

DATE OF DETERMINATION	23 June 2022
DATE OF PANEL DECISION	21 June 2022
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Chris Gee and Michael Mason
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 June 2022.

MATTER DETERMINED

PPSNTH-140 – Port Macquarie-Hastings – DA2021 - 1001 at Longworth Rd, Dunbogan – shared user path (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 listed at item 8 in Schedule 1.

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 determined to approve the application for the reasons given below:

1. The proposed development is permissible in all the zones through which it passes and is consistent with relevant zone objectives.
2. The proposal satisfies the applicable provisions of all relevant planning instruments. With respect to the SEPP Biodiversity and Conservation, and SEPP Resilience and Hazards the Panel is satisfied that there will be no significant adverse impacts on the integrity and resilience of the affected coastal wetlands and littoral rainforests, nor on the biophysical, hydrological, ecological and coastal environments more generally, nor on cultural and built heritage and scenic values. The Panel also believes the proposal will enable continued safe access to the foreshore and waterway.
3. With respect to impacts on biodiversity the Panel notes that it has been provided with an updated EIS and BDAR as well as receiving a detailed oral briefing from Council's ecologist and is satisfied that the proposal incorporates satisfactory avoidance and minimisation measures, along with suitable compensatory offsets. The Panel also notes that DPE- Fisheries is satisfied with the proposal's impacts on the marine environment taking into account the offsets to be provided.
4. The Panel notes that no draft Vegetation Management Plan was submitted with the application but also notes that the mitigation measures to be included in the VMP are given in the conditions (Section A, conditions 9 and 10) and in Section 7 of the BDAR. Consequently, the mitigation measures to be adopted are known to the Panel despite there being no draft VPM and, as such, no deferral of an essential consideration has occurred.
5. The proposal will provide valuable recreation and environment appreciation facilities and will therefore be socially beneficial.
6. The Panel has carefully considered all issues raised in submissions and considers that they have been resolved by the proposal's final amended design and/or conditions to be imposed. With

respect to impacts on dinghy storage in the Longworth Road area, the Panel believes the final alignment of the pathway largely avoids areas used for storage and notes that the existing storage is an informal unapproved use in any case. Notwithstanding, the Panel considers there would be benefit in the Council and other stakeholders investigating opportunities for more efficient boat storage in this area even though it is not part of the current application and encourages these agencies to undertake such an investigation.

7. For the reasons given above, approval of the application is in the public interest.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:



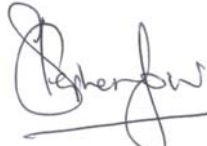


- All of the final plans making up the application are to be listed by plan number and completion date in the relevant condition
- The need to comply with the DPI- Fisheries GTAs is also to be included in the conditions.

CONSIDERATION OF COMMUNITY VIEWS

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

- Path alignment chosen
- Directional and park management signage
- Ecological impacts
- Dinghy storage area
- Public carparking impacts
- Constructability
- Management of potential asbestos

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during briefings.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Penny Holloway
 Stephen Gow	 Michael Mason
 Chris Gee	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-140 – Port Macquarie-Hastings – DA2021 - 1001
2	PROPOSED DEVELOPMENT	Shared user path - 'Beach to Beach' project
3	STREET ADDRESS	<ul style="list-style-type: none"> • The Boulevard (carriageway), Dunbogan • Lot 1 Deposited Plan (DP) 233364, Dunbogan • Edge of Lot 7036 DP 1019545, Dunbogan • Edge of Lot 7036 DP 1019545, Dunbogan • Lot 7050 DP 1108435, Dunbogan • Boardwalk and viewing platform over estuary (Camden Head Inlet), Dunbogan • Edge of Lot 7018 DP 1024347, Dunbogan • Lot 7016 DP 1024342, Dunbogan • Camden Head Road (carriageway), Dunbogan • Lot 1 DP 1173780, Dunbogan • Camden Head Road (carriageway), Dunbogan and Camden Head • Lot 7037 DP 1024352, Dunbogan and Camden Head • Lot 8 DP 754405, Dunbogan and Camden Head • Lot 7314 DP 1199592 (past sewer pump station on Lot 1 DP 598224), Dunbogan and Camden Head • Lot 7314 DP 1199592, Camden Head • Edges of Lot 7314 DP 1199592 and Lot 200 DP 754405, Camden Head • Lot 7021 DP 1001334 including Pilot Beach Road and Breakwall Access Road, Camden Head
4	APPLICANT OWNER	KBR Consulting on behalf of Port Macquarie-Hastings Council Port Macquarie-Hastings Council and the State of NSW
5	TYPE OF REGIONAL DEVELOPMENT	Council related development 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 (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Industry and Employment) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Primary Production) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Port Macquarie-Hastings Local Environmental Plan 2011 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • 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

		<ul style="list-style-type: none"> 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: 8 June 2022 Written submissions during public exhibition: 19 (four in objection)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 23 March 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Chris Gee and Michael Mason <u>Council assessment staff</u>: Patrick Galbraith-Robertson and Dan Croft <u>Department staff</u>: Carolyn Hunt and Lisa Foley Final briefing to discuss council's recommendation: 15 June 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Chris Gee and Michael Mason <u>Council assessment staff</u>: Patrick Galbraith-Robertson, Byron Reynolds and Dan Croft <u>Department staff</u>: Carolyn Hunt and Lisa Foley Submitter Briefing: 15 June 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Chris Gee and Michael Mason <u>Council assessment staff</u>: Patrick Galbraith-Robertson, Byron Reynolds and Dan Croft <u>Department staff</u>: Carolyn Hunt and Lisa Foley <u>Submitters</u>: Phillip Bowman on behalf of Camden Haven Cruising Yacht Group <p><u>Note</u>: Submitter briefing was requested to respond to the recommendation in the council assessment report</p> Applicant Briefing: 15 June 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Chris Gee and Michael Mason <u>Council assessment staff</u>: Patrick Galbraith-Robertson, Byron Reynolds and Dan Croft <u>Department staff</u>: Carolyn Hunt and Lisa Foley <u>Applicant representatives</u>: Luke Pickett, June Lee and Josh Bennie <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report