

DATE OF DETERMINATION	7 December 2022
DATE OF PANEL DECISION	4 December 2022
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Giacomo Arnott
APOLOGIES	Ryan Palmer and Leah Anderson
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 17 November 2022.

MATTER DETERMINED

PPSHCC-128 – Port Stephens – 16-2022-295-1 at 251 Adelaide St, Raymond Terrace - earthworks for rehabilitation of quarry (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 has had the benefit of briefings from both the applicant and Council and a site inspection.

The Panel considers that the proposal is properly categorised as a waste management facility – permitted with consent under SEPP (Transport and Infrastructure) 2021.

The potential environmental and traffic impacts are disproportionate to the questionable benefits of filling the quarry. The Panel understands that the water within the excavated area is ground water, and it is not clear on how the proposal will impact the existing environment. Ecological and traffic impacts arising from the proposal have not been properly considered.

Adelaide Street is a major entry into Raymond Terrace and is a heavily trafficked road. The cumulative impacts of this proposal and the proposal under PPSHCC-129 have not been considered.

The fact that the proposal has not adequately addressed the requirements of the SEARs is unsatisfactory. The Panel considers that the application lacks information fundamental and essential to its assessment.

The Panel questions why the site needs to be filled.

Having considered the application and potential impacts arising from the application – notwithstanding the lack of information – the Panel is of the view that the proposal should be refused.

The applicant requested that the matter be deferred to respond to Council's requests for further information made in June and July 2022. The Panel notes that the EPA have sought additional information. The Panel has considered the applicant's request and given the deficiency in the application and the excessive timeframe for the lodgement of further information it sees no merit in delaying the determination of this matter.

Development application

The Panel determined to refuse 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 determined to refuse the application for the reasons at Attachment 1 in the Council Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Construction hours
- Heavy vehicles
- Impacts to water table
- Flooding impacts

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Sandra Hutton	 Giacomo Arnott

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-128 – Port Stephens – 16-2022-295-1
2	PROPOSED DEVELOPMENT	Environmental Protection Works – earthworks for rehabilitation of quarry
3	STREET ADDRESS	Lot 232 DP 593512 251 Adelaide Street RAYMOND TERRACE NSW 2324
4	APPLICANT/OWNER	THE TRUSTEE FOR LIONDARI INVESTMENT TRUST & THE TRUSTEE FOR SKUBITHIA TRUST
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 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: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> 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: 17 November 2022 Written submissions during public exhibition: one (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 1 June 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Ryan Palmer and Giacomo Arnott <u>Applicant representatives</u>: Chris Xistouris, Adam Liw, Emma Mason and Marina Budisavljevic <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley Site inspections: <ul style="list-style-type: none"> <u>Alison McCabe (Chair)</u>: 19 August 2022 <u>Sandra Hutton</u>: 21 November 2022 <u>Juliet Grant</u>: 12 June 2022 <u>Giacomo Arnott</u>: 24 September 2022 Final briefing to discuss Council's recommendation: 23 November 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Giacomo Arnott <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire <u>Department staff</u>: Leanne Harris and Lisa Foley

		<ul style="list-style-type: none"> • Applicant Briefing: 23 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Giacomo Arnott ○ <u>Council assessment staff</u>: Dylan Mitchell, Mia Gallaway and Ryan Falkenmire ○ <u>Department staff</u>: Leanne Harris and Lisa Foley ○ <u>Applicant representatives</u>: Chris Xistouris and Adam Liw <u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided