



8 May 2017

Chair
NSW Coastal Panel
c/- Office of Environment and Heritage
By Email: 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 CPIT-004

Council refers to its letter to the Coastal Panel of 7 April 2017. In this letter Council advised the Panel that it needed more information about the above applications before it could comment on them. This information has been provided from the applicants through the Coastal Panel and has been considered by Council. Council offers the following three comments as a result.

Consent Orders – Supreme Court of NSW

First, the applications suggest that the works to 'repair' the walls in each instance are to be carried out in accordance with Consent Orders made by the Supreme Court of NSW on 12 August 2016.

However, Council's view is that the applications' reference to the court orders is neither necessary nor sufficient in determining whether or not the applications should be approved. The court orders did not mandate that any particular work be carried out. Nor did the orders say anything about whether future works should be carried out. The orders merely allow the existence of the walls and prevent Council from taking any action to remove them.

It is a matter for the Coastal Panel to determine whether or not the walls need repair and, if so, the nature and extent of that repair.

The Development Applications

Second, Council is concerned that the proponents seek to do more than simply repair the existing structures, despite the applications continually using the word 'repair' to describe the proposed works.

As the Panel knows, there is a difference between repairing a two-lane timber bridge and upgrading a two-lane timber bridge to a four-lane concrete bridge. Council is concerned that the applications are closer to the latter illustration than the former.

The design in each application requires removal of the existing structure/s which comprises the dismantling of both layers of rock and replacement of the geotextile layer.

Construction will be completed in accordance with the engineered design, noting that some material will be reused, some material disposed, and a substantial volume of new material imported (up to 670 tonnes for the Don Street works).



As there is no 'as constructed' detail below sand level, it is difficult for Council to comment on whether the works appear to be purely replacement, renewal, enhancement or an upgrade and whether what is proposed is truly a repair.

However, Council requests that the Panel adequately analyses the extent of the work proposed so that its purpose can be properly characterised. Council submits the following explanations help highlight the differences between simply repairing an asset and upgrading it:

- Renewal – replaces existing components or parts of an asset to retain capacity or performance capability, e.g., road reseal, timbers replaced on bridge, replacing a material section of a drainage network with pipes of the same capacity, or resurfacing an oval. It also includes the complete replacement of an asset that has reached the end of its life, so as to provide a similar, or agreed alternative, level of service, e.g. replacing a causeway with a box culvert due to fisheries requirements.
- Enhancement or upgrade – enhances an existing asset to provide a higher level of service or expenditure that will increase the life of the asset beyond that which it had originally. It will increase operations and maintenance expenditure in the future because of the increase in the organisation's asset base, e.g., widening the sealed area of an existing road, replacing drainage pipes with pipes of a greater capacity, enlarging a grandstand at a sporting facility, widening a footpath from 1m to 3m wide to meet future demands.

Environmental Impacts Not Adequately Considered

Third, Council is concerned that the applications do not adequately address various environmental impacts.

For instance, end effects of rock walls are well documented. If an enhanced version of current protection is contemplated, it is possible that most of the beach in front of the walls may be lost to erosion in the long term.

Break through of the Belongil Spit downdrift (west) of the walls may also occur, with possible migration of Belongil Creek to the south.

These ecological impacts have not been regarded at all in the applications. The proponents have merely stated that there will be no increase in impacts beyond the status quo.

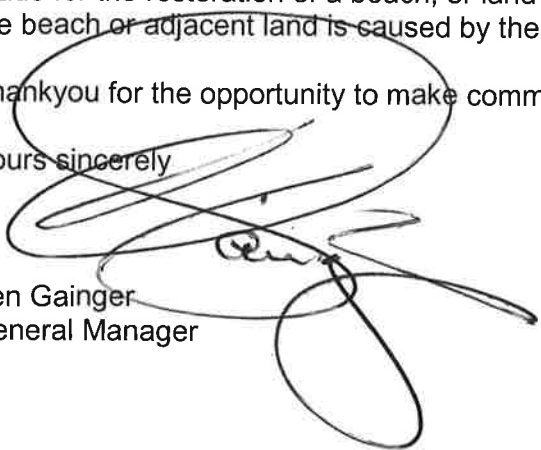
The proposals make no arrangement for the beach nourishment. Council submits that it is not sufficient to simply say that the proposed post-repair state of the walls will have less impact on the status quo and therefore no mitigation measures or funding arrangements are required to be implemented.

Council refers to Section 27 of the *Coastal Management Act 2016* which provides that development consent must not be granted under the *Environmental Planning and Assessment Act 1979* to development for the purpose of coastal protection works, unless satisfactory arrangements have been made for the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works, and for the maintenance of the works.

Thankyou for the opportunity to make comment.

Yours sincerely

Ken Gainger
General Manager

A large, stylized handwritten signature in black ink, appearing to read 'Ken Gainger', is written over the typed name and extends upwards into the 'Thankyou' line.