

Memo

Environment

To:	Rodney Piggott , Development Assessment Manager
From:	Kye Miles, Planner
Date:	7 October 2020
Application Number:	Mod2020/0439
Address:	<p>Lot B DP 954998 , 1154 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 313699 , 1156 Pittwater Road COLLAROY NSW 2097</p> <p>Lot C DP 954998 , 1156 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 1016094 , 1158 Pittwater Road COLLAROY NSW 2097</p> <p>Lot C DP 302895 , 1160 Pittwater Road COLLAROY NSW 2097</p> <p>Lot B DP 302895 , 1162 Pittwater Road COLLAROY NSW 2097</p> <p>Lot A DP 302895 , 1164 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 970200 , 1168 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 71 DP 1011242 , 1166 A Pittwater Road COLLAROY NSW 2097</p> <p>Lot 72 DP 1011242 , 1166 B Pittwater Road COLLAROY NSW 2097</p> <p>Lot CP SP 2949 , 1150 Pittwater Road COLLAROY NSW 2097</p>
Proposed Modification:	Modification of Development Consent DA2018/1289 granted for Construction of coastal protection works (sea wall)

Background

The abovementioned development consent was granted by Council on 10 May 2019 for the construction of coastal protection works (sea wall);

Details of Modification Application

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to modify/delete condition(s) Nos. 4 (a), 6, 7, 9, 13, 14, 15, 16, 17, 18, 26, 30, 33, 40, 42, 43 which reads as follows:

4 (a). **General Requirements**

Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Sand excavation is permitted from:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday

Other demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Other demolition and excavation works includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

7. **Construction Management Program**

A Construction Management Program shall be prepared. The Plan should include the following:

(a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council owned or managed land and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed without Council's Consent being granted;

(b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;

(c) The location and operation of any on site crane.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Parks, Reserves and Foreshores business unit must be notified of start date of works as soon as possible and within a reasonable time prior to the start of works.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

9. **Design Drawings**

The following changes relevant to the drawings submitted with the application be made prior to issue of the construction certificate:

- Additional detail and notes be added to Drawing S02 to confirm the actions required to ensure the works provide the appropriate level of protection and are structurally independent of any council works on the adjoining land at Stuart Street.
- Additional detail and notes be added to Drawing S02 to articulate the actions required should the works not be coordinated with any council works at Wetherill Street.
- Additional detail and notes be added to Drawing S02 to articulate the actions required should the works be coordinated with any council works at Wetherill Street.
- Drawing S02 Be amended to clearly show the basis for set out of the coastal protection works, relative to property boundaries.

Reason: To ensure sufficient information is provided with the design drawings.

13. **Maintenance Management Plan for Coastal Protection Works**

A Maintenance Management Plan (MMP) is to be prepared for the maintenance of the coastal protection works for their intended design life. The MMP is to be prepared by a suitably qualified coastal engineer and is to be approved by Council in writing prior to issue of the construction certificate. The MMP must be complied with at all times.

The MMP may be modified from time to time by the agreement of all landowners at the time and with the approval of Council. These modifications to the MMP must also be made (if necessary) each time the design life is extended in accordance with condition 43. This is to ensure the MMP continues to be suitable in perpetuity.

Reason: To ensure a plan is in place for the on-going maintenance of the works prior to the start of construction and at each extension of the design life.

14. **Maintenance Obligations and Public Safety**

The owners of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) Pittwater Road, Collaroy must provide an irrevocable bank guarantee (or other suitable legally binding obligation) to Council prior to the issue of any construction

certificate in the amount of \$1000 per lineal metre of work (based on the length of the seaward property boundary) to undertake maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of rocks or debris, that have become dislodged from the coastal protection works approved under this consent, from the public beach and adjacent public land and implement the Maintenance Management Plan (MMP).

In this condition “maintenance” means the restoration of the works to a standard in accordance with the approved plans and specifications following any damage caused by a coastal storm and implementation of the MMP.

The bank guarantee (or other suitable legally binding obligation) is to be replenished if drawn upon and increased to allow for Consumer Price Index (CPI) every 10 years from the date of establishment.

The bank guarantee (or other suitable legally binding obligation) is to be in the favour of Council. The funds may be accessed by one or more owners, for the undertaking of works referred to in this condition and in the approved MMP, with the written consent of Council.

The bank guarantee is to be released to the landowners at the time, if the coastal protection works are removed.

Reason: To satisfy the requirements of 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

15. **Easements for construction, support and maintenance**

a) An easement must be registered over so much of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) as necessary for construction, support and maintenance in favour of each of the owners to allow each owner to carry out its obligations under this consent and otherwise burdening the owners of the properties and their successors in title to maintain the coastal protection works to the standard approved by the Development Consent, approved plans and specifications in the Consent. The easement may provide that it shall be released if the coastal protection works are removed.

b) The easement shall also provide that the owners of the lot burdened must not place any improvements or structures that cannot be easily relocated or removed within the easement site or interfere with the coastal protection works or the support they offer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To create long term support and maintenance of the coastal protection works for the benefit of all owners (currently and in the future).

16. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the certifying authority prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each

construction phase;

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and

vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

17. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

18. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or land under Council's care, control and management, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

26. **Site fencing requirements**

Construction site safety fencing and/or hoarding is to be provided in accordance with Workcover requirements. Such fencing and/or hoarding is to be erected wholly within the works area unless prior approval from Council is obtained.

Reason: For safety purposes.

30. **Removal of unsuitable material**

Any existing rock or material encountered in the works area during construction of the works not incorporated into permanent protection works shall be removed by the owner/s, or used as backfill consistent with Item 3(g) of the Development Consent Operational Conditions herein and consistent with Council's Coastal Erosion Policy Section 9(d). This shall include the area excavated within a line extending from either longitudinal property boundary to the mean low water mark. Confirmation of this requirement is to be provided to Council by the engineer supervising the works.

Reason: To ensure that all unsuitable material is removed from the beach.

33. **Implementation of Construction Traffic Management Plan.**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent rather than any secondary approval.

40. **Ongoing maintenance of the Coastal Protection Works and public safety**

The coastal protection works must be maintained in accordance with the Development Consent, conditions, approved plans and specifications as outlined in this consent. The maintenance must be to a standard that does not compromise the protection or integrity of the adjoining land.

Sufficient access for the maintenance of the coastal protection works is to be maintained landward of the coastal protection works in accordance with the easement for construction, support and maintenance identified in Condition 15.

Any debris on the beach resulting from damage or failure of the coastal protection works must be rectified by the owner or owners of the works that are the source of the damage, as part of maintaining the works as per condition 42 of this consent. If required the financial arrangements established in condition 14 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Reason: To satisfy the requirements of Section 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

42. **Removal of debris**

The owners must obtain all necessary approvals and then remove debris from any adjoining public land if part of the coastal protection works is dispersed onto that land, with such removal to be done as soon as reasonably practicable to the satisfaction of Council and, if necessary, the Crown, at no cost to Council. If required the financial arrangements established in condition 15 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Note: Debris will be taken to have been deposited from the coastal protection works seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 954998, Lot B DP 954998,

Lot CP SP 2949, if rocks of the same type and dimensions as those on the coastal protection works at and seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 954998, Lot B DP 954998, Lot CP SP 2949 are found on public land within a line extending from either longitudinal boundary to the mean low water mark.

Reason: To ensure the safety of the public beach.

43. **Time limited consent**

The consent operates for 60 calendar years from the date of the issue of the occupation certificate and such other period as may be extended with the written approval of Council in accordance with the following.

A minimum of three (3) years prior to the date of 60 years after the issue of the occupation certificate for the works, the owners shall jointly and severally procure, at no cost to Council, a review report, by a suitably qualified independent coastal engineer to ensure the works provide the necessary protection (Review Report).

The review report must consider, consistent with the evidence and coastal hazard predictions at the time, whether:

- (a) The works are satisfactory in their current state and recommend an extension to the design life for a further period of time, or
- (b) Upgrades to the works are recommended to extend the design life for a further period of time, or
- (c) Removal and replacement of the structure with an alternative design is recommended, or
- (d) Demolition and removal of the coastal protection works in the interest of public safety is recommended.

The Review Report shall be submitted to Council for approval not later than twelve (12) months prior to the date of 60 years after the issue of the occupation certificate in the first instance, or 12 months prior to the end of such other period identified in any written approval from Council, in accordance with this condition.

If the Review Report concludes that the structure is satisfactory in accordance with (a) above, Council may, in writing, approve an extension of the term of the development consent for the period recommended in the Review Report, or such lesser time as the Council considers appropriate.

If the Review Report recommends any upgrades or alterations to the works in accordance with (b) above, those upgrades must be dealt with under the planning laws at that time.

If the Review Report recommends removal and replacement of the structure with an alternative design in accordance with (c) above, the replacement structure will be the subject of a further development application for consent to Council, if required by the planning laws at that time.

If the Review Report recommends demolition and removal of the coastal protection works in the interest of public safety, such removal will be undertaken by the owners at their expense and within such time period required by Council.

Any written approval from the Council extending the period of operation of this consent is to be recorded on the s10.7 Planning Certificate for the land and Council's register of development consents.

A further Review Report will be provided to Council a minimum of twelve (12) months prior to the end of any extended period notified identified in writing by the Council in accordance with this condition, with the above process repeated for such extension.

In the event that,

- The Council does not accept the recommendations of the Review Report (including an amended or replacement Report) in writing, or
- Fails to provide written notification of its acceptance of the recommendations within the Review Report within 12 months of lodgement of the Review Report, or
- An application for the continued use, upgrade or replacement of the works is made,

this consent will continue to operate until any application to modify this condition, or for the continued use or upgrade or replacement of the works, or any proceedings seeking review of the refusal of Council to accept the recommendations, has been finally determined by Council

or the Court. Any application, proceedings or appeal, must be lodged within 6 months of Council's decision to not accept the findings of the Review Report or Council's failure to notify of its acceptance of the Review Report, whichever is the later.

Note: *This continued operation or extension may need to be facilitated by a formal application to modify the consent having regard to the planning laws at the time.*

Reason: The development application indicated the Coastal Protection works have a design life of 60 years; to satisfy the requirements of Section 27 of the Coastal Management Act 2016, and to provide a mechanism to review the works and extend the operation of the consent.

Consideration of error or mis-description

The proposed modification seeks consent for the following reasons:

*"1. to make the consent conditions generally consistent with more recent Council consents for coastal protection works (as discussed with and supported by Council), to be consistent with other legislative changes, or to correct grammatical errors;
2. to change the maintenance obligation calculation in Condition 14 to be based on the length of the main seawall face, rather than the length of the seaward property boundary; and
3. to change Condition 15, regarding registration of an easement, to be an Occupation Certificate rather than Construction Certificate requirement, as agreed with Council."*

The proposed condition changes have been assessed below:

ASSESSMENT OF PROPOSED CHANGES TO THE CONDITIONS

The following is an assessment of each condition change proposed by the applicant.

Modification of Condition 4 (a) - General Requirements

The applicant's justification for the modification of this condition is acceptable, with consideration of the Environmental Planning and Assessment (COVID-19 Development – Construction Work Days) Order 2020.

Comment:

Given the above, the modification of Condition 4 (a) is recommended.

Modification of Condition 6 - Security Bond

The following modification seeks to amend grammatical errors.

Comment:

Given the above, the modification of Condition 6 is recommended.

Modification of Condition 7 - Construction Management Program

The applicant's justification for the modification of this condition is acceptable to Council's Senior Asset Planning Officer.

Comment:

Given the above, the modification of Condition 7 is recommended.

Modification of Condition 9 - Design Drawings

The applicant's justification for the modification of this condition is acceptable to Council's Coastal Engineer.

Comment:

Given the above, the modification of Condition 9 is recommended.

Modification of Condition 13 - Maintenance Management Plan for Coastal Protection Works

The proposed modification to this condition is to ensure that the new condition numbers are cross referenced.

Comment:

Given the above, the modification of Condition 13 is recommended.

Modification of Condition 14 - Maintenance Obligations and Public Safety

The applicant's justification for the modification of this condition is:

"The Bank Guarantee (or other suitable legally binding obligation) required under Condition 14 is not necessary until the works are completed and the contractor has handed over the site to the owners, and due to the time it is taking for owners to deal with banks to obtain the Bank Guarantees."

Comment:

The applicant's modifications to Condition 14 are acceptable to Council's Coastal Engineer and are recommended.

Deletion of Condition 16 - Construction Traffic Management Plan

Condition 16 will be incorporated within Condition 7, these modifications have been supported by Council's Senior Asset Planning Officer.

Comment:

Given the above, the modification of Condition 16 is recommended.

Modification of Condition 17 - Waste Management Plan

The applicant's justification for the modification of this condition is:

"As a Waste Management Plan was submitted as part of the DA and hence approved, which is unique for a seawall project and not really covered by the DCP, the DCP does not need to be referred to. However, it is beneficial to retain the condition, so as to trigger the need to supply a Waste Management Plan to comply with Condition 22."

Comment:

The applicant's modifications to Condition 17 are acceptable and are recommended.

Modification of Condition 18 - Public Liability Insurance - Works on Public Land

The following modification seeks to give the correct insurance title.

Comment:

Given the above, the modification of Condition 18 is recommended.

Deletion of Condition 26 - Site fencing requirements

The applicant's justification for the modification of this condition is:

"Please delete this condition as it was not in DA2020/0301, and is confusing as by definition a fence must be outside the works area (or it would be in the way of the works), and there may be practical difficulties in permanently maintaining fencing on the beach area. Site fencing is already mentioned under "Protection of Public Places" on page 25 of the DA2018/1289 consent."

Comment:

The applicant's deletion of Condition 26 is acceptable, as it is consistent with recent Seawall consents issued by Council.

Modification of Condition 30 - Removal of unsuitable material

The applicant's justification for the modification of this condition is:

"Please delete the condition and replace it with the corresponding Condition 28 in DA2020/0301."

Comment:

The applicant's modifications to Condition 30 are recommended, as it is consistent with recent Seawall consents issued by Council and has been supported by Council's Coastal Engineer.

Modification of Condition 33 - Implementation of Construction Traffic Management Plan

The following modification seeks to provide consistency with the amended Condition 7.

Comment:

Given the above, the modification of Condition 33 is recommended.

Modification of Condition 40 - Ongoing maintenance of the Coastal Protection Works and public safety

The proposed modification to this condition is to ensure that the new condition numbers are cross referenced.

Comment:

Given the above, the modification of Condition 40 is recommended.

Modification of Condition 42 - Removal of Debris

The applicant's justification for the modification of this condition is acceptable to Council's Coastal Engineer.

Comment:

Given the above, the modification of Condition 42 is recommended.

Modification of Condition 43 - Time limited consent

The applicant's justification for the modification of this condition is acceptable to Council's Coastal Engineer.

Comment:

Given the above, the modification of Condition 43 is recommended.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2020/0439 for Modification of Development Consent DA2018/1289 granted for Construction of coastal protection works (sea wall) on land at Lot B DP 954998, 1154 Pittwater Road, COLLAROY, Lot 1 DP 313699, 1156 Pittwater Road, COLLAROY, Lot C DP 954998, 1156 Pittwater Road, COLLAROY, Lot 1 DP 1016094, 1158 Pittwater Road, COLLAROY, Lot C DP 302895, 1160 Pittwater Road, COLLAROY, Lot B DP 302895, 1162 Pittwater Road, COLLAROY, Lot A DP 302895, 1164 Pittwater Road, COLLAROY, Lot 1 DP 970200, 1168 Pittwater Road, COLLAROY, Lot 71 DP 1011242, 1166 A Pittwater Road, COLLAROY, Lot 72 DP 1011242, 1166 B Pittwater Road, COLLAROY, Lot CP SP 2949, 1150 Pittwater Road, COLLAROY, as follows:

A. Modify Condition No. 4 (a), to read as follows:

Condition 4 (a) - General Requirements

Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Sand excavation is permitted from:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday

Other demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Other demolition and excavation works includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

Note: These hours may be modified if the Environmental Planning and Assessment (COVID-19 Development – Construction Work Days) Order 2020 or other relevant order is in place, and in accordance with this order.

B. Modify Condition No. 6, to read as follows:

Condition 6 - Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

C. Modify Condition No. 7, to read as follows:

Condition 7 - Construction Management Plan

A Construction Management Plan shall be prepared. The Plan should include the following:

(a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council owned or managed land and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and

noise in the area, with no access across public parks or reserves being allowed without Council's Consent being granted;

(b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site;

(c) The location and operation of any on heavy plant (eg: excavators).

(d) Provision for all construction materials to be stored on site, at all times, showing the location of excavated materials, construction materials and waste containers during the construction period;

(e) A Traffic Control Plan for any activities involving the management of vehicle and pedestrian traffic, if required;

(f) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve. To minimise the trafficking of sand onto the road;

(g) The way that the roadway (including any footpath) will be kept in a serviceable condition for the duration of construction.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Council must be notified of start date of works as soon as possible and within a reasonable time prior to the start of works.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

D. Modify Condition No. 9, to read as follows:

Condition 9 - Design Drawings

The following changes relevant to the drawings submitted with the application be made prior to issue of the construction certificate:

- Additional detail and notes be added to Drawing S02 to confirm the actions required to ensure the works provide the appropriate level of protection and are structurally independent of any council works on the adjoining land at Stuart Street.
- Additional detail and notes be added to Drawing S02 to articulate the actions required should the works be coordinated with any council works at Wetherill Street.
- Drawing S02 Be amended to clearly show the basis for set out of the coastal protection works, relative to property boundaries.

Reason: To ensure sufficient information is provided with the design drawings.

E. Modify Condition No. 13, to read as follows:

Condition 13 - Maintenance Management Plan for Coastal Protection Works

A Maintenance Management Plan (MMP) is to be prepared for the maintenance of the coastal protection works for their intended design life. The MMP is to be prepared by a suitably qualified coastal engineer and is to be approved by Council in writing prior to issue of the construction certificate. The MMP must be complied with at all times.

The MMP may be modified from time to time by the agreement of all landowners at the time and with the approval of Council. These modifications to the MMP must also be made (if necessary) each time the design life is extended in accordance with condition 39. This is to ensure the MMP continues to be suitable in perpetuity.

Reason: To ensure a plan is in place for the on-going maintenance of the works prior to the start of construction and at each extension of the design life.

F. Modify Condition No. 14, to read as follows

Condition 40 - Maintenance Obligations and Public Safety

The owners of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) Pittwater Road, Collaroy must provide an irrevocable bank guarantee (or other suitable legally binding obligation) to Council prior to the issue of any occupation certificate in the amount of \$1000 per lineal metre of work (based on the length of the main face of the seawall as tabulated below) to undertake maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of rocks or debris, that have become dislodged from the coastal protection works approved under this consent, from the public beach and adjacent public land, and to implement the Maintenance Management Plan (MMP).

In this condition “maintenance” means the restoration of the works to a standard in accordance with the approved plans and specifications following any damage caused by a coastal storm, and implementation of the MMP.

The bank guarantee (or other suitable legally binding obligation) is to be replenished if drawn upon and increased to allow for Consumer Price Index (CPI) every 10 years from the date of establishment.

The bank guarantee (or other suitable legally binding obligation) is to be in the favour of Council. The funds may be accessed by one or more owners, for the undertaking of works referred to in this condition and in the approved MMP, with the written consent of Council.

The bank guarantee is to be released to the landowners at the time, if the coastal protection works are removed.

Reason: To satisfy the requirements of Section 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

Property Main seawall face length (m)

1150	27.36
1154	11.07
1156	10.76
1158	12.30
1160	10.25

1162	10.25
1164	10.25
1166a	7.68
1166b	7.61
1168	15.37
Total	122.89

G. Modify Condition No. 15, to read as follows:

Condition 41 - Easements for construction, support and maintenance

a) An easement must be registered over so much of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) as necessary for construction, support and maintenance in favour of each of the owners to allow each owner to carry out its obligations under this consent and otherwise burdening the owners of the properties and their successors in title to maintain the coastal protection works to the standard approved by the Development Consent, approved plans and specifications in the Consent. The easement may provide that it shall be released if the coastal protection works are removed.

b) The easement shall also provide that the owners of the lot burdened must not place any improvements or structures that cannot be easily relocated or removed within the easement site or interfere with the coastal protection works or the support they offer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To create long term support and maintenance of the coastal protection works for the benefit of all owners (currently and in the future).

H. Delete Condition No. 16. Construction Traffic Management Plan

I. Modify Condition No. 17, to read as follows:

Condition 14 - Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Approved Plans and Supporting Documentation.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

J. Modify Condition No. 18, to read as follows:

Condition 15 - Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Liability Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or land under Council's care, control and management, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must

be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

K. Delete Condition No. 26. Site fencing requirements

L. Modify Condition No. 30, to read as follows:

Condition 26 - Removal of unsuitable material

Unusable materials found within the area of excavation and not utilised in the construction of the works will be required to be removed.

Confirmation of this requirement is to be provided to Council by the engineer supervising the works.

Reason: To ensure that all unsuitable material is removed from the beach.

M. Modify Condition No. 33, to read as follows:

Condition 29 - Implementation of Construction Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CMP be impacted by surrounding major development not encompassed in the approved CMP, the CMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Management procedures agreed and are held liable to the conditions of consent rather than any secondary approval.

N. Modify Condition No. 40, to read as follows:

Condition 36 - Ongoing maintenance of the Coastal Protection Works and public safety

The coastal protection works must be maintained in accordance with the Development Consent, conditions, approved plans and specifications as outlined in this consent. The maintenance must be to a standard that does not compromise the protection or integrity of the adjoining land.

Sufficient access for the maintenance of the coastal protection works is to be maintained landward of the coastal protection works in accordance with the easement for construction, support and maintenance identified in Condition 41.

Any debris on the beach resulting from damage or failure of the coastal protection works must be rectified by the owner or owners of the works that are the source of the damage, as part of maintaining the works as per condition 38 of this consent. If required the financial arrangements established in condition 40 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Reason: To satisfy the requirements of Section 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

O. Modify Condition No. 42, to read as follows:

Condition 38 - Removal of debris

The owners must obtain all necessary approvals and then remove debris from any adjoining public land if part of the coastal protection works is dispersed onto that land, with such removal to be done as soon as reasonably practicable to the satisfaction of Council and, if necessary, the Crown, at no cost to Council. If required the financial arrangements established in condition 40 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Note: Debris will be taken to have been deposited from the coastal protection works seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 954998, Lot B DP 954998, Lot CP SP 2949, if rocks of the same type and dimensions as those on the coastal protection works at and seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 54998, Lot B DP 954998, Lot CP SP 2949 are found on public land within a line extending from either longitudinal boundary to the mean low water mark, and it is evident that the debris has originated from the approved works or from within the subject properties.

Reason: To ensure the safety of the public beach.

P. Modify Condition No. 43, to read as follows:

Condition 39 - Time limited consent

The consent operates for 60 calendar years from the date of the issue of the occupation certificate and such other period as may be extended with the written approval of Council in accordance with the following.

A minimum of three (3) years prior to the date of 60 years after the issue of the occupation certificate for the works, the owners shall procure, at no cost to Council, a review report, by a suitably qualified independent coastal engineer (Review Report).

The report must review the performance of the works using the evidence and coastal hazard predictions known at that time. The report must consider whether:

- (a) The works are satisfactory in their current state and do not result in a threat to public safety, in which case the report can recommend an extension to the consent, or
- (b) Upgrades to the works are recommended to ensure they will not result in a threat to public safety to extend the consent for a further period of time, or
- (c) Removal and replacement of the structure with an alternative design is recommended to ensure they do not result in a threat to public safety, or
- (d) Demolition and removal of the coastal protection works in the interest of public safety is recommended.

The Review Report shall be submitted to Council for approval not later than twelve (12) months prior to the date of 60 years after the issue of the occupation certificate in the first instance, or 12 months prior to the end of such other period identified in any written approval from Council, in accordance with this condition.

If the Review Report concludes that the structure is satisfactory in accordance with (a) above, and

Council accepts the findings of the report, Council will, in writing, approve an extension of the term of the development consent for the period recommended in the Review Report, or such lesser time as Council considers appropriate.

If the Review Report recommends any upgrades or alterations to the works in accordance with (b) above, those upgrades must be dealt with under the planning laws at that time.

If the Review Report recommends removal and replacement of the structure with an alternative design in accordance with (c) above, the replacement structure will be the subject of a further development application for consent to Council, if required by the planning laws at that time. For the avoidance of doubt, nothing shall oblige the owners to replace the protection works if they instead choose to remove the works which will be removed at the expense of the owners.

If the Review Report recommends demolition and removal of the coastal protection works in the interest of public safety, such removal will be undertaken by the owners at their own expense and within such reasonable time period required by Council.

Any written approval from the Council extending the period of operation of this consent is to be recorded on the s10.7 Planning Certificate for the land and Council's register of development consents.

A further Review Report will be provided to Council a minimum of twelve (12) months prior to the end of any extended period notified identified in writing by the Council in accordance with this condition, with the above process repeated for such extension.

In the event that,

- The Council does not accept the recommendations of the Review Report (including an amended or replacement Report) in writing, or
- The Council fails to provide written notification of its acceptance of the recommendations within the Review Report within 12 months of lodgement of the Review Report, or
- An application for the continued use, upgrade or replacement of the works is made,

this consent will continue to operate until any application to modify this condition, or for the continued use or upgrade or replacement of the works, or any proceedings seeking review of the refusal of Council to accept the recommendations, has been finally determined by Council or the Court. Any application, proceedings or appeal, must be lodged within 6 months of Council's decision to not accept the findings of the Review Report or Council's failure to notify of its acceptance of the Review Report, whichever is the later.

Note: *This continued operation or extension may need to be facilitated by a formal application to modify the consent having regard to the planning laws at the time.*

Reason: The development application indicated the Coastal Protection works have a design life of 60 years; to satisfy the requirements of Section 27 of the Coastal Management Act 2016, and to provide a mechanism to review the works and extend the operation of the consent.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Kye Miles, Planner

The application is determined on 07/10/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments