

17 November 2006

By email: bcogan@bigpond.com

Brian Cogan
Secretary
Catherine Hill Bay Progress Association and
Dune Care Inc
17 Lindsey Street
Catherine Hill Bay NSW 2281

Contact
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Dear Mr Cogan

Coastal Hamlets Pty Limited

1. We act for Coastal Hamlets Pty Limited (**Coastal**). The majority interest in Coastal is owned by Rosecorp CHB Pty Limited (**Rosecorp**).
2. As you know, Coastal is the owner of land in the Catherine Hill Bay area which it seeks to develop. As you also know, the development requires the approval of the Minister for Planning, the Hon. Frank Sartor, pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (NSW).
3. We refer to the website (**Website**) maintained by the Catherine Hill Bay Progress Association and Dune Care Inc (**Association**).
4. Page www.catherinehillbay.org.au/news_and_events/news_and_events.htm of the Website refers to an "Artists impression of the scale of the development that has been proposed on the southern edge of Catherine Hill Bay". A link is thereafter provided to various "images". Those images are found at page www.catherinehillbay.org.au/news_and_events/development_photos.htm of the Website.
5. Page www.catherinehillbay.org.au/news_and_events/news_and_events.htm of the Website also asserts that Coastal will "obliterate Catherine Hill Bay's heritage significance" and "carve up" the land.
6. We are instructed by Coastal that this material on the Website is false in a number of significant respects.
7. The Association, by its use of the words "scale of the development", "obliterate" and "carve up" seeks to convey to persons visiting its Website that the development will result in a substantial loss of the natural environment within the Catherine Hill Bay area. The Association seeks to back up this assertion through its use of the made up images on its Website.
8. There is no basis for the Association's assertion about the magnitude of the development and, in particular, that the development will result in the obliteration

- of the natural environment within the Catherine Hill area. The assertion is completely false.
9. The falsity of this assertion is aggravated by the images on its Website, including the captions accompanying the images. The images and the “Before” and “After” captions represent to persons visiting the Website what the development will look like if it proceeds. The “After” captions are couched in terms of actual fact, when in reality the “After” images are speculative and completely false.
 10. As you ought to know, both the extent and form of the development depicted in the images on the Association’s Website do not accurately reflect the development of the land proposed by Coastal. Indeed, we are instructed by Coastal that its proposed development of the land is nothing like the images depicted on the Association’s Website. In this regard, the Association’s conduct in publishing the images is disingenuous.
 11. Further, the “mansion” like buildings depicted in the images on the Association’s Website, as you also ought to know, are not in keeping with buildings ordinarily constructed by Rosecorp and its related corporations, including Coastal. In addition to being false and disingenuous, the Association’s use of these images to excite objection to Coastal’s development of the land has the potential to damage Rosecorp’s brand.
 12. While Coastal welcomes community participation in, and open and frank discussion about, the development of Catherine Hill Bay, it will not suffer false and disingenuous statements to be made about the development. In the circumstances, we are instructed by Coastal to require the Association to:
 - (a) immediately remove the references to “obliterate” and “carve up” and the “After” images and captions from its Website; and
 - (b) not publish similar or substantially similar assertions concerning the development in other media.
 13. If the Association fails to remove the references to “obliterate” and “carve up” and the “After” images and captions from its Website, or continues to publish them in other media, in circumstances where it has been put on notice of their falsity, we can only conclude that the Association has and is publishing its assertions maliciously.
 14. Coastal is concerned that the publication of the malicious assertions by the Association the subject of this letter will cause it to suffer actual damage. In addition to brand damage, that damage may include adverse submissions being made to the Minister which rely on the Association’s false and disingenuous assertions and, consequently, the possibility that the development will be wrongly compromised.
 15. In the circumstances, if by 5 pm on 21 November 2006, the Association has failed to remove the references to “obliterate” and “carve up” and the “After” images and captions from its Website, or if it continues to publish them in other media, we are instructed by Coastal that it will consider bringing proceedings against the

Executive Committee of the Association for injurious falsehood. In this regard, it will rely on this letter as evidence of malice on the Association's part.

16. Finally, as stated above, Coastal owns the land which it is seeking to develop. It may be that the Association, or its members or agents, have trespassed upon the land for the purpose of taking the "Before" images on its Website. Please note that the Association, its members and agents are not authorised to enter the land for this or any other purpose. In this regard, Coastal reserves its rights against the Association.
17. Please direct all correspondence concerning this letter to Christine Covington.

Yours faithfully
Corrs Chambers Westgarth



Christine Covington
Partner

copy:

- The Hon. Frank Sartor, Minister for Planning, rockdale@parliament.nsw.gov.au
- The Major, Lake Macquarie City Council, council@lakemac.nsw.gov.au
- Ms Sue Whyte, President, Catherine Hill Bay Progress Association and Dune Care Inc, suewhyte1980@bigpond.com
- Mr Mike Cannon, Vice President, Catherine Hill Bay Progress Association and Dune Care Inc, mgcannon@bigpond.net.au
- Ms Tonee Holley, Treasurer, Catherine Hill Bay Progress Association and Dune Care Inc, knowlesj@bigpond.net.au