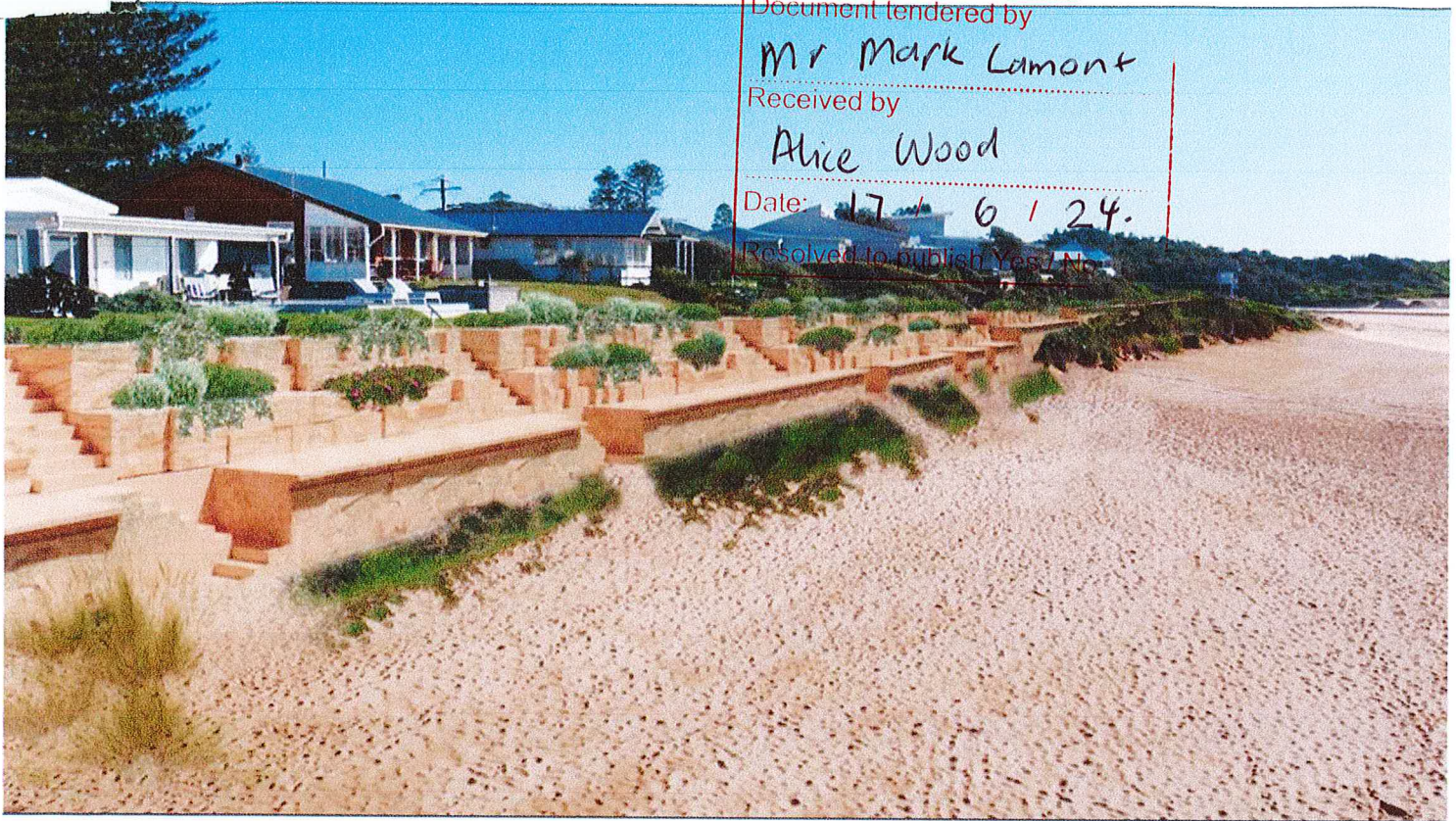


The promise of a seawall of Babylonian gardens at Wamberal



The hanging gardens of Collaroy



The reality of Collaroy



CZMP community consultation and Council response.

Excerpts from Gosford Beaches 2017 CZMP

11	<ul style="list-style-type: none"> • Dissatisfaction with consultation approach • Dissatisfaction with application of Triple Bottom Line approach • Objection to Coastal Building Line • Unclear on definition of beneficiaries to support implementation of works 	All/ Wamberal	<ul style="list-style-type: none"> • Information provided to community consultation sessions was consistent and widely welcomed from those who attended. • Scope and resourcing limitations did not allow for full-scaled detailed economic analysis to take place for all identified options. Further and more rigorous socio-economic analyses will be undertaken in the implementation process for large scale individual actions. Additionally, various planning approvals may also be required to address environmental, social and heritage considerations. • A more rigorous socio-economic analysis is to be undertaken in coming 12 months. This will look at beneficiaries and provide detailed Cost-Benefit Analysis of status quo vs implementation of TPS nourishment option etc. • Development potential will be improved for the majority of lots when compared with current rules. No parcel will be undevelopable under the revised DCP.
15	<ul style="list-style-type: none"> • Concern of impact of CZMP on development, employment and focus to the region • Unclear on final impact / result of the proposed (drastic) measures • Support for a 'beach levy' to protect and maintain the beach environment 	Wamberal	<ul style="list-style-type: none"> • Oceanfront lots at Wamberal will not be sterilised as a result of the application of the Coastal Building Line in the revised DCP, with development potential being improved for the majority of lots when compared with current rules. No parcel will be undevelopable under the revised DCP. • At some of the beachfront lots within the Gosford LGA the projected coastal risk and resultant provisions of the DCP will limit development potential. To improve development potential in these lots, Council is considering the introduction into its DCP of specific location-based exceptions to established rules relating to development footprints, engineered design cantilevering and setbacks from the street-side property boundary. This would enable ongoing development in the most severely affected lots in the short to medium-term. • Cantilevering is to be recommended for all coastal frontage properties in the revised DCP

Marsden Jacob CBA Wamberal Beach was completed in August 2017 by OEH and ignored it has disappeared without a trace. The CBA does not support any type of seawall for Wamberal Beach.

Legend

- Coastal Building Lines (CBL)
- ▨ Piling Required
- ▨ Geotech Required
- Lots Potentially affected by Coastal Inundation





Imagery: NSW Spatial Services 2018.
Materials mapped from MHL drone surveys after July 2020 storm erosion.

Legend

- Cadastral Boundary (Stephen Thorne and Associates, 2019)
- Materials present:**
 - Emergency Concrete Block Armour
 - Emergency Kyowa Rock Bags Stage 1A
 - Emergency Rock Armour Protection Stage 1A
 - Emergency Rock Armour Protection Stage 1B
 - Emergency Rock Bags Stage 1B
 - Existing Ad-hoc Rock Protection
 - Existing Concrete Capping
 - Existing Concrete Seawall
 - Existing Concrete Tank Protection
 - Existing Gabion Rock Mattress
 - Existing Terracotta Seabee Protection
 - Other materials



EXISTING MATERIALS PRESENT ON BEACH POST JULY 2020 STORM EROSION

Manly
Hydraulics
Laboratory

Report MHL2780
Figure
2.2

Figure 2.2.pdf

Objection to
3m setback for
Maintenance

HORTON COASTAL ENGINEERING PTY LTD
18 Reynolds Cres
Beacon Hill NSW 2100
+61 (0)407 012 538
peter@hortoncoastal.com.au
www.hortoncoastal.com.au
ABN 31 612 198 731
ACN 612 198 731

Garth & Olivia Butler
C/- White Dickson Architects
Attention: Jonathon Condon
PO Box 4371 East Gosford NSW 2250
(sent by email only to jc@whitedicksonarchitects.com)

21 May 2024

**DA/554/2024 for Dwelling and Demolition of Existing Dwelling at 47 Ocean View Drive
Wamberal: Coastal Engineering Response to Request for Information from Central Coast
Council**

Development Application DA/554/2024 was lodged with Central Coast Council on 18 April 2024. On 9 May 2024, the Development Assessment Review Team of Council sent an email containing the following request (amongst others) to the Applicant:

“It is noted a minimum width of 3 metres is not proposed between the rear crest of the future wall alignment for maintenance purposes as detailed in Table 3.1 of the Wamberal Beach Terminal Protection Structure Engineering Design Requirements. It is recommended all works within 3 metres of the future wall alignment are removed from the application”.

Horton Coastal Engineering was requested to provide a response to this item, as set out herein. The report author, Peter Horton [BE (Hons 1) MEngSc MIEAust CPEng NER], is a professional Coastal Engineer with 32 years of coastal engineering experience, and prepared the coastal engineering report for the subject DA (‘Horton DA Report’).

In relation to Council’s request above, it can be noted that the following is stated in the *Wamberal Beach Terminal Protection Structure Engineering Design Requirements*:

“The seawall design shall include consideration of the need for access for future maintenance. This should be undertaken via a corridor with minimum width of 3 m between the rear crest of the structure and adjacent buildings. This maintenance corridor is required to be kept unimpeded by structures (except for minor landscaping) and consist of compacted granular material to support loading of maintenance plant and design drainage. If this cannot be achieved, alternative access for seawall maintenance must be specified by the design engineer as part of the development application”.

As noted in the Horton DA report, a DA for coastal protection works (a seawall over multiple properties) is being prepared for the site and surrounding beachfront properties by the Wamberal Protection Association (WPA). The WPA DA (DA/371/2024) for the section including the site was submitted to Council on 19 March 2024, but was returned by Council with requests for additional information, and a revised DA is now being prepared for resubmission.

The landward edge of the proposed seawall footprint in the WPA DA is depicted in white in Figure 1, as supplied by the WPA, and as also presented in the Horton DA Report. A line 3m landward of that line is depicted in red in Figure 1.



Figure 1: Landward edge of proposed WPA seawall in white and 3m setback from this in red, with proposed upper ground floor outline in yellow (terrace dashed), lower ground level in black, pool and spa in cyan (pool court dashed) and firepit court in purple (aerial image taken 14 March 2024)

It is evident from Figure 1 that a 3m maintenance setback cannot be achieved at the site, as:

- at Location A, the existing dwelling at 49 Ocean View Drive encroaches into this setback; and
- at Location B, the existing dwelling at 45 Ocean View Drive encroaches into this setback.

WPA has confirmed that no maintenance setback is proposed at the site in the seawall DA that they will again be submitting to Council, as it not achievable at the site, recognising the access constraints identified above.

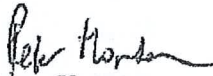
As noted above from the *Wamberal Beach Terminal Protection Structure Engineering Design Requirements*, if the 3m maintenance setback cannot be achieved, "alternative access for seawall maintenance must be specified by the design engineer as part of the development application". In the WPA DA, it noted that access for inspection and maintenance will have to be undertaken from the seaward side if and when it is required.

The Applicant will therefore not be modifying the submitted DA 554/2024 to remove any items within the area 3m landward of the landward edge of the proposed WPA seawall, as there is no 3m maintenance setback specified in the WPA DA at the site.

If you have any further queries, please do not hesitate to contact Peter Horton via email at peter@hortoncoastal.com.au or via mobile on +61 407 012 538.

Yours faithfully

HORTON COASTAL ENGINEERING PTY LTD



Peter Horton

Director and Principal Coastal Engineer

This report has been prepared by Horton Coastal Engineering Pty Ltd on behalf of and for the exclusive use of Garth & Olivia Butler (the client), and is subject to and issued in accordance with an agreement between the client and Horton Coastal Engineering Pty Ltd. Horton Coastal Engineering Pty Ltd accepts no liability or responsibility whatsoever for the report in respect of any use of or reliance upon it by any third party. Copying this report without the permission of the client or Horton Coastal Engineering Pty Ltd is not permitted.



Figure 3: Oblique aerial view of site (at arrow) on 22 July 2020



Figure 4: View of rock bags at site (at arrow) on 21 August 2020



Figure 5: View of site from Wamberal Beach on 24 November 2011



Figure 6: Aerial view of site (surveyed boundary in red) on 20 July 2020, with AHD levels of exposed clay/weathered rock in blue, Coastal Building Line in magenta, MHL (2022) seawall alignment in solid yellow (3m landward dashed yellow), Coastal & Marine Geosciences (1997) bedrock levels in green, and proposed Level 1 outline in cyan (dwelling solid and deck dashed)

hard clay encountered below 7m depth in the landward borehole to be consistent below the proposed residence, then piles socketed at least 2m into those soils may be designed for an increased allowable bearing pressure of 600kPa.

Above the scour level, foundation design for the proposed development should be consistent with Nielsen et al (1992). That is, above the scour level the piles should be designed to support the loads of the structure and other conventional structural actions, plus wave impact loading, debris loading, and loading from a collapsing sand dune (above the scour level) during or following storm erosion as per Nielsen et al (1992). The wave impact, debris and sand slumping forces should be provided by a coastal engineer, and can be provided as part of detailed design. This requirement is also noted by Northrop (2023).

It is recommended that access and services to the dwelling also be founded into the underlying clay layer (or cantilevered off structures founded as such) so that the dwelling remains accessible and serviced (with the access and services supported) if undermined.

Note that the piling requirements for the proposed development would be reduced if a Wamberal coastal protection works structure was implemented, as adopted by Council as the preferred strategy for Wamberal Beach at its Ordinary Meeting on 27 July 2004, and previously adopted in the 1995 *Coastal Management Study and Coastal Management Plan, Gosford City Open Coast Beaches*⁴.

9. SEAWALL ALIGNMENT OF MHL (2022)

As evident in Figure 6 and Figure 7, the proposed development is landward of a 3m setback landward of a seawall alignment developed by MHL (2022). Therefore, the proposed development would not interfere with the implementation of this seawall alignment at the site, if it is ever implemented.

That stated, for the record, it is noted that the MHL (2022) seawall alignment has no coastal engineering analysis supporting it, simply being 0.9m seaward of the landward edge of a 1998 sloping revetment design. It is questioned how 0.9m seaward of the most landward edge of a seawall design in 1998 has become the most seaward edge now, noting that the 1998 revetment extended in the order of 19m further seaward and was found to be acceptable in terms of coastal processes. It is considered to be an unrealistic and impractical alignment, that could not be built at many properties due to proximity to dwellings, would not allow seawall terracing due to lack of space, and would leave a dune potentially with building waste and the like exposed to erosion (or forcing owners to remove materials that could safely be buried landward of the seawall and would not need to be exposed during construction). The seawall alignment in MHL (2022) is also not a statutory consideration, not being referred to in the *Central Coast Local Environmental Plan 2022* nor CZMP, and MHL (2022) itself notes that there is some flexibility to the adopted alignment. Nonetheless, the applicant has complied with the seawall alignment and maintenance setback nominated in MHL (2022).

It can also be noted that there may not be a requirement for a 3m maintenance setback landward of a future seawall, if ever implemented. This is because a maintenance setback is generally applicable to rock revetment type seawalls where there may be movement of rock after storms, but is not necessarily required for piled and reinforced concrete seawalls (which are not flexible structures). A rock revetment requires too much footprint east-west to ever be

⁴ As stated in that document over 28 years ago, "a terminal protection structure in the nature of a buried rock revetment is to be designed and constructed to the satisfaction of Council and NSW Public Works, such construction to occur as soon as practicable and in an orderly, co-ordinated manner".

12.2.9 Synthesis

It can be concluded that the proposed development satisfies the DCP 2022 coastal engineering requirements

13. CONCLUSIONS

The site at 75 Ocean View Drive Wamberal has underlying clay/weathered rock, both reducing the landward extent of erosion/recession and depth of scour. The proposed development is to be founded on piles extending into the underlying clay, with a scour level of 1m below the top of the residual clay layer. The concept design of the foundations has been based on coastal, geotechnical and structural engineering input.

Above the scour level, the piles should be designed to support the loads of the structure and other conventional structural actions, plus wave impact loading, debris loading, and loading from a collapsing sand dune (above the scour level) during or following storm erosion as per Nielsen et al (1992). The wave impact, debris and sand slumping forces should be provided by a coastal engineer as part of detailed design.

If the above requirements are followed, the proposed development would be at an acceptably low risk of damage from erosion/recession for an acceptably rare storm and over an acceptably long design life.

The proposed dwelling is at an acceptably low risk of inundation over an acceptably long life, with the precautionary recommendation that stair landings on the southern side are contoured to fall away from the entry doors.

The proposed development satisfies the requirements of *State Environmental Planning Policy (Resilience and Hazards) 2021* (Clauses 2.10 to 2.13) for the matters considered herein.

The Coastal Building Line is not appropriate to apply at the site, as it was derived assuming an entirely sandy subsurface, which is not the case due to underlying clay/weathered rock. The proposed development is seaward of the Coastal Building Line. This is permissible based on Chapter 3.2.3.4(a) of *Central Coast Development Control Plan 2022* (DCP 2022). The proposed development satisfies the DCP 2022 coastal engineering requirements.

14. REFERENCES

Advisian (2016), *85 Ocean View Drive, Minor Development – Coastal Engineering Report*, Revision B, 2 February

Burcharth, Hans F and Steven A Hughes (2011), "Fundamentals of Design", in Hughes, Steve (editor), *Coastal Engineering Manual*, Part VI, Design of Coastal Project Elements, Chapter VI-5, Engineer Manual 1110-2-1100, US Army Corps of Engineers, Washington, DC, Change 3 of 28 September 2011

Coastal & Marine Geosciences (1997), *Gosford City Council Open Ocean Beaches Geotechnical Investigations (Avoca Beach, Wamberal Beach, Forresters Beach), Results of Conductivity and Drilling Investigations*, prepared by John P Hudson, for Gosford City Council, 15 January

- c Geotechnical reports are to be prepared by a "Geotechnical Engineer", meaning any geotechnical engineer and/or engineering geologist who is listed on the National Professional Engineer's Register, Level 3 (NPER-3), or a current Member or Fellow of the Australian Institute of Geoscientists. The Geotechnical Engineer must have a minimum of five years practice as a geotechnical engineer, or engineering geologist, with appropriate experience in assessing geotechnical hazards in coastal environments and in advising on building works in regions underlain by Terrigal Formation, Patonga Claystone, Tuggerah Formation and Munmorah conglomerate geological strata, or who is able to demonstrate considerable relevant experience with similar geology. The geotechnical engineer should be familiar with the Engineers Australia Code of Ethics, Sustainability Charter, legal responsibilities and duty of care. The Geotechnical Engineer shall also be covered by appropriate professional indemnity insurance with a cover of at least \$2,000,000 and provide the Council with proof of the currency of such insurance policy(s) with the geotechnical report.
- d Council's current climate change considerations and sea level rise projections at the time of application.

PART C: SOUTHERN AREA (FORMER GOSFORD LGA)

3.2.3 INTRODUCTION

This Part applies to lands affected by coastal processes, risks and hazard management along the open Pacific Ocean coastline of the Central Coast, from Wamberal Beach in the North to Patonga Beach in the South (within the former Gosford LGA). These processes are evidenced within the Coastal Vulnerability Area (CVA), as defined by *State Environmental Planning Policy (Resilience and Hazards) 2021*. Development is permitted within the CVA in accordance with the Central Coast Local Environmental Plan, 2022 (CCLEP, 2022), but will need to satisfy the development controls for coastal management areas set out in *State Environmental Planning Policy (Resilience and Hazards) 2021*, particularly Clause 2.9, as well as the further requirements detailed within this Part.

Note: Applicants for development on these lands should lodge a Coastal Hazard Enquiry Form with Council so that Council can provide the accurate position of the hazard line from the GIS versions of the maps.

3.2.3.1 Relationship to other documents

The provisions of this Part are based on and are to be read in conjunction with:

Cliffline Hazard Definition Study for Tudibaring Headland, 1996

NSW Coastal Policy, 1997

Avoca Beach Storm Wave Inundation Study, 2007

State Environmental Planning Policy (Exempt & Complying Development) 2008

NSW Sea Level Rise Planning Guidelines: Adapting to Sea Level Rise, 2010

Guidelines for Preparing Coastal Zone Management Plans, 2013

Open Coast and Broken Bay Beaches Coastal Processes & Hazard Definition Study, 2014

Gosford Landslip Risk Mapping, 2015

NSW Coastal Management Act, 2016

State Environmental Planning Policy (Resilience and Hazards) 2021

3.2.3.2 Terminology used in this Part

'Coastal Building Line' has been defined based on which of the following are in the most landward position:

- 2050 Zone of Slope Adjustment or
- General allowable setback from the seaward cadastral boundary for beachfront property being 6m for single storey dwellings and 10m for multi storey structures; or
- Previously adopted (existing) building lines.

'Coastal Hazard Areas' comprise lands subject to coastal inundation and/or where piling is required into 2100 stable foundation zone and/or the medium to high risk cliff stability areas. These areas are identified within the Cliffline Hazard Definition Study for Tudibaring Headland. Inundation levels are defined in the Open Coast & Broken Bay Beaches Coastal Processes and Hazard Definition Study. For properties adjacent to Avoca Lagoon entrance inundation information is based on the Avoca Beach Storm Wave Inundation Study.

'Design storm event' an event with an average recurrence interval (ARI) of approximately 100 years.

'Developable land area' is that part of the land which is landward of the Coastal Building Line.

'Severely impacted land parcel' is land where the developable land area is less than 250m² (excluding setbacks) landward of the coastal building line.

'Specialist coastal engineering report' is prepared by a suitably qualified chartered practicing engineer able to demonstrate coastal engineering experience. This report is to be prepared in accordance with the Engineers Australia Code of Ethics and Sustainability Charter.

3.2.3.3 Coastal Building Line

The coastal building line applies to coastal frontage areas in order to minimise coastal hazard impacts, including erosion, inundation and wave run-up, on property and development. The coastal building line applies an acceptable level of risk and a reasonable balance of a range of factors including:

- The increased coastal hazard risk over time due to the projected impacts of climate change. The building and infrastructure asset life needs to be considered in this context.
- The potential for piled foundations to increase hazards on neighbouring properties (which may not be piled).
- Public safety and access issues on all lands.
- Beach amenity, landscape character and view sharing considerations.
- Coastal risks of storm surge, coastal erosion and gradual sea level rise are excluded by many general insurance policies in Australia. Any impacts on neighbours would also not be covered.
- Provision of access and services to properties.
- Geotechnical qualities.
- Challenges in property remediation following an erosion event.

OBJECTIVES

- To manage development in Coastal Vulnerability Areas using precautionary planning tools to reduce coastal hazard risks
- To protect against or manage coastal hazards on sites where this is feasible, affordable and without adversely impacting the locality or the broader environment
- To provide for equity in redevelopment of coastal frontage properties by applying consistent setbacks for new developments in Coastal Vulnerability Areas
- To complement and reinforce the objectives and requirements of Clause 2.9 of *State Environmental Planning Policy (Resilience and Hazards) 2021*
- To protect beach amenity and public safety

REQUIREMENTS

- a All new development must be constructed landward of the coastal building line;
- b Where new development is to be protected by an existing approved seawall or terminal revetment, then standard setbacks will apply for areas landward of that seawall once the seawall has been constructed.

3.2.3.3.1 Subdivision and Lot intensification

OBJECTIVES

- To manage development in Coastal Vulnerability Areas using precautionary planning tools to reduce coastal hazard risks
- To protect against or manage coastal hazards on sites where this is feasible, affordable and without adversely impacting the locality or the broader environment

REQUIREMENTS

- a Council will not permit the subdivision of land that creates any allotment entirely seaward of the Coastal Hazard Line (excluding access handles).
- b Any subdivision proposal that creates an allotment of land where part of the site is seaward of the Coastal Hazard Line must demonstrate that buildings are able to be accommodated on the site landward of the Coastal Hazard Line.
- c Newly created allotments of land shall not create 'severely affected lots' (see s. 3.1.3).
- d Council will not permit intensification (increased density), either through development or change of use of existing buildings that are seaward of the Coastal Hazard Line.

Note: Intensification is the creation of additional dwellings on the lot.

- ii The structure must not project seaward of a line drawn from the closest corner of the closest neighbouring dwellings either side of the subject lot; the aim being to align with existing buildings' setbacks to provide equity and consistency;
- f In areas subject to coastal inundation within a Coastal Hazard Area, minimum building floor levels shall be designed to overcome flooding and storm inundation by including an additional freeboard of 0.5m above the 1% AEP maximum wave inundation level.
- g Maintenance of existing buildings is permitted, provided that the maintenance work does not change the size, scale, or the building footprint of the structure.
- h Structural design of buildings and foundations shall take into account storms greater than the design storm event, and that erosion/run-up/inundation may exceed the design storm event.
- i Building footings including strip-footings and/or isolated pier construction are to be designed to ensure safe bearing below or beyond the calculated zone of reduced foundation capacity;
- j Where structural consideration of coastal forces is required the engineer shall take into account the forces generated by coastal processes, possible dune slumping, loss of support, slope readjustment, changing water table as well as the normal structural and foundation considerations. Foundation design shall extend beyond the reduced foundation capacity zone of influence.
- k In areas of high or moderate cliff instability risk within a Coastal Hazard Area, a geotechnical engineer site assessment will need to demonstrate that the position of the building on the site and its design has taken into account any expected foundation impediments (Refer Cliffline Hazard Definition Study for Tudibaring Headland).
- l Any sand excavated during building works should, where possible, remain within the same embayment, and requires approval by Council to be reused in other beach locations. It should be demonstrated to Council that the sand is clean and free of deleterious matter.

3.2.3.3.3 Severely Impacted Land Parcels

OBJECTIVE

- To improve the development potential of lots severely impacted by coastal hazards

REQUIREMENTS

- a To improve the development potential of lots severely impacted by coastal hazards, Council may consider variations to street and side boundary setbacks.
- b The eligibility of severely impacted land parcels and the potential application of setback relaxations is identified in Table 3.
- c The proponent is required to provide a surveyors certificate to Council in support of any development application to determine and confirm eligibility.

Land Area behind Coastal Building Line	Road setback (Ground floor)	Road setback (1st floor)	Side setbacks	
			One Storey	Two Storey
< 150m ²	0m	0m	1 x 0.9m	0.9m / 0.9m
150-175m ²	0m	1.5m	1 x 0.9m	0.9m / 0.9m
175-200m ²	0m	3.0m	0.9m / 0.9m	0.9m / 1.25m
200-225m ²	0m	6.0m	0.9m / 0.9m	0.9m / 1.25m
225-250m ²	0m	6.0m	0.9m / 0.9m	1.25m / 1.25m

Table 3: Application of relaxed setbacks for properties defined as severely impacted land parcels.

3.2.3.4 Exemptions to the Coastal Building Line

REQUIREMENTS

Exemptions to the coastal building line may only be considered where in the first instance, the applicant has demonstrated that a building cannot be founded landward of the coastal building line. Where this can be demonstrated the following exemptions may be considered.

- a Development may be founded seaward of the coastal building line where geotechnical engineering advice demonstrates reduced recession/future erosion potential on the subject site and the ability to safely construct the structure in line with the provisions of this Part.
- b Existing buildings which have been identified as being seaward of the coastal building line will be allowed to be redeveloped on the same footings only where foundation design is known to have been previously constructed to withstand designated coastal processes and is certified by a coastal and structural engineer as being able to support the proposed structure. Any development application must also provide evidence that the proposed development will not give rise to any increased hazard.
- c Where the coastal building line is not perpendicular to the side property boundary of the proposed development, the beachfront foundation alignment may be adjusted provided that the alignment does not move seaward (on average) from the position of the mapped coastal building line.
- d Ancillary structures may be permitted forward of the coastal building line where the applicant demonstrates that the ancillary structure will not give rise to coastal erosion or increase the risk to property and life.

3.2.3.5 Information to be submitted with a Development Application

REQUIREMENTS

The following information is to be supplied to Council upon application for development approval in Coastal Hazard Areas:

- a For proposed development within designated Coastal Hazard Areas:

- i a specialist coastal engineering report that details considerations in line with the provisions of this Part. For properties on Wamberal Beach the report must apply and consider the Alternate Empirical Approach (Watson, 2006). This report is to be prepared in accordance with the Engineers Australia Code of Ethics and Sustainability Charter;
 - ii a geotechnical report indicating the sub-strata at the coastal building line alignment, landward extent of footings and the type of foundations required. If geotechnical engineering advice is being used to demonstrate reduced recession/future erosion potential on the subject site then substrata must also be described at the seaward portion of the subject land parcel. In areas of moderate or high risk cliff instability the geotechnical report must detail the nature of the risks and how they can be mitigated;
 - iii a structural engineering report addressing the coastal hazards up to the 1 in 100 year event and events of greater magnitude. Structural engineering reports shall detail materials of construction, principal dimensions of the main structural elements, top and bottom levels of foundations, floor levels and footing location relative to surrounding land;
 - iv plans showing the location of the coastal building line on the site;
 - v proponents will generally be required to facilitate the registration of a dealing on the title of land in a form required by Council (such as a 'positive covenant', 'restriction on use' and/or indemnity) prior to the commencement of works or a use. This will be prepared by Council's solicitor at the cost of the registered proprietor;
 - vi for areas that have been identified as being subject to coastal inundation, the coastal and structural engineering reports shall give consideration to run-up levels and minimum floor levels of the buildings to overcome flooding and storm inundation within the economic lifespan of the development (considering Council's current sea level rise projections and climate change considerations at the time of application).
- b For proposed development on parcels mapped as being severely affected, the following additional information is required:
- i a surveyors certificate confirming the developable land area (landward of the coastal building line) to determine application of relaxations as shown in Table 3.
 - ii clear definition of the proposed foundation alignment against the coastal building line to ensure the design does not move seaward (on average) from the position of the mapped coastal building line.

150-175m ²	0m	1.5m	1 x 0.9m	0.9m / 0.9m
175-200m ²	0m	3.0m	0.9m / 0.9m	0.9m / 1.25m
200-225m ²	0m	6.0m	0.9m / 0.9m	0.9m / 1.25m
225-250m ²	0m	6.0m	0.9m / 0.9m	1.25m / 1.25m

6.2.9 Exemptions to the Coastal Building Line

Exemptions to the coastal building line may only be considered where in the first instance, the applicant has demonstrated that a building cannot be founded landward of the coastal building line. Where this can be demonstrated the following exemptions may be considered.

- a. Development may be founded seaward of the coastal building line where geotechnical engineering advice demonstrates reduced recession/future erosion potential on the subject site and the ability to safely construct the structure in line with the provisions of this DCP.
- b. Existing buildings which have been identified as being seaward of the coastal building line will be allowed to be redeveloped on the same footings only where foundation design is known to have been previously constructed to withstand designated coastal processes and is certified by a coastal and structural engineer as being able to support the proposed structure. Any development application must also provide evidence that the proposed development will not give rise to any increased hazard.
- c. Where the coastal building line is not perpendicular to the side property boundary of the proposed development, the beachfront foundation alignment may be adjusted provided that the alignment does not move seaward (on average) from the position of the mapped coastal building line.
- d. Ancillary structures may be permitted forward of the coastal building line where the applicant demonstrates that the ancillary structure will not give rise to coastal erosion or increase the risk to property and life.

6.2.10 Information to be supplied with a Development Application

The following information is to be supplied to Council upon application for development approval in Coastal Hazard Areas:

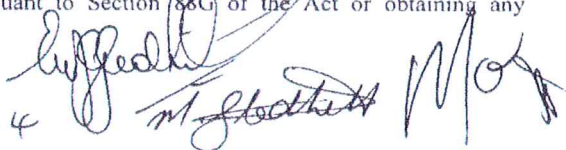
- a. For proposed development within designated Coastal Hazard Areas:
 - i. a specialist coastal engineering report that details considerations in line with the provisions of this Chapter. For properties on Wamberal Beach the report must apply and consider the Alternate Empirical Approach (Watson, 2006). This report is to be prepared in accordance with the Engineers Australia Code of Ethics and Sustainability Charter;
 - ii. a geotechnical report indicating the sub-strata at the coastal building line alignment, landward extent of footings and the type of foundations required.
 If geotechnical engineering advice is being used to demonstrate reduced recession/future erosion potential on the subject site then substrata must also be described at the seaward portion of the subject land parcel.
 In areas of moderate or high risk cliff stability the geotechnical report must detail the nature of the risks and how they can be mitigated;
 - iii. a structural engineering report addressing the coastal hazards up to the 100yr event and events of greater magnitude. Structural engineering reports shall detail materials of construction, principal dimensions of the main structural elements, top and bottom levels of foundations, floor levels and footing location relative to surrounding land;
 - iv. plans showing the location of the coastal building line on the site;
 - v. proponents will generally be required to facilitate the registration of a dealing on the title of land in a form required by Council (such as a 'positive covenant', 'restriction on use' and/or indemnity) prior to the commencement of works or a use. This will be prepared by Council's solicitor at the cost of the registered proprietor;
 - vi. for areas that have been identified as being subject to coastal inundation, the coastal and structural engineering reports shall give consideration to runup levels and minimum floor levels of the buildings to overcome flooding and storm inundation within the economic lifespan of the development must be

ANNEXURE "A" to Form 13PC Positive Covenant

Parties: EVAN JOHN GLEDHILL and MAREE SANDRA GLEDHILL
COMMONWEALTH BANK OF AUSTRALIA
The Council of the City of Gosford
Land: Lot 20 DP 11004 at 63 Ocean View Drive, Wamberal
Date:

Pursuant to Section 88E(3) of the Conveyancing Act 1919 the Council of the City of Gosford imposes the following positive covenants on land known as Lot 20 DP 11004 ("the Land")

1. The registered proprietor or such other person or persons having an estate or interest in the Land from time to time shall, as required, replenish the sand on the Land to the level shown on the plan annexed hereto.
2. The registered proprietor or such other person or persons having an estate or interest in the Land from time to time shall provide, replace and maintain groundcover vegetation sufficient to prevent or minimise depletion of the sand level. Such vegetation is to be indigenous to the locality.
3. The registered proprietor shall permit the Council of the City of Gosford ("the Council") or its authorised agents from time to time and upon giving reasonable notice to enter in respect of the land for compliance with the requirements of clauses 1 and 2 of this covenant. Should the Council determine that the requirements of this covenant have not been complied with, then the Council may issue written notice to the registered proprietor detailing the Council's requirements for compliance and providing a reasonable time, in the circumstances of the works required, to comply with the terms thereof.
4. In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in clause 3 above.
5. Council may recover from the registered proprietor in a Court of competent jurisdiction:
 - a. Any expense reasonably incurred by it in exercising its powers under clause 4 hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in clause 4 above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
 - b. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any

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- (b) Council is active in pursuing financing for the construction of the revetment wall and associated sand nourishment maintenance for Wamberal Beach but there is no guarantee as to when, or if, finance can be secured to undertake construction of the revetment wall and associated sand nourishment maintenance for Wamberal Beach

3. RELEASE AND INDEMNITY

3.1. Registered Proprietor's Risk

The Registered Proprietor acknowledges and agrees that the Development and the occupation and use of the Dwelling is at the risk of the Registered Proprietor and its contractors, employees, agents, invitees, licensees, lessees and other persons on the Land.

3.2. Release

To the full extent permitted by Law, the Registered Proprietor releases Council from liability for any claim in respect of or arising from:

- (a) the Development Consent and the Development;
- (b) any damage to the Dwelling or property on the Land by the effects of the sea;
and
- (c) the death or injury to any person on or around the Land connected with the effects of the sea on the Dwelling.

3.3. Indemnity

The Registered Proprietor indemnifies and agrees to keep indemnified Council at all times for any Loss (including in connection with death or injury) claimed against or paid, suffered or incurred by Council, its employees, agents or contractors which Council may be or become or would except to this indemnity be liable, and that is wholly or partly due to or arising out of:

- (a) any damage to the Dwelling or property on the Land by the effects of the sea;
and
- (b) the death or injury to any person on or around the Land connected with the effects of the sea on the Dwelling.

(j) a reference to a body, whether statutory or not:

- (i) which ceases to exist; or
- (ii) whose powers or functions are transferred to another body.

is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(k) no rule of construction applies to the disadvantage of one party on the basis this Positive Covenant was put forward by that party

1.3. Effects of the Sea

A reference to 'effects of the sea' includes all and any coastal hazards whether caused by wave impacts, storm events, sea water, fresh water, wind, erosion, possible dune slumping, loss of support, slope readjustment or changes in the water table.

1.4. No restriction on Council's powers

This Positive Covenant or anything done under this Positive Covenant:

- (a) is not to be taken as approval or consent by Council as a regulatory authority; and
- (b) does not in any way inhibit, deter or prejudice Council in the proper exercise of its functions, duties or powers, pursuant to any legislation including the *Environmental Planning and Assessment Act 1979*, the *Roads Act 1993* and the *Local Government Act 1993*.

2. ACKNOWLEDGEMENT

2.1. Development

The registered proprietor acknowledges that the Development is permitted by Council pursuant to the Development Consent subject to the following:

- (a) adequate foundation treatment designed to withstand the stormwave erosion;
- (b) that the building shall be set back from the alignment of the proposed revetment wall as required by Council; and
- (c) an indemnity as set out in this Positive Covenant pursuant to section 88E(3) *Conveyancing Act 1919* be provided to Council.

2.2. Revetment

The registered proprietor acknowledges that:

- (a) Council currently endorses the strategy of a revetment wall and associated sand nourishment maintenance for Wamberal Beach, but the timing of the revetment wall construction is not certain and is subject to the financing; and

Rebuttal to Central Coast Council's Questions on Notice and Supplementary Questions responses
Attachment B - Supplementary Questions

1) Wamberal Sea Wall

a) Will Council make public the documents and advice they are to receive from the private law firm they have hired regarding the perceived and actual conflicts of interest in relation to the Wamberal sea wall?

Council has provided extensive information about how it is managing probity around its dual roles as a planning authority and manager of land subject to development applications for coastal protection works on its website: Coastal Erosion - Wamberal Beach | Central Coast Council (nsw.gov.au). This information includes a conflict of interest management strategy (Microsoft Word - D16105397 Management Statement - Council Conflict of Interest Management Strategy - Wamberal Beach Terminal Protection Project(2) (nsw.gov.au)) which was prepared with input from Council's probity advisor for the project. Council continues to update its website with information relating to the project, including a number of frequently asked questions about probity management.

b) Can you explain how Council will manage any conflicts of interest that are identified by the private law firm?

Council has engaged an external probity advisor to assist in managing potential conflicts in relation to Council's role as a planning authority and as a manager of land subject to development applications for coastal protection works. Probity management measures, including the roles and responsibilities of Council officers, are detailed in Council's Probity Plan for the project and summarised in Council's Conflict of Interest Management Strategy.

Council has provided a deceptive and inaccurate response. Council adopted and made public a Council Conflict of Interest Management Strategy – Wamberal Beach Terminal Project in February 2024 for a project that had been going on for nearly four years.

There was a requirement for Council to produce a 'Governance Plan' for the seawall project, which was introduced as minuted action in the Wamberal Beach Seawall Advisory Taskforce on 11 August 2020. Yet the action was dropped of the Taskforce Action Log in November 2021 without ever being actioned.

Excerpts from Wamberal Seawall Advisory Taskforce Minutes 11 August 2020. (PW Phil Watson – Chair, Sharon Molloy – DPIE)

PW spoke about need for the community engagement process to be iterative and reflective of what the community need. Suggest that PW and GM meet monthly with reps from the Wamberal Protection Association Inc (a body established to represent the interests of all beachfront property owners along Wamberal Beach) once a month. This will also act as a conduit for residents' concerns to be raised directly with the Taskforce. Broader community can be consulted through MHL work, with Taskforce members available to assist with these important processes. PW has already met with reps from Wamberal Protection Association Inc to set expectations and to rebuild their relationship with Council. PW acknowledged the extensive funding provided by Council to date in responding to the emergency, whereby Central Coast Council has quietly funded everything that has happened to date. The relationship and trust between Council and the residents is improving and is expected to continue to do so.

SM commented around the project plan and advised that it may be useful to scope out governance with respect to the various groups and how they relate to each other to make sure the information gets to the right people at the right time. For example, you have this Taskforce, the Wamberal Protection Association Inc, and Council's Working Group. It's important that the flow of information proceeds to the right people in order that they get the information they need in time to inform decisions etc. SM reiterated that people across the community will need different information at different times. For example, ocean front residents, who may be intimately involved in design details and then you have the community members from a few streets back, who will have an interest in beach amenity, but may not be interested in the detailed design aspects. The governance arrangements and community consultation strategy go hand in hand to make sure no one misses out in hearing what is going on.

Action 26 was superseded by Action 46 in Taskforce Action Log Meeting 10 7 September 2021 and a Governance Plan has been dropped off as an Action on the Taskforce Action Log, with no record or a Governance Plan ever being produced..

26	13/10/2020	Paul Donaldson to finalise Project Plan and Governance Plan endorsed by Council	Casey Johnston (CCC)	Superseded by action 46	Closed
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46	7/09/2021	Casey Johnston to review project plan with Phil Watson and bring to next Taskforce meeting.	Casey Johnston (CCC) / Phil Watson	14/10 done	Pending
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The project plan's status changed to "Complete" in Taskforce Action Log Meeting 11 18 November 2021 when it appeared Council would be assisting the WPA to build a private property seawall.

46	7/09/2021	Casey Johnston to review project plan with Phil Watson and bring to next Taskforce meeting.	Casey Johnston (CCC) / Phil Watson	Update provided at 14 October 2021 meeting	Complete
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Council's fails to adhere to its Probity Advice Policy

In March 2020, Council implemented a Probity Advice Policy (PAP). It is unclear whether this policy replaced a prior PAP. There is no record of any revised version of a PAP since March 2020.