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Northern Beaches Council
Attention: Daniel Milliken
(submitted online at the NSW Planning Portal at <https://www.planningportal.nsw.gov.au/>)

5 September 2020

Section 4.55(1) Modification Application for DA2018/1289 – Construction of Coastal Protection Works at 1150-1168 Pittwater Road Collaroy

1. PREAMBLE

DA2018/1289 was approved by Northern Beaches Council on 10 May 2019. Modifications to this consent are requested for three reasons, namely:

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

These matters are discussed in turn below.

Owner's consent for submission of this modification application has been provided by all owners in a separate document¹.

2. MODIFICATIONS FOR CONSISTENCY WITH PREVIOUS CONSENTS, LEGISLATIVE CHANGES, OR TO CORRECT GRAMMATICAL ERRORS

2.1 Condition 4(a)

Please add in the following for the avoidance of doubt:

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.

¹ Note that for 1150, the common seal of the owner's corporation could not applied due to working from home restrictions.

2.2 Condition 6

Please add the text in red to correct the grammar:

inspection fee in accordance with Council's Fees and Charges paid as security **are required** to ensure

Construction Certificate or demolition work commencing, **and** details

2.3 Condition 7 and Condition 16

Please delete Condition 16 and incorporate into Condition 7 as per the consent for DA2020/0301, such that it reads (with edits identified as markups in red to create the consistency²):

Construction Management ~~Plan Program~~

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

- (a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council owned or managed land and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed without Council's Consent being granted;
- (b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. ~~Wherever possible mobile cranes should be located wholly within the site;~~
- (c) The location and operation of any **heavy plant (eg: excavators)** ~~on-site crane~~;
- (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.

² Items (d) to (g) were inserted from the DA2020/0301 consent, with the original DA2018/1289 Condition 16 deleted in full.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate. ~~Council Parks, Reserves and Foreshores business unit~~ must be notified of start date of works as soon as possible and within a reasonable time prior to the start of works

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

2.4 Condition 9

Given that the proposed works are to be coordinated with works at Wetherill Street, please delete the following:

Additional detail and notes be added to Drawing S02 to articulate the actions required should the works not be coordinated with any council works at Wetherill Street

2.5 Condition 17

This Condition was deleted for DA2020/0301, but it is considered to be more logical to retain but modify the condition as follows:

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

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

2.6 Condition 19

Please make the edits in red, to give the correct insurance title:

Any person or contractor undertaking works on public land must take out Public ~~Risk~~ **Liability** Insurance

2.7 Condition 26

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

2.8 Condition 30

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

2.9 Condition 33

Please edit this condition as follows:

Implementation of Construction Traffic Management Plan.

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request. Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent rather than any secondary approval.

2.10 Condition 42

Please add the text in red:

If required the financial arrangements established in condition 145 of this consent may be utilised in accordance with any written consent that may be issued by Council.

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

2.11 Condition 43

Please edit as follows:

the owners shall jointly and severally procure, at no cost to Council, a review report, by a suitably qualified independent coastal engineer ~~to ensure the works provide the necessary protection~~ (Review Report).

Then, delete the remainder of the condition and insert with the corresponding DA2020/0301 condition (Condition 44), edited to change “100 years” to “60 years” at two locations.

2.12 Renumbering of Condition Cross-References

If the above edits are accepted, Conditions 16 and 26 would be deleted and condition numbers 17 and above would change. Please ensure that cross references to conditions are corrected as required, namely:

- Condition 43 is currently cross-referenced in Condition 13;
- Conditions 14, 15 and 42 are currently cross-referenced in Condition 13;
- Condition 15 is currently cross-referenced in Condition 42 (see Section 2.10 above).

2.13 Other Conditions

If the recent Land & Environment Court case with JP Salama has provided any other beneficial modifications to conditions, we would appreciate the opportunity to discuss this with Council.

3. MODIFICATION TO CONDITION 14 (MAINTENANCE LENGTH CALCULATION)

The owners are breaking down the cost of the main seawall works per property based on the length of the face of the seawall in each property. This length is identical to the length of the seaward property boundary at 8 of the 10 subject properties (where the seawall is parallel to the seaward boundary), but at 1166a and 1166b (where the seawall is not parallel to the seaward boundary), this length is slightly shorter than the boundary length. The surveyed property boundaries and main seawall face are depicted in Figure 1.

As the potential maintenance cost is most accurately related to the length of the wall, not the length of the boundary, the following modification to this condition is requested (additions in red, deletions in strikethrough):

[in paragraph 1] \$1000 per lineal metre of work (based on the length of the **main face of the seawall as tabulated below** ~~seaward property boundary~~)

For clarity, the following tabulation is recommended to be added to the condition:

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

As noted above, the lengths of each of the seaward property boundaries are identical to the main seawall lengths tabulated above, except at 1166a and 1166b, where these boundary lengths are 8.1m and 8.0m respectively. Note that the seaward property boundary lengths are not identical to the corresponding lengths in Council’s GIS cadastre, as Council’s GIS is not survey accurate.



Figure 1: Surveyed boundaries in red, and length of main seawall face in green, at 1150-1168 Pittwater Road Collaroy (aerial photograph taken 8 June 2016)

Also add the text in red to correct the grammar (note the two commas in red):

[end of paragraph 1] from the public beach and adjacent public land, and to implement the Maintenance Management Plan (MMP).

[end of paragraph 2] any damage caused by a coastal storm, and implementation of the MMP.

[last paragraph] To satisfy the requirements of Section 27 of the Coastal Management Act 2016

4. MODIFICATION TO CONDITION 15 (EASEMENT REGISTRATION)

Easement documentation has been prepared and is being finalised in consultation with a legal firm and surveyor. However, given that construction is almost ready to commence and easement registration can potentially take weeks or even months, it is requested that Condition 15 be modified to a condition to be satisfied prior to the issue of the Occupation Certificate, rather than the Construction Certificate. This is acceptable as easement registration is actually only required after completion of construction, to enable access for maintenance etc.

The only change required to the condition is as follows (addition in red, deletion in strikethrough):

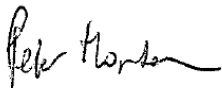
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the **occupation** ~~construction~~ certificate

The condition will also need to be moved to the "Conditions which must be Complied with Prior To the Issue of the Occupation Certificate" section of the consent.

5. SALUTATION

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

Yours faithfully
HORTON COASTAL ENGINEERING PTY LTD



Peter Horton
Director and Principal Coastal Engineer

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