

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Thursday, 9 June 2022
DATE OF PANEL DECISION	Thursday, 2 June 2022
DATE OF PANEL MEETING	Wednesday, 17 May 2022
PANEL MEMBERS	Chris Wilson (Acting Chair), Angus Gordon, Greg Britton and Michael Mantei
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 18 March 2022.

MATTER DETERMINED

PPSSTH-103 – Wollongong – DA-2021/1071 at 1 Craig Street, Thirroul – Cliff stabilisation and coastal protection works (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 Council's Assessment Report, subject to several residual issues being addressed through the imposition of additional conditions of consent. These are discussed below.

Deferred Commencement Conditions

The Panel was satisfied that the cliff stabilisation and coastal protection works could be designed to stabilise the cliff, and that impacts to and from coastal processes could be managed over the life of the works, subject to ongoing inspection and maintenance.

For this approach to be effective, however, the Panel considered it necessary for all works to be fully identified in a Geotech report prior to works commencing, and for those works to be confirmed by the author as fit for purpose for a minimum of 15 years.

The 15 years was considered by the Panel to be the minimum design life taking into consideration both the effectiveness of these types of works in this environment, and the Council's long term coastal management strategies for this location (i.e., the proposal to construct a contiguous seawall along the entire section of this cliff). Consequently, the following condition was imposed:

1) The Applicant must:

- a) Prepare and submit to the satisfaction of Council a geotechnical report prepared by a suitably qualified geotechnical engineer detailing the extent of all shot-creting, rock bolts, underpinning, infilling, and any other associated work; and
- b) Ensure that the geotechnical report submitted in accordance with Condition 1a) includes a statement of opinion from the author confirming that these works, subject to maintenance where necessary, will stabilise the cliff for a minimum of 15 years.

Operational Conditions

Noting the Panel considered the minimum design life of the works to be 15 years, a condition limiting the consent for 15 years has been imposed accordingly. Under these circumstances, prior to the consent lapsing, the landowner could re-assess the works and submit a development application in accordance with the Environmental Planning and Assessment Act, 1979 to either continue or upgrade the works for a further period. Any additional coastal management measures adopted by Council would also be considered at this time. The condition is reproduced as follows:

2) *This consent shall lapse 15 years from the date the consent becomes operational.*

The Panel also wanted to ensure that the development was carried out consistent with the documentation submitted with the development application and the geotechnical report prepared in accordance with Condition 1 a). Consequently, the following condition was imposed:

3) *The Applicant must carry out the development in accordance with the geotechnical report approved under Condition 1 a), the geotechnical report prepared by JK Geotechnics dated 29 June 2020 and the report by BMT titled "Cliff Stabilisation Works – 1 Craig St Thirroul, NSW Development applications and Statement of Environmental Effects" dated September 2021 to ensure the development meets its objectives and stabilises the cliff for a minimum of 15 years.*

The Panel also wanted to ensure that the development did not exacerbate any potential slippage on the land adjoining the site to the north and that there were no liability issues. The Panel noted that adequate controls would need to be implemented during construction to avoid exacerbating the landslip on the neighbouring property. Consequently, the following condition was imposed:

4) *Prior to construction commencing, the Applicant must prepare and submit to the satisfaction of the Council, a pre-works dilapidation report that details the current state of the landslip on the adjacent lot to the north.*

The Panel was concerned that any works undertaken below the MHWL might require landowners' consent from Crown Lands. Consequently, the following condition was imposed:

5) *Unless otherwise authorised under the Environmental Planning and Assessment Act, 1979, the extent of works approved under this consent shall be confined within the lot boundary and above the MHWL.*

The Panel was also mindful of the need to ensure the ongoing integrity of the approved works over their assumed design life once constructed. Consequently, the Panel imposed the following conditions requiring ongoing inspection and maintenance to address any residual impacts to or from the works by or to coastal processes, and to ensure that the works would meet a minimum design life of 15 years.


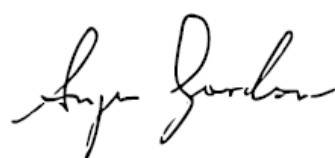


6) *To ensure the continuing integrity of the approved work, the Applicant must throughout the life of the development ensure inspections are undertaken by a suitably qualified engineer either following*

significant storms (6-hour duration significant wave height of 5m or greater as measured at the Port Kembla offshore wave rider buoy) or every 3 years, whichever occurs sooner.

- 7) *The Applicant must ensure that any maintenance requirements necessary to ensure the integrity of the approved works that are identified by inspections undertaken in accordance with Condition 6 are carried out by a suitably qualified contractor consistent with the findings of the inspection.*
- 8) *Details of any maintenance work carried out in accordance with Conditions 6 and 7 should be provided to Council for its records within 1 month of completion.*

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered Council's assessment report and recommended conditions, their views on the Panel's recommended additional conditions, and the views of the coastal expert Panel members. It is noted that there were no community submissions.

PANEL MEMBERS	
 Chris Wilson (Acting Chair)	 Angus Gordon
 Greg Britton	 Michael Mantei

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-103 – Wollongong – DA-2021/1071
2	PROPOSED DEVELOPMENT	Cliff stabilisation and coastal protection works
3	STREET ADDRESS	1 Craig Street, Thirroul
4	APPLICANT/OWNER	Jarrold Etherington
5	TYPE OF REGIONAL DEVELOPMENT	Certain Coastal Protection Works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy – (Costal Management) 2018 Wollongong Local Environmental Plan 2009 Wollongong City-Wide Development Contributions Plan 2021 Wollongong Community Participation Plan 2019 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 Planning agreements: Nil Provisions of the Environmental Planning and Assessment Regulation 2000: Nil Coastal zone management plan: <ul style="list-style-type: none"> Coastal Management Act 2016 No. 20 The Coastal Management Amendment Act 2021 Wollongong Coastal Zone Management Plan 2017 The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Supplementary assessment received: 16 March 2022 Council Assessment Report: 1 February 2022, which included direct reference to the SoEE (BMT, 2021) and associated technical reports (JK Geotechnics, 2021), and site survey plan (2021) Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 22 February 2022 <ul style="list-style-type: none"> Panel members: Chris Wilson (Acting Chair), Angus Gordon, Greg Britton, Michael Mantei Council assessment staff: Sharyn Grant and John Woods DPE: Verity Rollason, Amanda Moylan Final briefing to discuss council's recommendation: 22 February 2022 <ul style="list-style-type: none"> Panel members: Chris Wilson (Acting Chair), Angus Gordon, Greg Britton, Michael Mantei Council assessment staff: Sharyn Grant and John Woods DPE: Verity Rollason, Amanda Moylan

		<ul style="list-style-type: none">• Briefing: 17 May 2022<ul style="list-style-type: none">○ Panel members: Chris Wilson (Acting Chair), Angus Gordon, Greg Britton, Michael Mantei○ DPE: Verity Rollason
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report, and as amended by the Panel.