



NSW Coastal Panel

Ms Bobbie Corbett
International Coastal Management
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Main Beach Queensland 4217

Our reference: DOC13/16322
Contact: Jane Gibbs
(02) 4904 2587

Cc: the Owner's Corporation, Meridian Resort c/- Mr Paul Burton 32 Lewis St, Old Bar
Mr Malcolm Black, 24 Lewis St, Old Bar
Mr Ivan Handel and Mrs Anne Handel, 26 Lewis St Old Bar
Mr Ross Keys, 34-36 Lewis St, Old Bar
Mrs Michelle Milford and Mr Lee Milford, 38-40 Lewis St, Old Bar
Mrs Kerrie Turner and Mr Warren Turner, 38-40 Lewis St, Old Bar

Dear Ms Corbett

Development Application CP12-001: Seawall to protect properties at Old Bar

I write to inform you of the deliberations of the NSW Coastal Panel with respect to the above application following the Public Hearing held in Old Bar on 9 April 2013.

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 has 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 Coastal Panel has formed a view that, on the basis of the information before it, favourable consideration of the proposal is unlikely.

There are a number of specific areas where the application remains deficient and the Panel wishes to provide you 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 would appreciate your advice by 27 May 2013 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 will reconvene at this time to further consider its determination of the development application.

If you have any further questions or wish to discuss, please contact Ms Jane Gibbs on (02) 4904 2587 or jane.gibbs@environment.nsw.gov.au.

Yours sincerely



DEREK RUTHERFORD
Deputy Chair
NSW Coastal Panel

24 April 2013