Natural Environment Referral Response - Coastal

Application Number:	DA2021/1069

Date:	18/08/2021
Responsible Officer	Jordan Davies
Land to be developed (Address):	Lot 142 DP 13760 , 172 A 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 DA proposes a new anchored concrete seawall with sandstone filled gabion cladding and slope stabilisation works to replace temporary emergency stabilisation works that were installed following the collapse of the previous seawall at the site.
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 the coastal relevant requirements of Pittwater LEP 2014 and Pittwater 21 DCP.
The application has been assessed noting that consent cannot be granted until landowners consent to lodge the DA has been gained from NSW Planning, Industries & Environment - Crown Lands.

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 the proposed development. The proposed development is considered to be consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.
The design of the proposed seawall acknowledges the risk associated with wave runup and overtopping of the structure associated with sea level rise and includes measures to address these risks. The proposed seawall is unlikely to impact adversely on surrounding properties, coastal processes, coastal environmental values or the amenity of public foreshore lands. The proposed works are also unlikely, for the life of the works, to pose a threat to public safety or to unreasonably limit public access to or use of the public foreshore.
As the application proposes construction of a seawall (coastal protection works) the proposed development is affected by the requirements of s 27 of the Coastal Management Act 2016.
It is considered that the proposed seawall is able to satisfy the requirements of Section 27(b)(ii) subject to conditions.

State Environmental Planning Policy (Coastal Management) 2018

The proposed development site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps 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.
On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report (3 June 2021) prepared by Royal Haskoning DHV, the proposed development is considered to

satisfy the relevant requirements under clauses 13, 14 and 15 of the CM SEPP.
As such, it is considered that the DA does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater LEP 2014

Development Below Mean High Water Mark
Components of the proposed development are located below the MHWM and clause 5.7 Development below mean high water mark will apply to these works.
The objective of this clause, to ensure appropriate environmental assessment for development carried out on land covered by tidal waters, is considered to have been satisfied subject to conditions.

Development on Foreshore Area
As the subject site is within the foreshore building line Part 7, clause 7.8 – Limited development on foreshore area of Pittwater LEP 2014 applies for any development within the foreshore area.
The proposed development works are located, in part, within the foreshore area. Seawalls are a permitted use within the foreshore area and the new seawall is proposed to be built on the same footprint and no further seaward than the previous seawall. As assessed in the SEE the proposed development is not contrary to the objectives of the zone, is unlikely to cause environmental harm or, compared to the previous seawall, have an adverse impact on the amenity or appearance of the foreshore. Sea level rise, coastal erosion and recession have been considered and the previously available public access along the foreshore and to the waterway will not be compromised by the proposed development.
It is therefore considered that the development proposal satisfies the objectives and requirements of Clause 7.8 – Limited development on foreshore area of Pittwater LEP 2014.

Pittwater 21 DCP

Estuarine Hazard 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 Estuarine Hazard Controls will apply to any proposed development of the site.
The impact & risk associated with the seawall has been assessed in a Coastal Risk Management Report prepared by Royal Haskoning DHV dated 16 April 2021. The proposed seawall is designed to accommodate inundation in excess of the 100 year ARI still water level plus sea level rise and includes a scour apron behind the top of the wall to address the risk of wave runup and overtopping. The report concludes that the seawall would be designed and constructed so that it would have a low risk of damage and instability due to wave action and/or oceanic inundation hazards over the design life of 50 years.
As such it is considered that the proposed development is able to satisfy the relevant requirements of the Estuarine Risk Management Policy and Estuarine Hazard Controls subject to conditions.

Development Seaward of Mean High Water Mark
Development works are proposed 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. While the new seawall is proposed to be constructed largely above the MHWM, the concrete block temporary unloading platform and an unloading barge are located below the MHWM. Materials delivery and waste removal by barge will also transit the intertidal zone adjoining the construction site.
DPI - Fisheries mapping indicates that Posidonia, an endangered ecological community, is present in the waterway adjoining the subject site, so there is potential for harm to marine vegetation. This issue will be addressed through the application of appropriate conditions.

On internal assessment the DA is considered to satisfy most of the requirements under the Section D15.12 control. An analysis of the application including the SEE and the Construction Management Plan (19 May 2021) prepared by Royal Haskoning DHV demonstrates that the proposed development will not adversely impact on the visual amenity of the foreshore or the water quality of the Pittwater waterway.
As such, it is considered that the application is able to satisfy the requirements of the D15.12 Controls of the Pittwater 21 DCP subject to conditions.

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 the coastal zone.

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 the development is able to withstand the wave impact forces and loadings identified in the approved Coastal Risk Management Report prepared by Royal Haskoning DHV dated 16 April 2021.
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 Certifying Authority prior to the release of the Construction Certificate.

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

Seawall Structure to be Properly Maintained
A maintenance schedule 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 the development is maintained in a sound structural condition. The maintenance schedule shall be submitted to the Certifying Authority prior to the release of the Construction Certificate and incorporated as necessary into the relevant asset management plan .

Reason: To ensure appropriate maintenance of the development and to fulfil maintenance requirements

under clause 27(b)(ii) of the Coastal Management Act 2016.

Compliance with Coastal Risk Management Report
The development is to comply with all recommendations of the approved Coastal Risk Management Report prepared by Royal Haskoning DHV, dated 16 April 2021, and these recommendations are to be incorporated into construction plans and maintained over the life of the development. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure coastal hazard risks are addressed appropriately

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. The proposed development shall also comply with all the environmental management provisions outlined in the Construction Management Plan (19 May 2021) and Erosion and Sediment Control Plan (Dwg No. PA1900-RHD-00-DR-MA-0031) prepared by Royal Haskoning DHV and shall be maintained for the duration of all construction activities.

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

Protection of Marine Vegetation
To ensure that marine vegetation in the waterway adjacent to the development site is not harmed during the construction phase, in accordance with the D15.12 Control in P21 DCP, the proponent shall consult with the Department of Primary Industries - Fisheries in regard to potential impacts of the proposed development prior to the commencement of works. Any requirements of DPI - Fisheries shall be incorporated into the approved Construction Management Plan and shall be maintained for the duration of all construction activities.

Reason: To ensure estuarine habitat is protected during construction of the development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Stockpiling materials
During construction, all material associated with works is to be contained at source, covered and must be within the construction area or associated construction compound. All waste material is to be removed off site and disposed of according to applicable regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

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 an ecological system and as such, all works, access, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond the foreshore other than provided by the consent.

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