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No final decision

Sir,- I refer to the article in your paper on May 28 - 'Coota decision upheld.

As someone who has been closely involved in the Supreme Court case, attended all court proceedings, and has read the full judgment, I find this article quite misleading.

It incorrectly stated that the court upheld Minister Madden's decision to approve the development of an ocean access ramp at Bastion Point.

This is clearly not the case. Justice Osborn confirmed that Minister Madden had given an assessment - not an approval.

The Justice also stated: "It will be for the ultimate decision maker to decide whether the basis disclosed for the opinion in the assessment should be accepted." In other words, Madden cannot give an approval as he is not the ultimate decision maker and his opinion in the assessment is not binding for the decision maker.

While Justice Osborn was unable to give a judgment on the merits of the Minister's assessment, he certainly indicated during the proceedings that he

had some difficulties with it.

He stated that building a breakwater to solve safety issues between boats and swimmers and surfers was akin to "...using a sledge hammer to crack a nut" and that the "Panel's reasons for its factual conclusions are far more replete...than the Minister's reasons." Justice Osborn explicitly stated in his judgment that the "Panel's assessment was...a careful, fair and balanced evaluation." It should be noted that the Inquiry Panel considered that the proposed development introduced a level of risk that is unacceptable and recommended that the development should not proceed.

Minister Madden claimed that the Supreme Court ruling recognised his decision on the proposal "as the right decision". This is not so. The court case was specifically concerned with administrative process, and whether Minister Madden had assessed the environment effects as required by the Act.

It was not about whether the proposed boat ramp

should go ahead or not, or how it should go ahead.

The judgment deemed that Minister Madden performed his role within the legal bounds of his responsibility.

This does not mean he made a correct decision about the boat-ramp. Madden provided his assessment of the environment effects, which, along with other information, will be considered by the final decision maker, the Minister for the Environment, Gavin Jennings.

The community is committed to finding an acceptable solution for Bastion Point, and will continue to advocate for a low-key upgrade at the present site, without breakwaters, as recommended by the inquiry panel. This would be a safer, less damaging, less costly and more acceptable alternative to the ill-conceived and unpopular plan that the council is pursuing, with support from local MP Craig Ingram.

Yours etc.,
Jenny Mason,
Mallacoota.