



The General Manager  
Port Stephens Council

FAO: Mr Leonard Allen, Senior Planner

21<sup>st</sup> March 2014

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

TRRA Inc. makes this submission in response to the notice of the re-advertised DA appearing in Council Notices published in the Port Stephens Examiner on 23 January 2014. Subsequent advice from Council set the closing date for public submissions as the 21 March 2014.

### ***Confusion and deficiencies in public consultation***

We have a number of serious concerns about the way in which the public consultation on this DA re-advertisement has been handled by Port Stephens Council.

The material on exhibition at Tomaree Library in mid January 2014 consisted of a ring binder containing mostly documentation which was unchanged from either the original 2012 DA exhibition or a subsequent exhibition of an amended DA in March 2013 - the notice of which in the Examiner of March 2013 described the DA as 'Extension to marina (additional 58 births (sic)) and Alt to Carparking'. TRRA made a submission on this dated 4 April 2013 (attached).

The only new or additional material appeared to be a loose single A3 page plan labelled as "Proposed marina berth extension Option J", dated 10-1-13 which appeared to be a replacement for Appendix 1 (plan



dated 20/9/12) in an undated report by Hamptons forming part of the SEE.

No explanation was provided about what if anything had changed since the community had last been given the opportunity to comment on the DA, in 2013. The notice in the Examiner of 23 January described the DA as 'Extension to marina (additional 58 births (sic)) and Alteration to Carparking' (essentially the same as in March 2013, while the Notice in the Examiner of 20 February 2014 described it as 'Soldiers Point Marina Extension' (but without the DA reference number).

The only indication in any of the public notices that this was a 're-advertisement' of a previous DA was a note in the normal DA list panel (but not in the larger Note of Designated etc Development) saying 'Submissions already received for this development will still be considered)

We acknowledge that Port Stephens Council has belatedly made some attempt to improve the consultation on this DA – by issuing an FAQ document with its letter of 13 February 2014; by organising information sessions at Tomaree Community Centre where interested parties could talk with Council planning staff, and by supplementing the exhibited material in the Tomaree Library with a Contents page and at least some explanation of the changes to the DA. We note however that the FAQ may not be wholly accurate in relation to the proposed parking (see below).

Notwithstanding these belated efforts, we submit that the handling of public exhibition and consultation for this DA has been nothing short of a shambles, **and calls into question whether the community has been given the opportunities for input as required by law.**

Interested members of the public will have been confused about the extent and nature of the proposed changes, the extent to which previous submissions have been or will be taken into account, and the changing period(s) available to make submissions, which may have led some not to provide input, on the basis of earlier imminent and unrealistic deadlines.

### ***Changes to the DA***

We have been assured by the Port Stephens Council planners that the only changes to the DA in the material re-exhibited in early 2014 relates to the proposed parking – specifically additional parking to be provided at Spencer Park, Soldiers Point.

On the basis of these assurances we request that our previous submissions, of 4 May 2012 and 4 April 2013 (both attached), be fully considered in relation to those aspects of the DA which have not changed.

### ***Parking changes***

In relation to the amended proposals for parking, we are concerned that the applicant appears to be relying on additional spaces to be provided by the proponent at No 2 Sunset Boulevard, and by Council on land currently forming part of a well used public reserve (Spencer Park). The FAQ put out by Council states that the parking spaces will be ‘constructed and paid for by the applicant to Council’s standards’, and that ‘any parking approved in this location will be for public use not the sole use of the marina’.

The amendments to the DA exhibited in March/April 2013 introduced the proposal for off-site ‘valet’ parking as a way of addressing both the existing shortfall in parking spaces and the additional requirements generated by the additional berths. In our submission of 4 April 2013 we expressed serious reservations about the practicality of the valet parking proposal and the extent to which it would in practice relieve the parking situation in the vicinity of the Marina.

The new proposals both for parking at No 2 Sunset Boulevard and adjacent to Spencer Park appear to acknowledge that the valet parking alone cannot solve the parking problem (although it remains part of the proposed solution).

Our concerns about the Spencer Park parking include:

- The propriety, and legality, of Council facilitating the solution of the applicant's parking problem by releasing land from a public reserve.
- The failure of the exhibition material to clearly explain the proposed provision of spaces on Resthaven Avenue, to be counted towards the additional car parking for use by Marina visitors and users.
- The potential loss of mature trees.
- The potential loss of koala habitat.

We are aware the Soldiers Point Community Group have made a detailed submission on the parking and traffic issues and submit that both the Council in its Assessment Report and the JRPP in making its Determination should consider these detailed submissions very carefully.

### ***Other material factors to be considered***

Because of the lengthy period over which this DA has been under assessment, we are aware of some material factors and changes to the context and environment which we submit should be considered under the appropriate criteria in s79C of the EPA Act.

Where there is no specific relevant criterion, we submit that these factors should be considered under the general 'other public interest' criterion s.79C(1)(e):

- Suggestions that the Marina may be in breach of several conditions of their existing consent, and/or of other legislative or regulatory requirements
- Suggestions that the position of both RMS and the EPA may have changed in relation to navigation, environmental and other impacts
- Changes in 2013 to the lease arrangements for land owned and/or managed by Port Stephens Council over which the marina needs access, and associated reclassification and re-zoning of some land parcels. (see Planning proposal for Rezoning and

reclassification of various Council lands – 2013, and Minutes of Council meeting 13 August 2013, item No 16 – Clippers Anchorage – Right of Entry Deed and Consent of Mortgage). Our submission to PS Council on these matters dated 9 September 2013 is attached. We are not aware that the promised public hearing on this Planning Proposal actually took place.

We are aware that other submissions go into these issues in more detail. TRRA simply notes that they may have a material impact on the public interest in approval or rejection of this DA, and submits that both the Council in its Assessment Report and the JRPP in making its Determination should consider them.

**Nigel Waters**  
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**Tomaree Ratepayers & Residents Association Inc.**

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Attachments (forming part of this March 2014 submission):

Submission on DA 57/2012- dated 4 May 2012

Submission on DA 57/2012 dated 4 April 2013

Submission on Planning proposal - Rezoning and reclassification of various Council Lands, dated 9 September 2013

