

Natural Environment Referral Response - Riparian

Application Number:	DA2023/0913
Proposed Development:	Replacement of existing jetty, ramp and pontoon, and two berthing areas, construction of seawalls and minor reclamation works
Date:	08/12/2023
To:	Olivia Ramage
Land to be developed (Address):	Lot 3 DP 22826 , 14 The Chase LOVETT BAY NSW 2105 Lot LIC 378742 , 14 The Chase LOVETT BAY NSW 2105 Lot 4 DP 22826 , 15 The Chase LOVETT BAY NSW 2105 Lot LIC 367042 , 15 The Chase LOVETT BAY NSW 2105

Reasons for referral

This application seeks consent for the following:

- All Development Applications on land, and located within 40 metres of land, containing a watercourse, or
- All Development Applications on land containing a wetland, or located within 100m of land containing a wetland,
- All Development Applications on land that is mapped as "DCP Map Waterways and Riparian Land".

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

Officer comments

Referral Updated 08/12/2023

An updated Statement of Environmental Effects (SEE) has been provided.
On review of the additional information and justification, this referral has no further objections provided conditions are adhered to.
Proposal is subject to the General Terms of Approval from the NSW Department of Planning and Environment – Water.

Original referral 06/10/2023

Not Supported

This application was assessed in consideration of:

- Supplied plans and reports;
- Coastal Management Act 2016;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Relevant LEP and DCP clauses; and
- Northern Beaches Water Management for Development Policy

The site abuts and includes Pittwater estuary, and also contains a watercourse.

The proposal includes land reclamation, new seawalls, and replacement of an existing jetty with stairs, ramp and pontoon with piles.

A referral letter from NSW DPI Fisheries has been provided and contains no objections provided specific conditions are adhered to.

An Aquatic Ecology Survey and Impact Assessment has been provided.

State Environmental Planning Policy (Resilience and Hazards) 2021

The site is mapped as within the coastal management area, coastal environment area and coastal use area. The development must not have an adverse impact on the features of the coastal environment listed in the SEPP including but not limited to a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.

The proposal has not sufficiently addressed this requirement. Details are provided below.

Water Management Act 2000 & Water Management (General) Regulation 2018

The proposal is within 40 metres of a watercourse mapped under the Water Management (General) Regulation 2018 Hydro Line spatial data and so is on waterfront land. The proposal includes an activity on the bed, or land lying between the bed and the mean high watermark of any estuary and so a controlled activity permit may be required from the Department of Planning and Environment (DPE) – Water. The development application is integrated and a referral to the NSW Department of Planning and Environment – Water is required.

Pittwater 21 DCP

Section B4.19 Estuarine Habitat

Section B4.19 includes the following outcomes: To protect and enhance foreshore habitats that comprise the estuarine habitat of Pittwater. (En); To result in estuarine habitat being retained or enhanced with respect to that development. (En); The physical, chemical and biological processes of estuarine habitats in Pittwater are improved, maintained or restored. (En). Variation can be considered where the proposal demonstrates that the outcomes can be met.

Approximately 11 square metres of zostera seagrass bed could be lost due to the jetty proposal. It is anticipated that this may be offset by an equivalent area becoming vacant for seagrass colonisation, but this is not a guarantee of recolonisation or that the total area of seagrass will not be reduced.

Therefore, Council requires information supporting that the jetty design process considered all options to avoid or minimise potential seagrass loss, and that the proposed solution is optimal.

Section B5.13 Development on Waterfront land;

The proposal is on waterfront land. Any waterfront land (as defined in the Water Management Act 2000) on a property shall be retained in their natural state to: carry stormwater/flood flows, maintain aquifers, retain stability, and provide habitat functions. Waterfront land in a degraded state, should be restored and rehabilitated. The proposed seawall must meet current design criteria for waterfront land and so provide habitat function. Refer to D15.18 Seawalls for guidance.

Section D15.18 Seawalls

Seawalls are not permitted except where there is potential for erosion from coastal process and protection of property is necessary. Where a variation applies, the criteria listed under this section of the DCP must be adopted into the design. The proposed seawall has not adequately adopted the design criteria listed under this section of the DCP. The design must be revised to integrate ecological value and habitat function. This can be achieved, for example, by adopting a more horizontal slope and using boulders. Refer to Environmentally Friendly Seawalls – A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries (2009) available at the Office of Environment & Heritage website.

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

Construction Environment Management Plan

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Aquatic Ecology Survey and Impact Assessment prepared by Marine Pollution Research Pty Ltd dated 03 March 2022, and must be kept in the site office. The CEMP must identify and appropriately manage invasive species (e.g. *Caulerpa taxifolia*).

An induction plan for site personnel must be prepared and implemented that addresses the CEMP. Induction records must be maintained and available onsite at all times.

The CEMP and site induction plan must be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife, habitats and receiving waterways.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Management of *Caulerpa taxifolia*

The invasive marine alga *Caulerpa taxifolia* is present on this site. Site personnel must be able identify *Caulerpa*. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site to prevent the spread of *Caulerpa* to other sites.

Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and lawfully disposed in general waste.

Reason: *Caulerpa taxifolia* is listed under the Biosecurity Act 2015 for all NSW waters.

Aquatic environment protection

Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the Aquatic Ecology Survey and Impact Assessment prepared by Marine Pollution Research Pty Ltd dated 03 March 2022 must be followed.

The safeguards must be regularly maintained and removed once the works are completed.

Reason: To protect the aquatic environment.

Use of equipment and vessels in the vicinity of seagrass

No equipment is to be placed on any seagrass beds.

Inshore infrastructure for mooring vessels and plant must be used where suitable. Where mooring

lines or cables are required, they shall be suitably buoyed prior to laying and kept buoyed once laid to prevent cable drag or swing damage (scalping). Where this is impractical, contractors should use a floating rope.

Vessels must have adequate clearance over seagrass beds, including allowance for tidal movement, swell/wind wave heights and vessel propulsion.

Reason: Protection of seagrass.