



Hunter Bird Observers Club

Affiliated with BirdLife Australia

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The General Manager
Port Stephens Council
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Attn: Amy Stone

Sent by email to council@portstephens.nsw.gov.au, cc Amy.Stone@portstephens.nsw.gov.au

RE: Soldiers Point marina expansion (Re: DA No. 16-2015-586-1)

Hunter Bird Observers Club (HBOC) wishes to express its serious reservations about the proposed expansion of the Soldiers Point marina in the direction towards Dowardee Island. Dowardee Island is known to be important for 4 threatened bird species listed under the NSW *Threatened Species Conservation (TSC) Act 1995*; these being Beach Stone-Curlew *Esacus magnirostris*, Osprey *Pandion haliaetus*, Australian Pied Oystercatcher *Haematopus longirostris* and Sooty Oystercatcher *H. fuliginosus*. Since the last proposal to extend this marina the Eastern Curlew *Numenius madagascariensis* has been listed by the Australian Government under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* as Critically Endangered. Dowardee Island is a significant roosting location for this species. Another migratory shorebird known to occur on and near Dowardee Island, the Bar-tailed Godwit *Limosa lapponica*, has recently been proposed to be listed as threatened under the EPBC Act.

HBOC considers that the proposal is likely to significantly impact on all these species.

HBOC notes Port Stephens Council's Fact Sheet provided at community 'drop in sessions'. The fact sheet states '*The proposal has not significantly altered from a previous application that was refused by the JRPP on the 12 June 2014*'. We feel that Port Stephens Council in its role as the assessing authority should recommend to the Joint Regional Planning Panel (JRPP) that this proposed marina extension should again be rejected.

HBOC notes the extensive documentation prepared by consultants on behalf of the applicant to aid his attempts of approval. HBOC would argue strongly against the assumptions made in these documents regarding predictions about future welfare of wildlife on Dowardee Island. There is great potential for adverse outcomes for that wildlife from the indirect impacts of extending the Soldiers Point marina towards the island. The impacts to these species are likely to occur from both direct and indirect sources including increased disturbance from recreational boating activities, noise, wake and lighting. The proposal is also likely to lead to increased erosion of the shoreline / flats of Dowardee Island

and pollution incidents which will negatively impact on the habitat and individuals of the 5 known threatened species.

Additionally, the area is also known to be used by migratory shorebirds listed under EPBC Act 1999 and international conservation agreements (e.g. JAMBA, CAMBA). These include the aforementioned Eastern Curlew *Numenius madagascariensis*, Bar-tailed Godwit *Limosa lapponica* and Grey-tailed Tattler *Tringa brevipes*.

Below we provide a brief outline of each local bird species threatened by this proposal.

Beach Stone-Curlew (Critically Endangered in NSW)



Fig 1. Adults in background, submissive 2014/15 juvenile in foreground.

The Beach Stone-Curlew occurs on sandy beaches on the coast of northern Australia and nearby offshore islands. It is rare in NSW, and the generic threats that apply to beach-nesting birds are exacerbated by the very low population base, estimated by the NSW Scientific Committee to be just 13 birds. Mainly for this reason, in July 2009 the Scientific Committee reclassified Beach Stone-Curlew from Endangered to Critically Endangered.

A pair resident at the mouth of the Manning River has long been considered to be the southernmost breeding birds in Australia. Until very recently, the only known records from further south were single birds at Corrie Island in February 2006 and Pindimar in November 2009 and a pair at Forster in August 2006.

In 2011 a new pair was found roosting on Dowardee Island and since then that pair has been regularly recorded roosting and feeding on Dowardee Island and on the nearby mainland. This pair of Beach Stone-Curlews has successfully bred now for 4 years. They rear only a single chick each year. This is a very important development for the future of the species in NSW.

Based on available data, HBOC and other groups (e.g. BirdLife Australia) consider that this is the most southerly breeding pair of Beach Stone-Curlews in Australia. Both adults have been

roosting on Dowardee Island at high tide and regularly foraging on the sandy beach and mudflats on the mainland to the immediate south of the marina complex.

HBOC considers that the proposed development is likely to have an adverse effect on the life cycle of the Beach Stone-Curlew, such that a viable local population of the species is likely to be placed at risk of extinction. In accordance with section 5A of the *Environmental Planning and Assessment Act 1979* we consider that the proposal is likely to significantly impact on this threatened species.

Osprey (Vulnerable in NSW)

The Osprey is a fish-eating raptor that occurs along the east coast of NSW, south to Lake Macquarie. The species largely occurs in coastal areas, especially the mouths of large rivers, lagoons and lakes. The species is threatened by the removal of suitable nest trees as well as impacts to water quality affecting feeding habitat.

A pair of Ospreys is known to breed on the southern end of Dowardee Island. Nest site availability is thought to be limited and increased disturbance from recreational boating activities in the vicinity of a viable nest site is of concern.

In our previous submissions on this matter, this species was referred to as Eastern Osprey *Pandion cristatus*. BirdLife Australia has recently revised the Australian bird taxonomy and now calls this species Osprey *Pandion haliaetus*.



Fig 2. An Osprey taking flight from Dowardee Island.

Australian Pied Oystercatcher (Endangered in NSW)

The Australian Pied Oystercatcher occurs near undisturbed sandy and shelly shorelines throughout all of Australia and southern New Guinea, where it feeds on small bivalves and worms. It is more common in the south of the country. Two estimates of the NSW population suggested only 230-250 birds, although the numbers are now thought to be

somewhat larger. The NSW Scientific Committee recently reclassified the species as Endangered. The key threats, such as disturbances and predation, are generic to all beach-nesting birds but for this species they are exacerbated by the low NSW population base.

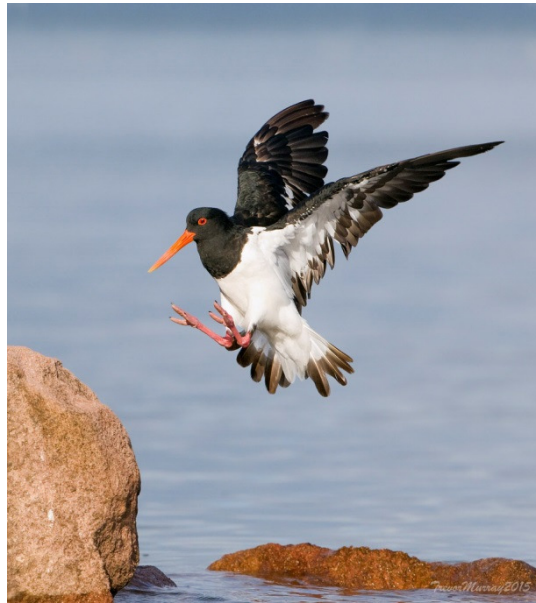


Fig 3. Pied Oystercatcher landing on a high tide roost.

Port Stephens is the main area in NSW in which Australian Pied Oystercatchers accumulate, often holding more than 150 of the NSW population. In regular summer and winter surveys of Port Stephens, conducted by members of HBOC, many Australian Pied Oystercatchers are found to congregate (feeding and roosting) around Dowardee Island.

Australian Pied Oystercatchers have delayed breeding maturity, being at least 4 years and often much older before they breed. Almost all the birds in Port Stephens are non-breeding and hence the area is essential to the species during this period of post-breeding immaturity and thus it holds the future breeding stock on which the survival of the species depends.

Since the last proposal to extend the marina towards Dowardee Island, surveys by one of our members have revealed clear evidence of breeding attempts on Dowardee Island. Nest scrapes with eggs were observed and carefully photographed from a distance (see images below.)



Fig 4 Pied Oystercatcher nest scrape with a single egg on Dowardee Is.



Fig 5 Pied Oystercatcher nest scrape with 2 eggs

HBOC realises that this is new information that the applicant's consultants may not have been aware of, it does however offer complete rebuttal to the claim in the Species Impact Statement (SIS) prepared by Gunninah where it states under **7.3.6 Population Viability** "*Pied and Sooty Oystercatchers*

- *The Sooty Oystercatchers which utilise the rocky 'high tide roost' on the western shore of Dowardee Island are not likely to be significant for "the viability" of this species "in the locality" – given that **there is no known breeding in the vicinity.***

It is imperative to protect not only oystercatcher roosts but also adjacent areas of mudflat used for foraging but even more so the relative isolation that affords breeding security for the ground nesting Beach Stone-Curlews and Oystercatchers.

Sooty Oystercatcher (Vulnerable in NSW)

The Sooty Oystercatcher is endemic to Australia and is found at rocky shorelines around the entire country. Disturbances and predation represent key threats for this species. Port Stephens is an important area for the species, with 20-40 birds often present (the numbers are trending upwards). As for the Australian Pied Oystercatcher, this seems to include many non-breeding (immature) birds which later will move elsewhere in NSW to breed on offshore islands and isolated rock platforms. However as with the recently observed activity on Dowardee Island there is also a confirmed 2011 breeding attempt on One Tree Island NR, near Dowardee Island. We note that this breeding attempt is not mentioned in the SIS. It is considered likely that the pair in question regularly forage in and around Dowardee Island.

Eastern Curlew. (Categorised as Critically Endangered federally under the EPBC Act, effective from 26/05/2015)



Fig 6 Eastern Curlew at take off, Sunset Beach.

The Eastern Curlew is the largest migratory shorebird in the world, with a long neck, long legs, and a very long down-curved bill. The wingspan is 110 cm and the birds weigh approximately 900 g.

Eastern Curlews nest in the Northern Hemisphere summer, from early May to late June, often in small colonies of two to three pairs. During the non-breeding season in Australia, the Eastern Curlew is most commonly associated with sheltered coasts, especially estuaries, bays, harbours, inlets and coastal lagoons, with large intertidal mudflats or sandflats, often with beds of seagrass (*Zosteraceae*).

The Eastern Curlew roosts during high tide periods on sandy spits, sandbars and islets, especially on beach sand near the high-water mark, and among coastal vegetation including low saltmarsh or mangroves. The Eastern Curlew is extremely wary and will take flight at the

first sign of danger, long before other nearby shorebirds become nervous. The birds are both diurnal and nocturnal with feeding and roosting cycles determined by the tides.

Port Stephens is internationally significant for Eastern Curlew. In most summers since any records have been available, more than 1% of the total world population of Eastern Curlews has visited Port Stephens. Crucially, Port Stephens also hosts many juvenile (non-breeding) birds in winter.

Having given a brief description of the birds involved and their behaviour we will now address several of the opinions expressed in the SIS that attempt to support the development proposal.

Boat wake, noise, light and potential pollutants. Unarguably extending the marina arms towards Dowardee Island brings light, noise, boat wake, exhaust and potential pollutants closer. Interestingly photographs in the applicant's EIS show the vessel **Recife** occupying one of the T head berths. The length of that vessel is 29mtrs and the beam is 6.1 metres, showing the size of vessels that can be expected to manoeuvre and berth there, further narrowing the gap to Dowardee Island from the distances claimed. Further the SIS states in section **8.3.2 Waves and Boat Wash**

- *The Soldiers Point Marina expansion project will not involve any notable increases in waves or boat wash, if indeed any increases, above the current situation at this location (Royal Haskoning Report). In the first instance, boats from the Soldiers Point Marina will not need to approach any closer to Dowardee Island than they generally do at present – given that the proposed clear navigation channel will move to the west from its current location, and given the shallow water depths adjacent to the eastern shore of Dowardee Island.*
- *Second – there is a 4 knot speed limit and a 'No Wash Zone' in this area. Boat wash and/or waves are therefore not a significant issue (FDF pers obs; Royal Haskoning Report). Boats entering or leaving the Marina will be travelling at very low speeds, and there is no likelihood of increased wave erosion of the beach on the eastern shore of Dowardee Island or of Sunset Beach as consequence of the Soldiers Point Marina expansion project- Royal Haskoning Report*

The first point is completely unfounded. Of course boats will be forced closer to Dowardee Island, courses currently in general use would cause collision with the proposed extended arms. Additionally the author states that the '*proposed clear navigation channel will move to the west from its current location.*' That direction is toward Dowardee Island. Our point is, if you increase the number of vessels, decrease the navigable waterway they can operate in and direct them towards Dowardee Island there cannot but be the risk of increased erosion. This erosion could affect the structure and even the future existence of the steep little beach on the south-eastern corner. This protected small beach and nearby mangroves are in constant use by a variety of birds.

The second point raised above from the SIS is more a statement of faith and hope rather than fact. Although there is a 4 knot limit, like on our roads speed limits get broken. Additionally skippers of varying competence manoeuvring in potentially strong tidal

currents and winds may feel the need to give amounts of throttle in manoeuvring that would be well above that required to maintain 4 knots of straight course with associated increased wake. The proposition expressed in the SIS that *'there is no likelihood of increased wave erosion on the beach on the eastern shore of Dowardee Island'* cannot be sustained by objective, logical assessment.

Making marina users ecologically aware. At several places in the SIS the author mentions that the applicant will make marina users aware of the ecological significance of Dowardee Island and the threatened wildlife that occupy it. This in itself is commendable and it may restrain the behaviour of some responsible people but not all. If the applicant is successful in extending the marina towards Dowardee Island the natural barrier of distance is decreased and the risk of casual visitation by people and their domestic pets thereby increases.

As an example of how ineffective education and signage can be regarding dogs and threatened wildlife we again refer to the SIS where the author states

- *On the basis that it must/should be assumed that individuals of those species do use these beaches for foraging purposes, on occasions at least, then it must also be assumed that they are at least somewhat tolerant of human activities – given that there are no controls on people or dogs on Sunset Beach, or between the Marina and the boat ramp, or on the eastern side of Dowardee Island, or on the eastern side of Soldiers Point.*
- *the Beach Stone-curlews are known to utilise this beach for foraging - despite its regular and occasionally heavy use by people, uncontrolled dogs and small boats, and the absence of any management regime or program to protect the Beach Stone-curlews.*

The author apparently failed to notice educational signage installed by Council specifically mentioning the Beach Stone-Curlews or signage restricting dog activity. If these were shortcomings by the author, we would find that perfectly acceptable because to the casual observer one wouldn't assume any program is in place judging by the noncompliance of many dog owners.

Education isn't a total answer; the best protection for ground nesting birds on Dowardee Island is its relative isolation.

The failure of the SIS to acknowledge the conservation status of the Eastern Curlew and the importance of the high tide roost on the western side of Dowardee Island.

The 6-monthly surveys conducted by the NPWS and HBOC have clearly shown the importance of this western roosting area to many migratory shorebirds but particularly Eastern Curlews, Whimbrels, Bar-tailed Godwits and Grey-tailed Tattlers. Dowardee Island is approximately 300m east to west. Resting migratory shorebirds are trying to store fat during their summer in Port Stephens to prepare them for their migration back to the Northern Hemisphere. Again the physical act of decreasing the natural barrier between the mainland and this island makes visitation by people and dogs more likely with disturbance to these resting birds the likely result.

The failure of the SIS to acknowledge that ground nesting chicks cannot fly from danger.

Nowhere in the SIS does the author mention the very inconvenient fact that the young of the ground nesting species mentioned above cannot fly from danger. The SIS is rich with a language that attempts to minimize the threat to the birds that breed on Dowardee Island. Because the proposal decreases the natural isolation of the island and brings more people and their pets closer to it, the risks do increase. For birds that are critically endangered and rear only one chick a year, one visitation by the wrong person or their pet would be fatal.

HBOC notes the C.V. of Mr Rooney and Mr Fanning the environmental consultants engaged by the applicant. We note the absence on their behalf of any claim to special abilities to see into the future. At no point in this submission does the HBOC consider that the applicant is intentionally setting out to harm the local environment, however that is why environmental legislation recognises direct and indirect consequences of any development. Regardless of how well run or well-intentioned an enterprise may profess to be, accidents and misadventures can occur as a result of the enterprise or in this case its tenants or clients.

For the sake of the threatened birdlife that depends on the relative isolation of Dowardee Island we would ask the Council to recognise the precautionary principle in any assessment and recommend that this development not be approved. We would ask that the JRPP again reject this application.

Thank you for considering this submission, we confirm that the Hunter Bird Observers Club has never made any reportable political donations.

References:

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