

Our Ref: 89024430

Contact: Sara Belgrove

24 April 2013

c/- Slater Architects
PO Box 552
TERRIGAL NSW 2250

Attention: Mr Paul McClosky

Dear Paul,

PROPOSED REVETMENT WALL – 8 BERRIMA CRESCENT, UMINA BEACH

Cardno has prepared the design of the proposed revetment wall at the above property. We have also prepared the Coastal Engineering Assessment related to the property and the proposed wall. We understand that Development Consent for the proposed wall construction is being sought from the NSW Coastal Panel, and that advice you have received from them in relation to the Development Application submission requires that the following planning items are addressed as part of the application –

- State Environmental Planning Policy (Infrastructure), 2007, Cl.129A
- Coastal Protection Act, 1979, s.55M.
- State Environmental Planning Policy No 71 – Coastal Protection – Section 8.

As requested, we have prepared this letter to address the requirements of these items of legislation.

1 State Environmental Planning Policy (Infrastructure), 2007, Cl.129A

The wording of this clause is as follows –

129A Development with consent

- (1) *Development for the purposes of a sea wall or beach nourishment may be carried out by any person with consent on the open coast or entrance to a coastal lake.*
- (2) *If a coastal zone management plan does not apply to the land on which any such development is to be carried out, the Coastal Panel has the function of determining a development application for development to which this clause applies.*
- (3) *Before determining a development application for development to which this clause applies, the consent authority must take the following matters into consideration:*
 - (a) *the provisions of any coastal zone management plan applying to the land,*
 - (b) *the matters set out in clause 8 of State Environmental Planning Policy No 71-Coastal Protection ,*



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- (c) *any guidelines for assessing and managing the impacts of coastal protection works that are issued by the Director-General for the purposes of this clause and published in the Gazette.*

Note: *Section 55M of the Coastal Protection Act 1979 sets out preconditions to the granting of development consent relating to coastal protection works.*

In relation to Clause 129A - Gosford City Council's Broken Bay Beaches Coastal Management Plan, 1999¹, applies to this land. This document recommends that a revetment wall be constructed on the seaward boundary of Berrima Crescent and the four private properties to the north of Berrima Crescent, including No 8. The proposed revetment wall is therefore consistent with the recommendations of the coastal management plan applying to the land.

2 Coastal Protection Act, 1979, S.55M

The wording of this clause is as follows –

55M Granting of development consent relating to coastal protection works

- (1) *Consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that:*
- (a) *the works will not over the life of the works²:*
 - (i) *unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or*
 - (ii) *pose or be likely to pose a threat to public safety, and*
 - (b) *satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:*
 - (i) *the restoration of a 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,*
 - (ii) *the maintenance of the works.*
- (2) *The arrangements referred to in subsection (1) (b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following:*
- (a) *by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:*
 - (i) *the owner or owners from time to time of the land protected by the works,*
 - (ii) *if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority-the council or public authority,*

Note: *Section 80A (6) of the Environmental Planning and Assessment Act 1979 provides that a development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of making good any damage caused to any property of the consent authority as a consequence of the doing of anything to which the consent relates.*

- (b) *by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).*

¹ Prepared by Patterson Britton and Partners.

² A 50 year design life has been adopted for the wall.

- (3) *The funding obligations referred to in subsection (2) (a) are to include the percentage share of the total funding of each landowner, council or public authority concerned.*

In relation Section 55M – The proposed wall is to protect No. 8 and adjacent properties from coastal erosion. The wall will be placed along the seaward property boundary of No. 8. In this manner, access to the beach is not impeded, as public access is obtained from Berrima Crescent and not from No. 8.

The existing beach erosion face prevents access from the private property to the beach, except at the northern end of No. 8. Stairs have been provided within the revetment wall to allow access from No.8 direct to the beach.

The proposed revetment wall will not pose a threat to public safety. It protects No.8 from coastal erosion, and will replace an existing beach erosion face which is unstable, up to 1.8m high in places and not highly visible to someone unfamiliar with the site. The height of the revetment wall relative to the beach is 800mm maximum at the southern end of the wall.

The owner, by locating the wall wholly within his property, has taken on responsibility for the ongoing maintenance of the wall and for the restoration of the beach adjacent to the wall where the wall is directly attributed to any increased erosion of the beach. It is noted that the Broken Bay Beaches Coastal Management Plan calls for Council to construct the section of revetment wall that protects Berrima Crescent, however the timing of such construction is unknown.

The owner has agreed to be bound by reasonable legally binding obligations in relation to the ongoing maintenance of the wall, subject to consultation.

3 State Environmental Planning Policy No 71 – Coastal Protection – Section 8.

The wording of this clause is as follows –

8 Matters for consideration

The matters for consideration are the following:

- (a) *the aims of this Policy set out in clause 2,*
- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*

- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
 - (i) *the cumulative impacts of the proposed development on the environment, and*
 - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

Note: *Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the Government Coastal Policy (as defined in that clause) to be taken into consideration by a consent authority when determining development applications in the local government areas identified in that clause or on land to which the Government Coastal Policy applies.*

In relation to Section 8 of SEPP71, the proposed wall is intended to provide protection to No 8. Berrima Crescent, and adjacent properties which have a right of way over No. 8 from the impacts of coastal erosion. At present, an eroded beach face up to 1.8m high is located on the property. The wall will replace that eroded face, and provide a stable protected alignment fronting the beach area.

As stated previously, the wall will not impede access to the beach (as public access to the beach is obtained from Berrima Crescent and not from No. 8), nor will the wall impact on the amenity of the foreshore as it replaces the existing eroded beach face.

The wall is set below the existing property level, so will not impact on views or cause overshadowing in relation to the coastal foreshore.

It would be expected that the Contractor undertaking the construction of the works would employ erosion and sediment control measures in accordance with The Blue Book, such that there would be no impact on water quality due to the wall.

In summary, the intent of the wall is to protect No.8 Berrima Crescent and adjacent properties which have right of way over No.8 from the impacts of coastal erosion and associated hazards. The wall will be constructed on the seaward property boundary and will not impede access or reduce amenity of the foreshore located adjacent to No.8.

If you have any queries in relation to these matters, please don't hesitate to contact the undersigned.

Yours faithfully,]



Sara Belgrove
Project Manager
for **Cardno (NSW/ACT) Pty Ltd**