

Natural Environment Referral Response - Coastal

Application Number:	DA2024/0177
Proposed Development:	Demolition and construction of boat skid/ramp
Date:	18/03/2024
Responsible Officer	Simon Ferguson Tuor
Land to be developed (Address):	Lot 9 DP 17704 , 24 Cabarita Road AVALON BEACH NSW 2107 Lot LIC 631604 , 24 Cabarita 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

This Development Application is to seek consent for

- demolition of the existing slip rails and cradle on the northern side of The Property;
- installation of a new mesh skid ramp (8.0 x 3.0 m) alongside the northern side of the existing jetty, supported on six piers; and
- installation of a set of new mesh steps down the centreline of the new mesh skid.

The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.

The application has been assessed in consideration approval/support of:

- Consent to lodge DA from the NSW Department of Planning, Housing and Infrastructure – Crown Lands and Public Spaces dated 20 February 2024
- No navigational Concerns from the Transport for NSW- Maritime Division dated 14 April 2023 enclosing dated and signed maps
- The DPI-Fisheries, a division of the Department of Primary Industries letter dated 11 March 2024 seeking additional information by 10 April 2024. Assessment pending

Coastal Management Act 2016

The subject site has been identified as being within the coastal zone and therefore *Coastal Management Act 2016* is applicable to the proposed development. The proposed development is in

line with the objects, as set out under Clause 3 of the *Coastal Management Act 2016*.

State Environmental Planning Policy (Resilience & Hazards) 2021

The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby & Associates Pty. Ltd. dated 23 February 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.

Pittwater LEP 2014 and Pittwater 21 DCP

Estuarine Hazard Management

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-B3.10 Estuarine Hazard Controls will apply to any proposed development of the site. The Estuarine Hazard Controls do not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.

However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM).

The proposed development is therefore not required to satisfy the relevant estuarine risk management requirements of P21 DCP.

Development on Foreshore Area

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

However, development works proposed are located on the seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHWM).

Therefore, the proposed development is not required to satisfy the relevant Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014.

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 of the Pittwater 21 DCP applies to proposed development.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby & Associates Pty. Ltd. dated 23 February 2024, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway.

The applicant has submitted a Marine Habitat Survey prepared by Waterfront Surveys Australia Pty. Ltd. dated 25 February 2023. The report concluded that the potential impacts on the aquatic ecology are expected to be minimal.

As such, it is considered that the application does comply, subject to conditions, with the requirements of the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP.

Waterfront Development

Proposed development of berthing areas are located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section a) Jetties, ramps and pontoons of the Pittwater 21 DCP applies to proposed development.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephen Crosby & Associates Pty. Ltd. dated 23 February 2024 and also as assessed in the submitted Marine Habitat Survey prepared by Waterfront Surveys Australia Pty. Ltd. dated 25 February 2023, the DA satisfies requirements, subject to conditions, under the Section D15.15: Waterfront development, sub-section a) Jetties, ramps and pontoons of the Pittwater 21 DCP.

As such, it is considered that the application does comply with the requirements of the Section D15.15: Waterfront development, sub-section b) Berthing areas of the Pittwater 21 DCP

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

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.

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 in accordance with Condition #5 of the Crown Land's letter of landowner's consent dated 20 February 2024, is required to be obtained prior to the issue of a construction certificate. Evidence demonstrating compliance is to be provided to the certifying authority 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.

Works requiring permits from the DPI - Fisheries

A letter dated 4 April 2023 from the DPI Fisheries, a division of NSW Department of Primary Industries indicated that the works may require a Section 201, for dredging and reclamation for the works to remove the slipway and 205 permit to harm marine vegetation, for the skid ramp construction.

Reason: Permits outline control measures to minimise the impacts from construction and operation of the asset.