

Natural Environment Referral Response - Coastal

Application Number:	DA2023/1230
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool and associated works.
Date:	04/10/2023
Responsible Officer	Claire Ryan
Land to be developed (Address):	Lot 175 DP 4889 , 163 Seaforth Crescent SEAFORTH NSW 2092 Lot 6 DP 212783 , 161 B Seaforth Crescent SEAFORTH NSW 2092

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 assessed in consideration of the *Coastal Management Act 2016*, State Environmental Planning Policy (Resilience & Hazards) 2021, Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.

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. Clauses 2.10 (coastal environment area) and 2.11 (coastal use area) do not apply as the site is also located within the Sydney Harbour catchment area. Hence, only Clause 2.12 of the SEPP R & H apply for this DA.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Pty. Ltd. dated August 2023, the DA satisfies requirements under clause 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.

Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021

Foreshores & Waterways Area

The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 6.3 of the Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 will apply in assessing this DA. Development consent, among others, must consider clause 6.28.

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Pty. Ltd. dated August 2023, it is determined that the relevant clauses of the Part 6.3 including the clause 6.28 have been followed.

Zoning of Foreshores & Waterways Area

The subject site is located within/adjacent to the Zone 8 (Scenic Waters – Passive Use). On internal assessment, it is determined that the objectives and assessment criteria of the zone have been met.

Manly LEP 2013 and Manly DCP

Estuarine Hazard Management

The subject site has been identified to be likely affected by wave action and coastal inundation according to information available to Council from the draft Estuarine Planning Level (EPL) Study for North Harbour and Middle Harbour. The risks associated with these coastal hazards should be considered and addressed for any development proposed in low lying foreshore areas (generally below 3.50m AHD).

The DA proposes no works on the foreshores area located below 3.5m AHD and hence, the DA is supported without any conditions,

Foreshores Scenic Protection Area Management

The subject site is also shown to be as “Manly Foreshores Scenic Protection Area” on Council’s Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Pty. Ltd. dated August 2023, the DA satisfies requirements but it is desirable to address the potential visual impact of the proposed built form on the surrounding locality, as due to the scale and proximity to the water, the dwelling has the potential to visually dominate the site and foreshore area.

Development on Foreshore Area

The subject site is also shown to be as “Manly Foreshores Area” on Council’s Area “within the foreshore building line Map” in Manly LEP 2013. Hence, Part 6, Clause 6.10 –Limited development on foreshore area of the Manly LEP 2013 applies for any development within the foreshore area.

The DA proposes works related to the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area. These proposed works are consistent with Clause 6.10(1).

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Pty. Ltd. dated August 2023, the DA satisfies the objectives and requirements of Part 6, Clause 6.10 of the Manly LEP 2013.

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 Planning Level Requirements

An Estuarine Planning Level (EPL) of 3.5m AHD has been considered by Council for the subject site and shall be applied to all development proposed below this level as follows:

1. All structural elements below 3.5m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 3.5m AHD or waterproofed to this level; and

3. The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 3.5m AHD.

Reason: To ensure vulnerable components of the development are built at the appropriate level.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

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

General Foreshore Matters

Unless in accordance with the approved works the Consent holder must ensure that:

- a) no materials or cleared vegetation that may obstruct flow or cause damage to the foreshore are left within the coastal foreshore area,
- b) all drainage works must not obstruct flow of water within the coastal waters. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any foreshore bank instability or damage to native vegetation,
- c) the foreshore is graded to enable the unimpeded flow of water and retaining structures result in a stable foreshore banks,
- d) any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted,
- e) the foreshore is to function as a natural ecological system and as such, all works, including but not limited to access, roads, recreational areas, service easements and landscaping are to be located landward of the foreshore other than as provided by the consent.

Reason: Environmental protection, monitoring and enhancement of the foreshore.