

Submission to Bobs Farm Sand Mining Project **Application Number SSD-6395**

I am so angry!!! For months, weeks, days, nights I have treated this application with serious respect. Weighing the pros and cons in my mind. Trying to decide if my reactions were purely NIMBY responses, whether there was a case for this proposed project or not. While finalising my submission I turned to the sales and marketing tables of the EIS and was gutted by what I saw. One of the reasons I was prepared to lend credibility to this project was because I believed that the resource they were seeking was white silica sands. A rare element important for glass and for computer technology, BUT in the sales tables "**coloured glass**" is always mentioned with the rider **demand dependent**. Everything else mentioned – landscaping, golf courses, construction, mulch have no such riders because that is where the demand is!

There is nothing rare and unique about the sand the proponents are seeking, but there is something, MANY SOMETHINGS that are rare and unique and irreplaceable in this area, in this environment, in this community!!

This is just another sand mine like the 9 other mines in the district only bigger, greedier and **right in the heart of a thriving community**. Their aggressive marketing plan talks of ramping up to 11 hour days

Year	Sales	Mining Operation	Winning of feed	Sales Load Out	Dry	Washed
4	697,500 Tpa, onwar ~63,409T/mt h, ~3,337 T/day, ~417 T/hr	Dry and Wet Mining The dredge as described above should have the capacity to extract up to 300 tonne per hour with capacity to spare. The dredge should be capable of pumping 40% solids in this material (375 T.P.H.) (not the 30% used in this assumption). In addition tonnages could be won by increasing the R.P.M. of the pump, which should deliver approx. 400 T.P.H.	Excavator and haul trucks and suction/cutter dredge. Options at this point are to work additional hours to deliver the shortfall on 8 hours production, hot seat the dredge for morning tea, lunch etc., pump at a higher density, increase the R.P.M. on the pump or a mix of these options. Also could change out the 12/10 pump and replace it with a 14/10, in doing so the entire process on the back end of the dredge, the pipeline, the wash plant, the screens, spirals etc.. all have to be capable of handling this increase. This will be determined in QMS stage 4 when a complete plant analysis will be undertaken	The loaders will need to be increased in size and probably in numbers. The minimum requirement would be 2 wheel loaders with a capacity to carry and load 12 tonne capacity per cycle.	Construction sands, Native landscape soils & top dress, Golf fairway, mulch sands	Washed Golf sands, specialist construction sands, coloured glass, (demand dependent)

Table 16.18 - Sales Projections Aggressive -Year 4 REF p729 EIS

After **FIFTEEN** years of this energetic frantic feeding frenzy will there be any residual energy, interest, motivation to apply to cleaning up and remediating the mess??? Remediation doesn't make money it takes money. You never see an opulent, replete diner do the dishes after a degustation!

The proponents intend to rip up our beautiful, unique irreplaceable habitat, OUR home, OUR environment to beautify somebody else's. Our values, our rare flora and fauna, OUR peace and tranquility is to be torn apart and shredded to remediate and beautify other areas??? **GO SOMEWHERE ELSE!!!**

My Submission:

My husband and I would like to register our strong objection to the proposed sand mine at Bobs Farm.

Our family has lived at [REDACTED] Nelson Bay Road for 13 years.

We are direct neighbours to the proposed sand mine and its subsequent property.

We bought this property because it offers us the **peace and tranquility** of a rural block. Its bush silently enfolds us at the end of a busy day and in the morning we are woken by birdsong. Some days we have wallabies cross our lawn or stop to watch me hang the washing in the morning. We have observed lace monitors and goannas drink from our puddles or race up our trees and have seen and heard koalas in our bush. We consider ourselves privileged to be able to enjoy this interaction with the natural world and it offers us a much-needed balance in the hectic lifestyle of the modern world. This peace is a scarce and ever diminishing commodity and one we share with friends, family and visitors to the area.

In addition to our regular employment, my husband and I operate an Airbnb and have guests from around the world who frequently comment on the **beauty** of its surrounds. We love this area and would hate for its unique qualities to be lost.

- **We strongly object to this Project as we believe it to be an entirely inappropriate location for a sand mine.** It is contrary to the nature and character of the area, one that

‘is known for its natural beauty and highly valued environment, making it an ideal recreational, tourist and retirement destination, as well as a great place to live and work’ *Port Stephens Profile Ref 1* [Port Stephens Council website](#).

and it contradicts the Port Stephens Council’s aims as expressed in **Element 2d of Port Stephens Local Environmental Plan 2013** which are ‘to **protect** and **enhance** the natural environmental assets of Port Stephens Ref 2 *Port Stephens Local Environmental Plan 2013*

The area is classed as R2 and comprises a local school, orchards, beef farming, local food production fish farming vineyards and brewery tourist attractions, a plant nursery, dog kennel, and oyster farms in the Tilligerry Creek. All of these enterprises surround the proposed mine site and are on Nelson Bay Road and Marsh Road and will neither be **‘protected’** nor **‘enhanced’** by the operation of a sand mine. The proposed sand mine threatens the viability, efficacy and safety of a public school, the viability of an already approved Development Application (approved in 2014), and the quality and quantity of the groundwater.

- **It is entirely inappropriate to locate a sand mine in the middle of a narrow peninsula surrounded by two bodies of water.**



Ref: Google Maps

<https://www.google.com/maps/place/Port+Stephens,+NSW/@-32.7282185,151.6189127,10z/data=!3m1!4b1!4m5!3m4!1s0x6b737ab0797b3bd1:0x48289e58f99b7412!8m2!3d-32.7684603!4d151.8409214>

Looking at this map you see the Tilligerry Creek on one side of the peninsula and the Tasman Sea/Pacific Ocean on the other. Going in and out of the Peninsula one travels either along the main highway, a dual lane highway, or along Marsh Road, a narrow country road servicing the residence and businesses on that side of the peninsula. The proposed mine straddles the land between these two roads, so traffic going into or out of 'The Bay' will have to pass the mine-twice. On each road they will encounter trucks either entering or leaving the site. During peak times – work hours, holiday seasons – the potential for traffic delays is great and because there are no alternate routes to the peninsula a problem on either side of the road is cumulative and overflows to impact the other road.

Living as we do so close to the Stockton dunes we often take walks through the Worimi Reserve and climb the dunes and survey the world over the top of the trees towards Tilligerry; down the dunes to wards the sea; down the coast to Newcastle and up the beach to Anna Bay. Every time we go there the dunes are vastly different. After the Pasher Bulker storm in 2007 we went down to One Mile Beach and Samurai Beach to view the effects of the storm. I was astounded at the amount of sand that had been displaced by the wind. The Samurai dunes had moved to within metres of Gan Gan Road!

The power of wind and water mould and shape this land and the efforts of man to control and contain it are limited. I would like to draw your attention to a statement made in Council's 2014 response to NSW Planning

It is likely that a 15m buffer will not stop wind blown sand as the southerly winds can be very strong.

Ref Tom Croft Senior Development Planner

DEVELOPMENT ASSESSMENT & COMPLIANCE Port Stephens Council See attachment 2. P4

To degrade and undermine the integrity of a piece of sand (this area is locally referred to as the sandhills) between two water bodies by stripping it of forest and vegetation that have formed slowly over thousands of years binding the sand into a stable area that is not dispersed and eroded and that can support roads and houses and connect a community to the rest of Port Stephens is not responsible.

- **It is entirely inappropriate to locate a large mine next to a Primary School.**

Bobs Farm School has been operational in the area for 100 years and is still a vibrant school actively interacting with the community and delivering quality, education to its students.

The prospect of 200 truck and trailers trundling down the boundary fence of a public school at a truck every three minutes is quite bizarre. Apart from the safety aspects of heavily laden trucks entering the road from beside the school especially at pick up and drop off times, consideration must be made to the disruption to learning, the stress of noise, dust and vibration and the inability to hear instructions, questions and conversations. I understand that entry to and exit the mine for lighter vehicles will also be from this side as I believe the RMS have stated that other entries into the mine site on Nelson Bay Road be sealed off

☑ Roads and Maritime recommend that any other existing accesses to the site from Nelson Bay Road shall be closed.

Ref Roads and Maritime response to Bobs Farm Mine EIS

so the volume of traffic by the school will be greater than 200 hundred trucks a day.

- **It is entirely inappropriate to locate a sand mine in the presence of Acid Sulphate Soil and the proposed site's proximity to the Tilligerry Creek.**

As oyster farmers, we are extremely concerned about the potential **effect of acid sulfate soils on oysters in Tilligerry Creek**. Along with many oyster farmers we have a lease in the Tilligerry. I do not know if the proponents are aware of how many oyster farms are in the Tilligerry Creek or appreciate the disastrous effect acid sulfate pollution in the Tilligerry would have on them and how debilitating another setback for the industry would be.

Oyster farmers in the Tilligerry suffered severe financial loss in 2007 when raw sewage leaked into the creek closing their farms for an extended period, this was followed by summer mortality kills in 2013 decimating stock overnight and then the super storm of April of 2015 destroyed leases causing further loss of stock. The area is recovering now with many farmers returning to these leases. If ASS should leach into the Tilligerry it would be a disaster of catastrophic proportions

Oyster farming is an important industry to the Port Stephens economy producing \$54,571,408 in 2017/2018 *DPI production Report 2017/2018*.

Furthermore,

Oyster farming has been the most valuable aquaculture industry in NSW for over 100 years producing over 106 million oysters worth \$35 million.

<https://www.dpi.nsw.gov.au/fishing/aquaculture/publications/oysters/oyster-industry-in-nsw>.

The EIS has acknowledged the presence of ASS and PASS on the mine site and has identified The Tilligerry Creek, as one of the off-site receptors but its management plan is very cursory.

I am sure the proponents appreciate the fragility and delicate balance of the coastal estuarine system but do they realise that local farmers monitor and watch the water around our leases constantly. There is little we can do to protect our stock from the effects of contamination once it enters the water. Dispersal is rapid and so is the effect. Most of our monitoring is to protect the health and well being of the public, so it is quite reasonable then that we should expect the public to monitor and protect the environment from where we earn our living. It is also reasonable to expect the proponents to take this responsibility seriously because when they choose to degrade and break down an eco-system that is stable and in balance the full responsibility for our livelihood falls on their shoulders!

It is not very re-assuring when their EIS states that:

“Oxidisation of sulfide minerals **may** occur during the dredging of sand containing PASS or as a result of a lowering of the water table. ‘

When we know that oxidization **does** occur under these circumstances.

The DPI study on ASS found that

‘Extended dry periods lower the watertable, further oxidising layers of potential ASS. Drought-breaking rains then flush significant quantities of sulphuric acid and toxic, heavy metals into waterways, resulting in fish kills (White *et al.* 1997), ‘

Potential acid sulfate soils

ASS which have not been oxidised by exposure to air are known as potential acid sulfate soils (PASS). While contained in a layer of waterlogged soil, the iron sulfides in the soil are stable and the surrounding soil pH is often weakly acid to weakly alkaline.

Ref: https://www.der.wa.gov.au/images/documents/your-environment/acid-sulfate-soils/fact_sheets/ass_fact_sheets1.pdf

We know that the water table will be lowered because it is lowered in dry spells – our spear point has been dry for three years and we have had to drill another. So combine the effect of extended dry spell with the “unlikely” significant drawdown from dredging and ‘possible’ groundwater level reduction through evaporation the water table must lower.

Given the proposed method of sand extraction below the water table by dredging, groundwater levels at the site and at surrounding bores will **unlikely** be significantly altered. Although significant groundwater drawdown from dredging is **unlikely**, some local groundwater level reduction **may** occur due to the evaporation of the 'window lake' (the highlighting is mine)

EIS p130 5.2.2.3

It doesn't inspire confidence in these claims when there are so many unknowns, things are "unlikely" they 'may' happen

"It should be noted that at the time of report writing, details of **possible methodologies for sand dredging and soil processing were unknown.** "

EIS P131 5.2.2.6

We need surety.

-Have the proponents calculated how much pyrite will be in the sediment that is stock piled on site?

-They propose to neutralise it "*if necessary*". Liming is an expensive ameliorating method.

-**WHO** will decide it is necessary?

-At what point will they decide it is necessary? At the first load that has a pH lower than the acceptable range or after a number of loads have accumulated?

-What provision for containment is there should a heavy rain event mobilise the sulfidic minerals before they have been neutralised

-What provision has been made for prevention of acidic leachate from the sediment entering the groundwater and from there flowing into the Tilligerry?

In the recommendations in their Acid Sulfate Soils the proponents recommend installation of 5 new wells around the dredge pond to detect possible movement of sulfidic acidic impacted groundwater but they neglect to say what they will do should this movement be detected.

The best practice management of PASS is to leave it undisturbed.

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1.8.6 Avoiding disturbance of coastal ASS

Undisturbed ASS (buried and below the water table) poses little problem for the environment. Accordingly ASS affected areas should not be drained or excavated, and land management should be modified accordingly to avoid such practices where possible

https://www.dpi.nsw.gov.au/__data/assets/pdf_file/0011/634466/Lower-Hunter-Acid-Sulfate-Soils-Investigations-Report-Part-1.pdf

- **It is inappropriate to locate a sand mine on this dune ridge because of the real possibility of expansion and extension.**

In its submission to this DA the Division of Resources and Geoscience stated

'The building and construction industries in NSW require the **ongoing replacement of supplies as current sources are exhausted**' .

The demand for sand is worldwide and it is **insatiable**! Of the 9 existing mines in the area at least 5 have applied for extensions beyond their original term and expansion or other modifications. Given that Ammos Resources, Patra Holdings Ltd and their associates own additional land in the immediate area it is reasonable to assume expansion is part of the plan. Once the initial approval is gained, expansion and extension are easier to attain. Protection of an already degraded environment is no longer an issue, the school will have died, and landowners will either have sold (to

Ammos Resource Management?) and moved away or filed their own mining applications to recoup lost property values. On my darkest days I see us forced to sell our place to the only potential buyer left - the expanding sandmine and the entry to a once beautiful and diverse ecosystem will be a dirty, dusty sand mine.

- **It is entirely inappropriate to approve a development application to a company whose directors have already demonstrated a lack of respect for Local government regulations and for the Council as a governing body.**

Prior to 2002 Patra Holdings Ltd applied to the Catchment Management Authority To clear 14 hectares of vegetation. Under the Native Vegetation Act of 1977 all applications for over 2 hectares of land had to be made to The Catchment Management Authority.

Their application was refused

'due to impacts on threatened species, land and water degradation potential, aboriginal heritage values, and lack suitability of the site to grow olives' Ref 2 Port Stephens Council Minutes **Background**

They then made application to Council to clear a reduced parcel of land, 1.95ha, which was refused by council staff for the same reasons as above. The application then went to a Council meeting where it was approved.

In 2010 Council had cause to investigate complaints of illegal land clearing and concluded that an extra 4.68 ha had actually been cleared without consent!

Patra Holdings Ltd did not deign to reply to Council's communications regarding the offence. Council was unable to commence proceedings because it has only a two year window after an offence is committed to commence proceedings and since the DECC did not report the illegal clearing to the council they were out of time.

A copy of these minutes and the letter to the NSW Planning and Infrastructure are provided in the attachments at the end of this submission Attachments 1 and 2.

The Mayoral Minutes and the letter from Tom Croft Port Stephens Council Senior Development Planner to Carl Dumbleton, NSW Planning and Infrastructure raise the following questions

- What assurance have we that Ammos Resource Management will be any more likely to respect State regulations and compliance than Patra Holdings Ltd respected Council regulations and compliance – given that the directors of both companies are the same people?
- Why did the DECC overlook the illegal actions of Patra Holding Ltd and so compromise Council's ability to enforce compliance with regulations?
-

There are so many elements in this proposal that rely on trust and respect and co-operation. When people live in an area and are part of the community they have a stake in its wellbeing. They respect its regulatory bodies and they care for their neighbours. A company that buys an investment property and has no ties with the community is not concerned about local government laws, local values, the aesthetics of the place or even the health of the residents. Ammos Resource Management held one community meeting. It did not consult with oyster farmers in the Tilligerry. It did not consult with the owners of Irukandji Shark and Ray Centre (although it is mentioned on a number of occasions in the EIS) and it did not consult with an adjoining neighbour who in 2014 had gained council approval for a \$5 million eco-resort.

*'Mr Tindall was staggered to read in the sand mine's environmental impact statement that "**there are no known or approved or planned new intensive activities in the area**".*

"Its bloody hard to believe this has happened, but even harder to believe that so many professional consultants would forget to check with the adjoining landholders how a mine this size could affect them," Mr Tindall said.'

Ref 4 Newcastle Herald Newcastle Herald Jan 29 2019

The footprint of this proposed mine is on land that was **illegally cleared** .

This objection is not a **NIMBY** submission. This is a **NITPFD** submission – Not In Tomaree Peninsula's Front Drive. **Everyone** driving into Nelson Bay and its environs drives past the proposed Bobs Farm Sand mine site. The Tomaree Peninsula boasts world-renown sand dunes, ancient forests, koala habitat, premier diving spots, and an abundance of marine life.

*'During 2014/15 year, Port Stephens welcomed 2,352,000 **domestic** visitors nights, 747,000 day visitors and 138,000 **international** visitor nights. These visitors spent an estimated \$335 million and directly employed more than 1669 people across the Port Stephens Local Government Area (LGA)' The Port Stephens' visitor economy- Port Stephens Council Jul 1, 2016 Port Stephens Council Website*

Nelson Bay Road leads these visitors into one of NSW's premier holiday and tourism areas. **Each one** of these visitors passes by the proposed site twice, once on their way in and again on their way out.

Everyone driving into Nelson Bay and its environs drives past the proposed Bobs Farm Sand mine site.

- **It is entirely inappropriate to locate a sand mine on the only highway and at the entrance to the Tomaree peninsular**

To have a sand mine of any size, let alone one of this magnitude, at the gateway to an area 'known for its natural beauty and highly valued environment' (*Port Stephens Profile*) is quite bizarre.

Driving past a sand mine on your way to Stockton Beach is like seeing a whale slaughterhouse on your way to go whale watching!

Thank you for the opportunity to provide feedback and for taking the time to read and consider it.

Joy-Lynn Redmayne

ATTACHMENTS

Attachment

1.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010
PORT STEPHENS COUNCIL 24

MAYORAL MINUTE

ITEM NO. 4 FILE NO: PSC2010-0139

LOT 254, DP 753204 – 3631 NELSON BAY ROAD, BOBS FARM
THAT COUNCIL:

1) Arrange a site inspection for all councillors to attend and prepare a report to be brought before Council for consideration.

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

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Councillor Bruce MacKenzie

It was resolved that there being no objection the Mayoral Minute was adopted.

BACKGROUND

The purpose of this report is to provide Council with the background regarding current compliance action being undertaken at Lot 254, DP 753204, 3631 Nelson Bay Road Bobs Farm regarding illegal vegetation removal.

Prior to 2002 Patra Holdings Pty Ltd made an application to clear 14ha of vegetation to the Catchment Management Authority under the Native Vegetation Act 1997.

The Catchment Management Authority refused the application due to impacts on threatened species, land and water degradation potential, aboriginal heritage values, and lack suitability of the site to grow olives.

Patra Holdings Pty Ltd then applied to Port Stephens Council for a development application to clear 1.95ha of vegetation which was refused by staff because of impacts on threatened species, land and water degradation potential, aboriginal heritage values and social and economic values. The development application was subsequently called to Council where it was approved in October 2002.

In 2002 the Native Vegetation Act 1997 only applied to applications to remove vegetation over 2ha, applications under 2ha were dealt with by Council under the Environmental Planning and Assessment Act 1979. The Native Vegetation Act 2003 has since been revised and all vegetation removal in rural land must be approved by the Catchment Management Authority.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

PORT STEPHENS COUNCIL 25

In January 2010 council staff received a complaint regarding illegal land clearing. Council staff investigated the matter and concluded that 4.68ha of vegetation had been removed without consent.

In February 2010 staff sent Patra Holdings Pty Ltd a letter informing them that Council had concluded that illegal vegetation removal had occurred and asked them to provide information as to why Council should not proceed with compliance action. Council did not receive any response to this letter.

In May 2010 Council issued a notice of intent under section 121H of the

Environmental Planning and Assessment Act 1979 to give an order under section 121B of the Act to reinstate premises. This notice of intent asks Patra Holdings to make submissions to Group Manager Sustainable Planning by the 12th June 2010 as to why Council should not issue the order.

Part of these representations may include any alternative mechanisms to proceed rather than issuing the order.

Staff have not received any communications from Patra Holdings Pty Ltd.

Attachment

2.

Telephone inquiries
Tom Croft
Development Assessment & Compliance
Please quote Parcel No: 38360
12 March 2014
NSW Planning & Infrastructure

Att: Carl Dumpleton

Via email: carl.dumpleton@planning.nsw.gov.au

Dear Sir,

Re: Bobs Farm Sand Project, Request for Input into DGRs
PT: 254 DP: 753204, 3631 Nelson Bay Road BOBS FARM 2316
Lot 51 DP 10156713631 Nelson Bay Road BOBS FARM 2316
Lot 10 DP 1071458. 3721 Nelson Bay Road BOBS FARM 2316

Council refers to your advice of 6 February 2014 requesting input into the DGRs for the proposed Sand Mining Project at the above properties. The following planning, engineering and ecology comment is provided.

Planning

With reference to Port Stephens Local Environmental Plan 2013 the site is zones RU2 Rural Landscape. Extractive industries are a permissible land use in the zone. The site has the following general environmental constraints that should be addressed in any proposal:

- Bushfire Prone Land
- Acid Sulphate Soils – Class 3 and 4 (Works beyond 1 and 2m below natural ground surface, respectively)

Appropriate Aboriginal archaeological assessment should be requested, and with consultation with the Worimi Aboriginal Land Council and with reference to relevant legislation. It is also noted that the Worimi Aboriginal Land Council is the owner of the land opposite the site on the southern side of Nelson Bay Road.

Appropriate assessment of noise and air quality is also required with consideration to neighbouring dwellings and land uses.

It is also noted that the southern side of Nelson Bay Road is within the Hunter Water Special Area (Drinking Water Catchment) which should be addressed in any proposal.

Engineering

All entry and exit movements resulting from this application must be to and from Nelson Bay Rd directly and not Marsh Rd, this is due to:

Marsh Rd is low lying and frequently overtopped in times of rain and high tides (also at risk of the impacts of climate change); Marsh Rd is considered structurally inadequate by council to carry large volumes of heavy vehicles due to poor/saturated sub-grade conditions (natural material underneath Marsh is of a swamp/bog/saturated nature, council has had severe problems in the past when maintaining this road); The proposed exit route to Nelson Bay Rd via Marsh Rd passes through a School Zone for a Primary School aged children, it is considered unsafe and inappropriate to have large volumes of heavy vehicles in the vicinity of young children when there is adequate opportunity (U-Turn Facility) for those vehicles to enter and exit from the proponents frontage to Nelson Bay Rd.

A Traffic Impact Assessment should be prepared in accordance with the RMS Guide to Traffic Generating Developments and is to include (but not be limited to) the following:

- Assessment of all relevant vehicular traffic routes and intersections for access to/from the subject area during the construction and operational phases
- Current traffic counts for all of the traffic routes and intersections
- The anticipated additional vehicular traffic generated from the proposed development and the associated trip distribution on the road network during both the construction and operational phases
- Consideration of the traffic impacts on existing and proposed intersections and the capacity of the local and classified road network to safely cater for the additional traffic generated by the proposed development. The traffic impact shall also include the cumulative traffic impact of other proposed developments in the area.
- Identify the necessary road network infrastructure upgrades that are required to maintain existing levels of service on both the local and classified road network. In this regard, concept drawings shall be submitted with the Environmental Impact Statement for any identified road infrastructure upgrades. However, it should be noted that any identified road infrastructure upgrades will need to be to the satisfaction of Council/RMS
- Intersection analysis (such as SIDRA) shall be submitted to determine the need for intersection and road capacity upgrades. The intersection analysis shall include (but not be limited to) the following:
 - Current traffic counts and 10 year traffic growth projections
 - 95th percentile back of queue lengths
 - Delays and level of service on all legs for the relevant intersections
 - Electronic data to be submitted for Council review
 - Impact of construction traffic on the road network in the vicinity of the development and measures to minimise any identified impact

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Ecology

Relevant Site Background

Prior to 2002 the landholder, Patra Holdings Pty Ltd, made an application to clear 14ha of vegetation to the Catchment Management Authority under the Native Vegetation Act 1997. The Catchment Management Authority refused the application due to impacts on threatened species, land and water degradation potential, aboriginal heritage values, and lack suitability of the site to grow olives.

Patra Holdings Pty Ltd then applied to Port Stephens Council for a development application to clear 1.95ha of vegetation which was refused by staff due to similar concerns held by the CMA. The development application was subsequently called to Council where it was approved in October 2002.

In January 2010 council staff received a complaint regarding illegal land clearing. Council staff investigated the matter and concluded that 4.68ha of vegetation had been removed without consent sometime between 2002 and 2004.

During Council's investigation it became clear that DECC were aware of the illegal clearing however decided not to pursue the matter and did not report the clearing to Council. Under section 127(5) of the EP&A Act Council has only 2 years to commence proceedings after the offence was alleged to be committed.

Site Characteristics

The site has considerable environmental values and the ongoing development in the area is considered to be creating an adverse cumulative impact on native vegetation. In particular the site is:

- classed as supplementary koala habitat under the Port Stephens Council Comprehensive Koala Plan of Management (CKPoM), requiring its protection to

assist the long term conservation of the koalas of Port Stephens

- an excellent example of the old growth coastal sands blackbutt association with many unique habitat features, that is in good condition despite some disturbance. It should be noted that not much old growth forest of this vegetation community still exists in Port Stephens due to clearing and past sand mining.
- important for connectivity and clearing the area under application would fragment an important corridor of the native vegetation
- considered to have high biological diversity in all structural layers of forest, providing habitat for a wide range of native fauna and flora
- Provides an important source of food in the winter on account of the winter flowering vegetation.
- Contains habitat for several threatened species including (but not limited to)

I Squirrel Gliders

I Diuris arenaria and Diuris praecox

I Swamp Sclerophyll Forest (EEC)

4

I River Flat Eucalypt Forest (EEC) – One of only 2 known sites in the LGA.

I Several threatened microbat species

Council therefore requests the DGRs to include the requirement to:

- Undertake spotlighting, echolocation and stag watching in addition to call playback for a variety of threatened fauna including owls, plus trapping for gliders and New Holland Mouse should be undertaken in accordance with the LHCCREMS Flora and Fauna Survey Guidelines 2002.
- Address the PSC CKPoM and include search for searches for scats and scratches
- Undertake an Assessment of Significance for all known or possible threatened species in the locality
- Undertake an assessment regarding the habitat value of the site and the abundance of ecologically mature hollow-bearing trees and the impact of the loss of these hollows
- Undertake targeted survey for orchids in the appropriate flowering periods.

• Undertake an assessment to determine an appropriate buffer to ensure neighbouring properties do not experience wind blown sand. NB It is likely that a 15m buffer will not stop wind blown sand as the southerly winds can be very strong.

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- Address aboriginal heritage values

Thank you for the opportunity to provide comment on this proposal. Should you require any further information in relation to this letter please contact the undersigned.

Yours faithfully

Tom Croft

Senior Development Planner

DEVELOPMENT ASSESSMENT & COMPLIANCE