



18 July 2014

Mr Doug Sneddon
Doug Sneddon Planning Pty Ltd
2/101 Excelsior Street
LISAROW NSW 2250

Development Application Notice of Determination

Issued under Sections 80, 80A & 81(1)(a) the Environmental Planning and Assessment Act 1979 and Clause 129A(2) of State Environmental Planning Policy (Infrastructure) 2007

Development Consent No: CP 13-001

Property Address: Lot 13 DP 880692
No. 8 Berrima Crescent, UMINA BEACH NSW

Description of Development: Beachfront Revetment Wall

Determination: Deferred Development Consent Granted

Determination Date: 18 July 2014

Consent to operate from: The date from which the conditions of the deferred commencement are deemed to have been satisfied

Consent to lapse on: Five (5) years from the date on which consent has been granted

Conditions of Development Consent

The development consent is granted subject to the *Development Consent Conditions* listed hereunder and in accordance with the stamped approved plans.

Reason for the Imposition of Development Consent Conditions

The reason for the imposition of conditions is to ensure, to the NSW Coastal Panel's satisfaction, that:

- (a) The objects of the Environmental Planning and Assessment Act 1979 are achieved;
- (b) The objects of the Coastal Protection Act 1979 are achieved and the provisions of Section 55M of the Act are satisfied;
- (c) Any adverse environmental impacts associated with the construction of the development are minimised and managed;
- (d) Any adverse impacts of coastal processes on the development are minimised;
- (e) A mechanism for a funded contingency plan is provided to address both 'end effects' of the development, if experienced, and the management of the unprotected beach to

- the south of the development if erosion impacts are increased as a result of the development; and
- (f) The responsibility, and the transfer of responsibility to future owners, is clearly identified for the ongoing management and maintenance, including funding, of the development for its design life and for any upgrades necessary to manage future climate change impacts.

PART A : DEFERRED COMMENCEMENT CONDITIONS

Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, the conditions in Part A are deferred commencement conditions. The consent is not to operate until the Applicant meets these conditions to the satisfaction of the NSW Coastal Panel and Gosford City Council where indicated.

1. Reassessment of the crest wall height and potential overtopping, and the toe design including any resultant impacts, being undertaken by Cardno (NSW/ACT) Pty Limited or such other coastal engineer considered by the NSW Coastal Panel to be properly experienced and qualified. Following the reassessment suitable construction drawings are to be finalised and certified by Cardno (NSW/ACT) Pty Limited or such other coastal engineer considered by the NSW Coastal Panel to be properly experienced and qualified.

Note(a): *The NSW Coastal Panel notes that crest elevations in the lodged documents are stepped to follow the land elevation of the backing land (for example at Ch0 the crest is 4.2m, falling to a crest of 3.4m at Ch15 and further falling to 2.6m at Ch50). The Panel considers the issue of crest height and the management of potential overtopping requires reassessment as overtopping scour could destabilise the rear of the crest, leading to collapse.*

Note(b): *The NSW Coastal Panel notes that the amended revetment wall plans (Figure 89024430-C001 rev. 3) cites the drawing status as "Not for Construction".*

2. Pursuant to the provisions of Section 55M of the Coastal Protection Act 1979, a legally binding arrangement for the life of the works being negotiated and executed with Gosford City Council to ensure:
 - i. 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, and
 - ii. the maintenance of the works.

Note (a): *The NSW Coastal Panel advises that it does not accept the estimate of "end effects" lodged by Cardno (NSW/ACT) Pty Ltd (Cardno Report 89024430/R2769, dated 14 February 2014, which estimates a loss of sand of no more than 200m³ and a maximum erosion increase of 4m over an approximate parabolic plan form extending 28m south) as being a realistic estimate of the erosion potential.*

Note (b): *"Beach" is defined in the Coastal Protection Act 1979 as meaning the area of unconsolidated or other readily erodible material between the highest level reached by wave action and the place where tidal or lake waters reach a depth of 10 metres below Australian Height Datum.*

3. An easement in favour of Gosford City Council being created over the portion of the property affected by the revetment wall, and a positive covenant under Section 88BA of the Conveyancing Act 1919 being established over the easement, burdening the owners of the property and their successors to maintain the revetment wall to the satisfaction of the Council. Such maintenance is to also

include management of future “outflanking”, public safety and upgrading of the works if necessary in the future to meet changed climatic conditions.

4. A Bank Guarantee in the sum of \$803,302.50 [being the estimated total cost of the wall as provided by Cardno (document ref 89024430, dated 15 of May 2014) and received from Mr Doug Sneddon on 2 June 2014], in favour of Gosford City Council, being arranged to cover the completion or removal of the proposed revetment wall in the event that the wall is commenced but not completed within 5 years from the date at which the Deferred Commencement conditions have been formally satisfied. In such circumstances construction of the wall will be completed or removed by the Council utilising the Bank Guarantee funds. The quantum of the Bank Guarantee can be progressively reduced to three quarters (3/4), half (1/2), and one quarter (1/4) of this amount as Council is satisfied that each of these stages of construction has been satisfactorily achieved.

The Applicant shall satisfy each deferred commencement condition listed in Part A within 12 months from the date of issue of this consent. Should the Deferred Commencement conditions not be achieved within this time frame the Applicant can approach the NSW Coastal Panel for an extension, which may or may not be granted depending on the reasonableness of the Applicants actions to achieve compliance with the Deferred Commencement within the 12 month timeframe. If the deferred commencement conditions are not satisfied within the 12 month period, or any formally granted extension then the consent will lapse.

PART B : CONDITIONS OF DEVELOPMENT CONSENT APPLICABLE AFTER SATISFACTION OF DEFERRED COMMENCEMENT CONDITIONS

1. Prescribed Conditions of Development Consent

- a. The work must be carried out in accordance with the requirements of the Building Code of Australia.
- 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.
- c. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:
 - (i) protect and support the building, structure or work from possible damage from the excavation, and
 - (ii) where necessary, underpin the building, structure or work to prevent any such damage.

2. Approved documentation

The development must be carried out in conformity with the following documents unless otherwise amended by any specific development consent conditions:

- a. Drawing 89024430-C001: Proposed Revetment Wall (Cardno NSW/ACT Pty Ltd, Revision 3, dated 17th February 2014), until it is superseded by the detailed design drawings specified in Deferred Commencement Condition No 1. After Deferred Commencement Condition No 1 is met, the detailed design drawings will form the approved plans, as indicated by being stamped by the Coastal Panel;
- b. Drawing 89024430-C002: Erosion and Sediment control Plan (Cardno NSW/ACT Pty Ltd, Revision 2, dated 19th February 2014); and
- c. Coastal Engineering Assessment (Cardno NSW/ACT Pty Ltd, Revision 2, dated 14th February 2014).

3. Construction Certificate

Prior to the issuing of a construction certificate by Council and commencement of construction activities the following are to be undertaken and completed with all drawings, plans and surveys to be submitted to Council:

- a. A written plan is to be prepared for the maintenance of the revetment wall and adaptation of the wall to changed conditions which may occur as a result of future climate change, including, but not limited to the necessary set back distances for any future development so as to allow access for maintenance and upgrading of the wall
- b. A pre-construction beach survey is to be undertaken by suitably qualified and experienced persons to establish restoration levels post construction.
- c. A Construction Management Plan is to be prepared to show the location of storage of building materials, equipment and workers' amenities and parking. This plan is to be approved by Gosford City Council prior to the issuing of the construction certificate.
- d. Erosion and siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Gosford City Council's *Code of Practice of Erosion and Sedimentation Control*.
- e. No work is permitted within the road reserve unless approved by Gosford City Council under Section 138 of the Public Works Act 1995.

4. General Terms of Approval

The development is to comply with the *General Terms of Approval* issued by the Department of Primary Industries – Office of Water on 24th October 2013 and attached to this Notice of Determination at *Appendix A*.

5. During Construction

- a. No sediment is to be taken from the creek at any time as part of the development works.
- b. The development works are to be inspected by the organisation that completed the detailed design during construction and prior to the backfilling phase and certified by it that:
 - i. The required toe level of -1.5m AHD is achieved and is within the property boundary.
 - ii. Geotextile is in place as per the certified construction design.
 - iii. Correct sized rock underlay and primary layer is properly placed as per the certified construction design.
 - iv. The crest level, and any crest treatment to manage overtopping, is in accordance with the certified construction design.

Note: *In granting this consent the NSW Coastal Panel advises that it is important that the detailed engineering design, supervision and final authorisation of the works is overseen in a consistent manner with that proposed at the preliminary design stage. Although the NSW Coastal Panel cannot direct the applicant to use a particular service provider, the Panel notes that there would be benefits for the applicant in having continuity of advice on coastal engineering matters.*

- c. Environmental safeguards (e.g. sediment fences) are to be installed consistent with “*Managing Urban Stormwater: Soils and Construction*” (4th edition Landcom 2004, aka *the Blue Book*) to ensure there is no escape of turbid plumes into the adjacent aquatic environment;
- d. Any material removed from the beachface that is to be temporarily deposited or stockpiled on land is to be located away from drainage lines and overland flow paths, above the 1:100 year flood level, and contained by appropriate sediment control devices as outlined in the *Blue Book (as referenced above)*;
- e. Fisheries NSW (ph 1800 043 536) and the Office of Environment and Heritage (ph 131 555) are to be immediately notified of any fish kills in the vicinity of the works. In such cases, all works other than emergency response procedures are to cease until the issue is rectified and written approval to proceed is provided by Fisheries NSW or OEH.
- f. Construction site safety fencing and/or hoarding is to be provided in accordance with Workcover requirements. Such fencing and/or hoarding is to be erected wholly within the property boundary unless prior approval from Gosford City Council is obtained.
- g. Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services as a consequence of the development works is to be made good at the cost of the person with the benefit of this development consent.
- h. Should any Aboriginal relics be discovered during construction then all excavation or disturbance to the area is to cease immediately and the Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974.
- i. The operation noise level of construction site activities, including machinery and plant and equipment, when measured at any affected premises, is to be

evaluated and comply with the requirements of the Office of Environment and Heritage publication “*Interim Construction Noise Guideline*” July 2009.

- j. The approved hours for construction of this development are 7am to 5pm, Monday to Saturday, with no construction work to be undertaken on Sundays or Public Holidays.

6. Post Construction

Prior to the issuing of an *occupation certificate* or other certificate of completion that is to be relied on for the purposes of the development,

- a. the applicant is to complete a post construction survey of the beach to demonstrate and confirm that the beach has been restored to its pre-construction condition in accordance with the pre-construction beach survey required under Condition 3b.
- b. The applicant is to submit to Gosford City Council a certificate, from the organisation that carried out the detailed design, certifying that the wall has been constructed to the design standard and in the approved location.

Note: *This consent does not provide approval to access Crown land. Prior to undertaking any work, the applicant is required to obtain Crown Land Licence in accordance with Section 34 Crown Lands Act 1989 . The holder must comply with all conditions of the Crown Lands Licence and the licence must be held until the works have been signed off as completed by the consent authority. The licence purpose will be for access for construction purposes only and will not authorise any permanent structures on Crown land. The licence also will not authorise the storage of materials, machinery or equipment on the Crown land or any extraction or use of sand, rock or other materials that may be present on the Crown land.*

RIGHT OF APPEAL

If you are dissatisfied with this determination of the NSW Coastal Panel, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months of the date on which you received this Notice of Determination of the development application.

Angus Gordon
Chair
NSW Coastal Panel

APPENDIX A

General Terms of Approval issued by the Department of Primary Industries –
Office of Water on 24th October 2013