



CM9 Ref: 10/14661#01

David MacNiven
Director Corporate Services
Randwick City Council
30 Frances Street Randwick NSW 2031

Email: david.macniven@randwick.nsw.gov.au

Dear Mr MacNiven

Proposed Development: DA/480/2020

Applicant: Randwick City Council

Location: Lot 7027 DP 1026884, 417- 439 Bunnerong Road Maroubra

I refer to Randwick City Council (Council) correspondence of 4th August 2016 and 25th October 2016 and apologise for the oversight. The Department also acknowledges receipt of and notification of the above development application to the Department of Planning, Industry & Environment- Crown Lands (Crown Lands) pursuant to clause 49(2) of the Environmental Planning and Assessment Regulation 2000 provided on 28 October 2020.

The Department of Planning Industry & Environment - Crown Lands (Crown Lands), as the owner of the land, has reviewed the development application in accordance with the principles of Crown land management and provisions of the *Crown Land Management Act 2016* (CLM Act), and provides the response set out against relevant matters below.

Authority to carry out development under the CLM Act

Council are required to obtain necessary authority to carry out the proposed development under the CLM Act. The subject land is reserved for public recreation (R81741) under the CLM Act with Council appointed as the Crown land manager. Council Crown land managers are required to manage Crown land as if it were 'public land' in accordance with the provisions of the *Local Government Act 1993* (LG Act), as community land unless Ministerial consent is obtained under the CLM Act to classify and manage land as operational land. The LG Act provides that pending the adoption of a plan of management under that Act for community land, the nature and use of the land must not be changed.

Legislative relief is provided to Council Crown land managers to carry out or land use and occupation authorised in accordance with plans of management adopted under the repealed *Crown Lands Act 1989* (and continued in force under the CLM Act) and in accordance with leases and licences that may be granted by Council Crown land managers or the Minister administering the CLM Act.

Crown Lands have previously advised Council that it does not consider the plan of management adopted for the site under the *Crown Lands Act 1989* (and continued in force under the CLM Act) provides necessary authority for aspects of the proposed development and use of the site for the purposes of the CLM Act. Accordingly, separate authority is required to enable the development of R81741.

Crown Lands notes Council's advice in its correspondence of 28 October 2020 that it will be seeking to adopt a compliant plan of management for the site under Division 3.4 of the CLM Act that would authorise the proposed development. Crown Lands recommends Council consider deferred

commencement conditions for any development approval that require necessary authority under the CLM Act be obtained prior to carrying out the development.

Aboriginal interests

Departmental records indicate that the land is currently subject to Aboriginal land claim 28722 (La Perouse Local Aboriginal Land Council) and 42494 (New South Wales Aboriginal Land Council). It is recommended that Council obtain written consent from the claimants that the proposal can proceed or withdrawal of the development area from the subject claim prior to carrying out any development that would impact on the physical condition of the land.

Crown Lands notes that there is no determination as to whether native title exists over the site. Pursuant to Part 8 of the CLM Act Council, as Crown land manager, is required to obtain native title advice that any associated act necessary to authorise the development or subsequent future use (i.e. grant of tenure, adoption of a plan of management) comply with applicable provisions of native title legislation.

Please note that this response does not provide authorisation under the CLM Act for this proposal or imply any concurrence, consent or approval for future authorisations as may be required.

Should you require any further information, please do not hesitate to contact Daniel Summerhayes, Manager Strategic Projects on 0435 956 796 or daniel.summerhayes@crownland.nsw.gov.au.

Yours sincerely



Ben Tax
Area Manager Greater Sydney
Department of Planning Industry & Environment - Crown Lands

Date: 22 January 2021