**ATTACHMENT A**

**REASONS FOR REFUSAL**

|  |  |
| --- | --- |
| Application No: | DA/60944/2021 |
| Proposed Development: | Coastal Protection Works & Swimming Pool |
| Location: | 85, 87, 89 Ocean View Drive WAMBERAL NSWLot 3 DP 12022, Lot 2 DP 12022, Lot 1 DP 12022 |
| Date: | 11 August 2025 |

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory with regard to the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* in that:
2. A BASIX certificate is required for the proposed development comprising swimming pool and spa servicing a single dwelling with a capacity of 40,000L or more. A relevant BASIX certificate has not been provided.
3. The application is not considered to meet the NSW government's requirements for sustainability. The proposal is not consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.*
4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory with regard to the planning considerations and objectives under Chapter 2 Coastal Management of *State Environmental Planning Policy* *(Resilience and Hazards) 2022* in that:
5. Insufficient information has been provided to enable the consent authority to grant consent under section 2.12. The consent authority cannot be satisfied that the proposed development within the coastal zone in relation to the potential end effects of the development will not cause increased risk of coastal hazards on that land or other land.
6. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* insufficient information has been provided to enable the consent authority to grant consent under section 27(a)(ii) of the *Coastal Management Act 2016*. The consent authority cannot be satisfied that in relation to potential end effects the works will not, over the life of the works, pose or be likely to pose a threat to public safety.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with regard to the R2 Low Density Residential zoning of the land under Gosford Local Environmental Plan 2014 as the proposal:

a. Has failed to demonstrate the proposal will maintain and enhance the residential amenity and character of the surrounding area.

* 1. The proposal is inconsistent with the objectives for the character area Wamberal 1: Open Beachfront. The proposal is not compatible with the built form of multi-level beachfront dwellings and their ancillary structures approved in the locality, will have a detrimental impact on the highly sensitive existing landscape character and will have an adverse impact on the visual amenity and scenic qualities of the coast.
	2. The location of the proposed swimming pool is not in accordance with the desired character or scenic quality of the area wherein pools along the Wamberal Beachfront are integral of the dwelling design located centrally within the site and founded on deep piles.
	3. The proposal is inconsistent with the aims of the LEP in that it has not demonstrated the risk to the environmental and the community in areas subject to environmental hazards has been minimised.
	4. The proposal does not demonstrate compliance with the provisions of the Resilience and Hazards SEPP.
* The proposed seawall is a hard, regular, man-made and visually dominating concrete structure that is incompatible in character with the gentle sloping and irregular appearance of the beach and dune.
* The proposed seawall has a detrimental impact on the highly sensitive existing landscape character and will have an adverse impact on the visual amenity and scenic qualities of the coast.
* the location of the proposed swimming pool is not in accordance with the desired character or scenic quality of the area wherein pools along the Wamberal Beachfront are integral of the dwelling design located centrally within the site and founded on deep piles. Locating the pool in this manner provides improved privacy and amenity for the subject site and neighbours.

b. Has failed to promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.

* 1. Likely impacts of development - Insufficient information has been provided to grant consent as the proposed development within the coastal zone is likely to have potential end effects and increased risk of coastal hazards on that land or other land.

5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with regard to the planning controls and objectives of the desired character area of Wamberal 1: Open Beachfront of Chapter 2.1 Character and Chapter 2.2 Scenic Quality of the Gosford Development Control Plan 2014 as the proposal:

a. Does not provide improved standards of amenity and urban design quality.

b. The design and layout do not reasonably respond to the site constraints and proposes a structure of excessive bulk and scale resulting in adverse amenity impacts to the subject site and adjoining properties.

c. The proposal is not compatible with the built form of multi-level beachfront dwellings and their ancillary structures approved in the locality, will have a detrimental impact on the highly sensitive existing landscape character and will have an adverse impact on the visual amenity and scenic qualities of the coast.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with regard to the planning controls and objectives under Chapter 6.2 Coastal Frontage of the Gosford Development Control Plan 2014, including the following as the proposal:

a. Has failed to demonstrate compliance with clause 6.2.8.2b (iii) in that the proposal will not give rise to any increased coastal hazard.

b. Has not suitably demonstrated the design is compatible with the objectives of clause 6.2.4. The development is not appropriate for the site having regard to the results of coastal, geotechnical and structural investigations and does not ensure people and assets are safeguarded from risks associated with coastal hazards.

7. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to have unsatisfactory impacts to the natural environment as insufficient information has been provided to accommodate the development:

a. Insufficient information has been provided in relation to the potential end effects of the seawall in relation to the increased risk of coastal hazards on other land.

b. The proposal does not make satisfactory arrangements for the life of the works for their maintenance or for restoration of Wamberal Beach or land adjacent to it from increased erosion exacerbated by the proposed works.

c. The proposed seawall is a hard, regular, man-made and visually dominating concrete structure that is incompatible in character with the gentle sloping and irregular appearance of the beach and dune. The proposal will have a detrimental impact on the highly sensitive existing landscape character and will have an adverse impact on the visual amenity and scenic qualities of the coast.

d. The proposed design of the coastal protection works have not been set out appropriately on the site to mitigate coastal impacts on adjoining development and the beach.

e. The location of the proposed swimming pool is not in accordance with the desired character or scenic quality of the area wherein pools along the Wamberal Beachfront are integral of the dwelling design located centrally within the site and founded on deep piles. Locating the pool in this manner provides improved privacy and amenity for the subject site and neighbours.

f. The proposal is not consistent with the relevant planning controls for development within the coastal zone under Chapter 2 Coastal Management of Resilience and Hazards SEPP due to the lack of information submitted during assessment.

8. Pursuant to Section 4.15(1)(b) & (c) of the Environmental Planning and Assessment Act 1979, the proposed development is considered unsatisfactory with regard to site suitability as the design and layout does not reasonably respond to the site constraints, resulting in adverse amenity impacts to adjoining sites and the beachfront.

9. For the reasons stated including not being compatible with the constraints of the site below pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is not in the public interest.

1. The proposal is inconsistent with the planning controls for development within the coastal zone under Chapter 2 Coastal Management of Resilience and Hazards SEPP due to the lack of information submitted during assessment.
2. While the proposed coastal protection works will provide for the protection of the landowner’s place of residence from loss due to coastal erosion and will be located within the private properties the social and economic benefits to the public and Council have not been adequately considered as to the effects on coastal processes and beach amenity. This is partly due to the lack of information and response of the applicant to address development controls within the coastal zone.
3. The proposal is not considered consistent with ecologically sustainable development principles through the lack of information addressing the environmental issues to consider the proposal will not decrease environmental quality of the beach for future generations.
4. The potential impacts of climate change on the development have been considered in the design life of the proposal by Horton Coastal Engineering. However, further information was required by Council’s external coastal engineer in relation to the height of the seawall and potential wave overtopping. Council’s Coastal Planning Officer reviewed the response however cannot support the proposal. The potential impacts identified in the report for development in the coastal zone have not been satisfactorily addressed to enable Council’s coastal experts to consider the impacts and risks from coastal hazards on other land being private properties and public beach.