

Regarding Application SSD-5916, The Bay Resort, Anna Bay.

I, Andrew Coates, resident of [REDACTED] Anna Bay NSW, **object** to the development application SSD-5916. My wife and I, and our 4 young children, live in the house that runs parallel to the unnamed crown road that the development seeks to upgrade, and our backyard borders the proposed new carpark (Fig. 1). My wife grew up on this property as a child and we do not want to see this development go ahead, as we are convinced among other things outlined below, that will ruin our rural lifestyle and outlook, and will destroy the pristine wetlands and saltmarsh that is home to many birds, frogs and other native wildlife.



Fig. 1

There are key issues within the EIS that we feel are not adequately addressed. Issues surrounding the construction methods, noise, land fill, acid sulphate soils, destruction of wetlands and the impact on the idyllic, rural lifestyle that we enjoy.

Further details on our concerns follow:

AREA OF CONCERN	REASONS
<p>Footings/Piles for the construction of raised pathways, elevated units and foundations for carparks, roads, etc</p> <ul style="list-style-type: none"> Pile types Pile integrity in Acid Sulphate soils 	<p>Appendix A (p. 9) Drawing A100 points out all elevated structures will be on “columns”. The proposal lacks clarity regarding footing type and construction methods:</p> <ul style="list-style-type: none"> Will they be concrete, timber, steel, or ____? Will they be driven, poured, screwed, or ____? It is unclear. <ul style="list-style-type: none"> The amended EIS_26_03_21 states the “Footings for the walkways, units and buildings will most likely be piers driven to an acceptable bearing layer... footings for the structure of proposed buildings will most likely be piers driven to an acceptable bearing layer” (6.9.3 Assessment p.91). It is recommended that all concrete footings/slabs constructed in the presence of Acid Sulfate Soils are to be constructed using a minimum concrete exposure classification of B1 (6.9.3 Assessment p.93). However, since the proposed site contains Acid Sulphate Soils (ASS) as stated “it is expected that acid sulphate soils will be encountered during the construction of the footings (6.9.3 Assessment p.91). If concrete piles/footings are used, research shows that “concrete can be corroded by sulphates” (A.F Van Holst & G.J.W Westerveld p.377) and that, “Acids in concentrations common to natural waters can dissolve carbonates at the surface of the concrete and leach out lime. The concrete deteriorates because the calcium hydroxide in the cement paste is attacked by the acids to form water soluble salts subsequently leached out. Sulphuric acids may also cause swelling of the paste with subsequent cracking” (NSW RTA, 2008 - p.4). Concern: the entire development could collapse (in time) if footings and materials supporting elevated structures are not suitable to withstand ASS levels for 100+ years. Concern: Inadequate care taken in planning for and establishing strong stable footings could leave the development unfinished, like the large unfinished Anna Bay resort on Gan Gan Rd only a few kms away which is an eyesore for our community and a stain on local tourism. Further research into the exact acid sulphate levels expected to be encountered exactly where concrete piers are to be used needs to be completed so that the proposed B1 classified concrete can be confirmed safe for use on the proposed site.

<ul style="list-style-type: none"> • Access for heavy machinery • Impact on wetlands • Noise impact of pile driving • Lack of Geotechnical transparency 	<ul style="list-style-type: none"> • Further Research to establish required depth of driven piers as “acceptable bearing layer” is undefined and could be 12, 30 or 50m deep. • How will the piles/footings be installed in without damaging the wetlands? <ul style="list-style-type: none"> ○ No roads or construction roads are on the plans that provide access for heavy machinery to dig holes or drive piles across the wetlands. ○ Access roads would need to be built for heavy machinery to access the site, which would do permanent damage to the wetlands. ○ Such roads would then need to be removed and the wetlands somehow restored. This seems improbable and ultimately ruins the ‘eco’ aspect of this proposed development. On this basis the proposed design is not consistent with maintaining the ecological condition of the site and should be rejected. • Twice, mentioned above, the proposed development plans to use “driven” piers. Driving piers generates both point source noise and line source noise. Without exact specifications of pile type (size and material) and driver equipment to be used (hammer size, hydraulic system, diesel or air system) it is impossible to give clear indication of the level of noise impact on residents. • “Appendix S – Noise Impact Assessment” makes no reference to the noise created by pile driving and is therefore insufficient in its analysis of the level of noise impact to be potentially experienced by residents adjacent to the site. • Concern: Living in the property adjacent to the proposed site, the amount if noise generated by pile driving will be highly disturbing and will continue for a long time. <ul style="list-style-type: none"> ○ I study/work from home, and ○ We home-school our 4 children, so we are home all day. ○ We would therefore not escape the noise ○ Undefined pile depth means unquantifiable noise impact. More research and analysis required. • More details need to be provided regarding the exact type of piles to be driven, and the method of driving so that a more accurate noise impact assessment can be produced. • Many times, and in multiple reports, references are made to the 2016 Douglas Partners Geotechnical reports, but this report was not made available as part of the public exhibition. Why? How are we meant to look at the data if it is not made available?
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<p>Earthworks, upgrade to unnamed Crown Road & proposed carpark.</p> <ul style="list-style-type: none"> • Noise impact • Damaging Vibrations • Water run off • Loss of privacy and rural lifestyle • Carpark 	<p>Appendix Q refers to approx. 40,800m³ of fill (p. 4) to be trucked and dumped on the development site. At an estimated 10m³ per trailer, that's 4,080 trailers that all have to come past my front door (and that's after the access road is upgraded).</p> <ul style="list-style-type: none"> • No mention of trucks coming past my front door in Noise Impact assessment. We work from home and home-school our kids, so we are home all day – no escape from the noise. These trucks will be coming past all day every day for months with nonstop disruption. • No mention of road upgrade noise in Noise Impact assessment, despite the new road and footpath being proposed to come within meters of my front door. • Constant traffic of tourists coming in and out all day and night. Appendix S (p.5) references 660 vehicle movements a day, plus 1095 vehicle movements per day on Nelson Bay Rd. This massive increase in traffic past my front door is a major intrusion on our lifestyle and will generate constant noise. • No assessment has been done to measure the likelihood of road upgrade construction and earthworks creating destructive levels of vibration. My house is a relocatable home on brick piers, I fear the earthworks and road upgrade will damage my foundations and my house (just as the upgrade to Nelson Bay Rd left cracks in the plaster in my in-laws house at the top of our property). • The proposal seeks to raise the ground with fill along our back fence to 3m (p. 6 Appendix Q, & p.1 Appendix D) for the proposed car park. How will the developer mitigate the water runoff into our yard and the potential flooding? • This fence/boundary has an existing drain that has water in it for weeks after heavy rain, if the land is filled as proposed I fear the water run off onto my yard will be significant, flooding our fruit trees & back yard. • The proposed new footpath past my front door will see pedestrians walking past, taking away our privacy and the peaceful atmosphere we have in our front yard. It will also see a large section of our vegetable garden destroyed by road and footpath upgrades. (Fig. 2) • Constant traffic past our front door will erode our privacy and sense of being in a rural environment, instead of hearing the birds and frogs, all we will hear is car engines. • Proposed Architectural Design Report (02 Project Description, p.5) states that the unnamed road coming off Nelson Bay road will be "15m wide" whereas p.5 Appendix D shows the upgrade section being 8m wide. Which is it? • Proposed Architectural Design Report (02 Project Description, p.7) states the development seeks to focus on
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	<p>“non-vehicular movement” yet is proposing 112 car spaces for 117 units. Why so many? How is such a large number of spaces consistent with the developers claimed desire to “Encourage and support expanded and new alternative forms of transport to the car such as bus, walking, cycling, and car share”? (p. 8) This carpark looks more like a carpark for a hotel, not an Eco resort.</p> <ul style="list-style-type: none"> • p.2 Appendix K mentions the units will have “kart access” – how is having karts for guests a “less vehicle dependant” strategy? Where will these Karts be parked? How noisy will they be as they drive along the elevated walkways? • The impact on our lifestyle will be significant, not only during construction but also during the resort’s operation. Consider the outlook we currently enjoy, and that my family has enjoyed for over 30 years. (Fig. 3)
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Fig. 2 Our current front yard and seasonal veggie garden, with existing single lane gravel road that sees only 8-10 vehicle movements a day. Here you can see over 100 bulbs of garlic, rhubarb, beans, passionfruit and a single pumpkin from the end of the summer crop. The proposed crown road upgrade (8 or 15m ??) will have a significant impact on our garden (that has been in use for years), with earthworks for the road upgrade likely to destroy part of it, and more of it to be destroyed by the construction of a proposed footpath.

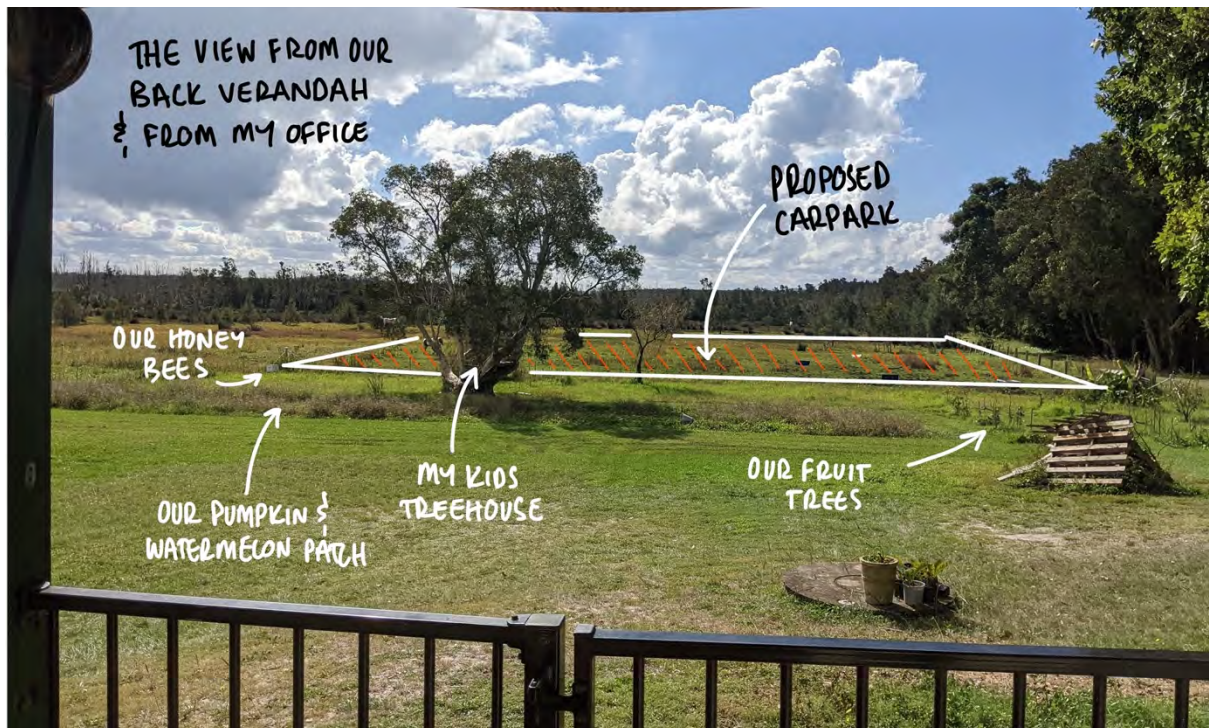


Fig. 3 – This is the view off the back end of our veranda, which is also the view out the window from my office that I spend most of my days in. The proposed development seeks to raise the paddock to 3m with fill, and then screen off the property with “screening” completely ruining this view and potentially damaging our land with water runoff.

	<ul style="list-style-type: none"> Proposed Architectural Design Report (p.21) states “The idea of sustainability, or ecological design, is to ensure that our use of presently available resources does not end up having detrimental effects to our collective well-being” – however it seems as though the collective wellbeing of my family and our rural lifestyle is not being considered at all.
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Misleading visual representation and visual impact reports

The visual representation of the proposed development, by N2 Architects is highly misleading. I fear that the community, and assessors, are not getting the full picture of how much this development will impact on local residents. Fig. 4 shows the differences between real images (Near Map) and the developer’s visualisation. Homes are missing and have been replaced with trees, in fact, my entire backyard is covered with trees and my house is gone! So too for my neighbours. **Why is the developer hiding us? Why are these images so misleading?** It’s one thing to add detail to the development site of “what will be”, but to add huge amounts of tree coverage to surrounding properties and to hide the existing residents’ homes is deceptive. This illustrates the level of community consultation that has happened since 2017, which is zero.

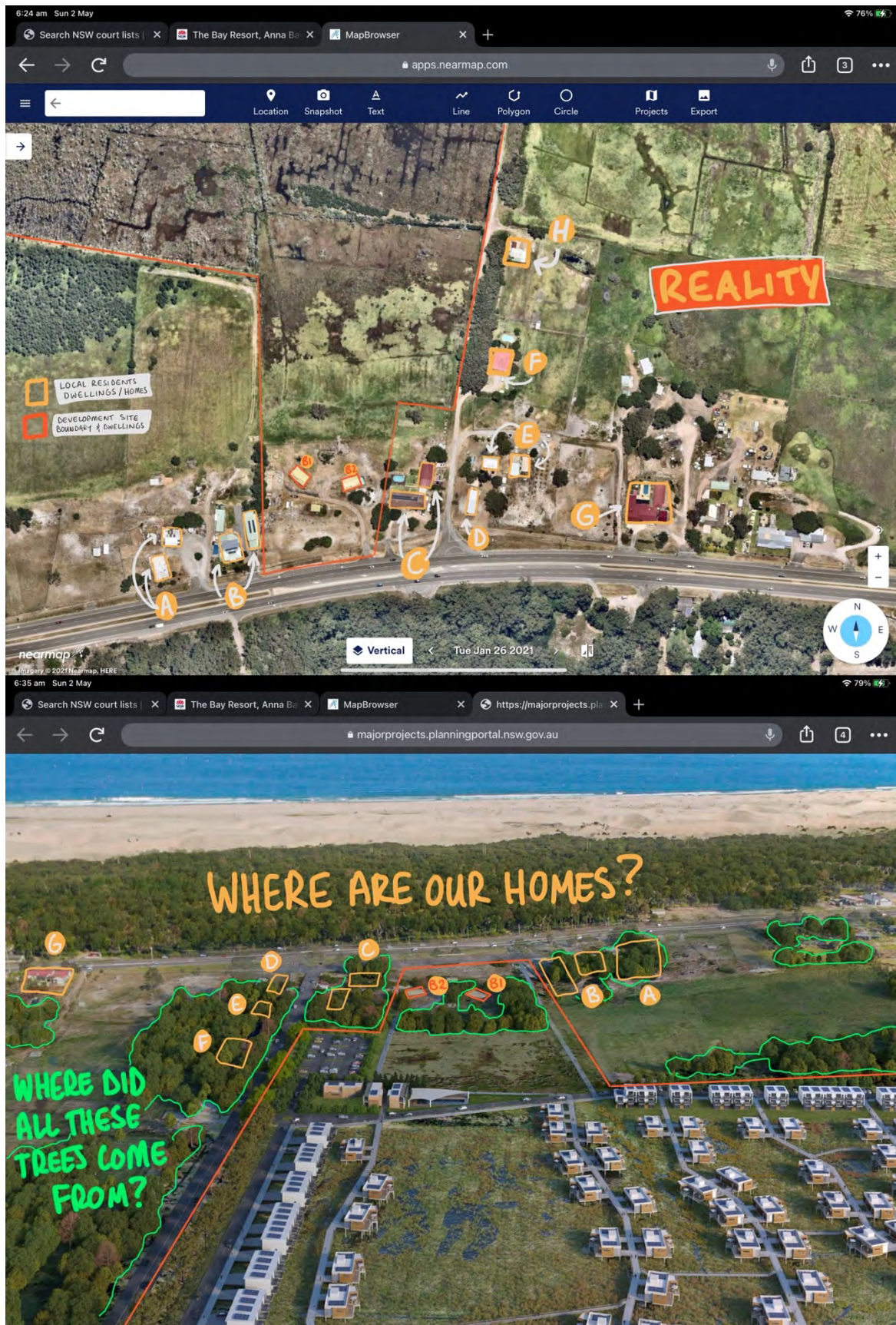


Fig. 4 – The visualisation of the development has covered existing residents' homes with trees (11 residential buildings missing), giving false impressions of the low impact on residents. My home and all my immediate neighbours' homes have been removed.

Further misleading visuals – Appendix L - Landscape and Visual Assessment

3.1 – p.21 states that VP01 is located at the U-Turn bay where the unnamed crown road meets Nelson Bay road and gives the street address [REDACTED].



Quote: “A total of 7 viewpoints were recorded as part of the field work process. The majority of these viewpoints were taken from publicly accessible roads surrounding the site. The viewpoints which have been included *represent the areas from where the development would appear most prominent*, either based on the degree of exposure or the number of *people likely to be affected*. It is important to note that viewpoints for this study have been taken only from accessible public land.

- VIEWPOINT1-4181NELSONBAYROAD” - (emphasis added is mine)

The photo that was published for this ‘location’ was this, which is not taken where they have marked the map:



FIGURE 15 VP01 - PROPOSED DEVELOPMENT



The yellow dot shows where the photo was actually taken from.

If the photo *had been* taken from the location the report claims, it would look like this:



Image source: Google Street View

Here you can see the unnamed crown road and to the left, my in-laws house (which my house is behind) and to the right the refurbished church that is now a private residence.

Why is the developer hiding the residents that live next to the proposed site?

Why were the photo locations and actual photo's not matching reality?

It seems as though the impact on residents is not being fairly represented.

The analysis of the published photo and subsequent visual impact is on p. 23 of Appendix L:

"ANALYSIS

It is likely that visual receivers in this location will be vehicles traveling at medium to high speeds, viewing time is likely to be limited to a few seconds as the vehicle moves closer to the site driver's frame of vision will be impeded by small Clusters of vegetation that line the northern side of the road. The prominence of the development in this location is considered moderate as it is likely to result in a perceived alteration to the existing land-use however it is

foreseeable that mitigation measures such as installation of screening vegetation will ensure recovery in the medium term.”

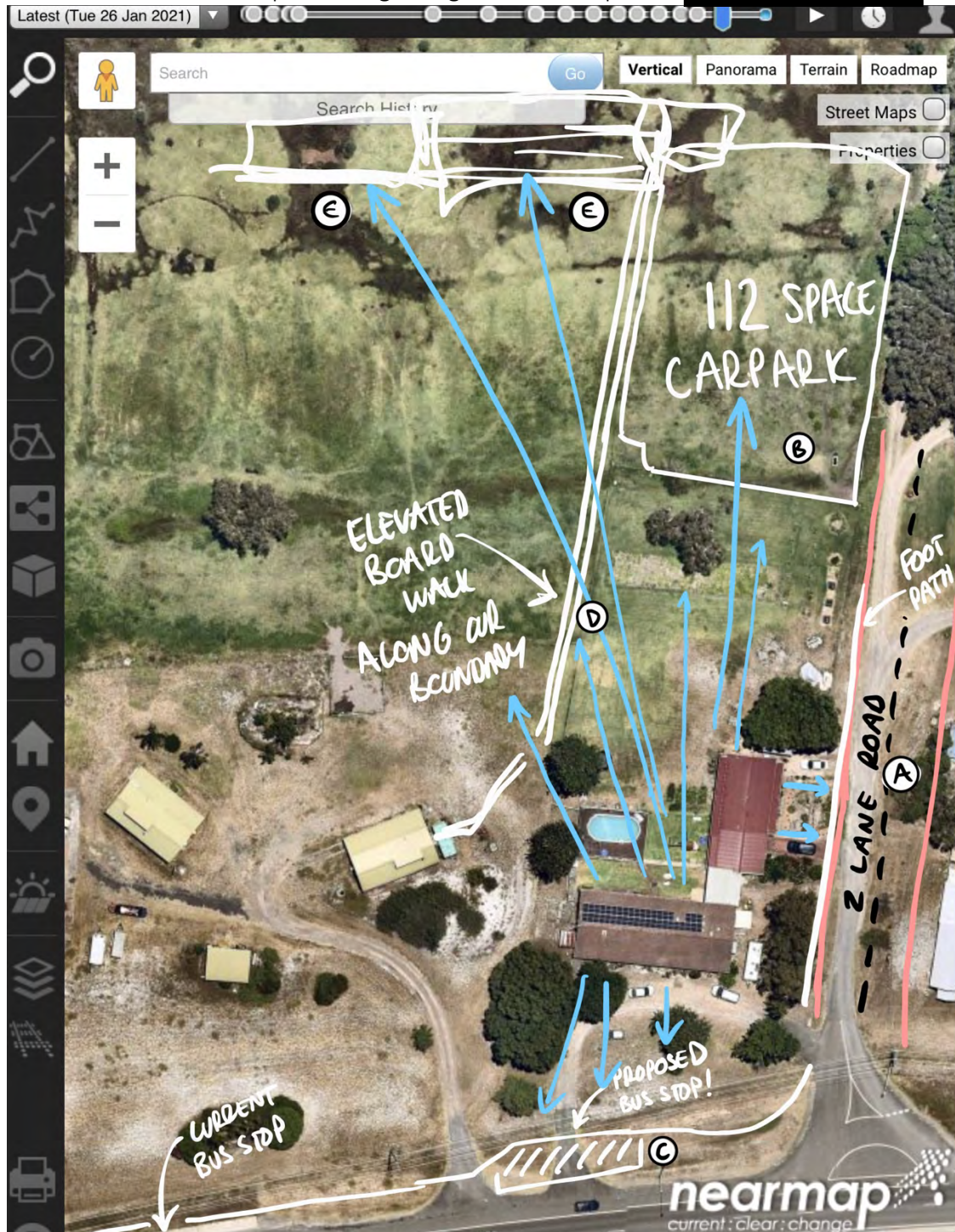
This analysis assumes that only passing traffic will be impacted at the location of [REDACTED] [REDACTED] – which is where I live with my wife and 4 kids, and my in-laws live as well.

Why are we not even being acknowledged?

- Our home (and our neighbours’ homes) has been hidden with trees in the visual representation, and the published photos from the street do not show our homes, despite supposedly being taken from our street address.

This all appears misleading and deceptive.

Here is a more accurate picture regarding the visual impact at [REDACTED]:



- A: Pedestrian footpath and two-lane road less than 10m east of my front door
- B: 112 space carpark, raised to 3m, dominating the landscape in our northern outlook
- C: Proposal to move the bus stop directly across my in-law's driveway, blocking their direct access to Nelson Bay road.
- D: Elevated pedestrian walkway/boardwalk to the midden, straight across our line of sight out our back verandas
- E: Extensive admin buildings, café, gym, pool, reception, lounge, etc. in clear view as the wetlands are filled up to 3m, ruining our view.

The real potential impact on me and my family is not acknowledged, in fact it appears to be intentionally hidden. This is not acceptable and continues to point to the lack of community dialogue since 2017.

3.8 Viewpoint analysis p.34 states:

“A key consideration in the assessment of the visual impact of the proposal will be the perception of local residents to elements that evoke a variety of responses.

Whilst the degree to which a development the scale of the proposed resort is visible from certain vantage points can be quantified, the degree to which the viewers will be impacted is influenced by an individual’s perceptions of what change will bring. The residents and users of the landscape surrounding the site will reflect a range of sensitivities. The degree to which the changes to the landscape are perceived negatively will in the end depend on the actual users / resident”

If the developer knows the visual impact will ‘provoke a variety of responses,’ why are they hiding the impact it will have on us?

Conflict with the ‘Port Stephens Rural Residential Strategy / Volume 1 - Context and Issues’ (PSRRS)

The PSRRS (August 2015 | N-15008) p.9 – states, that according to the 2008 State Environmental Policy (Rural Lands), that part of the guiding principles include:

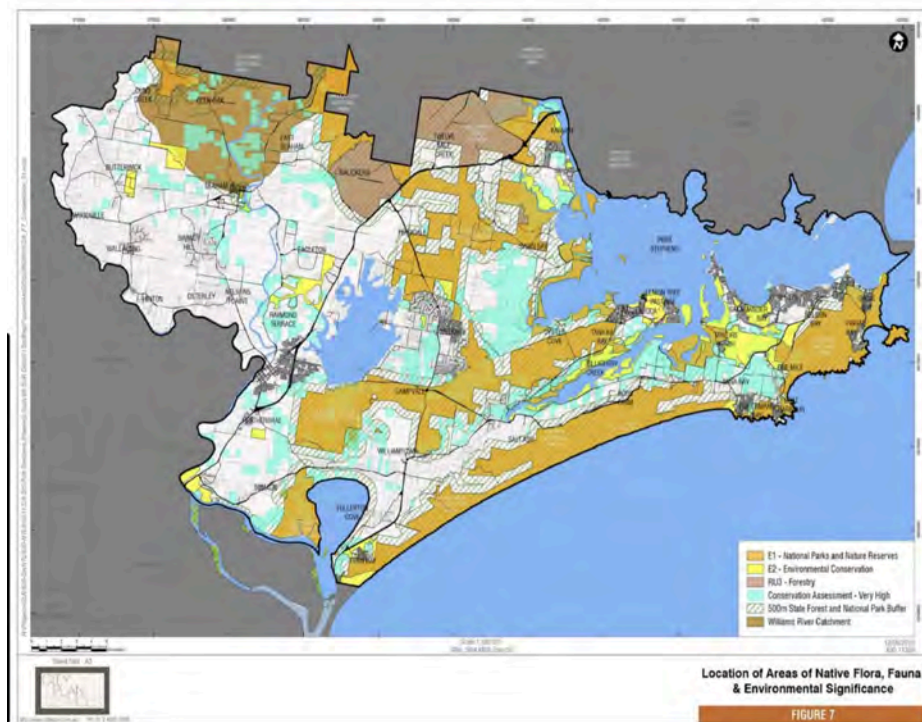
- in planning for rural lands, to balance the social, economic and environmental interests of the community,
- the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- - the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

I do not believe that the proposed development is consistent with these principles, as not only will it have significant impact on the biodiversity and water resources but will have a significant impact on the ‘rural lifestyle’ that my family and the surrounding residents currently enjoy.

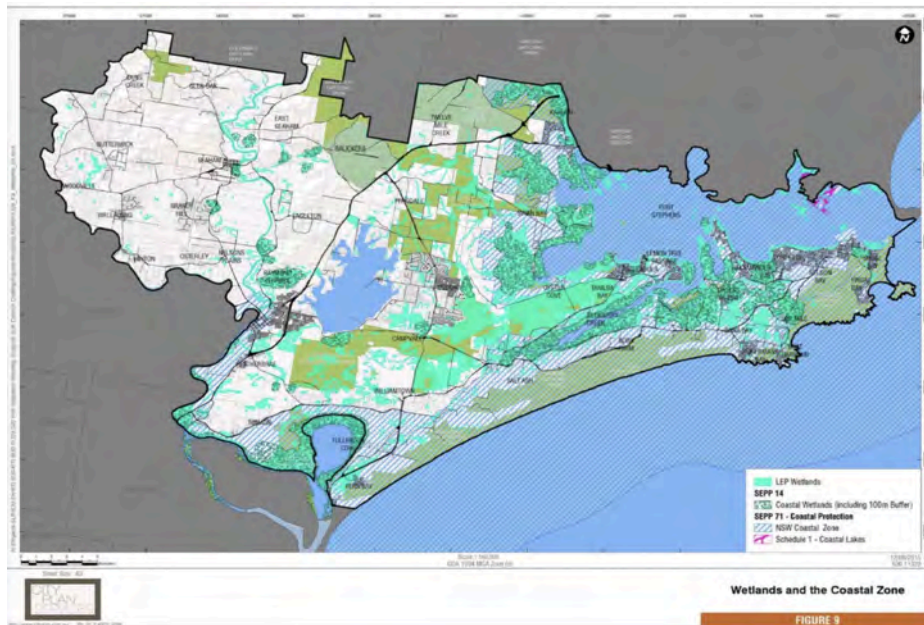
p.10 of the PSRRS states: “2.2 Local policy context - Port Stephens Planning Strategy 2011. The PSPS identifies the 'need to ensure that prime agricultural land and important rural landscapes are protected from undesirable development”. The proposed site should be protected from any kind of large hotel/tourism development.

p.13 of the PSRRS states, “3.2 Cultural and physical environment Environmentally sensitive land - This is defined by State policy to include coastal lakes and SEPP 14 wetlands that are shown in [Figure 9a]. Other important wetlands are shown in [Figure 7a - below] and development should be avoided in these areas.

[Figure 7a]



[Figure 9a]

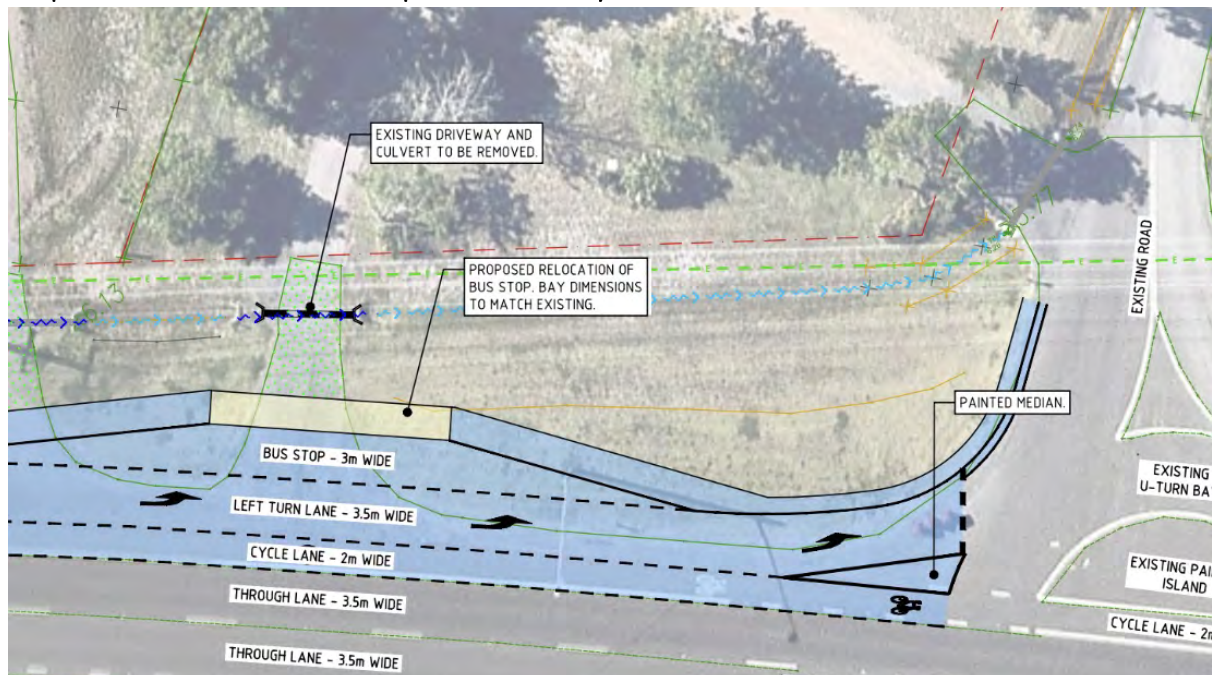


It is clear that the proposed development site has for a long time been considered 'Very High' for Conservation Assessment and that development should be avoided based on the predetermined value of preserving LEP Wetlands and Coastal Wetlands.

p.15 of the PSRRS also states, "4. Supply and Demand Analysis 4.1 Supplies of land in Port Stephens LGA. It therefore can be assumed that there is an existing low supply of zoned vacant rural residential land in the Port Stephens LGA"

This planning document points out that rural residential living is already in low supply in Port Stephens. On this basis also the development proposal should be declined as it will turn the location into a tourist site with regular increased traffic, a car park full of lights, and a visual impact that is inconsistent with rural living.

Proposed relocation of Bus Stop on Nelson Bay Road



In order to put in the slow down lane, the proposal seeks to relocate the Bus Stop directly across my in-laws driveway at the top of our property. The plan clearly states, “Existing driveway and culvert to be removed” – how is this okay, and how is the impact on the resident not even acknowledged?

Light Pollution

Currently, there are no lights behind our house, just wetlands. The proposed site plans to put a large carpark across our back fence which one can assume will require to be well lit for the guests. This, as well as general light from units, additional roads, buildings and walkways will mean the proposed site will be lit up all year round.

This will impact on nocturnal animals, birds and bats, forcing them out of the area and disturbing the delicate balance within the wetland ecosystem. This light will also become a constant visual disturbance, every single night, for my family and all neighbouring residents.

Noise Impact Assessment (Appendix S) (NIA)

p.4 – states: “4.3 Traffic noise 4.3.1 Road realignment. The alignment of Nelson Bay Road at the intersection with the access road to the subject site in 2015, at the time of the previous assessment.” And on p.5, “Based on the centre point of the road having moved from 52 m to 82 m from N1, the distance correction for road traffic noise (considered a line source) is $10 \cdot \log(52/82) = -2$ dB.” This traffic and noise assessment fails to recognise that while Nelson Bay Rd *was* moved back from our property by 30m, the road had 2 extra lanes added and therefore doubled in width to become a four-lane highway. This has since increased the traffic capacity and therefore the noise. This detail is not given due attention in the NIA and renders the report insufficient.

The NIA concludes that the impact on residents will be low. This does not agree with other reports. For example, p.8 Appendix I states that one of the ‘Design Specific Initiatives’ will be to ‘design all buildings which are exposed to road noise with noise barrier planning principles, including limiting the number of habitable rooms facing the noise source, by providing two layers of operable glazing...’. Why does the design of the proposed accommodation acknowledge the impact of noise on tourist residents, but neglect the impact on existing rural residents such as myself and my family? If the accommodation needs extra glazing and will be kept away from the road, surely that suggests the level of noise from the road will be of concern.

We have 5 bedrooms in my house, all of them face the unnamed Crown Road where 4000+ trucks of sand will come past to fill the site, where roadworks will take place and where a constant stream of tourist traffic will be coming in and out if the proposal goes ahead. Appendix M in the Biodiversity Report (Edge Effects, p.22) points out that “light and noise levels and vegetation structure) are the most likely tangible impacts that may arise from the Project.” The inconsistencies regarding the potential noise impact suggests that a new NIA is required, one that considers the true impact on the residents at [REDACTED] and surrounding residents.

Appendix M – Biodiversity Assessment Report (BAR)

p.25 states that “All contractors will be specifically advised of the designated work area. The following activities are not to occur outside of designated work areas to minimise impacts on native vegetation:

- Vehicle movements;
- Storage and mixing of materials;
- Vehicle parking;
- Liquid disposal;
- Machinery repairs and/or refuelling;
- Construction within the Site office or shed;
- Combustion of any material;
- Inappropriate stockpiling of soil, rubble or debris; and/ or
- Any filling or excavation including trenching, topsoil skimming and/or surface excavation”

Where will all this take place? There is no reference on the plans that identifies these locations, how they will be accessed and how the safety of these various worksites will be ensured. Especially concerning is the storage of large quantities of lime for treating Acid Sulphate Soils. So, where will the Acid Sulphate Soils be treated? Where will the dewatering take place? And what measures will be taken to ensure that these “designated work areas” will have a minimal “impact on native vegetation”? Building access roads on a wetland cannot be done without destroying the wetlands.

The logical assumption is that the space designated for the carpark may be used as the ‘work area’ for all such activities during the construction phase. If so, that means all these work areas would be right up against my backyard where my kids play and climb their favourite treehouse we call ‘the pirate ship’.

Appendix L, p. 44 – states, “Work/site compounds would be screened, with shade cloth (or similar material) (where necessary) to minimise visual impacts key viewing locations. The location of compounds and storage should not be in the vicinity of Taylors Beach Road or Nelson bay Road.”

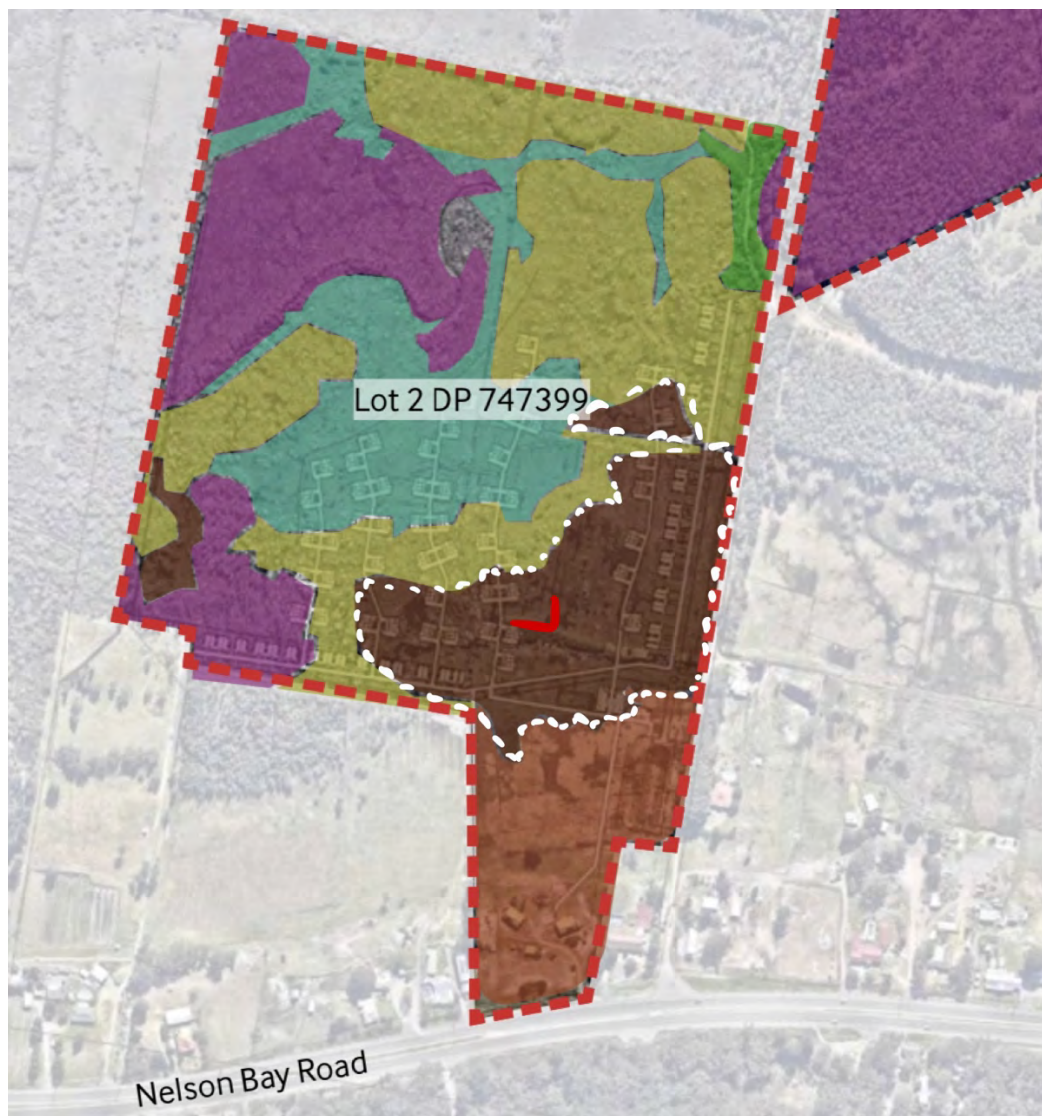
Again, **where are these compounds going to be** if they cannot be “in the vicinity of Nelson Bay road” and there are no provisions on the plans for compounds to be on site?

Appendix T – Mosquito Management Plan (MMP)

p.1 States that part of the management plan is “urban planning”. How will “urban planning” help manage the mosquito population?

It seems that the only real effective strategy suggested is ‘chemical’ – this however is inconsistent with an ecological approach to building a resort (p.1 & p.10)

p.7 points out that the Wetland Saltmarsh that the proposed site consists of, “stagnant water bodies and are favoured by mosquitoes as breeding grounds. They are therefore regarded as a high-risk area [for mosquitos]”. According to p.14 Appendix L (Landscape and Visual Assessment), approximately 50% of the proposed building area (accommodation) is on HU960 Saltmarsh Estuarine Complex (as shown below). In the EIS 6.7.5 it states “The proposed eco-tourist development provides a minimum of 100m buffer from the coastal wetland boundary” – if the mosquitoes fly around my house and cause me to call the kids inside each evening, how will the 100m buffer stop the mosquitoes from terrorizing the resort guests and staff? How many tourists would want to stay in elevated cabins over mosquito infested saltmarsh? This site is not suitable for tourism.



Appendix V – Preliminary ASS Plan (PASSP)

p.7 – “4.3 Oxidation of Sulphide and Neutralising Acid as it is Produced - Estuarine water has dissolved carbonate and bicarbonate which assists in neutralising acids. This process has a negative impact on aquatic ecosystems, especially in closed or partially closed systems. Given the site is heavily influenced by downstream tides; this is unlikely to be a problem.”

The suggestion that ASS is “unlikely to be a problem” is not very comforting when based on the assumption that the tidal influence may have a positive effect.

What effect will there be on our drinking (bore) water if the tides do not have the hopeful effect? What about our fruit trees, the local wildlife, frogs, birds, etc?

p.7 continues; “A number of neutralising agents are available to treat AASS, with the most common being fine agricultural lime. Generally, a specific area will be allocated for bunding and provision for the collection and treatment of leachate included. Treatment involves spreading the soil in thin layers on a bed of lime, air drying and mixing in lime at the required rate”

Where will this “specific area” be?

How much airborne lime and ASS will be carried by the wind into my house and around my property?

What are the health issues that we could possibly be facing?

Concerning the “Contingency Procedure Plan” on p.11 – It states, “The purpose of the Contingency Procedure Plan is to clearly set out the process governing what should happen if the above Acid Sulphate Soil Management Strategies fail.” It then goes on to say a few sentences later, that if remedial action is required, the plan is that “a remedial action plan should be formulated by the site developer”. A plan to make a plan is not a plan. If it all goes terribly wrong and a restoration plan is needed to be enacted, the plan is that “if the Acid Sulfate Soil Management Plan or Remedial Action fails, construction should cease and action to restore the site to a condition equivalent to that prior to the commencement of the project should be undertaken.”

Firstly, this sounds too vague since the “remedial plan” is not even drafted yet.

Secondly, should the developer be required to “cease [construction] and action to restore the site to a condition equivalent to that prior to the commencement of the project”, what guarantee will the local council and state government have that the developer has the equity to finance such a restoration? Only 5km away from the proposed site is the failed Birubi Beach resort, an eyesore of a derelict, have finished resort that has been sitting idle for years. I suggest the developer pay a bond to local council to ensure the cost of the site restoration, should it be needed, can be done promptly and effectively.

In summary, I believe the **proposed development is not acceptable as the 'eco-tourist resort'** cannot be constructed without doing significant and permanent damage to the tidal estuarine / saltmarsh wetlands, destroying the pristine natural ecosystem. This site should be left as it is and, as the planning documents referenced above point out, **development should be avoided in this area and this application should be rejected.**



Would be a shame for this view to be turned into a giant, raised car park.

References

- A.F Van Holst & G.J.W Westerveld (n.d). Corrosion in Concrete Foundations in (Potential) Acid Sulphate Soils and Subsoils in the Netherlands -
http://www2.alterra.wur.nl/Internet/webdocs/ilri-publicaties/publicaties/Pub18_vol.2/Pub18v2-h13.pdf
- NSW RTA (2008). Acid Sulphate Soils – Concrete Structures... https://roads-waterways.transport.nsw.gov.au/business-industry/partners-suppliers/documents/technical-directions/btd2008_12.pdf
- Port Stephens Council, (2015). 'Port Stephens Rural Residential Strategy / Volume 1' - Context and Issues
<https://www.portstephens.nsw.gov.au/trim/other?RecordNumber=20%2F192966>