

7 October 2020



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

Dear Sir/Madam

Application Number: Mod2020/0439

Address: Lot B DP 954998 , 1154 Pittwater Road, COLLAROY NSW 2097
Lot 1 DP 313699 , 1156 Pittwater Road, COLLAROY NSW 2097
Lot C DP 954998 , 1156 Pittwater Road, COLLAROY NSW 2097
Lot 1 DP 1016094 , 1158 Pittwater Road, COLLAROY NSW 2097
Lot C DP 302895 , 1160 Pittwater Road, COLLAROY NSW 2097
Lot B DP 302895 , 1162 Pittwater Road, COLLAROY NSW 2097
Lot A DP 302895 , 1164 Pittwater Road, COLLAROY NSW 2097
Lot 1 DP 970200 , 1168 Pittwater Road, COLLAROY NSW 2097
Lot 71 DP 1011242 , 1166 A Pittwater Road, COLLAROY NSW 2097
Lot 72 DP 1011242 , 1166 B Pittwater Road, COLLAROY NSW 2097
Lot CP SP 2949 , 1150 Pittwater Road, COLLAROY NSW 2097

Proposed Development: Modification of Development Consent DA2018/1289 granted for Construction of coastal protection works (sea wall)

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,



Kye Miles
Planner

NOTICE OF DETERMINATION

Application Number:	Mod2020/0439
Determination Type:	Modification of Development Consent

APPLICATION DETAILS

Applicant:	Horton Coastal Engineering Pty Ltd
Land to be developed (Address):	Lot B DP 954998 , 1154 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 313699 , 1156 Pittwater Road COLLAROY NSW 2097 Lot C DP 954998 , 1156 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 1016094 , 1158 Pittwater Road COLLAROY NSW 2097 Lot C DP 302895 , 1160 Pittwater Road COLLAROY NSW 2097 Lot B DP 302895 , 1162 Pittwater Road COLLAROY NSW 2097 Lot A DP 302895 , 1164 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 970200 , 1168 Pittwater Road COLLAROY NSW 2097 Lot 71 DP 1011242 , 1166 A Pittwater Road COLLAROY NSW 2097 Lot 72 DP 1011242 , 1166 B Pittwater Road COLLAROY NSW 2097 Lot CP SP 2949 , 1150 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Modification of Development Consent DA2018/1289 granted for Construction of coastal protection works (sea wall)

DETERMINATION - APPROVED

Made on (Date)	07/10/2020
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The request to modify the above-mentioned Development Consent has been approved 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.

Important Information

This letter should therefore be read in conjunction with DA2018/1289 dated 10 May 2019.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

Right of Appeal

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

NOTE: A fee will apply for any request to review the determination.

Signed On behalf of the Consent Authority



Name Kye Miles, Planner

Date 07/10/2020