

Statement of Environmental Effects

New Mooring Pen

50 Rednal Street Mona Vale 2105



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1. Mooring Pen

1.1. Introduction

This Statement of Environmental Effects (SEE) has been prepared by Copley Marine Group (CMG) in support of a development application (DA) to Northern Beaches Council (Council) for a 'mooring pen' at 50 Rednal Street, Mona Vale (also Lot 23 in DP 24428), (the Site).

The mooring pen is in addition to an existing ramp and pontoon under Crown Lands licence. These structures were built before 1968 and are authorised by Crown Lands Licence no. LI486100.

The owners of the Site have provided CMG with the authority to act on their behalf. The DA specifically relates to a:

- berthing area: 8m x 4.9m = 39.2m²
- mooring pen with four (4) new mooring piles below the Mean High Water Mark (MHWM).

This proposal is exempt from a controlled activity approval under the *Water Management (General) Regulation 2018* (refer to Schedule 4, Clauses 18 and 32).

Importantly:

- NSW DPI Fisheries has considered the proposal against the provisions of the *Fisheries Management Act, 1994* and provided written support on 18 April 2023 (see **Appendix 2.4**).
- Transport for NSW (TfNSW) has reviewed the proposal with regard to safety and navigation and provided written support on 14 April 2023 (see **Appendix 2.3**).
- NSW DPE Crown Lands provided landowners consent to lodge the DA on 16 September 2023 (**Appendix 2.5**).

1.2. Site and foreshore description

The site is within the Mona Vale locality, which has developed with a mix of residential, retail/commercial, industrial, recreational, community and educational land uses. Today, Mona Vale centre is the main commercial centre for the Pittwater area.

The site is located on the waterfront of the Pittwater waterway (see **Figure 1**), within Winji Jimmi Bay. The foreshore of Winji Jimmi Bay is highly modified, with most of the waterfront area contained by seawalls. Larger vessels are commonly berthed near pontoons in the Bay.

On 29 March 2023, CMG attended the site to inspect the existing structures and foreshore environment (see **Figure 2**). While mangrove, saltmarsh and seagrass can occur in Pittwater, no marine vegetation was recorded by CMG during this Site inspection. Public foreshore access is non-existent in this Bay.



Figure 1 - Site Location (source SIX maps)



Figure 2 – highly modified shoreline near the site's boat ramp



Figure 3 – attachment of timber ramp to seawall



Figure 4 – channel looking north from existing pontoon



Figure 5 – southern neighbours' facility



Figure 6 – existing pontoon services

1.3. Proposed domestic waterfront facilities

The applicant is seeking development consent for the installation of a mooring pen with four (4) piles and a berthing area (see **Figure 7**). The berthing area is modest by local standards (8m by 4.9m) and will suit the Applicants vessel.

The full CAD set is attached at **Appendix 2.1**. Note the existing structures below the MHWL are also identified in the site plan below.

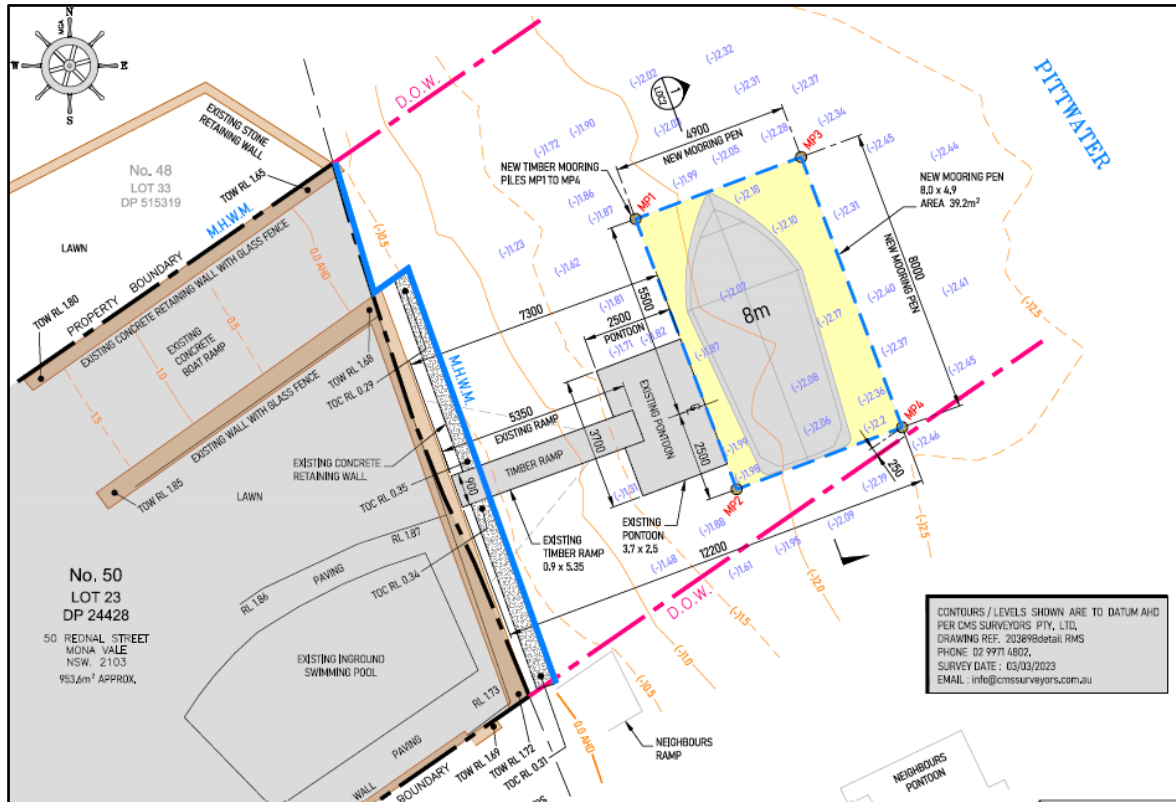


Figure 7 – Site plan – new mooring pen

1.4. Environmental Planning

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the statutory framework for planning in NSW. The consent authority is required to take into consideration the matters listed under Section 4.15 of the EP&A Act when determining the DA.

Section 4.15(1)(a) of the EP&A Act requires consideration of the provisions of any environmental planning instrument and development control plan. The site in question is subject to the zoning, objectives and provisions of the following EPIs:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Pittwater Local Environmental Plan (PLEP) 2014*

Pittwater 21 Development Control Plan (DCP) is also applicable, specifically sections D15.12 and D15.15 relating to this type of development. These controls provide for appropriate planning outcomes having regard to the scale of the development contemplated, the relationship with adjoining development, and the character of the surrounding area.

Section 4.15(1) of the EP&A Act also requires the consent authority to consider:

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations (for Council to review);
- (e) the public interest.

These matters have been considered within Section 1.5.1, 1.6 and 1.7 of this report.

The *Policy and Guidelines for Fish Habitat Conservation and Management 2013* (NSW DPI) has also been considered in the preparation of the Marine Habitat Review (**Appendix 2.2**).

1.4.1. Pittwater Local Environmental Plan 2014

The subject site is zoned *C4 – Environmental Living* under PLEP 2014. Land held under licence below the MHWL is zoned *W1 Natural Waterways* under PLEP (refer to **Figure 8**).

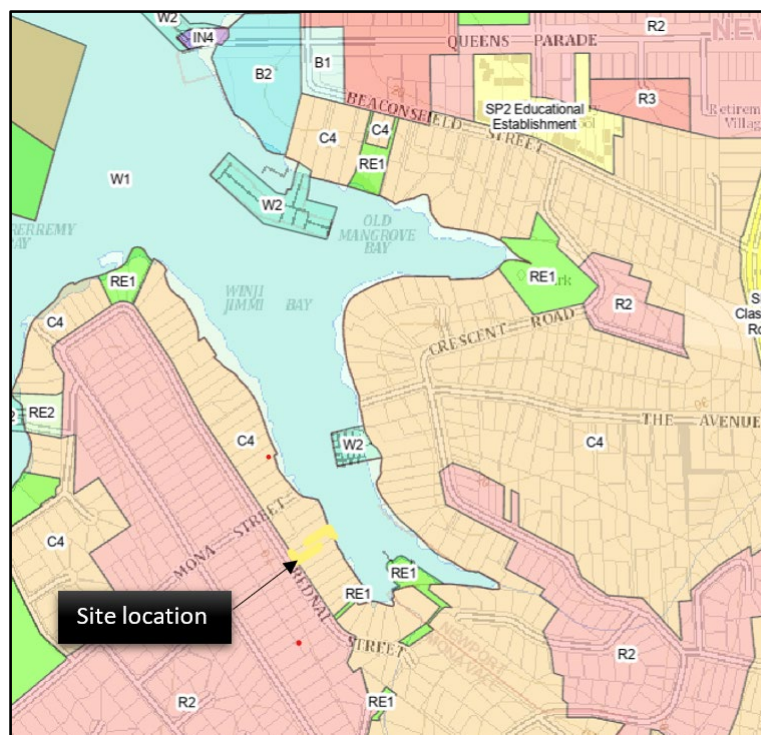


Figure 8 – site location and land zoning

The proposed structure is classified as a '**mooring pen**', which is defined as an arrangement of freestanding piles or other restraining devices designed or used for the purpose of berthing a vessel under PLEP.

Mooring pens are permissible with consent in this zone (W1).

Acid Sulfate Soils – Clause 7.1 of PLEP

The land below the MHWL to which this application relates is mapped as containing potential Class 2 Acid Sulfate Soils (ASS). Construction management methods will ensure that soil is not oxidised (refer to **section 1.5.2**), which leads to the creation of ASS. A preliminary ASS assessment is provided at **Appendix 2.6**.

The site is not identified as Bushfire Prone Land (in the NSW Planning Portal Spatial Viewer).

1.4.2. Pittwater Development Control Plan 2013

The development control plan (DCP) applicable to Mona Vale is the Pittwater 21 Development Control Plan (PDCP).

The most applicable chapters are Chapter 15.12- “Development seaward of the MHW” and Chapter 15.15 – “Waterfront Development”. Development outcomes relating to this chapter are addressed below.

CHAPTER 15.12 – DEVELOPMENT SEAWARD OF THE MEAN HIGH WATER MARK CHAPTER 15.13 – LATERAL LIMITS TO DEVELOPMENT SEAWARD OF THE M.H.W.M. CHAPTER 15.15. – WATERFRONT DEVELOPMENT DEVELOPMENT OUTCOMES	
15.12 OUTCOMES	Response
To ensure minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater. (En)	The LoC and DA is accompanied by a Marine Habitat Review prepared by GMG and dated April 2022. This report has been attached at Appendix 2.2. The report noted potential impacts from the proposed development will be confined to some short-term disturbances of the seabed during construction. Barge movements to and from the construction footprint will be timed so as not to disturb sediment. Shading is not expected to impact on the muddy sediments, while potential construction disturbances can be minimised and mitigated.
To ensure new buildings are not susceptible to flooding. (S)	Not applicable.
To ensure public access is maintained and provided for along the foreshore (En)	This location has no foreshore public access which remains unchanged by the proposal.
15.12 OUTCOMES	Response
To ensure that fair and equitable enjoyment of the waterway is achieved between neighbouring waterfront landowners through restricting unreasonable encroachment of waterfront development in front of adjoining properties. (S)	The proposal will not encroach onto navigation channels. Transport for NSW’s local Boating Safety Officer has assessed the proposal and concluded there are no navigational concerns. (Refer to TfNSW Navigation assessment at Appendix 2.3).
15.15 OUTCOMES	Response
Waterfront development does not have an adverse impact on the water quality and estuarine habitat of Pittwater. (En)	There are no important seagrass communities near the proposal, as described in the Marine Habitat Review. This report has been attached at Appendix 2.2. DPI – Fisheries has provided support for the proposal, subject to compliance with standard conditions. Refer to the letter at Appendix 2.4.
Public access along the foreshore is not restricted. (S)	This location has very limited, tidal public access which remains unchanged by the proposal.

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. (S, Ec)	The overall structure length meets the requirements in the Crown Lands Domestic Waterfront Licences - Guidelines in that the lengths of the proposed structures do not protrude further into the waterway than existing structures in the immediate vicinity. The proposal will not encroach onto navigation channels. Transport for NSW's local Boating Safety Officer has assessed the proposal and concluded there are no navigational concerns. (Refer to TfNSW Navigation assessment at Appendix 2.3).
Structures blend with the natural environment. (S)	The proposal is for structures that are similar in character to other waterfront facilities in the immediate and surrounding area. Natural colours and timber will be used which will assist in the structures blending into the natural environment.
Structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway. (En, S)	The proposal is for structures that are similar in character to other waterfront facilities in the immediate and surrounding area. No significant impacts to estuarine vegetation in proximity to the proposed site are expected (refer Marine Habitat Review attached as Appendix 2.2).
To promote a mix of commercial waterfront development for the accommodation of boats, their repair and maintenance, and for organised waterfront development. (Ec)	Not applicable.
Waterfront development which does not comply with the outcomes of this clause are removed. (En, S, Ec)	Not applicable.

CHAPTER 15.12 – DEVELOPMENT SEAWARD OF THE MEAN HIGH WATER MARK DEVELOPMENT CONTROLS

15.12 CONTROLS	Response
All new buildings are to be located landward of mean high water mark.	Not applicable.
Only structures associated either with the accommodation, servicing or provision of access to boats shall be permitted seaward of mean high water mark.	The application is for structures for the provision of access to boats.
In instances where it is proposed to alter, extend or rebuild existing buildings seaward of mean high water mark, any further encroachment of such buildings onto the waterway is to be minimised. Where development seaward of mean high water mark is proposed to occur, especially during the refurbishment of existing structures,	Not applicable.

proponents need to ensure that the structure will not harm marine vegetation, and must consult with the Department of Primary Industries.	
Developments are required to ensure that public access is maintained and provided for along the foreshore.	This location has no public access which remains unchanged by the proposal.

CHAPTER 15.13 – LATERAL LIMITS TO DEVELOPMENT SEAWARD OF MEAN HIGH WATER MARK DEVELOPMENT CONTROLS

15.13 CONTROLS	Response
Waterfront development shall be constructed perpendicular to the shoreline and within the defined lateral limit lines to development, regardless of the orientation of waterfront properties, where practicable. This is to maximise equitable access to the waterway.	Due to the presence of the site's existing boat ramp, it is not possible for a mooring pen to be located perpendicular to the shoreline in this location. Near Winji Jimmy Bay, there are many larger vessels stored parallel to the shoreline, so the proposal is within character at this locality. The proposed development is located within the defined lateral limit lines to the development.
Waterfront development shall be set back a minimum of 2.0 metres along the full length of the lateral limit lines to development to minimise conflict and the possibility of inaccurate location of structures during construction (Diagram 3). This may be varied where shared facilities are proposed where the adjoining property will benefit from the shared facility.	The proposed mooring pen meets the DCP minimum 2 metre lateral limit setbacks at all piles except for the proposed mooring pile on the south-east corner (MP4). This is closest to the 'lateral limits' of the adjoining property at number 52 Rednal St. The closest existing water recreation structure to proposed MP4 is the neighbour's pontoon. CMG do not consider that MP4 will affect navigation and safety in relation to the pontoon at 52 Rednal St. The mooring pen design has been reviewed and has the endorsement of Transport for NSW's local Boating Safety Officer (refer to TfNSW Navigation assessment at Appendix 2.3). TfNSW has confirmed that a vessel moored parallel to the M.H.W.M in this location would not restrict navigation. A variation to this setback control is therefore justified.
This setback shall also apply to any vessel that is to be berthed at a wharf or boating facility, marina, water recreation structure or the like. Vessels which cannot meet this criterion are considered to be inappropriate for the site and should be accommodated elsewhere.	For consideration by the consent authority. The above justifications apply.

CHAPTER 15.15. – WATERFRONT DEVELOPMENT DEVELOPMENT CONTROLS b) BERTHING AREAS	
CONTROL/GUIDELINE	Response
Vessels shall be berthed at right angles to the mean high-water mark to minimise visual impact on the foreshore, where practicable. Where this configuration may restrict navigation, vessels may be berthed parallel to mean high water mark provided such vessels are no greater in length than the maximum length of the distance between the lateral limits of the property less 4 metres, and provided that the parallel moored vessel does not restrict navigation. The Department of Primary Industries will generally not approve berthing areas over seagrass. The maximum dimension for berthing areas perpendicular to shore shall be 5 metres x 9 metres in accordance with Diagrams 3A and 3B. Mooring licences for a private swing mooring shall be relinquished by any person seeking approval for a berthing area. This is to promote a more equitable use of the waterway's resources. Where provided, berthing areas shall meet the following criteria: - The proponent must demonstrate that they do not already hold, or cannot obtain, a swing mooring, marina berth or boat shed where they could reasonably store their boat. - That there is sufficient depth of water below the vessel being 600 mm depth at zero low tide (-1.53 AHD); - That it does not extend beyond the seaward face of any related pontoon, piles or jetty steps; - That there is sufficient clearance from prolongation of adjoining boundaries (i.e. a minimum of 2.5 metres) - That it be designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours; and - The size of vessel must be accommodated wholly within the lease area.	Vessels shall be berthed at right angles to the mean high-water mark to minimise visual impact on the foreshore, <u>where practicable</u>. The site constraints dictate that the berthing area is required to be parallel to the M.H.W.M and extend beyond the seaward face of the related pontoon. While the DCP (Diagram 3A) notes the preferred configuration is perpendicular to the shore, this is not possible in this location due to the existing location of the pontoon and boat ramp on the western side, and the division of waterway on the eastern side. The clearance in relation the eastern D.O.W (see LOC 2 Navigation Plan) at Appendix 2.1 and Figure 10, does not meet the required 2.5 meters, however the proposal has been designed and located to enable efficient and safe manoeuvring without impinging on adjoining neighbours - and is supported by TfNSW. The size of the berthing area is 8m x 4.9m which complies with maximum dimension for berthing areas in this control (being 5 metres x 9 metres). The owner's vessel is 8m long and can be accommodated wholly within in the proposed berthing area. The design ensures a minimum of 900mm clearance under the berthing area at low tide, in accordance with current NSW DPI guidelines. In summary, both DPI Fisheries and TfNSW have approved the berthing area from a marine habitat and navigation/safety perspective
d) Piles	
Structures shall not have a height greater than indicated in the following table (being 2.67 AHD).	Piles will be 2.575 AHD.
Structures should be positioned at least 2 metres away from any Posidonia seagrass.	There is no recorded Posidonia in this Bay. DPI Fisheries has no concerns or objections to the proposal (refer to Appendix 2.4).

1.4.3. *State Environmental Planning Policy (Resilience and Hazards) 2021*

Part 2.2 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP), applies to the proposal. Specifically, Division 3 clause 2.10 'Development on land within the coastal environment area'; Division 4 clause 2.11 'Development on land within the coastal use area' and Division 5 of the Resilience and Hazards SEPP apply. A response to these provisions is provided below.

RESILIENCE AND HAZARDS SEPP PART 2.2 DIVISION 3 COASTAL ENVIRONMENT AREA CLAUSE 2.10 - DEVELOPMENT ON LAND WITHIN THE COASTAL ENVIRONMENT AREA	
Does the proposal have an adverse impact on:	Response
1(a) the integrity and resilience of the biophysical, hydrological and ecological environment,	The proposed works do not require any reclamation or dredging and will not have adverse impact to the biodiversity, hydrological and ecological environment as confirmed in the Marine Habitat Review at Appendix 2.2 .
1(b) coastal environmental values and natural coastal processes,	The proposal will match similar neighbouring Mona Vale waterfront developments and will not impact on coastal values or processes.
1(c) impacts on water quality within the marine estate	Not applicable.
1(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There is no reclamation or dredging. No impacts on marine vegetation are expected, as per the Marine Habitat Review at Appendix 2.2
1(e) access to existing public open space and safe access	Public access is unchanged by the proposal.
1(f) Aboriginal cultural heritage, practices and places,	A basic search using the Aboriginal Heritage Information Management System (AHIMS) found no recorded Aboriginal sites recorded within 50m of the subject site.
1(g) the use of the surf zone.	Not applicable.
2(a) the development is designed, sited and managed to avoid the adverse impacts outlined above.	The proposed works will have no adverse impact.

**RESILIENCE AND HAZARDS SEPP
PART 2.2 DIVISION 4 COASTAL USE AREA
CLAUSE 2.11 DEVELOPMENT ON LAND WITHIN THE COASTAL USE AREA**

Clause 2.11 1(a) Consent must not be given unless consideration has been given to impacts on:	Response
(i) existing, safe access to the foreshore,	Public access is unchanged by the proposal. There will be no alteration of the natural ground level of the foreshore.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposed structure is commensurate with the nature and scale of waterfront development on adjoining properties.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The proposal is consistent with the character and scenic qualities of Winji Jimmi Bay. It will not result in any significant additional visual impact on the coastal foreshore. Nor will result in significant loss of views from a public place to the coastal foreshore.
(iv) Aboriginal cultural heritage, practices and places,	A basic search using the Aboriginal Heritage Information Management System (AHIMS) found no recorded Aboriginal sites recorded within 50m of the subject site.
(v) cultural and built environment heritage.	The proposed structure is in line with historical waterfront structures around the area and neighbouring properties.
Clause 2.11 1(b) Consideration must be given to whether:	Response
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in (a).	The proposed works will have no adverse impact, therefore clauses 1(b) (ii) and (iii) are not applicable.

RESILIENCE AND HAZARDS SEPP DIVISION 5 GENERAL	
Clause	Response
Cl. 2.12 Development in coastal zone generally — development not to increase risk of coastal hazards Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	The proposed works will not increase any coastal hazards.
Cl. 2.13 Development in coastal zone generally — coastal management programs to be considered Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.	For consent authority to review.
Cl. 2.14 Other development controls not affected Subject to section 2.5, for the avoidance of doubt, nothing in this Part— (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.	The applicant is seeking development consent for the domestic waterfront facilities which are permissible with consent under the relevant planning instrument (PLEP 2014).
2.15 Hierarchy of development controls if overlapping If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency— (a) the coastal wetlands and littoral rainforests area, (b) the coastal vulnerability area, (c) the coastal environment area, (d) the coastal use area.	Not applicable.

1.5. Potential impacts of the development

The provisions of Section 4.15(b) of the EP&A Act require an assessment of the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The proposal will result in positive social and economic impacts, noting:

- employment during the construction phase of the works;
- economic benefits, arising from the investment in improvements to the land;
- social benefits arising from the orderly development of the foreshore including improved boat storage capacity and accessibility.

The potential environmental impacts and proposed mitigation measures have been considered below.

1.5.1. *Marine Ecology*

Pittwater is a beautiful and distinctive feature of the Northern Beaches identity. Within the waterway are many valuable estuarine habitats including mangroves, coastal saltmarshes, intertidal mud flats, beaches and rocky shorelines. Pittwater also has great significance to the traditional Aboriginal owners and custodians of this land.

The application is accompanied by a marine habitat review prepared by CMG (refer to **Appendix 2.2**) which included a desktop review of potential habitat near the development and a site inspection report.

The desktop review using the Fisheries NSW Spatial Data Portal found no seagrass, mangroves or saltmarsh within proximity to the proposal and the closest mangroves around 500m from the site (see **Figure 9**).



Figure 9 – mangrove habitat near the Site

On 29 March 2023, CMG attended the site to inspect the existing structures and foreshore environment. While mangrove, saltmarsh and seagrass can occur in Pittwater, no marine vegetation was recorded by CMG during this Site inspection. At this time, the water was turbid, and the visible seabed contained

soft, muddy sediments. The turbid waters in Winji Jimmy Bay are not considered suitable for the establishment of seagrass.

To protect waters from any additional short-term increases in turbidity silt curtains should be in place during piling works to minimise siltation and any potential impacts on water quality. A Construction Environmental Management Plan is recommended for preparation and implementation, prior to works commencing on site.

DPI Fisheries has considered the potential impacts to the surrounding marine environment and has found that no harm will be caused by the proposed works or use (see **Appendix 2.4**).

CMG considers that the proposal is unlikely to cause an adverse impact on the local environment.

1.5.2. *Navigation, Siting and Design*

The proposed works include a new berthing area with four (4) new mooring piles. The mooring pen will provide improved and secure boat storage for the owners. The berthing area will only be used for a domestic purpose and private recreation.

The structures have been designed to ensure safe access for the applicant between the waterway and the residential dwelling.

The mooring pen will be approximately in line with the neighbouring jetty/pontoon facilities (refer to red line on **Figure 10**). The design ensures a minimum of 900mm clearance under the berthing area at low tide, in accordance with NSW DPI guidelines. It will not impact any vessel traffic or navigational lines for safe traffic movement.

There will be no change to public access to Crown Land.



Figure 10 - Navigation line with neighbouring structures

The proposed mooring pen and berthing area complies with Crown Lands guidelines in that waterfront facilities (including berthing areas) do not obstruct navigation and comply with requirements of TfNSW (a copy of TfNSW correspondence on this matter is provided at **Appendix 2.3**). TfNSW is satisfied that the proposed development would not impact on the safe navigation of Pittwater.

In addition, the berthing area does not extend outside of the water division prolongation of the benefitting property and does not impede access or use of any existing domestic waterfront facilities or deter future domestic waterfront facility development.

1.5.1. *Construction and Waste Management*

All works will be completed via a contracted commercial barge operator. All waste will be disposed of in accordance with best practice waste and recycling guidelines via barge and the nearest licensed Resource Recovery Centre. A Waste Management Plan is at **Appendix 2.5**.

1.5.2. *Preliminary Acid Sulfate Soils Assessment*

The proposed works are in an area with a 'Class 2' Acid Sulfate Soil (ASS) classification. The potential for the generation of ASS is high and therefore an assessment of the associated risk of the works and the potential impact to the environment is required in accordance with the Pittwater LEP. The preliminary ASS assessment is at **Appendix 2.6**.

1.6. Site suitability and public interest

The provisions of Section 4.15(c) and (e) of the EP&A Act require an assessment of the suitability of the site for the proposal, and consideration of whether the proposal is in the public interest.

The waterfront structures including mooring piles and berthing area are consistent with the objectives of the land zoning and designed and sited to achieve compatibility with existing development and the character of the locality. This report has demonstrated that the development will not compromise safe navigation of Pittwater or impact on scenic values, nor impact on non-existent public access along the foreshore.

The site does not contain estuarine macrophytes and the proposal is not expected to have any ecological impacts on marine habitat. There is no additional reclamation or dredging required to facilitate the proposal and the implementation of a construction management plan will ensure the development will not generate pollutants.

Having regard to this SEE, the proposal does not result in any unreasonable impacts on surrounding properties, the public or the environment. It is also consistent with the zoning and objectives of the relevant DCP, LEP & EPI's. As such, the proposal is suitable for the site and in the public interest.

1.7. Conclusion

The proposed mooring pen and berthing area will enable the applicant to store their vessel permanently at their residence. The site is entirely suitable for the proposed development, and the proposed development is permissible with consent, consistent with the relevant planning outcomes and also with Crown Lands guidelines. The proposal will not adversely affect amenity or other waterway users.

The applicant requests that Northern Beaches Council grants consent to the development under the EP&A Act.

2. Appendices

2.1. CAD Drawings

2.2. Marine Habitat Review

2.3. Transport for NSW – Navigational ‘No Objection’ Letter

2.4. DPI Fisheries Referral Support Letter

2.5. LoC letter from Crown Lands

2.6. Acid Sulfate Soil preliminary assessment