

10 February 2023



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

Dear Sir/Madam

Application Number: Mod2022/0322
Address: Lot CP SP 1977 , 1114 - 1118 Pittwater Road, COLLAROY NSW 2097
Proposed Development: Modification of Development Consent DA2017/0947 granted for 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,



Kye Miles
Planner

NOTICE OF DETERMINATION

Application Number:	Mod2022/0322
Determination Type:	Modification of Development Consent

APPLICATION DETAILS

Applicant:	Horton Coastal Engineering Pty Ltd
Land to be developed (Address):	Lot CP SP 1977 , 1114 - 1118 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Modification of Development Consent DA2017/0947 granted for Construction of coastal protection works

DETERMINATION - APPROVED

Made on (Date)	10/02/2023
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The request to modify the above-mentioned Development Consent has been approved as follows:

A. Delete Condition 1 - Lawful occupation of the works on Crown Land.

B. Add Condition 2A, to read as follows:

Condition 2A Modification of Consent - Approved Plans and supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
S.01 Revision D	10 March 2022	Horton Coastal Engineering Pty Ltd
S.02 Revision D	10 March 2022	Horton Coastal Engineering Pty Ltd
S.03 Revision D	10 March 2022	Horton Coastal Engineering Pty Ltd
S.10 Revision D	10 March 2022	Horton Coastal Engineering Pty Ltd
S.20 Revision D	10 March 2022	Horton Coastal Engineering Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

C. Modify Condition 4 (a), to read as follows to read as follows:

Condition 4 (a) - General Requirements

Unless authorised by Council:

All works are restricted to:

- 6.30 am 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.

D. Modify Condition 8, to read as follows:

Condition 32A - 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 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 42 (Time limited consent). 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 and adaptation of the works.

E. Modify Condition 10, to read as follows:

Condition 32B - Maintenance Obligations and Public Safety

The owners of 1114 -1118 (SP 1977), 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 seaward property boundary) to undertake maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of rocks or debris, that have become dislodged from the works, from the public beach and adjacent public land.

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 the 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 55M of the Coastal Protection Act 1979 and to ensure the coastal protection works will not pose any threat to public safety.

F. Modify Condition 13, to read as follows:

Condition 13 - Construction Management Plan

A Construction Management Plan is to be prepared. The CMP 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 any 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 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.

G. Modify Condition 15, to read as follows:

Condition 15 - 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.

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

H. Add Condition 15A, to read as follows:

Condition 15A - Temporary bund design

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

Reason: To prevent pollution of the beach

I. Add Condition 15B, to read as follows:

Condition 15B - Temporary bund construction

Any temporary bund constructed on the beach to provide protection from coastal processes may only be constructed from sand and suitable rocks present on the beach at the commencement of the works, or suitable 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.

J. Add Condition 15C, to read as follows:

Condition 15C - 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 contractor undertaking the construction works to ensure that the 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

K. Modify Condition 25, to read as follows:

Condition 25 - Site Supervision

A suitably qualified coastal 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 coastal protection works.

L. Modify Condition 26, to read as follows:

Condition 26 - Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). 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.

M. Delete Condition 30 - Site fencing requirement.

N. Delete Condition 41 - Compliance with the requirements of the Department of Industry – Crown Land for occupation of public land.

O. Modify Condition 42, to read as follows:

Condition 42 - 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.

Important Information

This letter should therefore be read in conjunction with DA2017/0947 dated 19 June 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 must be lodged on the NSW Planning portal within 28 days 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 10/02/2023