

COUNCIL ADDENDUM ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PAN/458363 – DA/1264/2024
PROPOSAL	Coastal Protection Works (Section A)
ADDRESS	3-17 Calais Road, Wamberal Remembrance Drive (Wamberal Beach) Council Land and Road Reserve
APPLICANT	Mr Chris Rogers
DA LODGEMENT DATE	20 August 2024
APPLICATION TYPE	Development Application
KEY ISSUES	• Incomplete owners consent; • Environmental impact; • Visual impact; • On-going maintenance arrangements; • Coastal engineering including: ○ wall stability; ○ overtopping; ○ end effects; and ○ sand nourishment; and • Insufficient information
ADDITIONAL DOCUMENTS	No additional plans or reports were submitted on the Planning Portal.
ATTACHMENTS	Attachment 1: Updated Owners Consent Schedule
HCCRPP BRIEFING DATES	10 February 2025, 8 July 2025 & 4 February 2026
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	Not Applicable
PREPARED BY	Henry Burnett – Director, DFP Planning Natasha Bartley – Principal Planner, DFP Planning
DATE OF REPORT	27 May 2026

1. EXECUTIVE SUMMARY

The Hunter and Central Coast Regional Planning Panel held a public meeting to consider a Council assessment report on 4 February 2026.

The Panel resolved to defer the matter as outlined in the Record of Deferral issue by the Panel on 18 February 2026. A summary of the Record of Deferral is provided in **Section 3** of this report.

The matter was deferred due to matters not being satisfactorily addressed including owners consent and sufficient information to allow for the Panel to determine the proposed development is satisfactory with respect to Section 27 of the *Coastal Management Act 2016* and Sections 2.10, 2.11 and 2.12 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The Record of Deferral included strict timelines to be followed by the applicant:

1. **18 March 2026** – Resolution of landowners' consent.
2. **13 May 2026** - Comprehensive response to matters raised and any amended documentation.

A detailed timeline of key events since the Record of Deferral is provided in **Section 4** of this report.

In relation to landowners' consent, one allotment has written consent that is considered unsatisfactory. A correction has been made on the landowners consent form and not initialled by the landowner. A summary of the remaining landowner's consent issues is provided in **Section 5** of this report.

In relation to a comprehensive response to matters raised, no additional technical reports or amended plans have been submitted by the applicant and as such the assessment of technical documentation remains the same as the Council Assessment Report of 19 November 2025.

On 12 May 2026, a request to amend the application was submitted by the applicant, seeking to align the proposal with the extent of landowner's consent received. However, the Record of Deferral required the request to be accompanied by updated technical reports. As above, no further technical information has been submitted by the applicant. Accordingly, the request to amend the application is not supported.

On 18 May 2026, and in response to the applicant's request, Council rejected the application for an amendment to the development application submitted under section 37 of the *Environmental Planning and Assessment Regulation 2021* pursuant to section 38 of the *Environmental Planning and Assessment Regulation 2021* for the following reasons:

- Not all owners consent have been received, or contain incorrect/ missing information; and
- Technical reports and plans have not been amended as per the Deferral requirements by the Panel.

This report recommends that the Panel refuse the development application on the basis of the reasons outlined in **Section 9** of this report, being consistent with the reasons for refusal outlined in the Council Assessment Report dated 19 November 2025.

2. THE SITE AND LOCALITY

2.1 The Site

The development application is one of three related development applications for coastal protection works fronting Wamberal Beach. The development applications relate to three separate sections of a terminal protection structure referred to as Section A, Section B and Section C. The subject development application is for the Section B terminal protection structure.

Figure 1 details the location of the three development applications and their spatial relationship to one another.

Note: **Figure 1** illustrates the properties where no owners consent has been received, and properties that are excluded from the DA as originally submitted. **Figure 1** does not illustrate properties where owners consent has been received but is incomplete or contains errors, nor does it illustrate properties to be further excluded from the DA's in the applicants request to amend the Development Application.



Figure 1 – Locality map

3. RECORD OF DEFERRAL

The Panel resolved to defer the matter as outlined in the Record of Deferral issue by the Panel on 18 February 2026.

The Panel recognised the complexity of the application and the challenges of co-ordinating a diverse group of landowners regarding design, construction and maintenance of the coastal protection works. The Panel also recognised the damaging impacts coastal process have, and to continue to have on private and public land along Wamberal Beach.

The Panel acknowledged that there is no current adopted or certified Coastal Management Program (CMP) under the *Coastal Management Act 2016* and that the previous Gosford Beaches Coastal Zone Management Plan prepared under the former Coastal Protection Act 1979 lapsed on 31 December 2023. Furthermore, the Panel noted that Council had prepared and exhibited a new draft Coastal Management Program, which contains an action to review the Engineering Design Requirements so that they may be referred to in future revisions of Council's Coastal Development Control Plan.

The Engineering Design Guidelines are referenced by the Panel as a matter for consideration in the overall assessment 'to provide guidance and parameters in the preparation of development applications' and that development applications are to demonstrate the application of the Requirements, however they must also be consistent with the full land use and coastal planning framework applying to the Central Coast. The Panel also noted that appropriate protection against coastal erosion hazards requires consideration of detailed design implications to ensure structural stability and safety and to enhance environmental and public amenity outcomes. The Panel notes that they give limited weight to the EDR's as they are a starting point and detailed design should include full integration of all requirements of the relevant land use planning and coastal legislation and policy framework.

The Panel noted it is evident in the RFI issued by Council on 6 June 2025, that there are fundamental differences between the applicant's approach to the application and Council's assessment of the application. The matters raised in the RFI have not been addressed, with the most obvious being landowner's consent. The Panel noted the applications cannot proceed without the relevant landowner's consents.

The Panel noted they cannot be satisfied that the proposal will not increase the risk of coastal hazards, and that the design minimises impacts on the beach, coastal processes, other properties, visual amenity or public access and safety. The Panel notes there is need for more detail and analysis as noted in Council's RFI dated 6 June 2025 and as replicated in **Table 3** of this report.

The matter was deferred by the Panel due to matters not being satisfactorily addressed including owners consent and sufficient information to allow for the Panel to determine the proposed development is satisfactory with respect to Section 27 of the *Coastal Management Act 2016* and Sections 2.10, 2.11 and 2.12 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The Record of Deferral included strict timelines to be followed by the applicant:

1. **18 March 2026** – Resolution of landowners' consent.
2. **13 May 2026** - Comprehensive response to matters raised and any amended documentation.

The Record of Deferral stated where the applicant chooses not to address matters, the Panel will determine the application on the current documentation, without a further public meeting.

4. ACTIONS SINCE DEFERRAL

Table 1 provides a chronology of the development application since the Panel Meeting on 4 February 2026.

Table 1: Chronology since Deferral

Date	Event
4 February 2026	<u>Panel hold Public Meeting</u> Panel briefing and public meeting.
18 February 2026	<u>Panel issue Record of Deferral</u> The Panel allowed deferral of the matter because of the complexity of the challenges in multiple ownerships, to allow for landowner's consent to be resolved and a comprehensive response to additional information be provided. The deferral provided strict timelines for resolution of landowners' consent (18 March 2026) and provision of further information (13 May 2026).
18 March 2026	<u>Applicant Submission of Owners Consent</u> The Applicant submitted updated landowners' consents and noted intention to request an amended DA.
2 April 2026	<u>Council Only briefing with the Panel.</u>
7 April 2026	<u>Council issue Information to the Panel</u> In response to the Panel's deferral request, the Council compiled and presented a summary outlining both the landowner consents that had been obtained and those that remained outstanding. This summary was provided to ensure the Panel was fully informed regarding the status of landowner approvals required for the matter under consideration.
21 April 2026	<u>Applicant Request for Extension of Time</u> The Applicant submitted a request to the Panel for an extension of time to respond to the request for information.
29 April 2026	<u>Council issue Information to the Panel</u> Further to Councils correspondence to the Panel, dated 7 April 2026, an updated memo regarding the action in the CZMP regarding

	the transfer of NSW government owned lots at Ocean View Drive into Councils ownership. The CMP now lists the Council as the lead agency for this action.
6 May 2026	<u>Panel Response to Request for Extension</u> The Panel wrote to the Applicant stating no extension would be granted.
11 May 2026	<u>Council Letter to Applicant</u> Council wrote to the Applicant and advised the revised owners consent had been reviewed, and that there remained incomplete, erroneous or missing owners consent documentation. Council re-iterated the due date for additional information being the 13 May 2026.
12 May 2026	<u>Applicant Letter to Council</u> The applicant requested Council amend the relevant application under section 37 of the <i>Environmental Planning and Assessment Regulation 2021</i> to exclude the properties from the application where owners consent has not been obtained. No amended plans or technical reports were submitted with the request to amend the application.
18 May 2026	<u>Council Letter to Applicant</u> Council wrote to the Applicant advising that the request to amend the application was not accepted pursuant to section 38 of the <i>Environmental Planning and Assessment Regulation 2021</i>. Council noted that the applications would be referred for determination in their current form.
19 May 2026	<u>Applicant Letter to Council</u> The Applicant wrote to Council objecting to the application being referred for determination for the following reasons: • The Records of Deferral called for the DAs to be amended having regard to landowners' consent issues and the requested amendments deal with this subject; • Council has erred in saying that not all owners' consents have been received, given that all landowner consents have in fact been provided for DA/1264/2024 which is a separate application from the other two; and • Council has indicated that it intends to provide a further update on land transfer relevant to these DAs to the Panel, but this is information that WPA is entitled to know as a matter of procedural fairness as it is directly relevant to the DAs and updates to technical assessments.

22 May 2026	<u>Council Memo to Panel and Applicant</u> In response to the applicant's request (letter dated 12 May 2026) for Council to confirm its strategic and landowner consent positions on transferring land to the state, Council issued a memo about the CZMP action regarding NSW government lots at Ocean View Drive being transferred to Council ownership. The CMP now lists Council as the lead agency, but no further implementation details are available yet.
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5. OWNERS CONSENT

The landowners consent has been reassessed based on additional information received. The remaining landowners consent issue is outlined in **Table 2**. A comprehensive table of all owners consent is provided in **Attachment 1**.

Table 2: Status of Owners Consents

Address	Comment
Section A	
7 Calais Road, Wamberal	Owners Details have been corrected but not initialled.

6. ADDITIONAL INFORMATION

No amended plans or technical reports were submitted by the applicant in contravention of the Panel's deferral requirements. Assessment of technical reports and plans remains as outlined in Council's Assessment Report dated 19 November 2025.

The key issues as outlined in Council's Assessment Report dated 19 November 2025 remain and are replicated in **Table 3**.

Table 3: Matters not addressed

Assessor	Key issues
Crown Land	Crown Land and Public Spaces principally raise issue with owner's consent and/or impact on Crown Land. If any part of the proposed development is located below the Mean High Water Mark (MHWM) then owner's consent from Crown Land would be required. Should the development application be amended to include sand nourishment then owner's consent from Crown Land maybe required. Should the development application not be amended, then the development application would likely not be satisfactory in relation to its impact on Crown Land (forming part of a public beach), which is a relevant consideration under Section 27 of the Coastal

	Management Act 2016 and Section 2.10 and 2.12 of State Environmental Planning Policy (Resilience and Hazards) 2021.
National Parks and Wildlife Services:	National Parks and Wildlife raise issue with the extent of assessment ('Developments adjacent to NPWS Lands' Guideline not addressed), the absence of cumulative impact assessment, sand nourishment and potential impacts on Wamberal Lagoon and interim measures for an off-dog leash area during construction.
Ecology	No assessment provided of indirect ecological impacts on Terrigal Lagoon, Wamberal Lagoon and terrestrial ecosystems such as Wamberal Nature Reserve. In addition, concern is raised regarding the splitting of ecological assessments to avoid a Biodiversity Development Assessment Report (BDAR) and assessment obligations under the Biodiversity Conservation Act 2016 and/or the Environmental Protection and Biodiversity Conservation Act 1999.
Trees	Concern is raised the seawall design will impact three Norfolk Island Pines on 75 and 77 Ocean View Drive. The Applicant is to consider design measures to retain these trees. Tree Protection Fencing is required around the 3 proposed storage areas near Wamberal Surf Club to ensure trees in close proximity are not damaged during the development phase.
Architecture	Objection on the basis of the terminal protection structure being a hard, regular, manmade and visually dominating structure that is incompatible in character to the gentle sloping and irregular appearance of the beach and dune. A terminal protection structure that retains the landscaped dune character should be considered.
Waste Management	The development application is not accompanied by a Resource and Waste Management Plan (RWMP).
Environmental Health	The development application is not accompanied by a noise and vibration impact assessment* *Note: Subsequent environmental health advice received raising issues in relation to contamination, see Section 4.1 of Council's Assessment Report dated 19 November 2025 report for further discussion.
Coastal Engineering	A coastal engineering referral has been completed being the Preliminary Assessment Report for DA/1264/2024 (Section A), DA/947/2024 (Section B) and DA/1389/2024 (Section C), prepared by Worley Consulting on behalf of Central Coast Council. The following comments summarise the principal concerns raised in this referral: <u>Gaps in the Terminal Protection Structure</u> A principal coastal engineering concern raised is that the development application does not provide for a single contiguous terminal protection structure from lagoon to lagoon. The current DA has at least three gaps, excluding Council's beach accessways

	(though there may be more if unsatisfactory owners' consent is factored in): ○ Section A (north) - Northern terminal end structure at Dover Road and Wamberal Surf Life Saving Club; ○ Section A (south) – 1 Calais Road and adjacent public beach accessway; and ○ Section C (south) – The southern terminal end structure at 1 Pacific Street. <u>Sand Nourishment</u> Concern is raised in that no compensatory sand nourishment is provided in Year 1 ('immediately'), and that sand nourishment volumes for ongoing maintenance to Year 10 are underestimated. This miscalculation would result in significant impacts including to Wamberal Nature Reserve. <u>Other</u> Other issues include edge effects, the absence of physical modelling, the absence of a construction management plan, unsatisfactory public safety in a storm event, the stability of the wall design, end of design life considerations, maintenance corridors, lack of finished sand level details and the absence of renders for the post-storm and typical accreted conditions.
Flooding	A Flood Impact Assessment is required to address Clause 5.21 of the Central Coast Local Environmental Plan 2022.
Traffic	A Construction Management Plan is required and is to include a Traffic Management Plan, Vehicle Movement Plan and Traffic Control Plan in order to demonstrate the works will not unreasonably limit public access or use of the beach under Section 27 of the Coastal Management Act 2016.
Town Planning	
Owners Consent	Owner's consent for the making of the development applications is not satisfactory in accordance with Section 23 of the Environmental Planning and Assessment Regulation 2021 (the Regulation). A table outlining the assessment of owner's consent in relation to private properties is attached at Appendix 1. Owner's consent from Crown Land would be required in relation to any works required below the Mean High Water Mark as a result of further information provided regarding sand nourishment or the spreading of excavated sand.
Single Contiguous Terminal Protection Structure	The suite of development applications does not include end terminal protection structures required to the north and south and along the structure. Their omission is likely to result in unsatisfactory edge effects contrary to Section 2.12 of State Environmental Planning Policy (Resilience and Hazards) 2021.

	Council's coastal engineering referral has determined that a single development application from Terrigal Lagoon to Wamberal Lagoon is required including the omitted properties 1 Pacific Street, 1 Calais Road and the Wamberal Surf Club land. The objective is to ensure a single continuous structure is completed simultaneously. Alternatives to achieve this object may be considered.
Sand Nourishment	Council's coastal engineering referral has determined that sand nourishment is required as a result of the proposed development. The development application does not provide for the required initial sand nourishment and significantly underestimates the on-going sand nourishment required. Compliance with Section 27(1)(b) of the Coastal Management Act 2016 requires satisfactory arrangements to be in place regarding restoration and maintenance. In addition, the development application proposes to spread excavated sand across the beach however the testing arrangements and extent of spread has not been adequately detailed in order to demonstrate no adverse impacts on the coastal environment in accordance with Section 2.10 of State Environmental Planning Policy (Resilience and Hazards) 2021 and associated risks to public safety in accordance with Section 27(1)(a)(i) of the Coastal Management Act 2016.
Maintenance	The development application does not provide a three metre maintenance zone and requisite easements/covenants to enable the terminal protection structure to be maintained from within the properties without the use of Wamberal Beach as required by the adopted Engineering Design Requirements. The above requirements for 'Sand Nourishment' and 'Maintenance' warrant the preparation of a preliminary maintenance plan which includes funding requirements that would inform a condition required under Section 27(1)(b) of the Coastal Management Act 2016.
Visual Impact Assessment	Wamberal Beach has a varied character which transitions from more developed in the south (more akin to Terrigal) to a natural vegetated dune setting in the north towards Wamberal Nature Reserve. The development application is not accompanied by a visual impact assessment to demonstrate the visual impact of the proposed development on this varied setting in accordance with Section 2.11 of State Environmental Planning Policy (Resilience and Hazards) 2021. The visual impact appears to be far greater than originally conceived in the MHL concept design. The current level of plan detail would not be sufficient to inform a VIA. The VIA is to be informed by sectional drawings and a detailed cut and fill plan.
Earthworks	The development application is not accompanied by consistent information regarding earthworks. A bulk earthworks plan is required to detail the sand/vegetation required to be removed to

	facilitate the construction of the terminal protection structure and the sand to be replaced at the completion of the terminal protection structure. The earthworks plan is to be translated across all the relevant documentation (e.g. sectional drawings, detailed landscape plans etc.). Sectional and elevational detail does not meet the requirements of the Approved Form under Section 24(1)(b) of the Environmental Planning and Assessment Regulation 2021.
Flooding	The development application is not accompanied by a flood impact assessment. Part of the site is affected by the 1 in 100 year and probable maximum flood level. A flood impact assessment is required to assess the flooding impacts from the proposed terminal protection structure on the immediate and surrounding areas, including any inundation to Terrigal and Wamberal Lagoon, in accordance with Clause 5.21 of the Central Coast Local Environmental Plan 2022.
Construction Management	The development application is not accompanied by a construction management plan. Given the scale and potential impact of the construction works on beach access, the coastal environment, traffic, public safety and other amenity impacts, a construction management plan is considered warranted at the development application stage under Section 27(1)(a) of the Coastal Management Act 2016.
Noise and Vibration	The development application is not accompanied by a noise and vibration impact assessment to assess construction and on-going noise and vibration impacts under Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979.
Access	The development application is not accompanied by an access report addressing Section 2.11(1)(a)(i) of State Environmental Planning Policy (Resilience and Hazards) 2021. The terminal protection structures across the beach public accessways reduce the accessibility of Wamberal Beach. The development application does not include detail of how private beach accessways have been consolidated in accordance with the Engineering Design Requirements to minimise visual impact.
Public Safety	Council's coastal engineering referral has raised issued with public safety in relation to insufficient depth of access stairs and the structural stability of the terminal protection structure. Public safety is a relevant consideration under Section 27(1)(a)(ii) of the Coastal Management Act 2016.
Ecology	The development application is not accompanied by a Biodiversity Development Assessment Report (BDAR). An assessment of cumulative, direct and indirect impacts (including Wamberal and Terrigal Lagoons) is required having regard to Section 2.10 of State Environmental Planning Policy (Resilience and Hazards) 2021, the Biodiversity Conservation Act 2016 and the Environmental Protection and Biodiversity Conservation Act 1999.

Arborist Report	The development application is not accompanied by an arborist report. Council's Tree Officer has requested an assessment be undertaken in relation to construction staging areas and trees to be retained. Retention of Norfolk Island Pines should be further considered having regard to their contributory nature to the coastal environment and Section 2.10 and 2.11 of State Environmental Planning Policy (Resilience and Hazards) 2021.
Landscaping	The development application is not accompanied by a detailed landscape plan including a planting schedule or suitably detailed elevation and section drawings. The plans include photomontages of sand nourishment and planting seaward of the terminal protection structure however no detail of these works is provided and accordingly an assessment against Criteria 5 of the Engineering Design Requirements cannot be completed.
Overshadowing	The development application is not accompanied shadow diagrams to assess solar access impacts to Wamberal Beach in accordance with Section 2.11(1)(a)(ii) of State Environmental Planning Policy (Resilience and Hazards) 2021.
Wind Funnelling	The development application is not accompanied by a report assessing wind funnelling impacts to Wamberal Beach in accordance with Section 2.11(1)(a)(ii) of State Environmental Planning Policy (Resilience and Hazards) 2021.
Estimated Development Cost	The development application is not accompanied by an estimated development cost report in accordance with the Standard Form. Nor has the perceived cost of sand nourishment been adequately addressed.

7. DRAFT COASTAL MANAGEMENT PROGRAM

Central Coast Draft Coastal Management Plan (DCMP) 2026 was exhibited between 14th July 2025 and 25 August 2025. A revised Draft Coastal Management Program was placed on exhibition on 3 March 2026. Wamberal Beach is identified as part of the study area, and as such the DCMP has been addressed in the assessment of the development application.

The DCMP includes numerous draft actions to be investigated/ implemented. Draft Actions relevant to Wamberal Beach and the development application are detailed in **Table 4**.

Table 4: Relevant Draft Actions

Action	Description	Comment
Review and update the Wamberal Beach engineering design requirements (EDR) so that they may be referred to in	Review the Wamberal Beach EDR's to include geotechnical engineering design requirements and allow for a design that can be	The applicant requested a deferral based on the actions in the DCMP. The timeframe for the review

future revisions of Council's Coastal Development Control Plan (DCP)	implemented, with a view to being able to include Council's DCP to ensure all development applications for the Wamberal Beach coastal protection works are in accordance with the guidelines. The purpose and content of the EDRs are to provide guiding key criteria and performance specifications for the preparation and assessment of DA's. They are similar to a Development Control Plan in that they are a performance guideline for the development. The EDRs will provide guidance relating to elevations, footprint and indicative staging for construction, but ultimately the works will need to be subject to detailed design, to confirm the confirm the design details required under Stage 5 Implementation phase of the CMP, or as part of the standard development approval process.	of/ or implementation of new EDR's is unknown. It is not considered appropriate to defer the application pending updated EDR's. If there is a significant change to the EDR, it is likely a new development application would be required and not an amended DA.
Complete design and approvals for coastal protection works fronting 1 Pacific Street to 17 Calais Rd Wamberal.	Complete design and approvals for rock revetment and/or hybrid rock revetment coastal protection works fronting 1 Pacific St to 17 Calais Rd Wamberal	As above
Purchase residual private land fronting Pacific St Wamberal.	NSW DPHI, Crown Lands and Council to work together to acquire residual private land fronting Pacific S Wamberal and transfer into Council ownership.	At the date of writing this report no transfer of ownership has been undertaken.
Complete the Transfer of NSW Government owned lots at Ocean View Drive Wamberal into Council ownership.	Council to liaise with the Office of Strategic Lands - Department of Planning, Housing and Infrastructure to transfer the 5 lots to Council ownership to assist in the management of a whole of embayment solution.	At the date of writing this report no transfer of ownership has been undertaken and owners consent remains outstanding.
Enter into licence agreement for private coastal protection works	Where the rock revetment cannot be placed entirely on private land, a licence/ lease	No licence or lease agreement is currently in

located partly on Council owned land at Wamberal Beach.	agreement is required for landowners to have part of the coastal protection works on Council owned land.	place for Council owned land.
Construct coastal protection works fronting 1 Pacific St to 17 Calais Rd, Wamberal Beach.	Construct rock revetment and/or hybrid rock revetment coastal protection works fronting 1 Pacific St to 17 Calais Rd, Wamberal Beach	Coastal protection works cannot be constructed until the EDR's have been updated and a development application is submitted with all appropriate supporting documentation for assessment by Council.
Implement sand nourishment at Wamberal and Terrigal Beach using sand sourced opportunistically from Terrigal Lagoon, sand berm and other sources as available.	Implement sand nourishment at Wamberal and Terrigal Beach using sand sourced opportunistically from Terrigal Lagoon, sand berm and other sources as available.	The development Application before Council does not provide sufficient information regarding sand nourishment, which would be required under the DCMP. Council has requested further information from the applicant regarding sand nourishment.

8. STATUTORY CONSIDERATIONS

The statutory considerations remain as per the Council Assessment Report dated 19 November 2026.

The following provides an assessment against the relevant sections of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) as it relates to the Record of Deferral being 'owners consent' and 'amendment of a development application.

Section 23 – Persons who may make development applications

Satisfactory written consent has not been provided by all owners of the land to which the development application relates as required by Section 23(1)(b) of EP&A Regulation.

One allotment has written consent that is considered unsatisfactory. A correction has been made on the landowners consent form and not initialled by the landowner. An analysis of the owners consent received is provided as **Attachment 1** to this report.

The Panel does not have the power to grant development consent without the written consent having been provided by all owners of the land to which the development application relates.

The development application therefore remains recommended for refusal.

Section 37 – Amendment of Development Application

The applicant requested Council on 12 May 2025 to amend the relevant application

under Section 37 of the EP&A Regulation to exclude the properties from the application where owners consent has not been obtained.

The request to amend the relevant application was not made in the manner required in the Panel's Record of Deferral. Namely, no amended plans or technical reports were submitted to support the updated extent of coastal protection works that would occur through the exclusion of additional properties.

38 – Determination of application for amendment for Development Application

Council issued a letter to the applicant on 18 May 2026 advising that Council does not accept the application for an amendment to the subject development applications submitted under section 37 of the *Environmental Planning and Assessment Regulation 2021* pursuant to section 38 of the *Environmental Planning and Assessment Regulation 2021* for the following reasons:

- Not all owners consent have been received, or contain incorrect/ missing information; and
- Technical reports and plans have not been amended as per the Deferral requirements by the Panel.

Council noted that the applications would be referred for determination in their current form.

9. REASONS FOR REFUSAL

The Development Application is recommended for refusal for reasons listed in the Assessment Report dated 19 November 2025 and re-stated below:

Owners Consent

1. Owners consent does not comply with the requirements of Section 23(1)(b) of the *Environmental Planning and Assessment Regulation 2021* and therefore the Panel does not have the power to grant consent.

Coastal Management

2. Non-compliance with Section 2.10 of *State Environmental Planning Policy (Resilience and Hazards) 2021* relating to impacts on the coastal environment area including:
 - a. The coastal environment and processes; and
 - b. Impacts to safe access and access for persons with a disability.
3. Non-compliance with Section 2.11 of *State Environmental Planning Policy (Resilience and Hazards) 2021* relating to impacts on the coastal use area including:
 - a. Adverse visual impact on the scenic, coastal and landscape character of Wamberal Beach through a hard, regular, man-made and visually dominating concrete and sandstone structure;
 - b. Undefined solar access and wind tunnelling impacts; and
 - c. Safe access and access for persons with a disability.
4. Non-compliance with the precondition to the granting of consent in Section 2.12 of *State Environmental Planning Policy (Resilience and Hazards) 2021*. The Panel cannot be satisfied that the development is not likely to cause increased risk of coastal hazards on that land or other land including:
 - a. The non-contiguous terminal protection structure;

- b. Omitted properties from the terminal protection structure being subject to end effects; and
 - c. No detailed design of terminal end controls.
- 5. Unsatisfactory coastal engineering outcomes affecting satisfaction of various matters within the *State Environmental Planning Policy (Resilience and Hazards) 2021* and the *Coastal Management Act 2016* including:
 - a. Structural stability – The concept design has not been shown to be structurally sound;
 - b. Overtopping – The calculated overtopping volumes are unacceptable for public safety or for the structural integrity of residences seeking protection.
 - c. End Effects – Details of terminal end controls not provided and therefore end effects not demonstrated to be satisfactory.
 - d. Increased Coastal Hazard – Locked up storm demand and increased erosion for unprotected areas warrants compensatory sand nourishment.
- 6. Insufficient information to allow the Panel to be satisfied that suitable restoration arrangements can be conditioned under Section 27(1)(b) of the *Coastal Management Act 2016* relating to restoration of a beach, or land adjacent to the beach, from increased erosion of the beach or adjacent land is caused by the presence of the works.
- 7. Insufficient information to allow the Panel to be satisfied that suitable maintenance arrangements can be conditioned under Section 27(1)(b) of the *Coastal Management Act 2016*

Contamination

- 8. Non-compliance with the precondition to the granting of consent in Section 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021*. The Preliminary Site Investigation (PSI) warrants the provision of a Detailed Site Investigation (DSI) and Construction Environmental Management Plan (CEMP) which do not accompany the development application.

Biodiversity

- 9. Insufficient information to allow the Panel to be satisfied that the relevant provisions of the *Biodiversity Conservation Act 2016* have been assessed.

Public Interest

- 10. The development application is not in the public interest as the development application has not demonstrated compliance with the coastal management provisions that relate to the public interest including the character of the coastal environment, the impact of/on coastal processes and the protection of beach amenity.

Other Insufficient Information

- 11. Insufficient information provided to complete an assessment of the development application including:
 - Addendum Coastal Engineering Report
 - Biodiversity Development Assessment Report
 - Maintenance Plan
 - Sand Nourishment Plan
 - Draft Legal Arrangements for Maintenance and Sand Nourishment Plans

- Cut and Fill Plan
- Flood Impact Assessment
- Construction Environmental Management Plan (including CTMP)
- Arborist Report
- Detailed Landscape Plans
- Resource and Waste Management Plan
- Noise and Vibration Impact Assessment
- Owner's Consent
- Visual Impact Assessment
- Access Report
- Section Drawings (minimum of 5 per section)
- Shadow Diagrams
- Wind Funnel Assessment
- Detailed Site Investigation, Remedial Action Plan and Validation Report

10. CONCLUSION

Revised owners consents and written responses from the applicant have been considered in this Addendum Assessment Report in accordance with the requirements of the EP&A Act and the Regulations. Landowner's consent issues remain unresolved. No amended technical documents or plans were submitted by the applicant for further assessment and as such the key issues with the application remain outstanding.

Council's Assessment Report dated 19 November 2025 provided a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues with the development, these remain unchanged and it is considered that the application **cannot** be supported.

11. RECOMMENDATION

That the Development Application DA/1264/2024 for Coastal Protection Works (Section A) be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal outlined in **Section 9**.

Attachment 1: Updated Owners Consent Schedule

SECTION A - OWNERS CONSENT – As of May 2026

Table 1 provides a schedule of the owners consent. Owners consent shaded orange is incomplete or contains an error. Owners consent shaded red was missing. Unshaded owners consent is correct.

Table 1 - Owners Consent (Private Properties)				
Lot	Plan	Address	Owner	Received
CALAIS ROAD				
75	DP 13304	3 Calais Road	R Hill & C Hill	Yes
74	DP 13304	5 Calais Road	Aldwych Industrial Finance	Yes
73	DP 13304	7 Calais Road	Correct owner Simberth Pty Ltd	Yes – Incorrect owners details. “Simbeeth Pty Ltd” Council’s Strategic Planning referral says “Simberth Pty Ltd” Error crossed out and corrected in revised consent but not initialled (Section 7)
72	DP 13304	9 Calais Road	9 Calias Road Pty Ltd	Yes
71	DP 13304	11 Calais Road	B P Bailey & J M Bailey	Yes
Lot 0 CP	SP 54686	13 Calais Road	SP 54686	Yes
69	DP 13304	15 Calais Road	C R Byrne	Yes
Lot 0 CP	SP 73507	17 Calais Road	Strata Plan 73507	Yes