

**Friends of Mallacoota
Far East Gippsland Boardriders
Mallacoota Coast Action/ Coastcare**
supported by ~
**Mallacoota Surf Life Saving Club
Melbourne Save Bastion Point Group
Surfrider Foundation Australia
Australian Conservation Foundation
Victorian National Parks Association
Save the Waves Coalition
Friends of Gippsland Lakes
Disabled Surfers Association**

Save Bastion Point

protect this coastal environment from inappropriate development

Save Bastion Point Campaign
PO Box 192
Mallacoota Victoria
Australia 3892
T + 61 (0) 3 5158 0720
M + 61 (0) 418 427 768
E coordinator@savebastionpoint.org
www.savebastionpoint.org

Save Bastion Point Campaign Update No. (13)

13 September 2009

LEGAL ACTION TAKEN AGAINST MADDEN. MORE FUNDING NEEDED!

SUMMARY OF EVENTS OVER THE LAST YEAR

October 2008: The Panel of Inquiry hands down its recommendations to Minister for Planning, Justin Madden.

June 11 2009: The findings of the Panel of Inquiry are released to the public at the same time as the Minister for Planning, Justin Madden, releases his assessment.

The Panel recommends against all options presented by East Gippsland Shire Council (EGSC), and instead recommends a minor upgrade at the existing site. This is exactly what Save Bastion Point Campaign (SBPC) advocate! Well done everyone who made submissions!

HOWEVER

Minister Madden ignores the Panels recommendations and gives his support to Option 3b, for safety reasons relating to mixed use. Option 3b includes a 130m breakwater and a 150m road across the beach. In his assessment Madden doesn't direct EGSC to proceed with the development, but rather uses the words 'Should EGSC, as the proponent, seek to implement a new OABR ...' (Ocean access boat ramp).

June 30 2009: More than 100 people from Mallacoota meet to oppose the development of Option 3b, and to ask the EGSC to support the Panel recommendations, and to work with the community to develop a solution.

July 7 2009: EGSC holds its regular meeting at which Cr Gamble puts a motion for EGSC to work with the community in developing a design for a minor upgrade at the existing site. Cr. Mayor Urie seconds the motion. Cr. Rowe however moves an amendment that alters the intent of the original motion, and instead favours proceeding with option 3b. Cr. Rowe's "amended" motion is carried. Cr Ellis puts a further amendment: that

a community advisory committee be established to provide a safety and economic analysis prior to further assessment by Council, and subsequent submission to the Minister for Environment and Climate Change to seek Coastal Management Act Consent. This amendment is also carried.

August 4 2009: Friends of Mallacoota take legal action and seek a Judicial Review of Madden's decision in the Supreme Court.

August 25 2009: A Directions Hearing is held in the Supreme Court in Melbourne. Ms. Emily Porter, and Ms. Elizabeth McKinnon of Environment Defenders Office (EDO), who represented SBPC at the EES Hearing, once again represented our interests.

September 1 2009: The Supreme Court hands down its orders from the Directions Hearing. A schedule is set for the legal teams, and a date is set for the Judicial Review hearing. This is to occur, at the earliest, on 9 March 2010, for 2 days.



Community meeting in Mallacoota on June 30

WHAT DOES THIS LEGAL ACTION MEAN?

The EDO advised that the only legal avenue by which the Minister's decision could be challenged was through Judicial Review. The legal action seeks to defend the integrity of the Panel's findings and protect Bastion Point from this destructive development. The legal action is particularly significant as it will be a test case for the credibility of environment assessment laws in Victoria.

The Friends of Mallacoota (FOM), an incorporated group and a core member of SBPC, is the Plaintiff in the case; Justin Madden is the 1st Defendant and Gavin Jennings is the 2nd Defendant. EDO has engaged two senior barristers experienced in environmental law. Ms Emily Porter will also continue to work on the case.

The grounds under which Madden will be challenged are that he did not assess the environmental effects of the proposal, as he is required under the Environment Effects Act, and that the FOM have been denied natural justice.

WHAT HAPPENS NOW?

The proposed development cannot proceed until the Minister for Environment, Gavin Jennings, gives his consent under the Coastal Management Act. He will not consider such a decision until formally requested by the EGSC. Jennings has given an undertaking to notify the Plaintiff (FOM) of any such request.

It is of note that according to EGSC's motion of 7 July 2009, the advisory committee providing the design and economic analysis of Option 3b will need to report back to Council, prior to referral to Minister Jennings.

FUNDRAISING

DONATIONS

Donations have been coming steadily and we sincerely thank all those who have already donated. We are now at 75 % of our target. A fantastic effort!

If you have not already done so and wish to help us reach our target, donations can be made via our website or by sending a cheque made payable to *Friends of Mallacoota – Save Bastion Point*, to PO Box 192 Mallacoota, Vic 3892.

CONCERT

A fundraising concert is being organised by Don Ashby. It will be held at the Mallacoota Mudbrick on the evening of Saturday 3rd October 2009. So far the line up includes Merv Graham, The Mallacoota Jazz Trio, Justin Brady, Penelope Swales, and The Crackerjacks.

It promises to be a great night of entertainment and solidarity, so come along, enjoy the music and support the campaign!



Recently, over 100 Mallacoota residents came together at Bastion Point, at very short notice, for a photo shoot. A beautiful afternoon and a great feeling of community strength and support. Photo: Michael Rayner

STICKERS

Mallacoota artist Geoff Coles has made his best ever Save Bastion Point stickers. These have been rapidly taken up, but we do have some left. If you would like some please contact us, or order via the website.

MUSIC ON THE WEBSITE

A number of musicians have been inspired by Bastion Point, and written songs. You can listen to this music now on our website.

A big thankyou, again, to all our wonderful supporters!