

ITEM 10.1	FINANCIAL ASSISTANCE FOR PRIVATE COASTAL PROTECTION WORKS AT COLLAROY - NARRABEEN BEACH
REPORTING MANAGER	ACTING EXECUTIVE MANAGER NATURAL ENVIRONMENT AND CLIMATE CHANGE
TRIM FILE REF	2019/094771
ATTACHMENTS	1 Properties Eligible for Financial Assistance for Private Coastal Protection Works at Collaroy-Narrabeen Beach

SUMMARY

PURPOSE

To approve a program of financial assistance to private property owners at Collaroy-Narrabeen Beach in accordance with the Northern Beaches Coastal Erosion Policy and Local Government Act (1993).

EXECUTIVE SUMMARY

The east coast low storm of June 2016 significantly impacted private properties at Collaroy-Narrabeen Beach. In response to this event, Council developed a range of policy responses to enable residents to protect their properties, and receive funding assistance from State and Local Government. The main pre-condition to the implementation of works is obtaining development consent and then approval from Crown Lands (if required) to occupy public land. Following these approvals, applicants will be in a position to request up to 20% funding towards the cost of their works (10% coming from State Government and a matching 10% from Northern Beaches Council). Currently consents have been issued in relation to 12 of the 49 properties. An application in relation to a further 10 properties has been considered by the Northern Beaches Local Planning Panel and is expected to be determined by May 2019. An additional application has been submitted for another property that has an existing approval.

Following amendments to the NSW Coastal Management Program guidelines last year, Council has obtained an offer of financial assistance of up to \$1,730,000 as the NSW Government's 10% contribution. Council will couple this offer with its own 10% (i.e. up to \$1,730,000) and administer the funding on behalf of both Council and the NSW Government. This is the first time this arrangement has been tested for coastal management funding, and significant effort has gone into ensuring Council's funding agreement with the State reflects this unusual situation and still remains workable for residents. This agreement is close to being finalised which will unlock the 10% contribution from the NSW Government.

In addition to this agreement, staff have been working on an administrative process that is simple and easy to use including a funding agreement that is reasonable and straightforward. Three main issues have arisen during discussions with residents; 1) timing of payments, 2) what works/activities can/should be covered under the funding package, and 3) the implications of GST on transactions between Council and residents.

The timing of payments is a difficult issue. Typically funding applications are paid at the conclusion of project milestones and/or project completion. This is to ensure that the funds are used for the proposed purpose and that the product/outcome meets the requirements on the ground. Staff have been approached by a number of residents who are concerned that they would be required to fund 100% of the works upfront, even though with assistance they will only pay 80%. Provision of the financial assistance prior to completion would assist private property owners experiencing financial hardship, however Council (and the State Government) must be assured that works have been completed prior to the release of financial assistance. Council continues to explore ways to help residents fund this 20% on an interim basis (i.e. until the government's 20% is paid).

Costs involved in implementing the works include (but are not limited to) design, planning, legal agreements between owners, DA fees, development contributions, bonds for future maintenance, procurement, any contributions to Crown Lands (if required), cost of works (construction & making good) and certification of works including survey. Ongoing activities include inspection and monitoring of the works following large storms to maintain safety to the public and integrity of the works. While the initial proposal was for funding to only be allocated to construction works, following representations from a number of residents, staff now propose that the activities shown in Table 1 be considered eligible for funding.

The GST considerations regarding the works are complicated and will vary between parties (it depends on factors such as the legal entity that is undertaking the works, the nature of the relationship between residents and the entity, the way they are procuring the works etc.). It is proposed that staff continue to work with individual applicants as they come forward to manage the GST implications in a reasonable way that provides the best lawful benefit to residents without creating a financial risk to Council.

Under Section 356 of the Local Government Act (1993), the residents "*must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given*". At its meeting of 18 December 2018, Council resolved to publicly exhibit the intent to provide financial assistance to a number of property owners that are considered to be eligible for financial assistance under the Northern Beaches Coastal Erosion Policy. The proposal was exhibited from 19 January for a period of 28 days (avoiding the Christmas/New Year period). The Council report and resolution were published on Council's website, and a list of all eligible properties was published in the Manly Daily on 19 January 2019. Council did not receive any submissions in relation to the proposal.

While this proposal is consistent with the draft Community Grants and Partnership Policy (which is recommended to be placed on public exhibition following resolution at the Council meeting of 26 March 2019), the proposal is at odds with the former Warringah Council Grants and Sponsorship Policy. Accordingly, an exemption to this policy is specifically requested as part of this report.

RECOMMENDATION OF ACTING GENERAL MANAGER ENVIRONMENT AND INFRASTRUCTURE

That:

- A. Council provide financial assistance under Section 356 of the Local Government Act (1993) to the owners of properties listed in the attached Properties Eligible for Financial Assistance for Private Coastal Protection Works at Collaroy Narrabeen Beach List up to a total contribution of \$1,730,000 of Council funds (subject to this contribution being matched by the NSW Government);
 - B. Financial assistance will be considered for eligible activities described in Table 1, and in accordance with the process for providing financial assistance outlined in this report;
 - C. Council delegate authority to the Chief Executive Officer to execute funding agreements and payment of financial assistance to the owners of properties listed in the attached Properties Eligible for Financial Assistance for Private Coastal Protection Works at Collaroy Narrabeen Beach List.
 - D. Any financial assistance considered in this report be exempt from the former Warringah Council Grants and Sponsorship Policy.
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REPORT

BACKGROUND

The east coast low storm of June 2016 significantly impacted private properties at Collaroy-Narrabeen Beach. In response to this event, Council developed a range of policy responses to enable residents to protect their properties, and receive funding assistance from State and Local Government. The main pre-condition to the implementation of works is obtaining development consent and then approval from Crown Lands (if required) to occupy public land. Following these approvals, applicants will be in a position to request up to 20% funding towards the cost of their works (10% coming from State Government and a matching 10% from Northern Beaches Council). Currently consents have been issued in relation to 12 of the 49 properties. An application in relation to a further 10 properties has been considered by the Northern Beaches Local Planning Panel and is expected to be determined by May 2019. An additional application has been submitted for another property that has an existing approval.

A report to the Council meeting of 18 December 2018 noted that Council's application to the NSW Coastal and Estuary Grants Program for the coastal protection works at Collaroy-Narrabeen Beach had been successful. The funding awarded provides 50% of the cost of protecting public assets and a 10% contribution to the costs of funding private protection works (matching Council's contributions of 50% of costs to public assets and up to 10% contribution to private protection works).

The funding offer received from the NSW Coastal and Estuary Grants Program requires acceptance of standard terms and conditions. While the offer supports Council's proposal to distribute grant funding to private residents, the standard conditions of the grant do not enable this to occur in a streamlined and practical manner (i.e. the agreement assumes payment to another public authority not a private individual). Council has proposed minor variations to the standard terms and conditions, and is seeking confirmation that these variations are acceptable before the formal Funding Agreements can be executed.

Once the Funding Agreement is finalised, Council and NSW State Government funds (i.e. up to the 20%) will be available to provide financial assistance to eligible property owners who construct private coastal protection works in accordance with the *Northern Beaches Coastal Erosion Policy*.

In addition to this agreement, staff have been working on an administrative process that is simple and easy to use including a funding agreement that is reasonable and straightforward. Three main issues have arisen during discussions with residents; 1) timing of payments, 2) what works/activities can/should be covered under the funding package, and 3) the implications of GST on transactions between Council and residents.

The timing of payments is a difficult issue. Typically funding applications are paid at the conclusion of project milestones and/or project completion. This is to ensure that the funds are used for the proposed purpose and that the product/outcome meets the requirements on the ground. Staff have been approached by a number of residents who are concerned that they would be required to fund 100% of the works upfront, even though with assistance they will only pay 80%. Provision of the financial assistance prior to completion would assist private property owners experiencing financial hardship, however Council (and the State Government) must be assured that works have been completed prior to the release of financial assistance. Council continues to explore ways to help residents fund this 20% on an interim basis (i.e. until the government's 20% is paid).

Costs involved in implementing the works include (but not limited to) design, planning, legal agreements between owners, DA fees, development contributions, bonds for future maintenance, procurement, any contributions to Crown Lands (if required), cost of works (construction & making good) and certification of works including survey. Ongoing activities include inspection and monitoring of the works following large storms to maintain safety to the public and integrity of the works. Staff propose that the activities shown in Table 1 be considered eligible for funding.

The GST considerations of the works are complicated and will vary between parties (it depends on factors such as the legal entity that is undertaking the works, the nature of the relationship between residents and the entity, the way they are procuring the works etc.). It is proposed that staff continue to work with individual applicants as they come forward to manage the GST implications in a reasonable way that provides the best lawful benefit to residents without creating a financial risk to Council.

Governance Considerations

In developing the financial assistance package for coastal protection works Council has sought to balance the need for a process that is simple for residents while ensuring the necessary level of rigour.

Legislative Requirements

Under Section 356 of the Local Government Act (1993), the residents “*must not receive any benefit under this section until at least 28 days’ public notice of the council’s proposal to pass the necessary resolution has been given*”. At its meeting of 18 December 2018, Council resolved to publicly exhibit the intent to provide financial assistance to a number of property owners that are considered to be eligible for financial assistance under the Northern Beaches Coastal Erosion Policy. The proposal was exhibited from 19 January for a period of 28 days (avoiding the Christmas/New Year period). The Council report and resolution were published on Council’s website, and a list of all eligible properties was published in the Manly Daily on 19 January 2019. Council did not receive any submissions in relation to the proposal. As a result, Council is now legally able to provide financial assistance to eligible properties for the construction of private coastal protection works.

Funding allocation

The total grant funding available to eligible property owners is limited to \$3,460,000 which is being provided by Council and the NSW Government in equal portions (i.e. up to 10% each). While Council’s cost assumptions are conservative (and recent applications have been consistent with these estimates) once this funding has been allocated to eligible properties, further funding cannot be guaranteed. Additional funding would require a new budget bid from Council’s forward estimates (drawing funding away from other programs) and another application to NSW Government for a contestable grant (which obviously cannot be guaranteed). Accordingly, Council expects that residents will take the opportunity now to construct their protective works while the funding is available.

Process for Providing Financial Assistance

To ensure this funding is distributed equitably and transparently the following actions are required.

i. Activities Eligible for Funding

The activities listed in Table 1 are proposed to be considered for funding:

1.	Site establishment (including fencing, signage, stockpiling)
2.	Construction (including site preparation, earthworks & excavation, materials, plant hire, labour)
3.	Supervision (including project management, site works supervision)
4.	Certification (costs associated with engineering review and approval of the installed works)
5.	Final survey demonstrating the location of works as executed.

Activities not Eligible for Funding

- Damage to public or third party assets
- Ancillary works such as private access ways, stairs, fences and landscaping
- Legal fees, planning, design, development and modification application costs, fees and charges payable to Council or any government agency
- Ongoing maintenance of the completed seawall structure or surrounding and additional infrastructure

ii. Confirmation of Funding Amounts

The grant amount allocated to the works will not exceed 20% of the cost of construction of the seawall. This will be based on the cost estimates/quotes submitted with the application for funding, in the form of a Statutory Declaration. The accuracy of this estimate must be certified by a Quantity Surveyor, Engineer or other suitably qualified person. Should the actual costs be higher than the estimate, the funding amount approved via the application process will not be exceeded. Should the actual costs be less than the cost estimate, then the funding allocation will be reduced so as to be 20% of the actual cost.

iii. Process for submitting funding applications

Applications for funding will be submitted through the Northern Beaches Council on-line Smarty Grants portal, which is used by Council for other grant funding programs. The application form is very simple, and enables applicants to upload documentation to verify the request for funding assistance.

iv. Process for assessing applications

Once submitted, the application and associated documentation will be reviewed by technical experts including a coastal engineer, an officer from the OEH and a council staff member. The panel will make recommendations to Council's Chief Executive Officer on the amount of funding each application should be allocated. Applicants will be provided with confirmation of available funds as early as possible.

Upon approval, the applicant will receive written acknowledgement confirming the funding allocation attributed to the works. The applicant will be required to enter into a Funding Agreement with Council which will detail any other conditions, including record keeping and financial statements to be provided to Council in order to audit and acquit the funding.

The following documentation must be submitted with an application:

- The Development Consent, including the notice of determination and conditions of consent;
- At least 3 quotes for the work to be undertaken;
- A Statutory Declaration that the costs/quotes submitted are valid;
- Authority to submit the funding request signed by all eligible private property owners (where more than one property is covered by a single Development Application)
- Evidence of financial arrangements between all owners to construct and maintain the works.

v. Process for claiming funds

Eligible property owners will be able to claim the financial assistance upon completion of the works. The following documentation must be submitted prior to claiming the financial assistance;

- Certification of the works by a suitably qualified coastal engineer as being constructed in accordance with the Development Consent, approved plans and specifications (already required by DA conditions)
- Certification by a registered surveyor that all construction is located in accordance with the Development Consent, approved plans and specifications (already required by DA conditions);
- An occupation certificate for the works (already required by DA conditions);
- An expenditure report attaching original receipts (or certified true copies) of the resident's expenditure, and the total cost of the construction works, to the satisfaction of Council; and
- An invoice or claim for the financial assistance issued to Northern Beaches Council (as required by Council).

vi. **Payment of financial assistance**

The request and associated documentation will be reviewed by the technical panel responsible for assessing the original applications. This panel will recommend release of the financial assistance to Council's Chief Executive Officer. All claims for payment of financial assistance must be submitted prior to 31 December 2021.

TIMING

Financial assistance for coastal protection works in accordance with the Northern Beaches Coastal Erosion Policy will be available to residents until 31 December 2021 (consistent with the timing of the Funding Agreement with the NSW Government), although applications will need to be submitted, approved and acquitted by that date. Accordingly, property owners are encouraged to submit their applications well in advance of that date.

FINANCIAL CONSIDERATIONS

The cost of financial assistance to all eligible properties has been allocated in Council's operational budgets for future years up to the 2021/22 financial year.

SOCIAL CONSIDERATIONS

Protecting and maintaining the amenity of this beach is a high priority for Northern Beaches Council, and is being achieved through the application of the Northern Beaches Coastal Erosion Policy and Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fishermans Beach. Implementation of a coordinated and holistic approach to protection of public and private assets will significantly improve public safety and access when coastal erosion occurs.

ENVIRONMENTAL CONSIDERATIONS

Maintaining coastal processes for public beach amenity and surf quality is Council's highest priority for Collaroy-Narrabeen Beach, and applications for private protection works are required to demonstrate that these factors have been taken into consideration in the design. The Coastal Protection Assessment undertaken for the proposed works demonstrates the Concept Design and Concept Alignment won't adversely impact upon coastal processes of the embayment. Council requires the implementation of rigorous design standards through the Collaroy-Narrabeen Protection Works Design Specifications.

GOVERNANCE AND RISK CONSIDERATIONS

The recommended action is consistent with the Northern Beaches Coastal Erosion Policy and the *NSW Local Government Act 1993*.

Council has not received development applications for all properties that are eligible under this proposal. As such, the full cost of the works cannot be fully determined at this time. The cost estimates that formed the basis for the 20% funding were undertaken by independent coastal engineers, and are well aligned to the cost estimates attached to existing development approvals. Staff believe the funding proposals by the NSW Government and Council will be sufficient to provide up to 20% funding. The funding is limited to a total contribution of \$3,460,000 and is required to be expended by 31 December 2021. There is a risk that cost of the works and the timing of the works are outside of these estimates, however the cost estimates are conservative and Council expects residents will be motivated to complete these works within the timeframe.

The former Warringah Council Grants and Sponsorship Policy, which is still in force, guides the provision of financial support to organisations through grants and sponsorship. The provision of financial assistance to individuals is inconsistent with this policy. Accordingly, an exemption to this policy is specifically requested as part of this report. The former Warringah Council Grants and Sponsorship Policy will be replaced by the draft Community Grants and Partnership Policy, which is recommended to be placed on public exhibition following resolution at the Council meeting of 26 March 2019.

At the meeting of 18 December 2018, Council resolved to publicly exhibit the intent to provide financial assistance to the property owners whose properties are eligible to receive funding in accordance with the Northern Beaches Coastal Erosion Policy. This report recommends a resolution to provide this financial assistance to eligible properties. These actions are consistent with the draft Community Grants and Partnership Policy as proposed for exhibition.