

## Natural Environment Referral Response - Coastal

<b>Application Number:</b>	DA2022/2152
<b>Proposed Development:</b>	Demolition works and subdivision of land into 9 lots including tree removal and infrastructure work
<b>Date:</b>	25/01/2023
<b>Responsible Officer</b>	Adam Croft
<b>Land to be developed (Address):</b>	<p>Lot 3 DP 210342 , 128 Crescent Road NEWPORT NSW 2106</p> <p>Lot 21 DP 545339 , 57 The Avenue NEWPORT NSW 2106</p> <p>Lot LIC 407538 , 57 The Avenue NEWPORT NSW 2106</p> <p>Lot LIC 460612 , 57 The Avenue NEWPORT NSW 2106</p> <p>Lot 1 DP 503390 , 126 Crescent Road NEWPORT NSW 2106</p> <p>Lot 2 DP 210342 , 55 The Avenue NEWPORT NSW 2106</p> <p>Lot 111 DP 556902 , 122 Crescent Road NEWPORT NSW 2106</p> <p>Lot 112 DP 556902 , 122 Crescent Road NEWPORT NSW 2106</p> <p>Lot LIC 188424 , 122 Crescent Road NEWPORT NSW 2106</p> <p>Lot 295 DP 820302 , 122 Crescent Road NEWPORT NSW 2106</p> <p>Lot 295 DP 820302 , 122 Crescent Road NEWPORT NSW 2106</p>

### 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 from the Department of Planning, Industries & Environment - Crown Lands, dated 8 December 2022.

### 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 Part 1 Section 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, Chapter 2 of SEPP (R & H) applies to this DA. The provisions of the SEPP, however, would be more applicable to DAs dealing with the future development of allotments in the new subdivision, if approved. Given that the DA is for subdivision involving the creation of 9 allotments, demolition of existing buildings onsite, tree removal and installation of new infrastructure, the proposal generally satisfies requirements under clauses 2.10, 2.11, 2.12, 2.13 and 2.14 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. Planners will assess this aspect of the development proposal.

### **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 B3.10 Estuarine Hazard Controls will apply to any proposed development of the site.

An Estuarine Risk Management Report, dated 17 October 2022, was prepared by Horton Coastal Engineering Pty Ltd and submitted in support of the current subdivision proposal.

On the basis of a design life already adopted by Council for development on the open coast, a design life of 60 years has been justified and accepted for proposed development on the subject site.

The Coastal Engineer has independently derived an Estuarine Planning Level (EPL) of 2.7m AHD at the foreshore (seawall). Due to the elevation and setback of proposed allotments from the foreshore, wave runup would not be expected to reach the developable area of the proposed subdivision at any significant depth over a 60 year design life.

As the subdivision of land under the B3.10 Estuarine Hazard Control requires the area of land contained on the landward side of the Foreshore Building Line for each additional allotment created to be at or above the EPL, for convenience a reduced EPL of 2.5m AHD at the Foreshore Building Line has been adopted with all levels over the subdivision and landward of the Foreshore Building Line above this EPL.

Accordingly, and as outlined in the approved Estuarine Risk Management Report, the relevant provisions of the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the B3.10 Estuarine Hazard Controls are considered to have been satisfied, by the proposed development, subject to conditions.

#### **Development Seaward of Mean High Water Mark**

Proposed development works are located on Crown land below the Mean High Water Mark, namely stormwater drainage works and a new headwall structure in the existing seawall. Hence, Section D15.12: Development seaward of mean high water mark in Pittwater 21 DCP applies to the proposed development. 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.

No other coastal planning or development controls relevant to the subject subdivision proposal were identified.

Appropriate general conditions have also been applied to address the coastal management requirements of SEPP (R&H) and Pittwater 21 DCP.

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 risk associated with coastal hazards for new development in an estuarine environment.

### **Estuarine Planning Level Requirements**

Estuarine Planning Levels (EPL) of 2.50m AHD at the Foreshore Building Line and 2.70m AHD at the seawall face have 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 2.70m 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 2.70m AHD or waterproofed to this level;
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.70m AHD.
- All power supplies (including electrical fittings, outlets and temporary power supply connections) must be located landward of the Foreshore Building Line and at or above 2.50m AHD.

Reason: To ensure that components of the development vulnerable to inundation are built at an appropriate level.

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

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty Ltd, dated 17 October 2022 and these recommendations are to be incorporated into construction plans and specifications.

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

### **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifier for approval prior to issue of the Construction Certificate.

Reason: To make appropriate provision for stormwater management and disposal arising from development ensuring that the proposed works do not negatively impact receiving waters.

## **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 receiving waters from the effects of sedimentation and erosion from the site.

### **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 and 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 receiving waters, and ensure that pollutants and building associated waste do not leave the construction site.

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

### **Stormwater Pollution Control Pits**

The Registered Proprietors of the property must maintain on a regular basis (every six months or after heavy rain events) stormwater pollution control pits including the clearing of silt, debris and rubbish, in perpetuity. The Registered Proprietors must ensure the effective operation of pollution control pits to prevent pollution of Pittwater by stormwater generated onsite.

Reason: To ensure appropriate provision is made for the treatment and management of stormwater generated by the development for the protection and preservation of the aquatic habitats and biota within receiving waters.

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

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty Ltd, dated 17 October 2022 and these recommendations are to be maintained over the life of the development.

Reason: To ensure appropriate development and preservation of the estuarine environment.