



STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and additions to Royal Motor Yacht Club Broken Bay

46 Prince Alfred Parade
Newport

Prepared for: Royal Motor Yacht Club Broken Bay

REF. M220260





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1. Introduction

1.1 OVERVIEW

This Statement of Environmental Effects has been prepared on behalf of the Royal Motor Yacht Club Broken Bay (RMYC), the applicant for the proposed development. The report is to accompany a development application to Northern Beaches Council seeking consent for the construction of alterations and additions to the registered club's facilities at No 46 Prince Alfred Parade, Newport.

The site, comprises a registered club, administration areas, swimming pool and outdoor recreation areas, a marina, boat storage and repair facilities and carparking areas. The site has been occupied by the RMYC since 1926. The proposed development is a permissible land use and this application is made pursuant to the provisions of *Pittwater Local Environmental Plan 2014*. The site is located in the RE2 Private Recreation zone.

Since COVID-19, the RMYC has experienced a change in patronage and a greater focus on its dining facilities. The venue provides a spectacular location for weddings and the proposal will allow greater flexibility in terms of providing an improved function and event space. The club is very active in the local community sponsoring local sports and worthwhile causes in the northern beaches community. The club has undergone a shift in its operations to appeal to a broader section of the local community with a reduced role being played by gambling and alcohol consumption. The RMYC is attempting to position itself as a family-friendly venue that can provide high quality dining and recreational facilities for members with its underlying link to boating and marine recreation.

The proposal has an estimated cost of work of \$10.2 million, and as such the Northern Beaches Council Local Planning Panel is the consent authority.

1.2 SUPPORTING DOCUMENTS

The development application is supported by a series of consultant reports and plans, listed in Table 1.

Table 1 Supporting Documentation

Document	Author
Architectural Plans	MCHP Architects
Access Review	Blackett Maguire and Goldsmith
Acid Sulfate Soil Management Plan	JK Environments
Acoustic Report	Acoustic Directions
BCA Report	Blackett Maguire and Goldsmith
Contamination Report	JK Environments
Drainage and water quality plan	Martens
Energy Efficiency report	Integreco Consulting
Estuarine Planning Level report	Horton Coastal Engineering
Geotechnical Report	Douglas Partners
Landscape Plan	Landart Landscape Architects





Table 1 Supporting Documentation

QS Report	WT Consulting
Survey Plan	SDS
Traffic and Parking Assessment	Traffix traffic consultants
Waste Management Plan (operational)	Elephants Foot Consulting

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Section 4.15 of the *Environmental Planning & Assessment Act, 1979* (EP&A Act).

This Statement has been divided into six sections. The remaining sections include a description of relevant background information; an analysis of the site and locality; a description of the proposal; an environmental planning assessment pursuant to s.4.15 of the EP&A Act; and a conclusion.



2. Background

2.1 PRE-LODGEEMENT MEETING

A Pre-Lodgement meeting was held with Northern Beaches Council on 30 August 2022. Table 2 below provides a summary of the main issues discussed with Council during the meeting.

Table 2 Pre-Lodgement Meeting

Issue	Council Response to Issue	Comment
Application of SEPP, LEP, DCP controls to proposal	<p>The relevant matters of the Pittwater LEP are discussed throughout this report including the Foreshore Building Line requirements and the 8.5m maximum building height.</p> <p>The relevant SEPP's which must be addressed include:</p> <ul style="list-style-type: none">- SEPP Resilience and Hazards – Chapter 2 Coastal Management – The site being identified as both Coastal Use and Coastal Environment, with the proposal to be assessed against the requirements of these controls with relation to the impacts upon the visual and scenic qualities for the foreshore area and consideration the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.- SEPP Resilience and Hazards – Chapter 4 Remediation of Contaminated Land – Discussed in detail below by Council's Environmental Health Officer. The relevant parts of the Pittwater DCP which are to be considered in the design and which shall guide the built form are within Part D15 Waterways Locality (however not limited to only the below). Of particular note:- A4.15 Waterways Locality Statement- D15.1 Character as viewed from a public place- D15.2 Scenic protection general – Control: Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve- D15.12 Development Seaward of the MHWL.	<p>This Statement has addressed all relevant Environmental Planning Instruments including but not limited to Pittwater LEP 2014 and SEPP Resilience and Hazards. Refer to Section 5.2 of this Statement.</p>
Foreshore Building Line and potential variation under clause 4.6 Exceptions to development standards	<p>It has been established that the FSBL can be varied subject to a Clause 4.6 variation request. However, a recent decision by Northern Beaches Local Planning Panel (NBLPP) took a strict approach and did not support a requested variation to the FSBL where further encroachment or expansion of the building footprint resulted in intensification of</p>	<p>Refer to Section 5.2.6 of this Statement and the Clause 4.6 variation requested provided at Annexure C.</p>

Table 2 Pre-Lodgement Meeting

development within the foreshore area. The NBLPP did not support the Clause 4.6 variation and although each application will be assessed on its own merit, the applicant is cautioned that any Clause 4.6 variation will come under careful consideration by both Council and the NBLPP who would be required to determine the application.

A review of the approved buildings/structures on the site show that the shade sail structure between the brick BBQ hut and main club building was approved in circa 2000 along with the enclosing wall along the southern facade. No consent is found for the individual umbrellas to the north of the BBQ hut or swimming pool. It is therefore taken that the existing approved building footprint is limited to only the area for which consent has previously been granted within the Foreshore Area. The application should demonstrate which areas of the site have consent for buildings as this will be critical to supporting any intensification. Expansion of development beyond the scope of existing approved building footprints would not be supported (i.e beyond the footprint of the approved shade structure).

In the meeting, the applicant expressed a potential approach that the whole area inclusive of the carpark could be considered to form part of the existing building footprint. Council would not accept this approach and draw attention to the fact that Clause 7.8(2) makes a distinction between the types of structures that are permitted within the foreshore area (like sea retaining walls, boat sheds, wharves etc) and the exception which allows 'extension alteration or rebuilding of a building'. It is therefore taken that the Clause anticipates some structures whilst limiting further development of buildings.

Council questions how appropriate it would be to rebuild the existing structure within the foreshore area as a two-storey building in place of what is currently a lightweight shade structure for outdoor dining. This will result in further development creep into the foreshore area and introduction of a larger built form than what previously exists within the foreshore area. At present, the two-storey club building is setback behind the foreshore area and the presentation of the building's scale as viewed from the waterway is assisted by the large setback to the waterway. The proposal for a two-storey building

Table 2 Pre-Lodgement Meeting

within the foreshore area would further reduce the visual separation between a two storey form and the waterway, with the current shade structure providing a transition in height between the carpark and club house building. It is therefore considered that a single storey structure to replace the existing approved footprint would be appropriate only.

Further, there seems to be a clear intent as to how the FSBL was drafted under the PLEP 2014, with this line drawn around the existing two storey club house building and not encompassing the low scale structures adjacent to the carpark. The applicant would need to provide a convincing argument as to why Council should support further intensity of development seaward of the FSBL and how it would not be inconsistent with the reasonable expectation of what development could occur within the foreshore area under the PLEP 2014.

Should the applicant pursue the proposal as presenting in the PLM it will be necessary for the applicant to submit a Clause 4.6 Variation request and demonstrate how the outcomes of the development standard and zone objectives are met, as well as establish there are 'environmental planning grounds' for the rebuilding of a new two storey structure in the foreshore area. The proposal must consist of a high quality built form and demonstrate a visual improvement to the foreshore character including introduction of landscaped elements to soften the building form.

Residential amenity issues such as noise, privacy and views.	The proposed roof terrace could result in increased noise impact and as recommended by Council's EHO an acoustic report should be submitted. The operational plan of management should also be updated to reflect any new outdoor use areas including hours of operation.	The acoustic report prepared by <i>Acoustic Directions</i> and submitted with the application has considered the potential noise impacts associated with the use of the rooftop terrace and proposed measures to ensure maximum noise levels are not exceeded.
Site servicing – water, sewer, etc.	This is a matter for Sydney Water. The applicant should provide details with the applicant (within the SOEE) advising of any necessary augmentation or extension of services required by the development.	This has been raised with a Sydney Water authorised Water Servicing Coordinator who has indicated that this matter will be confirmed when a Section 73 Certificate is issued by Sydney Water. As this stage of the project there is no information that would suggest the current capacity of water and sewer connections would not be adequate for the proposed development.
Operational management issues	See above regarding noise. Parking is the other issue that should be resolved to a high degree prior to lodging the application.	These issues will be managed by the RMYC management in accordance with the recommendations of the Traffic and Parking



Table 2 Pre-Lodgement Meeting

		Assessment and the Acoustic Report.
<i>Pittwater LEP 2014</i>		
Zoning and Permissibility	<p>Definition of proposed development – registered club.</p> <p>Zone: RE2 Private Recreation</p> <p>Permitted with Consent or Prohibited: Permitted with consent.</p>	The proposed development is permissible with development consent in the RE2 Private Recreation zone.
Clause 4.6 Exception to development standards	<p>Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.</p> <p>A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.</p>	A variation request under clause 4.6 is provided in respect of the FSBL non-compliance. Refer to Annexure C of this Statements.
Clause 4.3 Building height	<p>Building height</p> <p>Permitted – 8.5m</p> <p>Proposed – 2 storey building and roof terrace.</p> <p>Compliance – Appears capable of complying with the height limit.</p>	The proposed additions to the club building will have a maximum height of 8m except for the lift overrun which will have a maximum height of 12.5m.
<i>Pittwater 21 DCP</i>		
Development engineering	<p>The proposal appears to be alterations and additions to the existing buildings within the site with no change to the vehicular access.</p> <p>Stormwater will need to be connected to the existing disposal system with no requirement for OSD.</p> <p>The site is within the H1 Geotechnical Risk Hazard and such a Geotechnical Report and Forms 1 and 1A in accordance with the Policy will be required as part of the DA submission.</p>	<p>The existing vehicular access arrangements into and within the site will be maintained.</p> <p>The proposal development involves the connection of new stormwater pipes into the existing drainage system within the site.</p> <p>Refer to the Geotechnical Report prepared by <i>Douglas Partners</i> and submitted with the application.</p>
Noise	<p>The alterations and additions are to a licenced premises/club as such there is the potential for noise impacts on surrounding residential receptors.</p> <p>As such, to support any submitted application, Environmental Health would require a Noise Assessment by a suitably qualified and experienced acoustic consultant be submitted with the application. Any submitted acoustic</p>	An acoustic report has been prepared by <i>Acoustic Directions</i> and submitted with the application. The findings of this report are discussed in Section 5.3.9 of this Statement.



Table 2 Pre-Lodgement Meeting

	<p>assessment is to be in accordance with relevant standards and guidelines including NSW EPA's Noise Policy for Industry. The acoustic assessment should include an assessment of all the potential noise sources from the alterations and additions to the club including but not limited to:</p> <ul style="list-style-type: none"> • Noise from patrons; • Noise from the upstairs outdoor terrace; • Noise from amplified music/live music; and • Noise from mechanical plant. <p>A Management Plan for managing any noise impacts from the Club should also be submitted with the application. The management plan should include any recommendations made by the Acoustic Consultant.</p>	
Food	<p>Any kitchens used for the preparation of food for sale as defined under the Food Act 2003 will need to comply with the requirements of AS 4674 Design, construction and fit out of food premises.</p> <p>Mechanical ventilation will also need to comply with:</p> <ul style="list-style-type: none"> • AS 4674–2004 Construction and fit-out of food premises; • Food Standards Code; and • Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings. <p>The above requirements will be conditioned as part of the DA.</p>	<p>Noted. The DA plans indicate the proposal has been designed to be compliant with these requirements.</p>
Acid sulfate soils	<p>The premises is located in Class 5 for acid sulfate soils. Acid sulfate soils are not typically found in Class 5 areas. Areas classified as Class 5 are located within 500 metres of class 1,2,3 or 4 land. Works in a class 5 area that are likely to lower the water table below 1 metre AHD on adjacent class 1, 2, 3 or 4 land will trigger the requirement for assessment and may require management.</p> <p>As such, when submitting the application, the applicant will need to confirm if the works are likely to lower the water table below 1 metre AHD on adjacent class 1, 2, 3 or 4 land. If the works are likely to lower the water table, to support any submitted application, Environmental Health recommends that an acid sulphate soils assessment be completed by a suitably qualified and experienced environmental consultant that is in accordance with the Acid Sulfate Soils Manual 1998 (ASSMAC) and the National Acid Sulfate</p>	<p>The Geotechnical Report prepared by Douglas Partners has considered the likelihood of ASS on the site and its findings and recommendations are considered in Section 5.5.3 of this Statement. An Acid Sulfate Soil Management Plan has been prepared and is provided with the application.</p>

Table 2 Pre-Lodgement Meeting

	<p>Soil Guidance 2018.</p> <p>If results of the acid sulphate soils assessment indicate that management of the acid sulfate soils is required then an acid sulfate soils management plan will also be required.</p>	
Contaminated land	<p>As the site is on an active marina there could be the potential for contamination that could pose a risk to the environment and workers during the construction phase and also any future onsite receptors. The location next to Pittwater especially presents a risk during the construction phase if any contamination is present. As such, to support any submitted application, Environmental Health recommends that a Preliminary Site Contamination report be submitted with the application.</p> <p>The report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy. The investigation is to be in accordance with relevant industry guidelines including SEPP 55 and NSW EPA guidelines.</p> <p>If the Preliminary Site Contamination Investigation determines that there is the potential for contamination to be present, a Detailed Site Investigation will then need to be conducted and submitted with the application.</p> <p>The report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy. The investigation is to be in accordance with relevant industry guidelines including SEPP 55 and NSW EPA guidelines.</p> <p>If the Detailed Site Investigation identifies that contaminated material is required to be remediated/removed from site a Remedial Action Plan (RAP) will also need to be prepared. The RAP must be prepared in accordance with the relevant guidelines and legislation including Managing Land Contamination Planning Guidelines, SEPP 55–Remediation of Land and NSW EPA Guidelines including Guidelines for Consultants reporting on contaminated Land.</p>	<p>A Preliminary Site Investigation has been prepared by <i>JK Environment</i> and is submitted with the application. The report has found the site to be suitable for the proposed use.</p>
Water management	<p>The proposal is subject to Pittwater LEP and DCP. Of particular interest is Clause D15.20 PDCP Commercial waterfront development – pollution prevention is reinforcing the Water Management for Development Policy objectives. Due to the sensitivity of the receiving waters, the</p>	<p>Water quality modelling for the proposed development has been prepared by <i>Martens & Associates Consulting Engineers</i> and is submitted with the application.</p>

Table 2 Pre-Lodgement Meeting

water quality target should meet the General Stormwater Quality Requirements as well as demonstrate a no impact on the receiving waters.

A water quality model (MUSIC) is to be developed and submitted to Council including a water management report for review. The Model is to be set up using the Northern Beaches guideline available online.

Both scenario Pre/Post and Post without/with treatment are to be assessed and reported.

The proposed treatment chain is to include water conservation measures (rainwater tank, reuse etc.).

<https://www.northernbeaches.nsw.gov.au/sites/default/files/2017299456finalnorthernbeachescouncilwsudtechnicalquidemusicmodellingpdf.pdf>

The site is subject to control activity permit for waterfront land and is to be referred to DPIE-Water.

Parking

The proposal incorporates construction of a 2-storey extension to the west of the existing clubhouse for dining and social purposes. Although there are few details available at this stage in terms of floor area or increases in seating numbers the development will need to make provision to accommodate for any increased parking demand on site that is generated by increased dining area or as result of the new spa, gym and yoga facilities. There is no ability for any additional parking to be accommodated on street given the narrow width of Prince Alfred Parade and the historical prevalence of illegal kerbside parking activity on street within proximity to the Royal Motor Yacht Club.

The Pittwater DCP does not provide rates for parking requirements for Clubs however refers applicants to the TfNSW *Guide to Traffic Generation Developments*. This guide advises that parking must be provided to satisfy the average maximum demand and recommends that the characteristics of the proposed development be taken into account with comparisons drawn with similar clubs. As the proposed 2 storey extension is largely for dining and social purposes parking rates drawn from those for a restaurant use might be appropriate i.e the greater of 15 spaces per 100m² of GFA or 1 space per 3 seats. The TfNSW Guide advises that parking rates for clubs should not be determined merely on the basis of floor areas or

The demand for carparking associated with the proposal has been considered in Section 5.5.2 of this Statement and in the Traffic and Parking Assessment prepared by *Traffix*.

Table 2 Pre-Lodgement Meeting

membership numbers but that the parking requirements relate more to the types of services offered. Parking occupancy surveys undertaken over several weekends at peak times (Spring/Summer weekend afternoons/early evening) should be used to determine existing average maximum parking levels on site with those parking demands adjusted to reflect increased demands generated by the proposed new or expanded facilities. Comparisons with similarly sized and located clubs offering a similar range of surveys could also be presented if appropriate.

Any additional parking must be designed to comply with AS2890.1 with provision made for disabled parking at a rate of 3% of the required parking for the new development work. Disabled parking spaces must be designed in compliance with AS2890.6 and an accessible path of travel must be available from those spaces into and through the buildings via pathways and/or lifts

Parking for motorcycles at a rate of 1 space per 100 motor vehicle spaces is required - There must be adequate provision off-street for the parking of delivery and service vehicles with these spaces located within appropriate proximity to the buildings being served.

Details with regard to the proportion of parking allocated to members and visitors and adequacy of each (based upon surveyed occupancy data) to support anticipated post development demands is also required.

Some analysis of the proportion of club use by patrons arriving by boat should be undertaken with details also provided in terms of the numbers who might arrive and leave by boat and those who might arrive and/or depart by car. Again, such numbers should be determined on the basis of surveys of marina users.

Traffic generation	Traffic generation from the expanded club should be estimated based upon surveys of existing vehicle movements from the existing site and factored up to cater for increased use generated by the expanded facilities.	For consideration of this issue, refer to the Traffic and Parking Assessment report prepared by <i>Traffix</i> and submitted with the application for consideration of traffic generation associated with the proposed development.
Alternative transport	An outline of any measures such as club shuttle buses, ride sharing facilities, walking and cycling facilities which might be in use or are proposed to reduce parking and traffic demands should also be provided.	The RMYC provides several transport options for members to travel to the club's premises. These are detailed in Section 5.5.2 of this Statement.



Table 2 Pre-Lodgement Meeting

Construction management	<p>Given the steeply sloping nature of the site and the difficult site access arrangements management of construction related traffic and parking impacts will be critical. Parking for construction workers will need to be accommodated on site, construction vehicles will also need to be accommodated on site and will need to be sized appropriately to ensure that they can enter and exit the site in a forward direction and manoeuvre safely within the site boundaries.</p> <p>A Construction Traffic management Plan will be required and is normally lodged for Council's consideration and approval in response to a condition of consent prior to commencement of any works.</p>	<p>Refer to the Construction Traffic Management Report prepared by <i>Traffix</i> for consideration of management of construction traffic and access to the site during construction work.</p>
Bushland and biodiversity	<p>It appears that this proposal will have no impact on native vegetation or terrestrial wildlife habitat. We therefore don't need to attend the PLM but I will be available via Teams if any questions arise.</p> <p>The Statement of Environmental Effects must address compliance with relevant terrestrial biodiversity controls which are:</p> <ul style="list-style-type: none">• Pittwater LEP Clause 7.6 Biodiversity Protection• Pittwater DCP Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community• SEPP (Resilience and Hazards) as per Coastal comments	<p>The proposed development will not no impact on any existing native vegetation or bushland area either on or adjacent to the site.</p>
Coasts and catchments	<p>The proposed development is located within the coastal zone of NSW and is subject to the provisions of the <i>Coastal Management Act 2016</i> (CM Act) and <i>State Environmental Planning Policy (Resilience & Hazards) 2021</i> (SEPP Resilience and Hazards).</p> <p>Under the SEPP R&H, the subject site has been included on the Coastal Environment Area Map as well as the Coastal Use Area Map, as such the requirements of section 2.10 and 2.11 apply. The objectives and requirements of both the CM Act and the SEPP (R&H) must be addressed within the Statement of Environmental Effects (SEE) Report as they relate to development within these coastal management areas. In addition, the general SEPP (R & H) clause 2.12 relating to an increase in risk of coastal hazards must also be addressed within the SEE report.</p>	<p>The requirements of Clauses 2.10 to 2.12 of SEPP Resilience and Hazards have been addressed in Annexure A of this Statement.</p>
Estuarine risk management	<p>Estuarine Hazards</p> <p>The subject property has been identified as</p>	<p>The requirements of Pittwater 21 DCP have been considered in Section 5.2.7 of this</p>



Table 2 Pre-Lodgement Meeting

being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any development of the site.

Estuarine Planning Level (EPL)

Based on the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015) and assuming design life of the new construction is more than 30 years, a base estuarine planning level (EPL) of RL 3.14m AHD has been adopted by Council for the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.05m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.0m.

If the ground floor level of the proposed developments are located above the provided EPL, no **Estuarine Risk Management Report** will be needed. Otherwise, the applicant also needs to submit an Estuarine Risk Management Report.

Development on Foreshore Area

A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 – Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.

The objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014 needs to be addressed within the **Statement of Environmental Effects (SEE) Report** as they relate to development within the foreshore area.

It should be noted that Clause 7.8 of the Pittwater LEP 2014 restricts extension into the foreshore area.

All maps and drawings should indicate the Foreshore Building Line.

Statement.

The proposal has a FFL of RL 2.5m.

The EPL of RL 3.14m is reduced to RL 2.84m.

An Estuarine Risk Management Report has been prepared by *Horton Coastal Engineering* and is provided with the application.

Concluding comments

The proposed expansion of the building footprint should be limited to only those areas which have existing consent within the foreshore area. Furthermore, Council has concern with the introduction of a two-storey element to replace an existing single storey (shade structure) which

Council's comments regarding the development upon this site and the location of the proposal in respect of the FSBL are noted. Refer to the detailed consideration provided within the Statement and the justification for the non-compliance with the



Table 2 Pre-Lodgement Meeting

currently occupies the foreshore area and the increased height of the buildings reducing further the openness of the foreshore area and challenging the existing scale of buildings within this area.

Should the applicant pursue the proposal, a well-founded Clause 4.6 variation request must be submitted, traffic and parking must be highly resolved and the architectural style of the buildings must clearly demonstrate an enhancement to the scenic qualities of the Pittwater Foreshore character and waterways locality.

FSBL at **Annexure C**.





3. Site Analysis and Context

3.1 THE SITE

The subject site is large and has a principal frontage to Prince Alfred Parade with direct access to the foreshore areas of Pittwater. The site has been used for the purpose of a registered club since approximately 1927.

The site is known as No 46 Prince Alfred Parade, Newport and is legally described as the seven parcels that are indicated in Table 3 below:

Table 3 Site Description		
Lot / DP	Land Owner	Approximate Site Area
Lot 3 DP 225339	Royal Motor Yacht Club Broken Bay	1,152m ²
Lot 7 Sec 1 DP 4689	Royal Motor Yacht Club Broken Bay	1,410m ²
Lot 262 DP 752046	Royal Motor Yacht Club Broken Bay	5,640m ²
Lot 5 Sec 1 DP 4689	Royal Motor Yacht Club Broken Bay	2,770m ²
Lot 6 DP 110670	Royal Motor Yacht Club Broken Bay	3,111m ²
Lot 3 DP 791314	Royal Motor Yacht Club Broken Bay	954m ²
Lot 329 DP 824292	The State of New South Wales (leased to Royal Motor Yacht Club until 9 January 2044).	35,330m ²
Lot 330 DP 824292	The State of New South Wales (leased to Royal Motor Yacht Club until 9 January 2044).	870.6m ²

The location of the site is illustrated in **Figure 1** below, where the site is outlined in red.





Figure 1 Aerial image of the subject site and surrounds (source: Nearmap).

The site is an irregular shaped lot and has a total area of 5.1 hectares. It has a street frontage to Prince Alfred Parade of approximately 49.5m. The site has a southern boundary length of 77.05m and a western boundary length of 83.58m. The site includes a 3.533 hectare area of Pittwater leased from NSW Government until 2044 for the purpose of a marina and boat berthing facilities.

The existing development on the site comprises a part three/four storey building occupied by the club facilities including recreational areas, dining areas and kitchen, function rooms, bar and administration offices. External areas include a swimming pool, marina facilities and an at-grade carparking area for 290 cars.

The site has an area of 51,754m² and slopes significantly from the roadway towards the foreshore. The vehicular driveway provides access to an upper car parking area located adjacent to the main club entrance. The driveway descends to a main lower carpark for boat owners and the marina part of the site including boat storage areas, berths and boat repair facilities.

Sydney Water's Newport sewerage pumping station is located adjacent to the site's north-eastern boundary on Lot 1 DP 791314. Adjacent to the site's south-eastern boundary is an Ausgrid electricity substation that stands on Lot 7 DP 4689. Both of these infrastructure assets involve registered easements that affect part of the subject site.

Photographs of the subject site are provided at **Figures 2 to 6**.



Figure 2 Main vehicular entrance to RMYC from Prince Alfred Parade



Figure 3 RMYC building viewed from upper carparking area



Figure 4 Swimming pool area viewed from upper floor of RMYC



Figure 5 RMYC swimming pool and outdoor recreation facilities.



Figure 6 Undercover seating area adjacent to swimming pool

Figures 5 and 6 show the existing development located around the swimming pool which includes several large fixed umbrellas, children's playground, an amenities block and a small food outlet (pizzeria).

3.2 SURROUNDING DEVELOPMENT

Adjoining the subject site is low scale residential development characterised by single and two storey detached houses.

To the south of the site, at No 44 Prince Alfred Parade, is a two-storey rendered dwelling. Adjacent to the site's western boundary, at No 48 Prince Alfred Parade, is a two-storey brick residence with tiled roof.

In the vicinity of the subject site is the Royal Prince Alfred Yacht Club (located approximately 500m to the south) which offers a similar range of facilities for members including, recreational sailing on Pittwater, associated marine services for boat owners and entertainment facilities such as functions and dining within the club's premises.

Photographs of development surrounding the subject site are shown in **Figures 7 to 9**.

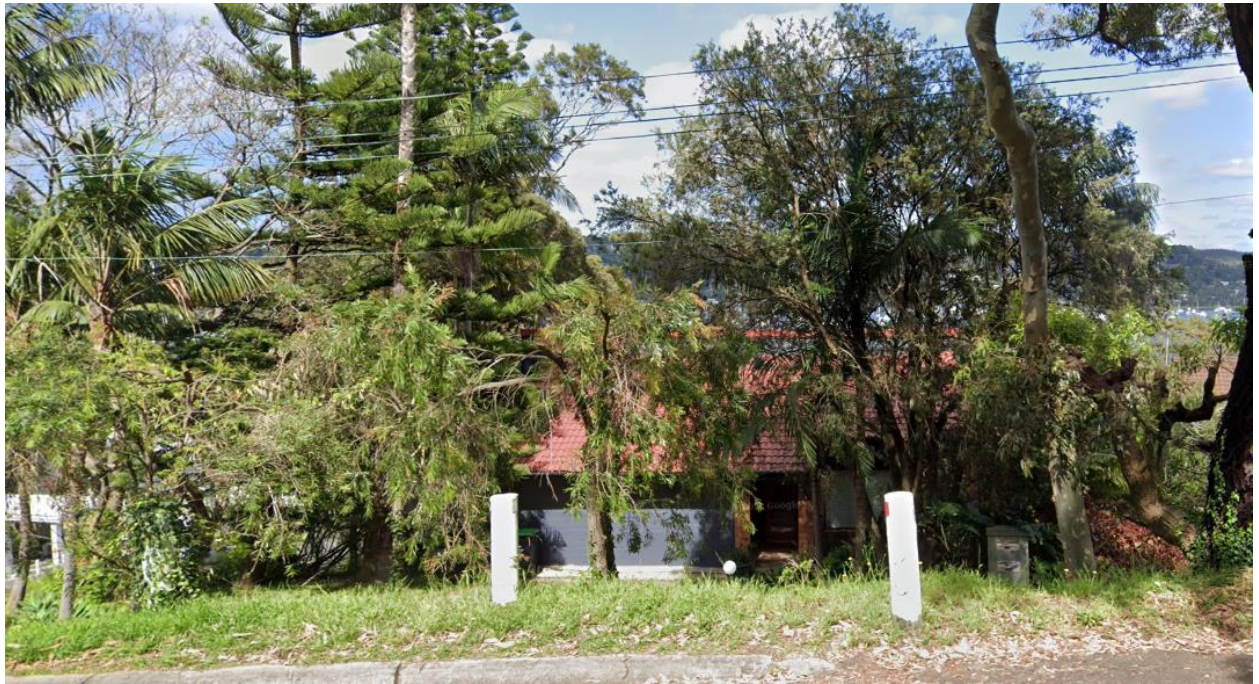


Figure 7 Dwelling house at No 48 Prince Alfred Parade viewed from street



Figure 8 Dwelling house at No 44 Prince Alfred Parade viewed from street



Figure 9 Dwelling house at No 51 Prince Alfred Parade viewed from the RMYC driveway

3.3 CONNECTIVITY AND ACCESS TO PUBLIC TRANSPORT

The subject site is located approximately 2.1km to the west of Newport local centre and 4.8km to the north west of Mona Vale town centre.

The subject site is located approximately 1.5km from a bus stop located on Gladstone Street that is serviced by regular bus services on the 199 bus route between Manly and Palm Beach. Due to the poor public transport service in the area, the RMYC provides a shuttle bus for club members that provides point to point transport within the surrounding area. This is a highly patronised service that operates during the club's peak operating times.

All relevant utility services including water and sewer from Sydney Water, electricity supply from Ausgrid and telecommunications services are available and connected to the property. The site has stormwater drainage services provided by Northern Beaches Council.



4. Description of the Proposal

4.1 SITE HISTORY

The subject site has been continuously used as a club and marina for more than 90 years. Table 4 below provides a list of relevant building and development applications for the site.

Table 4 Site History			
Application Number	Description	Date	Decision
n/a	Original clubhouse and jetty constructed	1928	
n/a	Clubhouse rebuilt	1935	
n/a	Starters tower constructed	1936	
n/a	Reclamation of part of Horseshoe Bay to provide additional on-site carparking area.	1960-64	
A539/63	Additions to clubhouse	1963	Approved
A64/67	Extension of marina facilities	1967	Approved
52/69	New entrance gate box	1969	Approved
796/69	New dinghy storage area and racks	1969	Approved
733/495	Sewerage pumping station	1980	Approved
DA87/337 BA 2361/87	Retaining wall	1987	Approved
DA88/322 BA1241/89	Relocation of slipway and minor reclamation adjacent to wharf	1988	Approved
DA9050/92	Yacht club alterations and additions	27 August 1992	Approved
JC2/0268/95	Replace existing timber wharf with concrete wharf the replacement of existing timber wharf with concrete wharf construction to match existing wharf size and location.	January 1996	Withdrawn
IF2/0113/96	Alterations and Additions - additions to clubhouse refurbishments and additions to club house.	23 December 1996	Approved
Consent 96/160	Alterations and additions to	1997	Approved



Table 4 Site History

DA1996/113	existing yacht club		
Consent 97/45 DA1997/12	Alterations and Additions - replacement of existing underground fuel tanks replacement of existing underground fuel tanks at the Royal Motor Yacht Club.	30 April 1997	Approved
IF2/0082/98	Alterations and Additions - street entrance, landscaping, retaining walls & signage construction of a street entrance, incorporating landscape beds and retaining walls and signage.	Unknown	Unknown
N0069/99	Construction of a brokerage office in the marina area of the Royal Motor Yacht Club	26 March 1999	Approved
DA862/99	Rigging deck and launching ramp	13 October 1999	Approved
N1224/99	Extension of existing southern jetty westward by approximately 45m to the existing lease boundary. Proposed jetty extension to match existing	11 April 2000	Withdrawn
DA733/00	Amenities shed for general storage and dinghy racking and new sewer waste pump station	7 December 2000	Approved
DA900/00	Bistro, open terrace lounge and single storey facilities.	27 February 2001	Approved
DA133-3-2003	Refurbishment and minor additions to part of the existing marina, removal of fixed walkways and berths and replacement with floating pontoon marina berths to increase berths from 204 to 218.	September 2003	Approved.
N0320/10	Minor alterations to the existing gaming level within the existing Royal Motor Yacht Club	16 August 2010	Approved
T0330/14	Tree Application - Tree/Bushland Works	16 July 2014	Approved
DA379/2015	Alter and extend berthing and mooring facilities	May 2017	Approved by Land and Environment Court of NSW

4.2 THE PROPOSAL

The development application involves both internal and external alterations and additions to the Royal Motor Yacht Club Broken Bay (RMYC) facilities located at 46 Prince Alfred Parade, Newport.

Specifically, the proposal seeks to enlarge the footprint of the club premises with a two-storey extension located on the western side of the existing building that will wrap around the swimming pool and outdoor recreation area. The extension involves new dining facilities and lounge/bar area as well as a roof top terrace.

A detailed description of the key aspects of the proposal are provided below:

Ground Floor (RL 2.5m)

- Casual dining area – approximately 12 tables
- Café and deli
- Playground
- Yacht brokerage
- Entry lobby and club reception
- Refurbishment of existing area for new spa and gymnasium
- Installation of new lift

First Floor (RL 5.83m)

- Dining area – approximately 20 tables
- Outdoor terrace – approximately 4 tables
- Lounge area – approximately 14 tables
- Bar
- Kitchen
- Refurbishment of existing amenities
- Installation of new lift

Second Floor (RL 10.440m)

- Outdoor roof terrace – approximately # tables
- Installation of new lift.

4.2.1 Tree Removal

The proposed development does not propose the removal of any trees from the site.

4.2.2 Building Arrangement and Configuration

The proposal involves the construction of a new two storey extension located to the west and north-west of the existing club building. The works will enclose the existing swimming pool on its southern and western sides.

It is proposed to relocate the existing café located on the ground floor into the new extension to take advantage of the outlook over the swimming pool and gain improved natural light into this space. The area currently occupied by the café and dining area will become a health centre (204m²) providing members with a gymnasium, spa and yoga facilities. A new yacht brokerage office (59m²) will be provided to the west of the café area.

The existing first floor of the club will be unchanged except for the refurbishment of the amenities adjacent to the club's lounge. A new accessible connection will be provided to the new restaurant/dining area that will be an area of approximately 201m² and seating area for approximately 60 patrons. A small outdoor seating area (43m², with capacity for 4 tables) will be provided at the northern end of the building.

The second floor of the club will essentially be unchanged apart from a new lift and lobby area adjacent to a 242m² roof terrace located near the club's main existing function room.

Table 5 Allocation of Gross Floor Area

Areas	Existing floor areas (m ²)	Proposed floor area (m ²)	Change (m ²)
Ground Floor	1,417	1,476	+59
First Floor	864	1,535	+671
Second Floor	710	753	+43
Third Floor	113	113	0
Total	3,104	3,877	+773

Architectural plans prepared by *MCHP Architects* are provided in **Figures 10 to 12**.

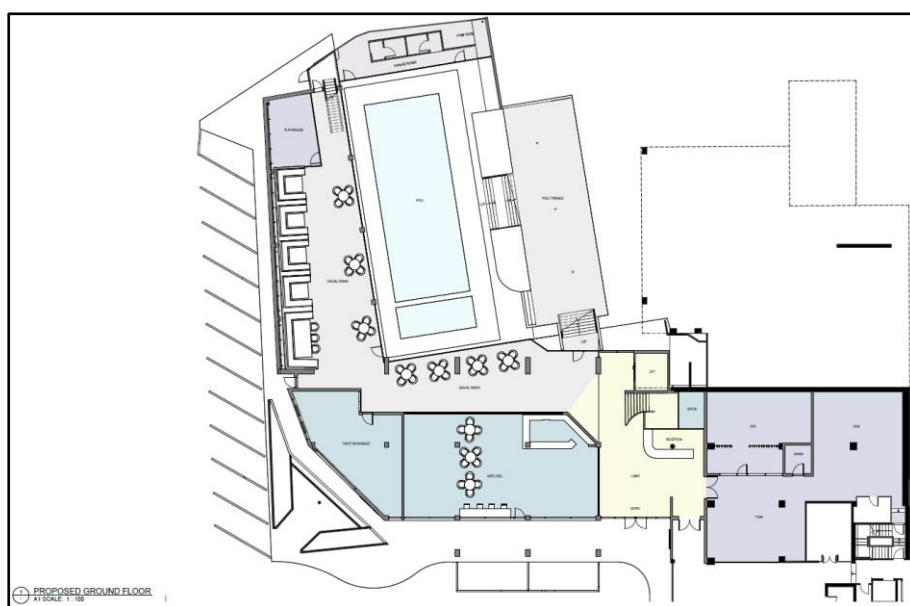


Figure 10 Proposed Ground Floor Plan (Source: MCHP Architects)

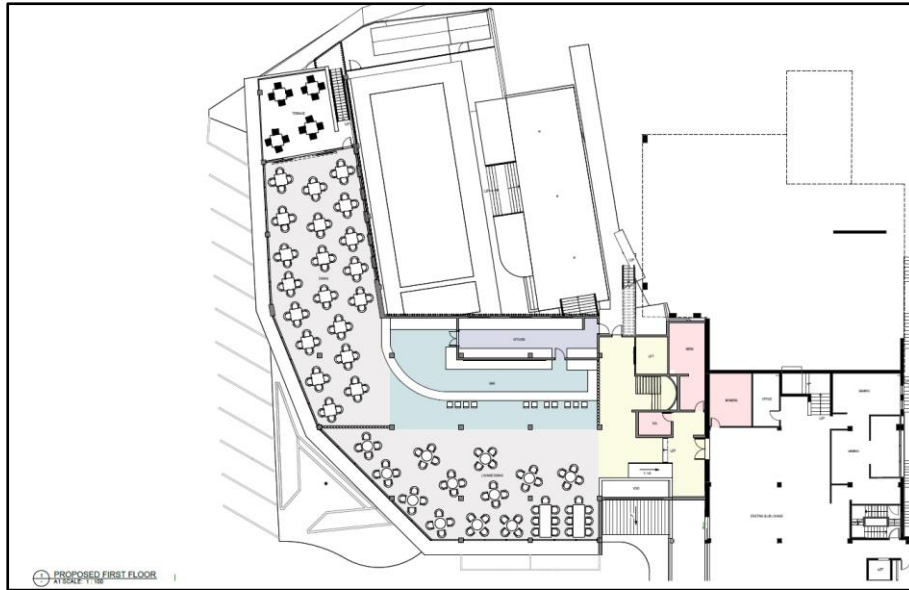


Figure 11 Proposed First Floor Plan

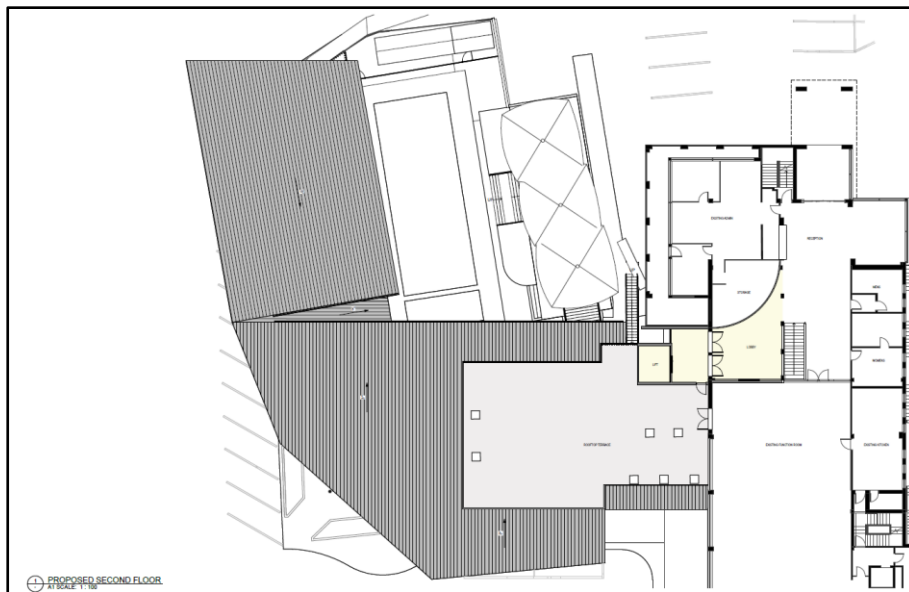


Figure 12 Proposed Second Floor Plan

4.2.3 Operational Matters

The proposed development is intended to offer greater amenity to the club's membership compared to the current dining and entertainment facilities without any proposed increase in the number of patrons on the premises. The extension of the club's social facilities will ensure that the club can continue to meet the needs of its membership in terms of providing a high-quality social venue aimed at the club's main demographic that is seeking an alternative to other registered clubs in the local area. The Club offers a facility whereby patrons can engage in multiple activities, genuinely a community recreation facility and meeting place, with an underlying connection to boating. It is noted that although the venue will offer multiple dining and entertainment spaces for its members, it needs to be recognised that

many of these spaces will not be used concurrently with some of these spaces only used at particular times of the day or the week and not in use when other spaces are being used.

Table 6 below provides a description of the intended function of the key spaces within the proposal.

Table 6 Description of key areas within proposed development	
<i>Proposed Area</i>	<i>Description of proposed use, including approximate capacity and hours of use</i>
Ground Floor Casual Dining	This area will offer members a very casual dining experience including lunch service. It will be for the consumption of light snacks only. This space will have a capacity of 60 members seated at tables and chairs. The space will provide a family-friendly dining experience and there will be a small children's playground located nearby.
Ground Floor Deli	This area will offer members a range of snacks and beverages during daylight hours including light meals associated with the use of the swimming pool and the marina facility. The deli will sell light snacks such as juices, coffee, sandwiches, wraps, sushi, pies, etc.
Ground Floor Pool Deck	This area will comprise a casual space for members to sit and relax beside the swimming pool. There will be seating, pool lounges and cabanas available for members to sit whilst using the pool swimming facility and adjacent café/deli. The capacity of this area will be approximately 50 persons and will primarily be used in the summer months.
Ground Floor Gymnasium and health centre	This space will provide a boutique health and wellness centre for members (including yoga classes) and will be available during club's trading hours. This area will have a maximum capacity of 10-15 persons.
Ground Floor Providore	This space will provide a small range of grocery items and other household products for the boating community using the marina. The area will not operate as a general retail shop and will be aimed specifically at the club's boating community. This area will generally operate from 8:00am to 6:00pm every day.
First Floor Dining and Outdoor Terrace	This space will be main dining and social area for club members. This area will provide approximately 30 tables and will have seating capacity for approximately 120 members as both a casual dining and a more formal restaurant space. A less formal space is provided for members to consume beverages and interact with other members.
Second Floor Outdoor Terrace	This space will only be used in association with the adjacent function room as part of booked functions such as weddings, parties and corporate events. The outdoor terrace can accommodate approximately 50 guests seated or 80 guest standing. This area will generally be for wedding ceremony and guests will proceed into the function room and the doors will be closed after 7:00pm. Limited amplified music, comprising a soloist or small jazz quartet will be played in this area during daylight hours and up until 7:00pm.

4.2.4 Deep Soil and Landscaping

The landscape design is detailed in the Landscape Plan prepared by *Landart Landscape Architects* and is submitted with the development application.

An extract of the landscape plan is shown in **Figure 13**.

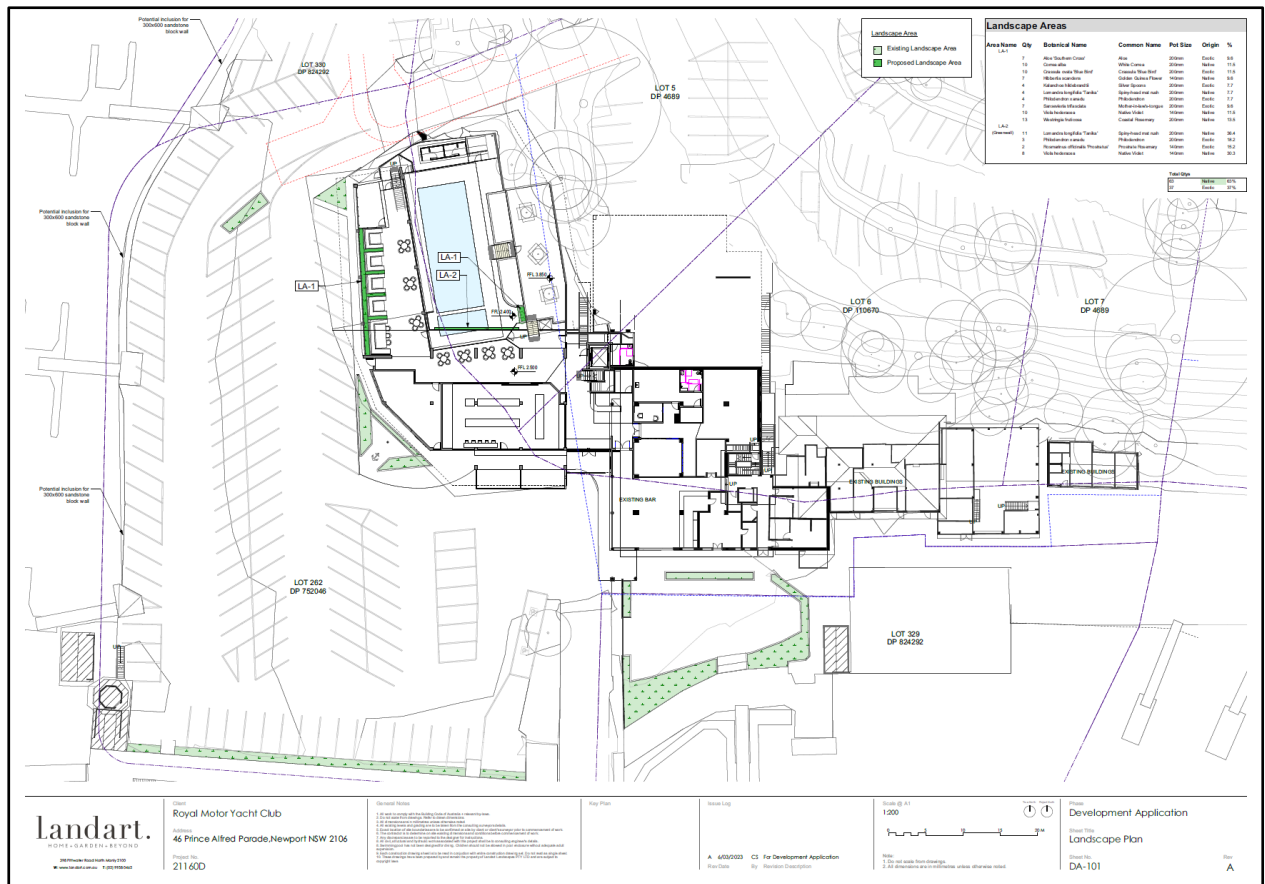


Figure 13 Landscape Plan (source: Landart Landscape Architects)

4.2.5 Waste Management

The proposal involves the existing waste storage and collection arrangements that are in place for the club being continued. The details of the proposed waste management arrangements are set out in the Operational Waste Management Plan prepared by *Elephants Foot Consulting*.

4.2.6 Water Management

Civil and stormwater plans have been prepared by *Martens & Associates Consulting Engineers* and are submitted with the development application.

The stormwater plans indicate that roof and surface stormwater runoff from the proposed development can be conveyed into the site's existing drainage system that is located within the site. As required by Council's planning controls, the proposal involves measures to improve the quality of stormwater that is discharged from the site. Modelling prepared by indicates that the treatment train effectiveness of the post-development mode includes a reduction 85% reduction in total suspended solids, 79% reduction in Phosphorous, 51% reduction in Nitrogen and 100% reduction in gross pollutants.

5. Environmental Planning Assessment

5.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 4.15 of the EP&A Act, 1979.

5.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 4.15(1)(a) of the EP&A Act, 1979, are identified in **Table 7** below.

Table 7 Section 4.15 Matters for Consideration				
EP & A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.4.15(1)(a)(i)	SEPP (Biodiversity and Conservation) 2021	✓	✓	
"	SEPP (Resilience and Hazards) 2021	✓	✓	
"	SEPP (Industry and Employment) 2021	✓	✓	
	SEPP (Planning Systems) 2021	✓	✓	
"	SEPP (Transport and Infrastructure) 2021	✓	✓	
"	Pittwater Local Environmental Plan 2014	✓	✓	
S.4.15(1)(a)(iii)	Pittwater 21 Development Control Plan	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter: – AS 2601-1991: Demolition of structures.	✓		

The matters identified in the above Table as requiring specific comment are discussed below. The primary statutory documents that relate to the subject site and the proposed development are *Pittwater Local Environmental Plan 2014 (PLEP 2014)*. The primary non-statutory plans relating to the subject site and proposed development is the *Pittwater 21 Development Control Plan (Pittwater 21 DCP)*. An assessment of the applicable provisions of these documents and other relevant planning instruments is provided below.

5.2.1 Integrated Development – Water Management Act 2000

The proposed development is situated on *waterfront land* as defined in the *Water Management Act 2000* (WM Act), being within 40m of mean high water level. Section 91(2) of the WM Act provides for controlled activities to carry out a specified controlled activity at a specified location in, on or under waterfront land. Referral of the application to the Natural Resources Access Regulator (NRAR) is required requesting its General Terms of Approval.

The proposed works will not have any detrimental impact upon the existing waterfront land which is covered in concrete and used as a carpark for the adjacent marina/yacht club. There is not significant vegetation between the proposed development and the Pittwater shoreline and no opportunity for restoration of the riparian corridor.

5.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) was notified in October 2021 and commenced on 1 March 2022. The SEPP consolidated the provisions of the following ten instruments:

- *SEPP (Vegetation in Non-Rural Areas) 2017*
- *SEPP (Koala Habitat Protection) 2020*
- *SEPP (Koala Habitat Protection) 2021*
- *Murray Regional Environmental Plan No 2 – Riverine Land*
- *Greater Metropolitan Regional Plan No 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River (No 2-1997)*
- *SEPP No 19 – Bushland in Urban Areas*
- *SEPP (Sydney Drinking Water Catchment) 2011*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property*

The following provisions of the SEPP are relevant to the proposed development:

5.2.1.1 Chapter 2 - Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP replaced the former *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*. This intention of the policy is to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The proposed development does not involve the removal of tree or other significant vegetation on the site.

5.2.1.2 Chapter 6 Water Catchments

Although the Hawkesbury Nepean Catchment applies to certain parts of the Northern Beaches LGA, specifically the Berowra Creek catchment, these regulated catchment controls do not apply to the Pittwater waterway. Nevertheless, the proposal includes stormwater treatment measures to ensure that stormwater runoff entering Pittwater waterway are of a higher quality than the pre-development scenario.

5.2.3 State Environmental Planning Policy (Industry and Employment) 2021

State Environmental Planning Policy (Industry and Employment) 2021 was notified in October 2021 and commenced on 1 March 2022. The SEPP consolidated the provisions of the following instruments:

- *SEPP No 64 – Advertising and Signage*
- *SEPP (Western Sydney Employment Area) 2009*

The following provisions of the SEPP are relevant to the proposed development.

5.2.2.1 Chapter 3 - Advertising and Signage

This chapter provides planning controls that regulate the form and content of advertising signage that is visible from a public place, including waterways.

The proposal does not involve the erection of any new advertising signs on the site. Any new advertising signage on the site will be the subject of a separate application to Council.

5.2.4 State Environmental Planning Policy (Planning Systems) 2021

State Environment Planning Policy (Planning Systems) 2021 was notified in October 2021 and commenced on 1 March 2022. The SEPP consolidated the provisions of the following three instruments:

- *SEPP (State and Regional Development) 2011*
- *SEPP (Concurrences and Consents) 2018*
- *SEPP (Aboriginal Land) 2019*

The following provisions of the SEPP are relevant to the proposed development.

5.2.3.1 Chapter 2 – State and Regional Development

Clause 2.6 and Clause 2.19 of the SEPP identify the categories of development that are State significant and regionally significant development respectively.

Based on the QS report prepared by *WT Partnership*, the proposal has a capital investment value ("CIV") of \$10,230,000.

Therefore, as the CIV is below \$30 million, under Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021*, the proposal is not identified as regionally significant development. As such, the proposal will be assessed by Northern Beaches Council and determined by the Northern Beaches Local Planning Panel.

5.2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 was notified in October 2021 and commenced on 1 March 2022. The SEPP consolidated the provisions of the following three instruments:

- *SEPP (Coastal Management) 2018*
- *SEPP No 55 – Remediation of Land*
- *SEPP No 33 – Hazardous and Offensive Development*

The following provisions of the SEPP are relevant to the proposed development:

5.2.4.1 Chapter 2 – Coastal Management

This Chapter aims to promote both a coordinated and integrated approach to land use planning that is consistent with the objectives of the *Coastal Management Act 2016*. Given the site's location on the foreshores of Pittwater, Chapter 2 is a relevant matter to be considered.

The site is located within both the Coastal Environment Area and the Coastal Use Area. The following provisions of the SEPP must be considered when assessing the proposed development:

- Clause 2.10 Development on land within the coastal environment area,
- Clause 2.11 Development on land within the coastal use area, and
- Clause 2.12 Development in coastal zone generally – development not to increase risk of coastal hazards

The requirements of these clauses are considered in **Annexure A**.

5.2.4.2 Chapter 4 - Remediation of Land

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* replaced the former State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55). All of the provisions of SEPP 55 were transferred into the new Policy.

Clause 4.6 of the SEPP requires the consent authority to not grant consent to any development on land unless:

- (a) *It has considered whether the land is contaminated, and*
- (b) *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *If the land requires remediation to be made suitable for the purpose for which is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Preliminary Site Investigation (PSI) has been prepared in respect of the subject site by *JK Environments (JKE)* and is submitted with the development application.

The PSI has found that based on the scope of work undertaken there is potential for contamination on the site. However, the PSI makes the following statements regarding the risks associated with the presence of such contamination on the site:

“There was no soil contamination identified that was considered to pose an unacceptable risk to groundwater and the groundwater did not exhibit indicators of contamination based on observations from the boreholes.

The boreholes confirmed the presence of imported fill which correlated with the site observations and observations of historical aerial photographs review regarding historical land reclamation

Pesticides were not detected in the samples. However sampling beneath the building did not occur.

The fill did not contain significant building and demolition rubble inclusions and there was not fibre cement/suspected ACM observed during the field asbestos quantification sampling. However, sampling did occur from boreholes which only provides a limited visual assessment of the fill.

Soil contaminant concentrations were low and there were no hydrocarbon odours or hydrocarbon staining observed in soils.

In light of the above and the overall findings of the PSI, we consider that the potential for soil contamination to pose an unacceptable risk to the receptors in the context of the proposed land use is very low.

The PSI did not identify any triggers for remediation. Therefore JKE is of the opinion that the site is suitable for the proposed development, from a contamination viewpoint. There is a potential for unexpected finds on site and this can be managed via the development and the implementation of a suitable Unexpected Finds Protocol so that risks from potential contamination remain low and acceptable”.

Based on the findings above, and having regard to Clause 4.6 of the Resilience and Hazards SEPP, the consent authority can be confident that the land to be developed will be made suitable for the proposed purpose following remediation works identified above.

5.2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 was notified in October 2021 and commenced on 1 March 2022. The SEPP consolidated the provisions of the following four instruments:

- *SEPP (Educational Establishments and Child Care Facilities) 2017*
- *SEPP (Infrastructure) 2007*
- *SEPP (Major Infrastructure Corridors) 2020*
- *SEPP (Three Ports) 2013*

The following provisions of the SEPP are relevant to the proposed development.

5.2.5.1 Chapter 2 Infrastructure

Clause 2.48 applies to a development application for development that comprises the following:

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists)*

The proposed development involves works that will be in close proximity of the following:

- *registered "easement for electricity purposes 2m wide (DP 791314)"*
- *registered "easement for access, electricity and services 6 wide and variable (DP791314)".*

Accordingly, the development application will require notice to be given to the electricity supply authority for the area (we understand the relevant electricity supply authority for the local area is Ausgrid) inviting comments about potential safety risks to this infrastructure.

5.2.7 Pittwater Local Environmental Plan 2014

The provisions of the *Pittwater Local Environmental Plan 2014* (PLEP 2014) apply to the subject site.

Under PLEP 2014, the subject site is within Zone RE2 Private Recreation, as indicated on the *Land Zoning Map*. The proposed development is characterised as a Registered Club which is a type of land use that is permitted with consent.

The objectives of Zone RE2 are as follows:

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

The proposed development is consistent with the above objectives as it will support the land being utilised for recreational purposes at a scale that is appropriate for the location, setting and activities within the site and also compatible with adjoining land uses. The proposal will enhance the recreational offering for members and guests, whilst not introducing new impacts or increasing any natural environment impacts. The proposal will occupy and existing developed area on the foreshore and has been designed in a manner to enhance the architectural contribution of the Club within its broader urban setting, with a scale and character that is appropriate to its long-standing, evolving and ongoing use.

Clause 7.8 Limited development on foreshore area

The primary aim of Clause 7.8 is to ensure that development within the foreshore area does not impact on natural waterway processes or affect the significance and amenity of the area. The objective of the clause is achieved through a restriction on the types of development that can be built forward of the Foreshore Building Line (FSBL) that is indicated on the LEP's *Foreshore Building Line Map*.

The clause states:

- “(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—*
- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
 - (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

An extract from the Foreshore Building Line Map within the Pittwater LEP is provided in **Figure 14**.



Figure 14 Alignment of LEP Foreshore Building Line through subject site

The proposed development is located forward of the building line as indicated in **Figure 15**.

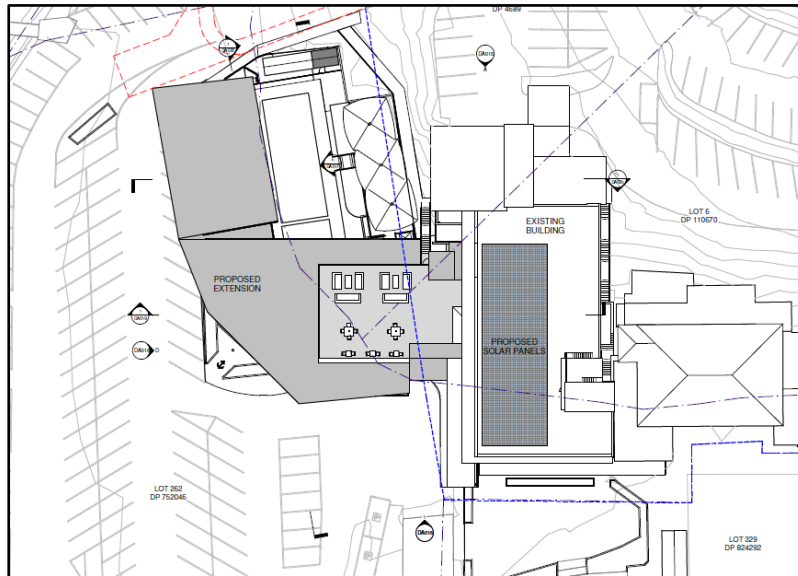


Figure 15 Relationship of the proposed development to the Pittwater LEP FSBL (blue line).

As can be seen in **Figure 15**, the majority of the proposed development will be erected within the foreshore area upon part of the site currently occupied by an existing solid platform forming the club's pool surrounds, permanent shade structures, ancillary buildings and car park which effectively is a part of the overall building on the site. That is, these existing structures forms the overall building footprint of the existing Club premises. The proposal will not extend the footprint of the Club.

Should Council take a different interpretation to characterising the overall building footprint, not as a building, the proposal may not satisfy 7.8(2)(a). In which case, it is acknowledged that the Foreshore Building Line is a development standard that can be varied under Clause 4.6 (as identified in the Pre-lodgement meeting – see Section 2.1). In the interests of abundant caution, a Clause 4.6 variation request addressing the non-compliance with the Foreshore Building Line is provided in **Annexure C**. The proposal is also consistent with the draft Pittwater Waterways Strategy 2038 which is a strategy intended to analyse the existing and desired future uses and character of the local waterways and reinforce the provisions of Clause 7.8. (see Section 5.6 of this Statement).

Other matters to be considered by the consent authority are provided in Clause 7.8(3). A response to these matters is provided in Table 8 below.

Table 8 Clause 7.8(3) Matters for Consideration

<i>Matter for Consideration</i>	<i>Comment</i>	<i>Complies</i>
The development will contribute to achieving the objectives for the zone in which the land is located,	<p>The proposed development provides facilities that will enable the land to continue to be used for recreational purposes without any detrimental impact upon surrounding land uses and the natural environment. The proposal, having regard to its height, footprint and appearance will be consistent with the existing scale of development on the site and will provide an acceptable level of integration with the site's topography and the bulk and scale of the existing building footprint and envelope.</p> <p>The proposal will replace existing built and permanent structures ancillary to the existing Club. The new building envelope will not exceed the height of the existing building nor will it extend the footprint into areas of the site which are not currently occupied by structures.</p> <p>The Visual Impact Assessment and Acoustic Reports demonstrate that the new works will be compatible with the scenic character and amenity of the site and surrounds.</p>	Yes
The appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area	Refer to visual impact analysis provided in Section 5.3.1.1	Yes
<p>The development will not cause environmental harm such as—</p> <p>(i) pollution or siltation of the waterway, or</p> <p>(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or</p> <p>(iii) an adverse effect on drainage patterns, or</p> <p>(iv) the removal or disturbance of remnant riparian vegetation</p>	<p>The proposed development will incorporate measures including stormwater management to protect water quality of Pittwater. There will be no works that will have adverse impact on surrounding uses, marine habitat, wetlands, flora and fauna. The proposed building footprint will enable retention of existing landscaped areas.</p>	Yes
The development will not cause congestion or generate conflict between people using open space areas or the waterway	<p>The proposal will not have any significant impact on the use of the nearby open space areas or the waterway itself.</p> <p>The proposal will not change the way in which navigable waters are used.</p>	Yes

Table 8 Clause 7.8(3) Matters for Consideration

<i>Matter for Consideration</i>	<i>Comment</i>	<i>Complies</i>
Opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised,	The proposed development is sited in a location where there is no continuous public access along the Pittwater foreshore. The proposed development is set back 30m from the foreshore of the waterway. The Club will continue to provide well-managed and controlled access to the foreshore for marine-related recreation.	Yes
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	Having regard to the design of the proposal and its location, the proposed works are unlikely to have any impact on historic, scientific, cultural, social, archaeological, natural or aesthetic significance of the land.	Yes
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.	The proposal involves alterations and additions to an existing building within the foreshore area. Refer to Section 5.3.1 of this Statement for consideration of its impact on the amenity and aesthetic appearance of the foreshore.	Yes
Sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.	Refer to Section 5.5.3 of the Statement for consideration of these matters.	Yes

Clause 7.8(4) requires the consent authority to consider whether, and to what extent, the development would encourage certain matters relating to public access along and within the foreshore. A response to those matters is provided in Table 9 below.

Table 9 Clause 7.8(4) Matters for Consideration

<i>Matter for Consideration</i>	<i>Comment</i>	<i>Complies</i>
Continuous public access to and along the foreshore through or adjacent to the proposed development.	There is no public access available along the foreshore land to the north or south of the subject site. Providing public access along the foreshore on the subject site would serve no benefit as it would not connect to any other land with public access.	Yes
Public access to link with existing or proposed open space.	The closest public open space areas to the subject site are over 500m away and there is no potential for a future connection linking those spaces.	Yes
Public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land.	Not applicable	N/A



Table 9 Clause 7.8(4) Matters for Consideration		
Matter for Consideration	Comment	Complies
Public access to be located above mean high water mark.	Not applicable	N/A
The reinforcing of the foreshore character and respect for existing environmental conditions.	Not applicable	N/A

A Compliance Table which considers the proposal against the provisions of PLEP 2014 is provided at **Annexure B**. The proposed development generally satisfies all relevant provision of PLEP 2014.

5.2.8 Pittwater 21 Development Control Plan

The *Pittwater 21 Development Control Plan* applies to all land to which the PLEP2014 applies, including the subject site.

A Compliance Table is provided at **Annexure D** and considers the proposal against the relevant controls of the DCP. The compliance table demonstrates that the proposal is largely consistent with relevant DCP controls. Areas of non-compliance are discussed and justified within the compliance table.

5.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

5.3.1 Topography & Scenic Impacts

Some minor excavation is proposed to provide the foundations for the extension to the RMYC building and this excavation will generally be located at a depth just below natural ground level apart from the excavation for the lift shaft which will extend to a depth of approximately 2 metres. The proposed excavation will not have any significant impact on local drainage conditions or other environmental impacts.

5.3.1.1 Visual Impact Analysis

Consideration of the proposal's visual impact is required by the following provisions of applicable environmental planning instruments:

- Pittwater LEP 2014 Clause 7.8(3)
- SEPP (Resilience and Hazards) 2021 Clause 2.11(a)(iii)
- Pittwater 21 DCP Clause D10.3

In this regard, the proposal is required to maintain the visual character of the locality and minimise visual impact to the natural environment when viewed from the waterway or public reserve.

The application is supported by visual impact analysis prepared by *MCHP Architects* on drawings 21-079 DA037-A to 21-079 DA404-A at **Annexure F**.

The following table describes the four (4) locations from which photographs were taken and the direction of these in relation to the project.





Table 10 Visual Impact Analysis Locations

<i>View Location No.</i>	<i>Location Details</i>	<i>Position in relation to site</i>	<i>Direction of photograph</i>	<i>Drawings Reference</i>
1	Bayview Reserve near Bayview Tennis Club 1672 Pittwater Road, Bayview	South	North	DA043-A DA044-A
2	Reserve near Gibson Marina, 1682 Pittwater Road, Bayview	South west	North east	DA037-A DA038-A
3	Griffin Park / Riddle Reserve 1816 Pittwater Road, Bayview	West	East	DA039-A DA040-A
4	Church Point Parking Area 1858B Pittwater Road, Church Point	North West	South east	DA041-A DA042-A

View 1: *Bayview Reserve No 1672 Pittwater Road, Bayview*

The following two images show View 1 taken from the southern shore of the waterway within Bayview Reserve which is located 1,000m to the south of the Royal Motor Yacht Club site. The view of the subject site is looking north across Pittwater across a large number of swing moorings located within the waterway. Having regard to the distance of the view any visual impact of the proposed development will be negligible from this location. The proposal is not considered to have an adverse impact.



Figures 16a and 16b Existing and proposed view of site from View 1 location at Bayview Reserve, Bayview





View 2: Reserve near Griffin Marina No 1682 Pittwater Road, Bayview

The two images below show a before and after perspective of the site taken from the southern shore of Pittwater near Griffin Marina which is located 895m to the south-west of the Royal Motor Yacht Club site. The view of the subject site is looking north-east across Pittwater across a large number of swing moorings located within the waterway as well as the existing marina at the site. Having regard to both the distance of the view and the height of the proposal, any visual impact of the extensions will be negligible from this location. The proposal is not considered to have minimal visual impact.



Figures 17a and 17b Existing and proposed view of site from View 2 location near Griffin Marina, Pittwater Road Bayview

View 3: Griffin Reserve/Riddle Reserve No 1816 Pittwater Road, Bayview

The following two images show View 3 taken from the southern shore of the waterway within Griffin Park which is located 500m to the west of the Royal Motor Yacht Club site. The view of the subject site is looking east across Pittwater across a large number of swing moorings located within the waterway. Having regard to the distance of the view any visual impact of the proposed development will be negligible from this location. The proposal is not considered to have an adverse impact.



Figures 18a and 18b Existing and proposed view of site from View 3 location near Griffin Park, Pittwater Road Bayview



View 4: Church Point Carpark No 1858B Pittwater Road, Church Point

The following two images show View 4 taken from the southern shore of the waterway within Church Point Carpark which is located 1,600m to the north west of the Royal Motor Yacht Club site. The view of the subject site is looking south east across Pittwater across several swing moorings located within the waterway. Having regard to both the distance of the view and the height of the proposal, any visual impact of the proposed extension will be negligible from this location. The proposal is not considered to have an adverse impact.



Figures 19a and 19b Existing and proposed view of site from View 4 location at Church Point Carpark, Pittwater Road, Church Point

5.3.2 Micro-climate Impacts

The proposed development will have no significant adverse impact on surface or ground water regimes. Therefore, no significant impact on local micro-climate is anticipated. The retention of all existing mature trees across the site will contribute towards maintaining the urban tree canopy and assist in climate control throughout the site.

5.3.3 Water & Air Quality Impacts

During construction, appropriate sediment and erosion controls will be installed and maintained to prevent migration of sediment from the site. Once constructed, roof and surface water from the development will be captured and connected to the site's existing stormwater system.

Stormwater plans prepared by *Martens Engineers* have been submitted with the development application. The plans demonstrate that in relation to Water Sensitive Urban Design (WSUD). The development has been designed to comply with Council's specifications for both water quality and quantity and therefore the proposal will have positive impacts on the water quality of the locality.

In terms of air quality, the site will be managed during construction to mitigate any potential impacts on air quality, particularly during demolition. It is expected that appropriate dust mitigation measures will be employed during construction. During operation, the proposed use is not anticipated to generate any unusual odour or fumes. The proposal is unlikely to have any notable impact on air quality.

5.3.4 Flora & Fauna Impacts

The proposal does not involve the removal of any trees or significant vegetation within the site to accommodate the proposed development. As the proposed works will be constructed on # no

5.3.5 External Appearance & Design

The proposed development will present as modest scale two storey building. The bulk, scale and setbacks of the development will be consistent and compatible with the existing development on the site and will therefore be characteristic of previous development approved on the site.

External materials and finishes have been selected to reflect the simple contemporary design of the building, complementing the existing club premises. External materials comprise a mixture of brick, aluminium windows and roofs.

The proposed building will sit comfortably within its surroundings, contributing to a high quality, modern and attractive design within the locality.

External facing elevations of the proposed development are provided in **Figures 20 to 24**.



Figure 20 Western elevation of proposed development (Source: *MCHP Architects*)



Figure 21 South-western elevation of proposed development (Source: *MCHP Architects*)



Figure 22 Southern elevation of proposed development (Source: *MCHP Architects*)



Figure 23 Eastern elevation of proposed development (*MCHP Architects*)



Figure 24 Northern elevation of proposed development (Source: *MCHP Architects*)

5.3.6 Solar Access

As demonstrated by the shadow diagrams prepared by *MCHP Architects*, the proposed development will not have any adverse overshadowing impacts beyond the boundaries of the subject site. The shadow diagrams also indicate that proposed development will have minor overshadowing impacts on the adjacent waterway at between 9am and noon at midwinter (21 June).

Figures 25 to 27 show the shadow impacts associated with the proposed development.

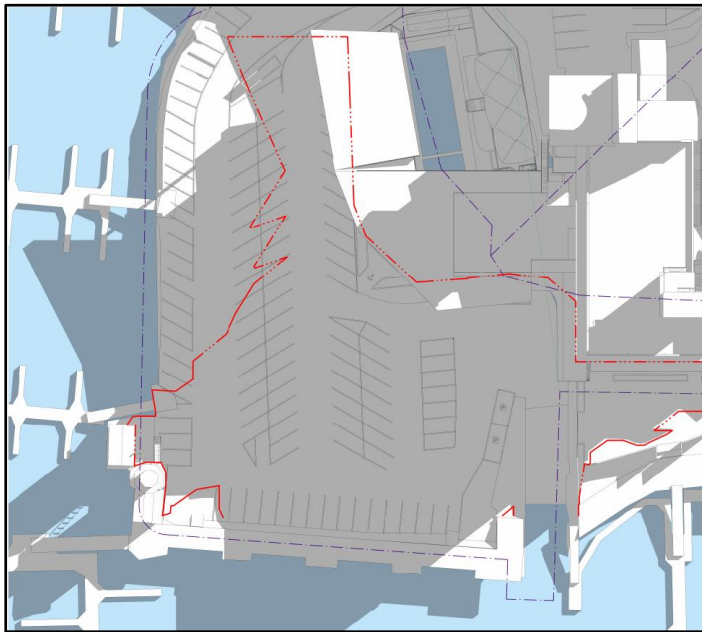


Figure 25 Extent of overshadowing at 9am at midwinter.

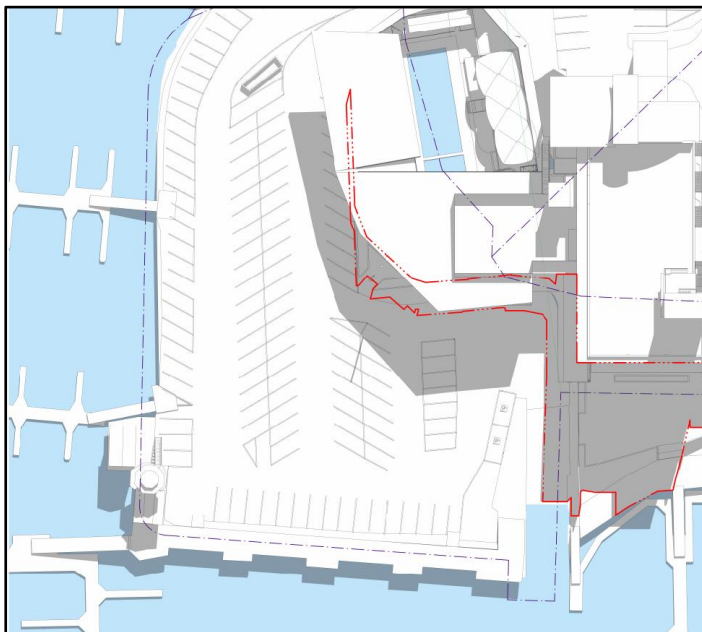


Figure 26 Extent of overshadowing at noon at midwinter.

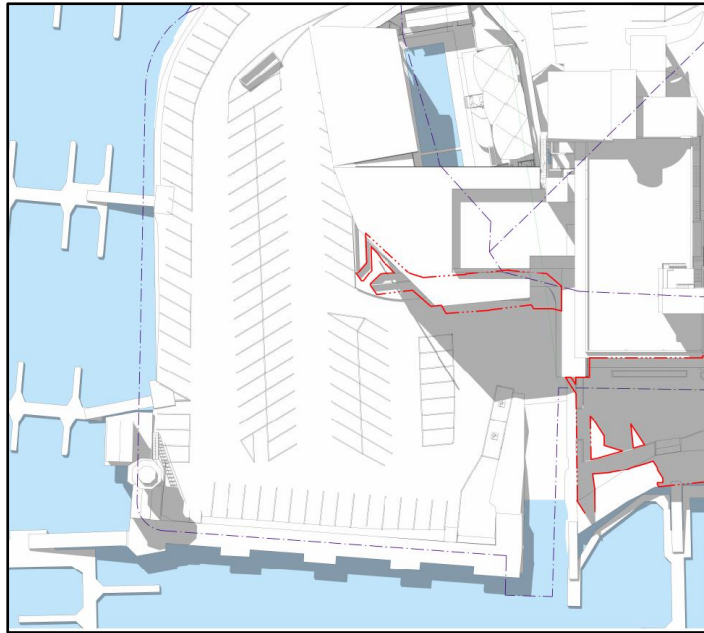


Figure 27 Extent of Overshadowing at 3pm at midwinter

5.3.7 Building Sustainability and Energy Efficiency

The proposed development will deliver a positive contribution towards energy efficiency. A Section J report has been prepared by *Integreco Consultants* and is submitted with the development application.

Having regard to the design of the proposed extension to the RMYC building, the sustainability report indicates:

“a strong emphasis has been placed on passive heating, passive cooling, natural lighting and natural ventilation”.

The assessment of the proposed development's sustainability score against the relevant criteria set out on the Building Code of Australia was undertaken as follows:

“The JV3 (verification method) and DTS (deemed to satisfy) methods of compliance were used for various components of the building, including JV3 for the building fabric itself. The building fabric was assessed in detail, using the JV3 method, to provide more accuracy and flexibility with glazing, insulation and shading. The DTS assessment was undertaken for HVAC, ventilation and lighting. The assessments were undertaken using the drawings from MCHP. The NCC 2019 has been used for this building analysis”.

A summary of the results of the sustainability and energy efficiency assessment are presented in **Figure 28**.

The results of the modelling are provided as follows:

“The simulated results demonstrated that the total annual air-conditioning energy consumption for Model 2 is lower than the baseline model (Model 1) by 0.17%. This indicates that the building fabric items listed below would achieve the minimum NCC Section J compliance requirements and would be acceptable for the conditioned spaces of the project”.

Item	Construction (for new conditioned spaces)	Passed Original DTS	On track to comply	Used to pass JV3
1	Walls 1 (external concrete/filled block/AFS)	R2.0 added + thermal break for steel stud	Yes	R2.3 added + thermal break for steel stud
2	Walls 2 (external FC/metal wall)	R2.0 added + thermal break for steel stud	Yes	R2.3 added + thermal break for steel stud
3	Walls 3 (external brick/block)	R2.0 added + thermal break for steel stud	Yes	R2.3 added + thermal break for steel stud
4	Walls internal – next to other conditioned	Anything	Yes	Anything
5	Walls (internal lightweight - next to plant, lift, etc)	R1.5 added + thermal break for steel stud	Yes	R1.8 added + thermal break for steel stud
6	Walls (internal conc/block - next to plant, lift, etc)	R1.5 added + thermal break for steel stud	Yes	R1.8 added + thermal break for steel stud
7	Floors (slab-on-ground, no in-slab heat)	R0.7 added subfloor	Yes	R1.7 added subfloor
8	Floors (suspended slab, no in-slab heat)	R1.7 added subfloor	Yes	R1.7 added subfloor
9	Ceiling under concrete balcony	R3.3 added, approx. (R3.7 total)	Yes	R3.5 added + thermal break for steel stud.
10	Ceiling under roofs (metal/tile)	R3.2 added, approx. (R3.7 total)	Yes	R3.5 added + thermal break for steel stud.
11	L1 U-value (window and frame combined)	< 4.0 (double glaze, clear/light tint)	Yes	< 5.2 (single glaze, low-E clear)
12	L1 SHGC (window and frame combined)	< 0.50 (double glaze, clear/light tint)	Yes	< 0.53 (single glaze, low-E clear)
13	GR + L2 U-value (window and frame combined)	< 5.8 (single glaze, low-E clear)	Yes	< 5.2 (single glaze, low-E clear)
14	GR + L2 SHGC (window and frame combined)	< 0.81 (single glaze, low-E clear)	Yes	< 0.53 (single glaze, low-E clear)
15	Shading north	As shown, eaves, etc	Yes	As shown, eaves, etc
16	Shading east	As shown, eaves, etc	Yes	As shown, eaves, etc
17	Shading south	As shown, eaves, etc	Yes	As shown, eaves, etc
18	Shading west	As shown, eaves, etc	Yes	As shown, eaves, etc

Figure 28 Results of Section J Assessment (source: *Integreco Consulting*)

5.3.8 Views

No significant views from public places (such as public reserves and roadways) will be impacted by the proposed development as demonstrated by the Visual Impact Assessment submitted with the development application.

The design of the proposed development has been crafted so as to not have any significant impacts on existing views of Pittwater from the residential properties adjacent to the site.

5.3.9 Aural & Visual Privacy

An assessment of the acoustic impact of the proposed development has been prepared by *Acoustic Directions* and is submitted with the application.

The assessment found that the proposal could comply with the relevant noise criteria with the installation of several acoustic treatments as part of the project's design.

The acoustic report has proposed treatments within the development as follows:

“Barriers

a) *The barriers listed below are required:*

- *Ground floor casual dining: a full height (floor to ceiling soffit) noise barrier must be constructed on the northern-most wall of the ground-floor dining area near the playground, with the exception of the staircase being open,*
- *Pool Terrace: A 2m high barrier should span the entire length of the northern side of the pool terrace with a 2m long return on the eastern side,*
- *First floor outdoor terrace: the railing on the north, east and west sides should be 1.5m high,*
- *Rooftop terrace: A 2m high barrier shall run along the entire northern wall of the rooftop terrace including the articulations. A 2m long return connecting to the northern barrier shall be constructed along the western wall, ensuring no gap. The barrier for the remaining outdoor areas including the west and south side of the rooftop terrace should be constructed as required to satisfy safety requirements.*

b) Barriers should be constructed of a solid material of not less than 12kg/m² which may be transparent, for example, acrylic or glass.

c) There must be no gaps in the barriers, other than for water drainage.

d) a structural engineer should be engaged to determine requirements for installation of the above barriers.

Sound Absorption

a) To reduce the level of conversational noise, acoustic absorption of at least 50mm thick (minimum flow resistivity 7000 Rayls/m) must be fixed to the entire ceiling/soffit of the following areas:

- Ground Floor casual dining area,
- First floor outdoor terrace.

Suitable products are 50mm thick CSR Martini dECO Board and 50mm Martini Soffit. Architectural finishes and mounting options can be discussed as required.

Alternatively, use a perforated plasterboard ceiling such as 12mm square CSR Rigitone Matrix perforated plasterboard ceiling with min 23% open area (12/25Q). Minimum 75mm deep cavity lined with 50mm thick insulation (min. 11 kg/m³) behind the plasterboard.

b) Additionally, 50mm thick absorption shall be fixed to the following available walls in the ground floor casual dining area. This includes i) the west-wall behind seating booths and playground and below specified glazed elements, and ii) south walls adjoining the yacht brokerage.

c) An added benefit of absorption in these areas is that it will reduce conversational noise levels in these semi-enclosed areas where patrons will be expecting to have a relaxing meal and likely hold a conversation. We have seen many restaurants and bars with inadequate sound absorption in the patron areas with the resulting high noise levels degrading the patrons' overall experience. As such, although not required, we recommend that a sound-absorptive ceiling is also installed in the second-floor internal function room with minimum NRC value of 0.95.

d) With the above specified extended-height barriers and sound absorption, the predicted noise levels at the most affected receivers were modelled and the results are presented in Table 5 below.

Operational Management

a) The ground-floor outdoor casual dining area should close between 10:00pm and 8:00am each day.

b) As part of achieving compliance, modelling shows that music levels on the rooftop terrace must not exceed 77dB (L_{Aeq}) when measured at 10m on axis to the loudspeaker. The loudspeaker must be positioned close to the internal function space, no higher than 2m and face due-south or west".

The acoustic results with the installation of the proposed acoustic treatments indicate compliance with all the adopted criterion applicable to the proposal and its location. Given the nature of the proposed development there will be minimal acoustic impact from its use beyond the site boundaries. The two-storey design of the proposal will avoid unreasonable privacy impacts to nearby residents.

New building plant, including air conditioning units and exhaust units, will be located so as to minimise any impacts on the proposed dwellings and neighbouring properties. Existing roof plant is located on the south-eastern side of the existing building.



In respect of visual privacy, the orientation of the proposed building, which will primarily involve outlook towards the west over Pittwater, will not overlook adjacent residential properties. Existing vegetation on the site and topography will assist to protect the visual privacy of nearby properties.

In light of the above, the development will not have any adverse impacts on visual privacy of neighbouring properties or that of prospective occupants. Furthermore, the ongoing operation of the development is highly unlikely to adversely impact neighbouring occupants existing levels of acoustic privacy.

5.4 ECONOMIC & SOCIAL IMPACTS

Having regard to the nature of the proposal and the intended use as part of a registered club, there will be no material adverse economic impacts to the local or regional economy.

In fact, undertaking the construction works will have some short-term positive economic impacts through employment generation, providing both direct employment and multiplier effects.

5.4.1 Crime Prevention through Environmental Design

In April 2001, the former Department of Urban Affairs and Planning (now Department of Planning and Environment) issued the *Crime Prevention and the Assessment of Development Applications: Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979*. These guidelines identified four Crime Prevention through Environmental Design (CPTED) principles.

CPTED Principles

Each of the principles seeks to reduce opportunities for crime and have been used to inform the NSW Police Safer by Design Guidelines for Crime Prevention. The principles include:

- Surveillance;
- Access control;
- Territorial reinforcement; and
- Space management.

The proposed development, being an extension to the existing RMYC club building will build upon the current security and safety arrangements that are in place for the site. In addition to the opportunities for natural surveillance afforded by the proposal, there will be technical/mechanical surveillance (CCTV) installed at key locations throughout the building.

Currently access to the site is limited to members/guests as well as staff and contractors employed by the club. Although much of the site is open and accessible during daytime hours, certain areas are restricted with access only permitted to authorised members and the Club's staff. The proposal involves new public areas of the club's building that will be generally open during the club's trading hours.

The club's management provides a high level of site maintenance to ensure that its facilities are well cared for and regularly maintained. This care extends from the club's building assets to the gardens and parking areas. The existing arrangements for the management of the site will be continued and extended to the extended facilities.

Local Crime Statistics

The suburb of Newport has a relatively low rate of crime compared to the NSW and Sydney CBD average. Crime statistics released by the Bureau of Crime Statistics and Research (BOCSR) indicate that for the major categories of crime offences reported in NSW, Newport is below average.





A summary of local crime statistics obtained from the NSW Bureau of Crime Statistics and Research is provided in Tables 11 and 12 below.

Table 11 Rate of Crime - Rate -per 100,000 population 2021-2022			
<i>Crime category</i>	<i>Newport</i>	<i>Sydney CBD</i>	<i>NSW</i>
Non-domestic Assault	163.1	3,574.4	365.5
Robbery without a weapon	10.2	101.2	11.0
Robbery with a firearm	0.0	0.0	1.1
Break and Enter – non dwelling	0.0	337.2	88.6
Motor vehicle theft	40.8	106	142.5
Steal from motor vehicle	81.6	462.5	334.6
Steal from retail store	20.4	4,581.1	241.7
Steal from person	10.2	525.1	22.5
Fraud	489.3	2,928.9	554.1
Malicious damage to property	183.5	1,820.9	596.8
Drug offences	91.8	3,983.8	540.3

Source: Bureau of Crime Statistics and Research

The 24 month and 60 month trend for criminal offences committed within the Northern Beaches LGA is as follows:

Table 12 Crime Trends for Northern Beaches LGA				
<i>Offence group</i>	<i>Jan-Dec 2017 (Rate per 100,000 population)</i>	<i>Jan-Dec 2021 (Rate per 100,000 population)</i>	<i>21-month trend</i>	<i>60-month trend</i>
Murder	0.4	0.0	nc	Nc
Domestic violence related assault	133.1	116.0	Stable	Stable
Non-domestic violence related assault	227.6	183.2	Stable	
Robbery	11.2	11.7	Stable	Stable
Break and enter dwelling	167	83.6	Stable	-15.5%
Break and enter non-dwelling	76.6	41.6	Stable	-13.7%
Motor vehicle theft	90.0	65.7	Stable	-7.1%
Steal from motor vehicle	342.2	229.5	Stable	-9.1%
Steal from retail store	182.2	177.7	Stable	Stable
Malicious damage to property	421.4	336.4	Stable	-5.0%

Source: Bureau of Crime Statistics and Research



These statistics indicate a relatively low and steady rate of criminal activity within the wider Northern Beaches LGA and Newport specifically. The RMYC has implemented a suite of management measures to combat crime and reduce opportunities for it to occur.

As a licensed venue with an associated marina providing storage for a large number of maritime vessels, the RMYC has implemented the following measures to combat and deter criminal activity and anti-social behaviour:

- Installation of 52 CCTV cameras across the site (club building, marina and access points),
- Membership swipe cards to access the club and some internal areas of club,
- Use of LPR (license plate recognition) technology and member access recording,
- On site security guard at the premises between 9.30pm to 5:30am daily every day of the year,
- Fortnightly garden maintenance to ensure landscaping is kept neat and tidy,
- Back to base fire alarm,
- Regular scheduled maintenance for marina and other facilities, and
- Security lighting across the site and on buildings.

Together the above measures provide an effective range of management tools to combat and deter criminal activity on the site. The proposed development will not contribute towards any reduction of the site's level of overall safety and security.

5.5 THE SUITABILITY OF THE SITE

5.5.1 Access to Services

The subject site is located in close proximity to Newport and Mona Vale local centres and is accessible by both private car and public transport, including the club's courtesy bus, for social members.

As the site is within an established urban area, electricity, telephone, gas, water and sewerage connections are readily available to the subject site.

Sydney Water Assets

The subject site is affected by several easements in favour of Sydney Water providing legal access and services to its Newport Sewerage Pumping Station that is located on the site's northern boundary. The location and width of the easements are shown in **Figure 29** below.



Figure 29 Location of Sydney Water easements (Source: SDG)

The proposed development is located clear of the easement and will not involve any works within the easement with the exception of the stormwater pipe to connect to an existing stormwater outlet in Pittwater.

As indicated in above, the subject site has adequate infrastructure capacity in respect of electricity and water/sewer services.

5.5.2 Car Parking and Site Access

The existing development on the site is provided with car parking for 290 vehicles that are provided across the site in three at grade carparking areas to the east, north and west of the main club building. Approximately 115 of these spaces are located within the upper portion of the site and are provided for the Club's social members. A further 167 spaces are located in the lower area of the site, behind a boomgate and are exclusively provided for the club's boating members.

The proposed development does not involve the provision of any additional car parking on the site. The car parking numbers proposed is based on the additional floor space represents will provide improved amenity and facilities for members and not generate additional demand for carparking. The current Land and Environment Court imposed cap (270 persons) on the number of patrons using the site will remain. An existing Car Parking Plan of Management exists for the site and it provides the club's management with operational rules for the management of car parking on site.

A Traffic Impact Assessment for the proposed development has been prepared by *Traffix* submitted with the application. This report has found:

"The RYMC will continue to manage its off-street car parking in accordance with the existing arrangements, with recent parking surveys indicating there is ample spare capacity on a typical Friday and Sunday during RMYC's peak trading periods"

It concludes stating that:

"In the circumstances, the existing off-street car parking provision will continue to satisfy RMYC's operational requirements and will be satisfactorily managed by RMYC's Car Parking Plan of Management".

5.5.3 Hazards

The site is not in an area recognised by Council as being subject to bushfire, slope instability or any other particular hazards. The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.



Council's Pre-DA advice indicated an Estuarine Planning Level (EPL) of 3.14m applies to the site. This level is necessary to protect the proposed development from estuarine wave action and tidal inundation.

Advice provided by *Horton Coastal Engineering* is submitted with the application.

5.6 THE PUBLIC INTEREST

The proposed development will deliver better amenity and facilities for social club members of the RMYC by relocating the dining and function room spaces from their current locations to the new extension of the premises. The proposal does not seek to expand the capacity of the club's premises or to cater for larger functions. The current layout of the club provides poor amenity for members using the restaurant and bar which are located on the ground floor with a poor outlook and atmosphere.

The proposed extension to the club's facilities will not result in adverse impacts to nearby residents in terms of their visual and acoustic privacy, overshadowing, traffic or views. No trees or other significant vegetation will be removed to accommodate the proposal. Water quality impacts will be appropriately managed to ensure that there is not



reduction in water quality entering into Pittwater. Overall, the proposed development will generally have positive environmental impacts.

Pittwater Waterway Review

During November 2018, Northern Beaches Council released its draft Pittwater Waterways Strategy 2038 for public comment. The draft Strategy was adopted by Council in May 2019. Council is currently working on the implementation of the Strategy.

The proposal for the expansion of the RMYC member's facilities is considered to be consistent with the strategies and directions of the Strategy particularly the following directions:

- Identify appropriate foreshore locations for low-scale cafes and restaurants accessible via sustainable and active transport networks and subject to sensitive development controls,
- Maintain and ensure access to commercial opportunities around the Pittwater waterway,
- Maintain the local economy that is based on the provision of recreational activities, and

As such, the proposed development is therefore considered to be in the public interest.



6. Conclusion

This Statement accompanies a development application for the construction of alterations and additional to the Royal Motor Yacht Club Broken Bay at No 46 Prince Alfred Parade, Newport. The proposed development has been assessed having regard to the matters for consideration listed in Section 4.15 of the Environmental Planning & Assessment Act, 1979 and Northern Beaches Council's planning guidelines and policies.

The proposal is permissible with consent, pursuant to *Pittwater Local Environmental Plan 2014* and is generally consistent with the controls under the *Pittwater 21 Development Control Plan*.

The siting, design and external appearance of the proposed development is compatible with the character of the locality and will not result in any unreasonable amenity impacts to adjoining or neighbouring properties.

Conclusively, the site is suitable for the proposed development and satisfies the objectives of Zone RE2 Private Recreation. The development will positively contribute to the quality of housing stock in the locality and will have manageable impacts on both the natural and built environment in the locality.

Accordingly, the proposal is considered to be an acceptable design response that is in the public interest and worthy of Council's support.

ANNEXURE A

SEPP (Resilience and Hazards) 2021– Compliance Table



SEPP (RESILIENCE AND HAZARDS) 2021 – COMPLIANCE TABLE

Clause / Control	Requirement	Proposal	Complies?
2.10 Development of land within the coastal environment area			
	Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:		
	(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Having regard to the nature of the development proposed, it is unlikely that any harm will be caused to the integrity or resilience of the biophysical, hydrological or ecological environments.	Yes
	(b) coastal environmental values and natural coastal processes,	No adverse impacts are likely to occur in respect of coastal environmental values and natural coastal processes due to the siting of the proposed development and its distance from an area of natural foreshore.	Yes
	(c) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The application indicates that the quality of stormwater runoff discharged into Pittwater will be improved compared to the pre-development scenario. The development is located in the vicinity of any sensitive coastal lakes.	Yes
	(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposed development will not have any adverse impact on marine vegetation, native vegetation/fauna and associated habitats, undeveloped headlands or rock platforms.	Yes
	(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,	The proposed development will not have any adverse impacts on any existing public open space or any existing safe access to and along a foreshore, beach, headland or rock platform for members of the public. The subject site provides no public access to the Pittwater foreshore.	Yes
	(f) Aboriginal cultural heritage, practices and places,	Having regard to the nature of the proposal, no adverse impacts on	Yes

SEPP (RESILIENCE AND HAZARDS) 2021 – COMPLIANCE TABLE

	Aboriginal cultural heritage, practices or places are likely.	
(g) the use of the surf zone.	Having regard to the location of the site, no adverse impacts on the use of the surf zone are expected.	Yes
Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—		
(a) The development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1),	The proposed development has been carefully sited and designed to avoid any adverse impacts referred to in (1) above.	Yes
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	As no adverse impacts in (1) are predicted, management to minimise any adverse impacts is not necessary.	Yes
(c.) if that impact cannot be minimised—the development will be managed to mitigate that impact.	As no adverse impacts in (1) are predicted, management to mitigate any adverse impacts is not necessary.	Yes
2.11 Development on land within the coastal use zone		
Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—		
(a) has considered whether the proposed development is likely to cause an adverse impact on the following—		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Although the subject site is located within the coastal use area, it is not expected to have any adverse impact on existing and safe access to and along the foreshore, beach, headland or rock platform in the vicinity of the site.	Yes
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Due to its location and built form, the proposed development is not expected to have adverse impacts in terms of overshadowing, wind funnelling or view loss from any public place to the foreshore.	Yes

SEPP (RESILIENCE AND HAZARDS) 2021 – COMPLIANCE TABLE

(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	Given the site's location, no adverse impacts on the scenic qualities of the coast or coastal headlands are considered likely.	Yes
(iv) Aboriginal cultural heritage, practices and places,	Having regard to the nature of the proposal, no adverse impacts on Aboriginal cultural heritage, practices or places are likely.	Yes
(v) cultural and built environment heritage, and	Having regard to the nature of the proposal, no adverse impacts on cultural and built environment heritage are likely.	Yes
Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (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	The proposed development has been carefully sited and designed to avoid any adverse impacts referred to in (1) above.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	As no adverse impacts in (1) are predicted, management to minimise any adverse impacts is not necessary.	Yes
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	As no adverse impacts in (1) are predicted, management to mitigate any adverse impacts is not necessary	Yes
Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	This Statement has given regard to the character of the surrounding coastal and built environment, including appropriate consideration of the bulk, scale and size of the proposal.	Yes
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.	Refer to Section 5.5.3 of this Statement.	Yes

ANNEXURE B

Pittwater Local Environmental Plan 2014 – Compliance Table



PITTWATER LEP 2014 – COMPLIANCE TABLE

Clause / Control	Requirement	Proposal	Complies?
Part 2 Permitted or prohibited development			
2.2 Zone objectives and Land Use Table	<p>Zone RE2 Private Recreation</p> <ul style="list-style-type: none"> To enable land to be used for private open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. To allow development of a scale and character that is appropriate to the nature of its recreational use and is integrated with the landform and landscape. 	The proposed extensions to the existing Royal Motor Yacht Club premises will contribute towards meeting the relevant objectives of the RE2 zone, particularly enabling the continued use of the site to be used for private open space and recreational use.	Yes
Part 4 Principal development standards			
4.3 Height of buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <i>Height of Buildings Map</i> . 8.5m	There is no Height of Buildings provision relevant to the site under the LEP.	N/A
4.4 Floor Space Ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <i>Floor Space Ratio Map</i> .	There is no FSR provision relevant to the site under the LEP.	N/A
Part 5 Miscellaneous provisions			
Part 7 Additional local provisions			
7.1 Acid Sulfate Soils	(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class 5	The likely presence of Acid Sulfate Soils has been addressed in the PSI prepared by JKE. As the site is mapped as Class 5, it is very unlikely the development will lower the watertable below 1m AHD on adjoining Class 1-4 land.	Yes

PITTWATER LEP 2014 – COMPLIANCE TABLE

7.2 Earthworks	(3) Before granting development consent for earthworks, the consent authority must consider the following matters:		Yes
	(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	The proposed works are unlikely to have detrimental effect on drainage patterns and soil stability in the locality. Refer to Stormwater Management Plan	Yes
	(b) the effect of the development on the likely future use or redevelopment of the land,	The proposed earthworks will not adversely impact the future use or redevelopment of the land.	Yes
	(c) the quality of the fill or the soil to be excavated, or both,	The DSI submitted with the application has indicated that there will be contaminated soil removed from the site as part of its remediation.	Yes
	(d) the effect of the development on the existing and likely amenity of adjoining properties,	The proposed development is unlikely to have an adverse impact impact on the amenity of adjoining properties.	Yes
	(e) the source of any fill material and the destination of any excavated material,	The excavated material removed from the site will be disposed to a licensed landfill site.	Yes
	(f) the likelihood of disturbing relics,	There is not evidence to suggest that any relics will be disturbed by the proposed excavation work.	Yes
	(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	The proposal is unlikely to have any adverse impacts on Cockle Creek or Lake Macquarie or any other environmentally sensitive area.	Yes
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	This Statement outlines the relevant measures that are proposed to mitigate adverse impacts of the development.	Yes
7.6 Biodiversity	(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider— (a) whether the development is likely to have— (i) any adverse impact on the condition, ecological value and	The subject site is mapped on the Pittwater LEP Biodiversity Map. 3(a) this clause requires consideration of any impact on the following:- fauna and flora on the land, vegetation that is habitat for native fauna,	Yes

PITTWATER LEP 2014 – COMPLIANCE TABLE

	<p>significance of the fauna and flora on the land, and</p> <p>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</p> <p>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</p> <p>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>any potential to impact biodiversity structure, function and composition of the land and habitat elements providing connectivity. The site of the proposal is cleared and reclaimed land that does not provide any biodiversity value.</p> <p>3(b) this clause requires consideration of measures to avoid, minimise or mitigate the impacts of the development. The proposal does not require measures to mitigate adverse biodiversity impacts.</p> <p>4(a) As detailed elsewhere within the SEE, the proposal will be adequately designed, sited and managed to avoid any significant impacts on the natural environment.</p> <p>4(b) Not applicable.</p> <p>4(c) Not applicable.</p>	
7.7 Geotechnical hazards	<p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks—</p> <p>(a) site layout, including access,</p> <p>(b) the development's design and construction methods,</p> <p>(c) the amount of cut and fill that will be required for the development,</p> <p>(d) waste water management, stormwater and drainage across the land,</p> <p>(e) the geotechnical constraints of the site,</p> <p>(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>Most of the subject site is mapped as Geological Hazard H1 on the Pittwater LEP Geological Hazard Map. A small area is mapped as Geological Hazard H2.</p> <p>The proposal is supported by a Geological Report prepared by <i>Douglas Partners</i>. That has provided an appropriate consideration of these matter where they are relevant to the proposal.</p>	Yes

PITTWATER LEP 2014 – COMPLIANCE TABLE

	<p>(4) Development consent must not be granted to development on land to which this clause applies unless—</p> <p>(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and</p> <p>(b) the consent authority is satisfied that—</p> <p>(i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or</p> <p>(ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or</p> <p>(iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.</p>		
7.8 Limited development in foreshore area	<p>(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—</p> <p>(a) the development will contribute to achieving the objectives for the zone in which the land is located, and</p> <p>(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and</p> <p>(c) the development will not cause environmental harm such as—</p> <p>(i) pollution or siltation of the waterway, or</p> <p>(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or</p> <p>(iii) an adverse effect on drainage patterns, or</p> <p>(iv) the removal or disturbance of remnant riparian vegetation, and</p> <p>(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and</p>	Refer to Section 5.2.6 of the Statement.	Yes

PITTWATER LEP 2014 – COMPLIANCE TABLE

	<p>(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and</p> <p>(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</p> <p>(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</p> <p>(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.</p> <p>(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following—</p> <p>(a) continuous public access to and along the foreshore through or adjacent to the proposed development,</p> <p>(b) public access to link with existing or proposed open space,</p> <p>(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,</p> <p>(d) public access to be located above mean high water mark,</p> <p>(e) the reinforcing of the foreshore character and respect for existing environmental conditions.</p>		
7.10 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p>	The site has access to adequate utility services to support future associated with the proposed development. Refer to Section 5.5.1 of this Statement.	Yes



PITTWATER LEP 2014 – COMPLIANCE TABLE

	(d) stormwater drainage or on-site conservation, (e) suitable vehicular access.		
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ANNEXURE C

Clause 4.6 – Variation Request Height of Buildings



Clause 4.6 variation statement – Height of Buildings (clause 4.3)

1. INTRODUCTION

Clause 4.3 of *Pittwater Local Environmental Plan 2014* applies to the site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 8.5m.

Building height is defined as:

building height (or **height of building**) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

An extract of the PLEP 2014 Height of Buildings map is provided in **Figure 1** below.

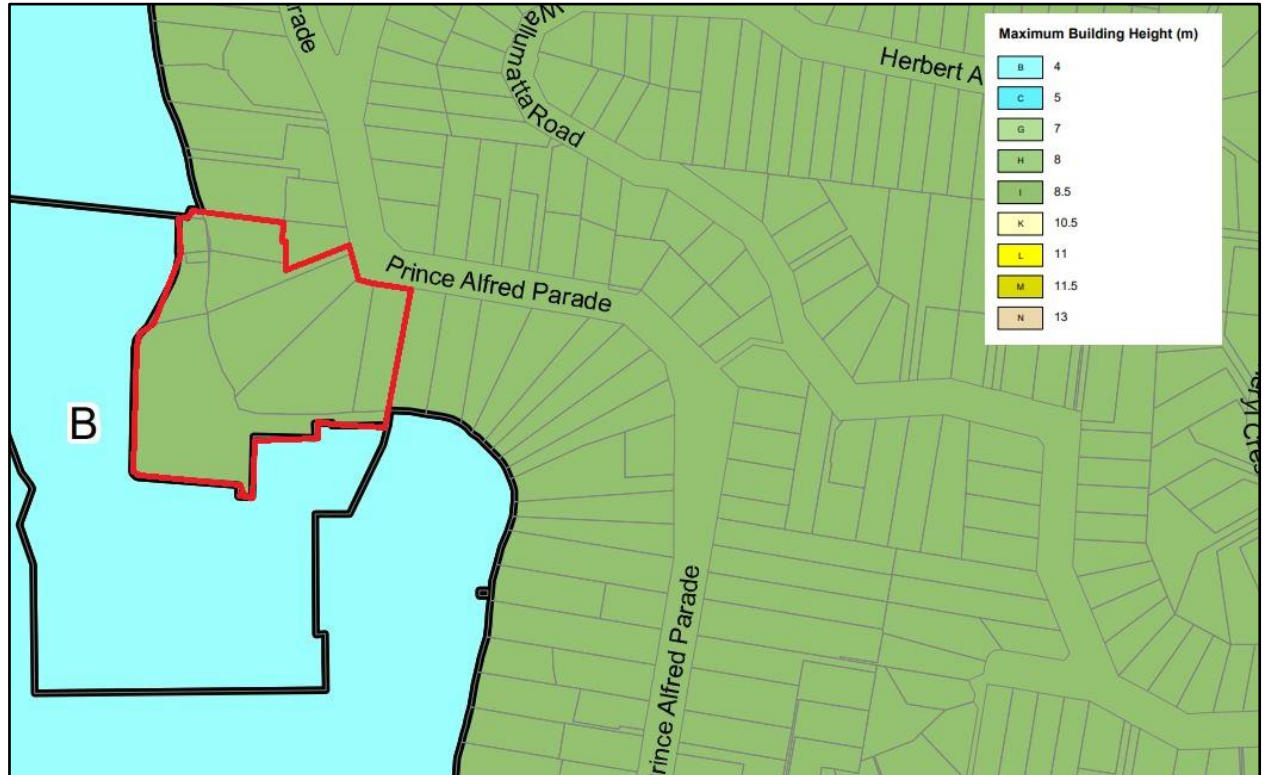


Figure 1 Extract from Pittwater LEP 2014 Height of Buildings Map (8.5m)

2. Proposed Variation

The architectural plans indicate that part of the proposed development has a maximum height of 12.5m to the upper most point of the building, being the lift shaft and associated overrun, and is therefore non-compliant. The non-compliance is a maximum of 4m or 47%. No other part of the proposed development will exceed the 8.5m LEP height limit.

As indicated in **Figure 31** below, several parts of the existing club building exceed the 8.5m height limit and are non-compliant with clause 4.3 of PLEP. These areas include the main roof of the club's 1990s era extension and the lift overrun of the 1960s club building both being higher than the current LEP height limit. The current proposal is compliant with the LEP height limit with the exception of the proposed lift overrun that provides an accessible connection between the older parts of the club and the proposed extension.

The extent of the existing and proposed height non-compliance is indicated below in **Figure 2** below.

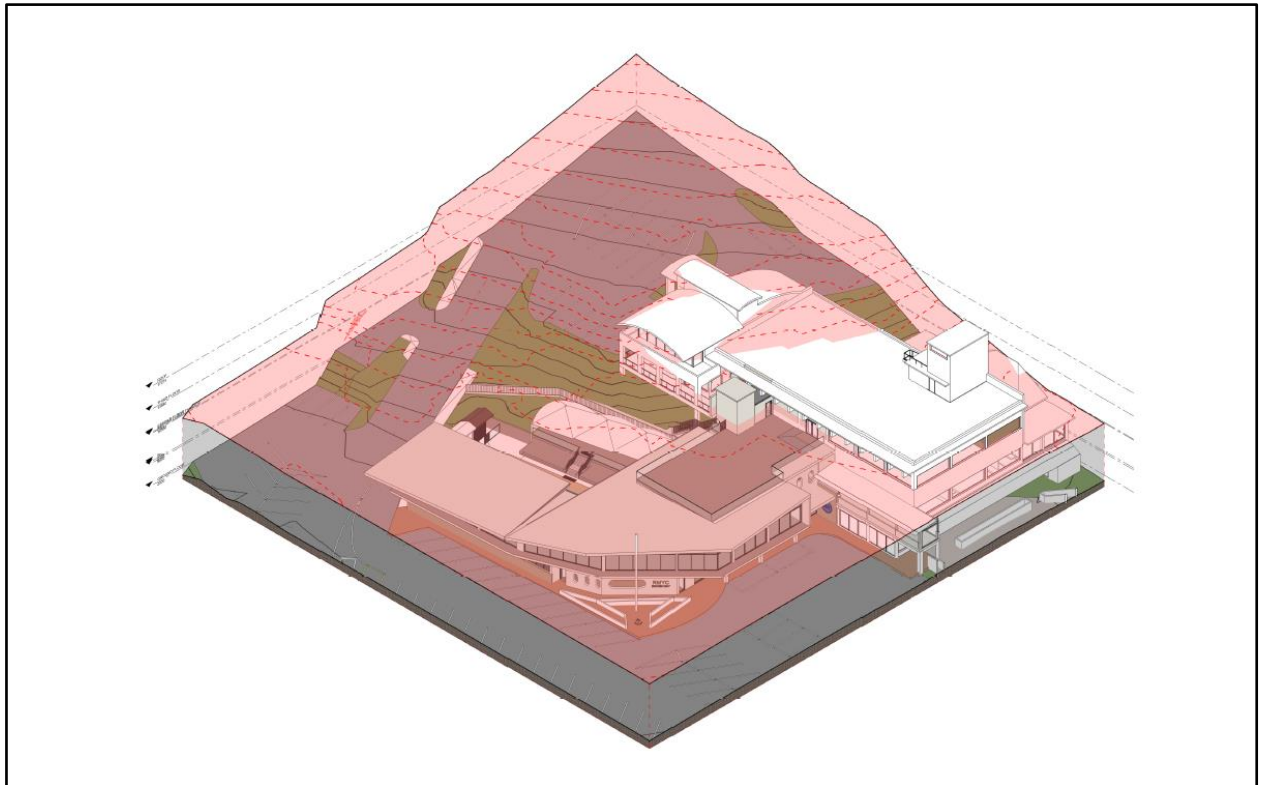


Figure 2 Height blanket indicating proposed encroachment by lift shaft and overrun

3. Clause 4.6 of PLEP 2014

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

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

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

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

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

(a) the consent authority is satisfied that—

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

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

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

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note — When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5.

The development standards in Clause 4.3 are not “expressly excluded” from the application of Clause 4.6.

4. Matters required by Clause 4.6(3) are required to be adequately demonstrated, (Clause 4.6(4)(a)(i))

Of relevance to Clause 4.6(3)(a), in *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The Judgment goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the Judgment then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to Wehbe and states:

“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- The proposed development provides a built form that is of a scale, density, landscaped setting and external appearance that is compatible with the future desired character for the local area that is anticipated by Pittwater Local Environmental Plan 2014.
- There are no additional significant adverse impacts arising from the proposed non-compliance.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.



5. Sufficient Environmental Planning Grounds, (Clause 4.6(3)(b))

Having regard to Clause 4.6 (3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd V Woollahra Municipal Council* [2018] NSW LEC 118 (paragraph 24) states:

*“The environmental planning grounds relied on in the written request under cl. 4.6 must be “sufficient”. There are two respects in which the written request need to be “sufficient”. First the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under clause 4.6(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSW CA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify the contravention of the maximum building height:

1. The height non-compliance is associated only with the proposed lift shaft and its overrun which provides for compliant accessible movement between the building's Ground Floor and Second Floor.
2. The height non-compliance associated with the proposed lift shaft and its overrun will be lower than the height of the existing club building.

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3. The location of the non-compliance being located in the centre of the building footprint will have no greater overshadowing impact on adjoining properties compared to a compliant proposal.
 4. There will be no privacy impacts for neighbouring properties associated with the proposed height non-compliance.
 5. The height non-compliance will not have any adverse impact on any existing water views currently available from adjoining properties.
 6. The proposed development meets the objectives of the development standard and meets the objectives of the RE2 Private Recreation zone (as further detailed in Section 7 below).
 7. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
 - a. The proposal promotes the orderly and economic use and development of land through the provision of a high quality private recreation facility for the local community (1.3((c)),
 - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the site's steeply sloping topography which has led to the existing built form on the site stepping down from the upper parts of the site to the lower area near the foreshore. The additional height allows for compliant accessible movement between the Ground Level and Level 3 of the building.

It is noted that in *Initial Action v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items as Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome.

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), (Clause 4.6(a)(i)).

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 5 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the zone (CLAUSE 4.6(4)(a)(ii))

Objectives of the Height of Buildings Development Standard in Clause 4.3

The objectives and relevant provisions of Clause 4.3 of PLEP 2014 are as follows, inter alia:

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

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3 are addressed below:

Objective (a):

Objective (a) seeks to ensure that buildings are compatible with the height and scale of the desired future character of the locality.



The desired character of the locality characterised by low density dwellings in a highly landscaped setting. The RMYC and other registered clubs and marinas in the Newport locality provide a significant contrast from surrounding residential development in terms of character. Despite this the RMYC provides large landscaped setbacks from neighbouring dwellings that contribute towards a more cohesive relationship between these contrasting land use types.

The variation of the height of buildings development standard is limited to a maximum 4m variation for the lift shaft and overrun. The visual impact of the non-compliant part of the building will be very minor as it will be located behind the upper level of the existing club building and will not look out of character with the surrounding area.

Objective (b):

Objective (b) seeks to ensure that buildings are compatible with the height and scale of surrounding development.

The subject site is surrounded by low scale residential development that is generally 2 to 3 storeys in appearance. The proposed extension of the RMYC club premises will generally comply with the LEP height limit except for the lift shaft and overrun, which will be a significant numerical non-compliance will not have any material adverse impacts on the surrounding area. Therefore, the proposal is not considered to be out of character with the form and height of surrounding development.

Objective (c):

Objective (c) seeks to minimise the overshadowing of neighbouring properties. The proposal will not have any overshadowing impact upon any neighbouring properties.

Objective (d):

Objective (d) seeks to allow for the reasonable sharing of views. The proposal, and the area of height non-compliance, does not contribute to any loss of significant water views either from a public place or a neighbouring property.

Objective (e):

Objective (e) seeks to provide for buildings that will be designed to respond sensitively to the natural topography. The proposed alterations and additions to the RMYC club building provide for a sympathetic response to the site's natural topography and will generally sit at the site's existing ground level (RL 2.5m).

Objective (f):

Objective (f) seeks to minimise adverse visual impacts of development on the natural heritage, heritage conservation areas and heritage items.

It is noted that there are no listed items of natural heritage, heritage conservation areas or heritage items in the immediate vicinity of the site. Accordingly, the proposal will not have any adverse visual impact of the location's heritage.

Objectives for Development in Zone RE2 Private Recreation

Clause 4.6(4)(a)(ii) also requires consideration of the relevant zone objectives. The objectives of the RE2 private recreation zone are as follows:

Objective: To enable land to be used for private open space or recreational purposes.

The proposed development will provide for a contemporary and high-quality facilities for recreational, entertainment and social activity by members of the Royal Motor Yacht Club, that will provide for the sustainable continuation of the site's use for private recreation purposes.



Objective: To provide a range of recreational settings and activities and compatible land uses.

The proposal will allow for the site's continued use for private recreation that will be compatible with the character of the surrounding area and involve minimal adverse impacts to surrounding properties.

Objective: To protect and enhance the natural environment for recreational purposes.

The proposal maintain the site's ecological and environmental values with no loss or reduction in biodiversity or natural features.

Objective: To allow development of a scale and character that is appropriate to the nature of its recreational use and is integrated with the landform and landscape.

The proposed development will be of a scale and character that will be appropriate both in terms of the site's use for recreational activity and compatible with the landscape features of the site.

8. The concurrence of the Secretary has been obtained (Clause 4.6(4)(b))

The issue of the concurrence of the Secretary of the Department of Planning and Environment is dealt with by Planning Circular PS 20-002 'Variations to development standards', dated 5 May 2020. This circular is a notice under 55 of the Environmental Planning and Assessment Regulation 2021. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The circular provides for assumed concurrence. The Secretary can be assumed to have given concurrence to the variation.

9. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))

Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

10. The public benefit of maintaining the development standard (Clause 4.6 (5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum building height. As such there is no public benefit in maintaining strict compliance with the development standard.

Whilst the proposed building height exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.



11. Conclusion

This written request has been prepared in relation to the proposed variation to the height of buildings development standard contained in PLEP 2014.

Despite the non-compliance with the height of buildings development standard, the proposed built form is compatible with the character of existing development on the site and other waterfront development along Prince Alfred Parade, and the built form anticipated by the planning controls under the PLEP 2014 and Pittwater 21 DCP.

The proposed variation is limited to a small portion of the building being the lift shaft/overrun. It has been demonstrated that the proposed development will sit comfortably among the surrounding development as viewed from the waterway and surrounding area. The proposal provides an appropriate built form that is compatible with the building heights within the locality and is predominantly compliant with the 8.5m development standard. Furthermore, the proposed development will not have an adverse impact on the amenity of adjoining residential properties.

Therefore, insistence upon strict compliance with that standard would be unreasonable. This request demonstrates that there are sufficient site-specific environmental planning grounds to justify the variation, and therefore the proposal is considered to be in the public interest.

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ANNEXURE D

Clause 4.6 Variation Statement - Limited Development in Foreshore Area



CLAUSE 4.6 VARIATION STATEMENT – LIMITED DEVELOPMENT IN FORESHORE AREA (CLAUSE 7.8(2))

1. INTRODUCTION

Although the proposed development will be located within the foreshore area, these works will essentially stand upon the existing building footprint of the Club which includes a swimming pool and surrounds, permanent shade structures, a BBQ hut building, retaining walls and carparking area. For this reason, it is argued that the proposed development is both an extension and alteration of an existing building and will not result in the footprint of the Club buildings and structures further into the foreshore area. Despite this, a Clause 4.6 variation request has been prepared should Council have a differing view on this issue.

Clause 7.8(2) of *Pittwater Local Environmental Plan 2014* applies to the site.

The Clause states as follows:

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

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors)”.

(5) In this clause—

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

The relevant map Foreshore Building Line Map identifies the site as being subject to a Foreshore Building Line (FBL) within the Foreshore Area located between the FBL and the rear boundary. The FBL applying to the site varies as indicated in **Figure 1**.

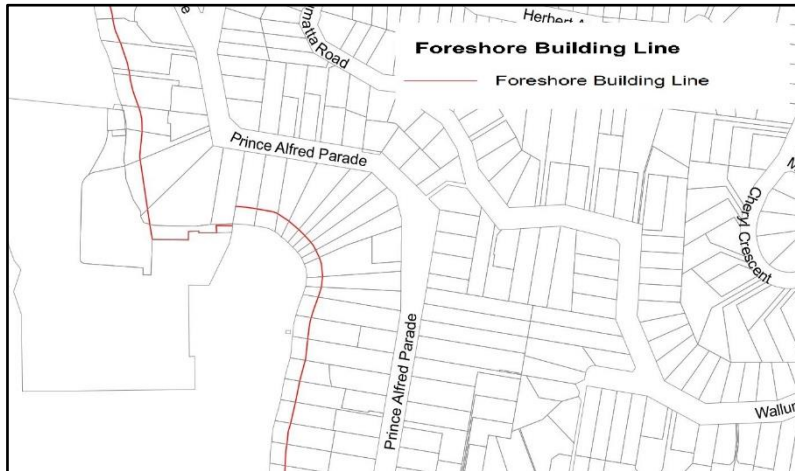


Figure 1 Extract from Pittwater LEP 2014 Foreshore Building Line Map

2. Proposed Variation

The proposal involves new building works forward of the FSBL as indicated in **Figure 2**.

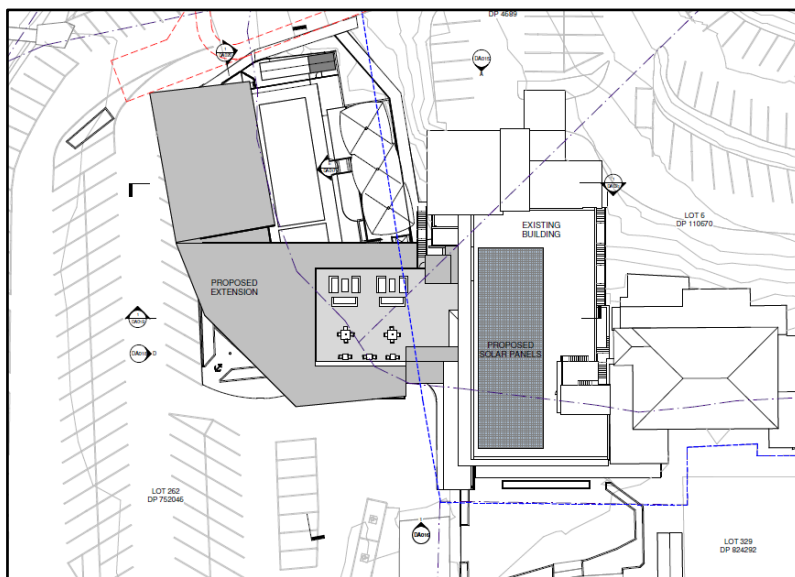


Figure 2 Site plan indication location of FBL (blue line) and foreshore area

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 of PLEP 2014 are relevantly as follows:

4.6 Exceptions to development standards

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

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

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

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

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

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

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

(a) the consent authority is satisfied that—

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

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

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

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note — When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5.

The development standard in Clause 7.8 of PLEP 2014 is not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit the proposed works within the foreshore area.

4. Matters required by Clause 4.6(3) are required to be adequately demonstrated, (Clause 4.6(4)(a)(i))

Of relevance to Clause 4.6(3)(a), in *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The Judgment goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the Judgment then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone."

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to Wehbe and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Clause 4.6(3)(a) requires the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- The development is consistent with the standard and zone objectives, even with the proposed variation (refer to Section 7 below);
- There are no additional significant adverse impacts arising from the proposed non-compliance;

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

5. Sufficient Environmental Planning Grounds, (Clause 4.6(3)(b))

Having regard to Clause 4.6 (3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd V Woollahra Municipal Council* [2018] NSW LEC 118 (paragraph 24) states:

"The environmental planning grounds relied on in the written request under cl. 4.6 must be "sufficient". There are two respects in which the written request need to be "sufficient". First the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under clause 4.6(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 90 at [31].

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSW CA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify the contravention of the foreshore area development standard:

1. The proposed works within the foreshore area are ancillary to an existing recreation facility (outdoor) and are a type of development listed in Clause 7.8(2)(b) which permits the following within the foreshore area: (b) boat sheds, walking trails, picnic facilities or other recreation facilities (outdoors).

2. The proposed works extend over existing permanent structures and buildings within the foreshore area and are ancillary to, and part of, the clubhouse building. The area that these works will occupy does not contain or contribute to the natural environment or natural areas of the foreshore. The type of works proposed are anticipated to be undertaken in the foreshore area as specified in Clause 7.8(2)(a) as follows: *“(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area”*.

The location of these existing structures is indicated in **Figure 3** and these are to be replaced with the new building works as shown in **Figure 4**.

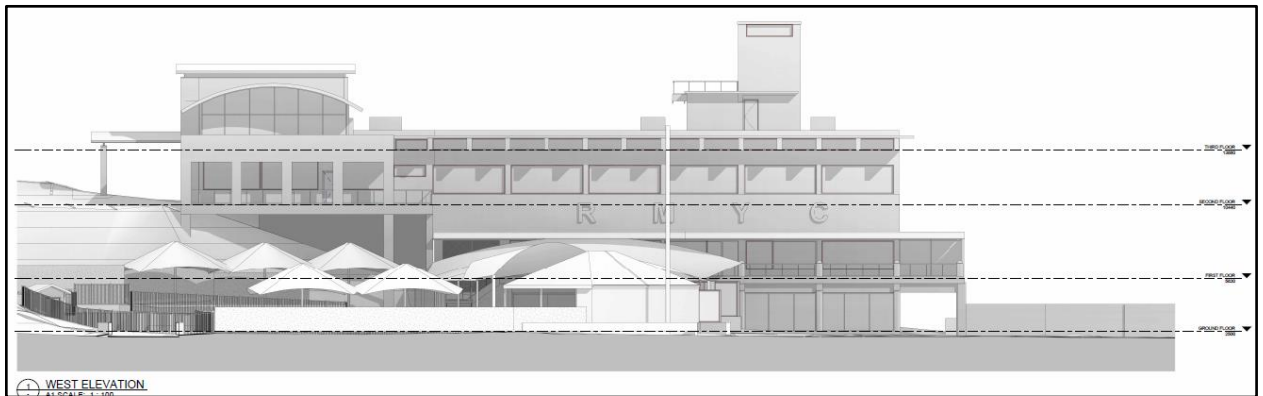


Figure 3 Existing west elevation

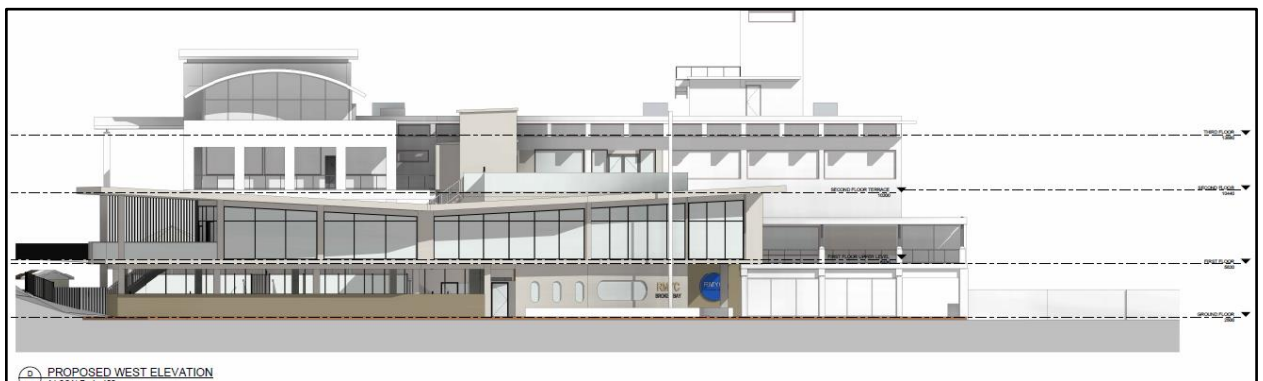


Figure 4 Proposed west elevation

The footprint of the existing extensions and additions do not extend further into the foreshore area than the current footprint of the ancillary structures and buildings of the Club. Buildings and structures of the existing Club include permanent shade structures, a single storey BBQ hut building, swimming pool and surrounds, retaining walls, car parking and administration buildings and offices at the main entry point to the marina (including a two storey building). The works are consistent with Clause 7.7(2)(b) and the provisions of Clause 7.8 do not require the works to comply with both (a) and (b) regardless.

3. The appearance of the site as viewed from the waterway and surrounding properties has been analysed in detail in the Visual Impact Assessment (VIA) submitted with the development application. The VIA demonstrates a positive visual appearance of the new works compared to the existing carparking area, shade structures and single storey BBQ hut.
4. The proposed works within the foreshore area will not cause environmental harm such as pollution or siltation of the waterway, adverse impact upon flora and fauna, adverse impact on surrounding uses, or adverse impact upon

drainage patterns. Vegetation to be removed is limited to palm trees which are exempt from prior approval or permits to remove.

5. The proposed works within the foreshore area are consistent with the existing character of this site within the broader foreshore area. The yacht club and moorings have been established on the site since 1927 with various additions, rebuilding and expansion projects to date. A multi-level building is a long term characteristic of the site.
6. The works are consistent and coordinated with the existing clubhouse to provide a higher standard of indoor and outdoor eating and recreation facilities which are uses and activities already established at the site. The proposal does not introduce uses and activities that are uncharacteristic of the long-established use of this section of the foreshore area. The proposal will not result in an uncharacteristic intensification of the existing use.
7. The proposed building footprint does not reduce the amount of quality landscaping within the site. The building footprint occupies an area of the site which is already covered by fixed structures and hard surfaces and retains the areas of landscaping as shown green in **Figure 5**. Therefore the proposal retains existing quality vegetation and also improved on-site stormwater management by capturing roof water and directed it to a controlled system rather than the uncontrolled runoff from exiting impervious outdoor surfaces.

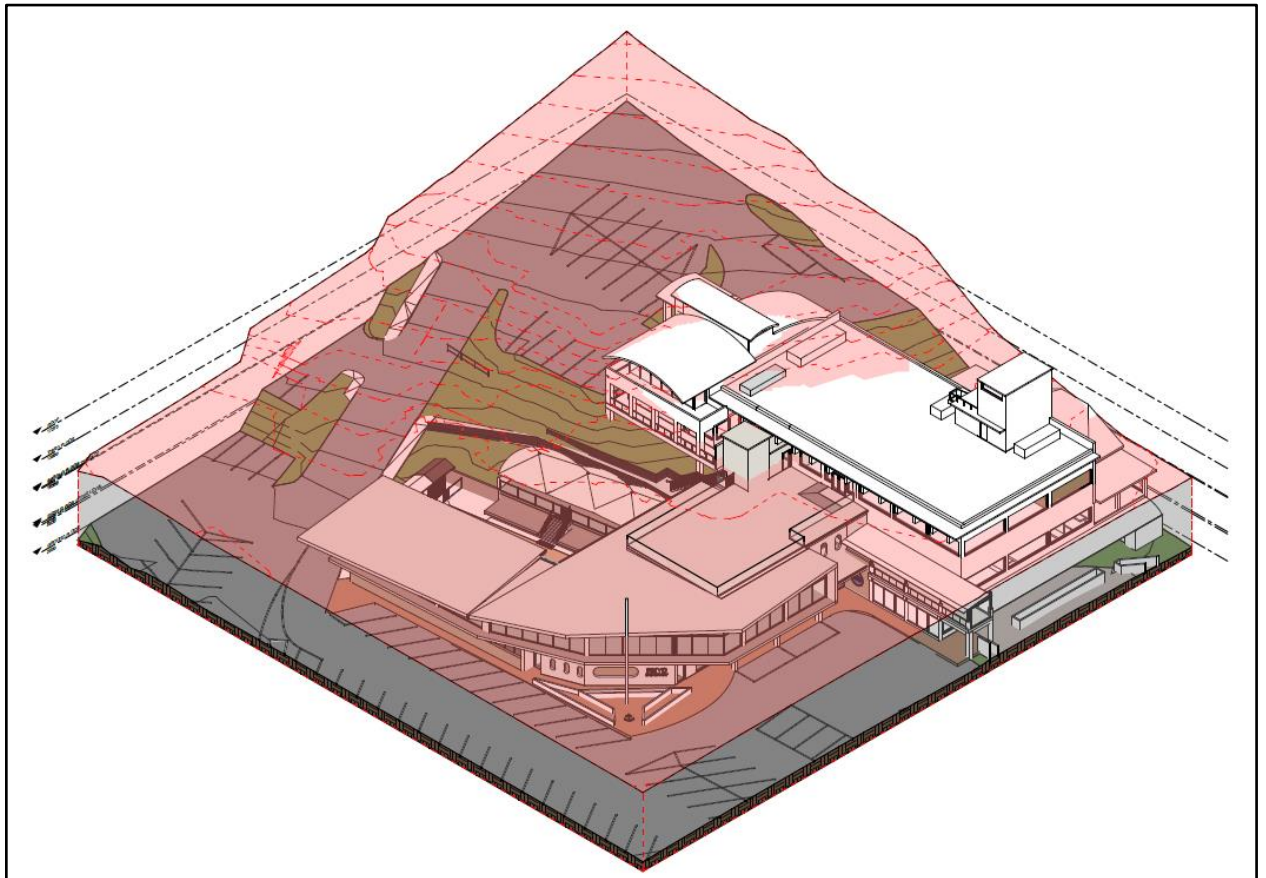


Figure 5 Three dimensional diagram of the proposal indicating areas of landscaping throughout the site which are to be retained (shaded green).

8. Views of the foreshore and waterway from nearby public places and surrounding private properties are highly valued. The siting of the proposed works has been carefully selected so as not to obstruct views from adjoining private residential properties.

9. Additional shadow to be cast by the proposal is mostly contained within the site projecting onto a small part of the waterway within the marina area where it will have no detrimental environmental impact and the remainder of the additional shadow will impact the existing carpark. The additional shadow will have no detrimental amenity or environmental impacts and will be mostly confined to the car parking area.
10. The proposed works will not reduce carparking capacity within the site.
11. It is considered that there is an absence of any significant material environmental, social and economic impacts of the proposal on the amenity of the site, the locality, future site users and neighbours. Specifically, the proposal:
- Does not result in any adverse amenity impacts such as visual, landform and vegetation impact;
 - Is a type of development anticipated by Clause 7.8(2)(b) within the foreshore area;
 - Does not result in any adverse impacts upon the streetscape given the foreshore area is not visible from the adjacent roadway;
 - The proposed development meets the relevant objectives of Clause 7.8 in that the development does not impact on natural foreshore processes and in fact improves on-site stormwater management by capturing and treating runoff from new roof space which was previously uncontrolled from exposed hard surfaces including car parking;
 - The proposal meets the objectives of the RE2 Private Recreation zone (as further detailed in Section 7 below).
12. Insisting on the extensions to the clubhouse being located outside the foreshore area is likely to result in works on the more elevated areas of the site. This may increase bulk and scale of the building overall and increase the visual impact of the building as viewed from the waterway. Works behind the foreshore building line may result in the removal of vegetation and landscaped areas and may change the appearance of the site as viewed from the street and the waterway.
13. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
- The proposal promotes the orderly and economic use and development of the land through consistent with the aims and provisions of the Pittwater local environmental plan (1.3(c));
 - The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the topography of the site. The variation allows improved landscaping and amenity within the foreshore area while avoiding and minimising impacts upon landform, having only positive outcomes for the character of the locality including site as viewed from the foreshore.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6(4)(a) does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome.

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a

"better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), (Clause 4.6(4)(a)(i))

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in Section 7 below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, (Clause 4.6(4)(a)(ii))

Limited development on Foreshore Area Objectives



The objectives of clause 7.8 for a maximum Foreshore Building Line 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.*

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3 are addressed in turn below:

Objective (a):

Objective (a) seeks to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance amenity of the area.



The proposed works within the foreshore area will be more than 25m from the foreshore and have no material adverse impacts on natural foreshore processes. The waterway amenity and natural processes will not be compromised by the proposed development which is compatible with the existing development on the site. There will be some improvement to the management of stormwater from the site as rainfall and runoff will be captured and treated prior to discharged whereas runoff from outside impervious surfaces are not directed to stormwater treatment and control systems.

Objective (b):

Objective (b) seeks to provide for continuous public access along the foreshore area and to the waterway.

The subject site is not located in an area with continuous public access along the foreshore. The nature of the use of the site as a marina makes public access to the foreshore difficult and there is no public access to land adjacent to the site. However, the proposed development does not prevent any future public access to the foreshore and waterway.

Objectives for Development in Zone RE2 Private Recreation

The objectives for all development in Zone RE2 Private Recreation are set out in Pittwater LEP 2014 and are listed below along with comments demonstrating the ways in which the proposal is consistent with the relevant objectives:

Objective: “To enable land to be used for private open space or recreational purposes

The proposed development will supports the continued use of the site for private open space and recreational use in a way that is sympathetic to the character of the surrounding area.

Objective: To provide a range of recreational settings and activities and compatible land uses.

The proposal will allow for the provision of facilities that will support the club’s ability to meet the needs of its members.

Objective: To protect and enhance the natural environment for recreational purposes.

The proposal provides for an improvement in stormwater runoff entering Pittwater and provide a low rise buffer between the foreshore and the existing club buildings. The proposal will provide for the protection and enhanced of the natural environment surrounding the site. Utilising the proposed building footprint will enable retention of existing landscaped areas within the site. The proposal will enhance the facilities of the Club which promote recreational use of the waterway in a manner which will protect the waterway environment.

Objective: To allow development of a scale and character that is appropriate to the nature of its recreational use and is integrated with the landform and landscape.

The proposed development will be of a scale and character that is appropriate to the continued operations of the clubhouse as a recreation facility. The proposal will accommodate for activities and services which are already available at the club but to a higher standard and compliant with accessibility requirements. The siting of the works will have less impact in comparison to extending the building across other areas of the site. Extension of the building across areas of the site landward of the FSBL has the potential to increase the visual impact of built form and reduce landscaped areas by comparison.

8. THE PUBLIC INTEREST

During November 2018, Northern Beaches Council released its draft Pittwater Waterways Strategy 2038 for public comment. The draft Strategy was adopted by Council in May 2019. Council is currently working on the implementation of the Strategy.

The proposal for the expansion of the RMYC member's facilities is considered to be consistent with the strategies and directions of the Strategy particularly the following directions:

- Identify appropriate foreshore locations for low-scale cafes and restaurants accessible via sustainable and active transport networks and subject to sensitive development controls,
- Maintain and ensure access to commercial opportunities around the Pittwater waterway,
- Maintain the local economy that is based on the provision of recreational activities.

As such, the proposed development is therefore considered to be in the public interest.

9. CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The issue of the concurrence of the Secretary of the Department of Planning and Environment is dealt with by Planning Circular PS 20-002 'Variations to development standards', dated 5 May 2020. This circular is a notice under 55 of the Environmental Planning and Assessment Regulation 2021. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The circular provides for assumed concurrence.

Concurrence cannot be assumed for a request for a variation to a numerical standard by more than 10 per cent if the function is to be exercised by a delegate of the consent authority. This restriction does not apply to decisions made by local planning panels, who exercise consent authority functions on behalf of councils but are not legally delegates of the council. As such, it is anticipated that the development application will be determined by the local planning panel.

The Secretary can be assumed to have given concurrence to the variation.

Notwithstanding it is our view that the proposal is compliant with clause 7.8 being a form of development allowed in the foreshore area by way of clause 7.8(2)(b).

10. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the objectives Clause 7.8 and Zone RE2 is achieved and that a request for variation of the FBL is not required in this case. Notwithstanding, the proposal has been demonstrated to comply with the objectives of Clause 7.8 and the objectives for development in Zone RE2 with sufficient environmental planning grounds to justify the development within the foreshore area to warrant an appropriate degree of flexibility specific to the circumstances of this development.

On this basis, the requirements of Clause 4.6(3) are satisfied.

ANNEXURE E

Pittwater 21 Development Control Plan – Compliance Table



PITTWATER 21 DCP – COMPLIANCE TABLE

Clause / Control	Requirement	Proposal	Complies?
Part B General Controls			
B1 Heritage Controls			
B1.1 Heritage conservation, heritage items, heritage conservation areas and archaeological sites listed in Pittwater LEP 2014.	Any development application involving work likely to impact the heritage significance of a heritage item or archaeological site is to be accompanied by a Heritage Impact Statement, prepared by an appropriately qualified heritage professional. Guidance on preparing a Heritage Impact Statement (Statement of Heritage Impact) is available at NSW Office of Environment & Heritage in the NSW Heritage Manual or superseding publication.	Not applicable	N/A
B1.2 Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites.	Any development application involving work likely to impact the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site is to be accompanied by a Statement of Heritage Impact prepared by an appropriately qualified heritage professional. Guidance on preparing a Heritage Impact Statement (Statement of Heritage Impact) is available at NSW Office of Environment & Heritage in the NSW Heritage Manual or superseding publication.	Not applicable	N/A
B1.3 Heritage Conservation - General	If a property, the subject of a development application, is identified as possibly meeting any of the criteria for heritage listing (encompassing the four values of the Burra Charter, being historical, aesthetic, scientific and social significance) then	A Pre-DA meeting was held prior to the submission of this application and potential heritage was identified as an issue.	Yes



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	additional independent information on the potential heritage significance may be requested. If the property meets the criteria for heritage listing then development control B1.1 of this DCP will apply.		
B2 Density Controls			
B2.1 Subdivision – Rural and Large Lot Residential Land		Not applicable	N/A
B2.2 Subdivision – Low Density Residential Areas		Not applicable	N/A
B2.3 Subdivision - Business zoned land		Not applicable	N/A
B2.4 Subdivision – Light industrial and business park zoned land		Not applicable	N/A
B2.5 Dwelling density and Subdivision – Medium Density Residential		Not applicable	N/A
B2.6 Dwelling density – Shop Top Housing		Not applicable	N/A
B3 Hazard Controls			



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B3.6 Contaminated Land and potentially contaminated land	<p>Council shall not consent to the carrying out of any development on land unless it has considered State Environmental Planning Policy No. 55 Remediation of Land.</p> <p>In particular, Council shall consider: whether the land is contaminated; and if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; and if the land requires remediation, whether the land will be remediated before the land is used for that purpose</p>	The application is supported by a Preliminary Site Investigation Report prepared by <i>JK Environment</i> . The findings of the PSI indicate that the site is suitable for the proposed use.	Yes
B3.9 Estuarine hazard – Business, Light Industrial and Other Development	<p><u>Obtaining Estuarine Planning Level</u></p> <p>To apply this control, the Estuarine Planning Level must first be established by: Obtaining 'Estuarine Planning Level (EPL) advice' from Council, or;; An independent assessment undertaken by a Coastal Engineer (as defined in Appendix 7 Estuarine Risk Management Policy for Development in Pittwater</p> <p>The Estuarine Planning Level may vary landward across the site based on foreshore edge treatment and distance from the foreshore edge. The Estuarine Planning Level does not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.</p> <p><u>Estuarine Risk Management Policy for Development in Pittwater</u></p> <p>For additional information, applicants are referred to Appendix 7 Estuarine Risk Management Policy for Development in Pittwater.</p> <p><u>Protection of Development from Wave Action and Tidal Inundation</u></p> <p>Development is to be protected from the effects of wave action or tidal inundation either by mitigation works to protect the development or ensuring that the floor levels of the development</p>	Refer to report from <i>Horton Coastal Engineering</i> submitted with the application.	Yes

PITTWATER 21 DCP – COMPLIANCE TABLE

are at or above the Estuarine Planning Level.

General to all Development

The following applies to all development:

- All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; and
- All structural elements below the Estuarine Planning Level shall be constructed from flood compatible materials; and,
- All structures must be designed and constructed so that they will have a low risk of damage and instability due to wave action and tidal inundation; and
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be waterproofed to the Estuarine Planning Level; and,
- The storage of toxic or potentially polluting goods, materials or other products, which may be hazardous or pollute the waterway, is not permitted to be stored below the Estuarine Planning Level; and,
- For existing structures, a tolerance of up to minus 100mm may be applied to the Estuarine Planning Level in respect of compliance with these controls.
- To ensure Council's recommended flood evacuation strategy of 'shelter-in-place' it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Floor Levels - New Development and Additions

All floor levels within the development, excluding balconies (with

PITTWATER 21 DCP – COMPLIANCE TABLE

	open balustrades) are to be at or above, or raised to the Estuarine Planning Level.		
B4 Controls relating to the natural environment			
B4.19 – Estuarine Habitat	Development shall not be permitted which could result in the destruction of mangroves or seagrass beds, saltmarsh and other estuarine habitats.	The proposal having regard to its location and design features will not have any material adverse impact on mangroves or seagrass beds or other estuarine habitats.	Yes
	Development in an estuarine habitat catchment shall not adversely impact on the wetlands.	The proposed development is located such that it is not expected to have any adverse impacts on any wetlands within the Pittwater estuary.	Yes
	Development shall dispose of stormwater, wastewater and other drainage in a manner that will not adversely impact on estuarine habitat.	The proposal will provide for an overall improvement in the quality of stormwater entering the waterway.	Yes
	Development must minimise changes to the following: <ul style="list-style-type: none"> • local surface runoff, groundwater flows and water flow regimes to the estuarine habitat; • temperature, • salinity, • chemical makeup and • sediment loads. 	Apart from an improvement to the water quality of stormwater leaving the subject site, the proposed development will not contribute to significant changes to runoff from the site.	Yes
	Stormwater is to mimic natural conditions. Development shall provide adequate buffering to estuarine habitat.	The stormwater runoff from the site will enter Pittwater through an existing headwall located to the north-west of the proposed development.	Yes
	Existing wildlife corridors are to be maintained and functional habitat links provided wherever possible.	The proposed development will not have any significant impact on any existing wildlife corridor.	Yes
	Development shall ensure 80% of the area that is not covered by approved buildings or associated structures, is native vegetation	The subject site includes large areas of native vegetation including canopy cover trees. The location of the proposed development does not involve	Yes

PITTWATER 21 DCP – COMPLIANCE TABLE

	either through retention of existing bushland or planting with locally native plant species (as per species found on the site or those listed in 'Native Plants for your Garden' on Pittwater webpage).	any native vegetation apart from ornamental shrubs which will be replaced with new landscaping.	
	Development within the Pittwater Waterway shall have regard to any adjoining important estuarine habitats at all time, particularly during the construction phase. Any impact upon estuarine habitats within the Pittwater Waterway, particularly mangroves, saltmarsh and seagrass beds, must be minimised.	Noted. It is appropriate for this to be addressed by a condition of consent.	Yes
	Adequate compensatory works shall be undertaken where damage to estuarine habitats occurs.	No damage to estuarine habitat is expected.	Yes
	Habitat for locally and migratory birds shall not be reduced or degraded. Development that will result in increased disturbance to migratory wading bird habitat shall not be permitted.	The proposal will not reduce or degrade the habitat of any local or migratory birds.	Yes
B4.20 Protection of Estuarine Water Quality	Development shall not have an adverse impact on water quality through pollution including turbidity, siltation or increased nutrients	The proposal includes the installation of a water treatment device to improve the quality of stormwater runoff leaving the site. The proposal will result in a 85% reduction in total suspended solids, 79% reduction in phosphorous, 51% reduction in nitrogen and a 100% reduction in gross pollutants.	Yes
	Development shall not impact on the existing water circulation within the Pittwater Waterway, its individual embayments or tidal tributaries in a manner that is likely to adversely affect water quality or the physical well being of natural estuarine habitats.	The proposal is unlikely to have any detrimental impact.	Yes
	Environmental safeguards (silt curtains, booms etc) are to be used during construction of the proposed works to ensure there is no escape of turbid plumes into the aquatic environment.	Noted – this issue could be addressed by a condition of consent.	Yes

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	Turbid plumes caused by runoff, driving of piles, etc. have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.		
B5 – Water Management			
B5.1 Water Management Plan	An Integrated Water Management approach must be undertaken on all land subject to development for the effective water management of all water on the site including: rainwater stormwater greywater, and wastewater	A stormwater drainage plan prepared by <i>Martens and Associates Consulting Engineers</i> is submitted with the application.	Yes
	The Water Management Plan is to be clearly drafted, of a minimum 1:200 scale, showing the development, surface contours to AHD, all components of the Integrated Water Management System, and the proposed development. The Water Management Plan is to be professionally drafted and capable of being electronically scanned.	The Stormwater Drainage Plan has been prepared to generally comply with these requirements (1:250 scale at A1).	Yes
	The Water Management Plan must clearly nominate the location, the direction of water flow between system elements, and integration of all components in the Water Management System.	The Stormwater Drainage Plan provides this information.	Yes
	The Water Management Plan is also to be accompanied by supporting Assessment Reports and documentation by an appropriately qualified and accredited Professional Engineer, where required, relevant to the proposed Water Management System.	The Stormwater Drainage Plan is supported by a report prepared by <i>Martens and Associated Consulting Engineers</i> .	Yes.
	All Water Management System components must be located on private lands except for the discharge line to the public stormwater system.	The proposed stormwater system is located within the subject site with the exception of the discharge point into Pittwater.	Yes

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B5.3 Greywater Reuse	Blackwater reuse and on-site disposal is not permitted on sewerer lands.	All blackwater will be disposed via the Sydney Water sewer network.	Yes
	Council will only consider approval of on-site treatment, disposal and/or reuse of greywater subject to demonstration of scheme feasibility and compliance with all relevant State and Federal regulatory requirements and the referenced guidelines.	The proposal is not seeking on-site treatment of greywater.	Yes
	The greywater treatment and reuse system shall have a current NSW Health Accreditation (where accreditation is necessary).	Not applicable	N/A
	All premises must maintain a connection to the Sydney Water centralised sewerage waste disposal system.	The site has a connection to the Sydney Water sewer network and the proposed extension will be connected to that network.	Yes
B5.4 Stormwater harvesting	Where development is proposing a stormwater harvesting scheme, it shall be designed to comply with all relevant State and Federal regulatory requirements.	Refer to Stormwater Plan and Report prepared by <i>Martens & Associates</i> and submitted with the application.	Yes
	The stormwater management plan is required to demonstrate: A reduction of water consumption and waste through the provision of re-use devices, conservation practices and recycling runoff. Water Sensitive Urban Design principles have been incorporated into the design of drainage, on-site detention, landscaping and orientation of development. A reduction of stormwater draining from the development site and facilitating water reuse through the use of rainwater tanks, on-site detention and re-use of greywater .	Refer to Stormwater Plan and Report prepared by <i>Martens & Associates</i> and submitted with the application.	Yes
	The design for the stormwater harvesting and reuse scheme is to be certified by a suitably qualified and experienced Professional Engineer and is to be submitted with the Water Management Plan and any accompanying assessment reports and	Refer to Stormwater Plan and Report prepared by <i>Martens & Associates</i> and submitted with the application.	Yes

PITTWATER 21 DCP – COMPLIANCE TABLE

	documentation.		
	The Water Management Plan and accompanying assessment reports and documentation shall demonstrate the feasibility of the scheme.		
B5.5 – Rainwater Tanks – Business, Light Industrial and Other Development	All development creating an additional hard (impervious) roof area of greater than 50m ² must provide a rainwater tank for non-potable use connected to external taps for the purpose of landscape watering and car washing and a functional water reuse system including, water supply for toilet flushing and other uses as permissible under the current Code of Practice for Plumbing and Drainage.	Not applicable	N/A
	Rainwater tanks may be above or below ground and are required to have storage capacities in accordance with the following table:	Not applicable	N/A
B5.7 Stormwater Management – On-Site Stormwater Detention		OSD is not required.	N/A
B5.11 Stormwater Discharge into Waterways and Coastal Areas	<p>This control applies where stormwater can legally discharge into a natural waterway, estuary, lagoon or coastal area.</p> <p><u>Direct Connection to Waterways and Coastal Areas</u></p> <p>The discharge of stormwater into the waterways (including Pittwater, Narrabeen Lagoon and creek systems) or any of its tributary watercourses and coastal areas will only be permitted from land directly adjoining a waterway or coastal area provided that it can demonstrated through the Water Management Plan, that: discharge to the public drainage system is not available</p>	Refer to Stormwater Plan and Report prepared by <i>Martens & Associates</i> and submitted with the application.	Yes

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	discharge over any bluff or cliff area will not cause slope instability the discharge system does not result in cliff/bluff/dune or shoreline erosion, sedimentation or water quality impacts the discharge system will minimise the visual/environmental impact of any drainage discharge structure along the foreshore.		
B5.13 Development on Waterfront Land	Any waterfront land (as defined in the <i>Water Management Act 2000</i>) on a property shall be retained in their natural state to: carry stormwater/flood flows, maintain aquifers, retain stability, and provide habitat functions.	The proposal does not involve works to “waterfront land”. Despite this the site is heavily modified having been reclaimed and filled in the 1960s. The proposal will ensure adequate stormwater disposal from the site.	Yes
	Natural or artificially modified water courses cannot be diverted onto adjoining lands, filled, channelised and/or dammed.	The proposal does not modify any watercourse.	Yes
	Waterfront land in a degraded state, should be restored and rehabilitated.	The proposal is proposed upon reclaimed foreshore land that currently serves as outdoor recreation areas for the RMYC club. The development seeks to expand the club facilities to this area surrounding the inground swimming pool.	Yes
	Development within waterfront land shall incorporate appropriately sized riparian corridor zones into the design based on <i>Controlled Activities on Waterfront Land: Guideline for outlet structures on waterfront land</i> (NSW Office of Water, July 2012).	The proposed development is located between 25m and 30m of the foreshore. The land is heavily modified having been reclaimed and is used as part of a marina. No changes are proposed to natural areas.	Yes
	Development adjoining waterfront land is to be landscaped with local native plants	The proposal does not involve any works along the waterfront land.	Yes
	Council encourages the replacement of a piped stormwater system where appropriate with a restored waterway, wherever feasible.	The subject site does not involve any artificial/piped waterways	Yes
	Water Management Plan with supporting documentation is to be	Not applicable	N/A

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	submitted demonstrating the feasibility of the proposed watercourse works within the site.		
B6 Access and Parking			
B6.3 Off-Street Vehicle Parking Requirements	<p>For all other uses, the minimum number of vehicle parking and service spaces to be provided within the development site for new development and extensions to existing development is to be in accordance with the following:</p> <ul style="list-style-type: none"> • The total number of spaces as set out in TABLE 1 below; • PLUS the number of on-street parking spaces lost as a direct result of the development due to access and traffic facilities requirements. 	The subject site provides off-street carparking for 290 vehicles. The proposed development does not increase the demand for carparking on site. Refer to Traffic and Parking Report prepared by <i>Traffix</i> .	Yes
	<p>The design of all parking areas shall be in accordance with the current edition of the following Australian Standards:</p> <ul style="list-style-type: none"> • Australian Standard AS/NZS 2890.-12004: <i>Parking Facilities Part 1: Off Street Car Parking</i>; • Australian Standard AS/NZS 2890.2-2002: <i>Parking Facilities – Part 2: Off-Street Commercial Vehicle Facilities</i>; • Australian Standard AS/NZS 2890.3-1993: <i>Parking Facilities Part 3: Bicycle Parking Facilities</i>; and • Australian Standard AS/NZS 2890.6-2009: <i>Parking Facilities – Part 6: Off-Street Parking for People with Disabilities</i> except as qualified in this control. 	The existing carparking areas are not impacted by the proposed development. The carparking areas are generally compliant with the relevant design standards.	Yes

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	<p>At grade car parking areas are to be landscaped to a minimum of 20% of the car parking area using primarily native species of vegetation and are to achieve the following:</p> <ul style="list-style-type: none"> • shade, shelter and amenity; • protection and management of existing trees, bushland habitat and existing/potential wildlife corridors; • enhancement of the streetscape and internal areas by the provision of canopy trees; • minimum 2 metre width for landscape islands to break up parking rows; • application of Water Sensitive Urban Design Principles to landscaped areas, • safety and amenity of pedestrians and vehicles; and • lighting. 	<p>The existing carparking areas around the subject site generally satisfy these requirements.</p>	Yes
B6.7 Transport and Traffic Management	<p>Where development generates pedestrian, cyclist, traffic and transport requirements in excess of the capacity of the existing road and transport network, the capacity of the surrounding public infrastructure and transport network is required to be upgraded to at least match the additional demands generated by the development.</p>	<p>The proposed development is not considered to generate traffic (vehicle, pedestrian and bicycle) in excess of the existing road and transport network. As indicated in the Traffic and Parking Report prepared by <i>Traffix</i>, it is shown the proposal will not increase traffic generation from the site.</p>	Yes
	<p>Any improvement works external to the development site, required to ensure the development complies with this control, must be provided as part of the development at the full cost to the applicant.</p>	<p>The proposal will not require any improvement works external to the development site.</p>	Yes
	<p>All traffic assessments are to be undertaken in accordance with the Roads and Maritime Services <i>Guidelines for Traffic</i></p>	<p>The Traffic and Parking Report prepared by <i>Traffix</i> has been carried out to comply with this guideline.</p>	Yes

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	<i>Generating Developments</i> or similar guidelines.		
	All proposed traffic facilities must comply with the Roads and Maritime Services and/or relevant Australian Standards.	Noted.	-
	An assessment of the impact of traffic generated by the proposed development on the local street system must be undertaken.	The Traffic and Parking Report prepared by Traffix has considered traffic generation on local streets.	Yes
	Adequate vehicular entrances to and exits from the site are to be provided so that vehicles using those entrances and exits will not endanger persons using adjoining roads.	The site's existing vehicular entry and exit to Prince Alfred Parade will be adequate for the proposed development with no increase in demand.	Yes
	Adequate space is to be provided within the site of the building or development for the loading, unloading or fueling of vehicles, and for the picking up and setting down of passengers	The site provides for dedicated loading and unloading facilities.	Yes
	The cost for traffic and transport facilities and adjustment of any utility service is the responsibility of the Applicant.	Noted	-
B8 Site Works Management			
B8.1 Construction and Demolition – Excavation and Landfill	<p>Excavation and landfill on any site that includes the following:</p> <ul style="list-style-type: none"> - Excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation; - Any excavation greater than 1.5 metres deep below the existing surface; - Any excavation that has the potential to destabilize a tree capable of collapsing in a way that any part of the tree could fall onto adjoining structures (proposed or existing) or adjoining property; 	<p>The development application includes a Geotechnical Report prepared by Douglas Partners. The report provides recommendations for the construction phase of the development including recommendations regarding:</p> <ul style="list-style-type: none"> - Excavation support; and - Pile foundations. 	Yes

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	<ul style="list-style-type: none"> - Any landfill greater than 1.0 metres in height; and/or - Any works that may be affected by geotechnical processes or which may impact on geotechnical processes including but not limited to constructions on sites with low bearing capacity soils, <p>must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater (see Appendix 5) as adopted by Council and details submitted and certified by a Geotechnical Engineer and/or Structural Engineer with the detail design for the Construction Certificate.</p>		
B8.2 Construction and demolition – Erosion and Sediment Management	Erosion and sedimentation prevention measures must be installed on all sites to prevent the migration of sediment off the site into any waterway, drainage systems, public reserves, road reserve or adjoining private lands.	The proposed development will provide temporary erosion and sedimentation prevention measures to avoid unacceptable water pollution from the site. Details of these measures will be provided with the Construction Certificate.	Yes
	Erosion and sedimentation prevention measures must be installed in accordance with <u>Managing Urban Stormwater: Soils and Construction</u> (Landcom 2004) on the downstream side of any works undertaken on the boundary of the site or on public lands adjoining the site to prevent the migration of sediment off the site into any waterway, drainage systems, public reserves, road reserve or adjoining private lands.	The site will be provided with all necessary erosion and sediment control measures prior to commencement of physical works on the site.	Yes
	Appropriate devices are to be in place at all times to prevent the migration of sediment off the site.	Noted	-
B8.3 Construction and Demolition – Waste Minimisation	Waste materials generated through demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility.	Noted – This issue can be addressed with a condition of consent.	Yes

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B8.4 Construction and Demolition – Site Fencing and Security	All sites are to be protected by site fencing for the duration of the works.	The builder appointed to undertake these works will ensure that adequate site fencing is installed.	Yes
	Where building construction is undertaken adjacent to the public domain, pedestrian and vehicular facilities are to be protected by a Hoarding in accordance with Section 126(1) of the <i>Roads Act 1993</i> .	The proposal does not involve any works adjacent to the public domain (roadway/footpath).	Yes
B8.6 Construction and Demolition – Traffic Management Plan	For all development where either excavated materials to be transported from the site or the importation of fill material to the site is 100m ³ or greater, a Construction Traffic Management Plan indicating truck movements, and truck routes is to be provided and approved by Council prior to the commencement of works.	Refer to Construction Traffic Management Plan prepared by <i>Traffix</i> which contemplates: <ul style="list-style-type: none"> - Construction traffic volumes - Road safety, - Vehicular access - Trucks arriving to site - Truck routes - Swept path analysis - Traffic guidance systems - Works zone - Pedestrian control - Employee parking. 	Yes
	All transport works must not cause adverse disruption or nuisance to adjoining residences, businesses or the street system.	Not applicable	N/A
Part C Development Type Controls			
C2 Design Criteria for Business Development			

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C2.1 Landscaping	Canopy trees are to be located a minimum of five metres from any footing walls of the actual built structure of the development. Closer proximity can be accommodated through the use of pier and beam footings and will be assessed on a risk to structure basis.	The proposed development will not be located in the vicinity of any existing canopy trees.	Yes
	A range of ground covers shrubs and trees shall be provided to soften the built form from the street.	Due to the site's topography, the proposed development will not be readily visible from the street. However, there will be some landscaping provided around the perimeter of the development to soften its appearance.	Yes
	For bed and breakfast accommodation and rural industry, landscape elements both hard and soft should dominate the built form and be incorporated into the building fabric and design through the use of setback and modulation incorporating such landscape elements.	Not applicable	N/A
	For shop top housing, a planter or landscaped area with minimum area of 4m ² is to be provided as a feature at the ground floor of the front building facade. This feature is to be positioned to soften any hard edges of the building including any ramps, podiums or changes in levels.	Not applicable	N/A
	Planter areas are to be a minimum area of 4m ² and where canopy trees are proposed a minimum soil volume of 8m ³ is required. Provision of available root volume may need to incorporate the use of structural soils.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	All plant material is to be of a super advanced nature given the difficulty of establishing plant material in heavily used urban areas. Minimum plant sizes are to be as follows:- Ground covers 5 litre (200) mm pot Shrubs 35 litre Trees 400 litre	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes

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	A minimum depth of 500mm of garden mix (ANL Botany Mix or equivalent) must be provided to all garden areas with 150mm hardwood chip mulch to cover all garden areas.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	Plants are to be arranged and spaced, so that at completion of works, they present as a grown completed landscape. Plant material should be arranged through pre-order plant contracts to achieve required advanced sizes.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	Tree species to include indigenous smaller rainforest and creekline species such as:- <ul style="list-style-type: none"> • <i>Tristania Laurina</i> Watergum, • <i>Hymenosporous flavum</i> Native Frangipani • <i>Cupaniopsis arachanoides</i>, Tuckeroo • <i>Syzigium Jambos</i> Syzigium, • <i>Banksia Intergrifolia/Serrata</i> - Banksia 	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	Tree species selection needs to understand root growth and location and impact upon utility services such as wires/cables/pipes both overhead and underground and generally match the existing character of the street.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	All garden areas containing proposed trees are to have root barriers installed to all edges. Such barriers are preferred 100mm thick concrete to a 300 mm depth.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	All garden areas to include a drip irrigation system based on station timer and be maintained by the proposed strata body of the subject building.	Refer to Landscape Plan prepared by <i>Landart</i> for details of the landscaping to be provided adjacent to and within the development.	Yes
	For shop top housing, a minimum landscaped area (at ground floor level) of 20% of the site area, or 35m ² per dwelling,	Not applicable	N/A

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	whichever is the greater, shall be provided.		
C2.2 Safety and Security	There are four Crime Prevention through Environmental Design (CPTED) principles that need to be used in the assessment of development applications to minimise the opportunity for crime they include the following:		
Surveillance	Building design should allow visitors who approach the front door to be seen without the need to open the door.	Not applicable	N/A
	Buildings and the public domain are to be designed to allow occupants to overlook public places (streets, parking, open space etc) and communal areas to maximise casual surveillance.	The proposed development will offer a high level of surveillance of the areas around the site.	Yes
	Development design and design of the public domain (including landscaping) is to minimise opportunities for concealment and avoid blind corners.	The design of the development and associated landscaping will aim to minimise concealment spaces and blind corners.	Yes
	Adequate lighting must be provided according to the intended use of the development. Lighting must be designed and located so that it minimises the possibility of vandalism or damage. Security lighting must meet Australian Standard <i>AS4282-1997: The control of the obtrusive effects of outdoor lighting</i> .	The site is provided with security lighting and new lighting will be installed as part of the proposal.	Yes
	Lighting is to be designed to minimise electricity consumption, and to minimise annoyance to neighbours.	All security lighting provided as part of this development will be designed and installed to be effective for the purpose of illuminating the premises to deter criminal activity but to minimise electricity consumption and impacts upon neighbours.	Yes
	Where provided, public facilities (toilets, telephone, ATMs, etc) are to be located so as to have direct access and to be clearly visible from well-trafficked public spaces.	Any such public facilities provided will be located within the club premises and will have a high level of surveillance.	Yes

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<i>Access control</i>	Design landscaping and materials around dwellings and buildings, so that when it is mature it does not unreasonably restrict views of pathways, parking and open space areas.	Landscaping around the building will be maintained so that when it reaches maturity it does not restrict views of public areas (pathways and parking areas).	Yes
	Shared entries must be able to be locked and incorporate an intercom system or the like to allow visitors to gain entry.	Not applicable	N/A
	Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.	The main entry to the RMYC is highly visible and will not be obscured by the proposed extensions.	Yes
	Where provided, pedestrian access through a site and through the public domain is to be clearly defined, signposted, appropriately lit, visible and give direct access to building from parking and other areas likely to be used at night.	The subject site is provided with signage and lighting to allow for wayfinding by members and visitors.	Yes
	The street number of the property is to be clearly identifiable.	The main entry to the site on Prince Alfred Parade is provided with clear identification.	Yes
<i>Territorial Reinforcement</i>	Pedestrian access along the street frontage shall not be impeded by landscaping, street furniture or other restrictions.	No existing pedestrian access will be impeded by the proposed development.	Yes
	Walkways and landscaping should be used to delineate site boundaries and direct visitors to the correct entrance and away from private areas.	The proposed development will provide clear pathways to the main entry to the club premises.	Yes
	Where a retail/commercial use and residential dwellings are provided in the same development, separate entries for the different uses are to be provided.	Not applicable	N/A
	Blank walls along all public places (streets, open space etc) shall be minimised	The proposed development does not involve any blank walls to any public places.	Yes
	Popular public space is often attractive, well maintained and a	Not applicable	N/A

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Space Management	well used space. Linked to the principle of territorial reinforcement, space management ensures that space is appropriately utilised and well cared for.		
	Space management strategies include activity coordination, site cleanliness, rapid repair of vandalism and graffiti, the replacement of burned out pedestrian and car park lighting and the removal or refurbishment of decayed physical elements.	The RMYC operational management policies involve a high standard of caring for the site and its buildings – removal of graffiti and repair of any damage.	Yes
	A crime risk assessment is a systematic evaluation of the potential for crime in an area. It provides an indication of both the likely magnitude of crime and likely crime type. The consideration of these dimensions (crime amount and type) will determine the choice and approximate mix of Crime Prevention through Environmental Design (CPTED) strategies.	Refer to Section 5.4.1 of this Statement	Yes
C2.5 View Sharing	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	Refer to Section 5.3.8 of this Statement	Yes
	The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.	Refer to Section 5.3.8 of this Statement.	Yes
	Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.	Refer to Section 5.3.8 of this Statement.	Yes
	Views are not to be obtained at the expense of native vegetation.	Refer to Section 5.3.8 of this Statement.	Yes
C2.6 Adaptable	Convenient and safe access for all people, including people with	Not applicable	N/A

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Housing and Accessibility	a disability, older people, and people with prams, must be provided to and within all buildings to which the general public have access.		
	<p>The siting and design of a building to which the general public has access shall comply with Australian Standard AS 1428-2009.1: Design for access and mobility – General requirements for access – New building work, and shall incorporate the following:</p> <ul style="list-style-type: none"> i) continuous accessible path of travel to all areas that the public or a section of the public is entitled or allowed to enter or use; and ii) walkways, ramps and landings at a reasonable gradient and width, with handrails and kerbs provided on all ramps, and slip-resistant materials on all floor surfaces; and iii) accessible toilet facilities, tactile ground surface indicators, effective signage and illumination, and adequate circulation space through passageways and doorways; and iv) carparking for people with a disability. 	Refer to DDA compliance report prepared by <i>Blackett Maguire and Goldsmith</i> and submitted with the DA.	Yes
	Development shall include the design and construction of works in the public domain to ensure accessibility for the full frontage of the site to any public road and to ensure access to the site from the public domain.	Not applicable as no building works are proposed within the public domain.	N/A
	Development shall include design and construction of the footpath, cycleway, kerb and guttering, drainage facilities, street furniture, street lighting and landscaping and make good the adjacent road and pavement for the full frontage of the site to any public road at full cost to the developer.	Not applicable to the proposed development as no building works are proposed within or adjacent to the public domain.	N/A

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	The design and construction shall be in accordance with the Village Streetscape Masterplans. See Section 94 Contributions Plan.	Not applicable	N/A
	Development within areas subject to flooding must provide access on land within private ownership. In this regard ramps must not encroach into the public domain.	Not applicable	N/A
C2.7 Building Facades	Building facades to any public place including balconies and carpark entry points must not contain any stormwater, sewer, gas, electrical or communication service pipe or conduit that is visible from the public place.	All vertical services will be concealed within the building structure.	Yes
C2.8 Energy and Water Conservation	Buildings shall be designed to be energy and water efficient.	The proposed building will achieve a high level of water and energy efficiency as indicated in the building sustainability report prepared by <i>Integreco Consulting</i> .	Yes
	All new hot water systems must be either solar, heat pump or gas and must have a minimum rating of 3.5 stars.	Refer to Sustainability Report prepared by <i>Integreco Consulting</i> and provided with the application.	Yes
	Water efficient appliances shall be used in all development (including AAA rated water efficient shower heads, water tap outlets and dual flush toilets).	Refer to Sustainability Report prepared by <i>Integreco Consulting</i> and submitted with the application.	Yes
	Windows are to be sized, located and shaded (by structures or vegetation) to reduce summer heat and allow entry of winter sun. Deep eaves are required to achieve this where appropriate, in addition to other horizontal shading devices, such as verandahs, pergolas, awnings, and external horizontal blinds.	The proposed windows will contribute to lower energy consumption and better thermal performance.	Yes
	Buildings are to be designed to maximise ventilation in summer. This can be achieved by positioning openings (windows and	The proposed development will be designed to provide a high level of ventilation during the summer months.	Yes

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	doors) to prevailing summer winds to encourage cross ventilation, and the installation of fans, roof vents and high level windows.		
	The species type, location and design of landscape planting are to assist in the conservation of energy.	Landscaping for the proposed development will be chosen having regard to energy efficiency.	Yes
	Solid fuel or wood burning appliances must comply with Australian Standard AS 4013-1999: Domestic solid fuel burning appliances – Method for determination of flue gas emissions or any subsequent amending standard.	The proposal does not involve the installation of a domestic solid fuel burning appliance.	Yes
	The installation of in-sink food waste disposers in any development is prohibited.	Not applicable	N/A
C2.9 Waste and Recycling Facilities	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan	A construction waste management plan will be provided prior to the issue of a Construction Certificate after a builder has been appointed.	Yes
C2.10 Pollution Control	All developments must be designed, constructed, maintained, and operated in a proper and efficient manner to prevent air, water, noise or land pollution.	The proposed development will not provide effective mitigation measures so that it does not contribute towards air, water, noise and land pollution.	Yes
	Development and business operation must comply with the <i>Protection of the Environment Operations Act 1997</i> and any relevant legislation.	Compliance with all relevant pollution control legislation will be followed at all times.	Yes
	Compliance with the NSW Environment Protection Authority Industrial Noise Policy.	The proposed development will ensure compliance with the EPA's Industrial Noise Policy.	Yes

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C2.11 Signage		No new signage is proposed at this stage. Should new signage be required they will be the subject of separate applications.	Yes
C2.12 Protection of Residential Amenity	<u>Solar Access</u> The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.	The proposal does not have any adverse impact on solar access of the main private open space of the dwellings adjacent to the site.	Yes
	Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).	The proposal will not have any adverse impact on the principal living area of the dwellings adjacent to the site.	Yes
	Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.	The proposal will not have any adverse impacts on any solar collectors on adjacent dwellings.	Yes
	Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.	The proposal will not have any adverse impacts on clothes drying areas of adjacent dwellings.	Yes
	<u>Privacy</u> Private open spaces and living rooms of proposed and any existing adjoining dwellings may be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).	The design and location of the proposed development will not have any significant adverse impact on the privacy of adjoining dwellings.	Yes
	Elevated decks, verandahs and balconies may incorporate	The proposal has been designed to avoid any significant impacts to the	Yes

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	privacy screens where necessary and should, where possible, be located at the front or rear of the building. Such areas shall not be modified to be incorporated into the dwelling.	privacy of adjoining properties.	
	Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.	Not applicable	N/A
	<p>Direct views of private open space or any habitable room window within 9 metres may be restricted (see diagram below) by:</p> <ul style="list-style-type: none"> • vegetation/landscaping • a window sill height 1.7 metres above floor level, or • offset windows • fixed translucent glazing in any part below 1.7 metres above floor level, or • solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are: <ul style="list-style-type: none"> - permanent and fixed; - made of durable materials; and - designed and painted or coloured to blend in with the house 	Not applicable as the proposed development will not be within 9m of any adjoining dwelling.	N/A
C2.14 Commercial Swimming Pools	<p>a. The pool area and its surrounds should be kept in a clean and healthy state.</p> <p>b. The pool area should be fenced in accordance with the Swimming Pools Act 1992, to provide for safety to children.</p> <p>c. Compliance with the Public Health Act 2010, Public Health Regulation 2012 and the Public Swimming Pool and Spa Pool Advisory Document (NSW Health 2013).</p>	The existing swimming pool on the site will maintain compliance with these requirements.	Yes

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- d. A register of water quality testing is to be maintained for inspection. In this regard the register is to be provided to Council on an annual basis. Water quality testing is to be carried out by a registered or qualified practitioner.
- e. No dogs or animals should be allowed to enter into the designated area of public recreation/education at any time.
- f. Any proposed commercial swimming pool must be conducted by a suitably qualified/accredited teacher of swimming and water safety. Proof of this qualification must be submitted with the application and displayed in a visually prominent position in the pool area.
- g. Access to toilet facilities shall be made available for patrons of the pool.
- h. A qualified person in swimming and water safety is to be on duty at all times the commercial swimming pool is operating. This person is also to be trained in resuscitation techniques by a recognized course.
- i. Appropriate water safety, first aid and resuscitation equipment is to be provided at the pool side at all times of the pool operating. A current qualified person (also trained in resuscitation techniques) is to be at pool side at all times of the operation. The qualified persons accreditation documents in water safety, first aid and resuscitation are to be prominently displayed in the pool area.
- j. The operation must be conducted in full awareness of the potential hazard of solar radiation and appropriate protection provided.
- k. Appropriate public liability insurance is to be obtained and evidence of annual renewal of this cover be provided to Council.

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	<p>l. The storage and handling of bulk chemicals must be in accordance with the requirements of WorkCover NSW.</p> <p>m. Sanitary Facilities shall be provided in accordance with the <i>Building Code of Australia</i>.</p>		
C2.21 Food Premises Design Standards	Compliance with Australia New Zealand Food Standards Code 3.2.3 (Food Premises and Equipment).	The proposal will be capable of complying with this requirement. This matter could be addressed by a condition of consent.	Yes
	Compliance with Australia Standard AS 4674-2004: Construction and fit-out of food premises	The proposal will be capable of complying with this requirement. This matter could be addressed by a condition of consent.	Yes
	<p>Mechanical Ventilation systems are to be designed, manufactured, installed, operated and maintained in accordance with:</p> <p>(ii) Australian Standard AS 1668.1:1998 The use of ventilation and air conditioning in buildings Part 1 - Fire and smoke control in multicompartment buildings</p> <p>(iii) Australian Standard AS 1668.2:2012 The use of mechanical ventilation and air conditioning in buildings Part 2 - Mechanical ventilation in buildings.</p>	The proposal will be capable of complying with this requirement. This matter could be addressed by a condition of consent.	Yes
	Mechanical Ventilators or other air conditioning equipment shall be screened from view from public and private domain to avoid clutter on the side, front and rear walls of development in the Elanora Heights Village Centre.	Not applicable	N/A
	Food businesses must ensure that the premises are provided with the necessary services of water waste disposal, light ventilation, cleaning and personal hygiene facilities, storage space and access to toilets.	The proposal will be capable of complying with this requirement. This matter could be addressed by a condition of consent.	Yes

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C2.22 Plant, Equipment Boxes and Lift Over-Run	Where provided, plant and equipment boxes and lift over-runs are to be integrated internally into the design fabric of the built form of the building.	The proposal will locate roof plant and lift overrun on the roof so that they are visually and acoustically screened from neighbouring properties.	Yes
	Locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.	Mechanical plant will be located within the building.	Yes
Section D Locality Specific Development Controls			
D10 Newport Locality			
D10.1 Character as viewed from a public place	Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.	The proposal will have external elevations that will complement the character of the location and blend in with other development in the area.	Yes
	Walls without articulation shall not have a length greater than 8 metres to any street frontage.	The proposed development will not be visible from Prince Alfred Parade. The proposed development provides an appropriate design response to the site and the surrounding location.	Yes
	Any building facade to a public place must incorporate at least two of the following design features: I. entry feature or portico; II. awnings or other features over windows; III. verandahs, balconies or window box treatment to any first floor element; IV. recessing or projecting architectural elements;	The proposal does not involve any façade to the public roadway, although building will be visible from Pittwater. Refer to Section 5.3.1.1 for consideration of its visual appearance from the adjacent waterway.	Yes

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	V. open, deep verandahs; or VI. verandahs, pergolas or similar features above garage doors.		
	The bulk and scale of buildings must be minimised.	The proposal has a bulk and scale that is consistent with the existing buildings on the site.	Yes
	Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place.	All carparking is provided at grade. The carparking areas to the proposed development dominate the landscape and do not make a positive contribution to the site viewed from Pittwater.	Yes
	Except in the Newport Commercial centre, parking structures must be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.	Not applicable	N/A
	Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.	The proposal will provide landscaping at ground level to soften the visual impact of the building.	Yes
	Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened as far as possible from public view.	The proposal does not involve the installation of telecommunications equipment on the building.	Yes
	General service facilities must be located underground.	All building services are located underground.	Yes
	Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.	All vertical building services will be concealed within the building.	Yes
D10.3 Scenic	Development shall minimise any visual impact on the natural	Refer to Section 5.3.1.1 of this Statement.	



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Protection – General	environment when viewed from any waterway, road or public reserve.		
D10.4 Building colours and materials	External colours and materials shall be dark and earthy tones as shown below:	The details of the proposal's external materials and finishes is provided with the architectural plan set.	Yes



ANNEXURE F

Visual Impact Analysis



