

**DA NO:** DA-2017/410

**ADDRESS:** 77 COOLAWIN ROAD, NORTHBRIDGE NSW 2063.

**PROPOSAL:** CONSTRUCTION OF A NEW BOATSHED AND DECKING.

**RECOMMENDATION:** APPROVAL

**ATTACHMENTS:**

1. SCHEDULE OF CONDITIONS
2. SITE DESCRIPTION AND AERIAL PHOTO
3. CONTROLS & DEVELOPMENT STATISTICS
4. CLAUSE 4.6 VARIATION
5. SECTION 4.15 (79C) ASSESSMENT
6. NOTIFICATION MAP
7. LANDOWNER'S CONSENT
8. ARCHITECTURAL PLANS

**RESPONSIBLE OFFICER:** RITU SHANKAR (TEAM LEADER)

**AUTHOR:** JANE MCMILLAN - DEVELOPMENT ASSESSMENT OFFICER

**MEETING DATE** 24 APRIL 2018

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## **1. PURPOSE OF REPORT**

To seek the determination of the Willoughby Local Planning Panel (WLPP) of Development Application DA-2017/410 for construction of a new boatshed and decking at 77 Coolawin Road, Northbridge.

The Development Application is referred to the Willoughby Local Planning Panel for determination as there is a variation to the height of buildings standard of more than 10%.

## **2. OFFICER'S RECOMMENDATION**

**THAT the Willoughby Local Planning Panel:**

**2.1 Support the Clause 4.6 variation to the height of buildings control contained in Clause 4.3A(7) of *Willoughby Local Environmental Plan 2012* as it is considered unreasonable and unnecessary to comply with the development standard for the following reasons:**

- 2.1.1 The floor level of the boatshed aligns to an approved jetty and the height non-compliance is due to the topography of the site**
- 2.1.2 The design of the boatshed complies with the guidelines for boatsheds contained in the Sydney Harbour and Foreshores Development Control Plan**
- 2.1.3 The pitched roof design does not significantly contribute to the height non-compliance so that removing the pitched roof would not significantly reduce the non-compliance with the height limit.**

- 2.1.4 The boatshed is a single storey structure consistent with the scale of development anticipated by the height limit for the Foreshore Area of 3.5m**
- 2.1.5 The design and height of the boatshed is considered to be consistent with the objectives of the E4 zone and the objectives for development in the Foreshore Area**
- 2.1.6 It is considered that the proposed boatshed meets the objectives of the development standard and will not have any significant amenity impacts to adjoining properties or the scenic quality of Sydney Harbour**

**2.2 Approve Development Application DA-2017/410 for Construction of a new Boatshed and decking at 77 Coolawin Road, Northbridge subject to conditions contained in Attachment 1, for the following reasons:**

- 2.2.1 The boatshed and deck are modified from a previous development proposal and have been relocated to reduce height and amenity impacts**
- 2.2.2 The boatshed has an aesthetically pleasing design consistent with the objectives for development in the Foreshore Area**
- 2.2.3 The boatshed has an acceptable impact on scenic quality and views to and from Sydney Harbour**
- 2.2.4 The boatshed has no significant impacts to adjoining properties or the public domain**
- 2.2.5 The boatshed is consistent with the objectives for development contained in the environmental planning instruments and the development control plans that apply to the site.**

### **3. BACKGROUND**

The site is located on the eastern side of Coolawin Road and adjoins Middle Harbour. A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 2**.

The original dwelling house on the site was constructed in the 1940's. Development Consents 1998/168 and 2000/621 approved alterations and additions to the dwelling including a swimming pool and entertainment area to the rear. The site accommodates multiple living areas, bedrooms, a garage and a swimming pool.

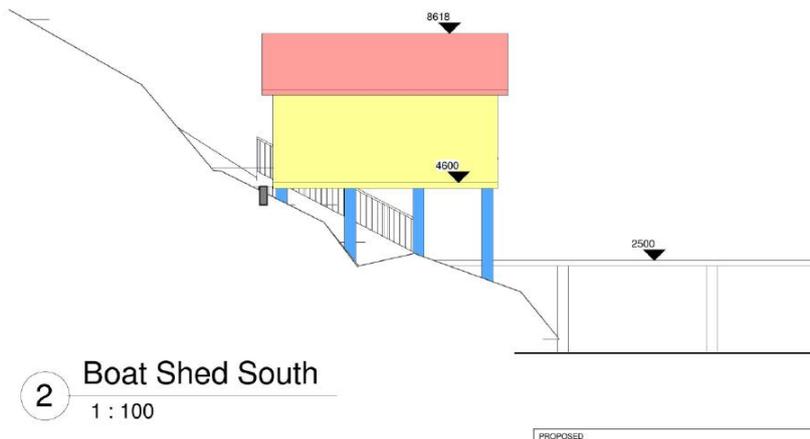
DA 2016/481 was approved on 11 April 2017 for alterations and additions to the existing dwelling and associated works. These approved works are currently being undertaken on the site.

The original plans for DA 2016/481 included a boatshed. However, the applicant submitted amended plans which deleted the boat shed from the proposed scope of works.

A jetty and pontoon adjacent to the freehold land in Middle Harbour has been approved but not yet constructed (Roads and Maritime DA16/6).

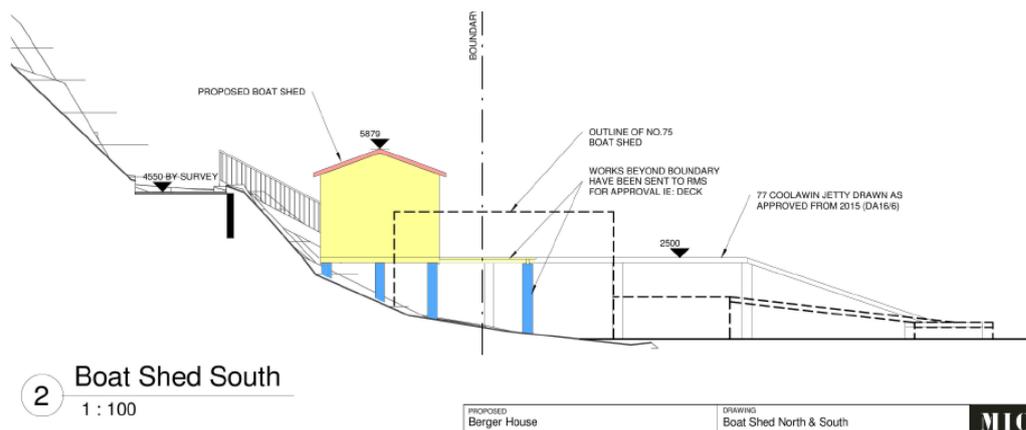
### **4. DISCUSSION**

The original proposal for the boatshed which was subsequently withdrawn under DA 2016/481 shows the floor level of the boatshed at RL 4.6, higher than the height of the approved jetty at RL 2.5. The ridge height of the boatshed shows an RL of 8.618.



2 Boat Shed South  
1 : 100

The amended proposal, subject of the current DA, aligns the floor of the boatshed with the level of the jetty and changes the orientation of the boatshed. The ridge height of the proposed boatshed is RL 5.879, 2.739m lower than the original proposal.



2 Boat Shed South  
1 : 100

The current proposal includes a deck which connects the boatshed to the approved jetty. The boatshed is located above the mean high water mark (MHWM) but the deck is located below the MHWM with columns extending into the bed of the bay.

Council is the consent authority for the boatshed which is on freehold land (above the MHWM) and for the attached deck which extends below mean high water mark. As required, the applicant has submitted Land Owner's Consent to lodge a Development Application from the Roads and Maritime Services for the works below the MHWM.

Approval from the Department of Industry is normally required for a Controlled Activity under the Water Management Act for ancillary works to a dwelling house which are located below the MHWM. The Department of Industry has advised that there are some exemptions if the land below the mean high water mark is Crown land and the applicant has an appropriate lease, licence or permit.

According to Council's records there is no maritime lease attached to 77 Coolawin Road. As the DA was not lodged as an Integrated Development, a condition has been included in the

consent requiring approval from The Department of Industry for the works below the mean high water mark.

With regard to this DA, The Department of Industry, Lands and Water Division has advised as follows:

*If the works are below the mean high water mark and it is not Crown Land with an appropriate lease, licence, or permit then a CAA [Controlled Activities Approval] will be required and there is no issue in conditioning that a CAA will need to be obtained.*

Condition 1 of the development consent requires that a Controlled Activity Approval be obtained for the works located below the MHWM before the commencement of any work or activity.

The controls and development statistics that apply to the subject land are provided in **Attachment 3**.

A request to vary a development standard under Clause 4.6 has been submitted. The applicant seeks to vary the Height of Buildings development standard under Clause 4.3(A) of WLEP 2012 as provided in **Attachment 4**. The variation of the development standard is recommended to be supported in this instance.

A detailed assessment of the proposed development in accordance with 'The Matters for Consideration' under S4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, is provided in **Attachment 5**.

Owners of neighbouring properties were notified from 1 November 2017 to 15 November 2017 and no submissions were received. The DA was not required to be referred internally.

## **5. CONCLUSION**

It is considered that the proposed boatshed and deck, connecting to an already approved jetty and pontoon, will, subject to conditions, have an acceptable impact on the natural and built environment and is worthy of approval.

The Development Application DA-2017/410 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, WLEP 2012, WDPC, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 1**.

**ATTACHMENT 1: SCHEDULE OF CONDITIONS**

**SCHEDULE**

**Conditions of Consent:** (Including reasons for such conditions)

**CONSENT IDENTIFICATION**

The following condition provides information on what forms part of the Consent.

**1. Approved Plan/Details**

The development must be in accordance with the following consent plans electronically stamped by Council:

| Type                             | Plan No.   | Revision/<br>Issue No | Plan Date (as<br>Amended) | Prepared by                        |
|----------------------------------|------------|-----------------------|---------------------------|------------------------------------|
| Architectural<br>Plans           | 406 WD 02A | A                     | 23/10/2017                | Michael Robilliard &<br>Associates |
|                                  | 406 WD 03A |                       |                           |                                    |
|                                  | 406 WD 04A |                       |                           |                                    |
|                                  | 406 WD 05A |                       |                           |                                    |
|                                  | 406 WD 06A |                       |                           |                                    |
| External<br>Finishes<br>Schedule |            | -                     | Undated                   |                                    |

the application form and any other supporting documentation submitted as part of the application, except for:

- a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- b) otherwise provided by the conditions of this consent.  
(Reason: Information and ensure compliance)

**2. Controlled Activity Approval**

The development consent holder must apply to the Department of Industry, Land and Water Division, for a Controlled Activity Approval under the *Water Management Act 2000* for the works located below the Mean High Water Mark before the commencement of any work or activity.  
(Reason: Compliance with the *Water Management Act 2000*)

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of a construction certificate.

**3. Sydney Water ‘Tap In’**

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to “Sydney Water Tap In” to determine whether the development will

affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.

(Reason: Ensure compliance)

#### **4. Bushfire Protection**

The design and construction of the proposal shall comply with the requirements of the Planning for Bushfire Protection 2006 and Australian Standards 3959-2009. Details of compliance are to be included in plans/specifications prior to the release of the Construction Certificate.

(Reason: Safety and protection of property)

#### **5. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$4,100** (GST Exempt) as cash, cheque or an unconditional bank guarantee, to Council against possible damage to Council's asset during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$160** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

(Reason: Protection of public asset)

### **PRIOR TO COMMENCEMENT**

**The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site, including demolition.**

#### **6. Licensee Details**

The name, address and contractor licence number of the licensee who has contracted to carry out the work or the name and permit number of the owner-builder who intends to carry out the work shall be furnished in writing to the Certifying Authority prior to commencement of work. N.B. Should changes be made for the carrying out of the work the Certifying Authority must be immediately informed.

(Reason: Information)

#### **7. Report Existing Damages on Council's Property**

Prior to commencement of any works on site, the applicant shall notify Council in writing with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

## **8. Permits and Approvals Required**

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:-

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and the RTA. A separate written application to work outside normal hours must be submitted for approval.

It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

## **DURING DEMOLITION, EXCAVATION AND CONSTRUCTION**

**The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.**

### **9. Hours of Work**

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.  
(Reason: Ensure compliance and amenity)

### **10. Construction Information Sign**

A clearly visible all weather sign is required to be erected in a prominent position on the site detailing:

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator's and / or the demolisher's and / or the builder's name;
- (c) contact phone number/after hours emergency number;
- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Certifying Authority (if other than Council)

**ANY SUCH SIGN IS TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.**

Council may allow exceptions where normal use of the building/s concerned will continue with ongoing occupation, or the works approved are contained wholly within the building.

(Reason: Ensure compliance)

**11. Building Site Fencing**

Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Temporary fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

Fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. All parts of the fence, including the fencing blocks shall be located wholly within the property boundaries.

The public safety provisions and temporary fences must be in place and be maintained throughout construction.

(Reason: Safety)

**12. Provide Erosion and Sediment Control**

Erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

**13. Suitable Screens**

Suitable screens and/or barricades shall be erected during demolition and building work and where required by the Certifying Authority to reduce the emission of noise, dust, water effluent or other matter from the site.

(Reason: Maintain amenity to adjoining properties)

**14. Road and Footpath**

Council's footpath, nature strip or roadway shall not be damaged and shall be kept clear at all times. The public footway must not be obstructed at any time unless written approval has been granted by Council and the footway including any footpath shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Maintain public safety)

**15. No Storage on Foot/Roadway**

Building materials, plant and equipment and builder's waste, are not to be placed or stored at any time on Council's footpath, nature strip or roadway adjacent to building sites unless prior written approval has been granted by Council.

(Reason: Safety)

**16. Skips and Bins**

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.

(Reason: Safety)

**17. Sweep & Clean Pavement**

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.

(Reason: Legal requirement)

**18. Street Signs**

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

**PRIOR TO OCCUPATION OF THE DEVELOPMENT**

**The following conditions of consent must be complied with prior to the issue of an occupation certificate.**

**19. Bush Fire Construction**

No Occupation Certificate is to be issued until the building works have been constructed in accordance with the appropriate Bush Fire Attack level (BAL) determined by the Bush Fire Assessment Report and/or Consent Conditions.

(Reason: Bush fire safety)

**ADDITIONAL CONDITIONS**

**The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.**

**20. Bush Fire Control**

The Asset Protection zones (APZ) being maintained in accordance with the principles contained in the NSW Rural Fire Service's 'Planning for Bush Fire Protection'.

(Reason: Bush fire safety)

**21. Underground Utility Services**

Locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

**22. Public Infrastructure Restoration**

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage caused by, but not limited to , delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.  
(Reason: Protection of public assets)

**PRESCRIBED CONDITIONS**

**The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.**

**23. Compliance with National Construction Code**

All building works must be carried out in accordance with the performance requirements of the National Construction Code.  
(Reason: Compliance)

**STATUTORY REQUIREMENTS**

**The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants**

**24. Construction Certificate Required**

This consent IS NOT an approval to carry out any building works (with the exception of demolition work). A Construction Certificate is required PRIOR TO ANY BUILDING WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.  
(Reason: Ensure compliance and statutory requirement)

**25. Notify Council of Intention to Commence Works**

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifying Authority and give at least 2 days' notice to Council, in writing, of the persons intention to commence the erection of the building.  
(Reason: Information and ensure compliance)

**26. Occupation Certificate**

The building/structure or part thereof shall not be occupied or used until an interim occupation / final occupation certificate has been issued in respect of the building or part.  
(Reason: Safety)

**ATTACHMENT 2: SITE DESCRIPTION AND AERIAL PHOTO**



The subject site is known as 77 Coolawin Road, Northbridge and is legally described as Lot 8 in DP 18857. The site is located along the eastern side of Coolawin Road within the E4 Environmental Living zone. The rear boundary of the site is on the foreshore of Middle Harbour. The site is generally rectangular in shape with a modest slope near the front. The site slopes steeply towards the eastern boundary (foreshore) with a fall of over 28m. The rear portion of the site, between the swimming pool and the mean high water mark is densely vegetated. The site is affected by a foreshore building line measuring 38m on the northern side boundary and 40m on the southern side boundary from Coolawin Road. The site has an area of 1,100m<sup>2</sup>.

**ATTACHMENT 3: CONTROLS & DEVELOPMENT STATISTICS**

|  |   |
|--|---|
| Willoughby Local Environmental Plan 2012<br>Zoning: E4 | Foreshore Land  |
| Conservation area                                      | No  |
| Heritage Item  | No  |
| Bushfire Prone Area                                    | Yes the entire site is bushfire prone                                       |
| Foreshore Protection Area                              | Yes   |
| Flood related planning control                         | No  |
| Applicable DCP   | Sydney Harbour Foreshore Area DCP, WDCP.                                    |
| Applicable SEPPs                                       | SEPP Coastal Management, SREP (Sydney Harbour Catchment), SEPP 19, SEPP 55. |
| Relevant policies and resolutions                      | N/A   |

**Developer’s Contribution Plans:**

Not applicable as cost of works is less than \$100,000.

**SEPP Coastal Management 2018**

The SEPP intends to plan for and effectively respond to coastal challenges such as major storms, coastal erosion and climate change impacts, through more strategic planning around coastal development and emergency management.

The SEPP includes development controls for four coastal management areas. Two of these Coastal Management Areas apply to Northbridge: Coastal Environment Area and Coastal Use Area. However, the provisions of the SEPP relating to these Management Areas do not apply to land within the Foreshore and Waterways Area within the meaning of the SREP(Sydney Harbour Catchment 2005).

It is considered however that the proposed development is consistent with the general provisions of Clause 15 of the SEPP:

*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.*

**SREP Sydney Harbour Catchment**

The development was referred to the Foreshores and Waterways Planning Committee on 26 October 2017 as required by Schedule 2 of the SREP. No comments were received by Council.

Under the provisions of Clause 5 of the SREP (Sydney Harbour Catchment), Council is the consent authority for the boatshed and decking. Under the definitions contained in the SREP the boatshed is a land based development which must be carried out wholly above the MHWM. The boatshed is located on freehold land above the MHWM.

The decking which connects the boatshed to the approved jetty is not wholly located on the land as it extends into the bay below the MHWM. Under the definitions contained in the SREP it is considered to be a land/water interface development being both above and below the MHWM. The works are ancillary to a dwelling house.

The bay adjacent to 77 Coolawin Road is zoned W7 Scenic Waterways Casual Use. Boatsheds are a prohibited use in the W7 Scenic Waterways Casual Use Zone. As a result, the new boatshed needs to be located wholly on the land, above the MHWM as is the case. The decking which is at the same height as the approved jetty is defined as a private landing facility and is a permissible use in the W7 Scenic Waterways Casual Zone with consent.

## **SREP Foreshores and Waterways Area Development Control Plan**

### **Part 2: Ecological Assessment**

The site is identified as containing woodland which is of medium conservation status. It is considered that the proposed development is consistent with the general aims of the DCP for ecological assessment as there is no removal of any significant vegetation.

### **Part 3: Landscape Status**

The site is located within Landscape Character Type 3 which applies to the residential bays of Middle Harbour. It is considered that the proposed development is consistent with the performance criteria for the Landscape Character Type 3. A Schedule of External Finishes has been submitted for the boatshed which is in earthy colours with black trim.

### **Part 4 and Part 5: Guidelines for Development**

#### **Boatsheds**

The DCP contains design guidelines for boatsheds that are water-based and land/water interface developments and for boatsheds that are land based developments.

For land-based developments, boatsheds are required to be:

- one storey
- minimum headroom of 2.2m and a maximum of 2.5m
- maximum area of 6m x 3.7m
- roof pitch should not exceed 35 degrees and should be gabled. Other roof styles will be considered having regard to the context and design of surrounding buildings
- exterior colours should be compatible with the immediate surrounds and the landscape character in which the boatshed is proposed.

The proposed boatshed has dimensions of 6m x 3.7m, as stipulated in the DCP and a maximum head height of 2.5m. The roof pitch is approximately 20 degrees and the roof has gabled ends. As outlined above the external colours match the immediate surrounds and are in earthy tones.

## **Willoughby LEP 2012**

### **Foreshore Area**

The site is located within the foreshore area and the provisions of Clause 6.4 apply.

Clause 6.4 (2) permits limited development in the foreshore area:

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

- (a) single storey structures such as boat sheds, slipways and jetties that have a direct functional relationship with the waterway,*
- (b) inclinators, stairs and other structures designed to provide pedestrian access to the waterway,*
- (c) development for the purposes of barbecues, cycleways, fences, garden sheds, pergolas, picnic facilities, public amenities, retaining walls, swimming pools or walking trails.*

The proposed works are permissible in the foreshore area. It is considered that, subject to conditions, the proposed development satisfies the provisions of Clause 6(3) of the WLEP.

### **Floor Space Ratio**

The boatshed has an area of 22.2m<sup>2</sup> which is to be used as a non-habitable space for the storage of a boat and the loading and unloading of a boat into and out of the water. As such it is considered to be exempt from inclusion as gross floor area under the provisions of the Willoughby LEP for the calculation of floor space ratio.

### **Height**

Clause 4.3A (7) stipulates that the height of a building on land in the foreshore area must not exceed 3.5 metres above ground level (existing) on any part of the lot. The proposed boatshed has a maximum height of 4.6m above existing ground level. A Clause 4.6 variation was submitted with the development application and is at **Attachment 4**.

## ATTACHMENT 4: CLAUSE 4.6 VARIATION

### Development Statistics - Height

|                       | Proposed | Standard | Extent of Variation |
|-----------------------|----------|----------|---------------------|
| b) Height of Boatshed | 4.6m     | 3.5m     | 1.1m or 31.4%       |

The applicant's reasons in support of the Clause 4.6 variation are outlined below:

#### 1. Applicant's Reasons for Support of Variation – Development Standard

##### *Relevant Objectives of the Height of Buildings Development Standard*

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

(a) *to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*

The proposed boatshed is located on the lower part of the site adjacent to the waterway. It is of a similar bulk and scale to other boatsheds in the vicinity although when compared to the immediately adjoining boatshed, it proposes a pitched and gabled roof form as suggested in the planning guidelines. This results in a waterside building with a more appropriate appearance in the context of its foreshore location.

(b) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*

The proposal reduces the overall bulk of the building by using a pitched roof form. It has no detrimental effect upon existing views, solar access and visual impact.

(c) *to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*

The proposed structure will result in a suitable overall visual appearance when viewed from both the public and private domain, including the waterways.

(d) *to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*

As noted, the proposal will not impact upon any private and public views.

(e) *to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*

The minimum soft soil area remains compliant with Council's requirements.

(f) *to use maximum height limits to assist in responding to the current and desired future character of the locality,*

The proposal is consistent with the character of the area and is more consistent with the desired future character of the area by virtue of the fact that it is located above the MHWM and permissible in the zone.

*(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*

N/A.

*(h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

N/A.

## **2. Applicant's Reasons for Support of Variation – Zone Objectives**

Relevant Objectives of the E4 Environmental Zone

### 1 Objectives of zone

*(a) To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

*(b) To ensure that residential development does not have an adverse effect on those values.*

The proposal will have a neutral impact on surrounding development and the locality generally. It has been designed to complement the surrounding foreshore. The proposal provides for the retention of the special ecological, scientific and aesthetic values of the harbour foreshore.

*(c) To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.*

The proposed building height does not have any adverse impact in relation to these matters. The natural landform remains largely intact by the sensitive placement of the boatshed near the foreshore. No trees are to be removed.

*(d) To maintain the scale, character and streetscape of individual localities.*

The proposal will not adversely affect the appearance of the site in terms of its scale or character when viewed from the waterway. The character of this stretch of foreshore has been established by the erection of some land based structures along the edge of the allotments and some water based structures within the W7 zone. The proposal will be compatible with the existing and desired future character of the area.

*(e) To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.*

The proposal achieves this objective as it will result in maintaining views, solar access, privacy and overall visual quality.

### **3. Consideration**

The relevant objectives of the standard are considered to be met by the proposed development as outlined above. Despite the non-compliance, it is considered that the proposed development is in keeping with the character of the harbour foreshore with minimal amenity impacts on adjoining and nearby properties. Therefore, the proposal satisfies the objectives of the development standard.

The proposal is consistent with the objectives of the E4 Environmental Living Zone being a low impact residential development that will not have an adverse impact on the special ecological, scientific, and aesthetic values of the area. The proposed development maintains the scale and character of the locality and will not detrimentally affect the ecology and scenic quality of the harbour. It is considered that there are sufficient environmental planning grounds to vary the standard.

Based on the above considerations, the variation to the development standard is acceptable given the particular circumstances of the proposed development. It is considered that approval of the application will not compromise the interests of the public, given the relevant objectives of the zone and the standard are met by the proposal despite its numerical non-compliance with the development standard. The variation is not considered to raise any matter of regional and State significance, and concurrence of the Minister in approving the variation can be assumed by Council.

Having regard to the above, the variation to **Clause 4.3A – Height of Buildings** development standard is **supported** by the assessing officer and, there are sufficient environmental planning grounds to vary the standard.

**ATTACHMENT 5: SECTION 4.15 (79C) ASSESSMENT**

**The application has been assessed under the provisions of S.4.15 (79C) of the Environmental Planning and Assessment Act.**

The most relevant matters for consideration are assessed under the following headings:

**Matters for Consideration Under S.79C EP&A Act**

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

|          |  |     |
|----------|--|-----|
| (a)(i)   | The provisions of any environmental planning instrument (EPI)  |     |
|          | <ul style="list-style-type: none"> <li>State Environmental Planning Policies (SEPP)</li> </ul>   | ✓   |
|          | <ul style="list-style-type: none"> <li>Regional Environmental Plans (REP)</li> </ul>   | ✓   |
|          | <ul style="list-style-type: none"> <li>Local Environmental Plans (LEP)</li> </ul>  | ✓   |
|          | <ul style="list-style-type: none"> <li>Comment:<br/>The development proposal does not contravene any State or Regional Plans or policies.</li> </ul> <p>The proposed development is consistent with the general provisions for development within the coastal zone as contained in the SEPP Coastal Management 2018.</p> <p>The site adjoins the Harbour foreshore and is located within the Foreshores and Waterways Area identified in Part 3 of the SREP (Sydney Harbour Catchment) 2005. The development proposal has been assessed according to The Matters for Consideration listed in Part 3, Division 2 of the SREP and is found to be consistent with the aims of the plan. It is considered that the proposed development will have an acceptable impact on the scenic qualities of Sydney Harbour and views to and from the subject site.</p> <p>The site contains vegetation in the foreshore area that connects to the bushland in Clive Park and as such the provisions of Clause 9 of SEPP 19 apply to the site. It is considered that the proposed development will not have an adverse impact on the adjoining bushland.</p> <p>The zoning for the site is E4 Environmental Living under the provisions of the WLEP 2012 and the site is located within the foreshore area. The proposed works are permissible within the foreshore area under the provisions of Clause 6.4 of the WLEP 2012. It is considered that the proposed development is consistent with the objectives of the E4 zone.</p> <p>With respect to the development standard for Height of Buildings in the foreshore area, the non-compliance with the height standard of 3.5m is due to the topography of the site. The Clause 4.6 variation submitted by the applicant is supported.</p> |     |
| (a)(ii)  | The provision of any draft environmental planning instrument (EPI)   |     |
|          | <ul style="list-style-type: none"> <li>Draft State Environmental Planning Policies (SEPP)</li> </ul>   | N/A |
|          | <ul style="list-style-type: none"> <li>Draft Regional Environmental Plans (REP)</li> </ul>   | N/A |
|          | <ul style="list-style-type: none"> <li>Draft Local Environmental Plans (LEP)</li> </ul>  | N/A |
|          | N/A  |     |
| (a)(iii) | Any development control plans  |     |
|          | <ul style="list-style-type: none"> <li>Development control plans (DCPs)</li> </ul>   | ✓   |

**Matters for Consideration Under S.79C EP&A Act**

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

|         |  |     |
|---------|--|-----|
|         | <p>Comment:<br/>The proposed development is considered to be consistent with the objectives for development contained in the Sydney Harbour Foreshores and Waterways Development Control Plan.</p> <p>Part C10 of the WDCP contains development guidelines for development within the foreshore area. It is considered that the proposed development is consistent with the intent of Part C10 of the WDCP which is to preserve and enhance the natural features and vegetation of the foreshore area for its scenic and ecological values and to ensure development does not detract from the natural character of these areas.</p> <p>Part D1.16 of the WDCP contains objectives and controls for development in the E4 Environmental Living Zone. The proposed development complies with the relevant objectives and controls for development contained in Part D1.16 apart from the building height limit for the foreshore area of 3.5m. Despite this non-compliance, it is considered that the proposed boatshed and decking meets the objectives of the DCP for development in the E4 Environmental Living Zone.</p> <p>It is considered that there will be no significant adverse impacts to adjoining properties as a result of the proposed development.</p> |     |
| (a)(iv) | Any matters prescribed by the regulations  |     |
|         | <ul style="list-style-type: none"> <li>• Clause 92 EP&amp;A Regulation-Demolition</li> </ul>   | N/A |
|         | <ul style="list-style-type: none"> <li>• Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>   | N/A |
|         | <ul style="list-style-type: none"> <li>• Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>   | N/A |
| (b)     | The likely impacts of the development  |     |
|         | <ul style="list-style-type: none"> <li>• Context &amp; setting</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Access, transport &amp; traffic, parking</li> </ul>   | N/A |
|         | <ul style="list-style-type: none"> <li>• Servicing, loading/unloading</li> </ul>   | N/A |
|         | <ul style="list-style-type: none"> <li>• Public domain</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Utilities</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Heritage</li> </ul>   | N/A |
|         | <ul style="list-style-type: none"> <li>• Privacy</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Views</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Solar Access</li> </ul>   | ✓   |
|         | <ul style="list-style-type: none"> <li>• Water and draining</li> </ul>   | ✓   |
|         | <ul style="list-style-type: none"> <li>• Soils</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Air &amp; microclimate</li> </ul>   | ✓   |
|         | <ul style="list-style-type: none"> <li>• Flora &amp; fauna</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Waste</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Energy</li> </ul>   | ✓   |
|         | <ul style="list-style-type: none"> <li>• Noise &amp; vibration</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Natural hazards</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Safety, security crime prevention</li> </ul>  | ✓   |
|         | <ul style="list-style-type: none"> <li>• Social impact in the locality</li> </ul>  | ✓   |

**Matters for Consideration Under S.79C EP&A Act**

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

|     |  |     |
|-----|--|-----|
|     | <ul style="list-style-type: none"> <li>Economic impact in the locality</li> </ul>  | ✓   |
|     | <ul style="list-style-type: none"> <li>Site design and internal design</li> </ul>  | ✓   |
|     | <ul style="list-style-type: none"> <li>Construction</li> </ul>   | ✓   |
|     | <ul style="list-style-type: none"> <li>Cumulative impacts</li> </ul>   | ✓   |
|     | <p>Comment:<br/>The proposed development results in ancillary uses to an existing dwelling and is minor in nature. As outlined above, the proposed boatshed and decking is considered to have a satisfactory impact on neighbouring properties. It is considered that the proposal will have an acceptable impact on the scenic quality of the Harbour.</p>  |     |
| (c) | The suitability of the site for the development  |     |
|     | <ul style="list-style-type: none"> <li>Does the proposal fit in the locality?</li> </ul>   | ✓   |
|     | <ul style="list-style-type: none"> <li>Are the site attributes conducive to this development?</li> </ul>   | ✓   |
|     | <p>Comment:<br/>The proposed development is for ancillary uses to a dwelling house in the E4 Environmental Living Zone which include a boatshed and decking to connect to an already approved jetty and pontoon.</p> <p>The site is located in an environmentally sensitive area. The site is bushfire prone. Conditions of consent require the proposal to comply with the requirements of <i>Planning for Bushfire Protection 2006</i> and Australian Standard 3959-2009.</p> <p>The works are considered to be relatively minor and consistent with the character of the foreshore area in the Northbridge locality. The site is considered suitable for the proposed development and has no major constraints to the proposed development.</p> |     |
| (d) | Any submissions made in accordance with this Act or the regulations  |     |
|     | <ul style="list-style-type: none"> <li>Public submissions</li> </ul>   | N/A |
|     | <ul style="list-style-type: none"> <li>Submissions from public authorities</li> </ul>  | N/A |
|     | <p>Comment:<br/>No submissions were received from neighbouring properties as a result of the notification of the development application. No submissions were received from public authorities.</p>  |     |
| (e) | The public interest  |     |
|     | <ul style="list-style-type: none"> <li>Federal, State and Local Government interests and Community interests</li> </ul>  | ✓   |
|     | <p>Comment:<br/>The proposed development is considered to be consistent with the objectives of the E4 Environmental Living zone and for development in the foreshore area and will not have unreasonable amenity impacts on the harbour, adjoining private properties or the surrounding bushland. The proposed development is considered to be consistent with the desired future character of the Northbridge locality.</p>  |     |

ATTACHMENT 6: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2017/410

At: 77 Coolawin Road NORTHBRIDGE NSW 2063



Comments:

Created on : Wednesday, 25 October 2017

## ATTACHMENT 7: LANDOWNER'S CONSENT



Shaun Berger  
77 Coolawin Road  
NORTHBRIDGE NSW 2063

PTL3144  
SF2017/280158

Dear Mr Berger

**Applicant:** Shaun BERGER  
**Site Address:** 77 Coolawin Road NORTHBRIDGE  
**Proposal:** Construction of Boatshed Decking to connect with existing jetty and pontoon, to be used as a private landing facility.

I refer to the above Application, dated 24 November 2017 for Land Owner's Consent to Lodge a Development Application.

Your application has been assessed by reference to Roads and Maritime Services' (RMS) "*Obtaining Permission to Lodge Policy*". Consent to the lodgement of the DA is granted and must be in accordance with the attached plan/s prepared by Macquarie Park Project Surveyors, numbered 3486B/D, dated 5 February 2018 and stamped as approved.

A copy of this letter must be submitted with your DA to the relevant consent authority as evidence of land owner's consent – pursuant to clause 50 of the *Environmental Planning and Assessment Regulations 2000*.

This consent is valid for 12 months from the date of this letter. However, **should the nature, extent or specific location of your proposal change in this time, you must notify RMS** in order to lodge the DA. This consent cannot be transferred to another applicant.

Please be aware that, in granting this consent, RMS is **not endorsing** the proposal **nor approving the development itself**. We are simply **giving permission for you to lodge a DA**. As such, the DA could still be refused, **even if RMS is the consent authority**.

You also need to note that this letter does not, in itself, authorise a person to enter RMS' land or act on any planning permission subsequently granted. Access to, and occupation of, RMS' land must be in accordance with an appropriate tenure arrangement. I would encourage you to contact RMS' leasing team [propertymanagement@rms.nsw.gov.au](mailto:propertymanagement@rms.nsw.gov.au) to discuss tenure arrangements as soon as possible as this will need to be established **before any construction can commence**.

If you have any questions about this letter, please contact RMS' Development Approvals Officer, Ms Myriam Mendez on 0437 225 970.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Webb'.

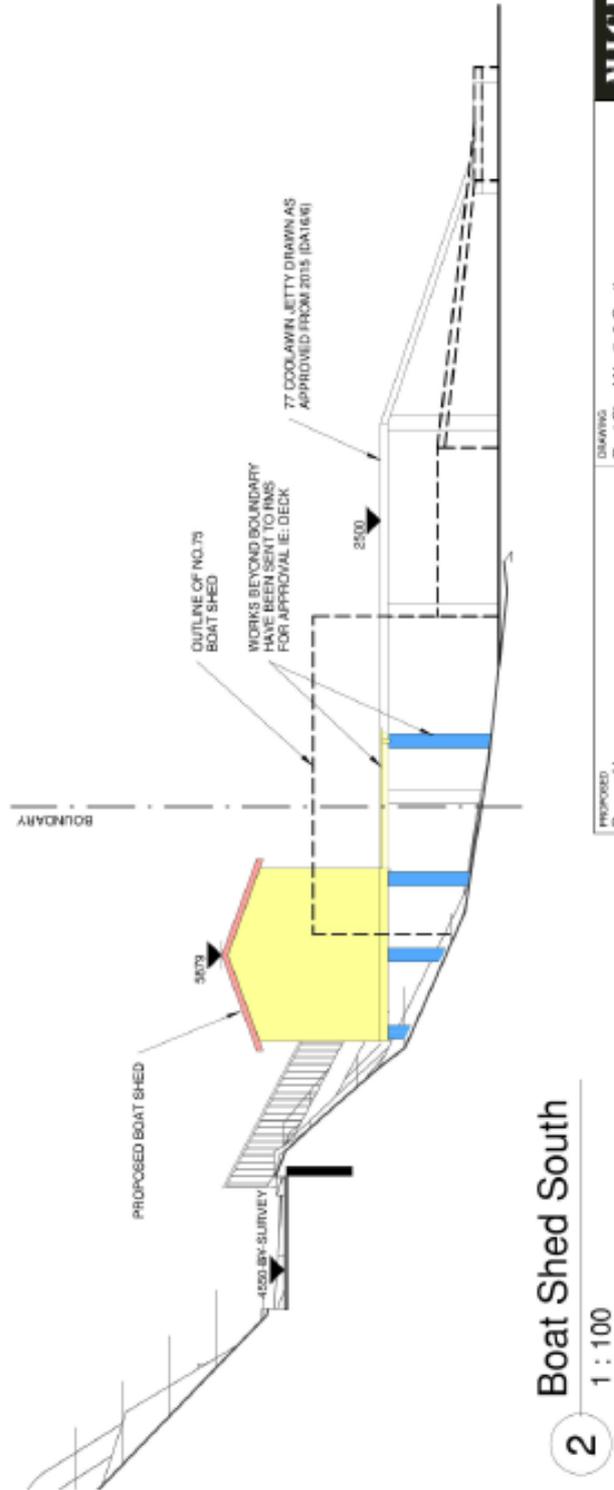
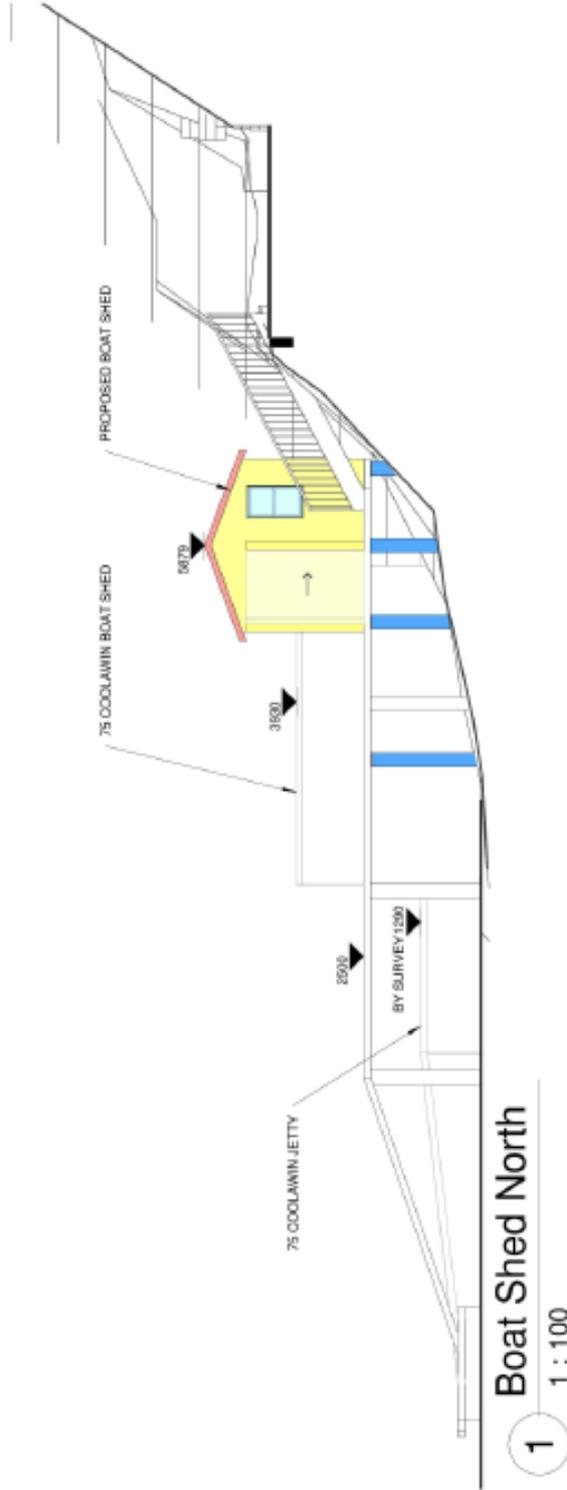
12/02/2018

Susannah Webb  
Senior Manager  
Property, Strategy & Planning  
Cc: Daniel Cowley [daniel@michaelrobilliard.com.au](mailto:daniel@michaelrobilliard.com.au)

Roads and Maritime Services – Property, Strategy and Planning - PO Box 973 – PARRAMATTA CBD NSW 2124

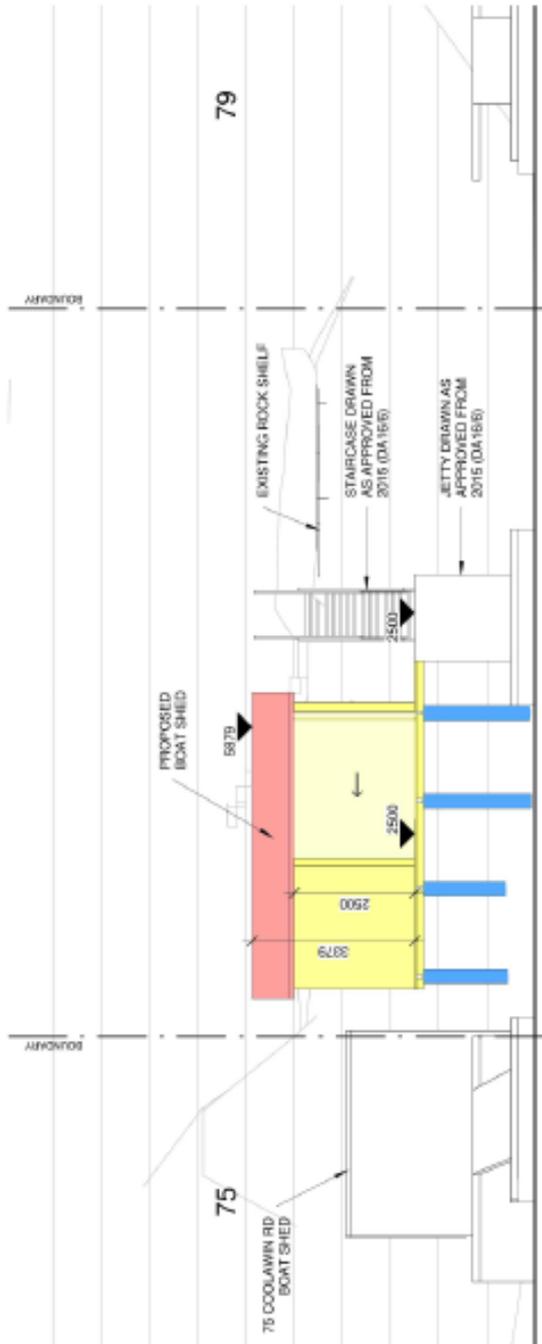
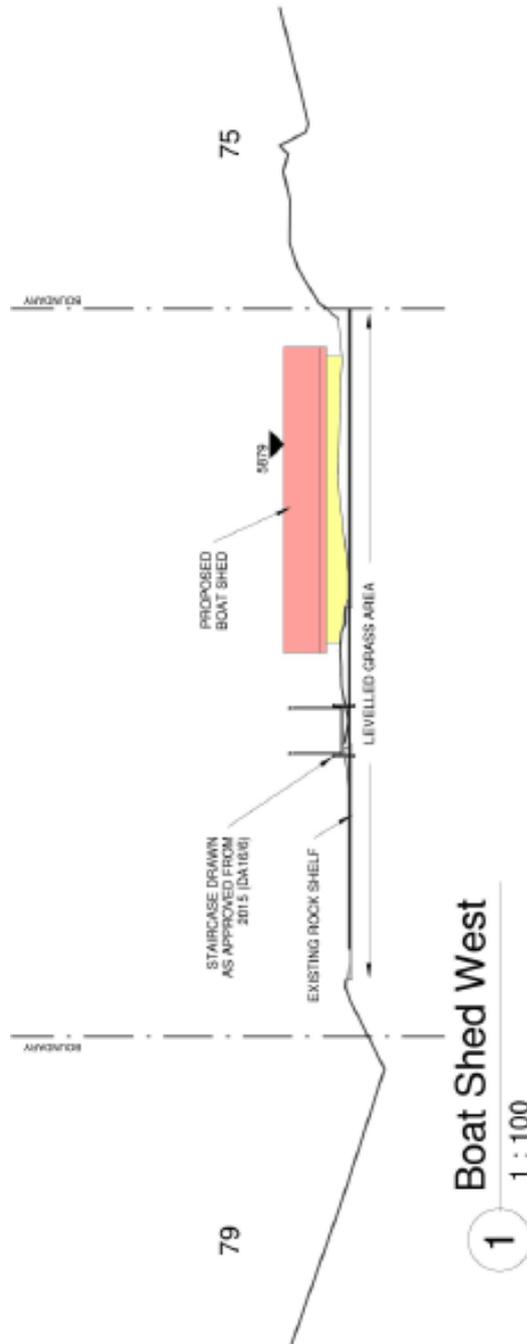






|   |   |             |
|---|---|-------------|
| PROPOSED<br>Berger House                      | DRAWING<br>Boat Shed North & South      | 408 WD 04-A |
| SITE ADDRESS<br>77 Coolawin Road, Northbridge | 64 Goodhops Street, Paddington NSW 2021 |             |
| DATE<br>23-Oct-17 10:29:37 AM                 | SCALE<br>1 : 100                        |             |

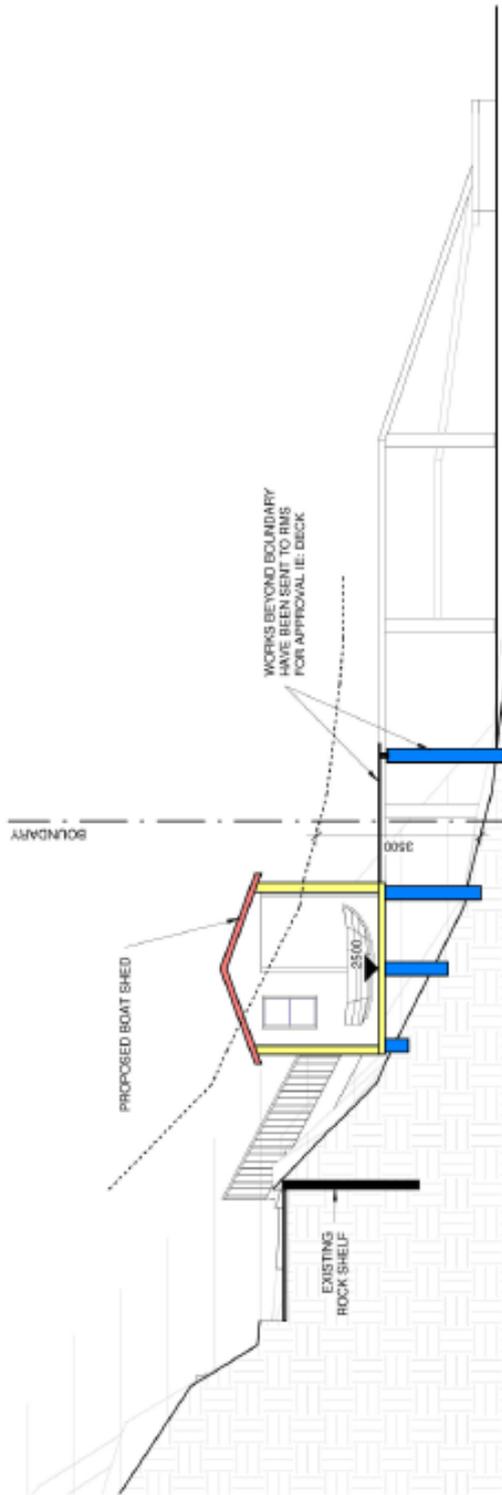
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|   |   |
|---|---|
| PROPOSED<br>Berger House                      | DRAWING<br>Boat Shed East & West        |
| SITE ADDRESS<br>77 Coolawin Road, Northbridge | 64 Goodhope Street, Paddington NSW 2021 |
| DATE<br>23-Oct-17 10:29:38 AM                 | SCALE<br>1 : 100                        |
|   | 408 WD 05A                              |

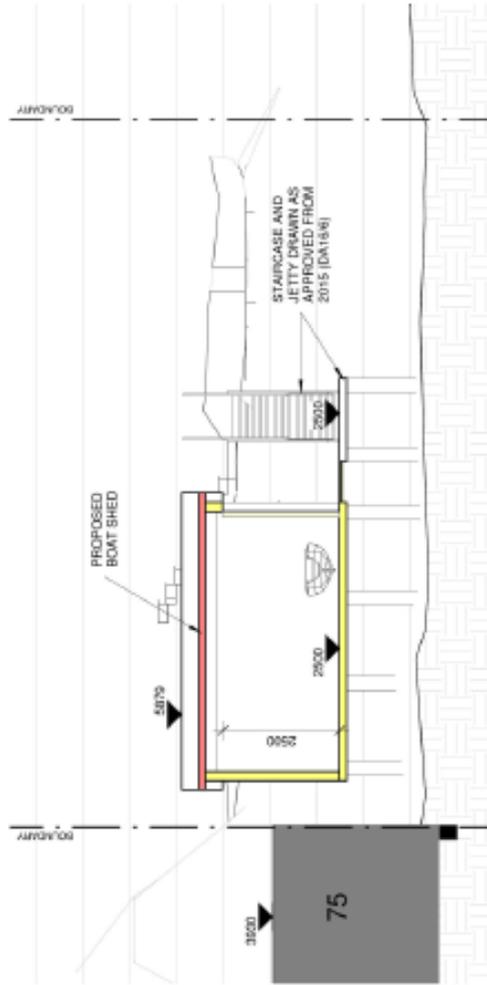
**MICHAEL  
ROBILLIARD  
& ASSOCIATES**

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1 Boat Shed Section A

1 : 100



2 Boat Shed Section B

1 : 100

|   |   |  |             |
|---|---|--|-------------|
| PROPOSED<br>Berger House                      | DRAWING<br>Boat Shed Section  | 64 Goodhope Street, Paddington NSW 2021<br>PL15/2021-142/20/2021 | 408 WD 06 A |
| SITE ADDRESS<br>77 Coolawin Road, Northbridge | SCALE<br>1 : 100  |  |             |
| DATE<br>23-Oct-17 10:29:38 AM                 | Copyright © The drawings are the property of Michael Robilliard & Associates Pty Ltd and may not be reproduced or further altered without the written consent of Michael Robilliard & Associates Pty Ltd. |  |             |

## External Finishes Schedule

For New Boat Shed **77 Coolawin Road Northbridge**

| AREA            | MATERIAL                                 | ILLUSTRATION   |
|-----------------|--|--|
| ROOF            | COLORBOND STEEL                          |    |
| WALLS           | RENDERED BRICK – PAINTED IN EARTH COLOUR |   |
| DOORS & WINDOWS | ALUMINIUM, BLACK                         |  |

Michael Robilliard & Associates