

HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

Meeting held at **Port Stephens Council** on **Thursday 25 February 2016 at 5.00 pm**

Panel Members: Garry Fielding (Chair), Kara Krason, John Colvin, Paul LeMottee and Bruce MacKenzie

Apologies: Nil

Declarations of Interest: Nil

Determination and Statement of Reasons

2015HCC025 – Port Stephens Council – DA16-2015-586-1, Marina – Extension to existing marina (Additional 59 berths) and car parking.

Marina

Nos. 2C, 2E and 2F Ridgeway Avenue, Soldiers Point (Lot 539 DP 823769, Lot 1 and 2 DP 1058490).

Car parking (reline existing on-site)

No.2 Sunset Boulevard, Soldiers Point (Lot 197 DP 27084)

Car parking (off-site valet parking) Units 2 & 3, No. 324 Soldiers Point Road, Salamander Bay (Lot 2 and 3, SP 59025)

Date of determination: 25 February 2016

Decision:

The panel unanimously determined to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

Panel consideration:

The panel considered: the matters listed at item 6 as addressed in the Council Assessment Report, the material listed at item 7 the matters presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

Reasons for the panel decision:




1. Insufficient and inadequate information has been provided in order to facilitate a thorough assessment of the development including the following:
 - Aboriginal cultural heritage assessment
 - Species impact statement
 - Coastal and hydrological assessment
 - Visual impact assessment
2. The development is inconsistent with the aims and provisions of State Environmental Planning Policy 71 (Coastal Protection) as it has the potential to significantly impact upon critically endangered and vulnerable species, impact the visual amenity of the Soldiers Point Foreshore, and may have an unknown impact upon Aboriginal Culture and Heritage in the locality (s.79C(a)(i) EP&A Act 1979).
3. The development is inconsistent with the aims and provisions of State Environmental Planning Policy 62 (Sustainable Aquaculture) as it has the potential to significantly impact upon nearby oyster aquaculture.
4. The development is inconsistent with the aims and objectives of the W2 Recreational Waterways zone, as it has the potential to adversely impact upon the natural environment and coastal processes (s.79C(1)(a)(i) EP&A Act 1979).
5. The development fails to conform to the controls contained within Port Stephens Development Control Plan (B2 Natural Resources, B3 Environmental Management and B9 Road Network and Parking)(s.79C(1)(a)(iii) EP & A Act 1979).
6. The development has the potential to result in adverse impacts on the environment in particular upon critically endangered and vulnerable species. (s.79C(1)(b) EP & A Act 1979).
7. The development has the potential to adversely impact the environment, ecology Aboriginal Culture and Heritage and visual amenity and therefore the site is not suitable for the development(s.79C(1)(c) EP & A Act 1979).

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8. The development is inappropriate for the site given existing site constraints (car parking, ecology and Aboriginal Culture and Heritage) and the character of the locality and is considered to be an overdevelopment of the site. Accordingly the proposal is not in the public interest (s.79C(1)(e) EP & A Act 1979).
9. The proposed valet parking arrangement is not considered to be a satisfactory solution to adequately address the additional demand for parking associated with the expansion of the marina (s.79C(1)(b) EP & A Act 1979).

Conditions: N/A

Panel members:

 Gary-Fielding	 Kara Krason	 John Colvin
 Paul LeMottee	 Bruce MacKenzie	

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SCHEDULE 1

1	JRPP Reference – 2015HCC025, LGA – Port Stephens Council, DA16-2015-586-1
2	Proposed development: 2015HCC025 – Port Stephens Council – DA16-2015-586-1, Marina – Extension to existing marina (Additional 59 berths) and car parking.
3	<p>Street address: Marina Nos. 2C, 2E and 2F Ridgeway Avenue, Soldiers Point (Lot 539 DP 823769, Lot 1 and 2 DP 1058490).</p> <p>Car parking (reline existing on-site) No.2 Sunset Boulevard, Soldiers Point (Lot 197 DP 27084)</p> <p>Car parking (off-site valet parking) Units 2 & 3, No. 324 Soldiers Point Road, Salamander Bay (Lot 2 and 3, SP 59025)</p>
4	<p>Applicant/Owner:</p> <p>Marina: State of New South Wales – Crown Land. Lot 1 DP 1058490 – No.2E Ridgeway Avenue, Soldiers Point. Lot 2 DP 1058490 – No.2F Ridgeway Avenue, Soldiers Point. Lot 539 DP 823769 – No.2C Ridgeway Avenue, Soldiers Point. Unidentified land/waterway subject to lease extension</p> <p>Car parking (reline existing on-site): Clippers Anchorage Pty Ltd. Lot 197 DP 27084 – No.2 Sunset Boulevard, Soldiers Point.</p> <p>Car parking (off-site valet parking): Ragusa Pty Ltd (as Trustee for the d’Albora Superannuation Fund). Lot 0 SP 59025 – Unit 2 & 3, No.324 Soldiers Point Road, Salamander Bay.</p> <p>NOTE: Strata Corporation consent has not been provided.</p>
5	Type of Regional development: Clause 8(b) particular designated development – marinas or other related land and water shoreline facilities, which meets the requirements for designated development under clause 23 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.
6	<p>Relevant mandatory considerations</p> <ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy 55 – Remediation of Land ○ State Environmental Planning Policy No. 62 (Sustainable Aquaculture) ○ State Environmental Planning Policy No. 71 – (Coastal Protection) ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ Port Stephens Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Port Stephens Development Control Plan 2014 • Planning agreements: VPA for construction of laneway and transfer of and (93F) • Regulations: <ul style="list-style-type: none"> ○ Environmental Planning and Assessment Regulation 2000 • Coastal zone management plan: Government Coastal Policy • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the EPA Act or EPA Regulation. • The public interest.
7	<p>Material considered by the panel:</p> <ul style="list-style-type: none"> • Council assessment report with reasons for refusal • DA documentation and Plans - Environmental Impact Statement prepared by Hamptons Property Service (and all relevant appendices) • External agency advice - Department of Primary Industries (Fisheries) Department of Primary Industries (Great Lakes Marine Park) Department of Primary Industries (Water) NSW Environmental Protection Authority (EPA) Office of Environment and Heritage – Species Impact Statement and

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	<p>Aboriginal Culture and Heritage. Roads and Maritime Services (RMS)</p> <ul style="list-style-type: none"> • Written Submissions <p>Verbal submissions at the public meeting:</p> <ul style="list-style-type: none"> • Colin Howard • Brian Hooker • Judy Dyer • Cherylle Stone • Neil Hansford on behalf of Robert & Enid Phelps • Peter Maloney • Gwenda Murray • Helen Bowly • Groff Diemar on behalf of the Port Stephens Shellfish Quality Assurance Program & NSW Farmers Association – Port Stephens Oyster Branch • Andrew Smith on behalf of the Worimi Aboriginal Land Council • Trevor Murray on behalf of the Hunter Bird Observers Club • Jean Armstrong on behalf of Soliders Point Community Group Inc. • Michael Callanan, Solicitor on behalf of the applicant
8	<p>Meetings and site inspections by the panel: 25 February 2016 – Site Inspection and Final briefing meeting.</p>
9	<p>Council recommendation: Refusal</p>
10	<p>Conditions: N/A</p>