



7 April 2017

Chair  
 NSW Coastal Panel  
 c/- Office of Environment and Heritage

By Email: [coastal.panel@environment.nsw.gov.au](mailto:coastal.panel@environment.nsw.gov.au)

Dear Chairman,

**DEVELOPMENT APPLICATIONS – COASTAL PROTECTION WORKS, BELONGIL BEACH, BYRON BAY- Development Applications (DA) CP17-001, CP17-002, CP17-003 and CP17-004**

By correspondence dated 20 March 2017 the Coastal Panel advised that it was seeking comment from Byron Shire Council in relation to any of the above development applications and that that comment was sought by 7 April 2017.

Council's comments herein relate to the development applications. Separate comments will be made in respect of integrated development in CP 17-002 and CP 17-004. The question of landowner's consent will be dealt with in separate correspondence.

Council has reviewed the development applications (including the additional information requested and provided) and offers the following comment.

1. Based on the information submitted to date by the applicants, Council considers the coastal protection works to be 'design' of new coastal protection works and not 'repair' of existing works. Respectfully the Coastal Panel is requested to treat each wall as a new design and assess the development application accordingly.
2. Before the applications are determined more detailed information is required to be provided by the applicants on the design and methodology of the new coastal protection works including but not limited to:
  - The life expectancy of the rock walls.
  - The estimated quantity of new imported rock to be imported.
  - Timing of works, i.e. will each rock wall be completed at one time as a separate project or will the same contractor be using four machines on the beach at one time. Will additional rocks and/or material be left on the beach overnight or will each section (10 – 15 m sections) be completed during daylight hours. Some sections of the beach may be problematic for machines to work during high tide e.g. 6B Childe St where the high tide comes right to the wall.
  - How rock piles and excavated sand will be contained on the beach and the estimated quantity of sand lost from the project footprint.
  - Better explanation of access requirements and social impacts including number and movements of trucks to and from the site; potential limited public access;



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reduced public amenity from construction works on the beach; and potential noise impacts.

- Temporal considerations of construction works such as avoidance of shore bird and turtle nesting season and extreme weather events.
- Preparation and implementation of a Construction Management Plan.

On the provision of the above information the development applications ought to be re-exhibited for public and agency comments.

3. More detailed consideration of the environmental impacts of rock walls on beach erosion, adjacent lands and ecosystems is required. The applications state that due to the developments being repair, "it can reasonably be concluded that the proposed repairs are unlikely to have a significant impact on any threatened or endangered species, or flora and fauna in general".

The cumulative impact of rock walls in the Belongil area needs to be considered in the event that more development applications are received.

4. The proponents of the DAs have stated that the repaired seawalls will be regularly maintained by the landowners after any erosion event, and at a cost incurred by the landowner. The DAs also state that as the work is 'repair', there will be no new impacts from the works and if anything, the repair of the walls should decrease any erosion impacts due to the slope of the walls and wave reflection.

Notwithstanding this statement there should be a request from the consent authority for more information to be provided by the applicant to support this claim.

Further, in the event approval is granted by the consent authority for any works, that conditions be imposed on the approval to address the issue of impacts that arise the result of any approved works in the future. Also that the resultant cost/s associated with any required mitigation actions be borne by the applicants.

5. That the assessment and decision on any proposed works should be put on hold until such a time as the CZMP for the BBE is made. This comment is made with the rider that its implementation ought not be given effect should it create "deemed refusal" circumstances.
6. That approval of these works is not considered to be in accordance with the proposed assessment pathways that will be implemented in the new coastal legislation once operational.

Council is concerned that the approval of these works will add to existing legacy issues.

In the Supreme Court of NSW on 12 August 2016 Consent Orders were entered in proceedings between all of the present applicants (and others) and Council. One of the orders provided an injunction preventing Council from taking steps to remove the protection works as a then currently existed. Those protection works are now the subject of the applications before the Coastal Panel. The Consent Orders also provided that Council is restrained from taking steps to remove any lawfully approved repair of any part of the then current protection.

Consequently any works approved by the Coastal Panel will have a legacy impact on Council by virtue of the operation of the Consent Orders.

Council notes that in the additional information provided by the applicant's it is stated that there is "long-documented impact of the Jonson Street structure on the downdrift beaches at Belongil". Council acknowledges that the alleged impact of the Johnson Street structure was part of the Plaintiffs' Supreme Court claim.

Council does not admit the alleged impact and requests that the Coastal Panel ignore the statement in its consideration of the development applications.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mark Arnold".

Mark Arnold  
Acting General Manager