

DATE OF DETERMINATION	Friday, 22 November 2019
PANEL MEMBERS	Michael Leavey (Chair), Stuart McDonald, Mark Grayson, Giacomo Arnott and Paul LeMottee
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Port Stephens Council – 116 Adelaide Street, Raymond Terrace on 22 November 2019, opened at 2:30pm and closed at 3:45pm.

MATTER DETERMINED

2019HCC001 – Port Stephens Council – DA16-2018-774-1 at 27 Stockton Bight Track, Fullerton Cove (Lot: 227 DP: 1097995) – Eco tourist facility (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings 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.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the assessment of environmental impact, conclusions and recommendations within the Council staff report, and supports the application for the following reasons:

- The use is suited to the site, which has previously been disturbed, and will formalise environmental management and rehabilitation of the site.
- The proposal has merit, and provides a number of environmental, social, cultural and economic benefits;
- The proposed layout, design and facilities to be offered are appropriate for the site;
- The proposal is supported by appropriate environmental investigations and appropriate conditions of consent have been imposed;
- The proposal has addressed relevant statutory planning requirements and considerations;
- The Panel noted the supporting documents to the application address preventative and ongoing management requirements to minimise any impact on the natural environment. While these measures are not contained in a single document, the Panel was satisfied pursuant to clause 5.13(k) of Port Stephens LEP 2013 that the relevant matters have been addressed, and can be provided for in a standalone management strategy, with an appropriate condition of consent; and
- A Bushfire Safety Authority has been issued by the Rural Fire Service, and relevant requirements are referenced in the conditions of consent.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- Insert additional Condition 1.0 (8)

“Prior to lodgement of a Construction Certificate, an Operational Management Strategy is to be submitted for the consideration and written approval of Council. The management strategy is to consolidate management commitments contained in the supporting information submitted with the application (as referenced below) and demonstrate compliance of the strategy with the requirements of clause 5.13(k) of Port Stephens LEP 2013.

Plan/Doc. Title	Reference	Date	Author
Water Cycle Management Plan	190415	June 2019	ADW Johnson
Addendum - Water Cycle Management Plan	190415	September 2019	ADW Johnson
Bushfire Engineering Report	-	April 2019	Newcastle Bushfire Consulting
Ecological Assessment	11245	August 2018	EPS
Addendum - Ecological Assessment	11245	June 2019	EPS
Aboriginal Archaeological Due Diligence Report	4573/R01	May 2019	Umwelt
On-site Waste Water Management Plan	190415	June 2019	ADW Johnson
Statement of Environmental Effects	11245	November 2018	EPS

The Management Strategy must outline the operating details of the site including complaints handling, detail on tour operators, site maintenance, weed removal and vegetation re-generation works. The Plan of Management is also to include mitigation measures to ensure operation of the site is carried out with minimal environmental impact in relation to noise, waste management, noise and dust management, traffic management and environmental management. The strategy must be prepared by suitably qualified professionals in accordance with the relevant ISO14000 standards.”

- Insert additional Condition 2.0 (16)

“Prior to the issue of a Construction Certificate a Section 49 Application under the *Hunter Water Act 1991* must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance must be provided to the Certifying Authority”

- Insert Additional Condition 6.0 (14)

“A Hazchem box and signage is to be installed and maintained at all times in a suitable location on the fuel storage and workshop building.”






- Delete Condition 5.0 (13) (now covered in Condition 1.0(8) above) and re-number subsequent conditions

Reasons: to clarify the timing and content of the operational management strategy; to ensure compliance with Hunter Water requirements; and to ensure safety in the event of an incident with the fuel storage/ workshop building.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted no public submissions were received and heard from all those wishing to address the Panel. The Panel heard comments from a community member at the public meeting relating to connection to reticulated water and sewer, Hunter Water requirements and requirements applied to other developments.

The Panel considers that comments raised by the community member are adequately addressed in the assessment report, in particular noting the “eco tourist” nature of the development, Council’s assessment of the adequacy of on-site servicing and Hunter Water requirements which have been included as conditions of consent.

PANEL MEMBERS	
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 Mark Grayson	 Giacomo Arnott
 Paul LeMottee	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019HCC001 – Port Stephens Council – DA16-2018-774-1
2	PROPOSED DEVELOPMENT	Eco tourist facility comprising 44 accommodation units, managers residence, quad bike storage and maintenance area, amphitheatre for educational performances and car park to accommodate 77 spaces, six (6) coach spaces and two (2) drop off areas.
3	STREET ADDRESS	27 Stockton Bight Track Fullerton Cove (LOT: 227 DP: 1097995)
4	APPLICANT/OWNER	Applicant: Environmental Property Services Owner: Worimi Local Aboriginal Land Council
5	TYPE OF REGIONAL DEVELOPMENT	Eco-tourist facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Building Sustainability Index: BASIX) 200 (SEPP BASIX) State Environmental Planning Policy No 44 – Koala Habitat Protection State Environmental Planning Policy No. 33 Hazardous and Offensive Development State Environmental Planning Policy (Coastal Management) 2018 Port Stephens Local Environmental Plan 2013 (PSLEP2013) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Port Stephens Development Control Plan 2014 (DCP201) Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil

		<ul style="list-style-type: none"> Coastal zone management plan: Nil 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 <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 22 October 2019 Written submissions during public exhibition: 0 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection- Nil Comments – David Gaddes Council assessment officer - Ryan Falkenmire On behalf of the applicant – Andrew Smith, Alina Tipper, Jason Unsley
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Wednesday, 25 September 2019 <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Stuart McDonald, Mark Grayson and Giacomo Arnott <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens Site inspection: Friday, 22 November 2019 <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Stuart McDonald, Mark Grayson, Giacomo Arnott and Paul LeMottee <u>Council assessment staff</u>: Ryan Falkenmire Final briefing to discuss council's recommendation, Friday, 22 November 2019, 1:45pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Michael Leavey (Chair), Stuart McDonald, Mark Grayson, Giacomo Arnott and Paul LeMottee <u>Council assessment staff</u>: Ryan Falkenmire, Rean Lourens
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report