

DOC16/235287

Chair
NSW Coastal Panel
PO Box A290
Sydney South NSW 2000

By email: coastal.panel@environment.nsw.gov.au

Dear Mr Thom

Development Application – Construction of rock revetment at 29, 31 and 33 Pacific Street and 23a, 23b and 25c Ocean View Drive, Wamberal

The Department of Industry – Lands (DoI Lands) is in receipt of your letter, dated 30 November 2016, concerning development application CP 16-002 for the construction of rock revetment at Pacific Street and Ocean View Drive, Wamberal.

The subject private properties are:

- 29 Pacific Street (Lot 6 DP 8854);
- 31 Pacific Street (Lot 5 DP 8854);
- 33 Pacific Street (Lot 4 DP 8854);
- 23a Ocean View Drive (Lot 3 DP 8854);
- 23b Ocean View Drive (Lot 2 DP 8854); and
- 25c Ocean View Drive (Lot 4 DP 524938).

According to the cover letter to the development application (DA), the proposed works extend on to Crown Land adjacent the subject private properties. This extension ranges between 2.1 to 4.6 m in a seaward direction (Coastal Engineering Report and Statement of Environmental Effects, Horton Coastal Engineering, 2016).

The applicant, Horton Coastal Engineering Pty Ltd, has submitted a Landowner's Consent Application to the DoI Lands, seeking approval to lodge the development application over, what is assumed to be by the applicant, Crown land.

In response to the Landowner's Consent Application, an investigation has been conducted by DoI Lands into the ownership of the land adjacent the subject private property boundaries. This investigation has determined that this land does not fall within the meaning of Crown land under the *Crown Lands Act 1989*, but is land that is held at common law by the adjoining land owner, being Mary Elizabeth Brown, her heirs and assigns.

As such, DoI Lands are unable to grant Minister's consent as landowner under the *Crown Lands Act 1989* to the lodging of the DA. The applicant has been advised accordingly.

The land below the MHWL at Wamberal Beach is Crown land, comprised part R.1011268 for the public purpose of future public requirements, notified 3 February, 2006, and part R.1012468 (Gosford Regional Crown Reserve) for the public purpose of access and public

requirements, tourism purposes and environmental and heritage conservation, notified 15 September, 2006.

The DA does not include mitigation measures, such as beach nourishment, to manage impacts on coastal processes as may arise from the seawall. These potential impacts have been documented in relation to an earlier investigation undertaken at this location by the Manly Hydraulics Laboratory regarding a terminal protection structure (sloping Seabee), as follows:

Following storms, sand will be eroded from the face of the structure, exposing the face of the revetment and much of the toe. While the beach at low levels will recover naturally, it will be necessary to replace sand to the upper beach face to again bury the structure. Given the scenario of an ongoing loss of sand from the beach and a rising sea level, it will be necessary to import sand to nourish the beach and maintain the recreational amenity at its present level. Following severe storms and until such time as maintenance nourishment is undertaken much of the structure will be visible and access along the beach may be impeded. (page vi , Manly Hydraulics Laboratory, 2003)

The Coastal Engineering Report and Statement of Environmental Effects (Horton Coastal Engineering, 2016) acknowledges that whilst there may be impacts arising from the works over time, the subject landowners will not take responsibility for implementing beach nourishment:

It is recognised that long term recession may increase the percentage of time that the revetment is exposed on public land, but as per MHL (2003) and the CZMP, if beach nourishment is undertaken as has been actioned this would be resolved. The subject owners cannot take responsibility for this nourishment action, and can only ask that it is implemented by Council in the CZMP. (Footnote 16, page 24)

The draft Gosford Beaches Coastal Zone Management Plan is currently under preparation by Council and Table 19 of the version dated 4 November 2015 (WorleyParsons) provides for the following, relevant actions:

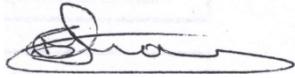
TW14 Investigate sources of sand and feasibility of beach nourishment for Wamberal Beach.

TW15 Beach nourishment coupled with a terminal revetment to increase buffer against storm erosion.

However the draft CZMP has not been certified and has limited status at the present time. In addition, the action at TW14 indicates that a sand source has not yet been identified and feasibility has not been ascertained. In this context, there is a risk that the proposed works will not be augmented by beach nourishment and may therefore result in a reduction in beach amenity and access adjacent the works - which below the MHWL is Crown land. Accordingly, DoI Lands are concerned that the DA, absent beach nourishment or a guaranteed program of beach nourishment to complement the works, represents a risk to adjacent Crown land.

Please do not hesitate to contact Ms Catherine Knight, Coastal Management Specialist, on (02) 6620 5511, or by email Catherine.knight@crow.nsw.gov.au should you wish to discuss the matter further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marwan', with a large loop at the end.

16/12/2016

Marwan El-Chamy
Director Regional Operations East