

## Natural Environment Referral Response - Coastal

<b>Application Number:</b>	DA2023/0700
<b>Proposed Development:</b>	Construction of a jetty, ramp, pontoon and fender pile
<b>Date:</b>	27/07/2023
<b>Responsible Officer</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 102 DP 803977 , 167 Riverview Road AVALON BEACH NSW 2107 Lot LIC 469130 , 167 Riverview Road AVALON BEACH NSW 2107

### Reasons for referral

This application seeks consent for land located within the Coastal Zone.

And as such, Council's Natural Environment Unit officers are required to consider the likely impacts on drainage regimes.

### Officer comments

#### SUPPORTED WITH CONDITIONS

This application was assessed in consideration of:

- Plans, reports and documents lodged in support of this DA;
- Coastal Management Act 2016;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity & Conservation) 2021; and
- Pittwater LEP 2014 and P21 DCP.

Assessment of the application has also considered:

- Consent of landowner to lodge a DA from the Department of Planning & Environment - Crown Lands, dated 13 January 2023.
- No navigational concerns as a result of the proposed development from Transport for NSW Maritime Division dated 10 September 2021.
- No objection to the proposed development (subject to conditions) from the Department of Primary Industries - Fisheries, dated 7 December 2020.

### Coastal Management Act 2016

The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 (CM Act) is applicable to the DA. The proposed development is generally consistent with the objects, as set out under Part 1 Section 3 of the CM Act.

### State Environmental Planning Policy (Resilience and Hazards) 2021

As the subject site is within the coastal zone State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP R&H) also applies to the proposed development. The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the CM SEPP. Hence, Chapter 2 of SEPP R&H applies for this DA. On internal assessment the DA generally satisfies the requirements under Divisions 3, 4 and 5 of SEPP R&H. As such, it

is considered that the application complies with the provisions of SEPP R&H, subject to conditions.

#### **Pittwater LEP 2014 and Pittwater 21 DCP**

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.

As the Estuarine Planning Level (EPL) does not apply to jetties, bridging ramps or pontoons located on the seaward side of the foreshore edge the proposed development is considered to satisfy the relevant provisions of the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the B3.7 Estuarine Hazard Controls.

The development proposal is generally compliant with the relevant requirements of the D15 - Waterway Locality controls, subject to conditions.

#### **Development Seaward of Mean High Water Mark**

Proposed development works are located on Crown land below the Mean High Water Mark. Hence, Section D15.12: Development seaward of mean high water mark in Pittwater 21 DCP applies to the proposed development. DPI Fisheries has sought amendment of the development proposal and applied conditions to protect marine vegetation including a requirement that the jetty and ramp are decked with mesh providing at least 60% light penetration.

An aquatic ecology assessment lodged in support of the DA and prepared by Waterfront Surveys Australia concludes that: 'In summary, the potential impacts on the aquatic ecology at The Property from the installation of a new jetty, ramp and pile stabilised pontoon are expected to be minimal, temporary and unlikely to cause any damage or harm to marine life.'

On internal assessment and as assessed in the aquatic ecology report, the proposed development is unlikely to have significant adverse impacts on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway and the DA is considered to be able to satisfy the requirements of the Section D15.12 Controls subject to conditions.

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

#### **Recommended Natural Environment Conditions:**

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

#### **Lawful Authority to Use and Occupy Crown Land or Waterway**

An executed licence agreement from the relevant NSW government agency governing the use and occupation of Crown land is required to be obtained prior to the issue of a construction certificate. Evidence demonstrating compliance is to be submitted to the Certifier for approval.

Reason: To ensure that lawful authority under the Crown Land Management Act 2016 to use and occupy Crown land or waterway is obtained before construction commences.

#### **Estuarine Hazard Design Requirements**

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.

Reason: To minimise risks associated with coastal hazards for development in an estuarine environment.

### **Compliance with Aquatic Ecology Assessment Report**

The development is to comply with all recommendations of the approved Aquatic Ecology Assessment Report prepared by Waterfront Surveys Australia, dated 21 July 2021, and these recommendations are to be incorporated into construction plans and specifications. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To minimise potential harm and damage to estuarine habitat.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **Installation and Maintenance of Aquatic Sediment and Erosion Control**

Sediment and erosion controls such as silt curtains and floating booms are to be used during construction, to ensure that there is no escape of turbid plumes into the aquatic environment and shall remain in proper operation until all development activities have been completed. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

Reason: To protect the surrounding aquatic habitats from the effects of sedimentation and erosion from the site.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to applicable regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

### **Construction works not to damage seagrass beds of inshore rock rubble habitat**

Construction shall comply with all requirements, permits and control measures recommended by the Department of Primary Industries - Fisheries to minimise the impacts from construction and operation of the asset.

Reason: Protection of estuarine habitat.

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

### **Public Access Below MHWL to be maintained**

Existing public access along the foreshore below the MHWL must be maintained at all times.

Reason: Compliance with the requirements of State Environmental Planning Policy (Resilience and Hazards)