

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**DETERMINATION OF DEVELOPMENT APPLICATION NO. 149-6-2005****(FILE NO. 9039463)****DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A 4 STOREY
RESIDENTIAL FLAT BUILDING COMPRISING 4 UNITS AND BASEMENT CAR
PARKING FOR 8 VEHICLES**

I, the Minister for Planning, pursuant to Sections 80(1) (b) and 80A of the *Environmental Planning & Assessment Act, 1979*, and clause 10(2) of *State Environmental Planning Policy No. 71 – Coastal Protection* determine the development application referred to in the attached Schedule 1, by **refusing consent** to the application.

The reasons for refusing consent are:

- (1) The proposal is not consistent with Clause 19 of the *Port Stephens Local Environmental Plan 2000* as the proposed development is not consistent with the minimum site area per dwelling. A SEPP 1 Objection lodged against this development standard is not supported as it is considered that the numerous non-compliances with various controls on the site constitute overdevelopment of the site and as such will result in social, visual and amenity effects on the adjoining residents and is likely to give rise to regional implications in that this application may set a precedent for other development in the area if this degree of overdevelopment is permitted;
- (2) The proposal is not consistent with the aims or the matters for consideration listed in Part 2 of *State Environmental Planning Policy No.71 – Coastal Protection* as it will have potential impact amenity of the location and the site is considered unsuitable for the proposed development;
- (3) The proposal is unsatisfactory as it does not comply with the aims and objectives of *State Environmental Planning Policy No. 65 – Design of Residential Quality Flat Development*; *NSW Coastal Policy 1997*; *Port Stephens Local Environmental Plan 2000* and *Port Stephens Development Control Plan Nos. 1 and 10*. It will have potential to impact on the amenity of the location and detract from the amenity of the coast as the proposed; and
- (4) The proposal is not in the public's interest and is unsatisfactory as the proposed building will cause adverse amenity and privacy impacts on adjoining residents.

Frank Sartor MP
Minister for Planning

Sydney, 3 June 2006

SCHEDULE 1

PART A—TABLE

Application made by:	Coeve Design Pty Ltd 77-79 Koornang Road CARNEGIE VIC 3163
Application made to:	Minister for Planning
Development Application:	DA 149-6-2005
On land comprising:	Lot 8 DP 15998 78 Magnus Street NELSON BAY NSW 2315
Local Government Area	Port Stephens LGA
For the carrying out of:	Demolition of the existing weatherboard dwelling; construction of a 4-storey residential apartment building comprising 4 units and basement car parking for 8 vehicles; and strata subdivision into 4 lots.
Estimated Cost of Works	\$2,000,000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
Determination made on:	3 June 2006
Determination:	A development consent is not granted for the reasons outlined in Determination.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 149-6-2005

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within **12** months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.