

## Natural Environment Referral Response - Coastal

<b>Application Number:</b>	DA2019/0881
<b>Responsible Officer</b>	Rhiannon McLardy
<b>Land to be developed (Address):</b>	Lot E DP 404485 , 1742 Pittwater Road BAYVIEW NSW 2104 Lot 4 DP 455969 , 1742 Pittwater Road BAYVIEW NSW 2104

### 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 (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 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*.

Further, the applicant has proposed construction/modification of a seawall. Hence the proposed development has been assessed also against the requirements of the Section 27 of the *Coastal Management Act 2016*. As required, the impact & risk associated with the construction/modification of the seawall has been assessed in a Report prepared by Water Research Laboratory dated 7 August 2019.

#### Application of Clause 27 of the Coastal Management Act 2016

27 Granting of development consent relating to coastal protection works

(1) Development consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that:

(a) the works will not, over the life of the works:

(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or

(ii) pose or be likely to pose a threat to public safety, and

(b) satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:

(i) the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or

adjacent land is caused by the presence of the works,

(ii) the maintenance of the works.

(2) The arrangements referred to in subsection (1) (b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following:

(a) by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:

(i) the owner or owners from time to time of the land protected by the works,

(ii) if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority—the council or public authority,

Note. Section 80A (6) of the Environmental Planning and Assessment Act 1979 provides that a development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of making good any damage caused to any property of the consent authority as a consequence of the doing of anything to which the consent relates.

(b) by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).

(3) The funding obligations referred to in subsection (2) (a) are to include the percentage share of the total funding of each landowner, council or public authority concerned.

Based on the impact and risk identified, Council applies maintenance condition as per Section 27(b)(ii) in approving this DA

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

As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.

The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.

Comment:

As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Gartner Provato Architects Pty. Ltd. dated August 2019 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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.

The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.

A Report prepared by the Water Research Laboratory dated 7 August 2019 has been submitted with the DA. As the floor level of the boat house has been proposed as 2.22m AHD, below the suggested Estuarine Planning Level (EPL) of 2.76m AHD. According to B3.7, all floor levels shall be at or above the Estuarine Planning Level. However, consideration may be given on a merit basis to a floor level of a boat shed at a level lower than the EPL where it can be demonstrated through an Estuarine Risk Management Report that the boat shed is structurally designed to withstand periodic wave action and tidal inundation up to the EPL.

### **Referral Body Recommendation**

Recommended for approval, subject to conditions

### **Refusal comments**

### **Recommended Natural Environment Conditions:**

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **Estuarine Hazard Design Requirements**

The following applies to all development:

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.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

### **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.76m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.76m AHD shall be of flood compatible materials;

- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.76m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.76m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.76m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.76m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

### **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 100years unless otherwise justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the Report prepared by Water Research Laboratory dated 7 August 2019

Note: The potential for component fatigue (wear and tear) should 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 Principal Certifying Authority prior to the release of the Construction Certificate.

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

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

### **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the Report prepared by Water Resources Laboratory, dated 7 August 2019 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment and to satisfy requirements Clause 27 of the Coastal Management Act 2016