

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0234 |
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|---|--|
| Responsible Officer: | Penny Wood |
| Land to be developed (Address): | Lot 10 DP 1106130, 25 - 33 Robertson Road SCOTLAND ISLAND NSW 2105 |
| Proposed Development: | Demolition works and construction of a new jetty, pontoon and associated works |
| Zoning: | E3 Environmental Management |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Far East Land & Housing Development Company PTE LTD |
| Applicant: | Far East Land & Housing Development Company PTE LTD |

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| Application Lodged: | 10/03/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 20/03/2020 to 10/04/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | 4.3 Height of buildings: 17% |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 358,000.00 |
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The proposal is for the construction of a boat shed and associated works and involves a variation to the Height of Buildings development standard of the Pittwater Local Environmental Plan 2014 (PLEP 2014) of 17%. Despite the numeric non-compliance, the proposal is not considered to result in unreasonable bulk, scale or amenity impacts as viewed from the adjoining Pittwater Waterway or adjoining properties.

As a result of the public exhibition of the application, Council received no submissions.

The proposed development is generally compliant with the numeric controls under the Pittwater 21 Development Control Plan (P21 DCP).

The application is referred to the Northern Beaches Local Planning Panel for determination due to the

contravention of the Height of Buildings development standard exceeding 10%.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to reconstruct the jetty and boat shed for the property at a higher level due to inundation.

In particular, the application includes:

- The refurbishment of the existing boat shed by raising the entire structure by 360mm. The existing boat shed finished floor level measures RL 1.35 with the new boat shed finished floor level to measure RL 1.7.
- A new jetty, two (2) pontoons, skid ramp, stairs and associated decking along the northern and western side of the boat shed will be demolished and replaced like for like. All new structures within the waterway will be of timber construction and of a similar dimension to what is existing. The jetty will be raised in height at the north western end by 210mm. The height of the new piles at the north western end of the jetty will remain as existing.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - D8.9 Landscaped Area

Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

Pittwater 21 Development Control Plan - D15.15 Waterfront development

SITE DESCRIPTION

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|-----------------------------------|---|
| Property Description: | Lot 10 DP 1106130 , 25 - 33 Robertson Road SCOTLAND ISLAND NSW 2105 |
| Detailed Site Description: | <p>The subject site is located on the northwest foreshore of Scotland Island facing Lovett Bay. The site comprises two (2) separate allotments, being 25 - 33 Robertson Road (Lot 10, DP1106130) and 35 Robertson Road (Lot 135, DP 12749). Scotland Island. Both sites form part of a residential estate, commonly known as 'Yamba'. The site is associated with Crown Licence LIC 539 398 for development seaward of the Mean High Water Mark, of which is owned by the Department of Planning, Industry and Environment - Crown Lands and is located within the W1 Natural Waterways zone. The site is located within the E3 Environmental Management zone</p> <p>25-33 Robertson Road has frontages to both Robertson Road (south/south-east) and the Pittwater Waterway (north/north-west), and a total area of 5925m². An existing two-storey dwelling is situated centrally on the site, surrounded by an established garden that is terraced up the slope of the site, containing a mix of established native and exotic canopy trees. A small cabin, referred to as the 'caretaker's cottage', is upslope of the primary residence, situated in the south-western corner of the site. A lease arrangement is currently in place with regard to an existing boat shed and jetty on Crown Land adjacent to 25-33 Robertson Road. The jetty provides for the primary means of access to the site via the Pittwater Waterway.</p> <p>35 Robertson Road also has frontages to both Robertson Road (south-east) and the Pittwater Waterway (north-west), and a total area of 708.22. This portion of the Yamba estate is generally free of development, with the exception of existing terracing and stone retaining walls that form a key part of the design of the established gardens. A number of significant Spotted Gums are located within this portion of the site.</p> <p>Adjoining and surrounding development is characterised by similar scaled low density residential development within landscaped settings, most of which contain waterfront facilities including boat sheds and jetties.</p> |

Map:



SITE HISTORY

6 March 1995

Building Application 0165/95 for the demolition of the majority of the existing dwelling and construction of a new dwelling was lodged at Council. At the time the Building Application was lodged, the Yamba estate comprised a total of seven separate allotments;

- . 25 Robertson Road (Lot 139 DP 12749);
- . 27 Robertson Road (Lot 138 DP 12749);
- . 29 Robertson Road (Lot 1 DP 560241);
- . 31 Robertson Road (Lot 137 DP 12749);
- . 33 Robertson Road (Lot 136 DP 12749);
- . 35 Robertson Road (Lot 135 DP 12749); and
- . 37 Robertson Road (Lot 2 DP 560241).

The proposed development was limited to two allotments, being 27 and 29 Robertson Road, and the five remaining lots were to be kept free of development. Upon review of the assessment report, it is apparent that the assessing officer had concerns regarding the scale of the development, and ultimately recommended that some of the remaining vacant lots should be consolidated into the development site to ensure that the visual impact of the large dwelling was adequately minimised. The applicant objected to the imposition of any such condition requiring consolidation and confirmed that there was no intention to develop the vacant sites.

Approval P165/95 was issued on 5 September 1995 with respect to Building Application 0165/95.

25 September 1995

Two of the seven allotments (being 27 and 29 Robertson Road) in the Yamba estate were consolidated to create one lot, Lot 1 DP 852841.

11 December 2006

The consolidated site (27-29 Robertson Road) was further consolidated with 25, 31 and 33 Robertson Road) to create one new allotment, being Lot 10 DP 1106130.

N0162/07 Development Consent was granted for the construction of a detached studio/cabin, situated upslope of the existing primary residence, at 25-33 Robertson Road. 16 July 2007

N0066/15 25 - 33 and 35 Robertson Road, Scotland Island. DA Withdrawn 11 June 2015.

N0303/16 Development Consent was granted for the Removal of existing rainwater tank and installation of two (2) new rainwater tanks and landscaping works on 14 October 2016

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000</p> |

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| | <p>requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| <p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p> | <p>The site is considered suitable for the proposed development.</p> |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p> | <p>See discussion on “Notification & Submissions Received” in this report.</p> |
| <p>Section 4.15 (1) (e) – the public interest</p> | <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p> |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application (prepared by Bushfire Planning and Design, dated 11 November 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bushfire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|---|--|
| Environmental Health (unsewered lands) | <p>General Comments</p> <p>Environmental Health has been requested to provide comment on the proposed development of refurbishment and raising the existing waterfront structures at 25-33 Robertson Road. As part of this referral Environmental Health has considered Wastewater and Acid sulfate soils.</p> <p>There is not mention of any connection to wastewater from the boat shed in the SEE or associated documents provided. The wastewater report by Blue mountains Geological consulting provided as part of DA N0066/15 showed no connection of wastes from the boatshed.</p> <p>The SEE provided with the development notes that "no excavation is required for this proposal." "it is simply raising and refurbishing the existing long standing structures"</p> <p>As such Environmental Health has no objections.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p> |
| NECC (Bushland and Biodiversity) | <p>The proposed development has been assessed against the following provisions:</p> <ul style="list-style-type: none"> - SEPP (Coastal Management) - Coastal Environment Area - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest EEC) - NSW Biodiversity Conservation Act 2016 |

| Internal Referral Body | Comments |
|------------------------------------|---|
| | <p>The property is mapped as containing Pittwater Spotted Gum Forest Endangered Ecological Community (EEC). While the proposal will result in the removal of two trees diagnostic to this community, replacement planting will enable the objective of no net native tree loss to be achieved. Accordingly, the proposal can be supported, subject to measures to safely retain other significant trees.</p> |
| <p>NECC (Coast and Catchments)</p> | <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SDG Land Development Solutions dated 23 April 2018 and Council accepts the assessment . The DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>Estuarine Risk Management</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.73m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>However, the applicant submitted an Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 26 February 2020 proposed an Estuary Planning Level of 2.52m AHD considering design life of the boatshed as 25 years and proposed to raise the floor level of the existing boatshed from 1.35m AHD to 1.70m AHD. This has been incorporated in the design and supported in Geotechnical Assessment prepared by Ascent Geotechnical Consulting dated 13 November 2019.</p> <p>Estuarine Planning Level does not apply to Jetties, Bridging Ramps or Pontoons (seaward of the foreshore). The analysis is therefore limited to the boat sheds, adjacent timber boardwalks and skids, and the seawall and beach.</p> <p><u>Proposed development below the derived EPL</u></p> <p>As assessed in the submitted Estuarine Risk Management Report prepared by Salients Pty. Ltd dated 26 February 2020 and Council accepts the assessment. The ground floor level for the proposed boatshed is below the derived EPL of 2.52mAHD for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> |

| Internal Referral Body | Comments | | | | | |
|---|--|--------------------------|-----------------------------------|---|------------------------------------|--|
| NECC (Riparian Lands and Creeks) | <p>This application has been assessed against:</p> <p>State Environment Planning Policy (Coastal Management) 2018: Part 2, Division 1, Clause 13</p> <p>Pittwater 21 Development Control Plan</p> <p>B8.2 Erosion and Sediment Management</p> <p>B4.19 Estuarine Habitat</p> <p>B4.20 Protection of Estuarine Water Quality</p> <p>B4.16 Seagrass Conservation</p> <p>This application proposes the construction of a jetty using the same footprint as the existing jetty. The application does not include dredging works and should these be required an application must be made to Council with an accompanying integrated development referral to Department of Primary Industries (fisheries). To prevent damage to seagrass environmental safeguards such as silt curtains, are to be used and maintained during the construction and no items are to be placed on the seagrass beds. All precautions must be taken to avoid the spread of the invasive algae <i>Caulerpa taxifolia</i> which is already present at the site.</p> <p>With the addition of these conditions the application is unlikely to cause and adverse impacts to the integrity and resilience of the biophysical, hydrological and ecological environment.</p> | | | | | |
| Strategic and Place Planning (Heritage Officer) | <table border="1"> <tr> <td data-bbox="520 1805 1436 1839">HERITAGE COMMENTS</td> </tr> <tr> <td data-bbox="520 1839 1436 1872">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1872 1436 2018">The proposal has been referred to Heritage as it was identified by the community as being of potential significance under a previous development application on the site.</td> </tr> <tr> <td data-bbox="520 2018 1436 2051">Details of heritage items affected</td> </tr> <tr> <td data-bbox="520 2051 1436 2136">The property is not a listed heritage item and there is no statement of heritage significance.</td> </tr> </table> | HERITAGE COMMENTS | Discussion of reason for referral | The proposal has been referred to Heritage as it was identified by the community as being of potential significance under a previous development application on the site. | Details of heritage items affected | The property is not a listed heritage item and there is no statement of heritage significance. |
| HERITAGE COMMENTS | | | | | | |
| Discussion of reason for referral | | | | | | |
| The proposal has been referred to Heritage as it was identified by the community as being of potential significance under a previous development application on the site. | | | | | | |
| Details of heritage items affected | | | | | | |
| The property is not a listed heritage item and there is no statement of heritage significance. | | | | | | |

| Internal Referral Body | Comments | | |
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| | Other relevant heritage listings | | |
| | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | |
| | Australian Heritage Register | No | |
| | NSW State Heritage Register | No | |
| | National Trust of Aust (NSW) Register | No | |
| | RAIA Register of 20th Century Buildings of Significance | No | |
| | Other | N/A | |
| | Consideration of Application | | |
| | <p>The proposal seeks consent to reconstruct the jetty and boatshed for the property at a higher level due to inundation. The subject property is not a heritage item but was previously identified by the community as being of potential significance. As these works seek to remove and then reinstate ancillary structures in the same form and materials, they are considered to effectively be a 'like for like' replacement. Thus the works are viewed as having no impact upon any potential heritage significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p> | | |
| | Further Comments | | |
| | <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 7 May 2020</p> | | |

| External Referral Body | Comments | | |
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| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. | | |
| Integrated Development – NSW Fisheries | The application constitutes Integrated Development under s201 (dredging or reclamation work) of the Fisheries Management Act 1994, DPI Fisheries has reviewed the proposal (20 March 2020). No | | |

| External Referral Body | Comments |
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| | objections were raised, subject to the proponent meeting the General Terms of Approval which have been included as conditions of consent. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

Comment:

The development is accompanied by an Estuarine Risk Management Report prepared by Salients Pty Ltd dated 26 February 2020, a Marine Habitat Survey prepared by H2O Consulting Group dated 7 February 2018 and an Arborist Impact Assessment Report prepared by H2O Consulting Group dated 16 February. The reports have been reviewed by the relevant referral bodies within Council with no objections raised subject to conditions. Council Natural Environment Coastal section supports the assessment of the proposed development on land within the coastal environment area as discussed within the Statement of Environmental Effects prepared by SDG Land Development Solutions dated 23 April 2018. The proposed development is not considered likely to negatively impact upon the matters raised in subclause (1).

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

Comment:

The development will be located within its existing location with the new works being slightly raised to reduce tidal inundation. The proposal is accompanied by supporting documentation as discussed above and which is supported by Council. The proposed development is not considered likely to negatively

impact upon the matters raised in subclause (1).

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development will maintain existing public access along the foreshore and due to the structures being located within existing location there will be no additional amenity impacts towards adjoining properties. The site has no heritage significance and will not impact on the visual amenity when viewed from the waterway. as the development is considered to be in keeping with the visual character of Pittwater and in particular Scotland Island. The development is therefore not likely to cause an adverse impact on the matters referred to above.

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

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

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

Comment:

As discussed above, the environmental reports accompanying the application have been reviewed and are supported by the relevant referral bodies within Council. Council's Natural Environment - Coastal section raises no objection to the proposed works and have been sited to ensure there is an unlikely increased risk of coastal hazards on that land or other land.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|----------------------------------|----------|-------------|----------|
| Height of Buildings: | W1 Zone - 4.0m E3 Zone - 8.5m | 4.68m | 17% | No |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 4.3 Height of buildings | No |
| 4.6 Exceptions to development standards | Yes |
| 5.7 Development below mean high water mark | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.8 Limited development on foreshore area | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

| | |
|--------------------------------------|------------------------|
| Development standard: | Height of buildings |
| Requirement: | 4.0m |
| Proposed: | 4.68m (above 1.17AHD)* |
| Percentage variation to requirement: | 17% |

*Note 1.17 AHD refers to the Highest Astronomical Tide which is assessed as being the most relevant reference point for measuring the height of development within the waterway.

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- The proposed development is for the refurbishment of an existing jetty and boat shed and will present as a development of compatible scale to neighbouring development.
- The required raising of the jetty and boat shed is to reduce any water inundation of the existing jetty during high tides.
- The structures will maintain the same footprint as to what is existing and area at low level relative to the neighbouring waterfront structures and dwellings on nearby land. The retention of the footprint will ensure no further impact on the natural environment.
- The increase in the overall height of the structure is considered negligible in regard to the surrounding development with the generous width of the site when viewed from the waterway and the proposed side setbacks of the jetty and boat shed, ensuring any amenity impacts are further reduced.
- The retention of the boat shed is worthy due to the history of the subject site and will retain this

historic character.

It is agreed that the development is visually consistent in terms of height, bulk and scale of surrounding waterproof development, and that the breach of the height limit will not result in any unreasonable impacts to surrounding properties.

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

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

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

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E3 Environmental Management zone. An assessment against these objectives is provided below.

Objectives of development standard

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

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

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

Comment:

The proposal seeks a maximum building height of 4.68m (5.85 AHD), thereby contravening the numeric control by 17% (0.68m). The minor height departure will not contribute to an adverse building bulk and scale. The proposal will be retaining the existing boat shed and therefore will be consistent with the existing design and scale of the structure. The boat shed will not create a visually dominant structure and is in keeping with surrounding boat sheds located on the foreshore of Scotland. . Boat sheds are common development within the Lower Western Foreshores and Scotland Island precinct. The height and scale of the proposal is consistent with

the design parameters prescribed within Clause D15.15 of P21 OCP and is not dissimilar to that of surrounding development. In turn, the proposed development is considered to be 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,

Comment:

The encroachment of the height of buildings development standard will not be discernible when viewed from the Pittwater Waterway. The height departure is substantially attributed to the existing ground levels within the rear portion of the site in conjunction with the matter of water inundation. The development comprises a finished floor level of 1.70 AHD as so to ensure the boat shed is not likely to be subject to inundation. Further, the development comprises a height and scale that is in keeping with that of surrounding development within the Scotland Island precinct and those within the wider Pittwater locale.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposal will not unreasonably impact neighbouring properties in terms of solar access, given the siting of the boat shed, decking and jetty are located entirely beyond the MHW in conjunction with the cross fall of the topography of the adjoining sites. It is also noted the boat shed will be offset from adjoining built structures, which furthermore assists in the maximisation of solar accessibility and amenity.

d) to allow for the reasonable sharing of views,

Comment:

The minor height variation will not be discernible to the casual observer from the waterway perspective. Further, the articulated design and siting of the structure ensure minimal disruption of views between public and private spaces occur as a result of the development. The boat shed is offset from other structures within the adjoining properties, and at a significantly lower elevation than that of the adjoining dwellings. In turn the development is considered to allow for the reasonable sharing of views.

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

Comment:

Significant excavation is not required in order to facilitate the new works. The development will sit comfortably within its context in terms of scale, massing and form and the variation will provide for a well composed, articulated structure that provides good amenity and function for the dwelling occupants whilst respecting the natural topography of the site and surrounds.

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

Comment:

The subject site is not located within proximity to a heritage conservation area or item. The proposal was referred to Heritage as it was identified by the community as being of potential significance under a previous development application on the site.

The subject property is not a heritage item but was previously identified by the community as being of potential significance. As these works seek to remove and then reinstate ancillary structures in the same form and materials, they are considered to effectively be a 'like for like' replacement. Thus the works are viewed as having no impact upon any potential heritage significance. Further, the development as stated above, has been sited and designed appropriately within the context of the site to ensure the visual impact of the development is reasonable and minimised as viewed from the Pittwater Waterway and adjoining and surrounding properties.

Zone objectives

The underlying objectives of the W1 Natural Waterways zone:

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

Comment:

The development is appropriately sited and designed so as to protect the ecological and scenic values of natural waterways.

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

Comment:

The proposal has been reviewed by Council's Biodiversity, Riparian and Coastal Officers, having regard to the management of the natural environment and have raised no objection to the development subject to conditions. Further, the proposal has also been reviewed by DPI

Fisheries who are also satisfied with the proposal. It is considered no unreasonable effects will be inflicted on the natural values of the waterway.

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

Comment:

The proposal will not impact on fish passages or recreational fishing areas.

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

Comment

The proposal has been reviewed by DPI Fisheries who have raised no objection to the proposal.

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

Comment

The proposal ensures public access to and along the foreshore will be maintained as a result of the application.

-

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the W1 zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---------------------|--|-----------------------------------|--------------|----------|
| Front building line | 6.5m | N/A | N/A | N/A |
| Rear building line | Foreshore Building Line applies | Wholly below FBL | N/A | N/A |
| Side building line | South West 2.5m | 40.8m - Boat Shed 41.3 - Deck | N/A | N/A |
| | North East 1m | 21.5m - Boat Shed 19.0m - Deck | N/A | N/A |
| Building envelope | 3.5m | Within envelope | N/A | N/A |
| | 3.5m | Within envelope | N/A | N/A |
| Landscaped area | The development is seaward of the Mean High Water Mark (MHWM) and therefore this calculation is negligible | N/A | N/A | N/A |

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|-------------------------------------|------------------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.8 Lower Western Foreshores and Scotland Island Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.2 Bushfire Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes | Yes |
| B4.15 Saltmarsh Endangered Ecological Community | Yes | Yes |
| B4.16 Seagrass Conservation | Yes | Yes |
| B4.19 Estuarine Habitat | Yes | Yes |
| B4.20 Protection of Estuarine Water Quality | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.2 Construction and Demolition - Erosion and Sediment Management | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| B8.5 Construction and Demolition - Works in the Public Domain | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| D8.1 Character as viewed from a public place | Yes | Yes |
| D8.3 Building colours and materials | Yes | Yes |
| D8.5 Front building line | Yes | Yes |
| D8.6 Side and rear building line | Yes | Yes |
| D8.8 Building envelope | Yes | Yes |
| D8.9 Landscaped Area | No | Yes |
| D8.15 Site disturbance | Yes | Yes |
| D8.16 Scenic Protection Category One Areas | Yes | Yes |
| D15.11 Waterfront lighting | Yes | Yes |
| D15.12 Development seaward of mean high water mark | No | Yes |
| D15.13 Lateral limits to development seaward of mean high water mark | Yes | Yes |
| D15.14 Minimum frontage for waterfront development | Yes | Yes |
| D15.15 Waterfront development | No | Yes |

Detailed Assessment

D8.9 Landscaped Area

The development in its entirety is located seaward of the mean high water mark. It is acknowledged that the site currently does not comply with the required landscaped open space requirement. However given the proposed works do not alter the existing calculation, this existing non-compliance with the landscaped open space is negligible in this instance.

D15.12 Development seaward of mean high water mark

Description of works

The proposed development is located entirely seaward of the Mean High Water Mark (MHWM). The controls state that all new buildings are to be located landward of the MHWM. The development does not propose to demolish the existing boat shed and will retain and reuse the existing boat shed in its existing location. The development proposes to raise the structure by 250mm to reduce the occurrence and effect of tidal inundation. The jetty will also be raised. The other structures including the jetty, pontoons, skid ramp and stairs are to be demolished and relocated in the exact same location. A condition is imposed in the consent prior to issue of a construction certificate that a qualified Structural Engineer shall certify that the existing boat shed structure is able to be retained through the construction process.

Merit consideration:

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

To ensure minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater. (En)

Comment:

The development application was referred to Department of Primary Industries with no objection raised subject to conditions. The application provided an Estuarine Risk Management Report and a Geotechnical Assessment Report which both supported the proposed works. An Estuarine Risk Management Report prepared for the site was assessed against the Pittwater LEP 2014 and Pittwater 21 DCP and supported by Council's Natural Environment - Coastal Section subject to conditions.

To ensure new buildings are not susceptible to flooding. (S)

Comment:

The development proposes to raise the finished floor level of the boat shed by 250mm to reduce the effect of tidal inundation on the structure. The development also proposes to raise the level of the jetty and associated structures. The development does not propose to encroach further onto the waterway with all new structures measuring like for like in the exact location. The works will improve the longevity of the structures whilst having a minimal impact on the visual amenity of the foreshore.

To ensure public access is maintained and provided for along the foreshore (En)

Comment:

The proposal will retain the location of the existing boat shed and therefore will ensure public access is maintained and provided along this portion of the foreshore of Scotland Island.

D15.15 Waterfront development

Description of non-compliance

a) Jetties, Ramps and Pontoons

The Control stipulates that the construction of " L" or " T" ends or other types of elongations or steps at right angles to jetties shall not be permitted.

The application proposes to maintain the existing boat shed and raise it by 360mm in its exact location. Other works propose to demolish and construct the jetty, stairs, pontoons, ramp, skid ramp and stairs in the exact location also. Whilst the development proposes to demolish and construct these structures in the exact location, the above control stipulates that the new works must not result in the construction of "L" or "T" ends or other types of elongations or steps at right angles to jetties. To ensure compliance with this control a condition is imposed to delete the stairs and balustrade located at the north western end of the jetty and for the jetty end to be reduced in width to measure no wider than the existing jetty.

Merit consideration

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

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

Comment:

The application is supported with a Marine Habitat Survey (prepared by H2O Consulting, dated 07 February 2018) which denotes the proposed works would be of a low risk of impact on seagrass beds or plants. Further, given the application constitutes integrated development under s201 of (dredging or reclamation work) of the Fisheries Management Act 1994, DPI Fisheries have reviewed the proposal and have raised no objections subject to conditions. Council's Bushland and Biodiversity, Riparian Lands and Creeks and Coastal Officers have also reviewed the proposal having regard to water quality and habitat and have raised no objections subject to conditions included in the recommendation of the report.

It is therefore considered the proposal will not have an adverse impact on the water quality or estuarine habitat of Pittwater.

Public access along the foreshore is not restricted.

Comment:

The proposed development comprises retaining the existing boat shed in its exact location with all other works located seaward of the mean high water mark. Public access along the foreshore will therefore not be hindered as a result of the development.

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

Comment:

Correspondence submitted with application from Roads and Maritime Services advises that an inspection/ assessment has been conducted by the local Boating Safety Officer and that there are no navigational concerns regarding the designated proposal.

Structures blend with the natural environment.

Comment:

The proposed waterfront facilities will blend with the surrounding natural environment as a result of the site specific design remaining as existing. A condition is imposed in the consent to ensure the materials used for the proposed works are like for like.

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

Comment:

The proposed development will be visually consistent and comparable with existing adjoining and surrounding waterfront development. The increased height of the boat shed is considered negligible given the large width of the site. The development proposes to replace like for like and with a condition imposed for the deletion of the stairs and balustrade at the north western end of the jetty and for the jetty to be reduced in width no wider than the existing jetty. It is therefore considered that the visual quality of the development will be improved. The proposal does not comprise a permanent berth thereby minimising development and associated impacts upon the estuarine environment. It is considered the proposed development will not be detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway, subject to conditions included in the recommendation of this report.

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

Comment:

Not applicable, given the subject proposal is for residential waterfront development only.

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

Comment:

As detailed above, the proposed development satisfies the underlying objectives of the Control. A condition to delete the stairs and balustrade and to ensure the width of the proposed jetty does not exceed the width of the existing jetty will ensure the proposal satisfies the underlying objectives of the control.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$3,580 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$358,000.

CONCLUSION

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

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

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

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

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

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

In summary, a detailed assessment has been required for the following specific issues:

The proposal includes a numeric non-compliance with the following PLEP 2014 Clause:
4.3 Height of Buildings.

The proposal includes non-compliances with the following P21DCP Clauses:

D15.12 - Development seaward of mean high water mark; and
D15.15 - Waterfront development.

The aforementioned non-compliances are considered to result in minimal material impact to adjoining properties and the surrounding Pittwater Waterway, and are considered reasonable when assessed against the relevant objectives of each control.

The proposal includes a more significant non-compliance in relation to Building Height. The proposed

height breach has been considered in relation to the provisions of Clause 4.6 of the Pittwater LEP 2014 and the context of the site and surrounding locale, which includes a number of approvals inclusive of variations to the Height of Buildings development standard. While it is acknowledged that the proposed height contravention represents a moderate breach, the resulting impacts of the development on the amenity of the adjoining properties and the Pittwater Waterway has been assessed as reasonable.

Based on the above discussion and the full assessment undertaken, the proposal is considered to be acceptable having regard to all relevant Pittwater LEP 2013 and P21DCP controls, and is therefore recommended for approval, subject to conditions.

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

RECOMMENDATION

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

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

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0234 for Demolition works and construction of a new jetty, pontoon and associated works on land at Lot 10 DP 1106130, 25 - 33 Robertson Road, SCOTLAND ISLAND, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|-------------------------|
| Drawing No. | Dated | Prepared By |
| A101 Rev 1 | 6 March 2020 | Sam Crawford Architects |
| A110 Rev 1 | 6 March 2020 | Sam Crawford Architects |
| A111 Rev 1 | 6 March 2020 | Sam Crawford Architects |
| A112 Rev 1 | 6 March 2020 | Sam Crawford Architects |
| A201 Rev 1 | 6 March 2020 | Sam Crawford Architects |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|--|------------------|--------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Geotechnical Assessment (Ref: AG 19208) | 13 November 2019 | Ascent Geotechnical Consulting |
| Estuarine Risk Management Report for "Yamba", 23 & 25 - 33 Robertson Road, Scotland Island, NSW 2105 | 26 February 2020 | Dr David Wainwright |
| Bushfire Report (Ref: 79BA - 1430) | 11 November | Planning for Bushfire |

| | | |
|--|--------------------|---------------------------------|
| | 2019 | Protection |
| Marine Habitat Survey: 23 and 25 - 33 Robertson Road, Scotland Island | 7 February 2018 | H2O Consulting Group Pty Ltd |

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

c) The development is to be undertaken generally in accordance with the following:

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

| Other Department, Authority or Service | EDMS Reference | Dated |
|--|-----------------------------|---------------|
| DPI Fisheries | Response Fisheries Referral | 20 March 2020 |

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

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

3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried

out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

NSW Codes of Practice.

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

5. **Use of Boast Shed**

The boat shed shall not be used for residential purposes at any time.

Reason: To ensure compliance with relevant planning controls.

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,580.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$358,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly

basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

7. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- Delete the stairs and balustrade located at the north western end of the jetty.
- Reduce the width of jetty at the north western end to measure no wider than the proposed jetty.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

10. **Estuarine Hazard Design Requirements**

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.

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

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

11. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.52m AHD has been justified by the client through an Estuary Risk Management Report prepared by Salients Pty. Ltd dated 26 February 2020 for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.52m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.52m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.52m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.52m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.52m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

12. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 26 February 2020 and these recommendations are to be incorporated into construction plans.

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

13. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life taken to be 25 years justified and accepted by Council, the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 26 February 2020..
Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

14. **Engineers Certification of Plans**

The structural design shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

15. **Compliance with Standards**

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

16. **Structural Integrity of Boat Shed**

A suitably qualified Structural Engineer shall certify that the existing boat shed structure is able to be retained through the construction process.

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

Reason: To ensure that the boat shed can be retained in it's existing location.

17. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Dredging works**

Dredging is not included in this application and as such an application is to be made to council and an integrated development referral to Department of Primary Industries (fisheries) if dredging is required.

Reason: Protection of the environment.

19. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

20. **Environmental Safeguards**

Environmental safeguards (e.g. silt curtains) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms. The silt curtains must be carefully placed and secured properly to ensure they do not drag over the nearby seagrass beds and damage the seagrass. The safeguards must be regularly maintained and removed once the works are completed.

Reason: Protection of seagrass

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion

from the site.

22. **Preventing the spread of invasive alga**

The invasive marine alga, *Caulerpa taxifolia*, is present at the work site. This alga must not be removed from the work site. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site. Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and disposed in general waste. *Caulerpa* is listed under the Biosecurity Act 2015 for all NSW waters. It is illegal to possess or sell the alga and heavy fines apply.

Reason: Protection of the environment

23. **Environmentally sensitive construction**

To prevent damage to the seagrass no anchoring or placement of objects is to occur on the seagrass. Furthermore boats and barges must ensure the impact from the movement of the barges and boats, particularly from the propeller, does not damage the seagrass meadows (especially during low tide).

Reason: Protection of seagrass

24. **Materials and Construction**

All materials, finishes and construction of approved works are to be like for like.

Reason: To ensure the development is consistent with the existing development and the visual prominence of the development is minimised.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

25. **Arborist's recommendations to be implemented**

All recommendations outlined in Section 5 of the submitted arboricultural impact assessment (H2O Consulting Group, February 2018) are to be implemented at the appropriate stage of development. Compliance with this condition is to be certified by the consultant arborist and written evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To safely retain significant trees of the Pittwater Spotted Gum Forest endangered ecological community.

26. **Post Construction Coastal certificate**

Prior to the issue of the Occupation Certificate, a Post Construction Coastal Certificate shall be submitted to the Principal Certifying Authority (Form No. 3 of the Coastline Risk Management Policy for Development in Pittwater - Appendix 6 of P21 DCP) that has been prepared and signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and coastal engineering as a core competency and who has an appropriate level of professional indemnity insurance.

Reason: To ensure the development has been constructed to the engineers requirements

27. **Replacement of Canopy Trees**

At least two Black She-oak (*Allocasuarina littoralis*) trees (minimum (200L) are to be planted in an appropriate location on site to replace trees approved for removal. Evidence of compliance is to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate. These plantings are to be retained for the life of the development and/or for their safe natural life.

Reason: To achieve no net loss of native canopy trees in accordance with relevant Natural Environment LEP/DCP controls and to maintain environmental amenity.

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

28. General Foreshore Matters

Unless in accordance with the approved works the Consent holder must ensure that:

- a) No materials or cleared vegetation that may obstruct flow or cause damage to the foreshore are left within the coastal foreshore area.
- b) All drainage works must not obstruct flow of water within the coastal waters. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any foreshore bank instability or damage to native vegetation.
- c) The foreshore is graded to enable the unimpeded flow of water and retaining structures result in a stable foreshore banks.
- d) Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.
- e) The foreshore is to function as an ecological system and as such, all works, access, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond the foreshore other than provided by the consent.

Reason: Environmental protection, monitoring and enhancement of the foreshore.

29. No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

30. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

31. Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 26 February 2020 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment