

<b>DATE OF DETERMINATION</b>	9 May 2025
<b>DATE OF PANEL DECISION</b>	8 May 2025
<b>DATE OF PANEL BRIEFING</b>	5 May 2025
<b>PANEL MEMBERS</b>	Annelise Tuor (Chair), Doug Lord, Greg Britton, Fiona Prodromou
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 1 May 2025.

#### **MATTER DETERMINED**

PPSSSH-169 – Sutherland Shire – DA24/0290 at 165 Sir Joseph Banks Drive, Kurnell – Construction of sandstone revetment wall, stairs, path, artwork and sandstone block seating (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at the site inspection listed at item 8 in Schedule 1.

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report.

- The council officer's assessment report has considered the relevant matters under section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The proposed works provide ongoing protection for the Norfolk Island Pines, existing heritage seawalls and the aboriginal middens and are part of an overall upgrade of the Kamay Botany Bay National Park, which includes improved access to the ferry, upgrading of the visitor centre and access behind the foreshore.
- The application responds appropriately to the requirements of the *Coastal Management Act 2016* and the *State Environmental Planning Policy (Resilience and Hazards) 2021*, noting that impacts have been assessed as minimal and will be appropriately managed by the amended conditions of consent, including ongoing monitoring and responsibility for any future maintenance/restoration.
- The application assists in the retention of the Norfolk Island trees and has been amended to require the redesign of the stairs and path to protect tree number 310.
- The application maintains the heritage significance of the aboriginal middens, existing seawalls and other items in the locality.
- No community concerns were raised to the proposed development.

## CONDITIONS

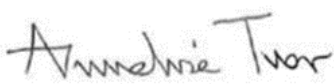
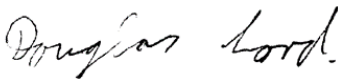


The Development Application was approved subject to the draft conditions of consent – Final\_PPSSSH-169 uploaded by council on the NSW Planning Portal on May 5, 2025, amended by the Panel as follows:

- Condition 5 reworded to clarify the requirements of the condition.
- Condition 28 and 29 removed, as requested by the applicant and agreed by Council. These conditions relate to council's public domain including damage to streets and are outside the scope of the application.
- Condition 32 amended to require the applicant to prepare a monitoring and maintenance/restoration plan for the revetment wall and adjacent beach to ensure the stability and performance of the revetment wall and to satisfy the requirements of section 27 of the *Coastal Management Act 2016*.

**The conditions have been agreed to by the applicant, as a Crown Authority, and are included in Schedule 2.**

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Doug Lord
 Greg Britton	 Fiona Prodromou

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-169 – Sutherland Shire – DA24/0290
2	PROPOSED DEVELOPMENT	Construction of sandstone revetment wall, stairs, path, artwork and sandstone block seating
3	STREET ADDRESS	165 Sir Joseph Banks Drive, Kurnell
4	APPLICANT/OWNER	Charlie Sammoun (ARUP) / NSW National Parks and Wildlife Service
5	TYPE OF REGIONAL DEVELOPMENT	Certain Coastal Protection Works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Sutherland Shire Development Control Plan 2015</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Acts: <ul style="list-style-type: none"> <li>Heritage Act 1977</li> <li>National Parks and Wildlife Act 1974</li> <li>Water Management Act 200</li> <li>Coastal Management Act 2016</li> <li>Fisheries Management Act 1994</li> </ul> </li> <li>Coastal zone management plan/ Coastal management programme: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: <b>30 April 2025</b></li> <li>Written submissions during public exhibition: 0</li> <li>Total number of unique submissions received by way of objection: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection: 14 October 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Annelise Tuor (Chair), Doug Lord, Fiona Prodromou</li> <li><u>Council assessment staff</u>: Timothy Jennings, Slavco Bujaroski</li> </ul> </li> <li>Briefing: 3 December 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Annelise Tuor (Chair), Doug Lord, Greg Britton, Fiona Prodromou</li> <li><u>Council assessment staff</u>: Sue McMahon, Timothy Jennings, Slavco Bujaroski</li> <li><u>Applicant representatives</u>: Greg Abbott (Environment), Asher Seeto (Environment), Charlie Sammoun (ARUP)</li> <li><u>DPHI</u>: Amanda Moylan, Tracey Gillett</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 5 May 2025 <ul style="list-style-type: none"> <li><u>Panel members</u>: Annelise Tuor (Chair), Doug Lord, Greg Britton, Fiona Prodromou</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Council assessment staff</u>: Sue McMahon, Timothy Jennings, Slavco Bujaroski</li><li>○ <u>Applicant representatives</u>: Greg Abbott (Environment), Asher Seeto (Environment), Charlie Sammoun (ARUP)</li><li>○ <u>DPHI</u>: Amanda Moylan, Nikita Lange</li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report as amended by the Panel and included in Schedule 2

## Draft Conditions – DA24/0290

### GENERAL CONDITIONS

#### Condition

#### 1. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.
2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under *the Home Building Act 1989*, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.
4. In subsection (1), a reference to the *Building Code of Australia* is a reference to the *Building Code of Australia* as in force on the day on which the application for the construction certificate was made.
5. In subsection (3), a reference to the *Building Code of Australia* is a reference to the *Building Code of Australia* as in force on the day on which the application for development consent was made.
6. This section does not apply-
  - a. to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
  - b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

**Condition reason:** Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.

#### 2. Erection of signs

1. This section applies to a development consent for development involving building work, subdivision work or demolition work.
2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out-
  - a. showing the name, address and telephone number of the principal certifier for the work, and
  - b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.
3. The sign must be-
  - a. maintained while the building work, subdivision work or demolition work is being carried out, and
  - b. removed when the work has been completed.

4. This section does not apply in relation to-
  - a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
  - b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

**Condition reason:** Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

### 3. Shoring and adequacy of adjoining property

1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense-
  - a. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
  - b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
3. This section does not apply if-
  - a. the person having the benefit of the development consent owns the adjoining land, or
  - b. the owner of the adjoining land gives written consent to the condition not applying.

**Condition reason:** Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.

### 4. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans

Plan number	Revision number	Plan title	Drawn by	Date of plans
L000	D6	Cover Sheet	Oculus	1/11/2024
L010	D5	Survey Plan	Oculus	1/11/2024
L100	D5	General Arrangement - Site Plan	Oculus	8/10/2024
L200	D6	General Arrangement Sheet 1 of 3	Oculus	8/10/2024
L201	D6	General Arrangement Plan Sheet 2 of 3	Oculus	8/10/2024
L202	D6	General Arrangement Plan Sheet 3 of 3	Oculus	8/10/2024
L203	D6	Transition Zone Details Plan	Oculus	8/10/2024
L204	D6	Stairs Detailed	Oculus	8/10/2024

		Plan		
L300	D5	Setout Plan Sheet 1 of 3	Oculus	8/10/2024
L301	D4	Setout Plan Sheet 2 of 3	Oculus	7/11/2023
L302	D4	Setout Plan Sheet 3 of 3	Oculus	7/11/2023
L400	D6	Sections 01	Oculus	1/11/2024
L401	D6	Sections 02	Oculus	1/11/2024
L402	D5	Sections 03	Oculus	1/11/2024
L403	D5	Sections 04	Oculus	1/11/2024
L404	D1	Elevation	Oculus	29/10/2024
L801	D4	Landscape Details	Oculus	1/11/2024
L802	D4	Landscape Details	Oculus	1/11/2024
L700	D6	Construction Management Plan	Oculus	1/11/2024
001	B	Title Sheet, Locality Plan and Drawing List	Consult Marine	7/09/2023
011	B	General Notes Sheet 1	Consult Marine	7/09/2023
012	B	General Notes Sheet 2	Consult Marine	7/09/2023
013	B	General Notes Sheet 3	Consult Marine	7/09/2023
014	B	General Notes Sheet 4	Consult Marine	7/09/2023
101	C	General Arrangement Plan Existing Features - West Sheet 1	Consult Marine	16/02/2024
102	C	General Arrangement Plan Existing Features - East Sheet 2	Consult Marine	16/02/2024
201	C	General Arrangement Plan Extent of Works - West Sheet 1	Consult Marine	16/02/2024
202	C	General Arrangement	Consult Marine	16/02/2024

		Plan Extent of Works - East Sheet 2		
251	A	Footing Long Section	Consult Marine	7/09/2023
301	B	Seawall Sections	Consult Marine	7/09/2023
302	C	Seawall Details	Consult Marine	16/02/2024
303	C	Transition Details	Consult Marine	16/02/2024
304	A	Miscellaneous Details	Consult Marine	7/09/2023
305	C	Stair Sections and Details	Consult Marine	16/02/2024
306	C	Walkaway Sections and Details	Consult Marine	16/02/2024

#### Approved Documents

Document title	Version number	Prepared by	Date of plans
Kamay Revetment Wall - Preliminary Construction Environmental Management Plan	04	Charlie Sammoun	5/11/2024
Arboricultural Impact Assessment	A	Anna Hopwood / Martin Peacock	4/11/2024
Revised and Updated Aboriginal Cultural Heritage Assessment Report	N/A	Coast History & Heritage	12/2023
Kamay Foreshore Revetment Wall - Landscape Technical Specifications	S-SP-001 (A)	Oculus	7/11/2023

In the event of any inconsistency between the approved plans and documents, the approved documents prevail.

In the event of any inconsistency with the approved plans or documents and a condition of this consent, the condition prevails.

**Condition reason:** To ensure clarity in respect to the approved plans and supporting documents

#### 5. Requirements from external authorities - Non-integrated development

Before site work commences, the requirements of DPI Fisheries are to be adhered to in accordance with the correspondence dated 16 May 2024, as follows:



1. Saltmarsh is present on the site (*Sporobolus virginicus*). Harm to saltmarsh that is on land reserved under Part 4 of the National Parks and Wildlife Act 1974 is exempt from the operation of section 205 (2) of the FM Act and a permit is not required.
2. The revetment wall is to be designed in accordance with NSW Government's "Environmentally Friendly Seawalls: A Guide to Improving the Environmental Value of Seawalls and Seawall-Lined Foreshores in Estuaries"
3. Erosion and sediment mitigation devices are to be erected in a manner consistent with current Best Management Practice (i.e. Managing Urban Stormwater: Soils and Construction 4th Edition Landcom, 2004) to prevent entry of sediment into the waterway prior to any earthworks being undertaken. These are to be maintained in good working order for the duration of the works and subsequently until the site has been stabilised and the risk of erosion and sediment movement from the site is minimal;
4. DPI Fisheries (1800 043 536) and the Environment Protection Authority (131 555) is to be notified immediately if any fish kills occur 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 approval is given by DPI Fisheries and/or the Environment Protection authority for the works to proceed.

Where required, relevant approvals must be obtained prior to commencement of works.

**Condition reason:** To ensure all parties are aware of any requirements stipulated by external bodies.

## **BUILDING WORK**

### **BEFORE BUILDING WORK COMMENCES**

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Condition

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#### **6. Construction site management plan**

Before the site work commences, a construction site management plan must be prepared. The plan must include the following matters, where applicable:

1. The location and materials for protective fencing and hoardings on the perimeter of the site;
2. Provisions for public safety;
3. Pedestrian and vehicular site access points and construction activity zones;
4. Details of construction traffic management including:
  - a. Proposed truck movements to and from the site;
  - b. Estimated frequency of truck movements; and
  - c. Measures to ensure pedestrian safety near the site;
5. Details of bulk earthworks to be carried out;
6. The location of site storage areas and sheds;
7. The equipment used to carry out works;
8. The location of a garbage container with a tight-fitting lid;
9. Dust, noise and vibration control measures;
10. The location of temporary toilets;
11. The requirements in the approved Kamay Revetment Wall - Preliminary Construction Environmental Management Plan, prepared by Charlie Sammoun (5/11/2024).
12. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
  - a. AS 4970 - Protection of trees on development sites;
  - b. An applicable Development Control Plan;

- c. The arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

**Condition reason:** To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

## **7. Design amendments**

Before site work commences, plans and specifications must provide detail of the following required amendments to the approved plans and documents:

1. The walkway slab within the TPZ area of Tree 310 should either be installed above existing grade, or have the finished levels determined by preliminary excavation of the slab footprint to identify significant roots (as determined by the Project Arborist).

**Condition reason:** To require minor amendments to the plans endorsed by the consent authority following assessment of the development.

## **8. Erosion and sediment control plan**

Before site work commences, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents:

- a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and
- b) the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure)(dated 2024, as amended from time to time).

**Condition reason:** To ensure no substance other than rainwater enters the stormwater system and waterways

## **9. Long Service Levy**

Before site work commences, a long service levy must be paid to the Long Service Corporation or Council under the Building and Construction industry Long Service Payments Act 1986, section 34.

**Condition reason:** To ensure the long service levy is paid.

## **10. Integrated Development Approval - requirement of approval bodies**

### **General Terms of Approval from Approval Bodies**

Before site work commences, the approved plans and documentation are to incorporate the requirements of the General Terms of Approvals (GTA) of the following approval bodies under Section 4.46 of the Environmental Planning and Assessment Act 1979:

- Department of Planning and Environment-Water - IDAS-2024-10484 - Controlled Activity Approval Exemption (2 August 2024)
- Department of Climate Change, Energy, the Environment and Water - Ref DOC24/554907 - General Terms of Approval for Integrated Development Application, *National Parks and Wildlife Act 1974* (2 December 2024)
- Department of Climate Change, Energy, the Environment and Water - Heritage Council of NSW - Advice - HMS ID 6738
- Department of Climate Change, Energy, the Environment and Water - Heritage Council of NSW - Application to Modify S60 Approval - HMS ID 7230

A copy of each of the GTAs and any further requirements of the approval bodies are attached to this development consent.

**Condition reason:** To ensure all parties are aware of any integrated development requirements stipulated by all approval bodies.

#### **11. Approvals required under Roads Act or Local Government Act**

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

These approvals must be obtained prior to the issue of a construction certificate, to the satisfaction of council, for the required development works and may include but are not limited to the following:

- frontage works including construction of a driveway, footpath, etc
- road openings and restoration to provide services to the development
- work zones and hoardings
- skip bins
- shoring / anchoring
- standing of cranes, concrete pumps, etc.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a principal certifier or by a private certifier.

Failure to obtain approval may result in fines or prosecution.

**Condition reason:** Ensure the protection of public assets.

#### **12. Heritage Requirements**

Prior to commencement of works:

1. A suitably qualified and experienced heritage consultant must be nominated for the project. Council must be informed in writing of the name of the consultant. The nominated heritage consultant must supervise the works to minimise impacts to heritage values. The nominated heritage consultant must be consulted prior to the selection of appropriate tradespersons.
2. A photographic archival recording of the place is to be undertaken and submitted to Council's Heritage Officer for assessment and approval. The archival recording must be prepared in accordance with the Heritage Council of NSW guidelines, especially Photographic Recording of Heritage Items Using Film or Digital Capture. Three copies are to be produced: one for Council, the second for the council's local studies library and the third to be retained by the owner.

**Condition reason:** To preserve and protect items of heritage within proximity to the works

#### **13. Erosion and sediment controls in place**

Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

**Condition reason:** To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

#### **14. Tree protection measures**

Before any site work commences, the certifier, must be satisfied the measures for tree protection

detailed in the Appendix 5: Tree Protection Plan and outlined in the Appendix 6: General Tree Protection Specification of the approved Arboricultural Impact Assessment (dated Nov 2024) and the approved Construction Management Plan (L700 Issue 6) are in place.

A copy of the approved Arboricultural Impact Assessment Tree Protection Specification and the approved Construction Management Plan must be kept on-site at all times while work is being carried out.

Prior to the commencement of any demolition, excavation or construction works on site the applicant must engage a suitably qualified and experienced Supervising Consulting Arborist to oversee the measures for the protection of existing trees as listed below.

All trees not approved for removal on the subject site which are potentially affected by the development works, including trees 310 to tree 338 as identified in the Arboricultural Impact Assessment must be protected by the following measures as per the Tree Protection Recommendations in the approved Arboricultural Impact Assessment (dated Nov 2024).

**Note:** A Consulting Arborist is a person with a current membership of the Institute of Australian Consulting Arboriculturists (IACA) or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

**Condition reason:** To protect and retain trees.

**15. Sydney Water requirements & section 73 compliance certificate**

Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of this consent must also be approved by Sydney Water.

This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au).

**Condition reason:** To ensure the development is adequately serviced.

**16. Before You Dig Australia**

Before excavating or erecting structures, Before You Dig Australia must be contacted at [www.byda.com.au](http://www.byda.com.au) <<http://www.byda.com.au>>.

Note: It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Before You Dig Australia service in advance of any construction or planning activities.

**Condition reason:** To protect damage to third party assets in the interest of health and safety.

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**DURING BUILDING WORK**

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Condition

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**17. Discovery of relics and aboriginal objects**

While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

1. the work in the area of the discovery must cease immediately;

2. the following must be notified
  - a. for a relic - the Heritage Council; or
  - b. for an Aboriginal object - the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

Site work may recommence at a time confirmed in writing by:

1. for a relic - the Heritage Council; or
2. for an Aboriginal object - the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.

**Condition reason:** To ensure the protection of objects of potential significance during works.

## **18. Hours of work and noise control**

### **Hours of work**

For excavation, demolition, or construction work from 7.00am to 6.00pm on Monday to Friday and 8.00am to 3.00pm Saturdays. No work is permitted on Sundays and Public Holidays. Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

### **Noise control**

Demolition, excavation, or construction activities must be managed in accordance with the NSW Department of Environment and Climate Change (now Environment Protection Authority). Interim Construction Noise Guideline (ICNG) 2009, EPA Draft Construction Noise Guideline and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

**Condition reason:** To protect the amenity of the surrounding area.

## **19. Implementation of the site management plans**

While site work is being carried out:

1. the measures required by the construction site management plan and the erosion and sediment control plan must be implemented at all times, and
2. a copy of these plans must be kept on site at all times and made available to council officers upon request.

**Condition reason:** To ensure site management measures are implemented during the carrying out of site work.

## **20. Tree protection during work**

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

1. the approved construction site management plan under this consent,
2. the relevant requirements of AS 4970 Protection of trees on development sites,
3. 3.2 Tree Protection Recommendations, 3.2.1 of the approved Arboricultural Impact Assessment Tree Protection Specification by Anna Hopwood, Martin Peacock dated 4.11.2024.
4. Appendix 5. Tree Protection Plan, of the approved Arboricultural Impact Assessment Tree Protection Specification by Anna Hopwood, Martin Peacock dated 4.11.2024

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

**Condition reason:** To protect trees during the carrying out of site work.

**21. Approvals required under Roads Act or Local Government Act**

While site works are being carried out, there must be no occupation or works on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council.

Any work on public land must be undertaken strictly in accordance with the relevant approval issued under the Roads Act 1993 and/or the Local Government Act 1993 by Sutherland Shire Council.

Note: All plans and permits are required to be on site, at all times and may be requested by council officers at any time.

**Condition reason:** To protect public infrastructure.

**22. Acid sulfate soils - unexpected finds**

If acid sulfate soils are encountered during works, the situation is to be promptly evaluated by an appropriately qualified and experienced environmental consultant certified under one of the following schemes, in accordance with the requirements of the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) Acid Sulfate Soil Manual (1998) and consideration of relevant guidelines:

- Environmental Institute of Australia and New Zealand Inc., 'Certified Environmental Practitioner - General' (EIANZ CEnvP - General); or,
- Soil Science Australia 'Certified Professional Soil Scientist' (SSA CPSS).

**Condition reason:** Ensure the protection of the environment.

**23. Acid sulfate soils - prior to recommencement of works**

If acid sulfate soils are treated and/or managed onsite; an appropriately qualified and experienced environmental consultant certified under one of the following schemes must certify that the acid sulfate soils were appropriately managed in accordance with the requirements of the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) Acid Sulfate Soil Manual (1998) and consideration of relevant guidelines, prior to works recommencing on-site:

- Environmental Institute of Australia and New Zealand Inc., 'Certified Environmental Practitioner - General' (EIANZ CEnvP - General); or,
- Soil Science Australia 'Certified Professional Soil Scientist' (SSA CPSS).

This certification must be provided to the satisfaction of the certifier and a copy supplied to Sutherland Shire Council, Environmental Science Assessment Officer, prior to the recommencement of works.

**Condition reason:** Ensure the protection of the environment.

**24. Management of site soil / fill material**

**Disposal of site soils**

Any soils to be excavated beyond 2 metres below the finished surface level and disposed of from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with relevant NSW EPA guidelines including the "Waste Classification Guidelines" 2014, prior to off-site disposal.

Excavated material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

**Reused soils**

Any soils excavated beyond 2 metres below the finished surface level to be reused on the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 1999 (amended 2013) and any relevant guidelines approved under the Contaminated Land Management Act 1997; to verify that the material is suitable for the intended land use, prior to reuse.

Any soils not suitable for the intended land use must be removed from site and disposed of in accordance with the above.

#### **Importation of fill material**

Any fill material that is imported onto the site must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the Protection of the Environment Operations (Waste) Regulation 2014.

Note: An appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes, or demonstrate an equivalent standard:

- Environmental Institute of Australia and New Zealand Inc., 'Certified Environmental Practitioner - Site Contamination' (EIANZ CEnvP - SC); or,
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' (SSA CPSS CSAM).

**Condition reason:** Ensure the protection of the environment.

#### **25. Potential contaminated land - unexpected finds - during work**

If unexpected soil and/or groundwater contamination is encountered during any works; all work must cease and the situation must be promptly evaluated by an appropriately qualified, experienced and certified environmental consultant. The contaminated soil and/or groundwater must then be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) guidelines.

The environmental consultant must be certified by one of the following certification schemes:

- Environmental Institute of Australia and New Zealand Inc., 'Certified Environmental Practitioner - Site Contamination' (EIANZ CEnvP - SC); or,
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' (SSA CPSS CSAM).

**Condition reason:** Protection of the environment.

#### **26. Toilet facilities**

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

1. be a standard flushing toilet connected to a public sewer, or
2. have an on-site effluent disposal system approved under the Local Government Act 1993, or
3. be a temporary chemical closet approved under Local Government Act 1993.

**Condition reason:** To ensure appropriate amenities are made available during the construction process.

#### **27. Heritage Requirements - During Construction**

During all construction and demolition work:

1. All work must be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage items under the supervision of the nominated heritage consultant.
2. Significant heritage elements are to be adequately protected during the works from potential damage. Protection systems must be employed to ensure historic fabric is not damaged or removed.
3. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

**Condition reason:** To protect items of heritage within proximity to the works

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

### Condition

#### 28. Water authority certification

Before the finalisation of all works under this consent, a certificate of compliance must be obtained in relation to the proposed works from Sydney Water.

**Condition reason:** To ensure compliance with the water supply authority's requirements.

#### 29. Certification of tree retention and protection

All tree protection including AQF Level 5 Arborist Supervision & Certification must be completed in accordance with the approved plans and documents and any relevant conditions of this consent.

**Condition reason:** To ensure the approved tree protection works and trees have been retained in good health and condition.

#### 30. Revetment wall - ongoing monitoring and maintenance

A Monitoring and Maintenance/Restoration Plan (Plan) for the revetment wall and adjacent beach and foreshore shall be prepared by an independent, suitably qualified and experienced, Coastal Engineer, engaged by the applicant, prior to completion of the works and submitted to Council. The area subject to the Plan shall comprise, as a minimum, the revetment wall, the beach adjacent to the wall, and the beach and foreshore extending 100m either side of the works. Monitoring of the beach shall extend to approximately the low tide mark and is for the life of the structure.

The Plan shall include monitoring of the works and the beach and foreshore of the following as a minimum:

- Damage to the armour layer and underlayer of the wall.
- Drainage issues behind and through the wall.
- Settlement or deformation of the wall.
- Increased erosion of the beach and foreshore caused by the presence of the works.
- Availability of public access.

The Plan shall provide detail on the following as a minimum:

- Frequency of regular inspections. The initial inspection shall occur no more than 2 years after the completion of the works.



- Triggers for additional inspections, such as ocean storms. Any inspection by the Coastal Engineer triggered by an ocean storm shall be carried out within two weeks of the storm.
- Methods to be adopted for monitoring, such as UAV imagery, land survey, high resolution aerial photos or satellite photos, and oblique photos.
- Checklist for observations during the inspections.
- Options for maintenance and restoration.
- Notification procedures for maintenance and restoration activities.

The Plan shall also include that the regular inspections are to be carried out by the Applicant and be documented in a Monitoring Report. The Report shall include a photographic record of the inspection. The Report shall identify and make recommendations as to whether maintenance and/or restoration activities are required. If so, the Applicant's Coastal Engineer shall recommend the form that these activities should take to National Parks & Wildlife.

Should the Report identify that increased erosion of the beach and/or foreshore has been caused by the presence of the works or any loss of alongshore access seaward of the wall, a restoration proposal shall be prepared by the Applicant's Coastal Engineer with any necessary approvals obtained from Council prior to commencement of the works.

Maintenance and restoration activities recommended by the Coastal Engineer shall be carried out as soon as practical upon gaining any relevant approvals, subject to factors such as beach state, inclement weather, safety considerations, and procurement of a Contractor. The expectation is that the activities would be commenced within a period of 3 months from submission of the Report.

Preparation and implementation of the Monitoring and Maintenance/Restoration Plan, including any necessary maintenance and restoration works, shall be the responsibility of the Applicant at its cost. The Plan shall apply over the life of the works.

**Condition reason:** To ensure the stability and performance of the revetment wall and to satisfy the requirements of Section 27 of the Coastal Management Act 2016.