

NSW Coastal Panel	MEETING NUMBER: 12
	LOCATION: Sydney
	DATE: 16 April 2013
MINUTES	

Present

Name	Nominating Organisation
Mr Derek Rutherford	Office of Environment and Heritage (OEH), Deputy Chair
Prof Bruce Thom	Local Government and Shires Associations (LGSA)
Ms Jane Lofthouse	Local Government and Shires Associations (by phone)
Mr Stephen Murray	Department of Planning and Infrastructure (DP&I)
Mr Steve Lawson	Department of Trade and Investment (Crown Lands) – observer
Ms Jane Gibbs	Office of Environment and Heritage – Coastal Panel secretariat
Mr Garry Fielding	CityPlan Services - invited guest

The meeting opened at 10:10am

Agenda Item 1 - Introduction

The Deputy Chair welcomed Panel members. Apologies were received from Professor Andy Short.

Professor Bruce Thom declared that in 2011, after his appointment as a Panel member, he received one night of accommodation as a guest of the Meridian Resort when presenting an evening seminar. Whilst staying at the Meridian Resort he won the art prize. He donated this prize to the local primary school. The Panel agreed that this did not constitute a conflict of interest.

Agenda Item 2 – Previous Minutes

Minutes of the previous meeting will be circulated out of session for review and adoption.

Agenda Item 3 – Old Bar development application

The Panel members discussed the information presented to them at the Public Hearing held on 9 April 2013 in Old Bar and concerning the development application CP12-001, noting that the Assessment Report prepared by Mr Garry Fielding of CityPlan Services had been placed on the Coastal Panel webpage prior to the Public Hearing.

The recommendations and content of the Assessment Report were discussed in detail.

With consideration of the Panel's statutory responsibilities and the framework available for decision-making, the Panel resolved to write to the applicant and clearly specify the areas where additional information or clarification was needed.

It was agreed that the applicant would be advised of the following points:

Section 55M of the *Coastal Protection Act 1979* specifically states that “*consent must not be granted*” unless the Panel, as consent authority, is satisfied that the works will not unreasonably limit public access to or the use of a beach, or pose a threat to public safety. Further, the Panel must be satisfied that adequate arrangements have been made for maintenance of the works and the restoration of the beach or adjacent land if the works increase erosion of the beach or adjacent land. Such arrangements must secure adequate funding for the carrying out of any such restoration and maintenance, including by legally binding obligations, which may be by way of financial assurance or bond and/or by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the *Local Government Act 1993*).

The Coastal Panel considered the information provided in the application (as amended) and the range of issues raised by parties to the application and other parties, both in submissions and at the Public Hearing. Taking into account the requirements of section 55M of the *Coastal Protection Act 1979* the Panel formed a view that, on the basis of the information before it, favourable consideration of the proposal is unlikely.

The Panel formed the view that there are a number of specific areas where the application remains deficient and the Panel wished to provide the applicant with an opportunity to further address those issues. The key issues are:

1. remediation of the beach or adjacent land should erosion be caused by the works –

the Coastal Panel cannot grant consent until it is satisfied that satisfactory arrangements have been made for the life of the works (understood to be 25 years) for the restoration of the beach and adjacent land if the works increase erosion of the beach or adjacent land (*Coastal Protection Act 1979* s.55M(1)(b)(i)). The Statement of Environmental Effects indicates that increased erosion of adjacent land, and of the beach in front of the works, is expected to occur as a result of the presence of the works. The Panel is not satisfied that satisfactory arrangements have been made to address this issue. On the understanding that the proposed development is likely to exacerbate the loss of sand from adjacent land, as well as the beach, then there needs to be an arrangement specified as part of the application which will prevent or adequately mitigate this increased erosion caused by the proposed seawall. The Panel notes that a presumption that neighbouring land owners will erect a similar revetment wall at some future time is not an adequate arrangement.

2. maintenance of the works – the Panel does not consider that maintenance of the section of seawall in front of individual properties by individual property owners, in the absence of a comprehensive monitoring and maintenance plan for the entire structure, represents a satisfactory arrangement.

3. long term arrangements – the Coastal Panel cannot grant consent unless it is satisfied that arrangements are in place to secure adequate funding for any required restoration or maintenance, noting that an inadequate restoration or maintenance arrangement is likely to directly impact on adjacent landholders. Funding is to be secured through either legally binding obligations (*Coastal Protection Act 1979* s.55M(2)(a)) or by payment to Greater Taree City Council of an annual charge for coastal protection services (within the meaning of the *Local Government Act 1993*) (*Coastal Protection Act 1979* s.55M(2)(b)).

4. public access and public safety – the Coastal Panel cannot grant consent until it is satisfied that the proposed development will not unreasonably limit public access to or the use of the beach (*Coastal Protection Act 1979* s.55M(1)(a)(i)) and does not pose a threat to public safety (*Coastal Protection Act 1979* s.55M(1)(a)(ii)). With the information provided, the

Coastal Panel is not satisfied that the application has adequately addressed these issues.

The Panel agreed to request advice from the applicant within 4 weeks as to whether the applicants are able to address the specific concerns identified above and, if so, an estimated timeframe within which these issues could be addressed. The Panel agreed that it would reconvene at the time that further information was provided to further consider its determination of the development application.

Item 4 - Other Business

None.

Meeting closed 11:55am.