

RECOMMENDED REASONS FOR REFUSAL – DA 16-2022-295-1

1. The proposed development is inconsistent with Clause 2.3 (zone objectives) of the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) as the development will result in unacceptable visual impacts and is likely to detract from the rural character of the locality (s.4.15(1)(a)(i) of the *Environmental Planning & Assessment (EP&A) Act 1979*).
2. Insufficient and inadequate information has been provided to determine the effect of the development on Aboriginal heritage as required under Clause 5.10 (heritage conservation) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
3. Insufficient and inadequate information has been provided to determine the flooding impacts of the development including compatibility with flood hazards, impacts to flood behaviour and impacts to the environment, as required under Clause 5.21 (flood planning) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
4. Insufficient and inadequate information has been provided to determine the effect of the development on acid sulfate soils as required under Clause 7.1 (acid sulfate soils) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
5. Insufficient and inadequate information has been provided to determine the effect of the development on drainage patterns, waterways, the likely future use of land, the amenity of adjoining properties and relics as required under Clause 7.2 (earthworks) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
6. The proposed vehicle access is not suitable from a traffic and traffic safety perspective as required under Clause 7.6 (essential services) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
7. Insufficient and inadequate information has been provided within the Biodiversity Development Assessment Report to determine the effect of the development on native vegetation located within the mapped areas of wetland Clause 7.9 (wetlands) of the PSLEP 2013 (s4.15(1)(a)(i) of the *EP&A Act 1979*).
8. Insufficient and inadequate information has been provided within the Biodiversity Development Assessment Report to determine the effect of the development on the natural environment as required under Chapter B2 – Natural Resources of the Port Stephens Development Control Plan 2014 (PSDCP 2014) (s4.15(1)(a)(iii) *EP&A Act 1979*).
9. Insufficient and inadequate information has been provided to determine the air quality and noise impacts of the development and the effects of proposed earthworks as required under Chapter B3 – Environmental Management of the PSDCP 2014 (s4.15(1)(a)(iii) *EP&A Act 1979*).

10. Insufficient and inadequate information has been provided to determine the flooding and drainage impacts of the development as required under Chapter B4 – Drainage and Water Quality and B5 - Flooding of the PSDCP 2014 (s4.15(1)(a)(iii) *EP&A Act 1979*).
11. Insufficient and inadequate information has been provided to determine the effect of the development on traffic and road safety as required under Chapter B8 – Road Network and Parking of the PSDCP 2014 (s4.15(1)(a)(iii) *EP&A Act 1979*).
12. Insufficient and inadequate information has been provided within the Biodiversity Development Assessment Report to determine the effect of the development on the natural environment (s.4.15(1)(b) of the *EP&A Act 1979*).
13. The proposed development is not considered to be suitable for the site (s.4.15(1)(c) of the *EP&A Act 1979*).
14. The proposed development does not adequately address the noise, amenity, traffic, flooding and water quality related concerns raised in submissions objecting to the proposal (s.4.15(1)(d) of the *EP&A Act 1979*).
15. The proposed development is not considered to be in the public interest as the development is inconsistent with the adopted principles and strategies which seek to promote the appropriate development of land (s.4.15(1)(e) of the *EP&A Act 1979*).
16. General Terms of Approval have not been issued by the NSW Environment Protection Authority under Sections 43(b), 48 and 55 and Sections 43(d), 55 and 122 or the Department of Planning and Environment – Water under Section 91 of the *Water Management Act 2000* (s4.47(2) of the *EP&A Act 1979*).

RECOMMENDED REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

1. The proposed development is inconsistent with the *Environmental Planning & Assessment Act 1979*, Port Stephens Local Environmental Plan 2013 and Port Stephens Development Control Plan 2014.
2. Insufficient and inadequate information has been provided to determine the effect of the development on the natural environment.
3. The development is not suitable for the site.
4. The development is not in the public interest.
5. Council has given due consideration to community views when making the decision to determine the application.