



The Hunter and Central Coast Joint Regional Planning Panel (the Consent Authority)

Cc: The General Manager, Port Stephens Council (the Assessment Authority),

f.a.o. Development Planning and Assessment Section

4 May 2012

## **DA No 16-2012-57-1: Soldiers Point Marina extension**

### **Submission**

TRRA has identified several concerns about the proposed extension of Soldiers Point Marina, to provide 58 additional berths and a valet parking service. These concerns relate both to the DA process and to the substance of the proposal, as well as to its relationship both to the local precinct and to the wider Tomaree peninsula and Port Stephens areas.

In principle, we support the provision of additional facilities for recreational boating on Port Stephens. Recreational boating is both an important component in the lifestyle enjoyed by residents and visitors, and a valuable part of the tourism industry which is an important sector of the local economy. However, those facilities must be well planned and designed and not involve major adverse effects on either the environment or on the local community.

We summarise below our main concerns about this DA. For detailed analysis, we defer to the submissions made by the Soldiers Point Community Group, many of whose members are also members of TRRA.

Our conclusion, and submission, is that approval for this DA should not be granted.

## **Process issues**

### **Lack of strategic context**

It is disappointing that Port Stephens Council appears to have no strategic planning document which assesses the likely demand for boating support facilities, including marinas, across the whole Port, and identifies suitable sites or expansion potential. The lack of such a strategic context means that this proposal is being considered in isolation.

### **Privatisation of public domain**

The proposal, if approved, would effectively transfer a significant area of public waterway to private ownership, to be used for private commercial gain. There is nothing in the application or SEE to explain any financial or non-financial return to any public authority in exchange for this alienation of public space. We are not aware what, if any, lease payments are made by the marina to a public authority and what, if any, additional payments would be made for the marina extension. While this may not be a land use planning matter, we submit that it can and should be considered by Council under s.79(1)(e) of the EP&A Act (public interest).

There is a related issue of the proposed removal and relocation of swing moorings. While these are leased by Maritime to private boat owners, they represent a community resource, and it is not clear that the proposed re-arrangement of moorings will not amount to a net loss of 'public domain'.

### **Inadequate consultation**

We understand that there has been little prior consultation by the applicant, by or on behalf of the current Marina operator, with relevant stakeholders, including local residents, the local aboriginal community, oyster farmers and other water users, including the neighbouring Port Stephens Yacht Club. We understand that the DA came as a complete surprise to many interested parties. This lack of consultation is surprising and disappointing given the history of pressures on competing land and water uses at the tip of the Soldiers Point peninsula, and in particular car parking issues over a long period of time. TRRA would have expected the applicant to have had better communication with the local community, and to have prepared the ground better for its proposal.

### **Inadequate Environmental Impact Assessment**

The Statement of Environmental Effects (SEE) accompanying the DA, while substantial in size, is in our view seriously deficient in a number of respects. Too many potential impacts are asserted to be insignificant without adequate explanation or justification. On some important matters the SEE does not, in our view, even meet the Director General (of Planning)'s requirements (DGR), or some of the detailed requirements from the Office of Environment and Heritage, the

Office of Water, the Department of Primary Industries in relation to aquaculture and marine parks, or Port Stephens Council in relation to traffic and parking (These requirements are reproduced in Appendix 4 of the applicant's SEE).

In many places where it addresses the requirements, the SEE uses cursory and dismissive language which does not suggest a serious consideration of important issues. Examples include '*minimal and immaterial impacts in general*', and '*... not result in any adverse impact to, or impediment of, public access to ... waterways*' (both on page 51). Such assertions need to be supported with analysis and evidence. The lack of consultation already mentioned above appears to extend even to some of the stakeholders that are *required* to be consulted by the legislation or planning instruments. .

## **Substantive content**

TRRA believes the proposal raises a range of issues which are not adequately addressed in the SEE. These can be grouped under 4 main headings:

- Effect on navigation and tidal flow;
- Effect on shoreline and beaches;
- Other Ecological impacts;
- Traffic and car parking.

### **Effect on navigation and tidal flow**

The proposal would result in the navigation channel between the Marina and Dowardee Island being reduced to 30 metres in width.

We are not satisfied that the impact on tidal flow and on navigation have been adequately addressed in the SEE. We understand that the Soldiers Point marina is unusual in having its berths located directly within an area of high tidal flow. The proposed extension of piles and floating pontoons is in our view likely to have significant effects on tidal flow. This in turn will have implications for the ease of navigation in an already confined area (which is to become even more limited) with obvious safety consequences. It is difficult to see how a 30 metre channel will be able to accommodate both through navigation and the manoeuvring of vessels onto marina berths without some inevitable conflict. Submissions from local oyster producers have identified the impacts on safe navigation and tidal flows that this extension would create across the deepest part of the channel.

We also submit that there needs to be clear evidence that views on navigation and safety have been sought from relevant authorities including NSW Maritime, the NSW Police Marine Area

Command (Water Police) and Marine Rescue NSW, and their views reported so they can be taken into account in the assessment.

### **Effect on shoreline and beaches**

We understand that there have been significant recorded changes to local beaches and shorelines over the lifetime of the current and earlier marina operations. These changes are widely acknowledged to be at least partly due to the progressive expansion of the marina into the tidal flows. Local residents are understandably concerned about the prospect of further expansion resulting in additional changes affecting not only the ecology but also their local amenity. We submit that these potential impacts need to be addressed in more detail.

### **Other Ecological impacts**

The effect of both the construction activity and the subsequent operation of the marina within the narrower navigation channel must in our view have implications for a variety of marine life, including specifically turtles and dolphins which are regularly observed in the area. We question the adequacy of the analysis in the SEE on these impacts.

While the area of proposed development is designated a 'special purpose zone' in the Port Stephens Great Lakes Marine Park, this does not mean that there need be no consideration of ecological impacts, as evidenced by the relevant legislation. Further, the affected area is immediately adjacent to a habitat protection zone to the north, and not far from the Cromarty Bay Sanctuary Zone to the south. We do not think the SEE adequately analyses and addresses potential impacts on these zones.

We also understand that Dowardee Island is a habitat for at least one endangered and two vulnerable bird species. The encroachment of the marina (and of the proposed fore and aft moorings to the west of the navigation channel) on this habitat does not seem to have been adequately addressed.

### **Traffic and car parking**

We understand that there are significant existing problems with traffic and parking in the vicinity of the marina. These are summarized in the letters from Port Stephens Council accompanying the DGRs (reproduced in Appendix 4 of the SEE), and highlighted most recently in agenda item 605\_04/12 in the Local Traffic Committee meeting of 3 April 2012.

There is already an issue of non-compliance with the terms of the existing marina DA in relation to parking, highlighted in the Council letter of 16 September 2011. Council's subsequent letter of 9 November 2011 reinforces major concerns and casts doubt on the remote 'valet parking' proposed by the applicant as an effective solution to the parking issue.

Residents in the vicinity of the existing marina and restaurant complex have reported that they already are concerned by the overflow parking along residential streets and also onto nature strips. Not only is this an unacceptable intrusion but it poses a hazard for motor vehicle movements as well as for pedestrians and children. Their concern is that the proposed additional capacity in the Marina is likely to add to this problem

The Traffic Report (by McLaren) appended to the SEE does not seem to us to adequately address the traffic issues – see the Soldiers Point Community Group submission for a more detailed critique.

## **Conclusion**

TRRA submits that there many potential impacts from the proposed development that have not been adequately addressed by the applicant, and which in some cases do not even meet the requirements of the various public authorities involved.

We submit that Council should not assess the DA as acceptable, and that the Joint Regional Planning Panel should reject the DA as not adequately dealing with the many environmental and social impacts that would result from the major expansion of the marina which is proposed.

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