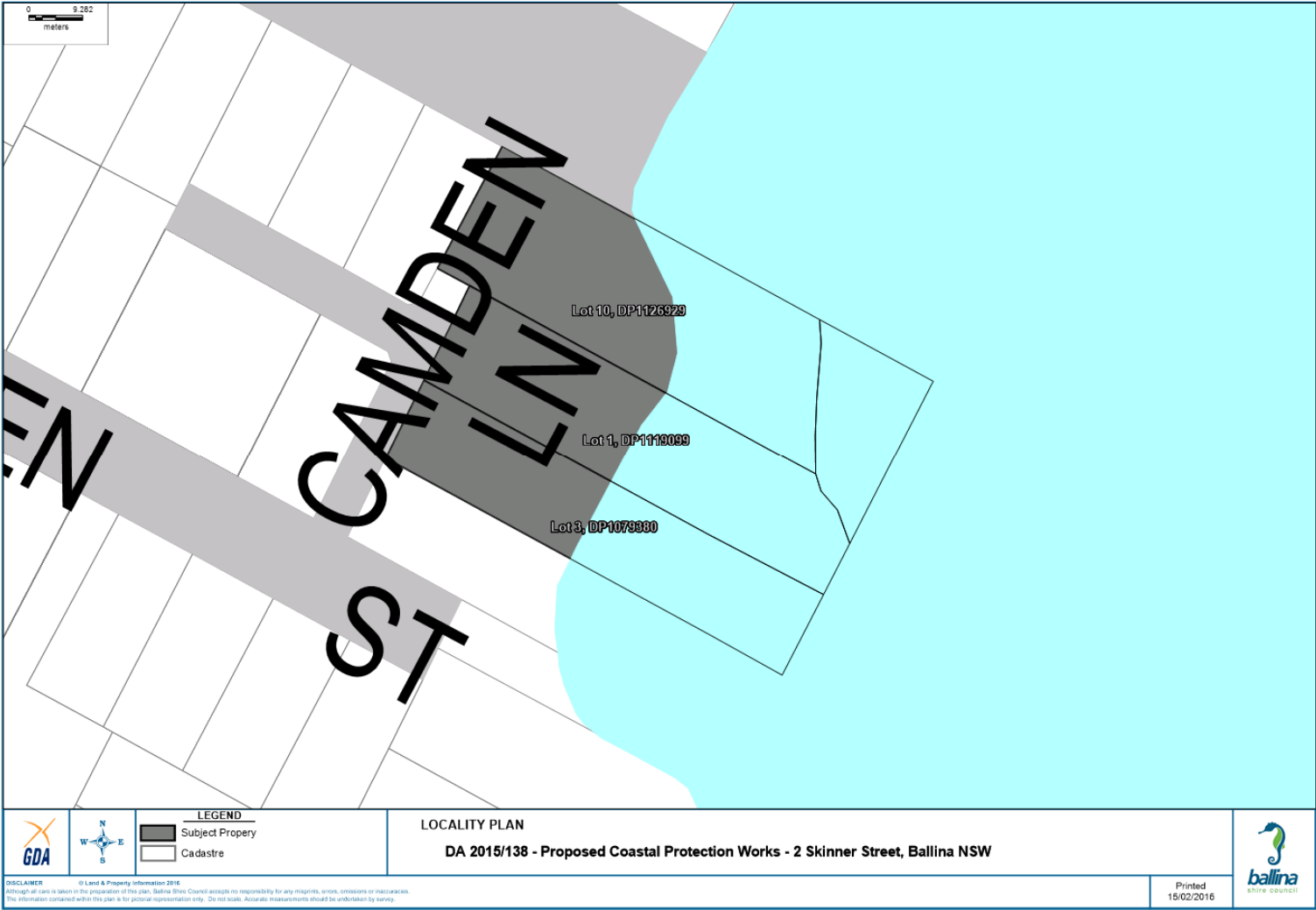


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Applicant	Civiltech Consulting Engineers
Property	Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380, No. 2 Skinner Street and Nos. 3 & 5 Camden Lane, Ballina
Proposal	To undertake coastal protection works comprising a dry rock revetment wall and partial filling of land behind the revetment wall within the subject lands
Effect of Planning Instrument	The lands are zoned R2 Low Density Residential and W1 Natural Waterways under the provisions of the Ballina LEP
Locality Plan	The subject lands are depicted on the locality plan attached

Introduction

On 26 March 2015 Council received a development application for the construction of "...an erosion protection retaining wall, including the removal of vegetation..." along the eastern boundary of the following sites:

Parcel	Address	Lot/DP	Owner	Area
1001966	2 Skinner Street	Lot 10 DP 1126929	KL Jambor	1,653m ²
1001640	5 Camden Lane	Lot 1 DP 1119099	JA Carmont	1,428m ²
1000693	3 Camden Lane	Lot 3 DP 1079380	WG Edwards	1,227m ²
16046	1 Camden Street	Lot 33 DP 872966	MJ Gribble	1,227m ²

Although the attached design plans indicated a triangular shaped allotment further to the east of Lots 1 and 10 within North Creek, it should be noted that this privately held Lot 43 DP 1009315 is not party to the application.

The lots have direct frontage to North Creek (and Lot 43 DP 1009315) with the immediate intertidal foreshore and bank located within the eastern boundaries of the lots. The subject lands have generally accreted eastwards and these accreted lands (or current shoreline) are currently unprotected by engineered structures from the potential processes of estuarine erosion. It should be noted, however, that at least one existing rock wall (now largely buried by accreted lands) understood to be approximately two metres high was built sometime in the 1980s further westward of the current proposal as indicated on attached plans.

Additionally, during the assessment of the current proposal, the owner of the southern-most Lot 33 DP 872966, Mrs Gribble, withdrew her participation in the application on the basis that she did not believe the further construction of the proposed wall was warranted at this time.

During assessment the proposal was revised three times and was subsequently placed on public exhibition twice. The revisions generally related to the positioning of the wall further to the west to that originally proposed and

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changes to the design of the wall (including the deletion of any mangrove clearing) so that the toe of the wall is located at the base of the existing bank in front of the subject allotments and limiting the height of the wall to match the top of the existing bank utilising a batter of 1h:4v. Due to the withdrawal of Lot 33 DP 872966 (Mrs Gribble) from the proposal, the length of the wall was also reduced (although the footprint has increased due to the amended sloping rather than vertical wall design).

These revisions were undertaken by the applicant subsequent to NSW Fisheries and NSW Office of Water (as Integrated Approval Bodies) not issuing General Terms of Approval (GTA's) to the originally submitted and secondly revised plans.

It is only recently that both NSW Fisheries (under the Fisheries Management Act 1994) and NSW Office of Water (Water Management Act 2000) were prepared to issue GTA's based on the third set of revised plans. It is the most recent thirdly revised plans that are the subject of this report (refer attached revised plans and responses from relevant Government Agencies).

The subject lands are currently zoned part R2 Low Density Residential Zone and part W1 Natural Waterway Zone under the Ballina Local Environmental Plan 2012 (BLEP 2012). The proposed wall is located entirely within the W1 Natural Waterway Zone as indicated in the attached zoning plan.

The current BLEP 2012 zone boundary reflects the zone boundary in the previous BLEP 1987 that formerly applied to the subject lands. The BLEP 1987 zone boundary was based on the shoreline boundary of the lots at the time of the preparation of the BLEP 1987. The zoning of the land was considered and reviewed during the preparation of the BLEP 2012. At the time it was determined appropriate to apply the waterway zone to this component of the lands given the environmental qualities of the sites.

Councillors may recall that a report was presented to Council's Ordinary Meeting of 27 March 2014 requesting an amendment to the BLEP 2012 to enable the permissibility of coastal protection works (such as a seawall or revetment wall) on the four properties. This was due to "coastal protection works" being a prohibited land use within the W1 Natural Waterway Zone.

Following a briefing held on 6 May 2014, a further report was presented to Council's Ordinary Meeting of 26 June 2014 providing an alternative approach to the use of the R2 zone, being an enabling clause in the BLEP 2012 which would allow development on the four allotments for the purpose of coastal protection works whilst retaining the existing zoning configuration.

Council resolved, amongst other matters:

"That the Council submit a planning proposal to amend Schedule 1 of the Ballina Local Environmental Plan 2012 and insert 'coastal protection works' as an additional permitted use (with consent) for Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966 (Camden Street, Camden Lane and Skinner Street, Ballina) to the Department of Planning and Environment for review and Gateway determination..."

Schedule 1 Additional Permitted Uses of the BLEP 2012 was subsequently amended on 16 January 2015 and now allows consideration of development

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for the purposes of coastal protection works (subject to development consent which is now being sought under the current application that is the subject of this report).

Further to these amendments to the BLEP 2012 to allow consideration of the works, the allotments also have relevant history in relation to erosion protection works.

In January 2012, Council officers investigated the placement of sandbags within the foreshore area of No. 2 Skinner Street (Lot 10 DP 1126929) that had not been approved by Council. The sandbags had apparently been placed to mitigate the effects of coastal erosion.

In response, the landowner advised that the sandbags had been placed as emergency protection to prevent the loss of landscaping. It was also advised by the landowner that a more permanent protection structure would be sought in conjunction with the adjoining landowners to provide protection against coastal erosion. Following further assessment by Council officers, no enforcement action was taken against the landowner in relation to the placement of the sandbags.

In March 2013, DA 2013/75 was lodged with Council on behalf of the four landowners seeking development consent for the provision of a rock retaining wall along the foreshore frontage of the subject sites. The development application defined the proposal as "erosion protection works". The design and location of the proposed protective wall was the same as that originally lodged under the current DA 2015/138.

The proposed rock wall was to be located in the W1 Natural Waterway Zone under the BLEP 2012. The statement of environmental effects (SEE) submitted in support of DA 2013/75 was unclear in detailing the "erosion protection works" and, in relation to the BLEP 2012, what consent was being sought for. While the SEE referenced the W1 Zone as the location of the proposed rock wall it also indicated, in reference to the W1 Zone, that "it is considered that [the W1 zone] is an anomaly in the zoning and is anticipated to be rectified in due course."

Following a preliminary assessment of DA 2013/75 by Council staff, further information was requested from the applicant. Clarification was sought from the applicant about how the development would be permissible on the land.

As a result of coastal protection works being prohibited development in the W1 Zone at the time, the development application was subsequently withdrawn by the applicant and has been re-lodged as part of the current application due to the enabling clause of the BLEP 2012.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

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As stated previously in this report, both the originally lodged application and the thirdly revised location, repositioning, and design plans for the wall/filling were placed on public exhibition. Council received 17 submissions of objection.

The issues raised in the submissions (and an additional petition containing 28 signatures against the proposal) during both the original exhibition and the re-exhibition are summarised as follows:

- No evidence that this environmentally sensitive area requires protection, (i.e. there needs to be tidal hydraulic survey) and the wall may cause other issues particularly as Lot 33 DP 872966 (Mrs Gribble) has withdrawn from the application
- The wall is unnecessary and the wall is an opportunistic re-alignment to gain more land
- The enabling clause 2.5 and Schedule 1 of the BLEP 2012 permits erosion protection works only, it does not allow the containment of lands gained by accretion where erosion is not occurring
- Reduced/restricted public access along the foreshore/beach at high tide
- Two of the three lots already have a rock wall built in the 1980's (and possibly another wall built in the 1960's). The existing wall built in the 1980's should simply be improved and extended to provide the protection sought rather than another wall close to the intertidal region
- A boardwalk or similar should be constructed to allow public access along the foreshore
- Cumulative impact on coastal vegetation and marine life
- The accreted lands may be reclaimed by the river by natural processes
- Inadequate design plans
- The design will not protect the properties in storm events
- The tide will sweep around the wall and create further erosion
- Flooding/surge impacts to Skinner Street and Camden Street from added pressure to stormwater
- Aesthetics of the wall will be displeasing
- Heavy machinery in the construction will do major damage to the intertidal habitat and other infrastructure
- Inadequate public exhibition of the proposal
- Not in the public interest

A copy of each submission is attached. These issues/concerns will be considered throughout the report.

Report

The proposed development has the potential to impact on the environment in a number of ways. These impacts may be either short term, limited to the period of construction, or longer term associated with the continuing presence of the proposed revetment wall.

An assessment of the application under the Coastal Protection Act 1979 and Section 79C(1) of the Environmental Planning and Assessment Act 1979 and associated instruments has been undertaken, with this report focusing on the following relevant crucial issues which include the associated matters raised by submitters.

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Ballina Local Environmental Plan 2012 (BLEP 2012)

As previously stated in the report the lands the subject of the application are partly zoned R2 Low Density Residential and part W1 Natural Waterway, with the proposed wall located entirely within the W1 Natural Waterway Zone.

Although there is an enabling clause 2.5 incorporating Schedule 1 (1AA) of the BLEP 2012 which allows consideration of the coastal protection works on the allotments, it is still a requirement that any development must be considered having regard for the objectives of the applicable land use zone.

Therefore particular consideration must be given to the compatibility of this development with the objectives of the W1 Natural Waterway Zone.

The objectives for the W1 Zone are:

- *To protect the ecological and scenic values of natural waterways.*
- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To ensure that development maintains and enhances the integrity of aquatic ecosystems and biodiversity.*

Despite both NSW Fisheries and NSW Office of Water issuing GTA's for the revetment wall, it is arguable whether such a development is compatible with the W1 Zone objectives for the following reasons.

The works will result in the potential for adverse impacts on what is an environmentally sensitive site and Councillors will need to determine if the conditions proposed to be applied to any consent by both Council and other relevant regulatory bodies will satisfactorily mitigate environmental impacts.

In addition, the placement of the wall may change the existing natural foreshore processes along the frontages of these properties and those immediately adjoining that are not party to the application and will likely result in minor impacts to the public amenity of the immediately adjoining foreshore area (having regard for the fact that the titles of the subject lands do extend further eastwards of the wall's designed location).

The applicant contends that the W1 zoning is an anomaly and the revetment wall is "...in keeping with the character of the locality" and it is considered that the application is substantially reliant upon the enabling clause 2.5 and Schedule 1 (1AA) of the BLEP 2012.

Notwithstanding the W1 Zone objectives, Schedule 1(1AA)(2) is also very specific as to what additional permitted uses may be considered, being:

"Development for the purposes of coastal protection works is permitted with development consent."

Therefore Council must be satisfied that the proposed wall/works are indeed "coastal protection works", which are defined under the Coastal Protection Act 1979 (as adopted by the BLEP 2012) as meaning:

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"activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters and includes seawalls, revetments, groynes and beach nourishment."

Further "coastal hazards" are also defined under the Coastal Protection Act 1979 as:

*"(a) beach erosion,
(b) shoreline recession,
(c) coastal lake or watercourse entrance instability,
(d) coastal inundation,
(e) coastal cliff or slope instability,
(f) tidal inundation,
(g) erosion caused by tidal waters, including the interaction of those waters with catchment floodwaters."*

Some public submissions have questioned whether the proposed wall will reduce the impact of coastal hazards on the subject properties and if indeed coastal hazards are actually occurring on the subject properties at this time due to the natural accretion of land that has been continuing to occur over a substantial number of years.

If this view was supported by the Council, and due to the specific nature of both the enabling clause of the BLEP 2012 and the permissible land uses within the W1 Zone, the proposed wall would be prohibited development.

Consequently, the Council must be satisfied that the proposed wall is a "coastal protection work". This is an important consideration in the fundamental permissibility of the proposed works.

In relation to the other relevant assessment clauses, namely Clause 5.5 Development within the coastal zone, Clause 5.7 Development below mean high water mark, Clause 7.1 Acid sulfate soils, Clause 7.2 Earthworks, Clause 7.3 Flood planning, refer to assessments outlined below and particularly to the SEPP 71 Section of this report.

Coastal Protection Act 1979 (CPA)

Two of the main objectives of the CPA which are particularly relevant to the consideration of this application are:

*(d) to promote public pedestrian access to the coastal region and recognise the public's right to access, and
(e) to provide for the acquisition of land in the coastal region to promote the protection, enhancement, maintenance and restoration of the environment of the coastal region.*

In addition, Section 55M of the Coastal Protection Act requires the consent authority to be satisfied in regard to a number of matters before granting development consent for coastal protection works for erosion and accretion of lands, being:

*(1)(a) the works will not over the life of the works:
(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or*

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(ii) pose or be likely to pose a threat to public safety, and

(b) satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:

- (i) 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,*
- (ii) the maintenance of the works.*

(2) The arrangements referred to in subsection (1)(b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following:

(a) by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:

- (i) the owner or owners from time to time of the land protected by the works,*
- (ii) if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority—the council or public authority,*

Note. Section 80A (6) of the Environmental Planning and Assessment Act 1979 provides that a development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of making good any damage caused to any property of the consent authority as a consequence of the doing of anything to which the consent relates.

(b) by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).

(3) The funding obligations referred to in subsection (2)(a) are to include the percentage share of the total funding of each landowner, council or public authority concerned.

As the Statement of Environmental Effects submitted by the applicant was silent in relation to the CPA and particularly the maintenance and provision of public access to and along the foreshore area of North Creek immediately east of the subject properties, Council requested that this be specifically addressed.

The applicant's response of 2 December 2015 is attached and states that:

"The proposal will not unreasonably limit public access to the beach as there are existing public access opportunities via Norton Street, Skinner Street and Camden Street and the proposed works are entirely within the boundaries of privately owned land."

In addition to this, the applicant also provided advice from one of the land owners, Mr Carmont, dated 30 November 2015 confirming that they (i.e. the three land owners') are not prepared to provide any legal access along the foreshore and that the status quo should remain for various reasons (also attached).

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As outlined above, the CPA in conjunction with State Environmental Planning Policy No. 71 and the NSW Coastal Policy all seek to promote public access to and along coastal foreshores to be protected, maintained, improved or new opportunities created as part of the consideration of the current application.

The existing status quo does not allow the public on-going access along this section of foreshore. There are no legally binding easements and nor has there been proposed dedication of land for public use and therefore the current public access across the privately owned land may be denied or restricted at any time by any of the current or subsequent landowners. Without the provision of an easement or the partial dedication of private lands as part of this current development application, Council will need to give careful consideration to whether the proposal meets the objectives of the CPA and other relevant legislation.

Important key considerations in relation to the above are:

- (i) The proposed wall is to be placed within the boundary of the subject lands, albeit in the intertidal zone of North Creek, for what the applicant contends is to protect them from coastal erosion. Even though there may be a strong desire by the land owners to construct coastal protection works to avoid potential loss or damage; this is often not a preferred option in mobile coastal/estuarine environments that may be adversely impacted by revetment walls.

The Coastal Protection Act does allow for coastal protection works including hard protection structures if erosion presents an immediate threat to public safety, or property or infrastructure that is not expendable.

Coastal protection works can consist of hard structures such as revetments that armour and fix the position of the shoreline, and/or soft works such as beach nourishment which replace lost sediment and reinstate a buffer zone.

Whilst revetments may halt landward migration of the shoreline, they may adversely impact the adjoining land and foreshore, by:

- Lowering of the sand levels of the foreshore immediately in front of the revetment, often resulting in the loss of a useable beach.
- Reflecting wave or tidal energy off the structure resulting in an inability of sand to build-up seaward of a revetment.
- Causing accelerated erosion at the terminal ends of a revetment, resulting in significant scour pockets on adjoining land which encourage the construction of further revetments to mitigate the accelerated erosion.
- Causing an associated loss or degradation of coastal resources and habitat.

Consequently, it is important to note that revetments may only prevent further erosion of the land directly protected by that structure. Revetments may not provide a coastal management benefit to adjoining areas or address the primary cause of erosion.

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Any proposal for a revetment wall should demonstrate a threat to development. The applicant's Engineering Geologist (Coffey Geotechnics) in May 2012 has noted "*...It appears that the fluvial system in North Creek is currently depositing sediment, providing additional support to the eastern lot boundaries...The erosive events appear to be overridden by the accretionary processes...and as such we anticipate that in the future the area east of the residences will continue to form new land as the juvenile mangroves grow and spread*".

As can be seen from the attached aerial photography from 1967 to 2012, the lands immediately in front of these properties have been accreting over a substantial number of years, i.e. a cyclical process. Even though there have been significant storms and flooding events during this time as outlined by the applicant, of recent times natural land accretion appears to have replenished damage after the event(s) to this locality.

Therefore the applicant's contention that the need for erosion protection is due to recent erosive events and the need for the owners to otherwise implement on-going temporary control measures has not been clearly demonstrated given the apparent cyclical but overall recent accretion of lands in this locality.

If the Council considered that the lands' vulnerability to storm damage and flooding events did not pose an immediate threat of erosion, the construction of the proposed permanent revetment wall (given that one is partially constructed already) may not be warranted in the circumstances when considered under the provisions of the Coastal Protection Act.

Notwithstanding this consideration, the Council must be mindful of the proposed wall's situation in the context of other existing coastal protection works/walls in the locality (which are generally of a vertical/steep rock construction). The Coastal Protection Act calls for a strategic approach to these works and although the applicant contends that the proposed works will provide "the missing link", this was prior to Lot 33 DP 872966 being withdrawn from the application. Additionally, the Council is also not party to the application (i.e. in relation to the public access lands of Camden and Skinner Street road reserves). The potential impact on these adjoining lands once the wall has been constructed has not as yet been confirmed by the specialist engineering advice that is proposed to be conditioned should the application be approved.

- (ii) Although public access directly to North Creek will not be impeded, as public access is obtained elsewhere from public road reservations, the public will continue not to be able to have legal access along the foreshore over the subject private lands as there are no legally binding easements here. The only access available would be reliant upon the continued practise by current owners that allows people to walk across the private landholdings.

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- (iii) The proposed wall does not pose a threat to public safety as it is proposed to be located entirely within private lands.
- (iv) The owners of the subject lands, by locating the wall within their property, adopt responsibility for its ongoing maintenance.
- (v) If approved, the owners may need to agree to be bound by reasonable legally binding obligations regarding ongoing maintenance, subject to consultation as required by Section 55M of the CPA.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) & NSW Coastal Policy

The subject lands are located within the “Coastal Zone” for the purposes of SEPP 71. The lands are also within a “sensitive coastal location” being within 100 metres of high water mark of the estuary; however the proposed development is not “significant coastal development” for the purposes of SEPP 71.

Similar to the CPA, Clause 7 of SEPP 71 requires the matters set out in clause 8 (also referring to clause 2) of the Policy to be taken into account by the consent authority when it determines a development application to carry out development on land to which the Policy applies.

Clause 2 – Aims of Policy

“(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales Coast, and”

Assessment: The proposed development is located on privately owned land and according to relevant Government Agencies will not have an adverse effect upon the natural, cultural, recreational and economic attributes of the New South Wales Coast subject to conditional mitigation measures. This riverfront locality has been historically developed for residential purposes; however it is accepted by the applicants that there will be a need to demonstrate by specialist design analysis that the fluvial and tidal hydraulic impacts of the wall will be acceptable. If approved, this detail should be required to be satisfactorily provided prior to the issue of the Construction Certificate.

The fluvial and tidal reports will need to demonstrate that the wall's construction will alleviate any underlying shoreline recession and erosion on the subject lands whilst not adversely impacting on adjoining lands not subject of this application.

“(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and”

Assessment: The proposed development will not improve existing public access along the estuarine foreshore as the proposed works are entirely within private lands and the application does not propose to provide public access either immediately landward or seaward of the wall. The applicants' contention that the public can utilise what would be the Norton Street road

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reservation is not currently a practical option as the road reservation is underwater for substantial periods.

“(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and”

Assessment: The subject lands are privately owned and have not been identified by Council or any other Government Agency as being required for the provision of new opportunities for public access to the coastal foreshore. Despite this, Council still needs to be mindful of identifying any suitable new opportunities for improved public access along the foreshore in its consideration and determination of these types of application.

“(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and”

Assessment: The subject lands have been used for residential purposes for an extensive period of time and extensively modified for this purpose. The sites have not been identified as being significant for Aboriginal cultural heritage. Refer to further comments later in this report.

“(e) to ensure that the visual amenity of the coast is protected, and”

Assessment: The proposed wall will be visually compatible with existing protective works within North Creek. It will not cause any significant adverse impact on the scenic amenity of the river at this location due to its limited height.

“(f) to protect and preserve beach environments and beach amenity, and”

Assessment: Construction of the revetment wall proposed by this development application will, if approved, need to be the subject of further specialised engineering assessment and certification to demonstrate that the wall will not adversely impact the waterway and adjoining lands and will not have an adverse impact on the adjoining beach amenity upon low tides.

“(g) to protect and preserve native coastal vegetation, and”

Assessment: The subject lands contain scattered native coastal vegetation (mangroves). All coastal vegetation at this location is outside of the proposed footprint of the wall or within North Creek and have satisfactory separation distances to alleviate any potential for impact on vegetation from wave action off the wall etc.

“(h) to protect and preserve the marine environment of New South Wales, and”

Assessment: The proposed development has no adverse impact on the marine environment of the locality and incorporates suitable measures for the prevention of off-site sedimentation impacts. GTA's have been issued by both NSW Fisheries and NSW Office of Water.

“(i) to protect and preserve rock platforms, and”

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Assessment: The proposed development has no impact on local rock platforms.

“(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991), and”

Assessment: The design of the proposed development incorporates the principles of ecologically sustainable development and causes no adverse impact on biodiversity and ecological integrity. The revised wall design has been supported by NSW Fisheries and NSW Office of Water on these grounds.

“(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and”

Assessment: The proposed development does not involve the construction of a building and the wall is to have a relatively low elevation to protect the scenic quality of the area, although the wall will not be as aesthetically pleasing as the current natural intertidal region of this locality.

“(l) to encourage a strategic approach to coastal management.”

Assessment: As previously outlined in this report, the proposed development is not considered to be entirely consistent with Section 55M of the Coastal Protection Act as the immediately adjoining properties remain unprotected and public access along the foreshore will not be improved. The provision of an easement or dedication of lands into public ownership would have improved the capacity for a strategic approach to be able to be taken to improving public access.

Clause 8 – Matters for consideration

(a) the aims of this Policy set out in clause 2,

Assessment: Refer to previous comments under clause 2.

“(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved”.

Assessment: The proposed development has no adverse impact on any direct public access to the coastal foreshore by pedestrians or persons with a disability. The application does not propose any improved facilities.

“(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability”.

Assessment: The subject lands are privately owned and used for residential purposes. The sites have not been identified as being required for the provision of a new point of public access at this point in time. Despite this, Council needs to decide if the possibility for future public access along the foreshore for disabled people should be addressed as part of this application.

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“(d) the suitability of development given its type, location and design and its relationship with the surrounding area”.

Assessment: The proposed development is appropriate to the site when considered in the context of the surrounding area which predominantly contains revetment walls (or similar). It was unknown at the time of writing this report if the proposed revetment wall would increase sand losses or would adversely affect neighbouring properties. These are critical issues which will need to be addressed by specialist design certification prior to any construction certificate issuing or work commencing.

“(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore”.

Assessment: It is considered that the proposed development does not have an adverse impact upon the visual amenity of the coastal foreshore; does not cause overshadowing of the coastal foreshore; and will not result in any loss of views of the coastal foreshore gained from any public place when having regard for the surrounding locality.

“(f) any scenic qualities of the New South Wales Coast, and means to protect and improve these qualities”.

Assessment: The subject land is located within a long established residential area and is on the riverfront and not the coastline. The proposed wall will not in itself adversely impact the scenic quality of the coastal foreshore at this location as it is not visually significant and will not result in any vegetation loss.

“(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats”.

Assessment: The subject land does not contain habitat for threatened flora or fauna.

“(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats”.

Assessment: No objection has been raised by NSW Fisheries to the potential impact on aquatic/marine habitat (subject to mitigation measures).

“(i) existing wildlife corridors and the impact of development on these corridors”.

Assessment: The subject land does not comprise part of a wildlife corridor.

“(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards”.

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Assessment: The applicants' submitted purpose of the proposed wall is to protect the subject lands from coastal erosion. There has been no accompanying engineering assessment(s) prepared by specialist consultants that demonstrate that construction of the revetment proposed by this development application will alleviate the potential for shoreline recession and erosion on the subject land and that the proposed revetment wall would not increase sand losses and would not affect neighbouring properties. On face value it would seem clear that the works would assist to mitigate storm damage and have erosion protection value.

"(k) measures to reduce the potential for conflict between land-based and water-based coastal activities".

Assessment: The proposed development does not present any potential for conflict between land based and water based activities unless the general public enters private lands.

"(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals"

Assessment: The subject lands are unlikely to be of any Aboriginal cultural heritage significance in view of its historic use for residential purposes. Refer to comments later in this report.

"(m) likely impacts of development on the water quality of coastal water bodies".

Assessment: If approved, an Erosion and Sediment Control Plan will need to be satisfactorily supplied prior to the issue of the Construction Certificate to ensure that the construction of the proposed wall will not adversely impact the water quality of North Creek.

"(n) the conservation and preservation of items of heritage, archaeological or historic significance".

Assessment: The subject lands contain no known items of heritage, archaeological or historic significance.

"(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities".

Assessment: The proposal does not involve the preparation of a draft local environmental plan.

"(p) only in cases in which a development application in relation to proposed development is determined:

- (i) the cumulative impacts of the proposed development on the environment, and*
- (ii) measures to ensure that water and energy usage by the proposed development is efficient".*

Assessment: Without the provision of further detailed engineering reports, it was unknown at the time of writing this report if approval of the proposed development would not generate adverse cumulative impacts on the

8.4 DA 2015/138 - Coastal Protection Works, Skinner and Camden Streets

environment. However, having regard for the approval of similar applications, and as the design of the proposed development is consistent with the applicable legislative requirements this seems to be unlikely.

Clause 14 – Public Access

“Public Access: A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land based right of access of the public to or along the coastal foreshore”.

Assessment: As outlined throughout this report, there is no proposal by the landowners to allow the unrestricted public access in the vicinity of the wall. The proposed development does not, of itself, diminish any current land based right of the public to access the coastal foreshore.

Clause 16 – Stormwater

“Stormwater: The consent authority must not grant consent to a development application on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform”.

Assessment: The proposed development will not discharge untreated stormwater to any of the above.

This assessment under SEPP 71 concludes that if the applicants were to propose an easement for legally binding public access across the properties (or similar) and relevant specialist engineering advice being provided prior to the issue of the Construction Certificate, the development would generally be consistent with the aims and relevant provisions of SEPP 71 and the NSW Coastal Policy. The issue of whether it is both timely and reasonable to link improved public access along the estuary shoreline in this location to this particular application is a public interest matter for the Council to determine. The applicants contend that there is no nexus to the application as the works are proposed entirely within private property.

Key Merit Issues

Public Access To and Along the Foreshore

Although the public are currently permitted access along the eastern portion of these properties, there appears to be no land based right of public access along the grassed and sandy beach areas that comprise the estuarine frontages of these properties. This land is private property. If the public wishes to acquire private land, then an appropriate dedication or easement process for public access appears to be necessary. In this regard the private land owners do need to address the case for the provision for, or improvement of, public access under the CPA, SEPP 71, and the NSW Coastal Policy in their application.

The issue of community access along the waterfront near Camden Street was included in the 2004 PAMP.

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The further PAMP review in 2010 noted this access in the community suggestion section for the path along North Creek from Fox Street to Cawarra Street. However, the proposal did not rate sufficiently to make it into the current PAMP works program.

The 2013 PAMP review of 'Program of Works' also did not include this access pathway.

There is also a perception in the submissions received that public access would be degraded by approval of this application as it has been made. This is not the case as the access used by the public is over private property and may be able to be denied at any time. Although public access from Skinner Street and Camden Street directly to North Creek is not affected by this proposal, Council staff did request the applicant to provide specific advice about the provision of public access along the foreshore to provide an improved access outcome.

The applicant has advised that this will not be forthcoming.

Flooding of Skinner Street/Stormwater

Any stormwater or localised flooding in Skinner Street can be attributed to the inadequacy of the existing pipe network. The proposed wall does not affect the existing pipes or their location and Council's Civil Services Group have raised no objection to the wall in this regard.

No detailed design

It is common to provide concept design plans at development application stage, whilst full design is undertaken after consent is issued and prior to the issue of the Construction Certificate (due to further certainties for the applicant).

There is sufficient design detail for both Council Staff and relevant Government Agency staff to consider the proposal. Council should note that if additional engineering certification reports are provided as outlined within this report, the location and/or design of the wall could change in the normal course of such processes.

The need for the erosion protection wall

This issue has been assessed within the Coastal Protection Act 1979 section of this report. The applicant contends that the purpose of the proposed wall is to afford protection to the subject lands from erosion and to facilitate the on-going use of the lands for low density residential development, whilst some of the submitters contend that the works are unwarranted and are simply an attempt to secure more lands.

Generally, erosion protection constructed on private land for the benefit of the private land is a matter for the relevant landowners. They must evaluate the cost/benefit of protecting their property to ensure it maintains its value and amenity. On face value the wall's construction will materially assist to protect the immediate shoreline from storm damage and erosion.

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Whilst the lands have clearly been accreting for a number of years and the fluvial system within North Creek is currently continuing to deposit sediment, periodic erosion could occur including during major storm events.

The need for a Hydrological Survey

The development application was not supported by any Coastal Engineering Assessment.

Based on this uncertainty, if the application is approved, the need for a fluvial analysis is proposed to be conditioned prior to the issue of the Construction Certificate. The typical type of bank protection along North Creek has historically been the construction of rock walls. From viewing the aerial imagery for this location, the proposed wall does not intrude into the waterway and is unlikely to interfere or influence the existing water movement patterns in North Creek; however this has not been specifically assessed by specialist engineering consultants.

Notwithstanding this, if the application is approved, the applicant should be required to provide a report from a suitably qualified Engineer confirming that the wall will not cause adverse impacts (such as scouring, increased flood flows/levels or increased sand losses) on surrounding neighbouring properties, particularly the unprotected Lot 33 DP 872966 and Council's road reservations of Skinner and Camden Streets.

In addition, an Erosion and Sediment Control Plan and Acid Sulfate Soil Management Plan to mitigate construction impacts on North Creek should also be required prior to the issue of any Construction Certificate.

Relevance of Coffey Geotechnical Report

Council's Civil Services Group has advised that the submitted Coffey Geotechnical report dated 1 May 2012 (also included in the BLEP 2012 Amendment/Planning Proposal) is not particularly relevant in the circumstances and simply indicates that the lands are relatively stable.

Aesthetics of the wall

The proposed rock wall is typical of other walls along North Creek, albeit on an angle rather than vertical to reduce the potential wave impact on nearby mangroves.

While the wall is not expected to substantially adversely impact the visual amenity of the foreshore, it would be visible in the landscape.

The design and construction of the proposed revetment wall will cause no adverse amenity or view loss impacts on neighbouring residences.

Can a Mean High Water Mark (MHW) be redefined if the land is continuing to accrete?

The MHW can be redefined if accretion continues. The eastern boundary for accreted land is limited to reaching the Norton Street road boundary (as it extends further north than currently constructed) and the adjoining privately held Lot 43 DP 1009315 further to the east.

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If a further revetment wall was constructed on the redefined eastern boundary (i.e. on the MHWL of Lots 1 and 10), the consent of the adjoining land owner of Lot 43 DP 1009315 to the submission of any development application would likely be required.

Cultural Heritage

The subject lands have been historically used for residential purposes and have been extensively modified from their unstabilised natural state by residential habitation and coastal erosion.

The applicant provided an Aboriginal Cultural Heritage Due Diligence Report prepared by Everick Heritage Consultants dated June 2015 and this was reviewed by NSW Office of Environment and Heritage (OEH), copy attached.

The conclusion of the report (as supported by OEH) is that it is highly unlikely that there are any items of Aboriginal Heritage on the lands to be occupied by the proposed revetment wall.

In addition, neither the subject lands nor its existing improvements have any European Heritage significance.

Lack of Public Exhibition/Consultation

With respect to the advertising and notification of adjoining residents for the Development Application, owners and occupiers of six adjoining properties were notified of the application by direct letter dated 2 April 2015 (11 letters). Additionally, advertising was included in The North Coast Advocate of 8 April 2015 and two signs were also placed adjacent to the works, one was placed at the end of Skinner Street where people go onto the beach area and one at the end of Norton Street where people currently access the beach.

In all cases people were invited to examine the proposal that was displayed on Council's web-page and/or by visiting the Council's offices.

The re-exhibition of the thirdly revised proposal repeated all of the above with all previous objectors directly notified, along with three signs (rather than two).

It is considered that the general public were adequately notified both at lodgement of the original proposal and upon the most significant changes to plans (i.e. third revisions to plans).

The Public Interest

Although the proposal, particularly that as originally submitted, raised a number of public objections, particularly from residents in the locality (including a petition), it is considered that the proposed development does not raise any matter which may be regarded as contrary to the public interest and which would prevent the application from being conditionally approved. This is contingent, however, on the Council determining whether or not there is sufficient nexus and need for the applicants to provide for legally binding land based public access along the foreshore and the submission of specialist engineering design review and certification.

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The proposal will generate limited social and economic benefits for the community and subject to appropriate conditions (inclusive of those from other Government Agencies) and the submission of an engineering report confirming that the wall will not unreasonably impact neighbouring properties, adjoining public lands, and the natural environment, the Council may grant development consent to the application.

Conclusions

The proposed development provides for positive social and economic effects for the owners of the subject allotments by alleviating potential underlying shoreline recession and erosion on the subject lands and facilitating the ongoing use of the lands for low density residential purposes, within a location which is well served with infrastructure and services.

Having regard for ecologically sustainable planning principles it could be seen that the provision of a revetment wall in this location given that the shoreline has been accreting may be of no benefit or need in such an environmentally sensitive area.

Whilst the general public has had access to this area of North Creek for recreational purposes, it is not public land and public access can't reasonably be expected or guaranteed without formal land based access rights being provided.

Council must be mindful of approving the application as revised, due to the environmental sensitivities of this locality and particularly as the design may be of limited assistance in providing protection in an extreme event. Any approval should be made on the premise that there is considered to be a present threat to buildings and/or infrastructure on the properties. Council must be satisfied that the proposed wall/works are indeed "coastal protection works". This is an important consideration of the fundamental permissibility of the proposed works.

Options

Option One

That Council approves the development as submitted subject to applicable conditions of consent only including mitigation measures by relevant Government Agencies and other relevant conditions, including suitable engineering assessment prior to release of the Construction Certificate for the wall.

Option Two

That Council advise the applicants that it would be prepared to consent to the development as submitted subject to normal applicable conditions of consent, including the mitigation measures requested by relevant Government Agencies and other relevant conditions (as per Option 1 above), but subject to the application being amended to propose the inclusion of a suitable provision for legally binding public access along the foreshore, prior to release of the Construction Certificate for the wall.

Option Three

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That Council refuses the development noting the wall is considered to be similar to a retaining wall (i.e. not a "coastal protection work") and not permissible within the zone or under Schedule 1 of the BLEP 2012.

Even if the wall is considered to be genuine "coastal protection works", the construction of the wall (as now designed on a sloping angle) is of minor benefit for protecting against coastal hazards and is not currently warranted in this location having regard for the environmental sensitivities of the sites, the natural accretion that has been occurring and continuing in this locality for a substantial number of years, and the emergency and temporary protection measures available under the Coastal Protection Act.

Option Four

That Council defers determination of the development due to the number of uncertainties and potential impacts on both private and public environmentally sensitive lands until suitable engineering reports are submitted satisfactorily confirming the following:

- (a) That the wall is required in this locality in the immediate future and that any temporary measures cannot suitably protect against potential periodical coastal erosion at this location.
- (b) That if the wall design is constructed as proposed it will provide for adequate protection from wave action and will not be overtopped causing erosion and undermining on the western side of the wall.
- (c) That if the wall design is constructed as proposed that lowering of the sand levels of the foreshore immediately in front of the revetment, often resulting in the loss of a useable beach, will not occur.
- (d) That reflecting wave or tidal energy off the revetment wall resulting in an inability of sand to build-up seaward of the revetment wall will not occur as this will have an adverse impact on public lands (including Council's road reservations) and adjoining Lots 43 DP 1009315 and Lot 33 DP 872966 not party to the application.
- (e) That accelerated erosion at the terminal ends of a revetment will not be caused, resulting in significant scour pockets on adjoining land which will require the construction of further revetments to mitigate the accelerated erosion.

Subject to the Council being satisfied with the submitted application's arguments not to provide improved public access along the foreshore, Option one is recommended. Otherwise it is considered that the Council should pursue Option Two.

RECOMMENDATION

On the basis that Council is satisfied with the application not providing for improved public access along the shoreline, that DA 2015/138 for coastal protection works along the eastern boundary of the subject allotments comprising a dry rock revetment wall and partial filling of land behind the revetment wall be **APPROVED** subject to the draft conditions of consent attached to this report.

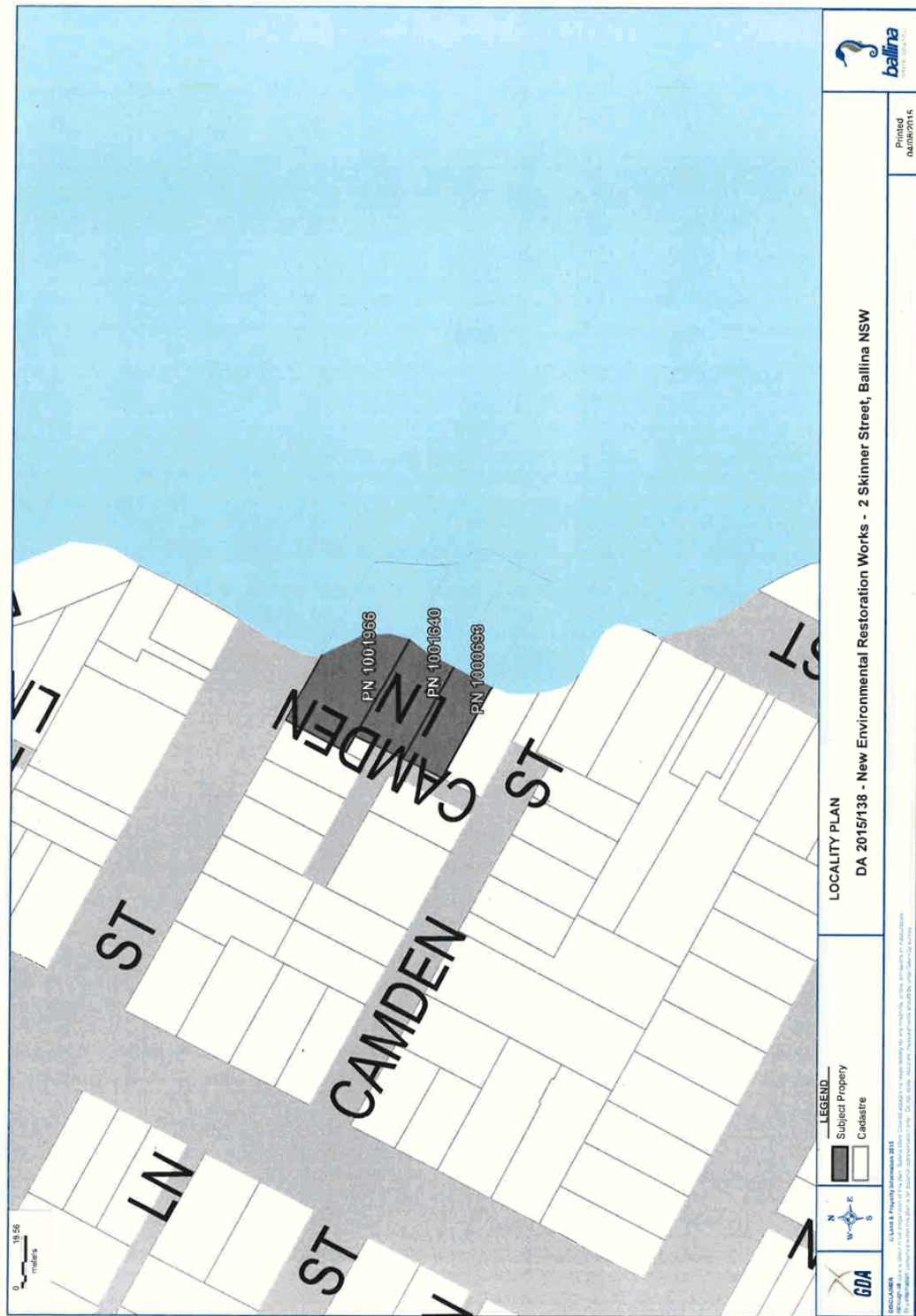
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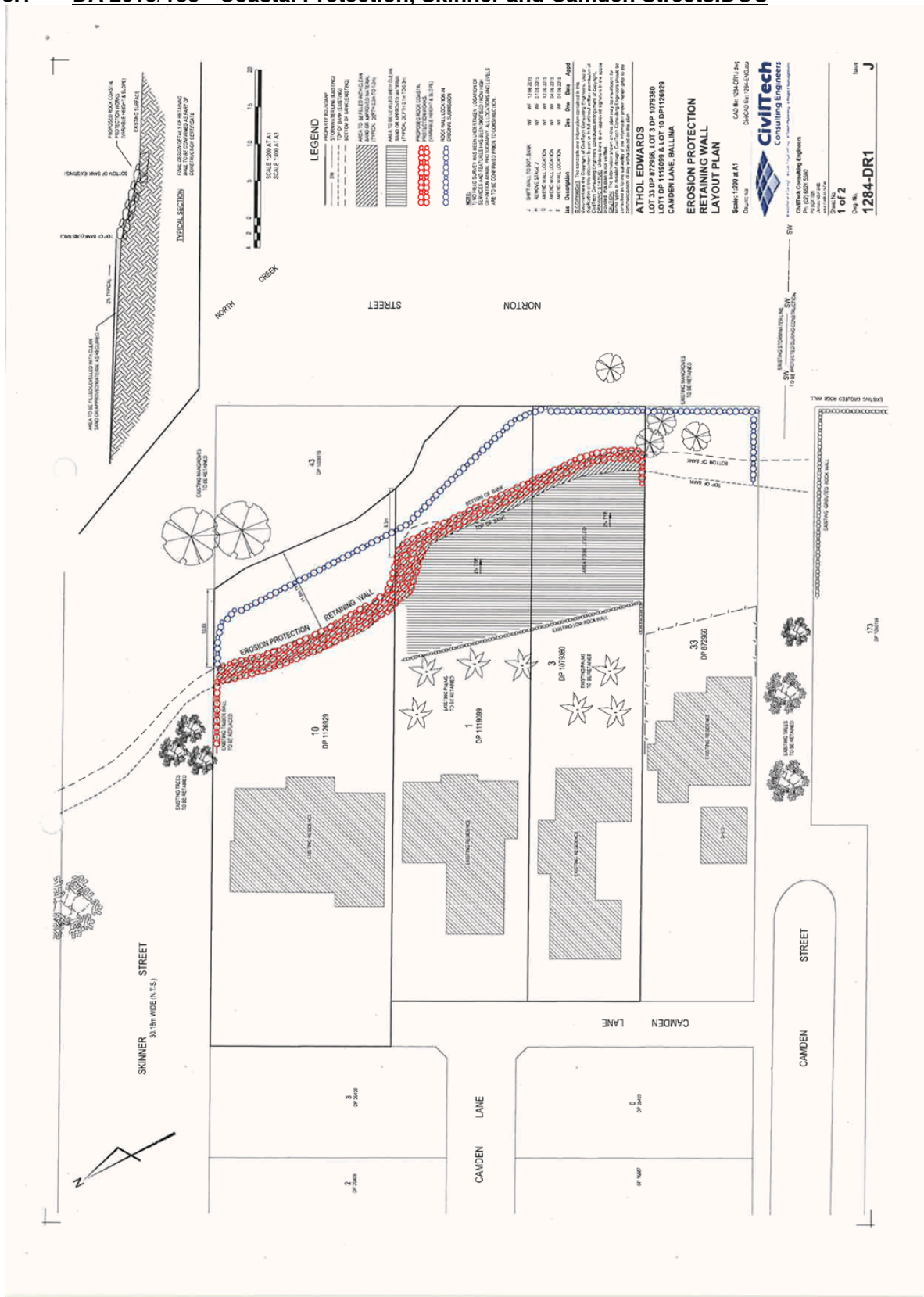
Ballina Shire Council
17/12/15

Ordinary Meeting of Ballina Shire Council
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1. Locality Map
2. Erosion Protection Retaining Wall Layout Plan
3. Applicant's confirmation that No Legal Access is to be provided to the Public
4. 1967 North Creek Aerial
5. 1980 North Creek Aerial
6. 1991 North Creek Aerial
7. 2000 North Creek Aerial
8. 2012 North Creek Aerial
9. Zoning and Proposed Revetment Wall Overlaid on Cadastre
10. Zoning on Aerial
11. Proposed Draft Conditions of Consent
12. Letter - NSW DPI Fisheries
13. Letter - NSW DPI - Water
14. Letter - NSW Office of Environment & Heritage
15. Letter - NSW Trade & Investment - Crown Lands
16. Applicant's Submission
17. Letters of Objection







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Our Ref: 1284

Your Ref: DA2015/138

2 December 2015

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Sir,

RE: DA2015/138 - Proposed Coastal Protection Works – 3 & 5 Camden Lane and 2 Skinner Street, Ballina

I refer to the abovementioned development application and your recent letter dated 19 November 2015 requesting additional information in regards to public access.

Please find attached a response in regards to public access.

In regards to the *Coastal Protection Act 1979*, clause 55M(1)(a)(i) relates to public access and states:

*(a) the works will not over the life of the works:
(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or*

The proposal will not unreasonably limit public access to the beach as there are existing public access opportunities via Norton Street, Skinner Street and Camden Street and the proposed works are entirely within the boundaries of privately owned land.

If you have any queries, please contact 6624 5580 or email: adrian@civiltech.net.au

Yours faithfully,
CivilTech Consulting Engineers

Adrian Zakaras
Town Planner

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02 6624 5580
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PARTNERS Robert Warren, Ben Crawford, Guy Latham, Sean Radburn, Ben Robin
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Emma Babbage, Steve Spinks, Rob Manitta, Greg McBurney, Myfanwy Sewell
CONSULTANTS Carolyn Hunt, Dan McOmish, Peter Carmont

30 November 2015

Our Ref: PWC:MS:2150022 (Lismore Office)

Your Ref:

E-Mail: adrian@civiltech.net.au

Dear Adrian

Re: Your e-mail of 19 November 2015

I have spoken to the owners and their instructions are as follows:-

1. They are not prepared to provide any legal access along the foreshore and say that the status quo should remain for the following reasons:-
 - a) The construction of the Coastal Protection Works will not result in any impact on public access to North Creek. The works are entirely within the boundaries of privately owned land.
 - b) The creation of a public walkway would place a legal encumbrance on the owner's titles to land located within their boundaries. This would result in a diminution in the value of each of their homes. The owners also query as to who would be responsible for the maintenance of the walkway and who would be liable for any claims for damages made by persons using the walkway.
 - c) A right of footway along the foreshore could only extend to the boundary between Lot 3 DP 1079380 (3 Camden Lane) and Lot 33 DP 33872966 (1 Camden Street). 1 Camden Street is not part of the application and is in private ownership. Accordingly, a right of footway across the applicant's land would not have access to Camden Street.


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- d) The Road Reserve shown as Norton Street on the plan provides public access from Camden Street and Skinner Street to Lots 1 and 3. Public access to Lot 10 is provided by Skinner Street.
- e) There is a misconception that the foreshore at the site of the proposed works is above the water level at high tide enabling passage on dry sand. This is simply not true. Recent very high tides reached the level of the grass bank. The situation will be the same leading up to Christmas. The water level at high tide is approximately the same at the boundary of the Road Reserve and the eastern boundaries of Lots 1 and 3.
- f) That status quo enables residents to walk past the foreshore in water at high tide and dry sand at low tide and the owners see no reason for this not to continue.
2. The owners are not prepared to dedicate any of their land to Council as this would not improve public access to the foreshore given that Lot 33 in private ownership blocks access to Camden Street to the south and Lot 43 blocks access to the north. The area is well serviced with public access from Camden Street, Norton Street Road Reserve and Skinner Street as shown by blue colouration on the attached plan.

Yours faithfully
SOMERVILLE LAUNDRY LOMAX


Peter W Carmont
Accredited Specialist Family Law
peter.carmont@slil.com.au



This Office will close at
5pm Wednesday 23 December 2015
and will re-open on
Monday 11 January 2016.

The Partners and Staff wish to extend to you
the compliments of the Season and
Best Wishes for the New Year.

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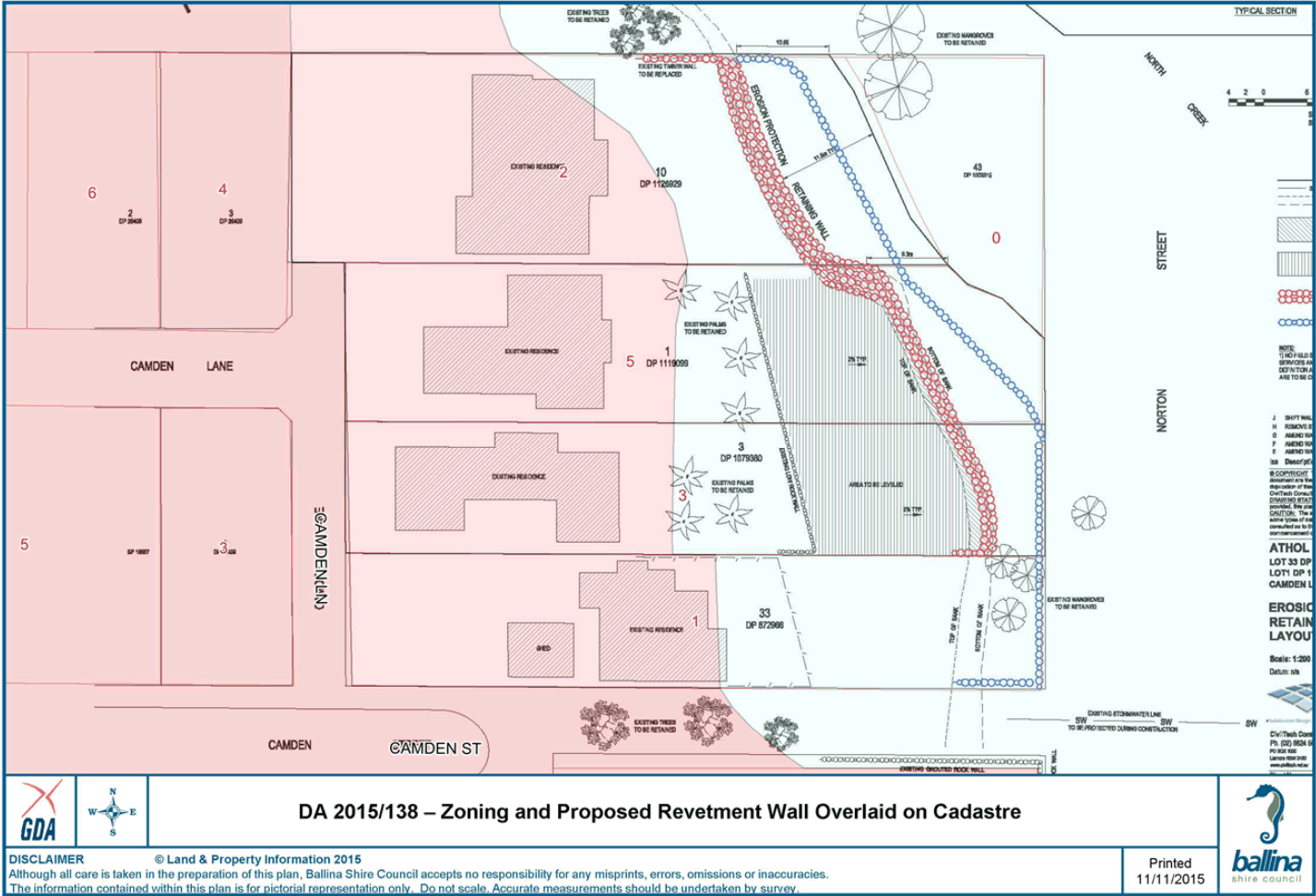








8.1 DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC



8.1 DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC



GENERAL

Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans prepared by:

Civiltech Consulting Engineers, Drawing No. 1284-DR1 Issue J, Sheet No. 1 of 2 Dated 12 June 2015.

Occupation or use of the site for the purposes authorised by this consent shall not commence until all conditions of this consent have been complied with, unless alternative arrangements have been made with Council.

The development footprint and construction equipment must not encroach onto adjoining Crown Lands, Council's land or privately held allotments not party to this application without consent and/or appropriate approvals being obtained.

The precautionary recommendations numbered 1 to 4 (inclusive) of the Aboriginal Cultural Heritage Due Diligence report prepared by Everick Heritage Consultants dated 25 June 2015 are to be outlined to contractors and followed at all times.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (Building/Civil)

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development.

General Terms of Approval - NSW Office of Water

Under the Water Management Act 2000 a Controlled Activity Approval is required for works on water front land. A copy of the Controlled Activity Approval from the NSW Office of Water must be issued to the Principal Certifying Authority prior to the release of the Construction Certificate.

Dewatering activities require a license issued by the NSW Office of Water. If required a copy of the license is to be provided to the Principle Certifying Authority prior to the issue of the Construction Certificate.

General Terms of Approval – NSW Fisheries

A permit under Section 198-202 of the Fisheries Management Act 1994 for dredge and reclamation works or a Controlled Activity Approval under the Water Management Act 2000 is to be obtained prior to issue of the Construction Certificate associated with installation of the rock revetment wall.

The detailed design of the rock revetment wall is to employ measures to protect the river bank and incorporate a range of environmentally friendly design features outlined in *Environmentally Friendly Seawalls A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries* available at:

www.environment.nsw.gov.au/publications/coasts/090328--env-frlently-seawalls-guide.htm
NSW Fisheries written confirmation that the detailed design is acceptable is to be provided prior to issue of the Construction Certificate.

The construction footprint is not to result in harm to marine vegetation. NSW Fisheries written confirmation that the detailed design is acceptable is to be provided prior to issue of the Construction Certificate.

General

An appropriate and legally binding easement (with a minimum width of 3 metres) is to be created to allow general public access across the properties within the foreshore area. The easement is to be located immediately seaward of the revetment wall (i.e. at the toe of the wall) to Council's satisfaction prior to release of the Construction Certificate.

Revetment Wall Design and Certification

The revetment wall design is to be assessed by a fluvial engineering professional to assess if the design will have any adverse impact on the adjoining upstream and downstream lands. This report is to be submitted to and approved by Council prior to the issue of a Construction Certificate.

Prior to the issue of the Construction Certificate suitable engineering reports are submitted satisfactorily confirming the following:

- (a) That the wall is required in this locality in the immediate future and that any temporary measures cannot suitably protect against potential periodical coastal erosion at this location.
- (b) That if the wall design is constructed as proposed (i.e. on such an angle as required by the NSW Fisheries and NSW Office of Water) it will still provide for adequate protection from wave action and will not be overtopped causing erosion and undermining on the western side of the wall.
- (c) That if the wall design is constructed as proposed that lowering of the sand levels of the foreshore immediately in front of the revetment, often resulting in the loss of a useable beach, will not occur.
- (d) That reflecting wave or tidal energy off the revetment wall resulting in an inability of sand to build-up seaward of the revetment wall will not occur as this will have an adverse impact on public lands (including Council's road reservations) and adjoining Lots 43 DP 1009315 and Lot 33 DP 872966 not party to the application.
- (e) That accelerated erosion at the terminal ends of a revetment will not be caused, resulting in significant scour pockets on adjoining land which will require the construction of further revetments to mitigate the accelerated erosion.
- (f) The revetment wall is to be designed in accordance with AS 4678-2002.
- (g) The foundation level of the revetment wall is to be not higher than -1.0 m AHD.
- (h) Designs are to consider the applicable limit states defined in Section 3 of AS 4678-2002. Design loads are to be in accordance with Section 4 of the standard.
- (i) Site investigation is to be in accordance with Section 2 of AS 4678-2002.
- (j) The revetment wall design is to have regard to the informative *Appendix G Drainage of Earth-Retaining Structures* of AS 4678-2002.
- (k) The design and associated drawings are to specify maximum loads (at specified distance from walls) that may be placed on land supported by the revetment wall and/or whether there need to be restrictions on loads that would preclude placement of swimming pools or other structures in the vicinity.
- (l) Drawings are to be provided for each revetment wall on the individual properties and revetment wall group. Drawing details are to comply with Section 6.3 of AS 4678. A Specification is to be provided with the Construction Certificate application for materials to be used and construction details (including foundation preparation, backfilling, drainage etc.) of the revetment walls.

An Erosion and Sediment Control Plan (ESCP) shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. The ESCP shall be prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

An Acid Sulfate Soil Management Plan prepared by a suitably qualified person in accordance with the Acid Sulphate Soil Assessment Guidelines (Acid Sulfate Soil Management Advisory

Committee, 1998), shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

In accordance with Ballina Shire Council's Development Control Plan 2012 Chapter 2 a site waste minimisation management plan including the construction waste details must be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

PRIOR TO CONSTRUCTION WORK COMMENCING

The following conditions in this section of the consent must be complied with or addressed prior to commencement of construction works relating to the approved development.

General Terms of Approval – NSW Office of Water

The attached General Terms of Approval at Schedule 1 are not the controlled activity approval. The applicant must apply to the NSW Office of Water for a controlled activity approval before the commencement of any work or activity on waterfront land.

General

Traffic control - All traffic control shall be in accordance with the NSW Roads and Traffic Authority "Traffic Control at Works Sites Manual". A Traffic Control Plan must be prepared and submitted to Council by a person holding a current "Design & inspect Traffic Control Plan" qualification. The traffic control plan must be certified and include the designers Name & Certificate Number. Details are to be submitted to Council prior to the commencement of construction.

DURING CONSTRUCTION

The following conditions in this section of the consent must be complied with or addressed during the course of carrying out the construction works relating to the approved development.

General Terms of Approval – NSW Fisheries

Works are to be carried out in accordance with all applicable requirements of The Blue Book: "Managing Urban Stormwater: Soils and Construction (4th Edition Landcom, 2004).

Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

General

The hours of operation for any noise generating construction activity (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

To prevent the pollution of waterways, the applicant/builder is to ensure adequate sediment and erosion control measures are in place prior to the commencement of works. These are to be maintained during the construction of the project until the site has been stabilised by permanent vegetation cover or a hard surface. This is to include:

- (a) The prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and or adjoining land;
- (b) Buffer vegetation zones being retained on sites that adjoin roadways, drainage systems and or watercourses;
- (c) Sediment and erosion control measures are to be maintained throughout the construction process and beyond by the owner, where necessary.

Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.

The applicant must ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The applicant must provide the Principal Certifying Authority at the completion of construction works certification that the fill material was free of contaminants, being natural or otherwise.

Any Acid Sulfate Soils (ASS) disturbed during construction shall be managed in accordance with the approved Acid Sulfate Soil Management Plan.

To prevent the pollution of waterways, the applicant/builder is to ensure adequate sediment and erosion control measures are in place prior to the commencement of works. These are to be regularly inspected, repaired and maintained during the construction of the project until the site has been stabilised by permanent vegetation cover or a hard surface. This is to include:

- (a) The prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and or adjoining land;
- (b) Trenches being backfilled as soon as practical;
- (c) Buffer vegetation zones being retained on sites that adjoin roadways, drainage systems and or watercourses;
- (d) Sediment and erosion control measures are to be maintained throughout the construction process and beyond by the owner, where necessary.

A single all weather access way is to be provided on site. All construction vehicles are to enter and exit the site via this access way so as to minimise erosion on site and prevent the movement of soil onto surrounding roadways. When necessary roadways shall be swept and all drains and gutters cleaned of soil material.

Soil erosion and sediment control measures shall be designed, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

Failure to comply with this requirement may result in a penalty infringement notice being issued by an Authorised Officer of Council.

If necessary dust control measures such as wetting down, covering stockpiles and physical barriers shall be used to control and prevent a dust nuisance to surrounding properties.

All waste arising from the construction activities must be handled in accordance with the:

- (a) Protection of the Environment Operations Act 1997
- (b) Protection of the Environment Operations (Waste) Regulation 2014
- (c) Work Health and Safety Act 2011
- (d) Work Health and Safety Regulation 2011.
- (e) Waste Avoidance and Resource Recovery Act 2001

If dewatering is required a management plan for all dewatering activities on site shall be submitted to and be approved by the Principal Certify Authority prior to the release of extracted water. The plan is to give consideration to any acid sulfate soils issues on site and the impact this may have on groundwater and dewatering activities proposed. Prior to the release of any water extracted during dewatering operations the test results and interpretation of results are to be submitted to and approved by Principal Certify Authority. Note: Dewatering activities may require a license issued by the NSW Office of Water.

Traffic Control - All traffic control during construction shall be in accordance with the Roads and Traffic Authority - Traffic Control at Work Sites Manual and the certified traffic control plan. At least one person at the site must be qualified to "Apply Traffic Control Plans" (Yellow Card).

Damage to Council infrastructure - Damage to any grass verge, footpath, kerb and guttering, stormwater drainage infrastructure, utility services or road within the road reserve or in North Creek as a result of construction works related to the development shall be immediately reinstated to a satisfactory and safe condition. Council's Engineer must be contacted on telephone 6686 4444 at the time any damage occurs to ensure appropriate reinstatement works are undertaken.

CONDITIONS OF USE/DURING OCCUPATION

The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.

The easement for public access along the foreshore is not to be restricted in any way at any time.

Clean up equipment including suitable absorbent material shall be stored on site to effectively deal with liquid contaminates such as oils and chemical spills.

In the event of a pollution incident on the premises, that has caused, is causing, or is likely to cause harm to the environment, the incident shall be reported in accordance with the requirements of section 148 of the Protection of the Environment Operations Act 1997.



**Department of
Primary Industries**

Our Ref: IDA#15/28

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

13 October 2015

Attention: Mr Anthony Peters

Dear Mr Peters

**Re: Development Application No. DA 2015/138
Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380, Lot 33 DP 872966,
No. 2 Skinner Street, Nos. 3 & 5 Camden Lane and No. 1 Camden St
BALLINA LGA**

Thank you for your letter of 7 September 2015 advising DPI Fisheries of the third revision to submitted plans for the subject development application.

The third revision for the subject development application was readvertised by Council. Council's letter of 7 September 2015 stated that the period for public submissions would close on 1 October 2015. I have reviewed the latest submissions and consistent with cl70 of the EP&A Regulation 2000, DPI Fisheries has provided this response not more than 21 days since the close of the submissions period.

Revisions to initial proposal

DPI Fisheries notes that the third series of revisions to the subject proposal, depicted in revised plan Dwg. No. 1284-DR1 Issue J, involves:

- Removal of Lot 33 DP 872966 from the proposal;
- Repositioning of the proposed rock wall to the west so the toe is located at the base of the existing natural bank in front of the properties Lot 10 DP 1126929, Lot 1 DP 1119099 and Lot 3 DP 1079380;
- Limiting the height of the proposed wall to match that of the top of the existing bank using a batter of 1h:4v.

The revisions depicted in revised plan Dwg. No. 1284-DR1 Issue J, an attachment to the applicant's submission of 26 August 2015, reflect the outcome of discussions held at the site on 21 August 2015 between the proponent, their consultant a representative from DPI Water and myself from DPI Fisheries.

DPI Fisheries acknowledge that the revised Dwg. No. 1284-DR1 Issue J reduces the footprint of the subject proposal and generally satisfy Fisheries Policy & Guidelines for Fish Habitat Conservation and Management.

Division of Primary Industries, Fisheries NSW
1243 Bruxner HWY WOLLONGBAR NSW 2477
Tel: 02 6626 1397 Fax: 02 6626 1377 ABN 72 189 919 072 www.dpi.nsw.gov.au

1 of 2

Contingent upon adherence to the following conditions DPI Fisheries has no objection to the proposed works:

General Terms of Approval

- A permit under s198-202 of the *Fisheries Management Act* 1994 for dredge and reclamation works or a Controlled Activity Approval under the *Water Management Act* 2000 is to be obtained prior to commencement of the works associated with installation of the rock wall as it is shown in Dwg. No. 1284-DR1 Issue J.
- That the design employed to protect the river bank incorporate a range of environmentally friendly design features outlined in *Environmentally Friendly Seawalls A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries* available at:
www.environment.nsw.gov.au/publications/coasts/090328-env-friendly-seawalls-guide.htm
- The construction footprint not result in harm to marine vegetation.
- Works are carried out in accordance with all applicable requirements of The Blue Book: "*Managing Urban Stormwater: Soils and Construction*" (4th Edition Landcom, 2004).
- Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

If you have any further enquiries please contact me on 0407 264 391 or via email:
patrick.dwyer@dpi.nsw.gov.au

Yours sincerely



Patrick Dwyer
A/Regional Manager, Aquatic Ecosystems (North)

Division of Primary Industries, Fisheries NSW
1243 Bruxner HWY WOLLONGBAR NSW 2477
Tel: 02 6626 1397 Fax: 02 6626 1377 ABN 72 189 919 072 www.dpi.nsw.gov.au

2 of 2



Department of
Primary Industries
Water

Contact: Patrick Pahlow
Phone: 02 6676 7386
Fax: 02 6676 7388
Email: patrick.pahlow@dpi.nsw.gov.au
Our ref: 30 ERM2015/0314
Our file: 9059285
Your ref: DA2015/138

The General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention:



16 October 2015

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval

Dev Ref: DA2015/138

Description of proposed activity: Proposed Coastal Protection Works

Site location: 2 Skinner Street, 3 & 5 Camden Lane, 1 Camden Street, Ballina

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

Room 2, 135 Main Street MURWILLUMBAH 2484 : PO Box 796 MURWILLUMBAH NSW 2484

t + 61 2 66767380 | f + 61 2 66767388 | e water.enquiries@dpi.nsw.gov.au

Template Ref: CAA04, Version 1.2 – July 2015

-2-

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

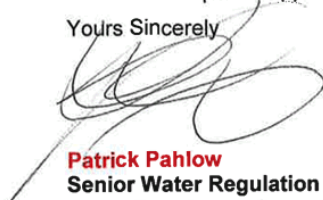
Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Patrick Pahlow
Senior Water Regulation Officer
Water Regulatory Operations, Water Regulatory Operations North
NSW Department of Primary Industries – DPI Water

General Terms of Approval

for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000*

Number	Condition	File No: 9059285
Site Address:	2 Skinner Street, 3 & 5 Camden Lane, 1 Camden Street, Ballina	
DA Number:	DA2015/138	
LGA:	Ballina Shire Council	
Plans, standards and guidelines		
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2015/138 and provided by Council:	
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the estuary identified.	
3	The consent holder must prepare or commission the preparation of: (i) Works Schedule (ii) Erosion and Sediment Control Plan	
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/ Water-Licensing/Approvals .	
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.	
Rehabilitation and maintenance		
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.	
7	N/A	
Reporting requirements		
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.	
Security deposits		
9	N/A	
Access-ways		
10	N/A	
11	N/A	

www.water.nsw.gov.au

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Template Ref: CAA04 Version 1.1 – June 2015

Number	Condition	File No: 9059285
Bridge, causeway, culverts, and crossing		
12	N/A	
13	N/A	
Disposal		
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.	
Drainage and Stormwater		
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.	
16	N/A	
Erosion control		
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
19	The consent holder must ensure that any excavation does not result in (i) diversion of any estuary (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by DPI Water.	
Maintaining river		
20	N/A	
21	The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by DPI Water.	
River bed and bank protection		
22	N/A	
23	N/A	
Plans, standards and guidelines		
24	N/A	
25	N/A	
26	N/A	
27	N/A	
Groundwater		
28	N/A	
END OF CONDITIONS		

www.water.nsw.gov.au

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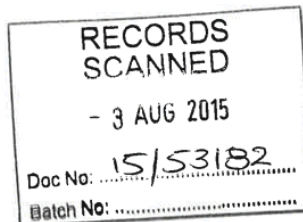
Template Ref: CAA04 Version 1.1 – June 2015



Office of
Environment
& Heritage

Our Ref: DOC15/264980
Your Ref: DA 2015/138

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478



Attention: Mr Anthony Peters

Dear Mr Hickey

Re: Coastal Protection Works No's. 1, 3, & 5 Camden Lane and No. 2 Skinner Street, Ballina

Thank you for your letter dated 1 July 2015 regarding the proposed coastal protection works along four properties with frontage to North Creek requesting comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH has reviewed the Aboriginal cultural heritage assessment report prepared by Everick (June 2015) and notes the report addresses all the matters raised in our 17 October 2014 letter. However, we have also identified an error in the naming of the report that requires correction and we have discussed the matter directly with Everick.

If you have any further questions about this issue, Ms Rosalie Neve, Aboriginal Heritage Planning Officer, Regional Operations, OEH, can be contacted on 6659 8221 or at rosalie.neve@environment.nsw.gov.au.

Yours sincerely

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Contact officer: ROSALIE NEVE
6659 8221

Locked Bag 914 Coffs Harbour NSW 2450
Federation House, Level 8
24 Moonee Street Coffs Harbour NSW 2450
Tel: (02) 6659 8200 Fax: (02) 6651 5356
ABN 30 841 387 271
www.environment.nsw.gov.au



Trade &
Investment
Crown Lands

Our Ref: DOC15/071173
Your Ref: DA: 2015/138

29 April 2015

Mr Rod Willis
Group Manager, Development and Environmental Health
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

RECORDS SCANNED
4 MAY 2015
Doc No. 15/28490
Batch No.

Dear Mr Willis

Re: DA: 2015/138 to undertake coastal protection works along subject Lots adjoining Crown Land being North Creek.

Thank you for referring the above development proposal to Crown Lands for comment.

The proposed development is adjacent to North Creek, Land which comprises:

- Part Reserve 56146 for general purpose notified 11 May 1923.
- Part Reserve 1011268 for future public requirements notified 3 February 2006.
- Part Reserve 1012188 for the purpose of access and public requirements, rural services, tourism purposes and environmental and heritage conservation notified 18 August 2006.

Lot 10 DP1126929, Lot 1 DP1119099, Lot 3 DP1079380 and Lot 33 DP872966 adjoining North Creek have residue of title over the submerged land to the right line boundary as shown on DP1009315.

Please ensure that the development envelope does not encroach on the adjacent Crown land or compromise its existing and potential public values. The proponent may not:

- ♦ remove any vegetation from the adjacent Crown land,
- ♦ stockpile materials, equipment or machinery on the adjacent Crown land,
- ♦ direct stormwater discharges onto the adjacent Crown land,
- ♦ use the adjacent Crown land as an asset protection zone, or
- ♦ restrict public use and access of the adjacent Crown land.

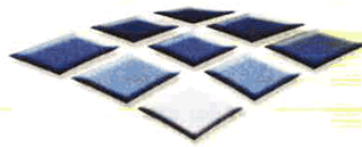
It is requested that Council notify Crown Lands of its determination of the application in due course.

If you require any further assistance with this matter please don't hesitate to contact me by telephone: (02) 66429255.

Yours sincerely,

Derek van Leest
Group Leader Property Management
Crown Lands Grafton

Trade & Investment | Crown Lands Far North Coast
Level 3, 49-51 Victoria Street, GRAFTON 2460, PO Box 2185 DANGAR NSW 2309
Tel: 02 6640 3400 Fax: 02 6642 5375
www.crownland.nsw.gov.au | ABN: 72 189 919 072



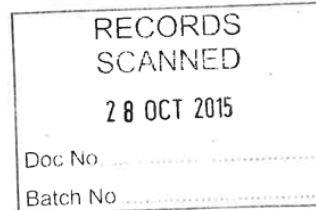
CivilTech
Consulting Engineers

• Subdivision Design • Civil Engineering • Town Planning • Project Management

Our Ref: 1284
Your ref: DA2015/138

23 October 2015

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Sir,

RE: DA2015/138 - Proposed Coastal Protection Works – 3 & 5 Camden Lane and 2 Skinner Street, Ballina

I refer to the abovementioned development application and wish to provide some comment to the submissions received by Council as a result of the recent re-advertising period.

Firstly I draw your attention to the attached plan on which the location of the works is clearly shown in red and the legal boundaries of the applicants' land are shown by yellow highlighter. Some objectors do not seem to understand that the proposed works and the sand located in front of it are well within the boundary of the applicant's privately owned land.

Four (4) submissions were received with the main concerns of the submissions as follows:

1. Flooding of Skinner Street caused by tidal inundation being exacerbated by construction of the proposed works.

Between the end of Skinner Street and the waters of North Creek is a large embankment comprised of sand with substantial grass covering and on which a number of mature trees are growing.

When parts of Skinner Street have been inundated in the past the embankment has not been topped by the level of water in the creek. The water can be observed flooding up through the storm water drains. The problem lies with the inadequacy of the drainage system and the ineffectiveness of the flood gates.

Council has recently carried out substantial works following complaints from residents of Skinner Street. A bank of 2 large pipes has been installed and work carried out to make the flood gates more effective. Council believes that these works will solve the drainage problem.

ABN 21 026 548 150 | Ph: 6624 5580 | PO Box 1020 | LISMORE NSW 2480
e-mail: admin@civiltch.net.au | www.civiltch.net.au

2. Objections by Department of Primary Industries – Water and Fisheries

These Departments raised concerns relating to the original proposal submitted. An on-site conference was held as a result of which substantial alterations were made addressing the concerns previously raised and the Departments have now provided their General Terms of Approval to Council

3. No detailed design

The amended plan submitted clearly shows the location of the wall will start at the bottom of the existing bank and follow the existing slope of the bank to the top of the existing bank. Detailed Construction Certificate plans are not required at the development application stage. Appropriate and reasonable conditions of consent will inform the preparation of these Construction Certificate plans.

4. No need for erosion protection

Enclosed are copies of photographs of the site taken during a 2009 and 2013 storm event. Predictions of future weather events of far greater intensity, possibly exacerbated by rises in sea levels, has motivated the applicants to construct the works.

Whilst there has been accretion over the past 50 or so years, more recent erosive events during times of floods, storms and extremely high tides has led to the owners implementing temporary erosion control measures. This has seen a reduction in the impact of erosion events and the purpose of this proposal is to make these erosion control measures more permanent.

5. Need for Tidal Hydrological Survey

Given the scale of the proposed works and the fact that the proposed wall follows the existing contours of the bank such a survey could not be considered necessary.

6. Relevance of Coffey Geotechnical report

The Coffey Report was prepared at the request of the applicants for a reason totally unrelated to the proposed works. When the land was zoned W1 in 2012 an objection was lodged with the Minister for Planning who sought comment from his Department. The Minister was told by his Department that Council Officers had informed it that the reason for the zoning was that the land was "unstable". The Coffey Report showed that the land was perfectly stable. The Departmental Officers sought an explanation from Council Officers who denied ever having made the statement. The Land Stability Assessment provided as part of the application looked at the land stability of the 'yards' of the properties and not the stability of the creek bank as such.



7. Reason for alteration of LEP to allow Coastal Protection Works in the area zoned W1

The applicant's land is zoned partly Residential and partly W1. The works are proposed on part of the land zoned W1. Council's LEP provided that the works were permissible on residential land but not on land zoned W1. An application was made to Council to alter the LEP to enable the works to be carried out on the W1 land and this was approved by Council and the Planning Minister. This amendment to the LEP was carried out in accordance with the requirements of the Department of Planning including an exhibition period as prescribed by the Minister.

8. Degradation of public access by proposed works

The objector does not appear to be familiar with the site of the works and their location within the boundaries of the applicants' properties. The works are not proposed on any public accessway and are well within the boundaries of privately owned land (see attached plan). Therefore public access to the foreshore will be maintained.

9. Aesthetics

This is the only stretch of North Creek on its western bank between King Street and Missingham Bridge that does not have a rock wall defining its bank except for where it meets Skinner Street and Camden Street. Rather than an "ugly intrusion" it will provide continuity of the method of retention of the western bank.

If you have any queries, please contact 6624 5580 or email: adrian@civiltech.net.au

Yours faithfully,
CivilTech Consulting Engineers



Adrian Zakaras
Town Planner

Encl: Photos, site plan

www.civiltech.net.au



Photos of 2009 Storm event



www.civiltech.net.au





www.civiltech.net.au

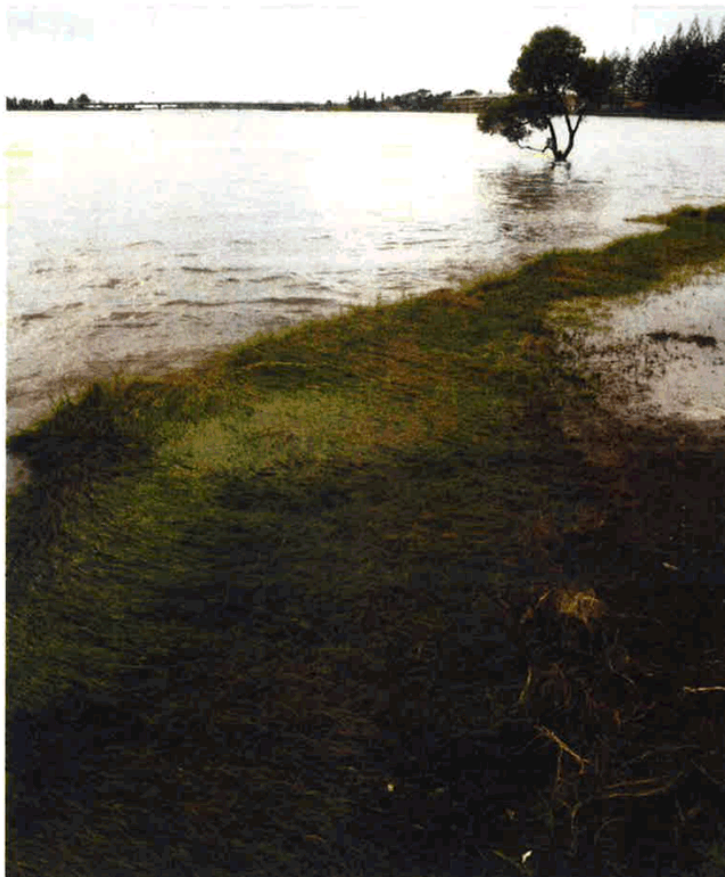


2013 Storm Event Photos



www.civiltech.net.au

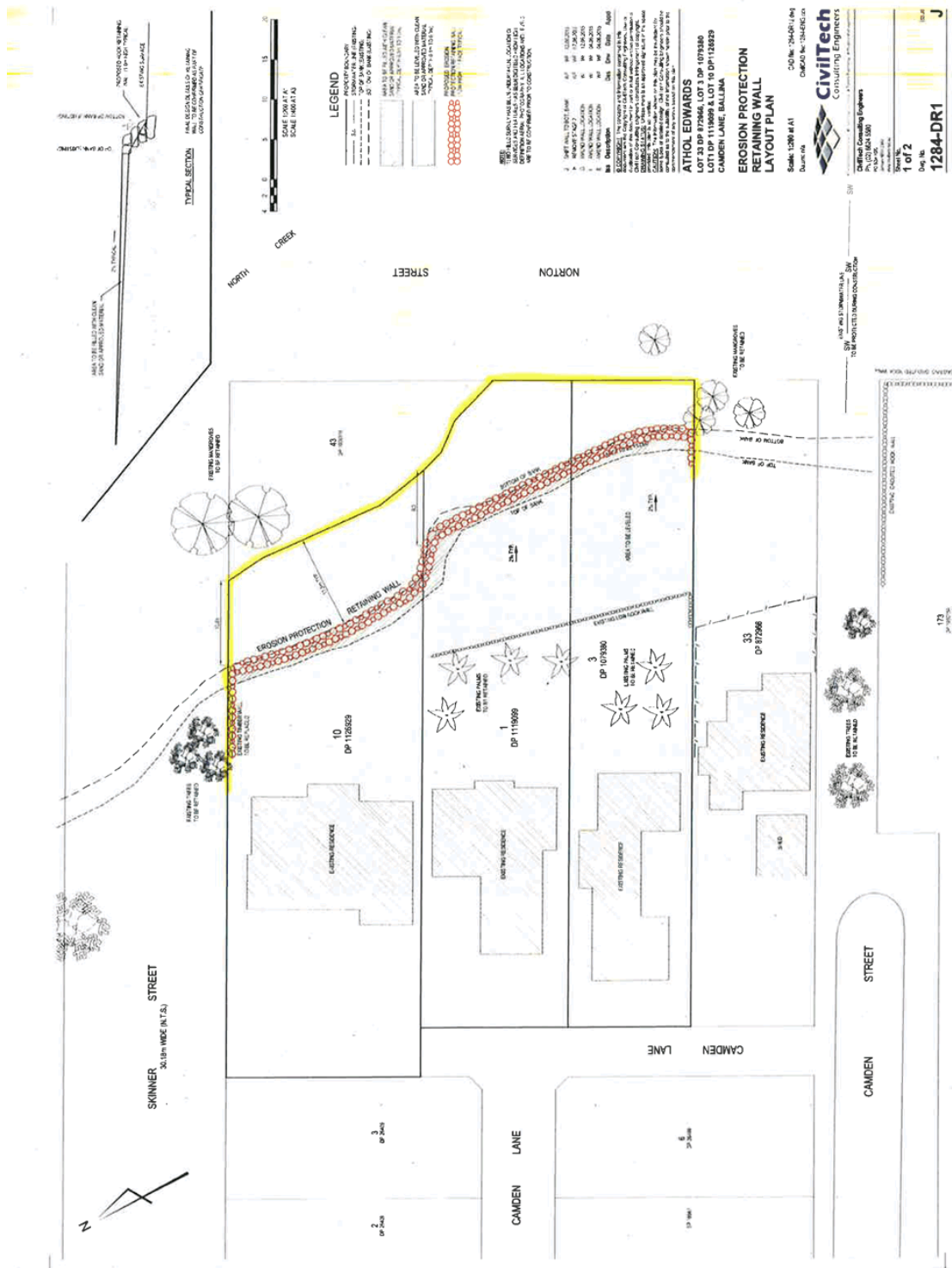




www.civiltech.net.au



7



From: "Rod Willis" <RODW@ballina.nsw.gov.au>
Sent: Mon, 18 May 2015 13:32:15 +1000
To: "Andrew Smith" <andrews@ballina.nsw.gov.au>, "Anthony Peters" <anthony@ballina.nsw.gov.au>
Subject: FW: Submission re DA 2015/138 Coastal Protection Works, Camden Lane, Ballina

Anthony,

- (i) Please register this objection;
- (ii) Please refer it a.s.a.p. to applicant and provide them with the opportunity to address if they wish;
- (iii) Do we need another comment from Civil?;
- (iv) Please include in submissions to D.A. when reporting to the Council.

Thank you, Rod.

From: Peter Brown [mailto:peterbrown19@bigpond.com]
Sent: Friday, 15 May 2015 10:06 AM
To: Rod Willis
Subject: Fwd: Submission re DA 2015/138 Coastal Protection Works, Camden Lane, Ballina

Begin forwarded message: I would like to add a note to my submission below. At 6am this morning the roadway verges were flooded in Skinner St almost up to the junction with Martin St. I have been told this is caused by water flowing out of the storm drains. I don't have the expertise to know if the changed flow of water caused by the proposed rock wall will cause additional flooding including homes but it seems a legitimate concern that should be considered by expert opinion. Peter Brown

From: Peter Brown <peterbrown19@bigpond.com>
Subject: Submission re DA 2015/138 Coastal Protection Works, Camden Lane, Ballina
Date: 14 May 2015 4:38:55 PM AEST
To: Rod Willis <RODW@ballina.nsw.gov.au>

To the General Manager, Ballina Council

Dear General Manager,

I would like to make a submission objecting to the above mentioned DA/138.

My particular concern is with 4.1.3.7 Clause 7.3 Flood planning. Civiltech the Consulting Engineers state :

The Site is located within the flood planning area. The proposal is unlikely to impact upon flood behaviour in the locality. They give no justification for this assumption which seems to me to be inadequate when considering the possible flooding of peoples homes. I would think it highly likely that the proposed works would impact on flood behaviour. When flowing water is held back by a wall it generally flows fast around the end of the wall. In this case I would expect faster erosion of the small council parkland at the end of the wall and after heavy rainfall and

high tides flooding of parts of Skinner Street and perhaps of properties further up North Creek. I noticed that at the end of Norton St where the rock wall ended the street has been protected by rocks.

Looking at the posts marking the intended wall I cannot understand why the wall should be so far out from the high water mark. The proposal will certainly give larger more private gardens to the applicants but water flowing along the wall will be deep and more powerful when it reaches the end of the wall. Less important than flooding it is a shame that people will no longer be able to walk along the sandy beach.

I can understand people wanting to protect their homes but the impact on other residents should be considered. I do hope council will conduct an independent study rather than take the assumptions of the developers consultants who at the beginning disclaim responsibility for views expressed.

Yours faithfully,
Peter Brown
10 Skinner St Ballina

5/6/2015

Ballina Shire Council

The General Manager

Councillors

Anthony Peters

Dear Sir/Madam

I would like to object to the development application 2015/138

Section 7: Statement of Environmental Effects of your development- this section has stated that this is not a designated Development. According to Section 77A of the Environmental Planning and Assessment Act 1979, a Designated Development should address any development that comprises of a significant environmental impact. This proposal has designated that at least two mangrove trees to be removed.

The removal of the mangrove trees will create an area that has very little if no natural vegetation. The beach area will be bare if these trees are removed. I have lived on North Creek for over ten years and I have noticed that there is a significant decrease in yabbies and soldier crabs, not to mention the shade that is created for beach users. Birds are often sighted in these mangroves and it would be environmental irresponsible not to consider the above.

Section 4: Description of development to be Carried out: The description marked is for "Other Works". This includes- swimming pools, infrastructure and earthworks. My understanding is that the wall will

remove public access to the land that has been used by the community for many, many years. I would regard this as "Changing the Use of the Land". Why is this not stated on the Development?

My residence is 40 meters from the creek in Camden Street. I am concerned about how the work will be carried out from Camden Street/ Skinner Street. Camden Street is a narrow street and any heavy vehicles on this street will have a significant impact on the grass areas, the trees and private homes and public usage whilst the work is carried out.

North Creek is well known in the community as an area for families, a safe swimming area and a delightful area to walk and sit and enjoy the natural waterway. This proposed rock wall will stop forever this public enjoyment. The public should be made aware of this development and be given the opportunity to have input into what is proposed. Four homeowners will significantly benefit. The whole community will lose out. Has the Indigenous community been informed of what is proposed?

I am concerned that at high tides the water will now move directly up the adjoining streets. Council surely needs to address this newly created problem presented as a consequence of the rock walls across the grass areas.

I would like you to consider the above.

Regards

Corinne Hill

2 Camden Street

Ballina

NSW 2478

0427033690

RE Development Proposal North Creek

I am writing in response to DA application Ref number 010.2015.00000138.001 "Dry rock retaining wall" between Camden and Skinner St Ballina.

I am concerned the development application does not adequately address the Environmental Planning and Assessment Act 1979. Specifically, Section 79C parts (b), (c) & (e).

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (e) the public interest.*

In response to part (b)

The environmental impacts of the proposed development are wide reaching and include the following:

- Changing the natural watercourse
- Removal of three mangroves that are protected under the Fisheries Management Act 1994
- Damage/loss of marine habitat including seagrass beds and yabby colonies
- Damage/loss of shoreline habitat that under the proposal would be covered in fill
- Contamination of sea water due in both the construction and post construction phase by machinery, materials and ongoing break down of the wall as has occurred in numerous other examples along the NSW coast
- Damage to residential properties in storm surges / flooding as a result of redirecting water flow

The social impacts of the proposed development are significant and include:

- Loss of access to the entire stretch of shoreline on medium - high tide between Camden and Skinner St, disrupting numerous members of the public who walk along edge of the creek on any given day
- Loss of access for fishermen and women to North Creek for both yabbing and fishing on medium to high tide
- Loss of shoreline for families and the public in general for swimming, canoeing, kayaking etc.
- Loss of access to the shoreline for watercraft
- Loss of any access to the water for people with a disability
- Limited access from Camden St via a 5-7 metre nature strip that is dissected at the waters edge by a storm water pipe

In response to part (c)

The site in question is not suitable for development.

Firstly, it is located in approximately 40-70 cm of water on any given high tide. Secondly, it is a living habitat consisting of marine plant and animal life including mangroves, fish and yabbies. Thirdly, construction access to the site would cause considerable damage to other areas of the creek, particularly through Camden Street.

In response to part (e)

It is not in the public interest.

Firstly, the proposed development would prevent access to and along the creek between Camden and Skinner Street on a medium to high tide for walkers and all other users of the area. Secondly, it would prevent recreational fishing on high tide and potentially harm one of the few yabby colonies accessed by numerous people every day for bait. Thirdly, it would prevent any watercraft being able to access

the shoreline. Fourthly, it would limit swimming access both from Camden and Skinner St to narrow parcels of land dissected with storm water drains.

Zoning of location – W1

The area in question is zoned W1 – Natural Waterway. The Statement of Environmental effects dismisses this issue as an anomaly, an error in zoning in 1989. If the proposed development were to proceed it would be in direct violation of the zoning in place that seeks to protect the natural processes of North creek and the community that makes use of this area.

Statement of Environmental effects

Furthermore, I would question the accuracy of many aspects of the Statement of Environmental Effects. The following are just some examples:

- **The Statement of Environmental effects suggests that the retaining wall will be an extension of those existing in the area (Pg. 2)**

The TWO dwellings in the immediate area that have retaining walls are positioned significantly closer to the waterway than the houses in question.

- **The Statement of Environmental effects claims that the applicants properties are the only parcels of land without a retaining wall between King St and Missingham bridge (Pg. 3)**

The entire stretch from Missingham Bridge to Meldrum Park lies adjacent to what would be considered the channel of North Creek, or the deepest part of the river. This is in stark contrast to the situation of the applicant's properties. Anyone who was to inspect the creek would observe that the river at Meldrum Park then turns back toward the east and away from all residential properties. Furthermore, houses to the north of King St, up to the Cawara Park boat ramp are without a retaining wall. As are the houses further north leading up to Crowley village that also front on to North Creek.

- **The Statement of Environmental effects suggests the wall will be built above the mean high water mark (Pg. 4)**

I would urge further inspection of the location on the high tide of any day. In my opinion, the report has grossly understated where the high water mark reaches. The proposed location of the wall (as indicated by the current 'pegs') would see it in 'knee high' water on any given days high tide.

- **In respect of the Statement of Environmental Planning Policy No. 71 – Coastal Protection, the report understates the significance of the area (Pg. 5-6)**

Firstly, the proposed wall would significantly limit access to the creek from Camden St to a 4-5 meter narrow parcel of nature strip. The nature strip is dissected by a storm water drain. The storm water drain extends from the shoreline approx. 15 meters out into the creek. Not only is this extremely dangerous to anyone visiting or new to the popular swimming locale, but also nearby residents and the general public wishing to swim or utilise at this popular recreational locale.

Secondly, the statement briefly comments that the proposed development will have no effect on marine or fish environments. A visit to the shoreline would indicate that ONE of few yabby colonies accessible to fisherman is located only 10-15 meters North East of the proposed wall. This wall has a high likelihood of damaging the habitat either directly through its construction and positioning, or indirectly through its change of water flows in that section of the creek.

Thirdly, the claim that it will not affect water-based activities is ignorant of the kayakers, fishermen and fisherwomen, skurfers, canoe users, boat enthusiasts, swimmers and all other

members of the public who frequent this location, particularly on weekends and in the summer months. It is difficult to understand how these activities will not be disrupted when a retaining wall that will be placed in the actual water will prevent any access to the shoreline.

- **The objectives of the clause for classifying a location as W1 (Pg. 7)**

The wall will have detrimental affects on the aquatic ecosystems and biodiversity of the section of water in question, as alluded to previously in terms of the yabby colony and other fish habitats. Moreover, the report makes the claim that 'it will not impact upon recreational fishing'. As a resident of Camden St for 26 years and frequent user of the public area, I can testify that not being able to access the shoreline or move from one area of the creek to the other on high tide will most definitely be of consequence to fishing activities. It will also surely affect the many hundreds of other fishermen and fisherwomen that use the area on a regular basis over the course of a year.

- **Clause 3 Flood planning (Pg. 8)**

I would encourage far greater investigation into the effects of a retaining wall of the magnitude proposed on the properties located in the vicinity.

- **Removal of mangrove trees (Pg. 9)**

The three mangrove trees in question are located below the mean high water mark. A short trip to the proposed site on any given high tide would demonstrate that the trees are submerged in water twice a day every day. A loss of those mangrove trees would result in the loss of a number on interlinked habitats that form one ecosystem. Furthermore, the mangroves in question are three of approximately just five located in the immediate area.

Summary

The proposed retaining wall will directly impact on public use of the waterway, the habitats located in close proximity to the proposed site and contravene many aspects of the Environmental Planning and Assessment Act 1979. The loss of this parcel of waterway is at too greater cost to the public and environment to be justified.

18/5/2015

Ballina Shire Council

The General Manager,

Councillors,

Anthony Peters

Dear Sir/ Madam,

I would like to have my objections noted for Development Application 2015/138.

Firstly, I would like to address the lack of a Development Application notice displayed in Camden Street. Mrs Jill Gribble, No 1. Camden Street is named as a party to the application, yet a Development Application sign has not been publicly displayed in the vicinity of this address.

This has not allowed the residents and community of North Creek a fair and reasonable time to make a comment on the Development Application proposal.

In the Development Application Form, lodged 25/3/2015, I would like to raise concerns with several items.

Section 4: Description of Development to be Carried Out: The description marked is for "Other Works". This includes- swimming pools, infrastructure and earthworks. I feel this is misleading as the works will actually be "Changing the use of the Land" for this section of beach from its historical public and community use and access to "Private Use Only" exclusively for the 4 properties in this proposal.

Section 7: Statement of Environmental Effects of your Development- this section has noted that this application is not a Designated Development. According to Section 77A of the Environmental Planning and Assessment Act 1979, a Designated Development should address any development that comprises of a significant environmental impact. This proposal has designated at least two Mangrove trees to be removed. Judging from the markers the Development Applicants have currently marked out it would appear that more than Mangrove two trees would be compromised.

This has not been addressed.

Species Impact Statement: during my residency of 32 years in Camden Street and recreational use of this area it has been noticed that there is significant reductions in Mangrove trees, Soldier Crabs, Yabbies and fish stocks. This Development Application is irresponsible in ignoring the need to address this.

Section 11: Carry Out Work on a Public Road. This application has not addressed how this work is intended to be carried out from either Camden Street or Skinner Street without interruption and damage to trees, grassed areas and other flora. Camden Street is narrow and the access to the creek is barely 7.5meters wide with large established trees in the centre of the easement. At the small beach at Skinner Street there is a grassed and trees with a bench seat.

A Public Reserve Vehicle Application Form has not been submitted with this Development Application.

Both of these areas have the storm water outlet pipes for our residences. No mention has been made as to how the site would be accessed and the storm water protected from damage. In Camden Street the easement is approx. 7.50meters wide and the storm water is in the centre of the easement.

In addition to these concerns I would like to request that this Development Application is brought to the attention of the wider community. Many people are vested in the access and use of this area. One solitary Development Application sign displayed at the end of Skinner Street does not fairly advertise to those residents that will be affected. Home owners and residents in the immediate area should also be informed by a letter to their homes. The Development Application may be displayed in a local newspaper edition as required, but the assumption that all residents will recognise the scale of this development from a worded application is misleading, without a scaled illustration of the works outlined in the proposal.

I reside approximately 50 meters from the creek in Camden Street and have not received any notice or information on this Development Application. The works involved in this development would directly affect my residence.

Historically, North Creek has been a community asset with many residents from the surrounding streets making use of the natural and beautiful waterway and sandy beach.

Meldrum Park is in close proximity, and on high tides when families with small children cannot paddle at the steps and rock walls due to the many sharp rocks and the depth of the water, along Meldrum Park, they make use of the only remaining sandy stretch from Camden Street to Skinner Street.

Many people walk along this part of North Creek to enjoy the vista. Many people fish from the beach. Many people take their children down to this beach to play in the sand and the safe shallow water.

All of these opportunities for all residents to use this beach will be eliminated.

The rock wall in front of Meldrum Park and 94 Norton Street has dangerous and sharp rocks exposed along the base of the wall in the sand. On high tide these rocks are covered by water and pose a hazard for people that will be swimming or trying to walk along the

foreshore. The proposal in the Development Application will have the same hazards as proven by the existing walls.

The easement in Camden Street is only 7.5meters wide. If this is walled in with the existing wall from 94 Norton Street and the proposal for the wall from No. 1 Camden Street, the easement will become a rubbish trap for flotsam. Also on high tides the water will be directed into a narrow neck and not dispersed across a larger area.

In relation to the rock wall across 94 Norton Street, at the time of its reconstruction some ten years ago, residents placed concerns to the Ballina Shire Council at the loss of pedestrian access to Norton Street. Information was given by council to residents at this time that a pedestrian access would be constructed. It never has.

I would also like to enquire why an existing rock wall that is built in front of 2 and 4 Camden Lane, and another in front of no. 1 Camden Street is not sufficient for the concerns of erosion stated in the Development Application. There is approximately 10 to 15 meters of a good solid surface of sand covered in grass from these walls to the water's edge. It seems that the erosion is well under control.

The home at 2 Skinner Street has a large solid timber sleeper garden bed that extends out toward the creek and is more recently installed than the rock walls across the Camden Lane properties. This timber structure has caused a barrier to the natural course of the water flowing around the creek banks, and is evidenced by the erosion it has caused in this one place. The erosion poses no danger to this home. It has also inhibited safe access to pedestrians due to the large uneven sandbags that have been placed there. These sand bags have gradually been covered by sand over the last few years which further evidence the lack of support for an erosion issue across the front of these homes. In the Development Application this obstruction is now to be replaced with a 1.5meter high rock wall to combat erosion. The further extension to the existing timber construction of this wall will change the course of the water flow even further. The impact will probably be shown with the detriment of the beach at the end of Skinner Street

The beach and creek area that is the subject in this proposal was an extension of Norton Street on many maps of Ballina. How is Norton Street now not a public space?

The extent of this wall in to the creek is incredible. The plans suggest that the wall will extend out into the creek from the existing bank 6 meters to 12 meters. That is some 6 to 8 meters from the existing rock walls in front of the Camden Lane properties.

The markers are in place. I would suggest that visiting the site to observe the markers would put the enormity of this excessive wall in perspective. You would also note the natural high tide mark as it is clearly defined by the line of debris it has left at its mark. This line of debris sits 6 to 8 meters inside the proposed rock wall extension.

It will be 1.5 meters high.

When the previous rock walls were constructed in front of the Camden Lane properties, residents at the time noted the use of shale and blue metal to lay a firm base for foundation of the wall. This shale seeped in to the waters along the shore line for many months. This was reported at the time to council as an unsatisfactory building practice and environmentally neglectful.

North Creek and Meldrum Park are often used by local aboriginal people for swimming, picnics and family gatherings. The Bundjalung peoples in Ballina have a long association with this waterway. If this pristine area is to excavated to build this rock wall then consideration should be given to Bundjalung Elders to comment on the Development Application.

The removal of yet more Mangrove trees and the impact to the fragile coastal environment seem unnecessary when there is no evidence of erosion, in fact the existing measures seem to be working very well.

I would like you to consider my concerns, and offer time for further public comment.

Regards

Jennifer Morgan

4 Camden Street

Ballina, NSW, 2478

Ph. 0266865468

Mobile: 0417281260

Email: jenny.morgan@connectnr.com

30/9/2015

The General Manager

Ballina Shire Council

PO Box 450

Ballina NSW 2478

Dear Sir,

Re: DA2015/138

I wish to object to the proposal to build a rock wall along the shoreline of 3 & 5 Camden Lane, and 2 Skinner Street, Ballina.

As stated by the Department of Primary Industries- Water, in their reply to this development, the proposed works are likely to cause more than minimal harm to the water source and its ecosystems through the destruction of the sandy beach and its intertidal habitat, and a vertical rock wall and extension of the home owners grassed areas will be of minimal habitat value.

The Department of Primary Industries-Fisheries have stated in their reply to this development that it is their current policy; that the subject seawall is no longer a preferred and environmentally friendly practice, as outlined in their Environmentally Friendly Seawalls document.

I think that the statement from CivilTech commenting that users of the area are likely to destroy any new plantings of Mangroves is insulting. The extensive interest by the public in this Development Application proves the Community and Environmental Conscience of the public who have expressed their dismay in the potential destruction of a much loved and used area. Mangroves are prolific in close proximity to this Development, such as around the Carrwarra Street Boat Ramp. Why not invite a Southern Cross Marine Studies group in to develop the Mangroves? Or our own Ballina High School Marine studies students?

In the letter from CivilTech dated 26/8/20145 on the list of documents for this DA 138, I would like to know the reason for a detailed design not being provided until the construction certificate stage of the development. There are no indications of height or width measurements of the wall or where the bank of the shoreline is deemed to run. Why isn't a detailed survey available for comment before the construction commences? CivilTech states that the proposed wall of dry rock construction will only be inundated during times of floods, storms and higher tides. Without detailed plans, of where this wall is to be located on the bank, how is it determined whether the public will be forced to trespass on private property?

CivilTech have raised the need for erosion protection citing recent erosive events and the home owners needing to implement temporary control measures, but this seems contradictory to the previous stated fact by CivilTech that the land has accreted over the last 50 years.

In relation to the suggestions of rising sea levels, I cannot see the use or value in a wall that runs across the front of a couple of properties in keeping sea water away from said properties. In this low area of town I would imagine in this event we will all be rowing boats to our front doors.

There are two existing walls across at least two of the properties, as reported by long time locals, which have built by homeowners previously, and are covered by the accreting sand and vegetation, so it is seemingly excessive to need to build a third.

I feel that a structure such as the applicants wish to build is to be permanent, and I feel that there should be further information collected such as a Tidal Hydraulic survey. It is unknown what consequences a rigid structure will cause in the fragile environment of this waterway, it may never recover or it may cause other issues.

As 1 Camden Street has now withdrawn from this development application the return wall on the boundary between 1 Camden Street and 3 Camden Lane may be detrimental to no. 1 Camden Street and the land in front of no. 1 Camden Street. As stated previously, a Tidal Hydraulic study seems to be needed.

As the Mean High Water Mark for these properties have recently been redefined, is it possible to be informed of the current information from the LPI.

The information below is from 2004, and I would like to enquire if it is current. This suggests that the land accreted cannot be claimed if the land is naturally accreting and is only sustained by natural means.

Within the Coffey Geotechnic Report submitted by the applicants with the Development Application it states: *It appears that the fluvial system within North Creek is currently depositing sediment, providing additional support to the eastern lot boundaries, though we understand that at 2 Skinner Street periodic erosion occurs at the riverfront, and sand bags have been placed to limit this action. The erosive events appear to be overridden by the accretionary processes.*

In general the sedimentary accretion appears to be occurring on the downstream side of the fixed features in the creek(mangroves, rocks and a pipe), and as such we anticipate in the future the area east of the residences will continue to form new land as the juvenile mangroves grow and spread.

Surveyor General's Directions No. 6

Water as a Boundary Procedures

Preamble

There have been many changes to MHWM procedures due to recent government departmental restructuring and amendments of the Coastal Protection Act 1979, which established the "Modified Doctrine of Accretion".

In summary, changes included within this Direction are:

- ☐ New procedures to address the Modified Doctrine of Accretion as defined in the Coastal Protection Act 1979 (Section 55N);
- ☐ New departmental procedures; and
- ☐ New surveying requirements under the Surveying Act 2002.

A consequence of the Modified Doctrine of Accretion is that a MHWM application may now be required to meet specific criteria prior to approval. In particular, where a definition that increases the area of land to the landward side of the water boundary **because of accretion**, the applicant will now have to demonstrate that the area, the subject of the accretion claim will:

- a) have a perceived trend of accretion that is likely to be indefinitely sustained by natural means; and*
- b) as a consequence of making the claim, not likely restrict or deny public access to a beach, headland or waterway.**

http://www.lpi.nsw.gov.au/_data/assets/pdf_file/0003/25941/section6.pdf

My enquiry is: Can a Mean high Water Mark be redefined if the land is continuing to accrete?

How is that then supported by needing to build an Erosion Protection Wall?

If this Erosion Protection Wall is approved, what permanent measures are in place to allow unrestricted public access?

I would also like to enquire why in July 2014, these 4 properties were given an amendment by council to the activities that can occur in the W1 zoning Natural Waterways?

What was the need for the amendment?

Ballina Shire is currently dealing with a situation concerning the recent shark attacks.

An approach of studies and looking at new technology has been adopted.

We have not had a knee jerk reaction and killed sharks needlessly.

I feel in any situation that can create a possible adverse environmental impact on our surroundings and we should take our time to explore all current and new technologies to cause as little irreversible damage as we can.

As stated in literature from DPI, there are more environmentally sensitive preferred methods of erosion protection than the outdated rock wall construction.

As Ballina Shire is leading the way in the ocean, the same principal should be observed on land.

Signed
Jenny Morgan
4 Camden Street
Ballina 2478

From: "Sue Perry" <susan_perry_@hotmail.com>
Sent: Thu, 23 Apr 2015 13:34:08 +1000
To: "Ballina Shire Council" <council@ballina.nsw.gov.au>
Subject: FW: DA 2015/138

SG Perry

NSW 2478

,2015

Mr A Peters
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Mr GA & Mrs

6 Skinner St
BALLINA

23rd April

Dear Mr Peters ,

We wish to submit an objection to DA 2015/138 to undertake coastal protection works.

Following our conversations on 20th and 21st April in relation to the abovementioned DA we have concerns about the Proposal as it stands and seek further information from Council. Our concerns are as follows,

. Civil Tech state in their document Section 4.6.8 it is unlikely this application will cause undue cumulative impact on the amenity of this area. The area is zoned WI (Natural Waterways). It is a sandy beach area used by families for a safe swimming , fishing collecting yabbies and walking access to the stairs at the end of Norton St .

A 1.5 meter high wall built as far east of an existing buried rock wall must change the amenity of the area.

. The proposal under Clause 2.5 Schedule 1 of BLEP 2012 is for erosion .However the layout plan on the DA clearly shows accretion of land gained.

.An existing rock wall was erected by council many years ago when a proposed bike track was suggested .This wall was visual at the time but over the years sand has built up and the area grassed .

Is it possible to extend this rock wall at that point across the other two houses if deemed necessary. This may save mature Mangrove trees having to be removed .Coffey Geo technics suggest mangroves that grow and mature may help maintain stability of the area as already seen at the southern end .

.Our main concern is for any added pressure that may be caused to storm water drains that run down Skinner St to a junction section and also at the end of Camden St.

We have a storm water drain in front of our property and one at neighbours across the road. At times of storms and high tides the water floods the road completely up and over the gutters as far our letterbox and more .At times it has covered our front grass totally and spread into the garage

We accept this as a natural occurrence over the past 30 years we have lived here . After contacting council there was no answer as to whether such a large structured wall could create a stronger surge of current or push of water that could potentially make the flooding worse to our property or put pressure on pipes that are already unstable.

The pipes at the end of Camden St although relatively straight and stabilised by sand bubble at high tide at the joints. The pipes along Skinner St also have water bubbling out , but , these have deteriorated to the stage of large sink holes .

.As heavy trucks and earthmoving equipment would have to access the area at Camden and or Skinner St could this cause any damage to pipes or the sandy beach areas used by the community

The proposal at present seems to be based on erosion issue and the fact there is no rock wall. When it clearly shows in the layout plan a rock wall and the Coffey report writes that the erosion events appear to have been overridden by the accretionary process.

We do not oppose coastal protection we oppose a plan that we need some answers to . This proposal could have adverse effects on the community the environment and the flooding issue in Skinner St.

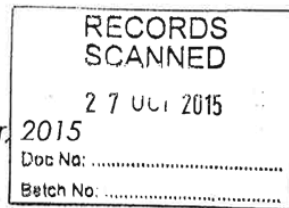
We would appreciate if council could look at our concerns and provide us with any further information before approval is given to this DA 1025 / 138.

You can contact by return email .

Regards

Glenn and Sue Perry

26th October, 2015



1/11 Camden St.

Ballina, NSW 2478

Dear Councillor David Wright,

It is with great concern we and many locals have regarding the proposal of erecting a rock wall at the end of Camden St, which is now being considered by Council.

We and many Ballina residents use this access from Camden St. to Meldrum Park at low tide. This will be denied to us due to erecting a rock wall, thus causing erosion of this popular beach.

We are not against the owners of properties, Lot 10 DP1126929, Lot 7 DP1126929 & Lot 3 DP1079380, 2 Skinner St & 3 & 5 Camden Lane, Ballina, protecting their frontage, subject to local residents able to use this access and it not impacting upon the vegetation and wildlife which is so valued and appreciated by many of us.

We, our neighbours and many we know using this access request from you consideration and understanding of this potential loss of a very popular and well used access.

When we first viewed our property 12 months ago, it was this beach with children and locals delighting in all it offers for quality recreation that inspired and convinced us to reside in Camden St.

Thank you for your understanding and wisdom. It is these qualities we appreciate and value in you as our Mayor.

Kind Regards,

Patrick & Marie Catanzariti

Pat Catanzariti
Marie Catanzariti

15/68820
ACKNOWLEDGEDThe General Manager
PO Box 450
Ballina 2478RECORDS
SCANNED

01 OCT 2015

Doc No. 15/68737

Batch No.

Dear Sir

Re: Development Application 2015/138 Construction of rock wall in North Creek Ballina

I write to object to the development application noted above.

The applicant advises that the works are required to stabilise urban property and prevent erosion. I think it is important to identify precisely the land that is proposed to be protected. The way I see it you have three areas of land to consider.

1. Firstly you have the land that includes the house and extends out to existing rock walls (two of the three properties already have a rock wall in place), which is also the approximate boundary line of the residential zone.
2. Secondly you have the land that has accreted from the existing rock walls out to the current tidal embankment (approximately 20 to 30 meters).
3. Thirdly there is the land that forms part of the current tidal zone.

The application has been amended to primarily protect the first and second areas. I note that the latest application, based on the location of the pegs on site, still looks to enclose some of the tidal zone. In my opinion this should not be allowed.

I recall in the 1980's when the river was repelled by the first line of rock walls so I believe it is fair that the property owners are able to defend their properties from erosion. I do think that the property adjoining Skinner Street should be able to put protection measures in place as they do not already have a wall, however they should not extend beyond the current grass embankment.

It is very debatable as to whether they should be allowed to enclose the accreted land (area 2). The question is what is fair given that there has been considerable accretion over recent years, but at any time the river may choose to reclaim this land? Perhaps a pointer can be found in the Coastal Protection Act which was amended in respect to accreted land. See an extract from this act below.

55N Modification of doctrine of erosion and accretion

(4) The Minister administering the [Crown Lands Act 1989](#) (or a person authorised by that Minister) has no power under Part 7 of the *Surveyors (Practice) Regulation 2001* to approve a determination concerning a water boundary that would increase the area of land to the landward side of [the water boundary](#) if:

- (a) a perceived trend by way of accretion is not likely to be indefinitely sustained by natural means, or
- (b) as a consequence of making such a determination, public access to a [beach](#), headland or waterway will, or is likely to be, restricted or denied.

So the State Government has taken the stance that there is no longer a ratchet affect in respect accreted land. I.e. land owners can not increase their land area where at some time in the future the land may again become part of the tidal flow. I also note that it is not permitted where it is liable to restrict public access to a beach or waterway.

I further draw your attention to section 55M of this same act which states as follows in respect to protection works:

55M Granting of [development consent](#) relating to [coastal protection works](#):

- (1) [Consent](#) must not be granted under the *Environmental Planning and Assessment Act 1979* to [development](#) for the purpose of [coastal protection works](#), unless the [consent](#) authority is satisfied that:
- (a) the works will not over the life of the works:
 - (i) unreasonably limit or be likely to unreasonably limit public access to or the use of a [beach](#) or headland, or
 - (ii) pose or be likely to pose a threat to public safety, and
 - (b) satisfactory arrangements have been made (by conditions imposed on the [consent](#)) for the following for the life of the works:
 - (i) 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,
 - (ii) the maintenance of the works.
- carrying out of any such restoration and maintenance, including by either or both of the following:
- (a) by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:
 - (i) the owner or owners from time to time of the land protected by the works,
 - (ii) if the [coastal protection works](#) are constructed by or on behalf of [landowners](#) or by [landowners](#) jointly with a [council](#) or [public authority](#)-the [council](#) or [public authority](#),
 - (b) by payment to the relevant [council](#) of an annual charge for coastal protection services (within the meaning of the *Local Government Act 1993*).
- (3) The funding obligations referred to in subsection (2) (a) are to include the percentage share of the total funding of each [landowner](#), [council](#) or [public authority](#) concerned.

I would contend that the proposed works will restrict access across the beach on a high tide. The high tide currently laps the grass bank and if coastal erosion does occur access will be impeded.

It would also seem likely that land adjoining the structure will suffer erosion and, if the wall was approved financial arrangements will need to be in place to remedy any erosion that may occur. Presumably a perpetual fund will be required to satisfy this issue.

I am concerned that the plan accompanying the application does not include dimensions. It would seem only reasonable that dimensions including height and width are available at this stage of the process rather than at construction certificate stage.

Peter Morgan

4 Camden Street,

Ballina

Anthony Peters

From: Joey <surfrat_17@hotmail.com>
Sent: Sunday, 24 May 2015 9:55 PM
Subject: RE North Creek Proposed Development Retaining Wall
Attachments: RE Development Proposal North Creek.docx

Attn:

I am writing in response to the proposed retaining wall to be located in North Creek (between Camden and Skinner St).

I am concerned that the proposed development will have serious environmental and social repercussions if allowed to proceed.

In particular, I do not feel the application adequately addresses Section 79C of the Environmental Planning and Assessment Act 1979.

If allowed to proceed the proposed development would threaten protected mangroves, yabby colonies, sea grass habitats and the existing foreshore.

Furthermore, it would significantly limit access to North Creek for both the local residents and frequent users of the area. From Camden st, access to the creek would be limited to a narrow parcel of land that is dissected at the waterfront by a large and lengthy storm water pipe, making entry into the water dangerous. at the Skinner St access to the creek, the distance between a subsequent storm water pipe and the proposed retaining wall is limited.

Please consider the needs of local residents, frequent users of North Creek and the community in respect of this application.

Attached is a statement addressing further concerns in the application.

Thanks

J.P

W.A.T.E.R.

WATER ACCESS TO ENCOURAGE RECREATION

Address all correspondence to the Secretary: Mr Bert Carter 148 Tamar St. Ballina 2478.

OFFICE BEARERS:

President: Denis Magnay.

Vice president: Julie Porritt

Treasurer: Ian Bedford:

Secretary: Bert Carter.

COMMITTEE:

Robert Magnay.

Les Johnson.

John McSkimmings.

Patrick Crawley/

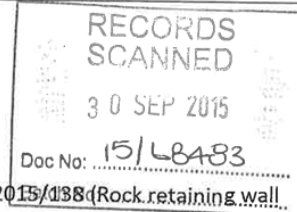
Ballina Shire Council

23-9-15.

General Manager.

Dear Sir,

Please allow us to make a submission relating to revised D.A.2015/138 (Rock retaining wall at North Creek Ballina.)



It is now twenty years since our group formed to bring notice to all, that Public access to & along the waterfront is most desirable.

In that regard we are proud to be involved in acquiring Public access to such areas along the C.B.D in Ballina including around the R.S.L club & the Ramada Hotel.

Other areas including the former marina site adjacent to the Burns Point ferry, & along in front of the Ex-service men's Rest Home at North Creek.

All of which couldn't be possible without the co-operation of the Ballina Council.

In 2002 the State Government recognised the value of public access by observing the actions of W.A.T.E.R in the struggle along the C.B.D waterfront at Ballina.

The upshot of that was the State Government introduced a new policy to assist groups such as ours to acquire Public access for the entire State of N.S.W.

That policy is the State Environment Planning Policy no.71 (S.E.P.P.71)

That policy in short requires Council to consider Public access to & along the waterfront which include access for the disabled.

8.1 DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC

If Council decides to approve D.A 20015/138 (Rock wall) we request that S.E.P.P.71 be enforced to continue our desire to acquire Public access around Ballina's foreshores.

In addition to the proposed Public Access in relation to the readvertised D.A no

We feel this an excellent time to remind Council that we were made verbal promises that a Boardwalk would be built in front of no 94 Norton St, back in 2002.

We respectfully request that Council now also consider supplying this missing link which would make a tremendous benefit to the Community especially now there are two major rest Homes only a short distance away.

Although our proposed Public Access to this area doesn't completely connect the two Rest Homes it would be a major step in the right direction.

Denis Magnay. President. 30-6-15

Ph. 0412493367.



From: "Peter Brown" <peterbrown19@bigpond.com>
Sent: Wed, 6 May 2015 15:00:19 +1000
To: "Ballina Shire Council" <council@ballina.nsw.gov.au>
Subject: DA2015/138 Rock wall to protect 4 houses along North Creek.

Dear General Manager,
I have recently bought a house on Skinner St and only saw the sign by North Creek regarding the DA for the rock wall too late to make a submission by April 23rd. I have read the submission by the applicants' developer consultants and am concerned. So I am emailing my ward councillors and General Manager.

My particular concern is 4.1.3.7 Clause 7.3 Flood Planning. They state: The site is located within the flood planning area. The proposal is unlikely to impact upon the flood behaviour in the locality. This seems inadequate to me when discussing the possible flooding of peoples homes. I would think the proposal is likely to impact on flood behaviour. When water is held back by a wall it generally flows fast round the end of the wall. In this case that would probably mean erosion of the small council parkland and flowing into Skinner St. After heavy rainfall and at high tides this might well mean flooding of homes in Skinner St and also to homes further up the creek.

I noticed that at the end of Norton St. where the rock wall ended the street has been protected by a rock wall.

Looking at the posts marking the intended wall I cannot understand why the wall should be so far out from the high water mark. Water coming along the wall will be quite deep and powerful and less important but a shame people will no longer be able to walk along the sandy beach.

I can understand people wanting to protect their homes as I do but I hope council will conduct an independent study rather than taking the word of the developer who at the beginning disclaims any responsibility for views expressed.

Yours sincerely
Peter Brown

From: "Peter Brown" <peterbrown19@bigpond.com>
Sent: Mon, 14 Sep 2015 11:45:36 +1000
To: "Ballina Shire Council" <council@ballina.nsw.gov.au>
Subject: Submission re DA 2015/138

Dear Sir/Madam

i would like to make a submission objection to DA 2015/138.

I am pleased that the proposed wall has been brought in closer to the high water mark. My major concern however is that flooding seems likely to increase in Skinner St.. At present at very high tides the road is sometimes flooded as far as the junction with Martin St. No damage has so far been done to houses but I have had water well up my driveway and the water comes up through the storm water drains which are of course intended to take water to North Creek. Any cars that drive or are parked in the salt water have to be washed underneath to minimise rust.

I would like to see an assessment by experts as to the likelihood of increased flooding due to the proposed wall. I would also like the granting of this DA dependent on the water drainage being improved in the part of Skinner St. between Martin St. and North Creek.

Yours faithfully

Peter M Brown

10 Skinner St Ballina 2478 Phone 02 6681 3040

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Anthony Peters

From: Sue Perry <susan_perry_@hotmail.com>
Sent: Thursday, 1 October 2015 10:29 PM
Subject: DA 2015/138

Dear Mr Peters ,

Ref Revised Proposal DA 2015/138

We refer to your correspondence showing the revised details to the above proposal . Whilst we can see changes to the boundary lines our main objection concerning flooding in Skinner St have not been addressed.

As water continues to cover the road and flow across several residence at high tide. Our concerns are that a structure of this type may cause surges of water through the drain system further exacerbating this problem.

We would appreciate if these concerns could be taken on board when addressing this DA.

Your faithfully

Glenn and Susan Perry

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From: "Mark" <markdjewell@hotmail.com>
Sent: Thu, 1 Oct 2015 19:14:25 +1000
To: "Ballina Shire Council" <council@ballina.nsw.gov.au>
Subject: Submission: DA Ref Number: 010.2015.00000138.001

Dear Council Members

I wish to make submission regarding the following DA:

Ref Number: 010.2015.00000138.001

Description:

Development Applications - New Environmental Restoration Works To undertake coastal protection works along the eastern boundary of the subject allotments comprising a dry rock retaining wall and filling of land

My name is Mark Jewell and I reside at 8/12 Camden Street. I kayak and walk frequently in the area proposed for the rock wall. I strongly oppose the DA for the following reasons:

1. There is no evidence to support the proposition that the area concerned requires protection. If anything, it requires protection from the proposed wall. The area concerned is environmentally sensitive, supports diverse flora, fauna and marine life forms that may be put at risk by the unpredictable consequences of the rock wall. I am led to understand that Fisheries have similar concerns.
2. I have observed no evidence of erosion of the bank area in question in the time I have been living in Camden Street. Local residents who have lived in Camden Street have reinforced my observations when I researched the issue. I have not been able to find evidence of inundation of proximate properties even at times of heavy rains and high tides. As a local resident at risk of property damage should flooding occur I am keenly sensitive to the importance of the issue and would support mitigation if tangible evidence were available to support the contention. I do not know of any such evidence.
3. Many Ballina taxpayers and visitors enjoy strolling and reflecting along the North Creek foreshore. Foreshore access has already been compromised by the rock wall and filling of land for a house just east of the proposed wall. I fear that the proposed rock wall will further degrade public access to a unique and beautiful stretch of nature.
4. Aesthetically, it will be ugly intrusion into a very beautiful location.

In closing, I wish to highlight the irony that this development is described as environmental restoration. I hope council members are able to discern the contradiction for themselves and reject the development application.

Respectfully Mark Jewell

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OBJECTION TO DA 2015/138 – ROCK WALL IN NORTH CREEK

I refer to Councils letter of 8 September 2015 regarding the revised development application involving the proposed positioning of the rock wall further to the west and changing the wall design, and my previous objection to Council. I have read the new submission by CivilTech and studied the plan and once again ask the question –

IS THIS WALL REALLY NECESSARY?

As you can see on the plan submitted by the applicants there is already a rock wall in front of 2 of the properties at 3 and 5 Camden Lane built many years ago to protect those properties from the water. The sand has built up approx. 14 metres, at some points, east into North Creek from that existing wall so why is another wall necessary or is it an opportunistic re-aligning of property boundaries by the land owners?

The property at 2 Skinner Street also had a rock wall built many years ago, however, this was demolished by the present owner when building his new home. The owner of this property placed large sand bags at the front of his property in a recent storm event which have now been covered by the build-up of sand as is the normal give and take of sand on the shores of North Creek.

The design of a slight incline wall instead of a vertical one really makes no difference to the damage the construction of this wall will make to the sand and environment of the creek. CivilTech's statement '**As the amended design follows the existing contour of the bank, there is minimal destruction of the sandy beach and intertidal habitat**' is certainly misleading as the heavy machinery required to build this wall will do major damage to the sandy beach and intertidal habitat!

This wall will still restrict the use of pedestrians on their daily walks and in my opinion will be much more dangerous to the public trying to negotiate the stones/rocks at high tide, nor will it stop the water breaking over the top of the wall in storm events as per CivilTech's submission.

The landowners at 3 and 5 Camden Lane state they will not restrict the use of the foreshore by the public, however, this goodwill will be lost to the community when and if the land is subsequently sold. The existing rock walls around properties on North Creek have already severely restricted usage by the public at high tide as they are not passable without wading through deep water.

The use of our foreshores needs to be maintained for the public and not restricted to the benefit of a few landowners!

I also take offence to the last paragraph of the CivilTech submission suggesting it is the public who would likely destroy any new planting of mangroves. I find it very strange there have not been any natural mangrove seedlings survive in that part of the creek shore when along other parts of the shore, namely near the boat ramp, they have flourished with much higher public usage than the part of the creek subject to this submission.

Therefore, I ask the Councillors to do their civic duty for their constituents and decline approval of this unnecessary wall construction.

Patricia Packham
Unit 1
2 King Lane
BALLINA NSW 2478

Anthony Peters

From: Matthew Monk <mattmonkroofing@gmail.com>
Sent: Wednesday, 28 October 2015 12:06 PM
Subject: DA 2015/138

To whom it may concern.
Hi I am writing about the DA 2015/138 .

It is my wish that the public access along that part of north creek remain available for recreation for the public .

There has already been retaining work there before that is in line with Jill's eastern boundary to the south. It is now buried below the sand . It is over a metre high .

I believe that because the sand has built up so much over the years that ANOTHER retaining wall is nothing to do with erosion control at all .
The whole of North Creek has silted up over the years and the bridges have changed the flow dramatically creating this build up .

Again it is my will for access to be maintained and a wall would have detrimental effect on the look of the place as well

Yours sincerely .
Matt Monk

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<BR

PROPOSED ROCK WALL IN NORTH CREEK

I have just signed a petition against DA 2015/138 to build a 1.5 metre rock wall out into North Creek from Skinners Street to Camden Street with back fill to "protect" the 4 residents land from the encroaching creek.

As a resident of the North Creek Area for 63 years and a 3rd generation resident, I can confirm these properties have more land now than what they have ever had. If you actually look at these properties you can see the 2 previous rock walls that have protected the houses over the years from creek at high tide. The only part of the wall you can no longer see is where one resident has built his mansion right over the top of the wall.

When the high rock wall at 94 Norton Street was built some years ago the locals objected to council to no avail and now at high tide we have to remove our shoes, roll up our pants and wade through the water to continue our daily walk along the creek. If this new application goes ahead there will be no more trying to walk along the creek, except maybe on a very low tide.

Also, I have read with interest Ballina Shire Councils letter to Civiltech Consulting Engineers regarding the redefining of the high water mark of 2 blocks of the land in question in 2007 and 2008 without approval of the Council or the consent of the owner of land impacted at Lot 43. I don't remember any consultation with the community either at these 2 times.

Apparently, this DA will be voted on at the next Council Meeting. What I would like to know is why this has not been better advertised to the community and why all the residents along North Creek, who use the creek for their daily walks, have not been personally advised.

We grew up here, we love and protect the creek and like nothing better than watching families enjoying it as well. We need to maintain the environment and all its wonderful diversity for our grandchildren and great grandchildren.

When the Ramada was built the Developers were made to make the waterway accessible to the community, what is being done to ensure the community will continue to have access to this land?

Is the next step to put up a fence? Then sub-divide the land, put in access and build another residence? This land was reclaimed by the creek well before my mother was born in 1923, it needs to be left alone!!!

I thought in NSW there was a "Right of Way" law when land has been used by the public for 50 to 100 years to stop this sort of development?

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

Name	Address	Signature	Comment
Monica Wotton	6 Camden St	MWotton	Major disappointment
Jackie Wotton	6/5 Camden St	JWotton	Against public interest
Angela Jones	21 Skinner St	Angela Jones	
Alana Patch	8 Wendy St	Alana Patch	
IAN GREGOR	26 ST PAULS CL	IGregor	
JOE MORGAN	8 WENDY ST	JM	Against all public interest
JENNY MORGAN	4 Camden St	JM	
Elise Morgan	3 Burnett St	Elise Morgan	Will ruin use of creek by public using the park - will climb wall!
Sam Morgan	4 Camden St	Sam Morgan	The river was there first
Tom Kink	9 Camden St	Tom Kink	Very Disappointing!
Jeff Stokes	6 Camden St	Jeff Stokes	Not needed taking public access for own purpose
Lenore Philp	4 Cawarra St	L. Philp	Not necessary
ALLAN PHILP	4 CAVARRA ST	allan philp	11
BOB FULLER	1611 KILPATRICK ST	Bob Fuller	FORMER RESIDENT
LEANE FULLER	1611 KILPATRICK ST	Leane Fuller	CAVARRA RIVER PAYER

8.1 DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

Name	Address	Signature	Comment
Julie Thomas	245 Martin St	Julie Thomas	Mangroves are important fish breeding ground do.
Jane Stone	85 Martin St	Jane Stone	The frontages of North Creek are thin without a rock wall
Jane Kuthy	80 Martin St.	Jane Kuthy	without Mangroves the land will be lost which will now cause more erosion than even "NO" to high retaining wall
James B. Bower	12 CAMDEN ST.	JAMES BOWER	should out deny pub access to river.
Alma Bower	9/12 Camden St.	Alma Bower	seems unnecessary. Will remove the bed.
Mark Jewell	8/12 Camden St	Mark Jewell	we use entire beach with children swimming.
M. O'Connor	6-5 CAMDEN ST	M. O'Connor	Consideration in this matter is imperative !!!
K. Froggatt	7/12 Camden St	K. Froggatt	THANK YOU
I. Froggatt	7/12 Camden St	I. Froggatt	
John Jett	2 Camden St	John Jett	
Maria Litangail	1/11 Camden St	M. Litangail	
Pet Litangail	1/11 Camden St	P. Litangail	
TOM FERGUSON	2/2 KING LANE	T. Ferguson	



Ian Rinkin,
50 Beach Cres,
Greens Beach,
Tas. - 7270

9 Camden St.
Ballina.
NSW. - 2478

on
Sat. 27.6.2015

Mr A Peters,
Ballina Shire Council,
PO. Box 450,
Ballina.
NSW. 2478

Subject - DA. 2015/138

Dear Anthony,

This short note is a followup to
earlier in the week when I tried
to speak with you on the phone
but you were away... and so I
ended up talking with a lady in
your dept. who helpfully said
she was noting my comments!

concerns regarding DA2015/138 - the North Creek Erosion Protection Wall, proposal that's presently before Council. With the notes as such to be passed onto you when you are next in the office.

Further to those concerns that I spoke with Robin about on Wed morning... is another fact / issue that I believe the Council need to be looking into... with regard this same DA proposal.

As ^{by} my recollection of events going back to the 1960s & 1970s, through my parents having purchased a property in Camden St. Ballina in 1956, and thus having grown up in the neighbourhood as a kid and then a teenager - that even version 3 of the recently amended plans, drawn by Athol Edwards of Civil Tech Consulting Engineers in Lismore, are incomplete and thus inaccurate... as they are now presented to be viewed.

The thing is that even these latest plans / drawings by CivilTech fail to show or label the initial rock - erosion control sea wall that was in place in the early 60s, and that was substantially upgraded in probably 1967 after tail end of a cyclone or rough early winter storms, even in North Creek as it was then, on its old course around the Serpentine to the oyster sheds.

As per my addition to version 3 of the amended plans, attached, this seawall must have been on an alignment of say 8-10mtrs to the east of all 3 residences along that stretch of the North Creek Foreshore, and you would assume was placed along the Mean High Water - MHW. for those times and local knowledge

Perhaps a 'DA. check' on all 3 of those properties from the old Ballina Municipal Council


records will provide the facts as they were at that time, for the following properties:-

- 3 Camden Lane - Williams
- 5 Camden Lane - Williams
or
Shearman
- 2 Skinner St - Steeles.

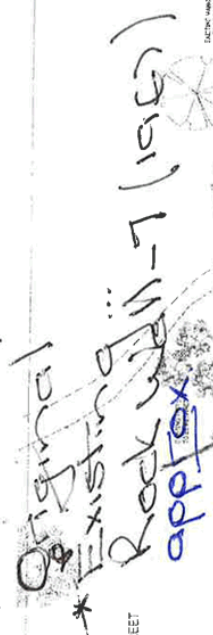
As I believe the significant earth works and construction that occurred back then to upgrade an existing low rock wall... would or should have required approval by possibly both local and state government departments, before the works actually commenced.

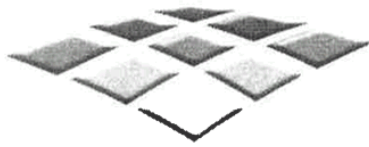
I am not sure how this omission has occurred - perhaps an oversight given the time span of nearly 50 years, but I am sure of the above matters that I am bringing to your attention in this letter.

As I recently had the opportunity to speak with some other long term residents of the Camden St and King St area while I was home in Ballina for a couple of weeks and we agreed that there was an initial / original rock wall along that stretch of North Creek Foreshore - from north of 1 Camden St thru to Skinner St on the northern boundary of 2 Skinner St, that doesn't seem to show up on these more recent - Civil Tech. Plans that are an important part of DA 2015/138, that Council is currently assessing.

Looking forward to your reply,
regards - 

ps. I will now get back to doing some more work on my updated submission, and look at the recent reports that have been uploaded.





CivilTech

Consulting Engineers

● Subdivision Design ● Civil Engineering ● Town Planning ● Project Management

Our Ref: 1284

12 June 2015

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

**RECORDS
SCANNED**

18 JUN 2015

Doe No: XXXXXXXXXXXXXXXX
Batch No: XXXXXXXXXXXXXXXX

Dear Sir,

RE: DA2015/138 - Proposed Coastal Protection Works – 1 Camden Street, 3 & 5 Camden Lane and 2 Skinner Street, Ballina

I refer to our recent discussions regarding the abovementioned development application and wish to advise that the proposal is to be amended to reduce the scale of the proposed coastal protection works. In this regard, please find attached three (3) copies of the amended plan for Council's consideration. The amendments are proposed with consideration to comments by Council and by a small section of the community. The location of the proposal is fully within private land and the removal of the mangroves is now not proposed.

It is also proposed to undertake the work in two stages with stage 1 being the construction of the wall within Lot 10 DP1126929, Lot 1 DP1119099 and Lot 3 DP1079380 and proposed stage 2 being the construction of the wall within Lot 33 DP872966.

The proposed staging of the construction activities is not expected to have any fluvial impacts given the location of the existing mangroves (to be retained) within Lot 33 DP872966 and the fact that the location of the wall is above the mean high water mark (as determined via survey). Appropriate conditions of consent relating to construction activities can be applied to minimise disturbance during the construction of both stages of the wall.

I trust the proposed amendment and additional information provided is satisfactory to Council and the application can now be determined.

If you have any queries, please contact 6624 5580 or email: adrian@civiltech.net.au

Yours faithfully,
CivilTech Consulting Engineers


Adrian Zakaras
Town Planner

15/68364
ACKNOWLEDGED

Ballina Shire Council
40 Cherry St.,
Ballina 2478

Dear Councillors,

Re: DA 2015/138.

We are writing to express our objections to the 1 to 1.1 metre rock wall out into North Creek from Skinner Street to just before Camden Street, with back fill to protect 3 residences' land from the encroaching creek. My reasons for this objection are as follows:-

We live in Skinner Street and we are aged pensioners. We use the beach walk along this area to get to the walking path at the Return Soldiers Idene and the park.

If we cannot do this we will have to walk up Skinner Street and turn into Martin Street where

there are no paved footpaths until Fox Street, and we are forced to walk on the road.

We also believe that if this wall does go ahead a board walk should be required to overcome our loss of access at high tide.

Originally there were 4 properties involved and now one has decided not to continue with the wall and another has listed their property for sale.

North Creek is a river and unlike a Surf beach has no crashing waves or violent tides that would warrant this wall. I also question whether it is legal to claim land that is cut into the creek.

We also believe that if the wall is constructed, the water on

incoming tides will sweep around
and eventually remove the little
sandy beach, at the end of Skinner
Street. A large number of
families with small children use
this park and beach for pic-nics
and swimming and it would be
terrible if it was destroyed.

We trust that you will take
our concerns into consideration.

Yours sincerely

Mr. A. Stone . Ms M. Giles

A. Stone . M. M. Giles

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

28 January 2016

Dear Paul ,

Re : DA 2015/138

I refer to previous correspondence .

The advice from Counsel was received by me last night .

In an effort to save ratepayers and the Applicants the cost of an appeal I set out below the relevant parts of the advice .

"Advice sought

1. I am briefed by Mr Peter Carmont of Somerville Laundry Lomax to advise on the legality of a condition of development consent proposed by the Ballina Shire Council (**Council**). Mr Carmont acts for Janice Carmont, Wendy Edwards and Christine Jambor (**Applicants**), who are the land owners of three properties in Ballina, being Lot 10 DP 1126929 (2 Skinner Street, Ballina), Lot 1 DP 1119099 (5 Camden Lane, Ballina) and Lot 3 DP 1079380 (3 Camden Lane, Ballina) (**Properties**).
2. The Applicants have lodged development application DA 2015/138 for the construction of coastal protection works, comprising an erosion protection retaining wall. On 17 December 2015, the Council resolved to defer consideration of the development application to allow the Applicants to consider the creation of an easement for public access by way of the following condition of development consent:

An appropriate and legally binding easement (within a minimum width of 3 metres) is to be created to allow general public access across the properties within the foreshore area. The

easement is to be located immediately seaward of the revetment wall (i.e. at the toe of the wall) to Council's satisfaction prior to release of the Construction Certificate.

3. I am instructed that the Applicants object to the imposition of this condition. The specific question that I have been asked to consider and advise on is the legality of that proposed condition and the prospects of challenging the condition should Council grant development consent subject to that condition.

Summary of advice

4. For the reasons set out below, my advice is as follows:
 - (a) I consider that the Land and Environment Court would be more likely than not to conclude that the condition requiring an easement for public access is unlawful on the basis that it does not meet the Newbury tests for validity of a condition of consent.
 - (b) Should the Council decide to approve the development application and impose the easement condition, I advise the Applicants to lodge an application with the Council under s 96 of the *Environmental Planning and Assessment Act 1979 (EPA Act)* to modify the development consent by removing the condition. They can then appeal any decision by Council to refuse the modification application to the Court.
 - (c) In my opinion, a Class 1 merit appeal against a decision by Council to refuse a s.96 application to modify the consent by removing the easement condition has reasonable prospects of success.

Summary of relevant facts

5. There is a lengthy history relating to attempts by the Applicants to obtain

planning permission to construct coastal protection works to protect their properties from coastal erosion. This has included an amendment to the Ballina Local Environmental Plan 2012 (BLEP 2012) to amend the zoning to permit the construction of coastal protection works, and also two previous development applications. I note also that the owner of Lot 33 DP 872966 (No 1 Camden St) was also an applicant in previous development applications, but is not party to DA 2015/138.

6. On 26 March 2015, the Applicants lodged a development application for construction of coastal protection works, comprising an erosion protection retaining wall, on their Properties.
7. The Properties are currently zoned part R2 Low Density Residential Zone and part W1 Natural Waterway Zone under the BLEP 2012, and the proposed wall is located entirely within the W1 zone. Coastal protection works are permissible with consent in the zone.
8. The immediate intertidal foreshore and bank of North Creek is located within the eastern boundaries of the Applicants' Properties. 3 Camden Lane and part of 5 Camden Lane have a direct frontage to the western boundary of the unmade section of Norton Street. The other part of 5 Camden Lane and 2 Skinner Street have direct frontage to an area of land known as Lot 43, which in turn fronts Norton Street. The eastern boundary of Norton Street has a frontage to North Creek.
9. The Properties are currently unprotected by engineered structures from the potential processes of estuarine erosion.
10. I am instructed that the Applicants have experienced erosion events as a result of major storms, particularly in 2009, and that such events are predicted for the future with greater intensity: *Ballina Floodplain Risk Assessment 2012*. Council's report also states that there has also been a process of accretion for a number of years and the fluvial system within North Creek is currently continuing to deposit sediment.
11. Members of the public have historically been permitted to have access along the foreshore over the eastern portion of the Properties, though there is no legal right of access for the public.
12. The Council considers that the provision of public access must be considered, pursuant to the CPA, SEPP 71 and the NSW Coastal Policy: Report to Council dated 17 December 2015 at p 39.
13. The Council's proposed conditions of consent in its 17 December 2015 Report include the following condition:

An appropriate and legally binding easement (within a minimum width of 3 metres) is to be created to allow general public access across the properties within the foreshore area. The easement is to be located immediately seaward of the revetment wall (i.e. at the toe of the wall) to Council's satisfaction prior to release of the Construction Certificate.

Council also proposed the following related condition of use and operation:

The easement for public access along the foreshore is not to be restricted in any way at any time.

14. The Applicants do not wish to be subject to an easement providing public accessway across their land for the reasons outlined in the letter from my instructing solicitor to the Council dated 30 November 2015.

15. On 17 December 2015, the Council resolved to defer consideration of the development application, pending the Applicants' consideration of the creation of an easement for public access.

Advice

16. A condition of consent may be imposed on development consent under s 80A(1) of the EPA Act, which relevantly provides:

80A imposition of conditions

(1) Conditions - generally

A condition of development consent may be imposed if:

- (a) it relates to any matter referred to in s 79C(1) of relevance to the development the subject of the consent ... " (emphasis added)*

17. Power under s 80A(1)(a) depends upon two findings: the first is whether the condition relates to a matter referred to in s 79C(1) and the second requires a determination as to whether such a matter is relevant to the particular

development: *Cavasinni Constructions Pty Ltd v Fairfield City Council* (2010) 173 LGERA 456; [2010] NSWLEC 65 at [17].

18. In order to be valid, a condition of development consent must also accord with the well-known “Newbury tests” established in *Newbury District Council v Secretary of State for Environment* [1981] AC 578:
 - a) *The condition must be for a planning purpose;*
 - b) *The condition must fairly and reasonably relate to the development proposed in the application;*
 - c) *The condition must be not so unreasonable that no consent authority would have imposed it.*
19.
 - a) *The condition must be for a planning purpose;*
 - b) *The condition must fairly and reasonably relate to the development proposed in the application;*
 - c) *The condition must be not so unreasonable that no consent authority would have imposed it.*
20. I consider that the condition does relate to a matter referred to in s 79C(1), as required by s 80A(1)(a). Section 79C(1)(a) requires that the Council take into consideration the provisions of relevant planning instruments that apply to the land to which the development relates. Section 55M(1) of the *Coastal Protection Act 1979 (CP Act)* provides that Council must not grant consent to development for the purpose of coastal protection works unless it is satisfied of a number of matters, including that the works will not unreasonably limit public access or pose a threat to public safety. The *State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)* also requires Council to consider public access.
21. I note that in any Class 1 merit review proceedings challenging Council’s refusal of a s.96 modification application to remove the easement condition, if imposed, I consider that there is a good argument that the works would not be unlikely to unreasonably limit public access or pose a threat to public safety.
22. The second question to consider under s 80A(1)(a) (and the second Newbury test) is whether the condition fairly and reasonably relates to a s 79C(1) matter of relevance to the proposed development. On balance, it is more likely than not that the Court would consider that the condition does fairly and reasonably relate to the development because the CP Act and SEPP 71 provide that public access is relevant to an application to construct coastal works.

23. However, there is a real question as to whether the condition would satisfy the first and third Newbury tests. On balance, I consider that a Court would be more likely than not to conclude that the condition is ultra vires on the basis that it is not for a planning purpose and is not reasonable.

24. In coming to that conclusion I note that the circumstances here are less clear-cut than those in *Cavasinni*, a case in which the Court held that a similar condition was ultra vires. Here, the Council is required by the CP Act and SEPP 71 to consider the issue of public access as a mandatory relevant consideration, whereas in *Cavasinni* the Court held that the condition did not fairly and reasonably relate to a relevant s 79C(1) consideration.

Planning purpose and unreasonableness

25. Because the owner of Lot 33 DP 872966 has withdrawn from the development application, the easement for public access could not be imposed upon her property. The easement, therefore, would not provide continuous access between Skinner Street and Camden Street. I consider that the condition does not serve a planning purpose if the access, or right of way, has a dead end on private land, and does not link up to a public road or other public land.

26. I am instructed that the difference in RL levels between the land proposed to be subject to a public right of way and the western boundary of Norton Street, being public land that provides public access along and in the foreshore, is less than 9 mm. If so, there is no benefit in requiring a public right of way because, at high tide, members of the public would still be required to walk through water at the same height as on public land. There is no public benefit and the right of way will not enhance the existing public access to the foreshore. In order to make good this assertion and its accuracy for the entire length of the proposed right of way, expert evidence would be required in any Class 1 proceedings. Subject to that evidence, the condition is unreasonable and does not serve a planning purpose in my opinion.

27. Also relevant is that fact that the proposed easement would bisect the properties, as it is not on the boundaries of each of the Properties. The provision of advice on an urgent basis has limited my opportunity to research judicial authority on this issue, but my preliminary opinion based on preliminary research is that this is an undesirable aspect of the easement from planning and property ownership perspectives.
28. I also agree with my instructing solicitor that the imposition of a public right of way may not be consistent with the status of the land as environmentally sensitive land.

Conclusion

29. I consider that the Court would be more likely than not to conclude that the condition requiring an easement for public access is unlawful as it does not meet the Newbury tests for validity of a condition of consent.
30. Should the Council decide to approve the development application and impose the easement condition, I advise the Applicants to lodge an application with the Council under s 96 of the EPA Act to modify the development consent by removing the condition. They can then appeal the Council's decision to refuse the modification application and only the condition will be before the Court. That course is preferable to appealing Council's decision to approve the development application, as then the entire consent is vulnerable.
31. In my opinion , Class 1 merit appeal proceedings against a decision by Council to refuse a s.96 application to modify the consent by removing the easement condition has reasonable prospects of success. "

To clarify two issues I have had prepared a survey plans.

The report to Council claimed that there was no evidence of the need for erosion protection . Attached is a plan showing the position of the bank before the 2009 weather event and as at today . You will observe that the shift in the bank is a maximum of 14.7 metres down to 6 metres .

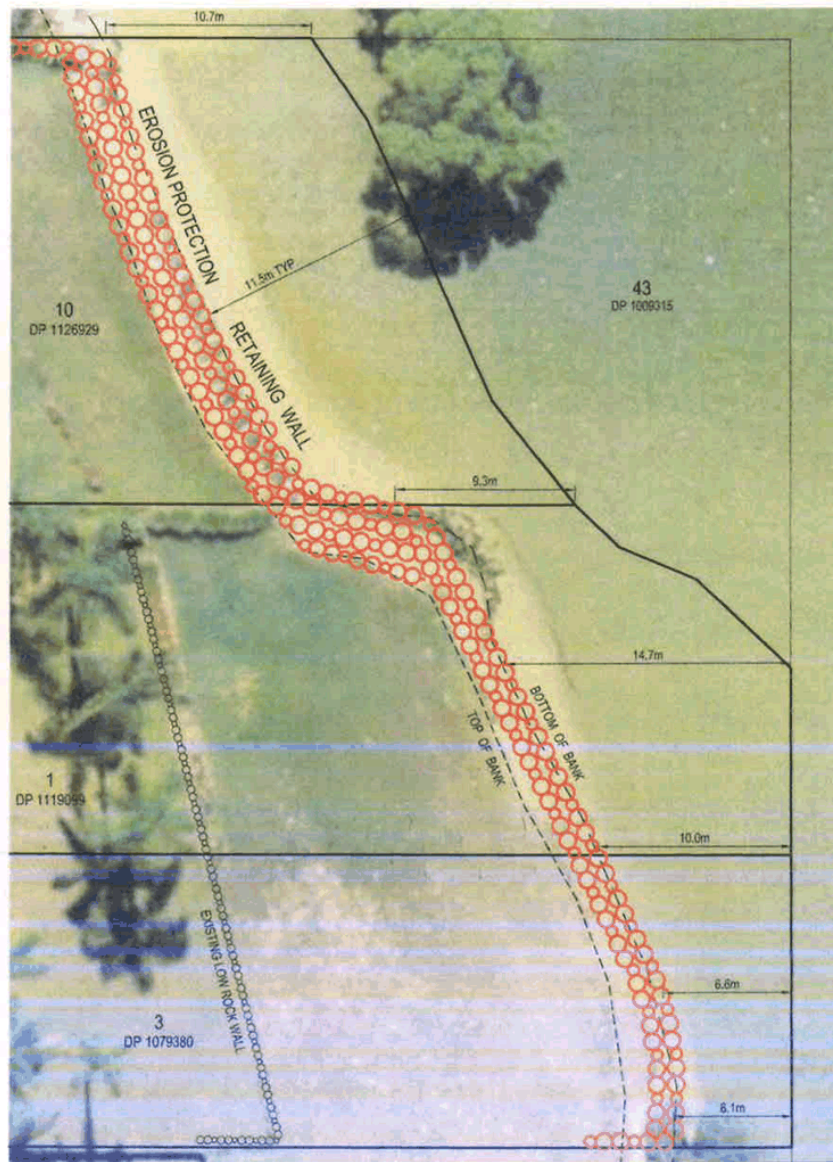
The plan also plots the levels at the foot of the bank and the western boundary of Norton Street . You will observe that the difference is 9 mm .

There would be no discernible difference in the water levels as the tide came in . The main factor would be wind direction .

I hope that this information is of assistance to Council .

Yours faithfully

Peter Carmont



CivilTech Consulting Engineers
Ph: (02) 6624 5580
PO BOX 1020
Lismore NSW 2480
www.civiltch.net.au

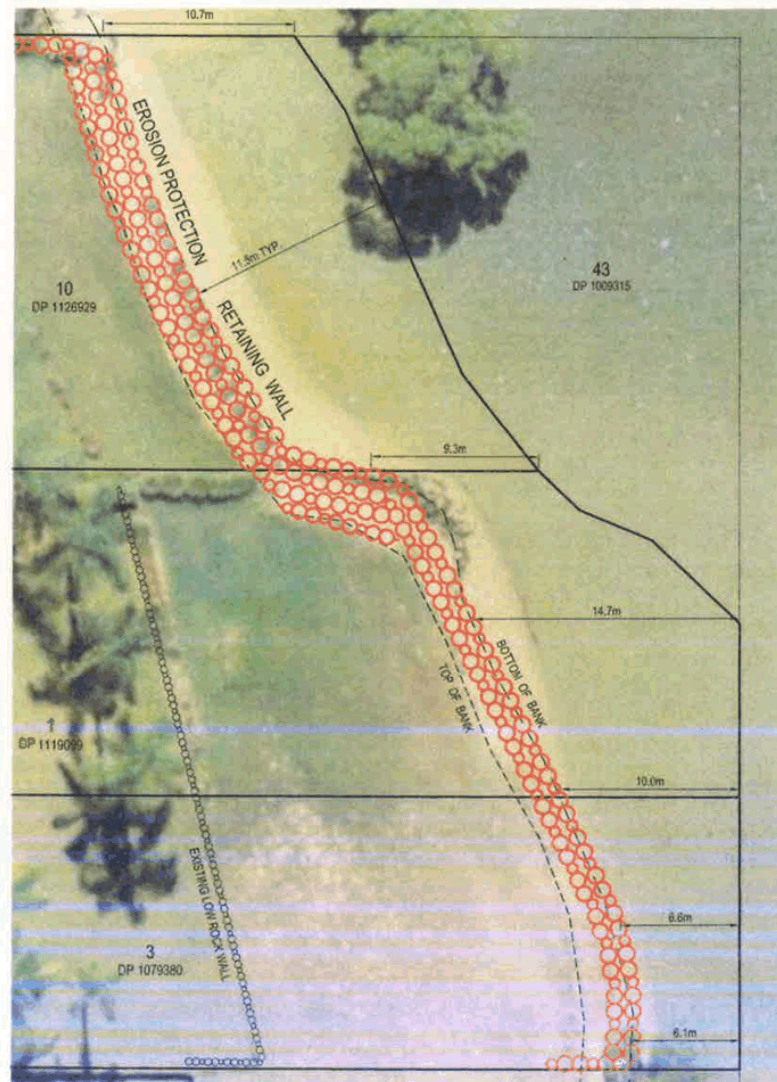
Project: 1284 Date: 18.12.2015 Scale 1:250 AT A4

ATHOL EDWARDS
EROSION PROTECTION WITH AERIAL PHOTO

Source: SIX MAPS Drawn: WF

Dwg No: 1284-DA4A.dwg

FIGURE 2



CivilTech Consulting Engineers
Ph. (02) 6624 5580
PO BOX 1030
Lismore NSW 2480
www.civiltch.net.au

Project: 1284 Date: 18.12.2015 Scale 1:250 AT A4

ATHOL EDWARDS
EROSION PROTECTION WITH AERIAL PHOTO

Source: SIX MAPS

Drawn: WF

Dwg No: 1284-DA4A.dwg

FIGURE 2

11/2/2016

4 Camden Street,

Ballina 2478

To,

The General Manager,

Ballina Shire Council,

Elected Councillors of Ballina Shire Council

RE: DA 2015/138

I have attached the petition that many concerned residents and some visitors have signed, in regard to the erection of a rock wall along the beach in front of 3 residences of Camden Lane.

You will notice that some comments have been removed as to not offend the DA Applicants, as can be seen by the attached Solicitors letter.

I find that the comments in the media have been confusing. It was reported by Mr Carmont Snr on the 10/6/2015, in the local media that:

‘He assured residents the owners of the properties would not stop people walking on the terrace behind the proposed wall, answering their argument the wall would mean the loss of access along the waterfront at high tide.’

Then, on the 6th January 2016, Mr Carmaont advised in an interview with local media that all the DA applicants would not agree to access across their land, including Mrs Jill Gribble who had withdrawn from the application.

On January 13th 2016, Mrs Gribble, in a letter to the Editor, the Advocate Newspaper Ballina, expressed that she would allow access.

Mrs Gribble stated that the land that had accreted had been obtained by the Applicants late last century. Surely this is evidence of how this stable land is accreting.

As Councilor Williams stated in the Advocate on February 10th, 2016, it's the VIBE of the thing. We should respect the law, including SEP 71 and the Coastal Protection Act clearly states that the public are entitled to access the waterways of NSW.

This would be the vibe that we the residents of North Creek would hope Ballina Shire Council, would consult in this decision.

Also, these properties along North Creek were the only properties to be given exemption the W1 Natural Waterways Zoning in the Ballina Shire Council's Local Environmental Plan, on application from CivilTech.

I would like Council to consider revising this decision on the amendment to the Local Environmental Plan, as it clearly a decision that has enabled the Applicants to contain land that belongs to the river processes.

In Councilor Williams letter in the Advocate, he states facts about the ill health of North Creek.

I have attached a current flyer from the Department of Environment and Climate Change, showing the current and well researched environmentally seawalls.

Surely Ballina Shire Council is progressive enough to consider the value of these environmental breakthroughs.

While I do not agree with Council's decision to allow the construction of an out dated rock wall, it defies logic that approval could be granted without any modelling of the highly likely impacts on such a sensitive area.

Regards

Jenny Morgan

A handwritten signature in black ink, appearing to be 'Jenny Morgan', with a stylized, cursive script.

Peter W. Carmont LLB, LLM

Solicitor

5 Camden Lane

Ballina NSW 2478

3 June 2015

Mrs Jenny Morgan

Camden Street

Ballina NSW 2478

Dear Jenny ,

Re : DA 2015/138 North Creek Ballina

I have been appointed to represent the owners of the land the subject of the above DA.

I am concerned at the information which seems to have been given to persons who have been requested to sign your petition .

If the information is the same as that expressed in Joey's objection then it is clearly false .

The interpretation placed on it by one person was the it was a " Land Grab " by the owners . This implies a claim on land to which the Owners have no legal right . This is an allegation of fraud and is highly defamatory and is not being tolerated by the owners .

Please let me have a copy of the petition document and any other material which you are disseminating .

Yours faithfully


Peter Carmont

pcarmont@bigpond.net.au

mob 0419862994

** hand delivered to my letter box*

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

Name	Address	Signature	Comment
Monica Wotton	6 Camden St	M Wotton	Major disappointment
Jackie Wotton	6/5 Camden St	J Wotton	Against public interest
Anson Jones	21 Summer St	A Jones	
Alana Patch	8 Wendy St	A Patch	
IAN GREGOR	26 ST PHILIPS CL	I Gregor	
JOE MORGAN	8 WENDY ST	J Morgan	Agreed all public interest
JENNY MORGAN	4 Camden St	J Morgan	
Elise Morgan	3 Burnett St	E Morgan	Will ruin use of creek by public using the park - will climb wall!
Sam Morgan	4 Camden St	S Morgan	The river was there first
Tom Link	9 Camden St	T Link	Very Disappointing!
Jeff Stokes	6 Camden St	J Stokes	Not needed! Taking public access for own purpose
Gerard PHILP	4 CAWARRA ST	G Philp	Not necessary
ALLAN PHILP	4 CAWARRA ST	A Philp	11
BOB FULLER	16 M'KILLOP ST	B Fuller	FORMER PRESIDENT
LEANN FULLER	16 M'KILLOP ST	L Fuller	CAWARRA RIVER PRAYER

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

Name	Address	Signature	Comment
Julie Thomas	245 Mac Fin St Ballina	Julie Thomas	the rocks are important for creek - no more
June Stone	85 Martin St	June Stone	The frontages of North Creek are fine without a rock wall without a rock wall
James Riddell	80 Martin St	James Riddell	the frontages of North Creek are fine without a rock wall
James Riddell	12 CAMDEN ST.	JAMES RIDDELL	and will be lost if the wall is built
Alma Riddell	9/12 Camden St	Alma Riddell	will also cause erosion
Mark Twill	8/12 Camden Street	Mark Twill	more than ever "it" is high retaining wall
Mr D Connor	6/5 Camden St	Mr D Connor	should not deny public access to river
A Fergusson	7/12 Camden St	A Fergusson	seems unnecessary
I. Fergusson	7/12 Camden St	I. Fergusson	will remove the barrier
John Fitt	2 Camden St	John Fitt	the rocks are important for creek - no more
Marie Fitzgerald	1/11 Camden St	Marie Fitzgerald	Consideration in this
Pat Fitzgerald	1/11 Camden St	Pat Fitzgerald	matter is imperative !!!
Tom Ferguson	2/2 KING LANE	Tom Ferguson	[REDACTED]
John Fitt	2 Camden St	John Fitt	[REDACTED]
Kathleen	69 KERR ST	Kathleen	no gain
Norm Fitt	19/12 ST	Norm Fitt	are the best
John Fitt	10/12 St John	John Fitt	good access

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

4 houses to take away for the community

Name	Address	Signature	Comment
IESANDINE FERGUSON	2/2 King Lane	<i>[Signature]</i>	<i>kind right to have</i>
PATRICIA PICKHAM	1/2 KING LANE	<i>[Signature]</i>	<i>NOT RIGHTLY THAT THEY WANT HOW CAN WE HAVE</i>
EDNA MOSS	4 KING LANE	<i>[Signature]</i>	<i>NO WANT</i>
Emilio Davis	3 King Lane	<i>[Signature]</i>	<i>not wanted</i>
T. DAVIS	3 King Lane	<i>[Signature]</i>	<i>not wanted</i>
Jo Varela	4 King Lane	<i>[Signature]</i>	<i>NOT WANTED</i>
Jessy Pickham	1/2 King Lane	<i>[Signature]</i>	<i>NOT WANTED MAKES WALK DIFFICULT</i>
Jane Pickham	1/2 King Lane	<i>[Signature]</i>	<i>to Good</i>
Jane Ferguson	3/2 King Lane	<i>[Signature]</i>	<i>NOT ACCEPTABLE - WORKING DIFFICULT THAT THEY WANT</i>
PETER FERGUSON	3/20 COODER ST	<i>[Signature]</i>	<i>it</i>
Annette Ferguson	St Albans St (back street)	<i>[Signature]</i>	<i>One of the houses is not wanted</i>
Jane Pickham	3/20 COODER ST	<i>[Signature]</i>	<i>IS NOT ACCEPTABLE as it is a road</i>
			<i>Decision is for this area</i>
DIANNE WADE	99 MARTIN ST BALLINA	<i>[Signature]</i>	<i>NOT HAPPY ABOUT THIS PROPOSAL</i>
LINETTE BARNETT	99 MARTIN ST BALLINA	<i>[Signature]</i>	<i>STOP THIS WALL</i>
CHRISTINE PICKHAM	1/2 King Lane	<i>[Signature]</i>	<i>[Redacted]</i>
PAUL RYAN	85 FLX ST BALLINA	<i>[Signature]</i>	<i>PUBLIC RIGHT OF WAY</i>

This petition from the community surrounding North Creek is to oppose the proposed erection of an excessive rock retaining wall that extends into the water between Camden and Skinner Street. This rock wall will impede access to pedestrians and cause environmental damage.

[illegible]

DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC

Ballina Shire Council
25/02/16

8.1

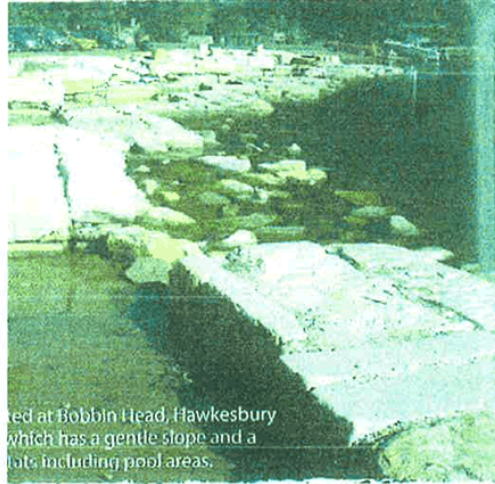
DA 2015/138 - Coastal Protection, Skinner and Camden Streets.DOC

310 Ruan	32 Raccoose Ro	Ray	not want to
P. Livingston	2 THE RIVIERA LUMBER	M. Carter	Public Access Denied
M. CARTER	5000 N. W. 11th St	P. F.	Public Own THE WATER SIDE
L. Pearce	22 Coles Rd	P. F.	the water edge should be for everyone to enjoy
P. Flanagan	Meerschaum Vale	P. F.	Estuary's belong to everyone!
Brian McCrae	60 LITTLE AVE	P. F.	No way
Lesley Hudson	1162 SW 11th St	P. F.	water way is owned -
Maurice Fodali	3 Kingfisher Pl East Bldg	P. F.	Water for Everyone to Enjoy.
Cameron Holgar	67 McKemie Rd E.H.W.	P. F.	not wanted
Craig Thompson	11 Marley Ave Ballina	P. F.	UNNECESSARY
Kevin John Sauer	2/10 Leeside Ave Ballina	P. F.	National Land
Niki Maguire	27 Antimastion Ave	P. F.	ILLUSTRATION TO THE MARSHES IN ESTUARY
Scott Campbell	103 MARTIN ST.	P. F.	
J. Moss	103 MARTIN ST.	P. F.	
V. Moss	103 MARTIN ST.	P. F.	

This rock wall will impede access to pedestrians and cause environmental damage.

NAME	ADDRESS	SIGNATURE	COMMENT
SHANNON COX	408 ALPHADALE RD TREGEAGLE	<i>Shannon Cox</i>	DON'T ALLOW IT !!
Daryl COX	408 Alphadale Rd Tregeagle	<i>Daryl Cox</i>	Don't Allow
PETER POWER	30 PRINCE TEE BALLINA NT78	<i>Peter Power</i>	LOSS OF ACCESS, UNINVESTIGATED ENVIRONMENTAL CONCERNS
BEV WILSON	17 THOMPSON DR EAST BALLINA	<i>Bev Wilson</i>	
ANG BARDEN	21 Norfolk AV	<i>Ang Barden</i>	
Nick Purcell	15 Craig St. East Ballina	<i>Nick Purcell</i>	Don't allow
LYN HAMMOND	109 SWIFT ST BALLINA	<i>Lyn Hammond</i>	IT'S PUBLIC LAND LET IT BE SO!
Annela Cince	636 Bonville Rd Ballina	<i>Annela Cince</i>	Rock walls - accessible beach area What about the fishing spots!
Peter Smith	577 Netherby Rd Blakebrook	<i>Peter Smith</i>	
TOMMY MORPHY	23 Norwest Ballina	<i>Tommy Morphy</i>	Protect.
LOIS CAWLEY	8 Queens	<i>Lois Cawley</i>	Don't allow
Sam Hill	11 Cambust St	<i>Sam Hill</i>	Don't allow
R. Peters	16 Skinner St	<i>R. Peters</i>	Don't Allow
JOEL PETERS	16 Skinner St	<i>Joel Peters</i>	Don't Allow
LEN MOORE	7 DUNDY DR	<i>Len Moore</i>	DON'T ALLOW
J. Gillaspie	8 Balwarra CT	<i>J. Gillaspie</i>	STOP!!
J. McMahon	16 Kaseona Ave	<i>J. McMahon</i>	Don't allow
S WILLIAMS	448 OAKLEY AVE Pleasant Grove	<i>S Williams</i>	Don't allow
L. Dolt	23 Wollaybar	<i>L. Dolt</i>	Think about the Children
K BRYANT	2 SMITH ST	<i>K Bryant</i>	STOP
C WADE	EVANS ROAD	<i>C Wade</i>	
J. Davis	W. Bar	<i>J. Davis</i>	Already a road

ROD THICKETON	41 Anderson St	<i>[Signature]</i>	
S. BRYNER	10 ARUN ST LISMORE	<i>Steph Bryner</i>	NO.
W. Scott	12 JAMES ST LISMORE	<i>W Scott</i>	NO
W. Ross	57 PHILLIPS ST LISMORE	<i>W Ross</i>	NO.
P. mason	1330 OAKLAND RD EAST CORAKI	<i>P.T. mason</i>	NO.
A. LAW	MACTEAR	<i>[Signature]</i>	NO.
P. DISTRICT	WIANGARIE	<i>P. District</i>	NO.
L. Crawford	29 C. Idwell Ave	<i>[Signature]</i>	NO
L. Portus	4/12 MARLYN AVE	<i>L Portus</i>	NO
C. CATELLO	LISMORE	<i>Catello</i>	NO
P. GROVER	LISMORE	<i>Phil Grover</i>	NO.
W. WATT	TYCKE	<i>W Watt</i>	NO
L. JOB	Norton Street Ballina	<i>L Job</i>	NO
DAVID CURRIE	32 HIGHFIELD RD KYLOE	<i>D. Currie</i>	NO WAY
Evans Hickling	<i>C. bath</i> Kaituma street.	<i>[Signature]</i>	NO
P. Simpson	909 INVERCAAN RD COORANG	<i>P. Simpson</i>	NO
B. Ianna	85 NIELSON ST LIS	<i>B. Ianna</i>	NO
E. Piermont	1467 KERRONG RD	<i>E. Piermont</i>	NO
J. VISAVAL	37 Charles St LISMORE	<i>[Signature]</i>	NO.
J. Walker	6 Magnolia pl	<i>J. Walker</i>	NO
D. Hayward	288 Pearce Ave	<i>[Signature]</i>	NO!



How to make your **Seawall** more environmentally friendly



Are you planning to build a new seawall or to upgrade an existing one along an estuary foreshore?

Find out how you can design your seawall to reduce erosion while improving the environment to plant and animal life.

Your seawall could be fish habitat.

the Department of Environment and Climate Change
on behalf of Sydney Metropolitan Catchment
Authority

Street, Sydney, PO Box A290, Sydney South

555

@environment.nsw.gov.au

www.environment.nsw.gov.au

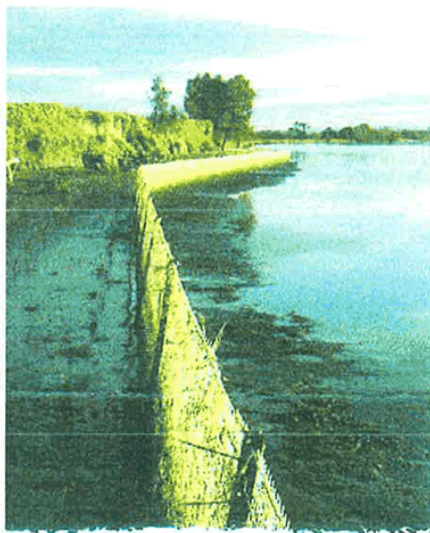
253 7 DECC 2009/327 June 2009



Do you even need a seawall?

If you have an eroding bank, start by considering 'softer' options to stabilise it. These may include the use of native foreshore vegetation, with or without temporary structures to protect it during establishment.

For example, use temporary wave barriers and vegetation such as mangroves to stabilise the bank. Once the wave barriers provide a protected area for native species to grow. Once mangroves are established, they protect the bank from waves and currents that cause erosion. The temporary structures can then be removed. Native vegetation planted on the bank provides long-term stabilisation.



Seedlings planted in front of an eroding bank on the Shoalhaven River, with the use of mesh fencing as a wave barrier. *Photo: Department of Primary Industries.*

Before you begin

Consider your options and seek professional advice.

Design options required to create an environmentally friendly seawall will vary from site to site and require a combination of site-specific approaches. Seek professional advice from government agencies, environmental engineering consultants to determine which option is best for your situation, or explore other options besides a seawall would be more appropriate.

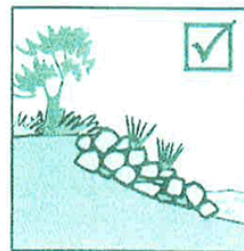
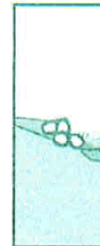
Environmentally friendly

If a seawall is necessary, the design must allow for natural processes. Always consider using natural materials in seawalls to more closely copy natural foreshores.

Principle 1

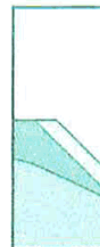
Maximise the use of native foreshore and estuarine vegetation

Include estuarine vegetation such as saltmarsh in the seawall



Plant native foreshore vegetation behind the seawall and in the gaps between the blocks

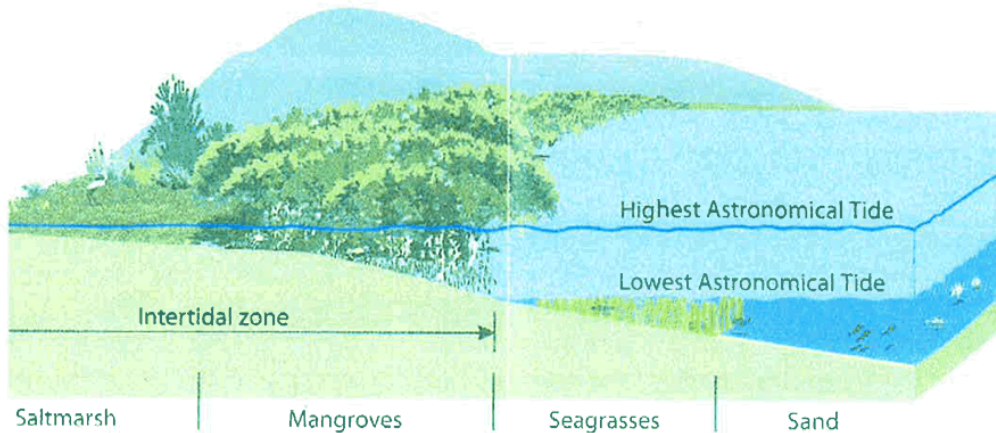
Establish mangroves in front of the seawall



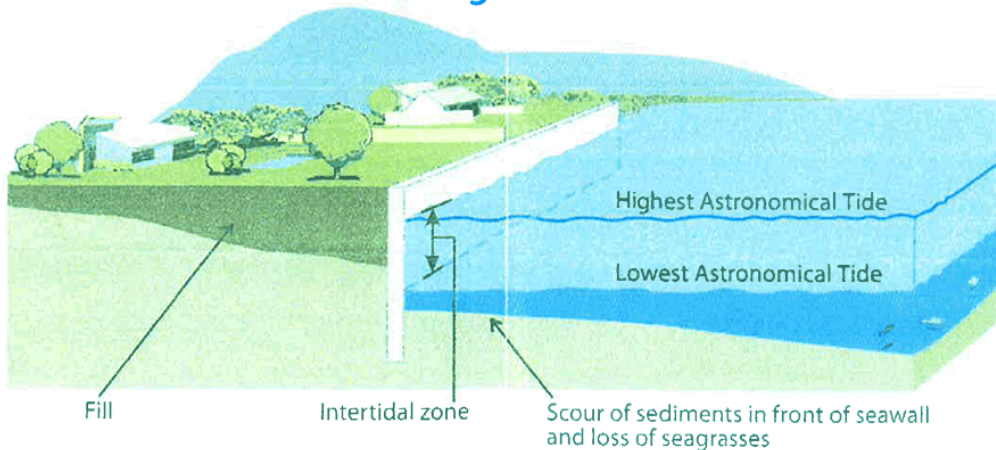
Effects of seawalls

Seawalls are built using traditional methods, they typically result in damage to or loss of important habitats such as mangroves and seagrass beds. These habitats are vital to many animals, such as fish and shorebirds, for shelter. Seawalls are also poor replacements for natural foreshores because: the loss of habitat and area available to plant and animal life are reduced dramatically (see diagrams below); the ability to filter pollutants from runoff is lost, leading to poorer water quality; and they can change flow and wave patterns, resulting in deepening in front of the seawall and erosion further out.

Intertidal foreshore



Intertidal foreshore after building a seawall



approval to build.

Building or upgrading a seawall will be approved by your local council and relevant government agencies. Contact your local council in the first instance.

Access more information

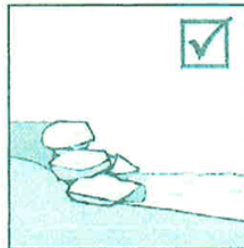
A detailed guideline on Environmentally Friendly Seawalls can be obtained by contacting the Metropolitan Catchment Management Authority (Ph: 9895 7898) or the Department of Environment and Climate Change NSW (Ph: 131 555).

Principles

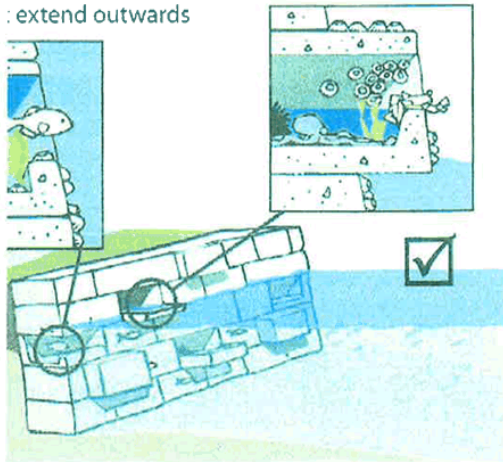
Design seawalls while minimising disruption to natural habitat and concrete. Other key principles to design

Principle 2 Create habitat and biodiversity

Build walls of boulders of varying sizes and shapes, or irregularly shaped and weathered blocks



Include pools or crevice areas that retain water at low tide to create seawalls with biodiversity that extend outwards

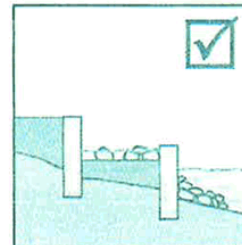


Use blocks cut from rock without cement between them to provide gaps and crevices

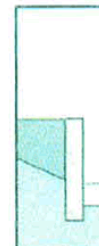


Principle 3 Create low-sloping seawalls or changes of slope

Build the seawall with a gentle slope using boulders



Use benches or steps to build up and vary the slope



Do not build vertical seawalls