

Northern Beaches Local Planning Panel  
(sent by email only to [planningpanels@northernbeaches.nsw.gov.au](mailto:planningpanels@northernbeaches.nsw.gov.au))

20 September 2023

**Submission to Northern Beaches Local Planning Panel in Regard to Consent Conditions for DA2021/1612 (Relating to Construction of Upgraded Coastal Protection Works at 1 Clarke Street, 1192-1196 & 1204 Pittwater Road Narrabeen)**

**1. INTRODUCTION AND BACKGROUND**

As the Applicant, Horton Coastal Engineering has been invited to raise any concerns with the assessment report contained in the agenda for the Northern Beaches Local Planning Panel (LPP) meeting to be held on 25 September 2023, to discuss DA2021/1612.

It is understood that the LPP has been extensively briefed on this DA, and has reviewed many documents in relation to the DA. It is not intended to go over these matters again herein.

The purpose of the letter herein is to discuss the conditions of consent, and whether some conditions could be altered to be more technically robust, while still complying with the *Coastal Management Act 2016* and other relevant legislation.

The letter of Haskoning Australia dated 27 July 2023, which contains a review of DA2021/1612 from a coastal engineering perspective, has been denoted as the 'Haskoning Review' herein for brevity.

**2. REQUESTED EDITS TO CONDITIONS**

**2.1 Condition 11 – Confirmation of Overtopping Discharge**

It would be preferred that the text below was deleted, but if not, the following edits are suggested (additions in red, deletions in strikethrough):

Consideration in the report shall also be given to the matters listed below, having regard to the results of the physical modelling **and other relevant constraints governing the crest level and alignment of the works:**

- (a) Whether the seawall level **could** ~~shall~~ be lowered below 7.0 m AHD for all or part of the works; and
- (b) Whether the seawall alignment **could** ~~should~~ be moved further landward, and, if so, to what extent.

The above condition was derived with reference to page 51 of the Haskoning Review. The suggested edits are considered to more closely align with the full text of the comments on this matter in the Haskoning Review, and some of the issues discussed below.

Physical modelling may demonstrate satisfactory overtopping performance could be achieved with a wall further landward. However, this does not mean that the wall should be moved further landward, as there are other factors to consider. Some of these factors were listed on page 4 of the Haskoning Review<sup>1</sup>.

It should also be noted that the works, at the alignment proposed, have been found to comply with relevant legislation and environmental planning instruments. As noted in the Haskoning Review:

- based on the findings of the beach width modelling, MHL concluded that the proposed vertical wall (by definition at the alignment proposed) would be expected to have no significant impact on beach width compared with the existing ad-hoc protection works and a rock revetment design alternative (page 32);
- the works (by definition at the alignment proposed) will not, over the life of the works, unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland (page 38);
- the works (by definition at the alignment proposed) will not, over the life of the works, pose or be likely to pose a threat to public safety (page 38);
- the proposed development (by definition at the alignment proposed) is not likely to alter coastal processes to the detriment of the natural environment or other land (page 42); and
- the proposed development (by definition at the alignment proposed) is not likely to reduce public amenity, or access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development (page 43).

It would thus appear unreasonable to be imposing a requirement to consider moving the seawall alignment landward at all, as the alignment is acceptable as is. An analogy would be a consent authority giving consent for a dwelling development complying with a required landscape ratio of 40%, and finding that the development satisfies all tests, but then saying that it would like consideration of a 50% landscape ratio as that may be a better outcome for a third party. It is not a development requirement to exceed the required tests, but meet them.

## **2.2 Condition 14 – Interaction with Adjoining Coastal Protection Works**

The following edits are suggested (additions in red, deletions in strikethrough) to Condition 14 to correct a grammatical error and for clarity:

The proposed works must comply with the following:

- be structurally independent from any adjoining works, not in any way relying on any existing or future coastal protection works on adjoining land for structural stability ~~or~~ **or** ~~of~~ integrity during a storm event.

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<sup>1</sup> It is noted in passing that Haskoning Australia stated that retention of the Norfolk Island Pine tree at 1204 Pittwater Road may not be a valid consideration for the proposed alignment of the works, as the DA drawings state that it is to be removed. Note that it is the intention of the owners to retain the tree, and consent was only sought for removal of the tree in case it became impossible to retain the tree due to the extent of excavation required during the construction process.

- not **adversely** impact on the performance of any existing coastal protection works or on the ability to construct future coastal protection works on adjoining land.
- all landward returns shall extend far enough to allow for construction of rock revetments on adjacent land, without creating an unreasonable burden to Council or unacceptable construction risk to adjacent private land.

To be consistent with Condition 15, which gives a limit of 5 years for formal coastal protection works to be constructed on adjacent Council land, the text “No assumptions should be made on the timing of future adjoining coastal protection works” should be deleted, or to be even clearer it should be changed to “It should be assumed that formal coastal protection works would be constructed on adjacent land within 5 years”. If Council never does works on its land, it would not be possible to satisfy the condition, and it would lead to the obscene outcome of the returns having to extend landward to near Pittwater Road.

In the Haskoning Review, it is noted that Council proposes to upgrade the existing coastal protection works on the adjacent land within the next three years (page 39, 43, 59, and 62). Council has already received grant funding (in 2017) from the NSW Government to construct the works on the adjacent public land, and has a committed Work Plan under the grant. It would thus be unreasonable to have “No assumptions should be made on the timing of future adjoining coastal protection works” in the condition, as well as making it unachievable.

### **2.3 Condition 18 – Access for Construction and Maintenance Works**

This condition is unclear. It would be clearer to say the following (additions in red, deletions in strikethrough):

The works are to be designed and constructed in accordance with the approved plans and specifications of this consent, **such that the adopted maintenance setback of 4.5m from the seawall and 1m setback from the landward end of the stairs can be achieved.**

Details demonstrating compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to the Certifier for approval prior to issue of the Construction Certificate. ~~This includes maintenance of minimum requirements.~~

Reason: To ensure suitable access for construction and maintenance of coastal protection works.

### **2.4 Condition 42 – Temporary Bund Construction**

Given that there is already Condition 16, Condition 42 is unnecessary and should be deleted. Condition 42 is overly restrictive, preventing potentially valid bund materials being used such as:

- imported rock boulders (the condition only allows rocks imported to site as part of the final coastal protection works, but no such rocks are part of the works, thus preventing the importation of rock boulders altogether);
- geotextile (this would almost certainly be required in the bund to reduce the risk of fine-grained materials forming the working platform landward of the bund, necessary to support the piling rig and other construction traffic on the beach, from being washed out);

- sand-filled geotextile containers;
- concrete blocks; and
- rock bags.

Condition 16 covers all of Council's requirements, and gives Council to opportunity to review and approve the bund design. At the time of that review, Council could raise any concerns with the materials proposed to be used in the bund.

If only sand and existing rocks could be used to form the bund as per Condition 42, a satisfactory bund design would not be possible to achieve.

## **2.5 Condition 61 – Maintenance Obligations and Public Safety**

To make it clearer that this condition is dealing with two matters (namely restoration of the beach and maintenance of the works), and to make the tests and bank guarantee clearer, the following edits are recommended (additions in red):

The owners of 1 Clarke Street Narrabeen (Lot 1 Sec 18 DP 7417) and 1192 (Lot CP SP 2808), 1194 (Lot C DP 312655), 1196 (Lot B DP 312655), 1204 (Lot CP SP 971) Pittwater Road, Narrabeen 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 seaward property boundary) to undertake

- the restoration of the beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works (beyond what would have occurred had the existing protection works still been in place), or
- maintenance of the works.

The funding obligations referred to above are to be borne entirely by the landowners of the properties listed in this condition. The percentage share of each landowner, of the total funding, is to be determined by the landowners.

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 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.

The edits in the last three paragraphs are consistent with all previous seawall consents at Collaroy-Narrabeen Beach. The bank guarantee is in the favour of Council for them to step in if landowners do not fulfil their obligations under this condition. The condition is currently silent on the favouree, which makes the bank guarantee undefined.

## 2.6 Condition 70 – Maximum Seawall Height

The following edits are recommended (additions in red, deletions in strikethrough):

The ~~maximum~~ **crest level height** of the seawall (**excluding balustrades**) must not exceed 7.0m AHD.

## 3. SALUTATION

Should you require any additional information or clarification, please do not hesitate to contact Peter Horton via mobile on 0407 012 538, or via email at peter@hortoncoastal.com.au.

Yours faithfully

HORTON COASTAL ENGINEERING PTY LTD



Peter Horton

Director and Principal Coastal Engineer

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