

Natural Environment Referral Response - Coastal

Application Number:	DA2022/1759
Proposed Development:	Construction of a new sandstone seawall and stairs, alterations and additions to decking alongside the boat shed deck. Alterations to existing timber jetty and removal of existing pontoon, proposed ramp and new pontoon with 2 existing and one relocated stabilising piles.
Date:	12/01/2023
Responsible Officer	Tony Collier
Land to be developed (Address):	Lot 2 DP 367690 , 50 The Avenue NEWPORT NSW 2106 Lot LIC 477547 , 50 The Avenue NEWPORT NSW 2106

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

SUPPORTED WITH CONDITIONS

The application has been assessed in consideration of the:

- Coastal Management Act 2016;
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- Pittwater LEP 2014 and Pittwater 21 DCP; and
- plans and supporting documents lodged with this DA.

Assessment of the application has also considered the following advice from state agencies:

- Consent of landowner to lodge a DA and BIC Application from the Department of Planning, Industries & Environment - Crown Lands, dated 29 September 2022.
- No navigational concerns raised as a result of the proposed development from Transport for NSW Maritime Division dated 10 November 2021.
- No objection to the proposed development from the Department of Primary Industries - Fisheries, dated 15 November 2021.

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 this DA. The proposed development is considered to be consistent 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 SEPP (R & H) apply to this DA.

On internal assessment the DA generally satisfies requirements under clauses 2.10, 2.11 and 2.12 of SEPP R&H. Subject to conditions, it is considered that the application can comply with the provisions of the State Environmental Planning Policy (Resilience & Hazards) 2021.

Pittwater LEP 2014

Development on Foreshore Area

The subject property is affected by the foreshore building line and Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. Proposed development works are located seaward of the foreshore building line.

Pittwater 21 DCP

Estuarine Risk 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 Estuarine Hazard Controls will apply to any proposed development of the site. As proposed development includes construction of a new seawall (coastal protection works), in compliance with Part 5 Section 27 clause (1)(b)(ii) of the Coastal Management Act 2016, a Maintenance Management Plan (MMP) has been required for the ongoing maintenance of the seawall for its intended design life.

A Coastal Engineering Risk Management Report including a Seawall Management Plan, dated 22 December 2022, was prepared by Cardno (NSW/Act) Pty Ltd and has now been submitted in support of the current development proposal as requested in the previous NECC (Coast & Catchments) referral response.

On the basis of storm tide and wave activity the Report has determined and justified a design life of 33 years for the seawall. The Report also includes appropriate maintenance and design recommendations for wave loads determined over the planning period to 2055.

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 seawall 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 subject to conditions.

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. On internal assessment, the proposed development is unlikely to have significant adverse impacts on the visual amenity of the foreshore or 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. Please see NECC (Riparian & Creeks) referral response for aquatic ecology report, aquatic sediment control and seagrass protection conditions.

Seawalls

Section D15.18 Seawalls does not permit seawalls. A variation exists that enables Council to consider the development of seawalls where it is necessary to protect property from the potential for erosion caused by coastal processes. The deterioration of the existing seawall is consistent with the effects of erosion from coastal processes. As the development proposal for a new seawall at 50 The Avenue, Newport is largely consistent with the development criteria for seawalls and is in the same location as the existing seawall the development proposal should be considered by Council.

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 potential hazards associated with development in an estuarine environment.

Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Cardno (NSW/ACT) Pty Ltd, now Stantec, dated 22 December 2022 and the recommended actions are to be incorporated into construction plans and specifications. Details demonstrating compliance are to be submitted to the Certifier for approval prior to issue of the Construction Certificate.

Reason: To minimise potential risks associated with coastal hazards for development in an estuarine environment.

Structural Engineering for Estuarine Risk

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 33 years as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Coastal Engineering Risk Assessment Report prepared by Cardno (now Stantec) dated 22 December 2022. The potential for component fatigue (wear and tear) should also be recognised for the less severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

Engineers Certification of Plans

The structural design shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Certifier for approval prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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 is required to be obtained prior to the commencement of works.

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Pollution Control

All stockpiles, materials, waste and slurry associated with works (including excavated material) are to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance with the waste management plan and applicable regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not enter receiving waters.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Positive Covenant – Seawall Management Plan

Prior to the issue of the Occupation Certificate an instrument under section 88B of the Conveyancing Act 1919 shall be created on the title of the land incorporating the provisions of the Seawall Management Plan as found in the Coastal Engineering Risk Assessment Report prepared by Cardno NSW/ACT Pty Ltd (now Stantec), dated 22 December 2022.

Reason: To ensure ongoing maintenance of the seawall is undertaken by the current and future owners of the property in compliance with the relevant provisions of Section 27 of the Coastal Management act 2016.

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

Compliance with Seawall Management Plan

The development is to comply with all recommendations of the Seawall Management Plan contained in the approved Coastal Engineering Risk Assessment Report prepared by Cardno (now Stantec), dated 22 December 2022 and the recommended actions are to be maintained over the life of the development.

Reason: To ensure compliance with the relevant provisions of Section 27 of the Coastal Management Act 2016.