

Natural Environment Referral Response - Riparian

Application Number:	DA2020/1762
Date:	19/04/2021
To:	Jordan Davies
Land to be developed (Address):	<p>Lot 1 DP 827733 , 316 Hudson Parade CLAREVILLE NSW 2107</p> <p>Lot 2 DP 827733 , 316 Hudson Parade CLAREVILLE NSW 2107</p> <p>Lot LIC 559856 , 316 Hudson Parade CLAREVILLE NSW 2107</p>

Reasons for referral

This application seeks consent for the following:

- All Development Applications on land, and located within 40 metres of land, containing a watercourse, or
- All Development Applications on land containing a wetland, or located within 100m of land containing a wetland,
- All Development Applications on land that is mapped as "DCP Map Waterways and Riparian Land".

And as such, Council's Natural Environment Unit officers are required to consider the likely impacts on drainage regimes.

Officer comments

This application cannot be assessed due to lack of supporting information and documentation.

To adequately assess any risks the proposed works may have to aquatic biodiversity in the area, Council requires, in compliance with section B4.19 Estuarine Habitat of the Pittwater DCP, a Marine Habitat Survey / Aquatic Ecology Report for all works below the mean high water mark. The report must consider controls in both section B4.19 Estuarine Habitat and section B4.16 Seagrass Conservation, and include recommendations to minimise any impacts to seagrass and biodiversity from sediment and erosion, physical disturbances and potential pollution during the demolition and construction phases. A Caluherpa Management Plan may also be required if this noxious macroalgae is found to be located in the vicinity of the subject site.

Section B4.16 further states that jetties, ramps, wharves, pontoons and other in-stream structures shall be designed and constructed in accordance with NSW Department of Primary Industries - Fisheries specifications to maximise light filtration to seafloor. Proponents are advised to consult with NSW DPI - Fisheries to discuss the requirements of their proposal. A copy of the Aquatic Ecology Report should be provided to NSW DPI - Fisheries and as integrated development, all relevant approvals and permits from NSW DPI - Fisheries will also be required.

Additional comments

Aspects of this proposal are inconsistent with the following:

Coastal Management Act 2016 (CM Act)

Objects of the Coastal Management Act

The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular—

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and
- (m) to support the objects of the *Marine Estate Management Act 2014*.

The site is included in Coastal Use and Coastal Environmental Areas:

Management Objectives for the Coastal Environment Area:

- (1) The *coastal environment area* means the land identified by a State environmental planning policy to be the coastal environment area for the purposes of this Act, being land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms.
- (2) The management objectives for the coastal environment area are as follows—
 - (a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,
 - (b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,
 - (c) to maintain and improve water quality and estuary health,
 - (d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal

lagoons,

(e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,

(f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

Management Objectives for the Coastal Use Area

(1) The *coastal use area* means the land identified by a State environmental planning policy to be the coastal use area for the purposes of this Act, being land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is or may be carried out (at present or in the future).

(2) The management objectives for the coastal use area are as follows—

(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—

(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and

(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and

It is also inconsistent with the Coastal SEPP:

Division 3 Coastal environment area

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

(b) coastal environmental values and natural coastal processes,

(c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(f) Aboriginal cultural heritage, practices and places,

(g) the use of the surf zone.

(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

Division 4 Coastal use area

14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that—
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Natural Environment Conditions:

Nil.