

12th May 2026

To: Ms Alison McCabe
Chair
Hunter & Central Coast Regional Planning Panel
enquiry@planningpanels.nsw.gov.au

CC: Luke Nicholls
Director, Environment and Planning
Central Coast Council
ask@centralcoast.nsw.gov.au

Dear Chair,

RE: DA/947/2024, DA/1264/2024, DA/1389/2024 – COASTAL PROTECTION WORKS

I refer to the abovementioned development applications (**DAs**) and to the three (3) separate Records of Deferral dated 18th February 2026 which each reflect the results of the 4th February Hunter & Central Coast Regional Planning Panel meeting.

The Records of Deferral each relevantly required the following actions to be undertaken by Chris Rogers and WPA (**WPA**):

1. Confirmation in writing within four (4) weeks as to whether or not the applicant will amend the DAs;
2. Confirmation in writing within four (4) weeks of what sites have landowners' consent; and
3. A formal written request to amend the application to be uploaded to the Planning Portal by the applicant within 12 weeks including:
 - a. Particulars sufficient to indicate the nature of the change of the development, as required under section 37 of the *Environmental Planning and Assessment Regulation 2021*; and
 - b. Updated technical reports relied on in the amended application.

WPA previously provided correspondence addressing items 1 and 2 above on 18th March 2026, in which it confirmed the intent of the proponents to amend the DAs and which sites have landowners' consent. This letter responds to item 3 above.

Consistent with the Panel's requirements in the Records of Deferral, I confirm that WPA requests Council to amend the relevant applications via the NSW Planning Portal to exclude the properties for which owner's consent has not been provided. These properties are:

- **TPS B**

37 Ocean View Drive;
39 Ocean View Drive;
57 Ocean View Drive;
85 Ocean View Drive;
87 Ocean View Drive.

- TPS C

3 Pacific Street;
17 Pacific Street;
21 Pacific Street;
23A Pacific Street.

It should be noted that all landowners within TPS A have provided owners consent, with the owner of 9 Calais Road having recently provided their consent. This new owner's consent form has been uploaded to the Planning Portal.

Please note that in relation to the State-owned lots (being 69 Ocean View Drive; 71 Ocean View Drive; 25, 25A and 25B Ocean View Drive), WPA has decided not to exclude these lots from the relevant application as a result of new information that has now been provided from the Council. Last week, on 6th May 2026, WPA received from the Panel a memorandum signed by Luke Nicholls from Central Coast Council dated 23rd April 2026 which confirmed that Council anticipates OSL to support the Council's proposed action of transferring NSW Government owned lots at Ocean View Drive Wamberal into Council ownership. This follows earlier information – as identified in the Council's Open Coast Coastal Management Program – that Council supported transfer of these lots as a “*short term*”, “*high*” priority action.

With Central Coast Council already a consenting owner to the DAs for the various Council properties along the alignment, it is assumed that Council would have no objection to the inclusion of these additional lots. WPA requests that the Council confirm this is the case so that it can progress its revised designs and technical assessments including these lots.

We also refer to the Panel's letter dated 6th May 2026 which:

1. Does not respond to the substantive legal issues raised by Mallesons in its letters;
2. Does not provide the materials requested from the Panel; and
3. Does not revise the timetable in the Records of Deferral and states that the Panel “expects” the timeframe in the deferral to be observed.

As the Panel is aware, the material requested from the Panel is needed to finalise revised designs having regard to excluded land and to enable WPA to prepare updated technical reports in connection with its amended DAs. WPA has been awaiting these further materials to progress its revised designs and technical assessments since February 2026. The ongoing delay of the Panel in responding to WPA's reasonable requests and providing the additional material has had the consequence that the revised designs and technical assessments have necessarily been delayed. The letter of 6th May 2026 was received only one week prior to the Panel's deadline in its Records of Deferral, resulting in there being no time to approach the Court for orders against the Panel for production prior to this letter.

In the meantime, the strategic policy position at Wamberal Beach has continued to change, presenting a dynamic situation for WPA and the Panel to respond to in the context of these DAs. This has been covered in detail in previous correspondence.

It now appears likely that the Council's Engineering Design Requirements (EDRs), which are the key policy document relevant to these DAs may no longer represent the Council's policy in connection with Wamberal Beach. The latest update is that the Council has now adopted a final Open Coast Coastal Management Program (CMP) and is seeking Ministerial Certification. Consistent with the CMP, Council now says it is “endeavouring to be ready to lodge an application for authorisation” prior to 20 May 2026 for a Ministerial

Authorisation under section 68 of the *NSW Reconstruction Authority Act 2022* for coastal protection works at Wamberal Beach, being an alternative planning approval pathway for the development the subject of these DAs. The most recent correspondence sent to residents at Wamberal Beach from the Council last week, also on 6th May 2026, stated that: “*Council is preparing to lodge a preliminary application with the RA as soon as possible*”.

These matters stand to directly impact upon these DAs, including any amendments to the DAs that may be required and any updates to technical assessments, the Council's supplementary assessment and ultimately the Panel's determination of the DAs. Alternatively, it may be that the DAs will no longer be needed and may be withdrawn, if the Section 68 Ministerial Authorisation approves a suitable solution for Wamberal Beach in May 2026.

Over the same time period since the last meeting on 4th February 2026, it has also become clear that the Panel has continued to meet with Council and its expert consultants, without involving WPA or providing any substantive information to WPA about the information presented to the Panel. The Records of Briefing for the briefings on 28th January 2026 and 2nd April 2026 offer no real insight into what matters received from third party experts and consultants the Panel is taking into account in connection with the DAs and how WPA is to respond in revising its designs and updating its technical assessments. It is unclear why WPA has not been invited to attend these briefings; has not received any meaningful feedback or documents from the Panel or Council arising from the briefings; and has not been provided with any opportunity to respond to matters arising. By way of example, “Coastal Management Program update” was listed as a key issue discussed on 2nd April 2026, with no detail whatsoever about how this is being considered in the context of the DAs. Nor is it known what information was provided by the planning consultants who attended on that day. This has created further procedural fairness issues which need to be resolved by the Panel providing disclosures of the advice it has received in the private sessions on 28th January 2026 and 2nd April 2026.

WPA requires clarity and disclosure from the Panel, the Council and the State so that it can have access to relevant information before further investing in costly technical assessments from the experts it has engaged for the purpose of these DAs. Without this clarity, it would be inevitable that any further updated technical assessments would not cover the matters being taken into account by the Panel, or the changes to Council and State policies currently being finalised, requiring further updated technical assessments to be undertaken before the DAs can be approved. This would prove costly and inefficient, imposing a significant additional financial burden on the proponents for no real benefit. WPA cannot reasonably be expected to incur these significant additional costs in circumstances where the Panel and Council continue to withhold relevant information and materials from WPA and the strategic policy position of Council and the State remains in a state of flux.

WPA has now received correspondence from the Panel and the Council on 6th May 2026 (as described above) that it has been waiting to receive over an extended period of many months. This correspondence raises new matters of direct relevance to these DAs and fails to respond to the reasonable requests for information made by WPA for information held by the Panel since February 2026. This alone demonstrates the need for the Panel to revise the requirement contained in the Records of Deferral to allow time for:

1. The Panel to gather and provide the undisclosed materials that WPA has requested;
2. The Council to confirm its strategic policy position and its position on landowners' consent regarding the land being transferred to it by the State;
3. The position of the NSW Government under the *NSW Reconstruction Authority Act 2022* (NSW) to be known (likely in May 2026); and
4. WPA to have a fair opportunity to respond to the above developments as finalised and to the materials to be provided by the Panel and the Council once received (say 12 weeks from resolution of items 1-3).

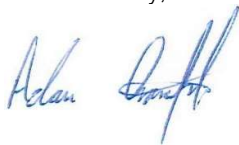
I am aware that Mallesons is separately writing to the Panel again in response to the Panel's letter of 6th May 2026.

As explained in previous letters from Mallesons, it is a fundamental obligation of the Panel to act with fairness to WPA and to afford it natural justice in accordance with the legal duties binding upon the Panel. WPA calls on the Panel to do so.

As the position of the RA is likely to be known in about a week, i.e. by 20th May 2026 - no action should be taken until the position of the RA is known to all parties and can be considered.

We would appreciate confirmation of receipt of this correspondence, and a response to the requests contained therein as soon as possible.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Adam Crampton'.

Adam Crampton
Town Planning Manager
ADW JOHNSON