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Submission on DA 2019/815 – 60 Port Stephens Drive

TRRA accepts that some development of this site for business uses is appropriate, given that much of the site is cleared and zoned for business use, and that it will bring some economic benefits.

However, it is essential that any development is sensitive both to the local environment and to the complex history of this site (which was subject to unauthorised clearing several years ago). The layout and design in this proposal is not in our view sufficiently responsive to these factors. The proposal is to completely clear, re-contour and develop almost the entire footprint of the B5 zoned land, using 'hard engineering' rather than a softer ecological approach that works with rather than against the environment.

We note that as well as the history of unauthorised clearing, the site was the subject of an earlier subdivision DA (2012-688) which is not flagged in the DA Tracker as a 'related application' even though it was approved with conditions in 2014. This earlier DA presumably raised similar issues and Council's assessment of the current proposal should cross reference the 2014 conditions.

The proposed works at the north west corner of the site, including the proposed intersection improvements, signage and intensive uses on Lots 1 & 2 (service station and fast food outlet) are particularly problematic given their proximity to the Tilligerry Nature Reserve and Port Stephens-Gt Lakes Marine Park¹ and the low lying and flood prone nature of the land in that area.

Rather than just accepting ad-hoc development along this section of Port Stephens Drive, Council needs to clearly articulate a vision for the area through the development of a masterplan detailing acceptable land uses and function, visual and landscaping qualities, and then make DA decisions to implement that

¹ The Wallis Creek Sanctuary Zone of the Park extends to the tidal limit which is only a few hundred metres from the development site.



vision. Council has for too long passively accepted whatever land uses are proposed in this area by private interests, with inadequate environmental controls, leading to poor overall quality of development in the precinct. Landscaping is either poor or non-existent, there is no overall quality control of building design, and the condition of Port Stephens Drive has not kept up with the additional traffic load from successive developments – there has been no proper kerb and guttering work, with the surface of verges, including at bus stops, left in a deplorable and deteriorating state.

Lucrative new ‘business park’ developments should be seen as an opportunity to have these private interests pay for much-needed specific local infrastructure improvements, over and above the statutory development contributions which fund general community infrastructure and services. This opportunity has been largely missed in the past when Council approved other new developments at Taylors Beach – that should not be seen as an excuse to repeat the mistake with this development.

We question whether the proposed service station and fast food outlet are in the public interest in the Taylor’s Beach area – they would change the character of the adjacent industrial/trading estates from a specialist business zone to a stand-alone destination – adding further competition to established centres which are already under pressure from expansion at the Salamander Centre. Council needs to take a more strategic approach to the number and location of service stations and fast-food outlets in particular. These two uses also raise particular issues in relation to pollution (fuel and oils), waste and public health – fast food outlets inevitably attract vermin which also pose a threat to native wildlife.

Koala habitat

We are concerned that the proposed development will lead to loss of core koala habitat including by further clearing of a large vegetated area on the southern boundary, and of valuable remnant vegetation on the rest of the site.

The Taylors Beach area of Port Stephens Drive is acknowledged as a koala ‘hotspot’. Port Stephens Koalas records show a dense cluster of sightings over the last decade – regrettably many of them of dead animals – usually ‘road kill’.² The narrow area of remaining bushland at the southern end of this Lot and adjacent properties is a vital corridor between the Tilligerry Nature Reserve to the west and the Tomaree National Park to the east.

Protection of koala and other wildlife habitat has become an even more urgent concern in the wake of the massive destruction caused by recent and ongoing bushfires throughout NSW. It is inevitable that new controls will be required to safeguard remaining habitat, but we cannot afford to wait for federal and state

² We defer to the submission from Port Stephens Koalas for more detail of these records and concerns about habitat.

government processes. We submit that Port Stephens Council needs to immediately give greater priority to habitat protection in all planning decisions – including on this application.

The application is supported by a Biodiversity Development Assessment Report (BDAR) but not by a promised Vegetation Management Plan (VMP) which is apparently to follow (SoEE pp.21 & 31). We submit that this Management Plan needs to be available for public consultation before any decision is taken on the DA. The SoEE also notes that consent is required for clearing from the Native Vegetation Panel (DCP compliance table, p31). We are not clear about the status of this panel but assume that consent will be made a condition of any approval. The SoEE mentions the provision of offset credits for the proposed clearing (p.31, and BDAR report). We submit that offsets are a wholly inadequate substitute for protection of existing habitat.

We note that back in 2009, the then Department of Environment and Climate Change, in a letter about the unauthorised clearing of this land (attached) and prior to re-zoning, raised major concerns about the fauna habitat, and recommended a Voluntary Conservation Agreement over some areas of habitat in addition to the then proposed rezoning and re-vegetation. We would hope that Council will be seeking the views of the successor Department of Planning Industry and Environment (including National Parks and Wildlife Service and the Environment Energy and Science Group) on the current proposal.

Figure 4.3b in the BDAR suggests that more than 20 preferred koala feed trees will be removed. At least half of these are close to the south-western and southern boundaries of the development site adjacent to a wide strip of bushland that provides important connectivity between other areas of habitat to the east and west. This is acknowledged in the BDAR report (Figure 2.5). Given the increasingly critical shortage of koala habitat in Port Stephens, we submit that it would not be unreasonable to require the proponent to retain this vegetated area and koala feed trees at least in the southern part of the site. This would require only a minor adjustment of the site layout and development footprint.

Retention of the small ‘copse’ adjacent to the E3 zone would also potentially help protect the Southern Myotis bat and Squirrel Glider – two other threatened fauna species observed at this area of the site (BDAR).

Any intersection improvement between Sky Close and Port Stephens Drive (see under Roads and Traffic below) may also threaten koala feed trees on the western side of Port Stephens Drive. We cannot assess this from the limited information provided with this application.

The triangular part of the Lot zoned E3 – Environmental Protection potentially provides both important habitat connectivity and also a visual buffer between Port

Stephens Drive and any new developments³. However, the northern section of this triangle has regularly been mowed in recent years, preventing the growth of native vegetation that would provide extended habitat. We submit that a condition of approval should be that the whole of this area is allowed to grow to provide both habitat and a more effective visual buffer.

The developer should also be required to provide protected fauna crossing of Port Stephens Drive, which will experience increased traffic as a result of any development of the site. The potential for this crossing is outlined in the BDAR report (Figure 2.5) but no commitment is made in the application.

Water table and stormwater drainage

We understand that the water table is very close to the surface at the north west corner of the site and the intersection of Sky Close and Port Stephens Drive. We submit that the development of the site with large areas of impermeable hard surfaces will potentially have a dramatic effect on stormwater flows into the Nature Reserve west of Port Stephens Drive, and may affect water quality both of any sub-surface aquifer and of the waters of the Marine Park. It is essential that the views of National Parks and Wildlife, the Marine Park Authority and NSW Fisheries be sought and taken into account.

The site includes an area of wetland, identified in the Port Stephens LEP 2013, which is evident as a flood prone area immediately south of the entrance to Sky Close (SoEE, p.30 Figure 21). Similar wetland to the north has been incorporated into detention basins for the Shearwater Park development, which also provide a partial visual buffer. Instead of replicating this treatment, this proposed development would fill the low lying area, with what appears to be a hard-engineered retaining wall with a large part of the area to be used for the service station and fast food outlet. A number of large 'OSD' tanks are to be installed to hold stormwater but it appears that these would 'overspill' into the surrounding environment in some conditions (overspill weirs are specified in the Civil Engineering Design drawings).

Detailed calculations are provided (page 14) for various return periods of heavy rain for the sub catchments but there appears to be no mention of expected flow rates in the E3 zoned area identified as BYPASS. We are unable to determine from the information supplied if there will be more flow through the E3 zone, particularly as the buffer zone between E3 and new raised level of the Business Park doesn't seem to have been taken into any catchment calculations. The slope of this proposed retaining wall/bank is quoted as 1:3.00 and varies in height from a few metres in the northwest corner to approximately 7m in the south. We submit that the current water flows will be significantly altered with this

³ TRRA lobbied, unsuccessfully, for wider and more heavily vegetated buffers for both the Shearwater Park industrial estate and the Bunnings store. We submit that the poor visual amenity that resulted is now clearly evident, with prominent industrial buildings and minimal screening.

retaining wall. As mentioned above any increase in water levels in the E3 zone could have a significant consequence on flooding of Port Stephens Drive and adjacent land to the west.

The visual impact of the 7m high retaining wall we submit is completely out of character for the surrounding rural landscape. The Landscape Plan lists plants for this retaining wall region under 'Perimeter Planting Matrix', we question if these species will be able to withstand changes in water levels or heavy rainfall rates and should be considered within the scope of the VMP.

There appears to be no discussion on any type of filter within the OSD tanks or overspill weirs to stop pollution entering the Environmentally protected areas. An easement for access and services near Lot 8 for Council to maintain on-site detention is marked on the plans, yet no details are provided on the frequency and ongoing costs for ratepayers to provide this maintenance.

We submit that this 'hard engineering' model is a completely inappropriate and unacceptable approach to stormwater management on this environmentally sensitive site.

Bushfire hazard

The Bushfire Report asserts (p3) that this proposal is characterised as 'infill' – we do not see how this can be justified as the site is surrounded on three sides by vegetated land zoned as either Rural or Environmental Protection.

We are surprised to read in the Bushfire Report and SoEE that a bushfire asset protection zone (APZ) is not required for commercial developments, and that the design provided only for a narrow access strip ('defendable space') – mostly only 5 metres wide - around the boundary of the site. In the current environment of increased bushfire risk we submit that a wider APZ would be prudent requirement. The views of the NSW Rural Fire Service and/or NSW Fire & Rescue should be an important factor in the assessment. The Bushfire Report claims that the proposal satisfies the standards in the *Rural Fire Service (2006) Planning for Bushfire Protection* guidelines but we submit that this needs to be verified by the RFS.

Roads & Traffic

The Traffic and Parking Impact Assessment clearly identifies the need for a roundabout at the junction of Sky Close and Port Stephens Drive but does not specify timing or whose responsibility this should be. We submit that this should be a condition of approval, to be constructed at the developers expense – even during the construction stage this will be a dangerous intersection with additional heavy traffic turning, and the sooner the roundabout, which will be needed for customer traffic in due course, is constructed the better and safer.

We question whether Pt Stephens Drive is up to the standard required for additional heavy traffic – there is clear evidence of surface cracking and the edges of the pavement are in poor and deteriorating condition with no kerbs or guttering for most of the length adjacent to this site. It is particularly dangerous at present for cyclists.

There is no detail provided of the proposed continued access to the rural residential property at 45 Port Stephens Drive, the driveway of which is immediately opposite Sky Close. While this is an obvious matter of concern for the owner of that property, it is also a matter of public interest as it involves safety issues. We submit that more detailed plans of the proposed intersection improvements need to be publicly exhibited for comment before any decision is made.

Signage

We note that the proposal includes a very prominent and illuminated sign at the intersection of Port Stephens Drive and Sky Close. In principle, we object to the scale and prominence of commercial signage, which detracts from the visual amenity of the area. The illumination will pose an additional hazard to native wildlife.

Large retail stores such as Harvey Norman (and Bunnings) do not rely on 'impulse buyers' – they are destinations which customers know where to find, and should not therefore require, or be allowed, large scale intrusive signage.

Conclusion

TRRA submits that in assessing this DA, Council needs to give much greater weight to the need to protect the natural environment and in particular koala habitat.

The applicant should be required to modify the design of the proposed development to achieve the following:

- Preservation of existing vegetated area along the southern boundary
- Preservation of the copse adjacent to the E3 zone, with its high ecological habitat values
- Retention of a larger area at the north-west corner of the lot as a natural retention basin
- Re-vegetation of the northern section of the E3 zoned land to increase the width of the habitat corridor and provide better visual screening
- Provision for protected fauna crossing of Port Stephens Drive, at the developer's expense

- Improvement of the Sky Close – Port Stephens Drive intersection (at the developer's expense), to include a roundabout subject to further design details and minimising loss of mature trees on the western side of Port Stephens Drive
- Ensure that storm water flows across the E3 section of the site are not increased or polluted and reconsider the need for retaining walls of up to 7m in height.

Consideration should also be given to improvement of Port Stephens Drive along the entire western edge of the site to bring it up to the standard required for both existing and additional traffic. This may involve negotiations between the owner/developer of this site, Council, and RMS about timing in relation to any development approval and in relation to cost sharing.

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