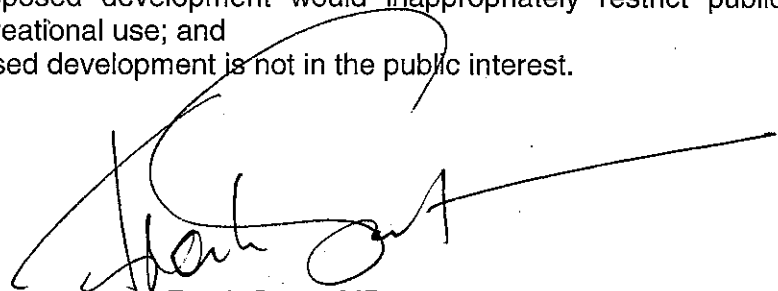


**DETERMINATION OF A DEVELOPMENT APPLICATION  
FOR STATE SIGNIFICANT, DESIGNATED AND INTEGRATED DEVELOPMENT  
PURSUANT TO SECTION 80 OF THE  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

I, the Minister for Planning, pursuant to section 80 of the *Environmental Planning and Assessment Act 1979* ("the Act") determine the development application ("the Application") referred to in Schedule 1 by refusing development consent.

The reasons for refusal are:

1. under section 79C(1)(a), the development application is inconsistent with the provisions of *State Environmental Planning Policy No. 55 – Remediation of Land*, because in undertaking the development, the Applicant may prevent or restrict future necessary remediation of contaminated sediments in Careel Bay;
2. under section 79C(1)(a), the proposed development is inconsistent with *State Environmental Planning Policy No. 71 – Coastal Protection* with respect to protection of marine vegetation, public foreshore access, visual impacts and impacts of the proposed development on water quality;
3. under section 79C(1)(a), the proposed development is inconsistent with the focus of *Pittwater 21 Development Control Plan* with respect to protection of seagrasses;
4. under section 79C(1)(a), the proposed development is inconsistent with the Government's Coastal Policy with respect to the principles of Ecologically Sustainable Development, particularly the protection and conservation of the natural environment, protection and enhancement of the aesthetic qualities of the coastline and provision of public access to foreshore areas;
5. under section 79C(1)(b), there is significant uncertainty over the potential impacts from the proposed development of sediment and contaminant disturbance, turbidity and water quality on the aquatic ecology of Careel Bay, particularly seagrasses;
6. under section 79C(1)(b), there is significant risk that the proposed development will increase the spread and hinder the effective management and removal of the noxious aquatic weed *Caulerpa taxifolia*;
7. under section 79C(1)(b), the Applicant has not demonstrated an adequate mitigation and management strategy with respect to elevated construction noise impacts on surrounding residential receptors;
8. under section 79C(1)(b), the Applicant has not demonstrated that night time noise impacts generated by third parties utilising the proposed development could be managed within acceptable local acoustic amenity limits;
9. under section 79C(1)(b), the Applicant has not demonstrated that parking requirements for the proposed development can be adequately provided and managed on the site;
10. under section 79C(1)(c), the proposed development is of a scale and intensity that is inconsistent with the locality and surrounding land uses;
11. under section 79C(1)(e), the proposed development would inappropriately restrict public access to waterways zoned for recreational use; and
12. under section 79C(1)(e), the proposed development is not in the public interest.



Frank Sartor MP  
Minister for Planning

Sydney,

14 Feb

2006

File No. S02/01724

## SCHEDULE 1

- Application made by:** Austral Monsoon Industries Pty Ltd ("the Applicant").
- To:** The Minister for Planning ("the Minister").
- In respect of:** Land described as Lot 254 DP752046, Lot 1 DP10337, and adjacent waterway within the enclosed waters of Careel Bay, Pittwater local government area.
- For the following:** The upgrade and expansion of Careel Bay Marina, Avalon, "the development".
- The scope of the development is described in the document titled *Careel Bay Marina Development, Environmental Impact Statement Volumes 1 and 2*, prepared by Paterson Britton and Partners Pty Ltd and dated June 2005. The Applicant proposes to upgrade and expand the existing marina in two stages:
- Stage 1 being the partial demolition of the existing Careel Boat Service marina and construction of new marina buildings and structures; and
  - Stage 2 including the expansion of the marina to include 37 new floating berths. The new floating berths would replace 37 existing swing moorings in Careel Bay.
- Development Application:** Integrated DA No. DA-144-6-2005-i lodged with the Department of Planning on 10 June 2005, accompanied by *Careel Bay Marina Development, Environmental Impact Statement Volumes 1 and 2*, prepared by Paterson Britton and Partners Pty Ltd and dated June 2005;
- State Significant Development:** The application was lodged under the then State Environmental Planning Policy (State Significant Development) 2005 (now State Environmental Planning Policy Major Projects 2005) because it is a development for the purposes of a marina or other related land or water shoreline facilities that would berth more than 30 vessels in tidal waters associated with Broken Bay.
- Determination:** Section 97 of the Act confers on an Applicant who is dissatisfied with the determination of a Consent Authority, a right of appeal to the Land and Environment Court, which is exercisable within 12 months after the date on which the Applicant received the notice of determination.
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