

29 September 2023



Horton Coastal Engineering Pty Ltd
18 Reynolds Crescent
BEACON HILL NSW 2100

Dear Sir/Madam

Application Number: DA2021/1612
Address: Lot 1 DP 7417 , 1 Clarke Street, NARRABEEN NSW 2101
Lot C DP 312655 , 1194 Pittwater Road, NARRABEEN NSW 2101
Lot CP SP 2808 , 1192 Pittwater Road, NARRABEEN NSW 2101
Lot CP SP 971 , 1204 Pittwater Road, NARRABEEN NSW 2101
Lot B DP 312655 , 1196 Pittwater Road, NARRABEEN NSW 2101
Proposed Development: Construction of coastal protection works

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at www.northernbeaches.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to council@northernbeaches.nsw.gov.au

Regards,



Peter Robinson
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2021/1612
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Horton Coastal Engineering Pty Ltd
Land to be developed (Address):	Lot 1 DP 7417 , 1 Clarke Street NARRABEEN NSW 2101 Lot C DP 312655 , 1194 Pittwater Road NARRABEEN NSW 2101 Lot CP SP 2808 , 1192 Pittwater Road NARRABEEN NSW 2101 Lot CP SP 971 , 1204 Pittwater Road NARRABEEN NSW 2101 Lot B DP 312655 , 1196 Pittwater Road NARRABEEN NSW 2101
Proposed Development:	Construction of coastal protection works

DETERMINATION - APPROVED - DEFERRED COMMENCEMENT CONSENT

Made on (Date)	25/09/2023
Consent to operate from (Date):	Once Council is satisfied as to those matters specified in the deferred commencement conditions, Council will nominate by way of written notice to the Applicant, the date from which the consent operates
Consent to lapse on (Date):	2 years from the operation date of Consent

Detail of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

Note:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITIONS

1. Demonstration of agreement between multiple properties

The owners of the properties 1 Clarke Street (Lot 1 Sec 18 DP 7417) and 1192 (Lot CP SP 2808), 1194 (Lot C DP 312655), 1196 (Lot B DP 312655) and 1204 (Lot CP SP 971) Pittwater Road, Narrabeen ('the owners') are to provide evidence to Council of an enforceable agreement that all owners will fund and construct the coastal protection works as a single project to be completed within 24 months of the on-site commencement of the construction works, or a longer period as agreed to by Council in writing. The agreement must restrain transfer, assignment or novation by any owner unless the transferee/assignee enters into an agreement in similar terms. If the owners create a trust or corporate entity for the purposes of construction of the works, such entity is to be bound by the terms of the agreement. The agreement may provide that it will cease to operate upon the issue of a final occupation certificate.

Reason: To ensure satisfactory completion of the coastal protection works.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

2. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
S01	H	General Notes	Horton Coastal Engineering Pty Ltd	16 December 2021
S02	H	Coastal Protection Works Plan	Horton Coastal Engineering Pty Ltd	16 December 2021
S03	H	Landscaping Plan	Horton Coastal Engineering Pty Ltd	16 December 2021
S04	H	Erosion and Sediment Control Plan and Waste	Horton Coastal Engineering Pty Ltd	16 December 2021

		Management Plan		
S10	H	Section 1 (at 1204)	Horton Coastal Engineering Pty Ltd	16 December 2021
S11	H	Section 2 (at 1194)	Horton Coastal Engineering Pty Ltd	16 December 2021
S16	H	Deadman Anchor Alternative	Horton Coastal Engineering Pty Ltd	16 December 2021
S20	H	Access Stairs	Horton Coastal Engineering Pty Ltd	16 December 2021
S30	H	Eastern Wall Elevation	Horton Coastal Engineering Pty Ltd	16 December 2021
S31	H	Return Walls Elevations Sheet 1	Horton Coastal Engineering Pty Ltd	16 December 2021
S32	H	Return Walls Elevations Sheet 2	Horton Coastal Engineering Pty Ltd	16 December 2021

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Coastal Engineering Report for Construction of Upgraded Coastal Protection Works at 1190-1196 and 1204 Pittwater Road Narrabeen	1	Horton Coastal Engineering Pty Ltd	13 July 2021
Structural Engineering Report	1	Horton Coastal Engineering Pty Ltd	26 July 2021
Safe Design Risk Assessment	1	Horton Coastal Engineering Pty Ltd	23 February 2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working

hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(c) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(d) Development that involves an excavation that extends below the line of influence of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 6:30am to 7.00 pm inclusive Monday to Friday,
- 8.00 am to 6.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Sand excavation and pilling is permitted from:

- 6.30 am to 7.00pm inclusive Monday to Friday,
- 8.00 am to 6.00pm Saturday.

Other demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work 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).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The owner/s shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected

- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$20,474.33 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,047,433.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

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 Certifier 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, Excavation and Associated Works (Security Bond)

A bond of \$50,000 as security against damage to Council's roads providing the construction access to the site caused by the transport and disposal of materials and equipment to and from the site and as security against damage to Council managed reserves (e.g Collaroy Beach) caused by the construction of and/or the failure to maintain permanent and temporary works (including but not limited to the temporary bund) associated with the development.

Details confirming payment of the bond are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Boundary Identification Survey

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey prepared by LCG Global Pty Ltd, dated 31 August 2021, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

9. 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 Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion along Pittwater Road through Collaroy & Narrabeen, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and

4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

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.
- 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 practicing Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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.

10. Pre-commencement Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council’s infrastructure during construction.

11. Confirmation of Overtopping Discharge

Physical modelling is to be undertaken by a suitably qualified coastal engineer prior to the issue of a construction certificate and a report provided to the Council for approval. The scope of the physical modelling shall be submitted to Council for approval prior to commencement of modelling.

The physical modelling shall be undertaken to inform, to the satisfaction of Council:

- (a) The content of the Safety Management Plan, which is to be submitted to Council for approval prior to the issue of the Occupation Certificate, including in relation to trigger levels for plan activation, exclusion distances from the seawall crest and the risk to landward property;
- (b) The drainage design associated with wave overtopping and whether drainage will occur by absorption or returned back over the seawall;
- (c) The wave return; and
- (d) The design of the balustrade.

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

The recommendations contained within the report, as approved by Council, must be incorporated into the final plans submitted for the construction certificate.

Details demonstrating compliance to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To ensure public safety during incidences of wave overtopping, adequate drainage,

and full account of physical modelling results.

12. Confirmation of Balustrade Design

Detailed design drawing of the balustrade to be placed along the top of the works and aside the steps shall be prepared and approved by Council prior to issue of construction certificate. This shall include confirmation that the balustrade has been suitably designed for coastal processes and hazards and will not create a public safety hazard during storm events. If considered appropriate by Council, the balustrade design shall be considered in the physical modelling of overtopping discharge.

The balustrade must also have a sufficient gap at the base to allow vegetation to grow through and down the face of the wall.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To maintain public safety and allow the growth of vegetation to minimise the visual impact of the works.

13. Colouring and Finish of Concrete

The works, including returns, are to be finished using a sand matching colour and a minimum Class 3 finish as per Australian Standard AS3610-1995 Formwork for Concrete. A test panel is required to be approved by Council prior to the issue of the construction certificate.

Reason: To ensure a good visual quality when the works are viewed as a whole.

14. Interaction with adjoining coastal protection works

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 integrity during a storm event.
- 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.

A detailed plan and cross section(s) at the common boundaries are to be prepared confirming the method and location for integration of the proposed works and the existing protection on the adjoining properties.

All works required to ensure stability of the works are to be completed at the cost of the owner(s) this includes any temporary or permanent works on adjoining land that may be required. No assumptions should be made on the timing of future adjoining coastal protection works.

Details demonstrating the actions required to ensure compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to Northern Beaches Council for approval prior to issue of the construction certificate

Reason: To enable the works to be constructed without impacting adjoining coastal protections works or the ability for adjoining works to be upgraded in future.

15. Performance of coastal protection works

A statement is to be prepared by a suitably qualified coastal engineer that the proposed works, in the absence of formal coastal protection works being constructed on the adjoining land within the next 5 years:

- will maintain their structural integrity during the design storm event; and
- will not adversely impact coastal processes to cause unacceptable risk to the adjoining land.

Details demonstrating the actions required to ensure compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to Northern Beaches Council for approval prior to issue of the construction certificate.

Reason: To ensure ongoing structural integrity and performance of the proposed works.

16. Temporary bund design

The design for any temporary bund constructed on the beach to provide protection from coastal processes must be undertaken by a suitably qualified coastal engineer and submitted to council for approval prior to the issue of the construction certificate. The design requirements are to be included in the construction contract.

Reason: To prevent pollution of the beach.

17. Design Drawings

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

- Drawing 6355-S02 Rev H: Note to be amended that the length of the seawall returns at Clarke Street, Mactier Street and the South Narrabeen SLSC will be determined in consultation with the structural engineer and Council.
- Drawing 6355-S04 Rev H: Notes 1 and 3 to be amended to state that all conditions of consent related to any temporary bund design, construction and maintenance will be adhered to during construction.
- Any design changes required by the Council arising from the physical modelling of the seawall, as agreed by the Council, under Condition 11.

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

18. Access for construction and maintenance works

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.

19. Public Access Plan

In recognition of the need to maintain beach access for Council Lifeguards, Surf Life Savers, and the general public, from South Narrabeen Surf Club and the adjoining road ends, a public

access plan is to be prepared and approved by Council prior to issue of construction certificate. The plan is to outline the actions to be undertaken by the contractor to maintain safe public access to the beach from South Narrabeen Surf Club and the adjoining road ends during the construction of the works.

Details demonstrating compliance are to be provided to the Certifier prior to the issue of the construction certificate.

Reason: To maintain safe public access to the beach.

20. **Confirmation of Global stability**

Confirmation of global stability based on updated information on ground conditions is required prior to the issue of the construction certificate.

Reason: To ensure structural stability of the works.

21. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

22. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

23. **Concrete and soil extent**

The concrete at the top of the wall is to be minimised, while still meeting coastal engineering standards, so that soil can be placed as close as possible to the eastern edge of the wall.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To allow the growth of vegetation to minimise the visual impact of the works.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. **Tree Removal Within the Property**

This consent approves the removal of the following tree:

1 x *Araucaria heterophylla* located on the eastern boundary forward of No. 1204 Pittwater Road

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

25. **Works on Land Owned or Managed By Council / Working and Access on Reserves**

No works are to be carried out on land owned or managed by Council without owners consent.

Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a "Working and Access on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Details demonstrating Permit approval are to be submitted to the Certifying Authority.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: Public safety and the protection of Council land and infrastructure.

26. **Construction Management Plan - Council Assets**

Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- i) access to and from the site during construction and demolition,
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- iii) methods of loading and unloading machinery and building materials,
- iv) location of storage materials, excavation and waste materials,
- v) methods to prevent material being tracked off the site onto surrounding roadways,
- vi) erosion, sediment and dust control measures, and
- vii) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.

During works, the site management measures listed above must remain in place and be maintained until the completion of works.

Construction materials must not be stored on Land owned or managed by Council unless approval is provided by Council. Safe pedestrian access free of trip hazards must be maintained at all times on or adjacent to any public access routes connected to Land owned or managed by Council.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

27. **Installation and Maintenance of Sediment and Erosion Control**

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

28. Property / Reserve Boundary Identification

Prior to commencement of work, the property/reserve boundary is to be surveyed by a registered surveyor and such boundary is to be clearly marked on site.

Reason: property/reserve management.

29. 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 public land, 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.

DURING BUILDING WORK

30. Protection of Sites of Significance

a) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

b) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant cultural features.

31. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
- i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's

written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

32. Road Reserve

The owners/contractor shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

33. Storage of Materials on Land Owned or Managed by Council Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited, without Council approval.

Reason: Public safety and environmental protection.

34. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the owners and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: To protect and/or restore any damaged public asset.

35. 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 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.

36. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

37. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the

Principal Certifying Authority prior to further commencement.

Reason: protection of the environment.

38. Noise Mitigation and Complaints Register

All practicable, feasible and reasonable measures are to be done to mitigate the amenity impacts of noise on residents. A Complaint Register must be maintained, recording details of complaints received, and the action taken to remediate issues.

Reason: Protection of amenity, complaint management of noise.

39. Sand

No sand excavated from the beach seaward of the subject properties to construct the works is to be placed landward of the protection works before, during or after construction. All such sand shall be placed seaward of the works. The sand shall be screened to remove unsuitable material as required.

Reason: To avoid damage to the beach.

40. Removal of unsuitable material

The following material shall be removed by the owners, following construction of the works, unless agreed with Council:

- any material, except beach sand, encountered or imported during excavation and construction and not utilised in the construction of the works. This includes any material disturbed on any land, including adjacent public and private land and any material imported or reworked to form the temporary bund. This may include rocks, rubble, plastic, steel, concrete, geofabric or contaminated sediment.
- all existing rock, rubble or other material (except beach sand) forming historic protection works encountered during excavation and construction, that is not used as backfill.

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 for public safety, improved beach amenity and to ensure no pollution of the environment.

41. Temporary bund maintenance and safety

A maintenance plan shall be prepared for any temporary bund by a suitably qualified coastal engineer and submitted to council for approval. The maintenance requirements are to be included in the construction contract. It is the responsibility of the applicant to procure that the contractor undertaking the construction works ensures that any temporary bund constructed on the beach is maintained at all times, and to undertake any required repairs and maintenance of the bund after storms, to ensure public safety. This includes after hours, weekends, public holidays, holiday periods and if the contractor is notified by Council of an issue with the temporary bund.

The bund is to be monitored for any voids that form. If voids are identified, access is to be restricted until voids are repaired.

Where wave conditions allow it, the contractor is to use signage and flagging or similar to delineate the bund as a construction site to restrict public access. The bund area adjoining the public beach and the area inside the bund is to have additional safety warnings if required after

hours, with the understanding that the public may enter. All sharp objects are to be removed or capped, ponded water drained, and loose objects removed, from inside the bund after hours.

The bund shall be completely removed at the completion of the works. If directed by Council, the bund materials shall be screened during removal of the bund to remove unsuitable material that could have entered the bund.

Reason: To prevent pollution of the beach and ensure public safety.

42. Temporary bund construction

Any temporary bund constructed on the beach to provide protection from coastal processes may only be constructed from sand or suitable existing rocks, or any other material as agreed in writing by Council, in accordance with the temporary bund design or rocks imported to site as part of the final coastal protection works. No other construction materials or imported material is to be used in construction of the bund.

Reason: To prevent pollution of the beach.

43. Safety requirements under storm conditions

Works are not to be placed during storm conditions unless the owner/s obtains a written opinion from a suitably qualified coastal engineer that the placement of the works under these conditions does not present a significant safety risk to any person and will not result in damage to the beach. This opinion is to be kept by the landowner until the works are completed. If adverse weather conditions are forecast, the works site is to be made safe (where practical) to avoid the dispersal of equipment and debris onto the beach and into the surf zone. It shall be a requirement of the contract with the contractor that the

- contractor monitor and make themselves aware of coastal conditions, and take all actions required to secure the site and prevent any pollution of the environment due to tidal or wave activity; and
- in the event of any pollution emanating from the subject site due to tidal or wave activity then the contractor must remediate the environment to Council's satisfaction.

Reason: To ensure the safety of workers and the public during construction.

44. Restoration of adjoining lands

The works approved as part of this consent are to be retained entirely within the property boundaries of properties 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.

Prior to the issue of the Occupation Certificate, a suitably qualified engineer is to certify that:

- any rocks temporarily moved on the adjoining properties have been reinstated so that they provide the same or a better level of coastal protection when compared to the pre-works condition.
- Sand has been washed into any restored historic rock to ensure sink holes will not form on these lands following completion of the works.

Reason: To ensure exposure of adjoining properties to coastal storms and public safety is not increased due to the works.

45. Historic Artefacts and Aboriginal relics

If any World War Two era tank traps or any Aboriginal objects (or other historic artefacts) are

uncovered during the works, Council is to be notified immediately. In the event of any Aboriginal object being uncovered, all requirements (including the duty to notify) under the National Parks and Wildlife Act 1974 must be met.

Reason: To protect historic heritage and ensure any artifacts and Aboriginal objects are safely removed/dealt with.

46. Site Supervision

A suitably qualified engineer is to be employed to review and check the work of the construction contractor for the duration of the approved works.

Reason: To ensure appropriate construction of the coastal protection works.

47. Completion of Construction Works

All construction works must be completed within 24 months of the on-site commencement of the construction works, or a longer period as agreed to by Council in writing.

Reason: To ensure the works are completed in a timely manner.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

48. Required Tree Planting

a) If the existing *Araucaria heterophylla* at 1204 Pittwater Road is removed, a replacement tree shall be planted in accordance with the following:

i) 1 x *Araucaria heterophylla*; to be located at 1204 Pittwater Road, between the eastern boundary and the building; minimum pot size 75 litre

b) Tree planting shall be located wholly within the site and be located a minimum of 3 metres from existing buildings.

c) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

49. Landscape Completion

a) Following completion of construction works, revegetation of disturbed areas within the sites is to be undertaken in accordance with the recommendations of Section 4.3 - Revegetation in the Statement of Environmental Effects Issue 2 dated 13 July 2021 prepared by Horton Coastal Engineering.

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with this and any other conditions of consent for landscape works.

Reason: Environmental amenity.

50. New Vegetation Planting

Landscaping is to be undertaken in accordance with section 4.3 Revegetation of the Statement of Environmental Effects (Horton Coastal Engineering 2021)

Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect native planting on the site.

51. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

52. **Post-Construction Road Reserve Dilapidation Report**

The owners/contractor must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development. Any damage is to be restored to the satisfaction of Council.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure rectification of damage to Council infrastructure.

53. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect reserve amenity and public safety.

54. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating the works, in relation to their location on private land, are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To demonstrate the proposal complies with the approved plans.

55. **Access**

Any legal requirements necessary to allow access for the private property owners over the shared sets of stairs are to be registered on the relevant titles.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an occupation certificate.

Reason: To ensure legal rights of access.

56. Surveys During Works and Post completion survey

A declaration by a registered surveyor is required as evidence that all construction has been completed in accordance with the Development Consent, approved plans and specifications in the Consent.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an occupation certificate. Survey plans and a declaration are to be provided to Council on issue of the Occupation Certificate.

Reason: To ensure accurate location of coastal protection works.

57. Certification of works

The constructed coastal protection works are to be certified by a suitably qualified coastal engineer and by a suitably qualified structural engineer as being constructed in accordance with the approved design and performance criteria.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an occupation certificate. This certification is to be provided to Council on issue of the Occupation Certificate.

Reason: To ensure appropriate design and construction of coastal protection works.

58. Restoration of sand

Sand, shaped to a natural profile, is to be restored seaward of the works, once construction is completed. Sand from the public beach may be used for this purpose.

Details are to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate. These details are to be provided to Council on issue of the Occupation Certificate.

Reason: To limit the impact of the works on the visual quality of the beach.

59. Safety Management Plan

The applicant must prepare a Safety Management Plan for the operational phase of the works to commence when the works are constructed. The Plan is to be activated by the occupier/s of the subject site in advance of and during a storm event that could result in coastal inundation impacting the private properties landward of the wall. The Safety Management Plan must include, but not be limited to:

- A procedure for monitoring forecasts and triggers defining when the Safety Management Plan will be activated.
- Details of the potential inundation impacts from a coastal storm
- The actions required to ensure the safety of the inhabitants of the properties landward of the works
- A nominated time period for review and updating the Safety Management Plan, as required.

The final Safety Management Plan is to be to the satisfaction of the consent authority prior to issue of the Occupation Certificate. The final Safety Management Plan is to be maintained on Site at all times and a copy provided to any tenants or licensees of the Site.

Reason: To ensure public safety during a storm event.

60. 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 occupation certificate. The MMP must be complied with for the design life of the works.

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 73. 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 at the end of construction and at each extension of the design life.

61. Maintenance Obligations and Public Safety

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.

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

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.

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

62. Easements for construction, support and maintenance

An easement must be registered over so much 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 as the Council considers 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 permanently removed.

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 any 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).

63. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

64. Vegetation planting

The native plant 'pig face' (*Carpobrotus glaucescens*), or other suitable species as agreed with Council, is to be planted in the rear yards of the sites. The plants are to be spaced appropriately and placed along the entire eastern edge of the sites, as close as possible (while ensuring that the pig face will become established) to the eastern edge of the works.

The pig face must have sufficient soil volume to become established so that they can grow over and down the eastern face of the wall.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an occupation certificate.

Reason: To ensure the growth of vegetation to minimise the visual impact of the works.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

65. Landscape Maintenance

a) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

c) All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

66. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another Norfolk Island Pine.

Reason: To replace locally native trees.

67. **Post storm inspection**

After any storm event that exposes any part of the coastal protection works to damage, that impacts the support or performance of the works, the owners are to procure, at their cost, inspections by a suitably qualified coastal engineer of the coastal protection works. A detailed report is to be provided by this coastal engineer to Council and any recommendations within the report are to be undertaken as soon as reasonably practicable after necessary approvals are obtained, if required, and to the satisfaction of Council.

Reason: To ensure the coastal protection works are maintained after a storm event.

68. **Ongoing maintenance of coastal protection works and beach amenity**

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.

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 60 of this consent. If required, the financial arrangements established in condition 61 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.

69. **Protection of the ground anchors**

The ground anchors buried under the rear yards of the subject sites must not be damaged or removed.

Reason: To ensure the structural integrity of the works.

70. **Maximum seawall height**

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

Reason: To minimise the visual impact and ensure the works remain in accordance with the approved plans.

71. **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 owner/s shall procure, at no cost to Council, a Review Report, by a suitably qualified independent coastal engineer.

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.

Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Signed On behalf of the Consent Authority



Name Peter Robinson, Manager Development Assessments

Date 25/09/2023

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.

Some of these additional obligations are set out in the Conditions of development consent: advisory

notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the advisory notes to ensure the development is carried out lawfully.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Northern Beaches Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Northern Beaches Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to: the collection of stormwater, the reuse of stormwater,

the detention of stormwater,
the controlled release of stormwater, and
connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney North Planning Panel. Some of these additional obligations are set out in the Conditions of development consent: advisory notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.