

Natural Environment Referral Response - Coastal

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| Application Number: | DA2021/1596 |
| Date: | 06/10/2021 |
| Responsible Officer | Phil Lane |
| Land to be developed (Address): | Lot 46 DP 13620 , 967 Barrenjoey Road PALM BEACH NSW 2108 Lot LIC 402863 , 967 Barrenjoey Road PALM BEACH NSW 2108 |

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 development proposal is for the extension of an existing jetty, ramp and pontoon facility. 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 the Pittwater LEP 2014 and Pittwater 21 DCP.

Assessment of the application has also considered:

- Consent of landowner to lodge a DA from the Department of Planning, Industries & Environment - Crown Lands, dated 21 May 2021.
- No navigational concerns as a result of the proposed development from Transport for NSW Maritime Division dated 25 November 2020.
- No objection to the proposed development (subject to conditions) from the Department of Primary Industries - Fisheries, dated 7 December 2020.

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 consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.

State Environmental Planning Policy (Coastal Management) 2018

The subject land has been included on the 'Proximity to Coastal Wetlands and Littoral Rainforest Area', 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 11, 13, 14 and 15 of the CM SEPP apply for this DA.

On internal assessment, Council considers that the DA satisfies the relevant requirements under clauses 11, 13, 14 and 15 of the CM SEPP.

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

Pittwater LEP 2014 and Pittwater 21 DCP

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 and the proposed jetty is a permitted land use within the foreshore area. The proposed development is not contrary to the objectives of the zone, is unlikely to cause significant environmental harm or have an adverse impact on the amenity or appearance of the foreshore. 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 subject to conditions.

Estuarine Hazard Management

The subject property has been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. 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 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.

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 subject to application for a section 205 permit to harm marine vegetation and provided that the jetty and ramp are re-decked with mesh providing at least 60% light penetration.

An aquatic ecology assessment lodged in support of the DA and prepared by Marine Pollution Research Pty Ltd (Aug. 2021) concludes that the proposed development would meet the aquatic ecological conservation requirements of the Fisheries Management Act (1994) provided mitigation and compensation measures are incorporated into the design and operation to the facility

On internal assessment and as assessed in the aquatic ecology report, 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.

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 habitat.

Compliance with Aquatic Ecology Assessment Report

The development is to comply with all recommendations of the approved Aquatic Ecology Assessment Report prepared by Marine Pollution Research Pty Ltd, dated 13 August 2021, and these recommendations are to be incorporated into construction plans and specifications. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To minimise potential harm and damage to estuarine habitat.

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 issue of a construction certificate.

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**Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All surplus material and debris is to be removed off site and disposed of according to applicable regulations. The construction area 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.

Construction works not to damage seagrass beds of inshore rock rubble habitat

Construction shall be managed in accordance with all measures recommended in the Aquatic Ecology Assessment Report prepared by Marine Pollution Research Pty Ltd, dated 13 August 2021 and shall comply with all requirements, permits and control measures recommended by the Department of Primary Industries - Fisheries to minimise the impacts from construction and operation of the asset.

Reason: Protection of estuarine habitat