands regarding the site. Consent of Owner for Lodgement of a Development Application was provided on 29 November 2023, along with landowners consent variation letter (dated 9 October 2024) and is provided attached to this application.



## 2.4 Consultation with State Agencies

### 2.4.1 Transport for NSW - Maritime

In response to the pre lodgement meeting commentary from Northern Beaches Council and in the progression of the DA, a meeting was arranged with TfNSW Maritime on 11<sup>th</sup> April 2024.

Following that meeting, adjustments were made to the original marina layout in response to feedback, including the reduction of the proposed maximum vessel size as well as minimisation of the marina footprint and boat orientation as shown **Figure 2**. These amendment in response to this consultation, along with a Navigation Impact Advice (prepared by Royal HaskoningDHV) was provided on 2 May 2024 (**Appendix C**).

On 13 June 2024 correspondence was received which contend that inspection/assessment has been conducted by the Local Boating Safety Officer and there are no navigation concerns regarding the proposal (**Appendix O**).

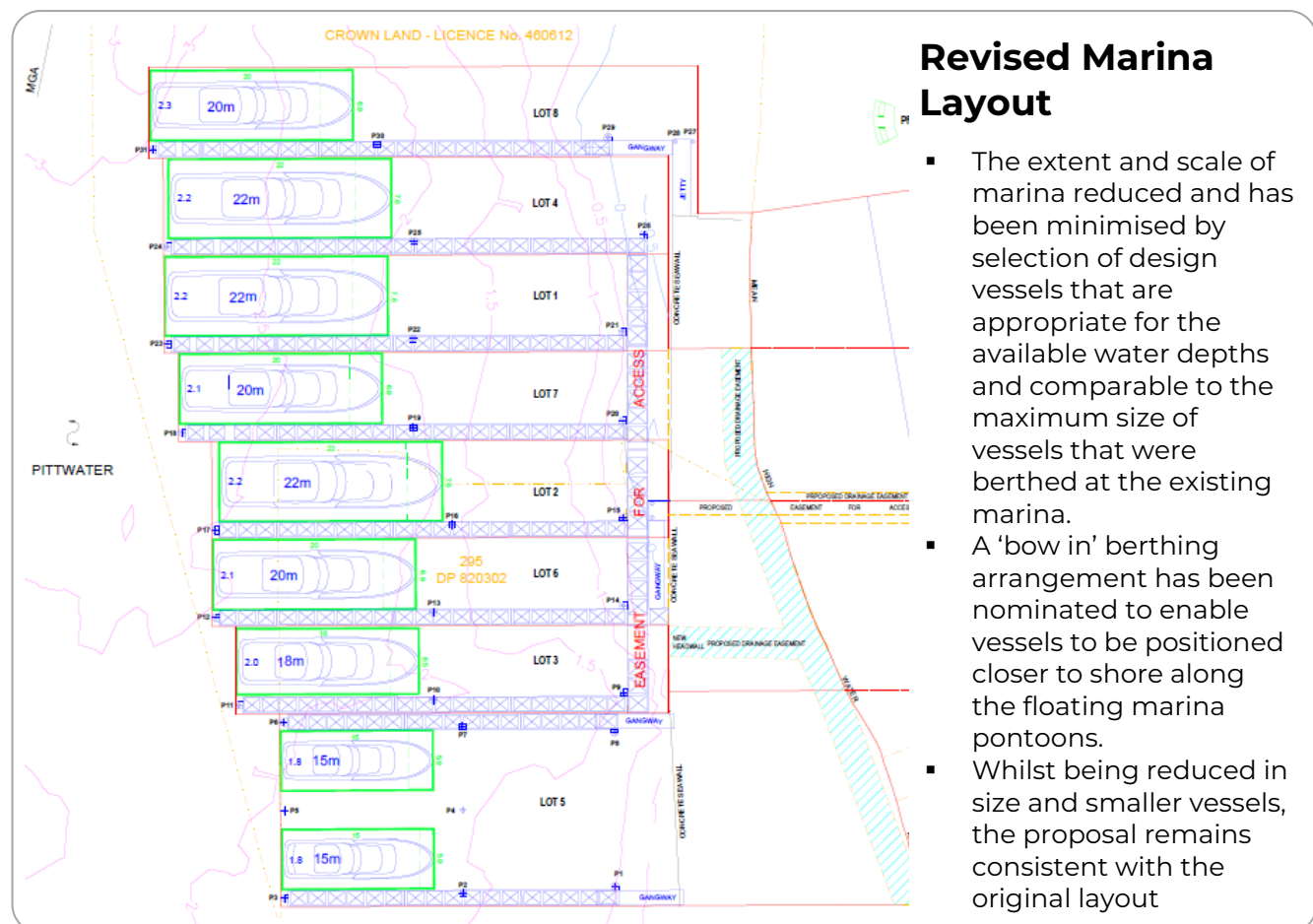
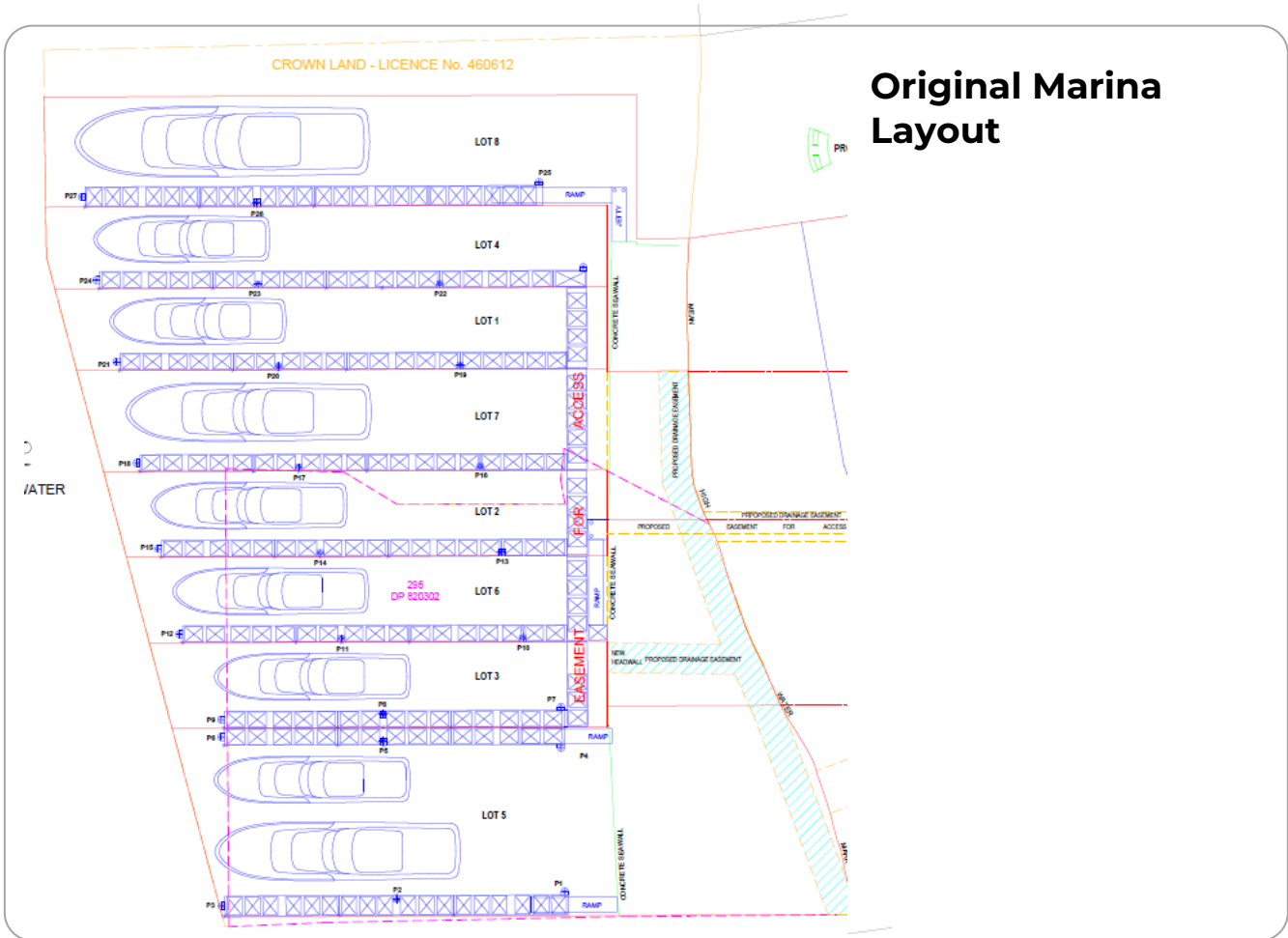
### 2.4.2 Department of Primary Industries - Fisheries

In May 2024, Ocean Environmental consulted with NSW DPI Fisheries to determine matters of concern to the proposal to be addressed in the aquatic ecology report. The correspondence received on 13 May 2024 (**Appendix P**) confirmed there was objection to the submission of the DA for a Proposed Marina at 122 Crescent Rd, Newport.

In the event the proposal was to be referred to DPI Fisheries, by Council, or an agency, general requirements for an assessment were provided – which have been addressed by Ocean Environmental and Royal HaskoningDHV in their respective technical reports. A summary of the response and additional requests, along with the project team responses, is provided in **Table 2** below.

**Table 2** *DPI Fisheries Feedback*

DPI Fisheries	Responses
NSW DPI have no objections to the submission of the DA for the proposed marina at 122 Crescent Rd, Newport.	Noted
NSW DPI provided their general requirements for an aquatic ecology assessment.	These are covered in the background data review, field survey, impacts and mitigations sections of this report.
Noted that the site is located within a shallow, narrow bay. Given the facilities proposed, we suggest that the aquatic ecology assessment determines whether these would change hydrology or e-folding time within the bay and if so, whether this would adversely affect water quality and marine ecology within the bay.	<p>Royal HaskoningDHV prepared a letter on 14 June 2024 to address this matter. A summary of key points is below:</p> <p><i>“Given the minimal (&lt;10%) occupation of the waterway cross-sectional area by the upgraded marina structure and the generally reduced vessel berthing density when compared to the existing marina (i.e. 36 existing berths vs 9 proposed berths), the proposed marina upgrade would not be expected to significantly alter the tidal flow of water in and out of Winji Jimmi Bay relative to existing conditions. As such the influence of the proposed facility on e-folding times would be minimal, with no untoward consequences expected for water quality or marine ecology within the bay.”</i></p> <p>Considering these statements, Ocean Environmental also concurs that there will be no adverse effects on water quality and marine ecology which differ significantly from current marina arrangements.</p>
Noted that marine vegetation is located on both sides of the head of the bay. Given that large vessels are proposed to be berthed at the facilities, we suggest that the AEA determines whether propellor wash to the seabed (that could potentially constitute dredging) would occur at the berths or during ingress and egress to the bay, and if so, whether this would significantly increase impacts (from present levels) to marine vegetation (e.g. from turbidity, wash, mobilised contaminants) caused by vessel movements generally (i.e. would impacts from the proposal significantly contribute to cumulative impacts on marine vegetation?).	<p>Royal HaskoningDHV prepared a letter on 14 June 2024 to address this matter. They concluded that:</p> <p><i>“Given the improved position of berthed vessels away from shallow shoreline areas, ‘bow in’ berthing arrangement, expected reduced boat movements, and the absence of sensitive marine vegetation in close proximity to the marina, it is considered that vessel manoeuvring at the proposed marina would not result in any significant increased impacts to marine vegetation from seabed disturbance when compared to the existing situation”.</i></p> <p>Given this statement, and the changes to marina layout, it is expected that prop scour would not increase from current levels and may well be reduced.</p>



**Revised Marina Layout**

- The extent and scale of marina reduced and has been minimised by selection of design vessels that are appropriate for the available water depths and comparable to the maximum size of vessels that were berthed at the existing marina.
- A 'bow in' berthing arrangement has been nominated to enable vessels to be positioned closer to shore along the floating marina pontoons.
- Whilst being reduced in size and smaller vessels, the proposal remains consistent with the original layout

**Figure 2 Original and Revised Marina Layout**  
 Source: Boxall/Ethos Urban

# 3.0 Site Analysis

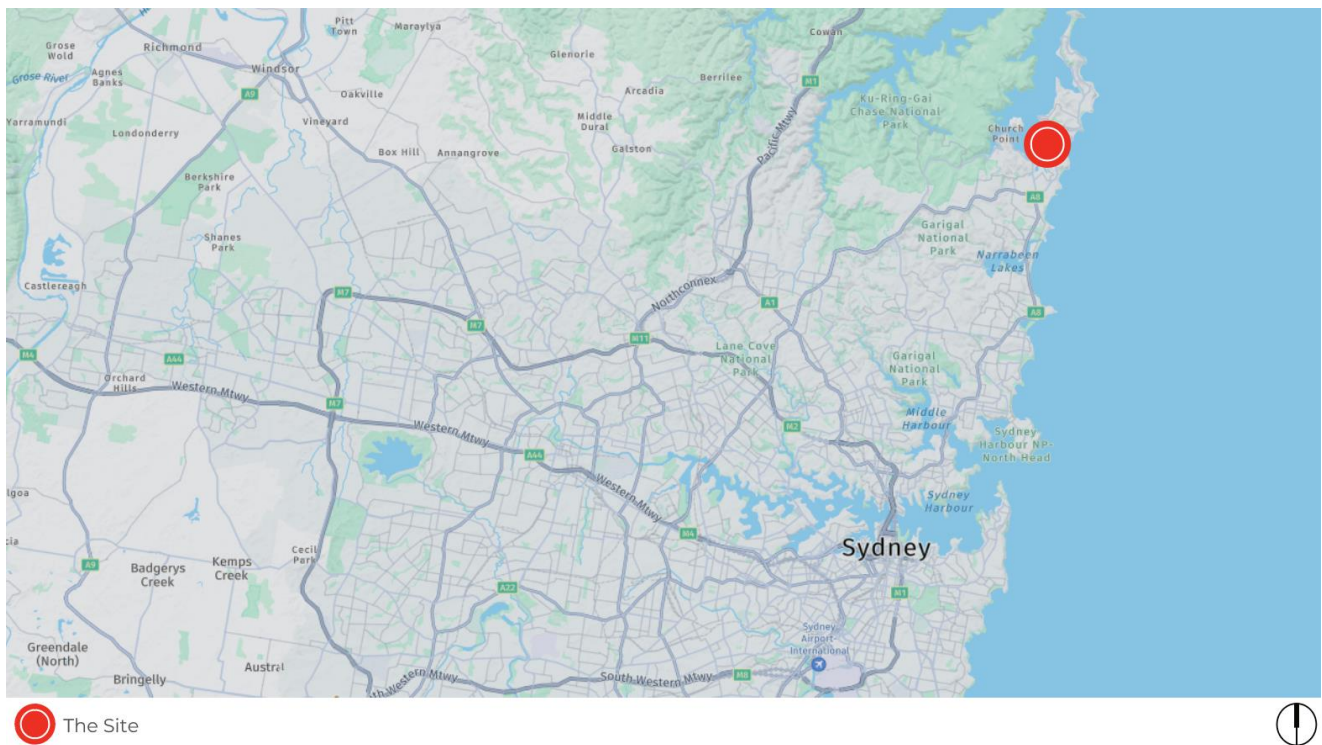
## 3.1 Site Location and Context

The site for the purpose of this DA is located as part of 122-128 Crescent Road, Newport (otherwise known as 122A Crescent Road, Newport) within the Northern Beaches Local Government Area (LGA).and part of Winji Jimmi Bay (Pittwater) being part of the waterway below MHW - adjoining western end of Lot 21 DP545339.

The site is located approximately 2km from Newport Beach and approximately 33km north-east of the Sydney CBD.

The site is less than 2kms from Newport beach and approximately 1km from Bungan Beach with a number of restaurants, cafés and other amenities in the area.

The site's locational context is shown at **Figure 3**.



**Figure 3** Locational Context of the Site in relation to Sydney CBD

Source: Nearmap, Ethos Urban

## 3.2 Site Description

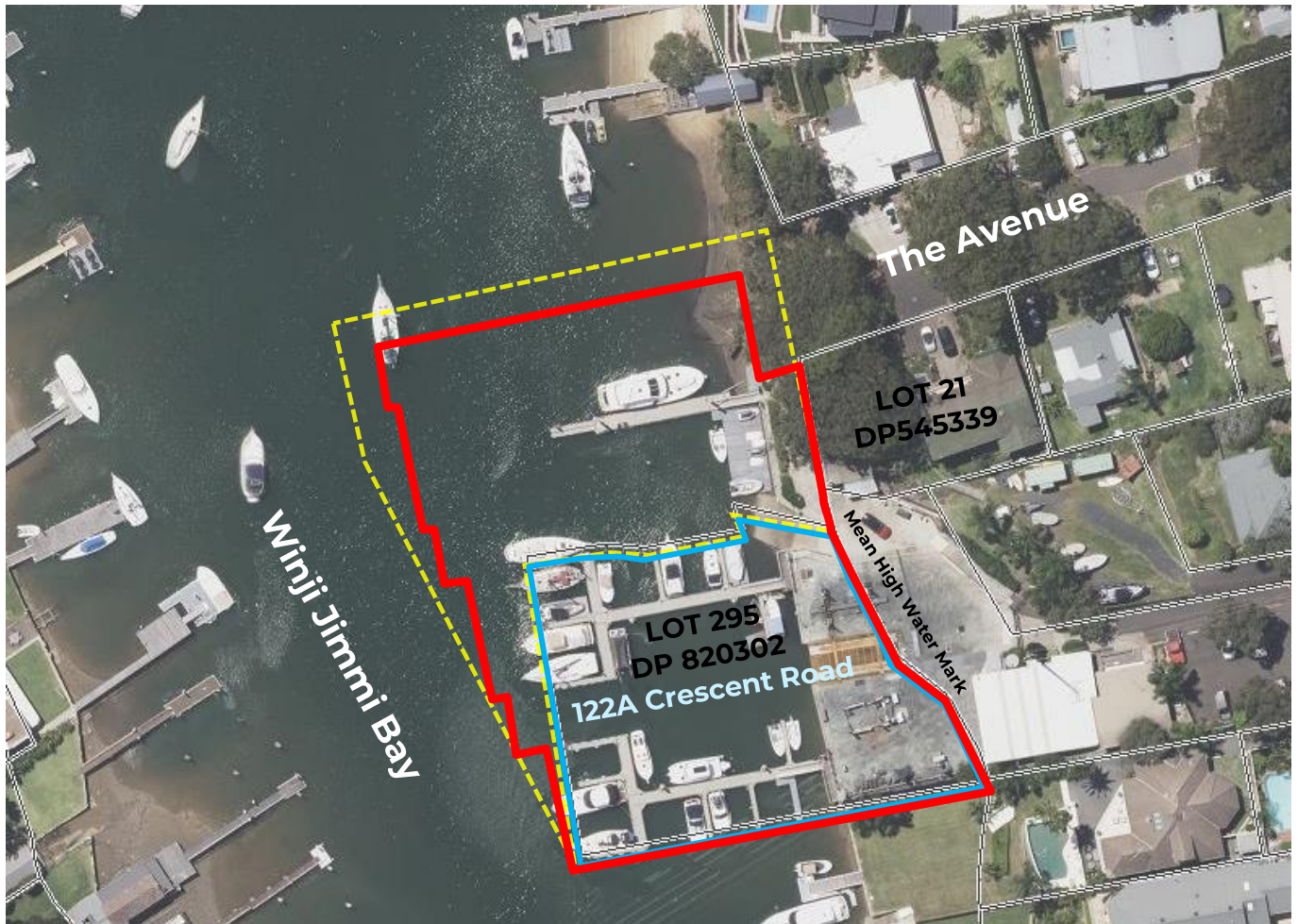
A description of the site is provided below in **Table 3**.




**Table 3** Site Description Details

Legal Description	Description	Owner
Lot 295 DP820302	122-128 Crescent Road, Newport (alternative referred to as 122A Crescent Road, Newport)	57 The Avenue Pty Ltd
Part of Winji Jimmi Bay (Pittwater)	Waterway below MHW - adjoining western end of Lot 21 DP545339	NSW Department of Planning & Environment - Crown Lands

The combined site has an area of approximately 5,000sqm a water frontage (generally aligned with the Mean High Watermark) of approximately 75m. It is an irregular shape. A survey plan provided by Boxall is located at **Appendix B**.

An aerial photo of the site and approximate boundary is shown at **Figure 4**.



-  Site Boundary
-  Lot Boundary
-  Licence Area – Crown Land

**Figure 4** Aerial Photograph of the site and boundaries

Source: SIX Maps/Ethos Urban

### 3.2.1 Existing Development

The site includes a 43-berth commercial marina known as Newport Marina (Marina Sirsi), as seen in **Figures 5-7**.

The existing marina comprises three main arms consisting of gangway access to floating pontoons. The marina caters for a range of vessel sizes from 4m to 22m length and vessel types including small dinghies, runabouts, motor yachts and sailing yachts.

Based on review of aerial photographs, the marina has berthed up to a total of 35-43 individual vessels (excluding dinghy storage available on top of nearshore pontoons). The marina also has a boat launching ramp and a dock for lifting vessels onto the hardstand area for repair and maintenance and a sheltered workshop building.



**Figure 5** Existing Sirsi Marina (looking east)

Source: Scott Carver



**Figure 6** Existing Sirsi Marina (looking north)

Source: Scott Carver



**Figure 7** Existing Sirsi Marina condition ramps, pontoons and vertical slipway.

Source: Scott Carver

### 3.2.2 Surrounding Development

The site is surrounded by low-density residential dwellings and their respective commercial and residential marinas.

The following is relevant to the external context:

- **North:** To the north of the site are residential properties zoned C4 Environmental Living and marinas located in W1 – Natural Waterways. Approximately 500m north is a local centre with The Newport bar, a small local convenience centre and Medium Density Housing. The local centre is adjacent to Newport Public School.
- **East:** To the east of the site is residential properties that are C4 Environmental Living and Low Density Residential Housing. Approximately 900m east of the site is Bungan Beach.
- **South:** To the south of the site are additional residential marinas. There are Environmental Living residential properties as well as the public Yachtman's Park.
- **West:** To the west of the site are the adjacent properties on the other side of the Bay with marinas and Environmental Living properties. Beyond these properties are low density residential properties.

# 4.0 Description of Proposed Development

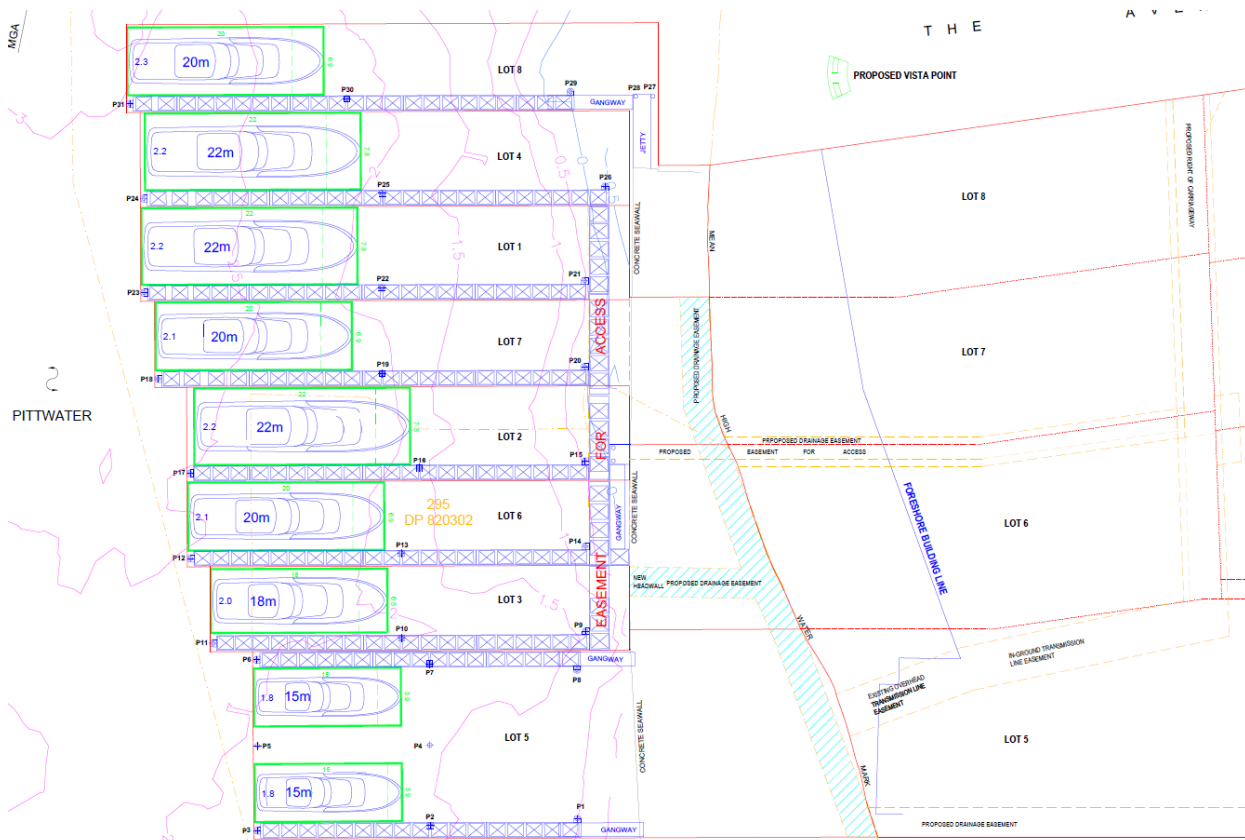
## 4.1 Project Overview

This DA seeks approval for the reconfiguration of the existing marina to a nine (9) berth marina and subdivision into eight (8) lots, comprising the following:

- Concept building envelopes for boat sheds on proposed Lots 5 and 6;
- associated landscaping and demolition;
- removal of existing vertical slipway and boat ramp and extension to an existing seawall; and
- subdivision of the site.

Architectural drawings prepared by Scott Carver illustrate the proposed development are included at **Appendix A**.

The proposed development's site plan is shown at **Figure 8** below.



**Figure 8** Proposed Marina Layout

Source: Boxall

## 4.2 Numerical Overview

The key numeric development information is summarised in **Table 4**.

**Table 4** Key development information

Component	Existing	Proposal
Site area	~2,498sqm	~5,000sqm
Boat Capacity	43	9
Boat Sizes	4-22m	15-22m



### 4.3 Demolition and Site Preparation

Demolition works are proposed to be carried out to facilitate the removal of the existing commercial marina at the site. The proposed demolition works are shown in **Figure 9** and illustrated on the Architectural Drawings provided at **Appendix A**. The demolition work will be minor as the existing structures are of a lightweight system and structurally independent from the shore and land. Removal of associated lighting fixtures, water and power services will occur as required ensure safety standards.

Demolition sought for approval in association with the proposed development will include the removal of the existing marina at the site which includes the removal of 46 existing piles and pontoons, only with the vertical slipway and boat ramp. The demolition works will extend to include demolition of the pontoon and ramp to the north of the site, adjacent Lot 21 DP545339

It is important to note that the existing concrete hardstand area and sheet pile seawall will be retained. The existing hardened and slave has been assessed to be in a satisfactory structural condition and does not need to be demolished. The existing concrete hardstand has been assessed and found to be adequate to support the proposed topsoil/turf in terms of loading.



**Figure 9** Demolition Plan

Source: Scott Carver

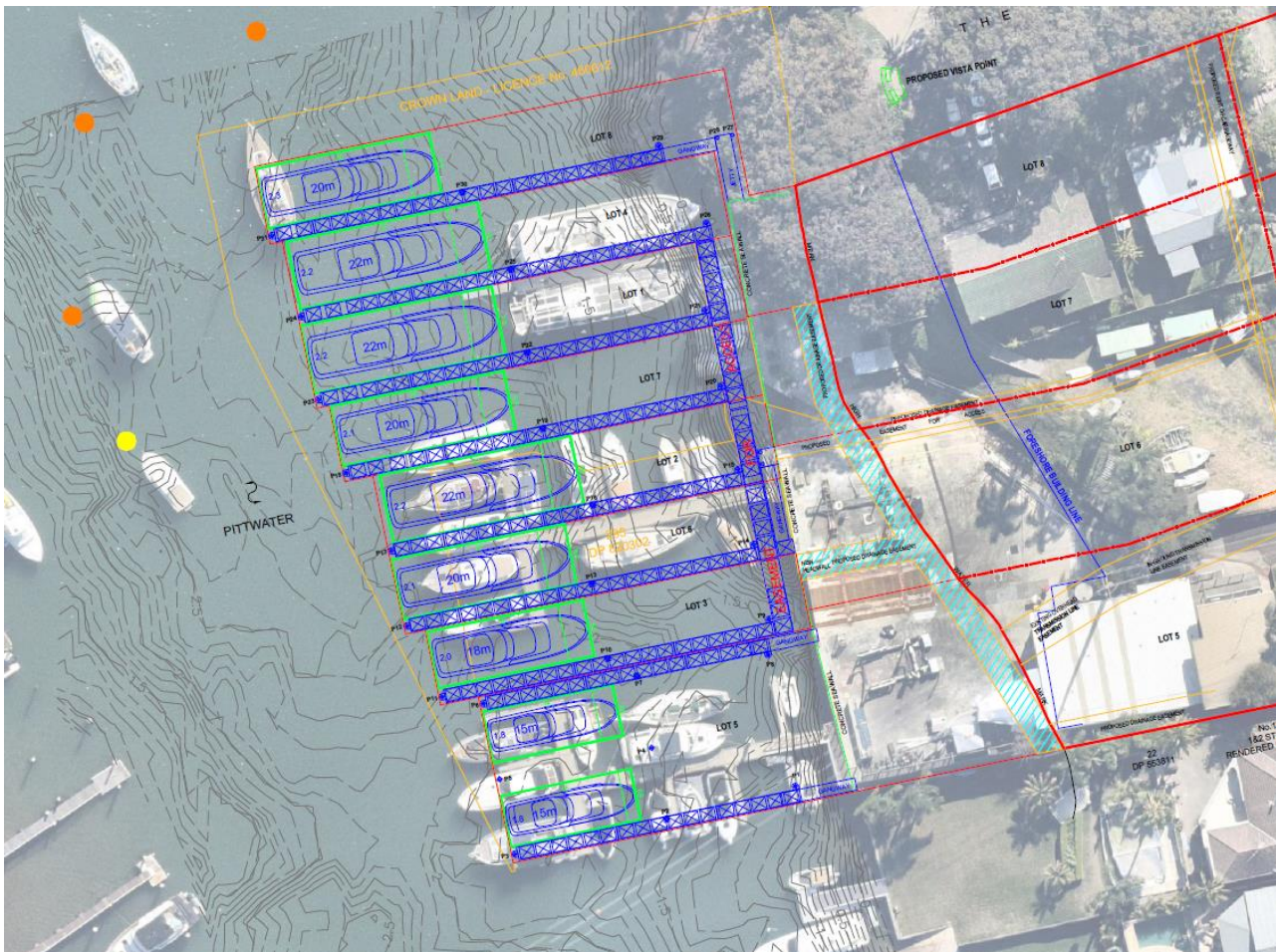
## 4.4 Construction and Use of Marina

The new marina will be a 9-berth residential marina that services the properties on 122-128 Crescent Road and 55-57 The Avenue Newport under DA2022/2152. The proposed development is shown at **Figure 10** which shows the site layout for the 9-berth marina access via the adjoining land lots via a right of way.

The proposed marina redevelopment will be different from the existing facilities as follows:

- Removal of the existing slipway facilities and other onshore commercial marina activities.
- Reduction of the number of berths from 36 to 9, to cater for vessels up to a maximum length of 22 m (which is the same as the current maximum vessel berth length accommodated at the marina).
- Changes in the marina layout and direction of vessels. The upgraded marina would have similar or reduced encroachment into the waterway and lower berthing density in the southern section that current.
- Change to a 'bow in' berthing arrangement with an aim to minimise any seafloor disturbance / prop scouring during vessel berthing and reversing

No land will be reclaimed beyond the existing concrete seawall at the marina site and no dredging will be required.



**Figure 10** Proposed Development's Site Plan for 9-berth Residential Marina – overlay on existing

Source: Boxall/Royal Hosking/DHV

### 4.4.1 Proposed Vessel Berths

The proposed vessel berths will be constructed as a series of floating pontoon walkways extending from the shoreline to the west and will be held in place by vertical driven piles (31 to replace existing 46). Typical marina pontoons would have a freeboard (height above waterline) of 400 mm and a similar draught (depth below waterline). Each pontoon arm would be secured by three restraint piles with a nominal diameter of 500 - 600 mm.

As seen in **Figure 11**, the proposed marina will accommodate berths between 15 and 22m. The proposed vessel berth schedule is listed in **Table 5**.

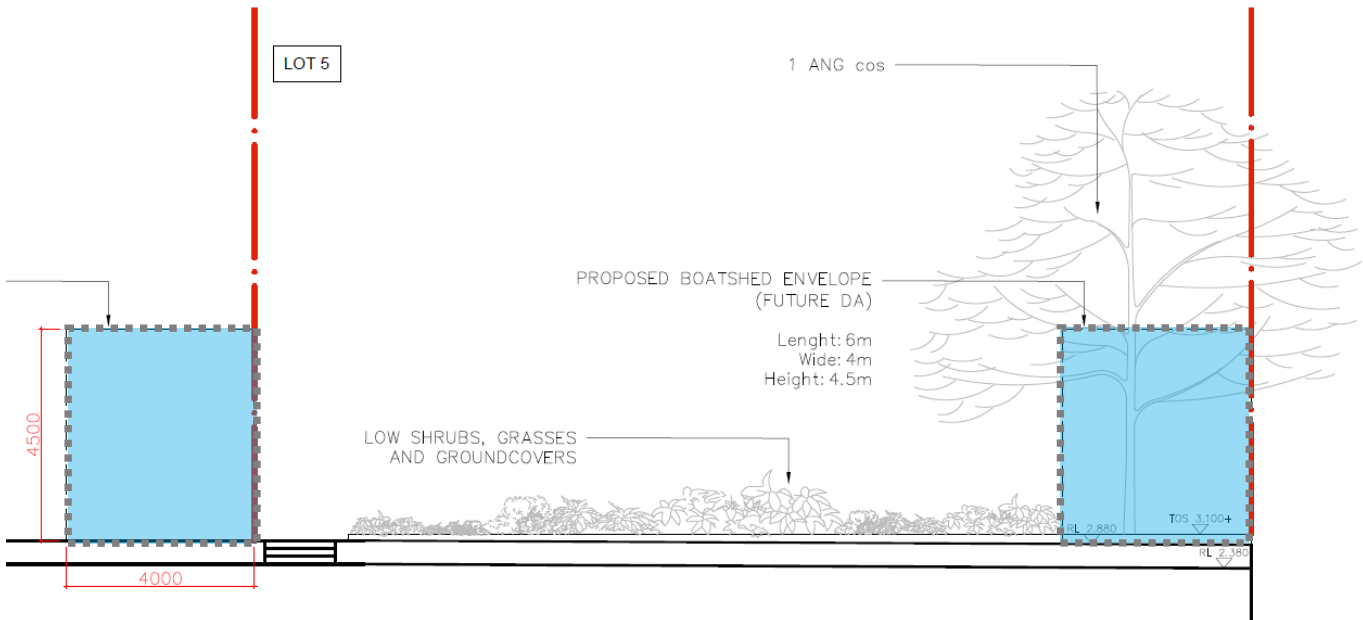
**Table 5 Proposed Berth Schedule**

Maximum Vessel Length	Number of Berths Proposed
22m	3
20m	3
18m	1
15m	2
<b>Total</b>	<b>9</b>

Source: Boxall

**4.4.2 Future Boat Shed Envelopes**

The proposal incorporates envelopes for future boatshed below the Mean High Watermark, with general dimensions of 6mx4mx4.5m. Similar to the future dwellings on the land to the east of the site, the physical construction of a potential future boatsheds will be subject to a separate Development Application, generally in line with the envelope included on the plans



**Figure 11 Section of Proposed future boat shed envelopes**

Source: Scott Carver

**4.4.3 Access Arrangements**

Access to the common gangway will be provided from the adjoining lots via an easement for access, as shown in **Figure 1** and incorporated within the Development Consent - D/2022/2152).

**4.5 Subdivision**

The proposal seeks approval for the subdivision of the site generally in accordance with **Figure 12** and as shown at **Appendix D** to create 8 lots. The subdivision of the adjoining land was approved as part of D/2022/2152 as shown in **Figure 1**.

(J) EASEMENT TO DRAIN WATER (PROPOSED)

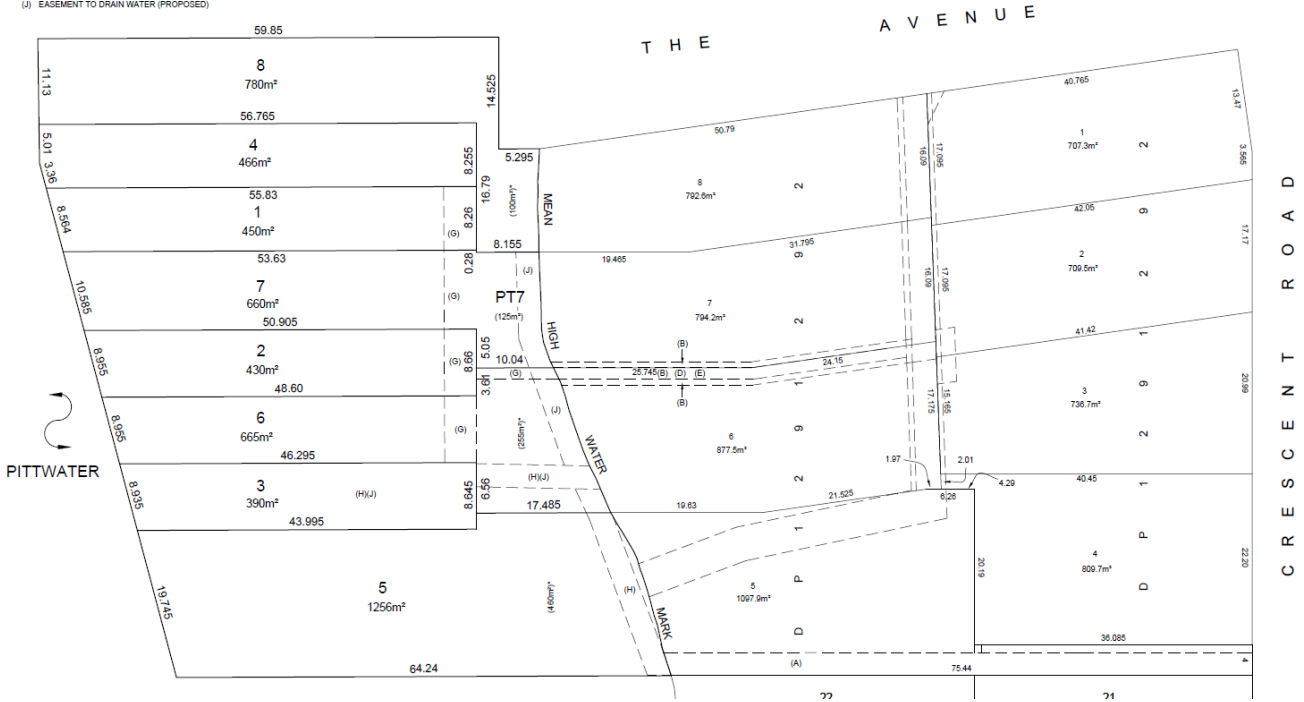


Figure 12 Proposed subdivision plan

Source: Boxall

## 4.6 Landscaping

As set out in **Section 4.3**, the proposal seeks to retain the existing concrete hardstand and pile wall, in order to minimise the impact on the land and water interface from the existing condition. Whilst the hardstand area is retained, as shown in the Landscape Plans (**Appendix A**) and **Figures 13 to 15**.

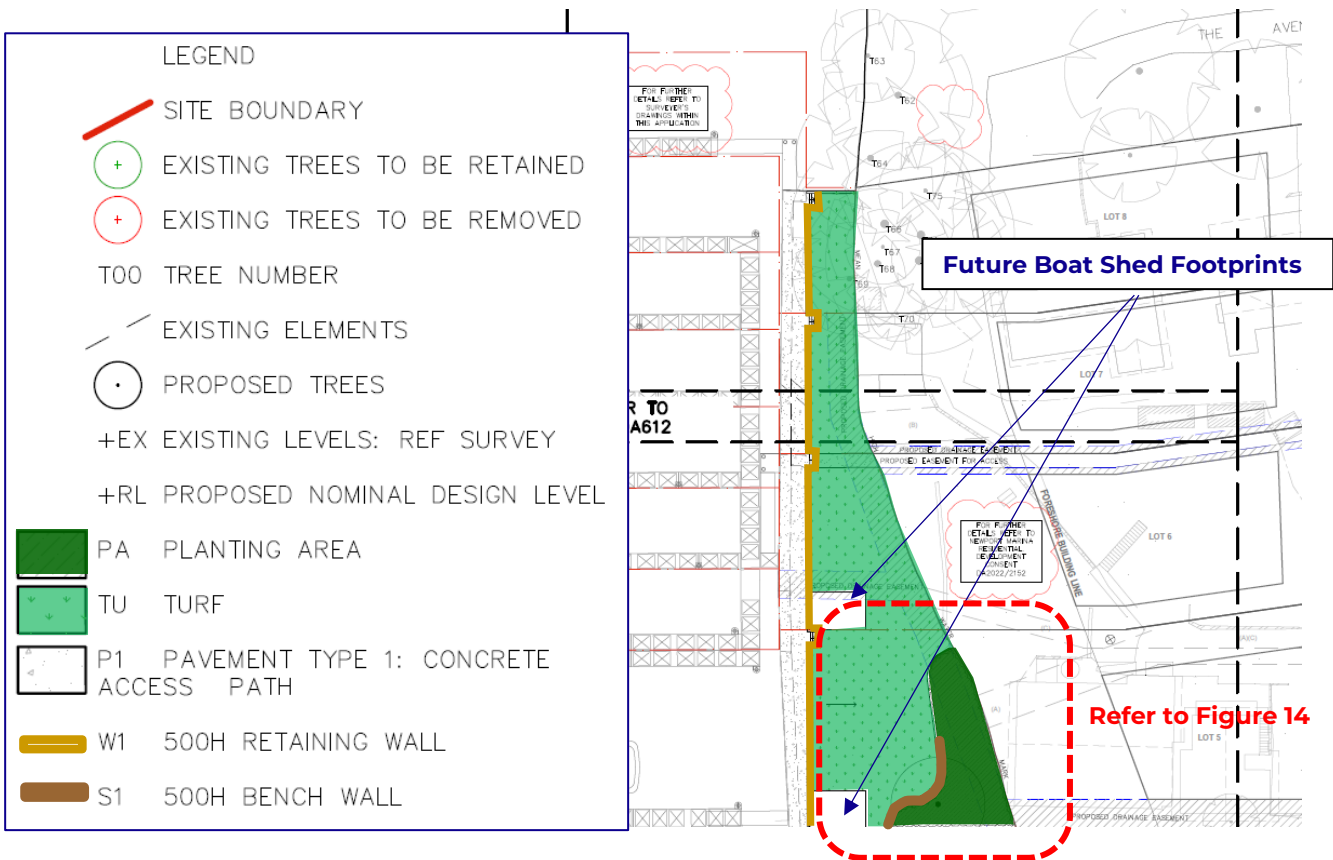
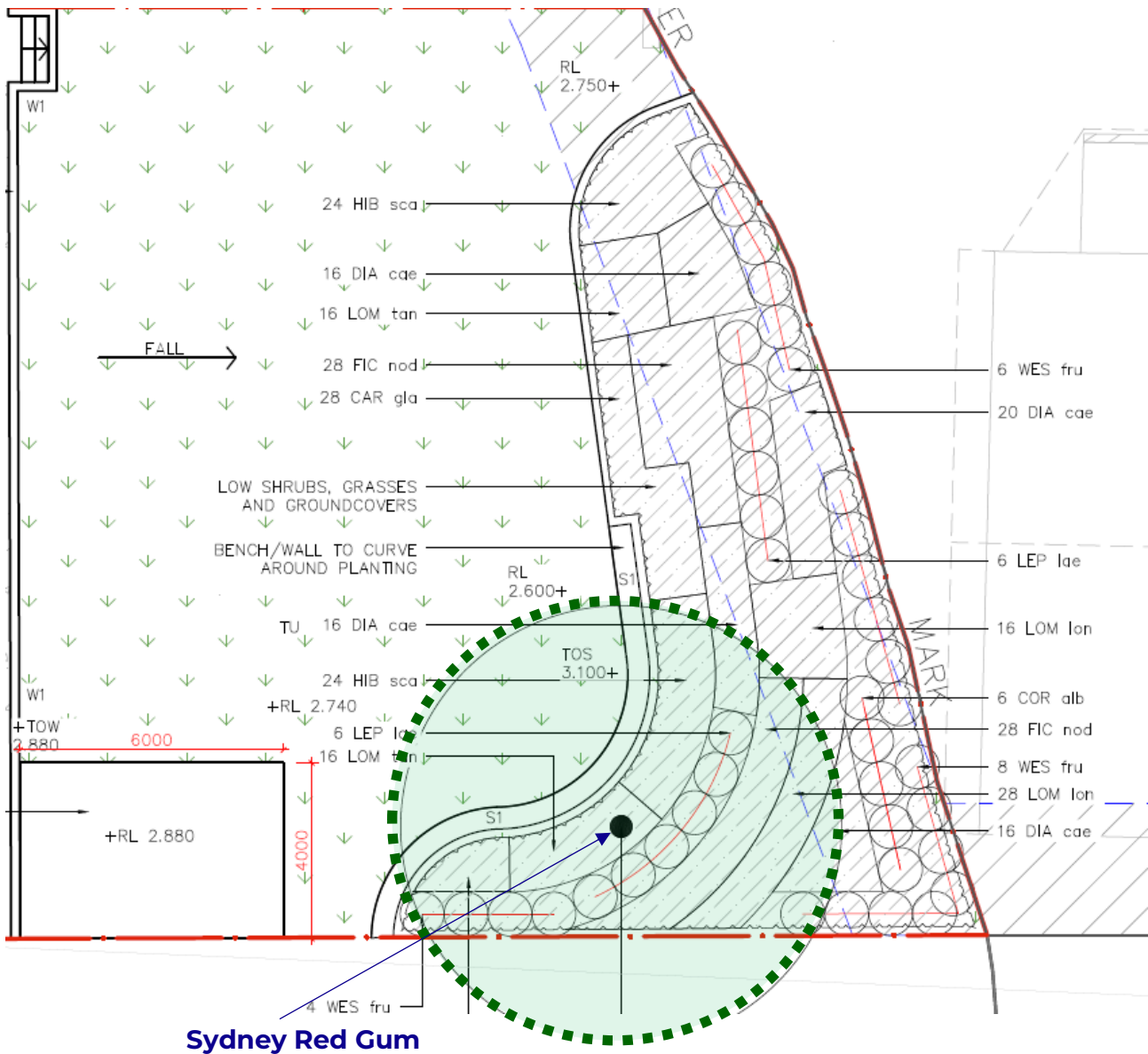


Figure 13 Landscape Plan

Source: Scott Carver/Ethos Urban



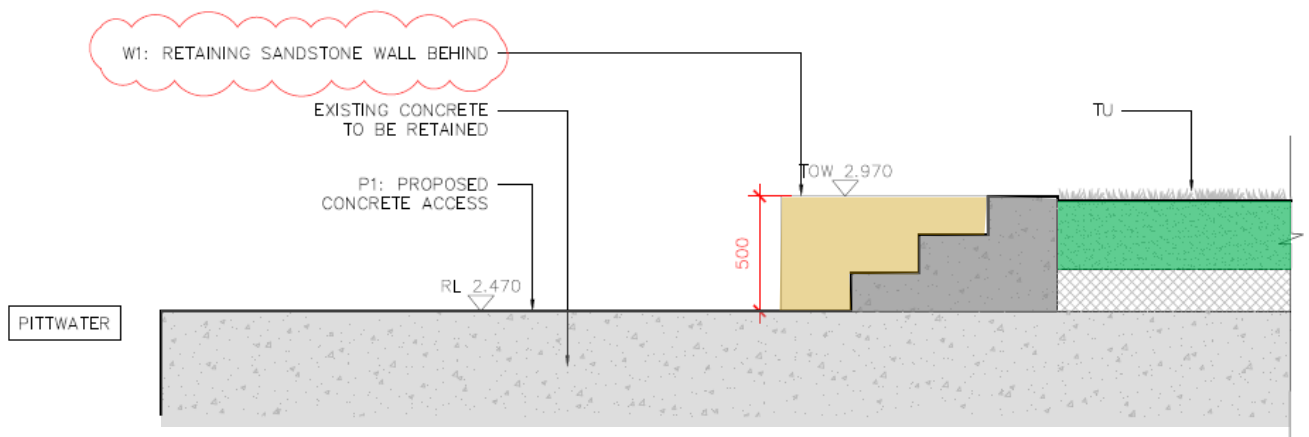
20220005 Newport Marina Landscape

### PLANTING SCHEDULE

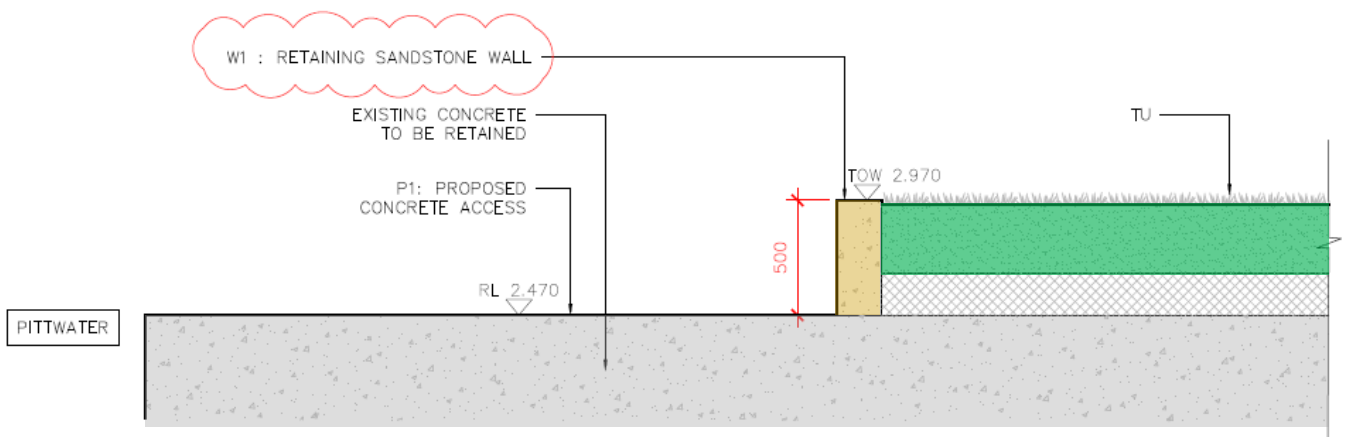
CODE	SPECIES	COMMON NAME	POT SIZE	EST. MATURE SIZE (H X W)	SPACING	QUANTITY
<b>Trees</b>						
ANG cos	<i>Angophora costata</i>	Sydney red gum	100L	20m x 10m	as shown	1
<b>Shrubs</b>						
COR alb	<i>Correa alba</i>	White Correa	140mm	1m x 1m	as shown	6
LEP lae	<i>Leptospermum laevigatum</i> 'Shore Tuff'	Coastal Tea Tree	140mm	0.5m x 1m	as shown	12
WES fru	<i>Westringia fruticosa</i>	Coast Rosemary	140mm	1m x 1.5m	as shown	18
<b>Grasses and Groundcovers</b>						
CAR gla	<i>Carpobrotus glaucescens</i>	Pig Face	140mm	0.2m spreads	4 per m2	28
DIA cae	<i>Dianella caerulea</i>	Blue Flax Lily	140mm	1m x 1m	4 per m2	68
FIC nod	<i>Ficinia nodosa</i>	Knobby Club Rush	140mm	1m x 1m	5 per m2	56
HIB sca	<i>Hibbertia scandens</i>	Golden Guinea Flower	140mm	0.2m spreads	4 per m2	56
LOM lon	<i>Lomandra longifolia</i>	Spiny-headed Mat-rush	140mm	1m x 1m	4 per m2	44
LOM tan	<i>Lomandra tanika</i>	Lomandra tanika	140mm	0.6m x 0.6m	4 per m2	32
<b>TOTAL</b>						<b>321</b>

Figure 14 Landscape Plan – Detail (SE Corner)

Source: Scott Carver/Ethos Urban



**1** DETAIL SECTION: STAIRS DOWN TO CONCRETE ACCESS  
1:20



**2** DETAIL SECTION: RETAINING WALL TO CONCRETE ACCESS  
1:20

**Figure 15** Landscape Plan - Sections

Source: Scott Carver/Ethos Urban

## 4.7 Stormwater and Drainage

The proposed development of the pontoons and foreshore works involves installing landscaping finishes onto the existing concrete wall. The existing scenario has the stormwater naturally flowing into Pittwater, and the proposed stormwater management does not propose any change to this due to its proximity to Pittwater. The majority of the development is in Pittwater and thus would require no stormwater management as it's above the water body. Where any stormwater that lands on the development it will run off into the waterway via the headwall.

## 4.8 Services and Parking

The proposal incorporates the necessary augmentation of services (water/electricity) to facilitate necessary lighting and safety requirements. All parking will be contained within the adjoining lots as per D/2022/2152.

## 4.9 Waste Management

Waste will be managed in accordance with the overarching waste management arrangement proposed under the land-based DA (DA/2022/2152).

# 5.0 Planning Assessment

Under Section 4.15(1) of the *Environmental Planning & Assessment Act 1979* (EP&A Act), in determining a DA the consent authority must consider a range of matters relevant to the development. These include the provisions of environmental planning instruments; impacts of the built and natural environment; the social and economic impacts of the development; the suitability of the site; and whether the public interest would be served by the development.

## 5.1 Power to Grant Approval

The legislative pathway under which the consent is sought, why the pathway applies, and the relevant consent authority is outlined in **Table 6** below.

**Table 6** Power to Grant Consent

Matter	Consideration
<b>Declaration of Designated Development</b>	<p>Schedule 3 of the EP&amp;A Regulations classifies development for the purposes of a marina as Designated Development if it involves:</p> <ul style="list-style-type: none"> <li>• a capacity of 15 or more vessels with a length of 20m or more; or</li> <li>• a capacity of 30 or more vessels <b>and</b>:               <ul style="list-style-type: none"> <li>– is located in non-tidal waters, 100m of a wetland or aquatic reserve;</li> <li>– requires the construction of a groyne or annual dredging;</li> <li>– has a ratio of car parking spaces to vessels of less than 0.5:1; or</li> </ul> </li> <li>• a capacity of 80 or more vessels of any size.</li> </ul> <p>The proposed marina <b>does not</b> accommodate 15 or more vessels with a length of 20m or more than 30 vessels and is therefore not classified Designated Development.</p>
<b>Integrated Development</b>	<p>Section 4.46 of the EP&amp;A Act outlines 'Integrated Development,' being development that requires approval under other legislation in addition to the EP&amp;A Act.</p> <p>The proposal is considered to be Integrated Development under:</p> <ul style="list-style-type: none"> <li>▪ <i>Fisheries Management Act 1994</i> (Section 201).</li> <li>▪ <i>Water Management Act 2000</i> (Section 91)</li> </ul>
<b>Consent Authority</b>	<p>The Northern Beach Council is the consent authority for the proposal, unless otherwise required to be determined by the Northern Beaches Local Planning Panel in accordance with the Local Planning Panels Direction.</p>

## 5.2 Relevant Legislation

### 5.2.1 Federal and State Legislation

Under Section 4.46(1) of the EP&A Act, Integrated Development requires consent and respective approvals from the relevant approval bodies in order for development to be carried.

The relevant State Legislation is discussed in **Table 7** below.

**Table 7** Relevant NSW Acts of Parliament

Acts	Comments
<b>Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)</b>	<p>The Environmental Protection and Biodiversity Act 1999 Act (EPBC Act) provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities, and heritage places. These are known as matters of National Environmental Significance. If the proposed development will, or is likely, to impact a matter of National Environmental Significance, then it is required to be referred to the Federal Department of the Environment for assessment to determine if it constitutes a 'controlled action' requiring EPBC approval. Presently, a bilateral agreement allows the Commonwealth Minister for the Environment to rely on the NSW environmental assessment process when assessing a controlled action under the EPBC Act.</p> <p>The proposed development is accompanied by a detailed Aquatic Ecology and Sediment Assessment prepared by Ocean Environmental and provided at <b>Appendix F</b>. The Assessment finds that there will be no significant impact on any marine flora or fauna and therefore further assessment is not required. There is no significant impact on any threatened fauna or Endangered Ecological Communities (EECs) under the EPBC Act 1999 and therefore no additional assessment or referral is required.</p>
<b>Fisheries Management Act 1994 (FM Act)</b>	<p>The <i>Fisheries Management Act 1994</i> (FM Act) protects threatened species, populations and ecological communities of fish and marine vegetation. The Act requires that any proposed activity be assessed with respect to its potential impacts on species or ecological communities listed as threatened under the Act.</p> <p>The proposed development is accompanied by Ocean Environmental and provided in the Aquatic Ecology and Marine Sediment Assessment (<b>Appendix F</b>). Threatened and protected marine species listed under Schedules 4 to 5 of the FM Act were reviewed by Ocean Environmental to satisfy requirements of the Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management (NSW DPI 2013).</p> <p>Considering the aquatic habitat located within and adjacent to the proposed marina none of these species are expected to utilise the study area more than very occasionally. Considering the proposed activity, potential impacts and available mitigation measures, the proposed works are not expected to cause any long term or significant impact on any threatened or protected species listed under the FM Act 1994, nor are they expected to impact on the viability of any local populations, or place any of them at the risk of extinction.</p> <p>Pursuant to Section 201 of the FM Act, the proposed demolition of the existing slipways and ramps and continuation of the existing concrete seawall is, could be considered as reclamation works that would require consent as Integrated Development. As such, the application has been nominated as Integrated Development in this regard.</p> <p>Should DPI Fisheries review the proposal and consider otherwise, it is considered appropriate that a precautionary approach is taken in this regard.</p>
<b>Water Management Act 2000 (WM Act) and Water Management (General) Regulation 2018;</b>	<p>The proposed development is nominated Integrated Development under Section 91 of the WM Act, due to the requirement for a Controlled Activity Approval for the works within 40m of the Pittwater Waterway. This application will be referred to Water NSW for appropriate consideration and Terms of Approval.</p> <p>A Water Impact Statement prepared by BG&amp;E is provided attached at <b>Appendix G</b>.</p>
<b>Coastal Management Act 2016</b>	<p>The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016, as discussed in Section and in more detail at <b>Appendix F</b> (Aquatic Ecology and Marine Sediment Assessment).</p>



No Coastal Wetlands or Littoral Rainforests are located in the vicinity of the proposed works and will not be impacted by the proposal. The study area is located within the Coastal Environment Area and Coastal Use Area

### Objectives

*The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular—*

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the [Marine Estate Management Act 2014](#).*

**Response:** The proposal will improve the environmental, ecological and scenic value of the site. The proposed mitigation measures of the Aquatic Ecology and Marine Sediment Report will encourage biological diversity and ecosystem integrity and resilience. The proposal will adaptively reuse and enhance the existing structure, minimising the overall impact the existing ecological environment, but with overall improvements that arise from the removal of impactful commercial functions undertaken on the site.

### **Contaminated Land Management Act 1997**

The NSW EPA publishes records of contaminated sites under Section 58 of the Contaminated Land Management (CLM) Act 1997. The notices relate to the investigation and/or remediation of site contamination considered to pose a significant risk of harm under the definition in the CLM Act. A search of the EPA database revealed that the subject site is not listed.

## 5.3 Environmental Planning Instruments

The DA's consistency and compliance with the relevant environmental planning instruments (EPI) in accordance with Section 4.15(1)(a)(i) is considered in the sections below.

### 5.3.1 State Environmental Planning Policies

The relevant state environmental planning policies are assessed in **Table 8** below.

**Table 8 Summary of consistency with State Environmental Planning Policies**

Plan	Provision	Comments
<b>State Environmental Planning Policy (Resilience and Hazards) 2021</b>	Chapter 2 and Chapter 4	<p><b><u>Chapter 2 of the Resilience and Hazards SEPP – Coastal Management</u></b></p> <p>The site is assessed under section 2.10, 2.11 and 2.12 as it is development on land within the Coastal Environmental Area and Coastal Management Area. The proposed development is consistent with the objectives and controls as there will be a reduction in intensity and scale of the existing marina, no mapped Coastal Wetlands or Littoral Rainforests occur near the site and no aboriginal cultural heritage items will be affected.</p> <p><b>Section 2.10 Coastal Environment Area</b></p> <p>(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—</p> <ul style="list-style-type: none"> <li>a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</li> <li>b) coastal environmental values and natural coastal processes,</li> <li>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,</li> <li>d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</li> <li>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,</li> <li>f) Aboriginal cultural heritage, practices and places,</li> <li>g) the use of the surf zone.</li> </ul> <p>(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> <li>a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or</li> <li>b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</li> <li>c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</li> </ul> <p><b>Response:</b> The proposal is accompanied by the relevant technical reporting and investigations (including Aquatic Ecology, Hydrology, Marine Sediment, Detailed Site Investigation, Water Impact (Quality), Due Diligence Aboriginal Archaeological Assessment) in order to suitably consider and conclude that the proposal will not cause an adverse impact on the matters listed at section 2.10(1) of the SEPP as well as being satisfied that the proposal does the things set out in 2.10(2), particularly when the identified mitigation measures of the technical reports are to be implemented in the delivery of the proposal.</p> <p><b>Section 2.11 – Coastal Use Area</b></p> <p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</p> <ul style="list-style-type: none"> <li>a. has considered whether the proposed development is likely to cause an adverse impact on the following— <ul style="list-style-type: none"> <li>i. existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</li> <li>ii. overshadowing, wind funnelling and the loss of views from public places to foreshores,</li> </ul> </li> </ul>

Plan	Provision	Comments
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- iii. *the visual amenity and scenic qualities of the coast, including coastal headlands,*
- iv. *Aboriginal cultural heritage, practices and places,*
- v. *cultural and built environment heritage, and*
- b. *is satisfied that—*
  - i. *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - ii. *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - iii. *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- c. *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

**Response:** The proposal is accompanied by the relevant technical reporting and investigations (including Aquatic Ecology, Estuarine Risk Management, Hydrology, Marine Sediment, Detailed Site Investigation, Water Impact (Quality), Due Diligence Aboriginal Archaeological Assessment) in order to suitably consider and conclude that the proposal will not cause an adverse impact on the matters listed at section 2.11(a) of the SEPP (including adversely impacting existing, safe access to and along the foreshore, as well as being satisfied that the proposal does the things set out in 2.11(b), particularly when the identified mitigation measures of the technical reports are to be implemented in the delivery of the proposal.

**Section 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.*

**Response:** As demonstrated through the removal of existing boat ramp and vertical slipway (along with the other associated commercial activities undertaken on the concrete hardstand, the proposal seeks to improve the site. The proposed physical works and configuration have been carefully considered so as not to increase the risk of coastal hazards on the site or any other land (refer to Estuarine Risk Management at **Appendix H**).

By way of background, the land subdivision application (D/2022/2152) was referred to DPE Water in addition to the following Natural Environment and Climate Change sections of Council for assessment: Bushland and Biodiversity; Riparian Lands and Creeks; Development Engineering; Flooding; Coast and Catchments; and Water Management. The application was referred to the Aboriginal Heritage Officer. Whilst the scope of works was different to the proposal, no objections were raised to the proposal in relation to impacts upon the natural environment, coastal values and processes, water quality or marine vegetation.

**Section 2.16 – Coastal Protection Works**

The proposed works to the existing seawall would otherwise be prohibited development within the W2 Recreational Waterways zone the subject land applies to, however such works are permitted under the provisions of Clause 2.16 (1) - *Coastal protection works by person other than public authority of State Environmental Planning Policy (Resilience and Hazards) 2021.*

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 of the Resilience and Hazards SEPP – Remediation of land**

The Detailed Site Investigation prepared for the site (see **Appendix I**) demonstrates the suitability for the proposed development. Based on the

Plan	Provision	Comments
		<p>results of the investigation it is considered that the risks to human health and the environment associated with soil contamination at the site are low within the context of the proposed use of the site for a nine-berth marina on the water side, plus a concrete sea wall, boatsheds and landscaping areas on the land side development.</p> <p>The site is therefore considered to be rendered suitable for the proposed use, subject to the following:</p> <ul style="list-style-type: none"> <li>▪ An appropriate remedial / management strategy is developed including the preparation of a Remedial Action Plan (RAP) in accordance with EPA guidelines, in regard to addressing for the data gaps across the site, in particular the contaminated soils at Hotspots BH1, BH3 &amp; BH8.</li> <li>▪ Any soils requiring removal from the site, as part of future site works, should be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW EPA (2014).</li> </ul> <p>As part of the Aquatic Ecology and Marine Sediment Assessment by Ocean Ecology sediment testing has also been undertaken with recommendations and mitigations included (Refer to <b>Appendix F</b>).</p>
<p><i>.State Environmental Planning Policy (Transport and Infrastructure) 2021</i></p>	<p>Section 2.48</p>	<p><b>Development likely to affect an electricity transmission or distribution network</b></p> <p>Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application as the proposed development is within 5m of an overhead powerline.</p> <p>The adjoining Development Application was referred to Ausgrid who raised no objections, subject to standard conditions which were included in the development consent, a similar approach it anticipated to be taken for the DA.</p> <p><b>Traffic Generating Development</b></p> <p>The State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure of the State. Section 2.121 requires the consent authority to provide the TfNSW with written notice of the development application for developments considered a ‘traffic-generating development’.</p> <p>The proposed development is not classified as a ‘traffic generating development’ and is therefore not required to be referred to TfNSW for concurrence and approval</p>
<p><i>State Environmental Planning Policy (Industry and Employment) 2021</i></p>	<p>No signage is proposed for the development and therefore the Industry and Employment SEPP does not apply.</p>	
<p><b>Note:</b> The site is not classified as bush fire prone land.</p>		

### 5.3.2 Pittwater Local Environmental Plan 2014

The Pittwater Local Environmental Plan 2014 (Pittwater LEP) is the EPI relevant to the site and establishes the key parameters and standards for new development. The proposal's consistency with the relevant clauses of the Pittwater LEP is assessed below in **Table 9**.

**Table 9 Assessment against Pittwater Local Environmental Plan 2014**

Clause	Provision / Standard	Proposal	Response
<b>Clause 2.3</b> <i>Zone objectives and land use table</i>	W2 – Recreational Waterways (+ Part W1 Natural Waterways)	W2 – Recreational Waterways – Marina (+ Part W1 Natural Waterways)	The proposed usage as a marina is permissible with development consent in the W2 – Recreational Waterways zone and otherwise permissible under the Resilience and Hazards SEPP. The proposed development is consistent with the objectives of the zone and will continue to be used as its existing usage. It is consistent as it will allow for water-based recreation and protect the ecological and recreational values of the waterway at the site. The proposed development will not adversely impact on the enjoyment and use of the waterway or adjoining land. See <b>Table 10</b> for assessment against objectives of the zone(s)
<b>Clause 2.7</b> <b>Demolition Requires Consent</b>			The proposal seeks approve for demolition as part of this application
<b>Clause 4.3</b> <i>Height of buildings</i>	4m		The proposed development as part of the residential marina complies with the 4m maximum permissible height. All structures will be less than 4m at the site.
<b>Clause 4.4</b> <i>Floor space ratio</i>	No control	N/A	No control applies to the site. No FSR is proposed for the development.
<b>Clause 5.7</b> <i>Development below mean high water mark</i>			The development is proposed to be below the mean high water mark.
<b>Clause 5.10</b> <i>Heritage Conservation</i>			The site is not identified as a heritage item, nor is it located within a heritage conservation zone. Additionally, the site is not located within the vicinity of any heritage items.
<b>Clause 5.21</b> <i>Flood Planning</i>			The site is not identified as being flood prone. There were no flood related objections for the development application pertaining to the adjoining land.
<b>Clause 7.1</b> <i>Acid Sulfate Soils</i>			The site is mapped as partially Class 1 and Class 5 Acid Sulfate Soils. An Acid Sulfate Soil Assessment and Management Plan is provided at <b>Appendix J</b> . The Acid Sulfate Management Plan are to be adopted throughout construction and operational phases of the development for risk management. Additionally, Acid Sulphate Soils were tested and analysed, as describe in the Aquatic Ecology and Marine Sediment Assessment ( <b>Appendix F</b> ) and the Detailed Site Investigation ( <b>Appendix I</b> ).
<b>Clause 7.2</b> <i>Earthworks</i>			No earthworks or excavation is proposed. Piling will be required for the new piles proposed
<b>Clause 7.6</b> <i>Biodiversity Protection</i>			The site is partially identified on the Biodiversity Protection Map. The proposed development will maintain terrestrial, riparian and aquatic biodiversity and will implement any measures identified or proposed to minimise and mitigate the impacts of the development.  The proposal follows the principles of avoidance and minimisation of impacts to biodiversity and look for alternatives to maximise retention of prescribed vegetation and unique environmental features. The proposed development has been designed to avoid and minimise impacts to the natural environment (including through the retention and embellishments of the existing structure). Given the proposal does not propose works or impacts to trees on the site (or within 5m of existing trees) an Arborists Report is not provided. Similarly, a Floro and Fauna Assessment has also not been provided and given no trees are proposed to be removed a Biodiversity Development Assessment Report (BDAR) is not required.
<b>Clause 7.7</b>			The site is not identified on the Geotechnical Hazard Map.

Clause	Provision / Standard	Proposal	Response
<i>Geotechnical Hazards</i>			
<b>Clause 7.8</b> <i>Limited Development on Foreshore Area</i>		The proposed development is located within the Foreshore Building Line Map area for the alteration and partial rebuilding/embellishment of and the existing concrete hardstand area (existing building) wholly in the foreshore area and does not extend the footprint further into the foreshore area with the exception of access to the proposed marina, jetty and gangway/pontoons. See <b>Section 5.4</b> below for further discussion.	
<b>Clause 7.10</b> <i>Essential Services</i>		All services essential for the development are available with the services that exist at the site for the existing marina.	
<b>Schedule 1 – Additional Permitted Uses</b>		The site is partially identified as being in 'Area 23' on the Additional Permitted Uses map as identified in Schedule 1 (Section 23) of the LEP. Development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent.	

## Objectives of the Zone(s)

An assessment against the objective of the zones to which the application applies is provided below in **Table 10**.

**Table 10 Assessment against Pittwater Local Environmental Plan 2014 – Objectives of applicable Zones**

Provision / Standard	Proposal
<b>W2 – Recreational Waterways</b>	
<i>To protect the ecological, scenic and recreation values of recreational waterways.</i>	The proposal protects and enhances these identified values of the recreational waterway through the removal of a dilapidated and environmentally impactful commercial operation.
<i>To allow for water-based recreation and related uses.</i>	Complies
<i>To provide for sustainable fishing industries and recreational fishing.</i>	The proposal will not impact the fishing industry or recreational fishing opportunities.
<i>To provide for amateur and professional recreational yachting or boating clubs and the like that serve Pittwater and the wider region.</i>	N/A
<i>To ensure development does not adversely impact on the enjoyment and use of the waterway or adjoining land.</i>	The proposal development is considered to improve the enjoyment and use of the waterway and the current impacts of the use on adjoining land.
<i>To provide for a variety of passive and active recreational pursuits and water-based transport while preserving the environmental setting of the waterway.</i>	Complies
<i>To ensure that public access to the waterway and foreshore areas suitable for public recreational and transport purposes is maintained.</i>	The proposal retains the existing waterfront access arrangement and improves the interface through the removal of ramps and vertical slipways.
<b>W1 - Natural Waterway</b>	
<i>To protect the ecological and scenic values of natural waterways.</i>	Complies
<i>To prevent development that would have an adverse effect on the natural values of waterways in this zone.</i>	Complies – The proposal reduced the visual impacts of the existing marina and associated commercial activities on the hardstand area,
<i>To provide for sustainable fishing industries and recreational fishing.</i>	The proposal will not impact the fishing industry or recreational fishing opportunities.
<i>To ensure development does not adversely impact on the natural environment or obstruct the navigation of the waterway.</i>	The proposal will improve the natural environment, by removing the commercial operations taking place on the site and has been demonstrated to no obstruct navigation. Given the reduction from editing to 9 berths and the cessation of the previous boat maintenance and repair business, the frequency of boat movements to the proposed upgraded marina servicing residents of the onshore development would be expected to be reduced in comparison to the existing situation.

Provision / Standard	Proposal
To provide opportunities for private access to the waterway where these do not cause unnecessary impact on public access to the foreshore.	Complies

## Clause 7.8 - Foreshore Building Line

An assessment against Clause 7.8 of Pittwater LEP is provided below, with our emphasis added in bold

- 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.**
- 2) Development consent must not be granted under this clause unless the consent authority is satisfied that:
  - a. the development will contribute to **achieving the objectives** for the zone in which the land is located, and
  - b. the **appearance** of any proposed structure, from both the waterway and adjacent foreshore areas, will be **compatible with the surrounding area**, and
  - c. the development will **not cause environmental harm** such as:
    - i. pollution or siltation of the waterway, or
    - ii. an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
    - iii. an adverse effect on drainage patterns, or
    - iv. the removal or disturbance of remnant riparian vegetation, and
  - d. the development will **not cause congestion** or **generate conflict** between people using open space areas or the waterway, and
  - e. **opportunities to provide continuous public access** along the foreshore and to the waterway will **not be compromised**, and
  - f. **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
  - g. 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
  - h. **sea level rise, coastal erosion and recession, or change of flooding patterns** as a result of climate change have been **considered**.
- 3) 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:
  - a. 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,
  - b. public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,
  - c. public access to be located above mean high water mark,
  - d. the reinforcing of the foreshore character and respect for existing environmental conditions.

**Response:** The objective of the clause is to ensure continuous public access as well as ensuring development does not impact natural processes or affect the significance and amenity of the area. As shown from the current site conditions, existing and proposed development, the proposal does not seek to remove or reduce any public access from the foreshore or alter existing access arrangements. Rather the proposal seeks to convert an impactful commercial operation to a marina associated with the adjoining residential land uses, like many other properties on Pittwater. Given the context of the site, and relationship to adjoining land holdings with foreshore access (as well as the adjacent zoning – being zoned for private residential rather than an RE1 or W4 zone), opportunities for public access (or continuous public access) are not considered to be compromised. When considering whether and to what extent the development encourages “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” these same circumstances and site-specific context must be considered.

Importantly, during the assessment of the subdivision DA to the east (D/2022/2152) it was concluded that the proposed residential land use is the primary anticipated land use within the context of the surrounding C4 Environmental Living zone, and that the retention of the commercial marina land use that is subject to Additional Permitted Use provisions, should not preclude the proposed residential subdivision and change of use and conversion of the water-based marina facilities to residential use.

In recognition of this scenario, Council’s assessment report recommended a special condition be imposed requiring consent for the change of use and conversion from a commercial marina to a residential marina, and

completion of the upgrade/renewal works to the marina facilities and foreshore restoration/rehabilitation works prior to obtaining a subdivision certificate. Extract of the condition from D/2022/2152 is provided below:

*120. Marina Use and Works Prior to the release of the Subdivision Certificate, development consent for the use of the existing marina structures located within the waterway for residential purposes shall be obtained and any associated physical works carried out.*

## 5.4 Development Control Plan – Pittwater DCP 21

In accordance with Section 4.15(1)(a)(iii) of the EP&A Act the proposed development considers and is consistent with the objectives of the Pittwater Development Control Plan (Pittwater DCP) and the relevant development controls. As required under Section 4.15(3A) of the EP&A Act, a consent authority is required to apply DCP provisions flexibly and allow reasonable alternative solutions that achieve the objects of those standards. Where alternate solutions to the provisions are proposed, they are identified in **Table 11** and discussed in the following sections of this environmental assessment.

**Table 11 Compliance with Pittwater DCP**

Section	Comments	Compliance
<b>A1.7 Considerations before consent is granted</b>	<i>This SEE and accompanying reports ensures that the Pittwater Local Environmental Plan 2014; desired character of the Locality and the development controls applicable to the development are suitable considered</i>	Yes
<b>A4.10 Newport Locality</b>	The proposal, facilitating the visual improvement of the commercial marina facility both on the hardstand and within the waterway is considered to be consistent with the desired future character of the Newport locality	Yes
<b>A4.15 – Waterways Locality</b>	<p>The site is identified on the Waterways Locality Map. The proposed development will continue to utilise the site as a marina and meet the desired character of the waterway.</p> <p>The development will meet the desired character as it will remain a boating area and will be located in a place that is adequately serviced by infrastructure to support the demands of the marina. Crucially, the proposal will not restrict, obstruct or take away access to public boating facilities or access to the foreshore, given the history and current context of the site</p> <p>The site is not identified as having hazards, natural environmental significance or have historical significance.</p> <p>The Desired Future Character Statement of the DCP is provided below (emphasis added in bold).</p> <ul style="list-style-type: none"> <li>▪ <i>The Waterway locality will <b>remain primarily a recreational boating area</b>. Waterfront businesses, yacht clubs and the like will meet the waterway recreational and boating needs of the community.</i></li> <li>▪ <i><b>Future development is to be located so as to be supported by adequate infrastructure</b>, including roads, water and sewerage facilities, and public transport.</i></li> <li>▪ <i><b>Future development</b> should ensure that access is available at all times to public boating facilities, such as launching ramps. Future development will <b>not restrict</b> public access adjoining the foreshore, or pedestrian access along the foreshore.</i></li> <li>▪ <i>Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. <b>Existing and new native vegetation, including canopy trees, will be integrated with the development</b>. 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. <b>Development will be designed to be safe from hazards. Development will co-exist with adjoining residential areas</b>. Development will not <b>restrict</b> public access adjoining the foreshore, and will not obstruct navigation within the waterway.</i></li> <li>▪ <i><b>A balance will be achieved between maintaining</b> the landforms, landscapes and other features of <b>the natural environment</b>, and the <b>development of land</b>. 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. <b>Future development will include measures to ensure</b></i></li> </ul>	Yes



Section	Comments	Compliance
	<p><b>protection of the water quality and estuarine habitats of the locality, including mangroves, sea grasses, intertidal sand/mud flats, rocky shorelines, and beaches.</b></p> <ul style="list-style-type: none"> <li>Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.</li> </ul>	
<b>Section B – General Controls</b>		
<b>B1.3 – Heritage Conservation – General</b>	The site is not identified as a heritage item, nor is it located within a heritage conservation area. The site is not within close proximity to a heritage item and will not impact upon any heritage items.	Yes
<b>B1.4 – Aboriginal Heritage Significance</b>	Due Diligence Aboriginal Cultural Heritage Assessment has been prepared by MCAG ( <b>Appendix K</b> ). The advice outlines that there are no items of Aboriginal Heritage at the site and outlines the protection plans in place should any items of Aboriginal significance be discovered.	Yes
<b>B3.1 Landslip Hazard</b>	The site is identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping.	Yes
<b>B3.6 – Contaminated Land and Potentially Contaminated Land</b>	An assessment against the Resilience and Hazards SEPP is provided at <b>Table 8</b> . The Detailed Site Investigation (DSI) identifies that the site is suitable for the proposed development and usage as the levels of soil contamination at the site are low within the context of the marina, concrete sea wall, boat shed and landscaped areas of the site.	Yes
<b>B3.7 Estuarine Hazard Controls</b>	The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant Estuarine Hazard Controls apply. The proposal, being a marina with piles and gangways/pontoons is capable of complying with these. Refer also to the Estuarine Risk Management Report ( <b>Appendix H</b> ).	Yes
<b>B3.9 – Estuarine Hazard – Business, Light Industrial and Other Development</b>	The site is identified on the Estuarine Hazard Map as affected by estuarine processes. The proposed development is listed as 'other development' under uses to which this control applies. An Estuarine Risk Management Report has been prepared by Horton Coastal Engineering and is provided at <b>Appendix H</b> . An assessment is provided further at <b>Section 5.7</b> .	Yes
<b>B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)</b>	The proposed development does not seek to increase or intensify the number of residential dwellings. Notwithstanding, the marina structures proposed are designed so as to be capable to responding to environmental change, including tides and longer term sea level rise.	Yes
<b>B4.15 – Saltmarsh Endangered Ecological Community</b>	The site is identified as potentially having areas of saltmarsh vegetation in buffer areas as identified within the Aquatic Ecology Assessment provided at <b>Appendix F</b> . However, no impacts to saltmarsh will occur as they do not occur within the construction area and mitigation measures will be adopted to avoid any impacts outside of this area.	Yes
<b>B4.16 – Seagrass Conservation</b>	The Aquatic Ecology Assessment provided at <b>Appendix F</b> identifies there is no seagrass occurring within the study area.	Yes
<b>B4.19 – Estuarine Habitat</b>	The site is identified on the Estuarine Hazard Map as affected by estuarine processes. An Estuarine Risk Management Report has been prepared by Horton Coastal Engineering and is provided at <b>Appendix H</b> . The proposed development will not result in a destruction of mangroves, seagrass beds, saltmarsh and other estuarine habitats.	Yes
<b>B4.22 – Preservation of Trees and Bushland Vegetation</b>	No tree or bushland removal is proposed at the site.	Yes
<b>B5.15 – Stormwater</b>	A Sirsi Marina Pontoons Stormwater Report has been prepared by BG&E and is provided at <b>Appendix G</b> . The proposed stormwater on the site will discharge directly into Pittwater Waterway, however, the Stormwater Report states no	Yes

Section	Comments	Compliance
	stormwater management is required as it is above the waterbody and where any stormwater that lands on the development, it will run off into the Lake.	
<b>B6.1 Access driveways and Works on the Public Road Reserve</b>	Not applicable	N/A
<b>B6.2 Internal Driveways</b>	Not applicable	N/A
<b>B6.3 Off-Street Vehicle Parking Requirements</b>	Not applicable	N/A
<b>B8.1 – Construction and Demolition – Excavation and Landfill</b>	The proposed development does not include excavation and landfill.	Yes
<b>B8.3 – Construction and Demolition – Waste Minimisation</b>	All waste materials generated through demolition and construction works at the site are to be minimised by reuse on-site, recycling or disposal at the appropriate waste facility as detailed in the Waste Management Plan provided at <b>Appendix L</b> .	Yes
<b>B8.4 Construction and Demolition – Site Fencing and Security</b>	The site will be protected by site fencing during the duration of construction and demolition.	Yes
<b>B8.5 Construction and Demolition – Works in the Public Domain</b>	The proposed development does not take place within the public road reserve. This control does not apply.	Yes
<b>B8.6 Construction Demolition – Traffic Management Plan</b>	A Transport Statement has been prepared by JMT Consulting and is provided at <b>Appendix M</b> . A detailed construction management plan will be prepared prior to commencement of works on the site.	Yes
<b>Section C – Development Type Controls</b>		
C5 - Design Criteria for Other Development		
<b>C5.1 Landscaping</b>	The proposal incorporates landscaping above the existing retained hardstand - refer to <b>Section 4.6</b> and <b>Appendix A</b> .	Yes
<b>C5.2 – Safety and Security</b>	Crime Prevention through Environmental Design (CPTED) principles must be integrated into the design. The configuration will be visually open to ensure passive surveillance and minimising opportunities for concealment, along with being security controlled thought the interface with the private residential developments.	Yes
<b>C5.4 – View Sharing</b>	The proposed development continues to achieve reasonable view sharing to surrounding properties by complying with the permissible height for the site and being conscious of surrounding properties.	Yes
<b>C5.5 – Accessibility</b>	Accessibility of the proposed development will ensure there is an accessible path of travel to the marina including walkways and handrails where possible.	Yes
<b>C5.10 – Protection of Residential Amenity</b>	Development does not have an adverse impact upon adjoining residential development. he proposal sees the reversal of commercial marina and removal of all heavy industrial activities that have historically been undertaken on the site that have caused ongoing impacts to surrounding residential amenity.	Yes
<b>C5.22 -Environmental Sustainability</b>	Refer to <b>Section 5.7</b> for consideration of ESD.	Yes
<b>Section D – Locality Specific Development Controls</b>		
D15 – Waterways Locality		
<b>D15.1 - Character as viewed from a public place</b>	The development will need to achieve the outcomes of this control and the desired future character of the locality. Commentary on this should be included within the Statement of Environmental Effects.	Yes

Section	Comments	Compliance
	<p>Details must be provided in relation to the scope of the proposed works to the existing concrete hardstand and waterway interface, including the intended materials and finishes. It is recommended that the 'face' of the hardstand be improved visually such that it better fits contextually with the nearby residential seawalls (if deemed feasible with regard to environmental impacts/considerations).</p> <p>Where possible, the levels of the hardstand should tie in with the levels of The Avenue to the north and the adjoining land to the south between the MHW and the waterway.</p> <p>The proposal meets the desired future character of the locality, as addressed in Section A4.15. The removal of commercial facilities and an operational element on the hardstand, replacing these with landscaping and a more orderly berthing arrangement is considered to appropriately and sensitively respond to the existing built and natural characteristics of private waterfront development in Pittwater.</p> <p>The proposed landscaping and turf will soften the visual appearance of the site, without unnecessary impacts the existing ecological condition of the foreshore and waterway. Instead, the proposal adaptively reuses the existing structure and minimise the structures for the proposed berths, establishing a balance between the functional use of the waterway and conservation of the natural environment, considering the existing context and infrastructure.</p>	
<b>D15.2 - Scenic Protection - General</b>	The proposal, including the reduction in boat numbers, visual improvements, landscaping and material selections (including sandstone retaining wall) is considered to improve and minimise the visual impact on the natural environment when viewed from the water, roads or public reserves.	Yes
<b>D15.12 - Development seaward of mean high water mark</b>	<p>The proposal seeks to minimise the movement of development seaward of the Mean High Water Mark (with the exception of gangway and pontoons to access boats) by retaining and improving the existing hardstand structure. The reduction in the number of boats, rationalisation of the orientation of berthing and removal of multiple cross arms to the marina, along with the landscaping to the hardstand is considered to result in a pleasant and significantly improved visual outcome from surrounding vantage points.</p> <p>With regard to the consideration of impacts from the proposal, the following items are attached:</p> <ul style="list-style-type: none"> <li>▪ correspondence confirming no navigational concerns from the Transport for NSW- Maritime Division (including a review of revised plans and navigational advice – also provided as part of this DA)</li> <li>▪ Confirmation of no objection from DPI-Fisheries under the Department of Primary Industries</li> <li>▪ An Aquatic Ecological Survey and Marine Sediment Assessment Report is provided at <b>Appendix F</b> along with an Estuarine Risks management Report (<b>Appendix H</b>).</li> </ul>	Yes – Contextual response
<b>D15.13 Lateral limits to development seaward of mean high water mark</b>	This section of the DCP seeks to ensure that fair and equitable enjoyment of the waterway is achieved between neighbouring waterfront landowners through restricting unreasonable encroachment of waterfront development in front of adjoining properties. An analysis of the proposal is provided below.	Yes – Contextual response
<b>D15.15 - Waterfront development</b>	As proposed works are located on Crown Land below the Mean High Water Mark, this section applies.	Yes

## Development Footprint and Waterway Structures

The outcomes of provisions *D15.13 Lateral Limits to Development seaward of the mean high water mark and D15.15 Waterfront Development* are to ensure that fair and equitable enjoyment of the waterway is achieved between neighbouring waterfront landowners by restricting unreasonable encroachment of waterfront development in front access and navigation of adjoining properties. The proposal, its scale, configuration and boat orientation are considered to achieve the outcomes identified of these provisions and are not considered to unreasonably encourage or impact navigation for adjoining properties.

Lateral development lines and setbacks controls from these (for both development and vessels are included in the DCP in order to maximise equitable enjoyment and access to the waterway and to minimise conflict.

As shown in **Figure 17** below, the proposal is considered be consistent with these, with an arrangement that ensure the intended outcomes are preserved and achieved, Given the surrounding context and location of adjacent waterfront development (private jetties and pontoons) further contributes to the outcomes being achieved

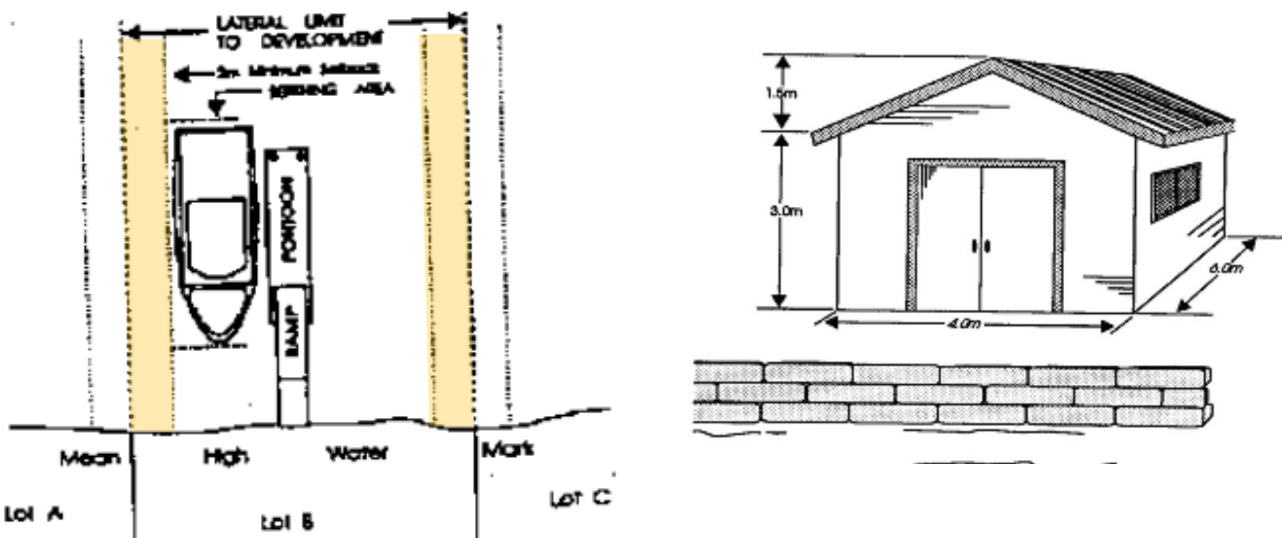
The proposal seeks to remove a highly non-compliant configuration, which seeks boats required to manoeuvre in and out of the berths directly in front of the waterway to 122 Crescent Road, orientated parallel to the waterway along a pontoon.

As part of early consultation with Transport for NSW – Maritime, following the pre-lodgement meeting with Council the size, arrangement and orientation of vessels was reviewed (along with hydrographic survey information), which resulted in a reduction in the length of proposed pontoons and smaller boats. Notwithstanding, as outlined in **Section 2.4** and **Appendix B/P**, the proposal has been carefully considered to ensure there are no navigational issues – both from the pontoon length and berthing size in particular.

The proposed berthing areas are commensurate with the existing berthing sizes on the site, within the Winji Jimmi Bay and broader Pittwater area, noting that the proposed berthing size (which has reduced following the pre-lodgement meeting with Council) has been reviewed and confirmed with regard to navigational issues

The proposed berths meet the following criteria, consistent with the Berthing Area provisions of Section D15.15 of the DCP:

- No other moorings, marina berth or boat shed are provided where a boat could reasonable be stored – with a number of swing mooring proposed to be reignited and others relocated.
- That there is sufficient depth of water below the vessel);
- That it does not extend beyond the seaward face of any related pontoon, piles or jetty steps;
- That there is sufficient clearance from prolongation of adjoining boundaries as a result of the pontoon design and berthing locations
- That it be designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours; and
- The size of vessel must be accommodated wholly within the lease area



**Figure 16** Lateral limits and boatshed diagrams from Pittwater DCP 21

Source: Northern beaches Council/Ethos Urban (markup)

## Existing Marina Arrangement



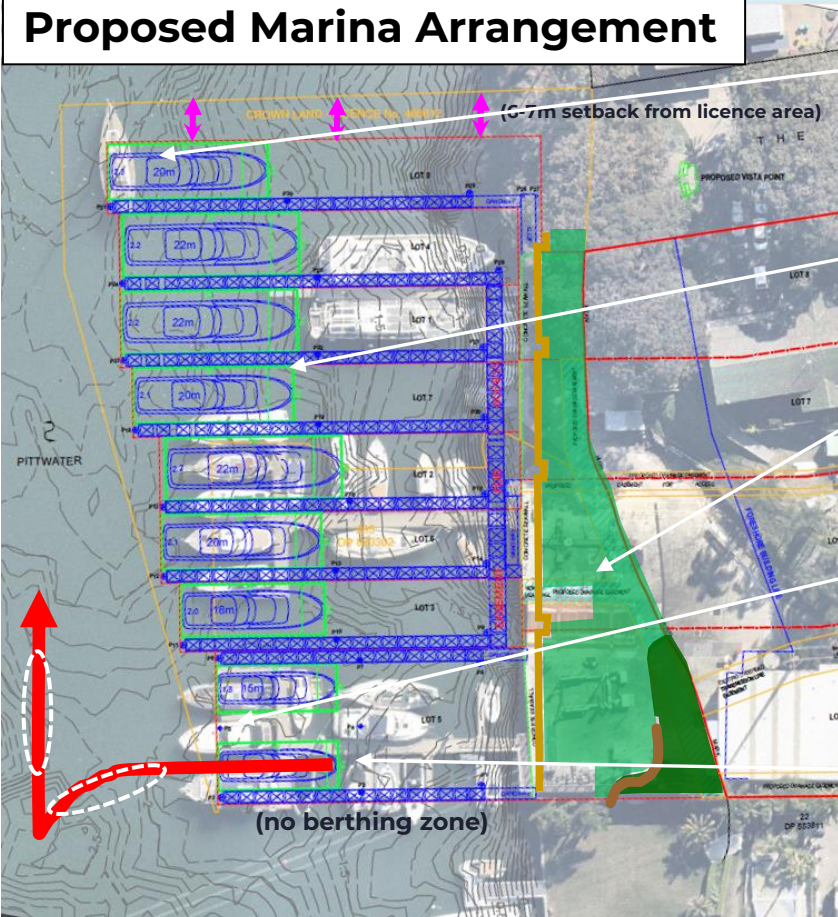
Existing jetty, gangway, piles and pontoon to the north of the property boundary, within the licence area.

Visual clutter of boat orientation on water as well as repair/maintenance and large structures

Multiple small and large boats berthed perpendicular to the shore with berthing areas more than 9m

Boats on the southern arm required to use the waterway in front of the adjacent property to manoeuvre in and out of the berth

## Proposed Marina Arrangement



Removal of swing mooring here and berth set in from licence area (boundary) by approx. 6-7m

Uniform berthing configuration improves visibility and appearance from vantage points

Visual clutter of boats and operational components replaced with landscaping and sandstone retaining wall

Front in/rear out significantly reduces impacts to adjoining properties – maximising equitable access to waterway

Berth set in 2m+ from boundary with pontoon located on boundary. No berthing to southern side

Figure 17 Existing and Proposed Marina Arrangement - Comparison

Source: Ethos Urban

## 5.5 Planning Agreements (Section 4.15(1)(a)(iv))

As required under Section 4.15(1)(a)(iii) of the EP&A Act, any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 of the EP&A Act must be detailed in the development application.

## 5.6 EP&A Regulations (Section 4.15(1)(a)(iv))

The application is required to be considered against applicable provisions of the Environmental Planning and Assessment Regulation 2001. Notable, this includes:

- Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent, which would be addressed via a condition of consent.
- Clauses 36 and 94 of the EP&A Regulation 2021 allows Council to request additional information through the assessment of the DA, if required.
- Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures, with demolition sought as part of this DA.
- Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA), which will be conditioned as a conditions of consent.

## 5.7 Key Issues and Likely Impacts

This section details the key planning issues and likely environmental, social, and economic impacts of the development on the natural and built environment in accordance with Section 4.15(1)(b) of the EP&A Act.

### 5.7.1 Aquatic Ecology and Marine Sediment Assessment

An Aquatic Ecology and Marine Sediment Assessment has been prepared by Ocean Ecology and is provided at **Appendix F**.

This report includes a review of existing information relating to aquatic (marine) ecology for the site, results of a site walkover and diver based aquatic habitat field survey undertaken to describe the aquatic habitats present within and adjacent to the existing marina and proposed works area, an assessment of marine sediment quality within the footprint of the proposed works and an assessment of potential impacts and identification of mitigation and/or management measures for the proposed marina upgrade works. Consultation with the NSW Department of Primary Industries (DPI) (Fisheries) was undertaken in May 2024 following the completion of the final marina design and layout.

In summary the following were found:

- Aquatic vegetation – A review of the NSW Department of Primary Industry (DPI) estuarine vegetation mapping and the field survey confirmed that no aquatic vegetation in the form of seagrass, mangroves or saltmarsh occurred within the footprint of the existing marina or immediately adjacent areas. The seafloor within the marina footprint was comprised of very fine unvegetated soft sediment with some areas of oyster shell/rock rubble, mainly inshore. Some scattered and small marine macroalgae in poor condition and with a high degree of sedimentation was observed attached to the existing marina structures such as wharf piles and pontoons. This macroalgae is not expected to provide any significant or high quality habitat for marine fauna. No shading of marine vegetation will result from the redevelopment of the marina.
- Filamentous brown algae covered most of the intertidal and shallow subtidal areas at the site including rocky seafloor areas, pontoons and piles.
- A NSW DPI Part 7 Permit to Harm Marine Vegetation will not be required for the proposed activity considering the lack of seagrass, mangroves or saltmarsh, or large habitat forming macroalgae (e.g. Ecklonia or Sargassum) at the site.
- No marine protected areas occur within or near to the study site and will not be impacted by the proposed works.
- No mapped Coastal Wetlands or Littoral Rainforests occur near to the study site and will not be impacted by the proposal.
- Matters of National Environmental Significance (MNES) (relating to aquatic habitats) under the EPBC Act 1999 occurring within 5 km of the study area were assessed, with the following results:
  - No Wetlands of International Importance occur within a 5 km radius of the study site and will not be impacted by the proposal.

- The Great Barrier Reef Marine Park does not occur within a 5 km radius of the study site and will not be impacted by the proposal.
- The Commonwealth Marine Area is not located within a 5 km radius of the study site and will not be impacted by the proposal.
- Eight (8) listed threatened ecological communities (terrestrial and aquatic) occur within a 5 km radius of the study site. None of these occur within or adjacent to the proposed works area and will not be impacted by the proposal.
- A number of threatened and/or protected and marine, coastal and migratory species have the potential to occur within a 5 km radius of the site, however, considering the lack of suitable habitat available at the site for most of these species, none are expected to occur more than occasionally or be significantly impacted by the proposal.
- Other matters protected under the EPBC Act (relating to aquatic habitats) occurring within 5 km of the study area include:
  - 81 Listed Marine Species.
  - 14 Whales and other Cetaceans.
  - No Critical Habitats.
  - No Australian Marine Parks.
  - No Habitat Critical to the Survival of Marine Turtles.
  - No Nationally Important Wetlands.
  - No Key Ecological Features (Marine).
  - 4 Biologically Important Areas.
- No declared Critical Habitat (listed under the FM Act 1994 or EPBC Act 1999) or Areas of Outstanding Biodiversity Value (listed under the BC Act 2016) occur within the study area and will not be impacted by the proposal.
- A number of threatened and protected marine and coastal fauna listed under State and Commonwealth legislation have the potential to occur within the general study area, however, considering the available habitat it is not expected that any of these species would be found at the site any more frequently than occasionally, and no significant impacts on any of these fauna would occur from the proposed works.

The sediment quality investigation found that a number of contaminants tested for were above the ANZG (2018) default sediment quality guideline values (DGVs) for sediments. These included:

- Metals - arsenic, copper, lead and zinc.
- Tributyltin (TBT).
- Sum of Total Petroleum Hydrocarbons (TPHs) fraction C10 - C36.

There were a number of organochlorine (OC) pesticides which had levels above the laboratory Level Of Reporting (LOR) (DDD, DDE and DDT) as well as Polycyclic Aromatic hydrocarbon (PAHs), TPHs and Total Recoverable Hydrocarbons (TRHs). The presence of these specific metals, TBT and hydrocarbons is likely related to the historical use of the site as a commercial marina facility (via antifouling and fuels). The presence of pesticides is most likely a result of catchment inputs into this waterway and levels may have increased following the recent heavy rainfall and flooding in the Sydney area just prior to the sampling being undertaken.

An assessment of impacts on local hydrology and tidal flow, as well as the potential for increased prop wash as a result of the marina upgrade was undertaken by Royal HaskoningDHV (June 2024) and is used to inform this aquatic ecology assessment. The Royal HaskoningDHV report determined that:

- Given the minimal (<10%) occupation of the waterway cross-sectional area by the upgraded marina structure and the generally reduced vessel berthing density when compared to the existing marina, the proposed marina upgrade would not be expected to significantly alter the tidal flow of water in and out of Winji Jimmi Bay relative to existing conditions. As such the influence of the proposed facility on e-folding times would be minimal, with no untoward consequences expected for water quality or marine ecology within the bay.
- Given the reduction in number of berths from 36 to 9 berths and the cessation of the previous boat maintenance and repair business, the frequency of boat movements to and from the proposed upgraded marina servicing residents of the onshore development would be expected to be reduced in comparison to the existing situation. As such, given the low speed ingress and egress into the Bay (4 knots), retained 22 m maximum vessel size, and reduced boat movements, vessel access to the proposed marina would not be expected to increase impacts (from present levels) to marine vegetation.

Considering the overall significance of potential impacts to aquatic flora and fauna:

- There will be no significant impacts on marine flora or fauna listed under the FM Act 1994, so further assessment via a Species Impact Statement (SIS) will not be required.
- There will be no significant impacts on any threatened fauna or Endangered Ecological Communities (EECs) listed under the BC Act 2016, therefore, a Species Impact Statement (SIS) will not be necessary and entry into the Biodiversity Offsets Scheme (BOS) under the BC Act 2016 will not be required.
- No significant impacts on any threatened fauna or EECs listed under the EPBC Act 1999 will occur, therefore, no additional assessment in the form of an Environmental Impact Statement (EIS) or referral to the Commonwealth Environment Minister for consideration and approval is required.

Potential direct and indirect impacts on coastal and aquatic habitats associated with the proposed marina upgrade are described. Potential impacts are expected to be temporary, localised and are able to be managed or mitigated effectively. There will be no significant changes to hydrology in the local waterway caused by the marina upgrade which will result in significant, or otherwise, impacts on marina habitats. Overall, with the adoption of appropriate mitigation and management during the proposed marina upgrade, the proposed works are expected to be able to be undertaken without causing any significant harm to the local aquatic environment.

### 5.7.2 Estuarine Risk Management

As the development is potentially affected by estuarine hazards, it is subject to the Pittwater 21 Development Control Plan (DCP), in particular Chapter B3.9. It also subject to the Estuarine Risk Management Policy for Development in Pittwater (Estuarine Policy, which is Appendix 7 of the DCP).

Horton Coastal Engineering Pty Ltd was engaged to complete the estuarine risk management report required by Council, and is provided at **Appendix H**. The report considers the design life of the proposal, estuarine processes, including design still water level at end of design life and sea level rise considerations, wave action, risks and mitigation of damage to proposed seawall.

The report also provide a merit assessment of key planning provision and policies including:

- Chapter B3.9 of the Pittwater 21 DCP
- Estuarine Risk Management Policy for Development in Pittwater
- Chapter D15.15 of the Pittwater 21 DCP
- Chapter D15.18 of the Pittwater 21 DCP
- State Environmental Planning Policy (Resilience and Hazards) 2021
  - Clause 2.10 – Coastal environment area
  - Clause 2.11 – Coastal use area
  - Clause 2.12 – consideration of risk of coastal hazards
  - Clause 2.13 – consideration of certified coastal management program
- Coastal Management Act 2016

The report concludes that for a design life of 60 years, the adopted Estuarine Planning Level (EPL) is 2.8m AHD at the foreshore, with the proposed boatsheds above the EPL. If the requirements outlined in the identification and mitigation of risks are followed, the seawall infilling would have an acceptably low risk of damage.

The proposed works are also considered to satisfy the requirements of Chapters B3.9, D15.15 and D15.18 of the Pittwater 21 DCP, the Estuarine Risk Management Policy for Development in Pittwater, State Environmental Planning Policy (Resilience and Hazards) 2021, and Section 27 of the Coastal Management Act 2016.

### 5.7.3 Marine Safety and Navigation

Navigation Impact Assessment Advice has been prepared by Royal HaskoningDHV and is provided at **Appendix C**. The advice considered the proposed marina upgrade (including the change in vessel number, layout, and typology), berth geometry, available water depths, wave climate, navigations access, marina access, swing moorings, lease/licences boundary area and access. The proposal is also AS3962:2020 Marina Design.

Initial consultation was undertaken with Crown Lands and TfNSW-Maritime to obtain feedback on the original marina layout. Following discussions with TfNSW-Maritime on 11th April 2024, amendments were made to the original marina layout in response to feedback including the reduction of the proposed maximum vessel size and minimisation of the marina footprint. The proposed marina layout that is the subject of the assessment is provided at **Appendix B**.



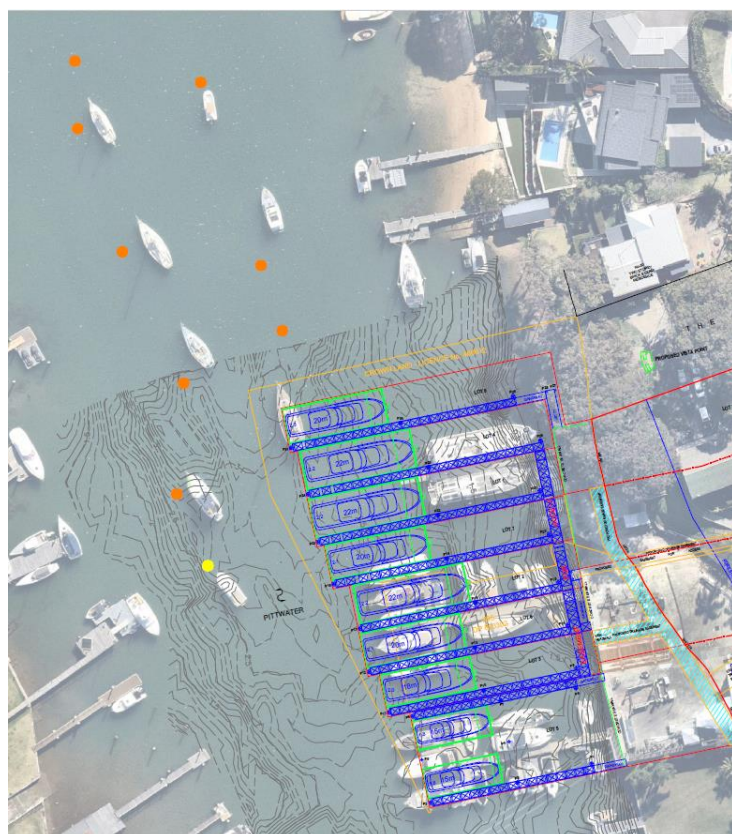
The extent and scale of the upgraded marina has been minimised by selection of design vessels that are appropriate for the available water depths and comparable to the maximum size of vessels that were berthed at the existing marina. A 'bow in' berthing arrangement has been nominated to enable vessels to be positioned closer to shore along the floating marina pontoons. This berthing arrangement will be mandated in the documentation of Marina Rules and Berthing Agreements (or similar), and will also be clearly indicated with signage<sup>5</sup> positioned along each berthing pontoon at the location where available water depths reduce to less than that required for safe all-tide mooring of the vessels allocated to each berth.

The management of existing swing moorings in the vicinity of the marina will need to be confirmed in consultation with Crown Lands and TfNSW-Maritime representatives.

### Swing Moorings

As shown in **Figure 18**, there are several swing moorings that are positioned in close proximity to the proposed marina with the proponent currently holding licences for ten (10) swing moorings in the vicinity of the proposed marina and that these moorings are currently vacated and not occupied by vessels. It is recommended that consultation with Crown Lands and TfNSW-Maritime is undertaken to:

- determine an accurate location for each swing mooring (mooring block survey);
- establish the configuration and status of each swing mooring (vessel type/specifications, mooring line length/swing radius, active/inactive occupation, mooring holder details); and,
- investigate options for management of the existing swing moorings.



#### LEGEND

- COMMERCIAL MOORING
- PRIVATE MOORING

**Figure 18 Local of Existing swing moorings and ownership**

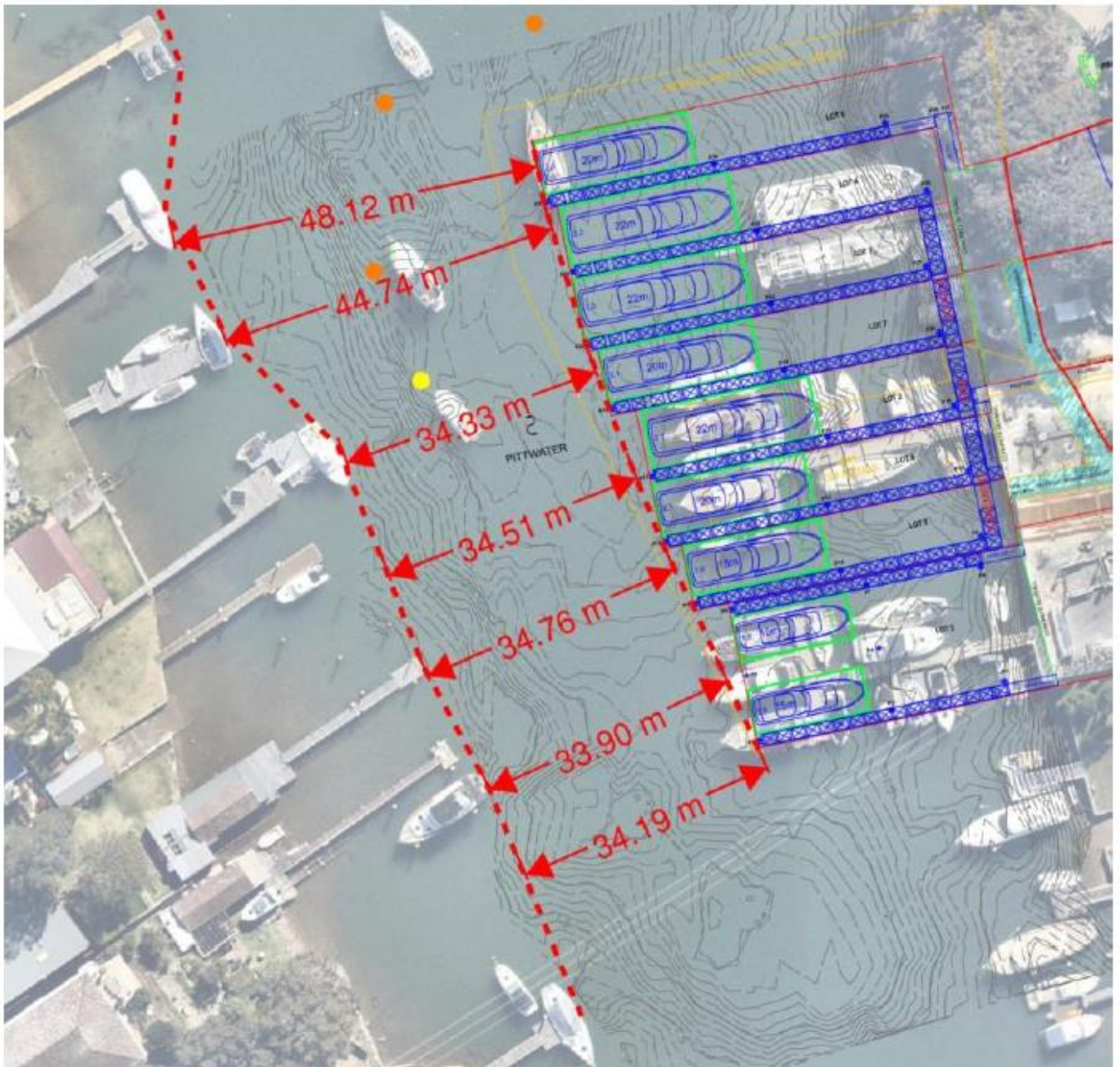
Source: Royal HaskoningDHV

### Navigation and Separation in Waterway

Royal HaskoningDHV have reviewed the aerial photograph and the overall of the existing proposal, with the analysis indicating that the southern half of the proposed marina (i.e. LOT 5 to LOT 2 berths) has a similar footprint within the waterway to the existing marina – as shown in **Figure 19**.

The available navigation access width from the proposed marina pontoons to opposing private jetties/pontoons or vessels is approximately 34-35m, which provides adequate width for access by the proposed vessels of up to 22m length (1.5L = 33m).

Further north of the LOT 2 berth, the available navigation width increases from 34-35m to 45-48m which provides adequate width for access by the proposed vessels of 20m length (1.5L=30m) and 22m length (1.5L=33m).



**Figure 19** Existing and Proposed separate and navigation – Winji Jimmi Bay

Source: Royal HaskoningDHV

#### 5.7.4 Construction Management

A Preliminary Construction Management Plan will be provided prior to a construction certification set out the environmental management requirements for the proposal. Key measures are summarised below,

- All wetland areas and mangroves located near the site should be designated as no-go zones during construction.
- Contractors shall take all necessary actions to avoid adverse actions of vessels, vehicles and construction equipment with aquatic fauna and flora.
- A turbidity curtain with a minimum drop of 4m will be used locally around the perimeter of pile driving/drilling works or any construction zone in their intertidal area to limit the spread of plumes generated by piling or other activities.
- Water quality will be visually monitored for any visible signs of hydrocarbon spills and contamination. If visual monitoring indicates potential contamination, works must cease immediately, and the spill cleaned up.
- Any demolition products and general waste generated should be contained, removed from site and disposed of appropriately.
- All construction equipment, vessels and vehicles will be well maintained and regularly serviced to reduce the likelihood of oil/fuel leaks and spills.

- Works should be positioned in the event of a heavy rainfall to reduce the potential cumulative effects of increased turbidity on the waterway and aquatic habitats.
- Sediment and erosion control devices will be used around all land or intertidal based works during construction and will be in accordance with the guidelines of Managing Urban Stormwater: Soils and Construction Volume 1 (Landcom 2004).

The CMP also sets out general site management requirements for the following aspects of the project:

- Site layout and material handling.
- Construction waste.
- Fire precautions.
- Work health and safety.
- Complaints.
- Accidents and injuries.

A final, detailed Construction Management Plan will also be prepared during detailed design prior to the issue of a Construction Certificate (CC).

### **5.7.5 Principles of Ecologically Sustainable Development**

Section 193 of the EP&A Regulation outlines four (4) principles of ecologically sustainable development to be considered in assessing a project. They are:

- The precautionary principle;
- Intergenerational equity;
- Conservation of biological diversity and ecological integrity; and
- Improved valuation, pricing and incentive mechanisms.

An analysis of these principles is provided in the following sections.

#### ***Precautionary Principle***

The precautionary principle is utilised when uncertainty exists about potential environmental impacts. It provides that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. The precautionary principle requires careful evaluation of potential impacts in order to avoid, wherever practicable, serious or irreversible damage to the environment.

This SEE and its supporting reports and studies have not identified any serious threat of irreversible damage to the environment and therefore, the precautionary principle is not relevant to the proposal.

#### ***Intergenerational Equity***

Intergenerational equity is concerned with ensuring that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations. The proposal has been designed to benefit both the existing and future generations by:

- Addressing the recognised shortage of suitable maritime facilities for the existing and future boating community;
- Implementing safeguards and management measures to provide opportunities to protect environmental values; and
- Facilitating business investment and job creation during construction and operation of the marina.

The proposal has integrated short and long-term social, financial and environmental considerations so that any foreseeable impacts are not left to be addressed by future generations. Issues with potential long-term implications such as waste disposal and water quality would be avoided and/or minimised through construction planning and the application of safeguards and management measures described in this SEE and the appended technical reports.

#### ***Conservation of biological diversity and ecological integrity***

The principle of biological diversity upholds that the conservation of biological diversity and ecological integrity should be a fundamental consideration. As demonstrated within the SEE, including the Aquatic Ecology and Sediment Assessment Report (refer **Appendix F**), a number of measures will be implemented during

construction activity and operation of the facility to ensure that the proposal does not have any adverse impacts on the biological diversity and ecological integrity of the surrounding waterways.

### **Improved valuation, pricing and incentive mechanisms**

The principles of improved valuation and pricing of environmental resources requires consideration of all environmental resources which may be affected by a proposal, including air, water, land and living things. Mitigation measures for avoiding, reusing, recycling and managing waste during construction and operation would be implemented to ensure resources are used responsibly in the first instance. Additional measures will then be implemented to ensure no environmental resources in the locality are adversely impacted during the construction or operational phases.

## **5.8 Other Impacts of the Development**

An assessment of the other impacts of the development have been undertaken by the relevant specialist consultants and are appended to this SEE as set out in **Table 12** below.

**Table 12 Summary of other technical assessments**

<b>Consideration</b>	<b>Consultant</b>	<b>Summary</b>	<b>Reference</b>
<b>Traffic and Parking</b>	JMT Consulting	<p>As the proposed marina will service only the adjacent residential lots it is not considered that the proposal will generate significant traffic or parking impacts and may in fact result in improved traffic and parking conditions as the traffic movements and parking demands generated by the existing commercial marina will no longer be present.</p> <p>A detailed Construction Traffic Management Plan will be provided prior to CC how the development would be constructed and managed so as to limit construction impacts on the surrounding residential and environmentally sensitive waterfront areas.</p> <p>The construction works will temporarily generate a small amount of activity to and from the site. To minimise impacts to surrounding streets and reduce interactions with pedestrians, some of the construction will be undertaken via barge and/or boat – with servicing by vehicles to be undertaken only as needed. Services contractors will deliver materials to the site via Small Rigid Vehicles (SRVs) or more typically utes/vans as required. Activity is expected to be low – with a detailed construction management plan to be prepared prior to commencement of works on the site.</p>	<b>Appendix M</b>
<b>Stormwater (and Water Impact Statement)</b>	BC&E	Water Impact Statement to fill the requirements for all developments potentially impacting on Waterfront Land	<b>Appendix G</b>
<b>Heritage</b>	AMAC Archaeological	<p>A Due Diligence Aboriginal Archaeological Assessment was completed by AMAC – Archaeological Management &amp; Consulting Group in July 2023. The Aboriginal Heritage Office agrees with the recommendations outlined in the report.</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>	<b>Appendix K</b>
<b>Acid Sulfate Soils</b>	EI Australia	Acid Sulphate Soils Assessment	<b>Appendix J</b>
<b>Marina Condition Assessment (Structure)</b>	Paragon Engineering	Certifying that the existing concrete hardstand area to be retained is in a satisfactory structural condition and does not need to be demolished due to existing structural defects/failures. Moreover, the ability of the existing concrete hardstand has been assessed and found to be adequate to support the proposed topsoil/turf in terms of loading.	<b>Appendix N</b>

## 5.9 Social and Economic Impacts in the locality

The proposed development will not have a detrimental social or economic impact in the locality considering the character of the proposal and nature of the existing and proposed land use.

## 5.10 Suitability of the site for the development

In accordance with Section 4.15(1)(c) of the EP&A Act, and having regard to the characteristics of the site and its immediate surrounding context, the proposed development is suitable for the site for the following reasons

- The adaptive reuse of existing being co-located adjacent to C4 Environmental Living zone land and approved subdivision and dwelling envelopes dwellings adjacent to Pittwater
- The proposal removes impactful uses which improve the environmental and amenity outcomes for surrounding residents and waterway users
- The proposal will have no navigational impacts to the waterway and will reduce the number of boat movements.
- The proposal provides a better visual amenity and landscape outcome in line with the desired future character of the locality
- The proposal will have no adverse impacts to the equitable use of the waterway

## 5.11 Submissions

The subject development application will be publicly exhibited in accordance with the EP&A Act and EP7A Regulation 2021 and the Northern Beaches Council Community Participation Plan.

## 5.12 Public Interest

In accordance with Section 4.15(1)(e) of the EP&A Act, the proposed development is considered to be in the public interest for the following reasons:

- The proposal acknowledges the current usage of the immediate waterway and will not result in any navigational obstructions
- The proposal removes impactful uses which improve the environmental and amenity outcomes for surrounding residents and waterway users
- The proposal's design response allows for an improvement of views to and from the site, include the proposed landscaping

## 6.0 Conclusion

This Development Application/Statement of Environmental Effects has been prepared to consider the relevant matters under Section 4.15(1) of the EP&A Act including the impacts to the natural environment, built environment and social and economic impacts of the proposed development.

Having regard to environmental and economic and social considerations, including the principles of ecologically sustainable development, the carrying out of the project is justified for the following reasons:

- The proposed development is permissible with consent and is consistent with all the relevant strategic policies, environmental planning instruments and controls;
- The proposal removes a use that has environmental and amenity impacts to adjoining properties and the waterway, adaptively reusing existing structures and significantly improving the visual setting of the site and waterway character.
- The environmental risks associated with the construction and operation of proposed development can be appropriately mitigated;
- The facilities have been sited and orientated to enable safe navigation for vessels in Winji Jimmi Bay and Pittwater and those berthed at the marina;
- The proposal addresses the significant demand for additional vessel berthing facilities in the area, and also aligns with the strategic intent for these facilities to not 'clutter' the waterways.
- The assessment of the proposal has demonstrated that the development will not result in any environmental impacts that cannot be appropriately managed and consistent with the relevant planning controls for the site.
- The proposal is consistent with the principles of ecological sustainable development as defined by Schedule 2(7)(4) of the *Environmental Planning and Assessment Regulation 2021*.
- The site is suitable for the development, and it is in the public interest.

Given the merits described above, and the significant benefits associated with the proposed development, it is requested that the application be approved.