

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

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-129 – Port Stephens – 16-2022-310-1 at 251 Adelaide St, Raymond Terrace - Earthworks – filling of land (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 Applicant and Council, and a site inspection.

The proposal seeks to remove vegetation and carryout extensive earthworks to alter the level of the lands for the purpose of future residential development. The site is currently flood prone and is zoned RU2 Rural Landscape. While dwelling houses are permitted in the zone, a minimum lot size for subdivision is 20 hectares. Standard residential subdivision is not permitted. The site is not identified in the Port Stephens Local Housing Strategy for future housing.

The Panel gives no weight to the potential for future residential development given it is not permitted. This application proposes vegetation clearing and landform change for no particular purpose.

The Panel notes that the proposal has not adequately addressed the requirements of the SEARs – which is unsatisfactory.

The application is deficient in information to be able to properly assess the impacts of the proposal.

Basic information regarding the relationship of the new landform to existing residential properties has not been provided. Traffic and ecological impacts cannot be factually determined.

The Panel is of the view that the earthworks considered in isolation of a related purpose or landuse is contrary to planning for the orderly and economic development of land and has no planning merit in this instance.

The nature of the proposal is not suitable for the site and will result in unreasonable and unnecessary impacts on the surrounding lands, particularly in relation to traffic and ecology.

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-128 have not been considered.

The applicant has requested the matter be deferred to allow them to carry out further ecological survey and respond to Council's request for further information from June and July 2022. The Panel has

considered the applicant's request and that the timeframe to produce the further information (which should have been provided on lodgement) is excessive.

The application warrants refusal. Having regard to the deficiencies in the application, the Panel 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 notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-129 – Port Stephens – 16-2022-310-1
2	PROPOSED DEVELOPMENT	Earthworks – Filling of land
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 (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: 16 November 2022 Written submissions during public exhibition: nil
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