

## Natural Environment Referral Response - Coastal

<b>Application Number:</b>	DA2020/1762
<b>Date:</b>	19/04/2021
<b>Responsible Officer</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 1 DP 827733 , 316 Hudson Parade CLAREVILLE NSW 2107 Lot 2 DP 827733 , 316 Hudson Parade CLAREVILLE NSW 2107 Lot LIC 559856 , 316 Hudson Parade CLAREVILLE 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

The application has been refused for lack of required supporting information and document

1. The proposed development is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) The objectives and requirements of both the CM Act and the CM SEPP must be addressed. This should be done in a revised **Statement of Environmental Effects (SEE) Report** as they relate to development within these coastal management areas.

2. As the proposal is construction of a seawall, the Section 27: granting of development consent relating to coastal protection works of the Coastal Management Act 2016 will apply for assessment of the DA. As required, the impact & risk associated with the construction of the seawall has to be addressed. in a **Risk Management Report**.

3. The subject property has been identified as being affected, among others, by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. 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 proposed development of a boatshed at the site. The requirements of other relevant controls under D15. 15 Waterfront Development Controls in Pittwater 21 DCP may also need to be considered. Consideration should be given to 'section B3 Estuarine Hazard Controls relating to boatsheds'.

In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL2.63m AHD has been adopted by Council for this property. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a

maximum distance of 40.00m. No further reduction is applicable

The proposal is, among others, to construct a boatshed. According to 'section B3 Estuarine Hazard Controls relating to boatsheds' of the Pittwater DCP, 'All floor levels shall be at or above the Estuarine Planning Level'.

**The Finished Floor Level (FFL) of the proposed boatshed is 1.72 m AHD.** An Estuarine Risk Management Report is required if the FFL of the boatshed is below the EPL.

As per Appendix 7 of the Pittwater 21 DCP, applicants may also seek their own professional advice on estuarine planning levels, based on design life of proposed developments, from a suitably qualified Coastal Engineer at the expense of the individual applicant. It is the responsibility of the applicant to submit the independent wave action and tidal inundation information and risk assessment to Council in the form of a technical Estuarine Risk Management Report of adequate qualitative and quantitative detail addressing estuarine level information, the management of risk due to estuarine hazards at an acceptable level and the consideration of other environmental impacts (where applicable) as they affect the subject land neighbouring properties and adjoining foreshore lands.

The Estuarine Planning Level does not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.

An Estuarine Risk Management Report should consider development constraints due to estuarine hazard impacts on the land, including an assessment of the degree of inundation, effects of wave action, impacts of waterborne debris, buoyancy effects, and other emergency issues during the design event (100 ARI event). The report should also contain recommendations as to any reasonable and practical measures that can be undertaken to remove foreseeable risk associated with estuarine hazards for the design life of the development.

An estuarine risk management report must be prepared by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and with coastal engineering as a core competency and has an appropriate level of professional indemnity insurance.

Based on above, the applicant needs to submit:

- a) Revised Statement of Environmental Effects (SEE) report addressing requirements of CMA and SEPP(CM).
- b) An Estuarine Risk Management Report addressing EPL and boatshed floor level and requirement of Section 27 of the CMA

#### **Additional comments**

**Aspects of this proposal are inconsistent with the following:**

## Coastal Management Act 2016 (CM Act)

### Objects of the Coastal Management Act

The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular—

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and
- (m) to support the objects of the *Marine Estate Management Act 2014*.

The site is included in Coastal Use and Coastal Environmental Areas:

### Management Objectives for the Coastal Environment Area:

- (1) The *coastal environment area* means the land identified by a State environmental planning policy to be the coastal environment area for the purposes of this Act, being land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms.
- (2) The management objectives for the coastal environment area are as follows—
  - (a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,
  - (b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,
  - (c) to maintain and improve water quality and estuary health,
  - (d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,

(e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,

(f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

#### Management Objectives for the Coastal Use Area

(1) The *coastal use area* means the land identified by a State environmental planning policy to be the coastal use area for the purposes of this Act, being land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is or may be carried out (at present or in the future).

(2) The management objectives for the coastal use area are as follows—

(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—

(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and

(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and

It is also inconsistent with the Coastal SEPP:

#### Division 3

#### Coastal environment area

#### 13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

(b) coastal environmental values and natural coastal processes,

(c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(f) Aboriginal cultural heritage, practices and places,

(g) the use of the surf zone.

(2) Development consent must not be granted to development on land to which this clause

applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

#### Division 4 Coastal use area

##### 14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following—
  - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that—
  - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

**Further assessment of the DA remains pending till these reports addressing the requirements are received**

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.