

## Natural Environment Referral Response - Coastal

<b>Application Number:</b>	DA2023/0181
<b>Proposed Development:</b>	Construction of a mooring pen
<b>Date:</b>	23/03/2023
<b>Responsible Officer</b>	Olivia Ramage
<b>Land to be developed (Address):</b>	Lot 110 DP 12749 , 7 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 404399 , 7 Florence Terrace SCOTLAND ISLAND NSW 2105

### 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

#### Unsupported

The application has been assessed in consideration of:

- Plans and documents lodged in support of the DA;
- the Coastal Management Act 2016;
- State Environmental Planning Policy (Resilience & Hazards) 2021; and
- Pittwater LEP 2014 and Pittwater 21 DCP.

Assessment of the application has also considered:

1. Consent of landowner to lodge a DA from the Department of Planning, Industries & Environment - Crown Lands, dated 1 December 2022.
2. No navigational concerns as a result of the proposed development from Transport for NSW Maritime Division dated 12 October 2022.
3. No objection to the proposed development (subject to conditions) from the Department of Primary Industries - Fisheries, dated 8 February 2022.

### Coastal Management Act 2016

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

### State Environmental Planning Policy (Coastal Management) 2018

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 (R & H SEPP). Hence, Divisions 3, 4 and 5 of the R&H SEPP apply for this DA.

On internal assessment, Council considers that the DA generally satisfies the relevant requirements

under Chapter 2 the R & H SEPP.

Subject to conditions, it is considered that the application can comply with the provisions of State Environmental Planning Policy (Resilience & Hazards) 2021.

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

#### **Development on Foreshore Area**

The subject property is affected by the foreshore building line and Part 7, Section 7.8 – Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. The proposed development works are located seaward of the foreshore building line and planning officers will need to determine as to whether a mooring pen is a permitted use within the foreshore area.

#### **Estuarine Hazard Management**

The subject property has been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. 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.

#### **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 raised no objections to the development proposal subject to conditions to protect seagrass.

A Marine Habitat Survey lodged in support of the DA and prepared by H2O Consulting Group (Dec 2021) concludes that "In summary, the proposed development at 7 Florence Terrace, Scotland Island is not expected to result in any direct impacts on nearby seagrasses, which have been avoided. However, the adoption of the recommendations of this report will be essential to minimise potential for disturbances during construction works."

On internal assessment and as assessed in the marine habitat survey, the proposed development is unlikely to have an adverse impact on 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.

#### **Waterfront Development**

The DA seeks relief from the requirement to relinquish a licence for a private swing mooring by any person seeking approval for a berthing area.

The D15.15 Waterfront Development Control at Section b) states that "where provided berthing areas shall meet the following criteria:

- a. 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." In the case of the subject DA, the proponent already holds a swing mooring and a boat shed.

The D15.17 Moorings Control applies to marina berths, swing moorings and mooring pens in Pittwater and requires that: "The maximum number of moorings in Pittwater shall not exceed the overall capped total of 3641." and further that: "In the event of a marine development being approved, the change of swing moorings to marina berths shall not alter the capped number of vessels in that area."

As the proposal to hold a swing mooring, boatshed and mooring pen is non-compliant with the D15.15 development control, does not promote a more equitable use of the waterway's resources and is contrary to the requirements of the D15.17 development control, in that it has not demonstrated that the addition of a mooring pen will not exceed the mooring cap in Pittwater, the development proposal is not supported.















The proposal is therefore unsupported.

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

**Recommended Natural Environment Conditions:**

Nil.