



## **TRRA Inc SUBMISSION ON - SSD 5916- Anna Bay Tourist Facility**

### **BACKGROUND**

The Tomaree Ratepayers and Residents Association Inc (TRRA) is an incorporated non-profit Association which represents the community on a range of issues which affects the Tomaree Peninsula in Port Stephens LGA, including planning and development, economic development, cultural infrastructure and resources, the built and natural environment, tourism and other grass roots issues.

TRRA Inc reviews major development proposals such as “The Bay Resort” with the objective of ensuring that our unique natural environment is protected and enjoyed by future generations. TRRA also recognizes the importance of sustainable development as a means of providing for a healthy local economy and associated employment opportunities.

TRRA Inc has participated in the preparation of the major Strategic Planning Initiatives impacting on Port Stephens undertaken by Port Stephens Council and State Authorities. Our organization has an interest in ensuring that development proposals are consistent with the visions and standards of these strategies and of applicable State and Local planning instruments.

The Proposal in SSD 5916 for the “The Bay Resort” has attracted the status of a “State Significant Development” due to its scale and estimated cost of CIV of \$230 million. A project of this scale is of interest to TRRA. We are also prompted to make this submission because of the location of the development in land zoned RU2 (Rural Landscape) fronting Nelson Bay Road, which is the only entry road to the heart of the Tomaree Peninsula. Further concerns relate to the physical and environmental constraints of the site.

While we recognise that the Tomaree Peninsula and its communities would benefit from a major tourist development of this type, we do not believe that those benefits should be at significant expense to the environment or at the risk of allowing an unsustainable project to proceed on an unsuitable site.

## SUBMISSION

### Overview

The public files which provide a background to this proposal, available on the Department of Planning website, include a copy of the 2006 Determination of Development Application No. 164-7-2005. This Application, a decade ago, was for a tourist facility on the same site of a similar scale, but then also incorporating a 4.5 hectare artificial lagoon. The Minister for Planning refused the development application. The Determination includes 16 reasons for refusal, many of which refer to issues arising from the environmental constraints posed by the site.

TRRA wishes to draw attention to the following reasons given in the 2006 Determination, which we suggest may still be particularly relevant to the current application:

*“9. The development proposal is unacceptable as the scale of the proposal is out of character with the surrounding area and is inconsistent with clause 2(1)(k) and clause 8(d) of SEPP 71.”*

*“11. The development proposal is unacceptable as it will adversely impact on the visual amenity of the locality in that it is inconsistent with Clause 8(f) and clause 2(1)(e) of SEPP 71 and clause 44 of LEP 2000.*

The amended proposal presented in Application SSD 5916 has addressed many of the specific issues raised in the earlier Determination. Key modifications include a significant reduction in the footprint of the resort and removal of the proposed lagoon. However, TRRA is not convinced that it is possible to overcome the fundamental issues arising from the unsuitability of the site and its location.

In particular we do not believe that the problems raised in reasons 9 and 11 above can be overcome.

We are also concerned about the potential for adverse environmental outcomes if the project is commenced but not completed. TRRA made cautionary submissions on another major tourist resort proposal which was approved by Port Stephens Council for a site which was zoned for Rural Use on Gan Gan Road west of Anna Bay Township. Although this site was closer to an urban area and to the natural and scenic attractions of Birubi Point and Beach, it had equally challenging environmental constraints associated with the adjoining drifting sand hills of Stockton Bight and its location was not within easy walking distance of local attractions. After substantial work had been completed at this site, it is now derelict and an eyesore of major proportions at the entry

to a world class tourist attraction. We have been seeking advice as to what provisions apply in development approvals to ensure that such sites are rehabilitated should the development fail. We have suggested a requirement for a financial bond to be lodged at the outset to cover the costs of any required site remediation. While it seems Council as consent authority cannot impose such a condition, the Minister may be able to do so.

In the Executive Summary of the EIS for the latest proposal for The Bay Resort a Project Benefit is stated to be ( page iv):

*“The Bay Resort has the potential to attract new visitation to the Lower Hunter region and revitalise regional tourism and economic activity. The proposed development will target a tourism market segment not catered for by current tourism offering”.*

In Section 1.2, (page 4) it is further stated that an objective for the proposed development is to:

*“Establish a world class five star international eco-tourist resort”.*

Section 1.4 Strategic Need for the Proposal states that:

*“The proponent considers the unique natural settings of the site to be a major benefit to the proposal. This extends to the production of a proposed management plan for the remaining natural areas of the site to allow tourists (and potentially members of the public) to observe and appreciate the environmental characteristics on this part of the site. The proponent regards this natural context as being an integral component of the project so that the resort should be planned, designed and constructed to reflect the environment”.*

Throughout the EIS there are many more references to the potential of the site to sustain an Eco Resort and that this development will tap a new international market at the 5-star level. The content of the EIS does not cite specific market research or opinions from major tourist authorities which justify these statements, apart from some limited references in Appendix 16. Details of Consultations are provided in Section 4, commencing at page 20. While a range of NSW Authorities are cited, there is no reference to advice or comment having been sought from government tourist authorities or commercial tourism operators to support the market potential of the site, or the Eco resort offer. One might have expected that a project with a CIV of \$230 million would need advice on markets from agencies such as Tourism Australia, Destination NSW, and Destination Port Stephens.

While TRRA appreciates that Port Stephens and the Hunter region have many highly attractive tourism attractions and that the Tomaree Peninsula is well endowed with a variety of “eco” assets, the proposed site and its location may not be able to sustain the scale and standard of the resort as contemplated. The location is 10 km south west of Nelson Bay and the water based attractions of Port Stephens. It is around 3 kilometers from Anna Bay and Birubi Point and there is no possibility of views to these natural attractions. While much is made of the

Site on Nelson Bay Road as having its own intrinsic potential for eco-tourism, TRRA believes this needs to be thoroughly tested.

In the absence of attractive on-site vegetation and other natural assets it seems that the Eco Resort would need to rely on clients travelling to the various attractions on the Peninsula by car or bus. Resorts in such relatively isolated locations normally need to offer other amenities such as a swimming pool or golf course to attract visitors. No such supporting infrastructure is proposed apart from a reference to there being potential for roof top pools.

## **Zoning**

The site of the proposed tourist development is zoned RU2 (Rural Landscape) under the Port Stephens LEP 2013.

The prescribed uses for this zoning are as follows:

### **Zone RU2 Rural Landscape**

#### **1 Objectives of zone**

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

#### **2 Permitted without consent**

*Extensive agriculture; Home occupations; Intensive plant agriculture*

“Tourist and Visitor Accommodation” is listed among other uses which are permissible with consent, as is ‘Eco-tourist facilities’. However “Hotel or Motel Accommodation and serviced apartments” are prohibited uses.

The EIS describes the proposed development (page iv) as “*a five star international eco hotel incorporating 150 hotel rooms, internal restaurant and cafe, internal retail space, multi-purpose theatre and associated car parking. It will also include construction of three tourist accommodation buildings incorporating a total of 219 units.*” On page 11 tourist accommodation is further described as consisting of “*2-3 bedroom self-contained accommodation units*”.

TRRA questions whether prima facie, the proposal for an eco hotel, referred to elsewhere in the EIS as “a five star hotel” (page 11) may actually be a prohibited use. Similarly, although there is no comment to the contrary, it would seem that the “self-contained accommodation units would be “serviced” to meet the requirements of tourists and may in fact be little different from the prohibited category “serviced apartments”. TRRA suggests that the assessment process seeks more detail and clarification of these points.

Our understanding is that the provision for 'Tourism and Visitor Accommodation' in Rural Landscape zones is intended to allow for small scale developments such as barn conversions or small numbers of cabins, while major accommodation development proposals should initially go through a re-zoning process. Furthermore, the provision for 'Eco-tourist facilities' should not be read as an alternative basis for major accommodation developments.

The EIS states that the portion of the site proposed for development does not sustain any significant agricultural use and does not have potential for such use. This claim is not disputed by relevant authorities.

The EIS under the heading of Visual Assessment Section (5.11.1) page 84 states:

*"The Project, as proposed, will change the landscape however beyond this it will have little impact on the local area. The landscape character of the setting is largely rural and much of the existing natural landscape surrounding the site comprises a dense band of vegetation. The effect of this, in a number of cases, has been to effectively contain the view shed to the immediate vicinity, limiting more distant views".*

TRRA queries whether it is possible for a development of this scale and nature to be consistent with the objective "to maintain the rural landscape character **of the land.**" See Figure 3 on page 13 of the EIS which shows the proposed development in its rural setting. The reference to "of the land" was an addition to this objective in the revision resulting in the 2013 LEP (in the equivalent zone descriptor in the LEP 2000 it was 'of the area'). This limitation of the area to be assessed for this objective would seem to make it more difficult for a project of this scale to comply.

It is also stated that most views to the resort will be from Nelson Bay Road but that these will be rendered less significant by proposed landscaping.

On balance we believe that a development such as "The Bay Resort" would be better located in land zoned for urban or commercial purposes. If rezoning is required for a particular development, there is a well-established "Planning Proposal" process which fully evaluates the suitability of the site and location for that change in use.

The addition of yet another intense non-rural use to the string of inappropriate land uses along Nelson Bay Road is unacceptable. The unsightly strip development now extending along this entry route to the Tomaree tourist destination is clearly evident from the aerial photo on page 50 of the EIS. On a wider scale, land uses which are seen by many as inappropriate, east of Williamstown airport along Nelson Bay Road include two car wrecking and recycling yards, a container storage depot, recreational businesses, fast food outlets, service stations, mobile home parks, a firewood processing depot, and many farms which seem to accumulate an unsightly array of junk beyond the normal expectations for rural land management. There is also an application for a major sand mine with a lengthy frontage to Nelson Bay Road at Bobs Farm. TRRA objects to a further addition to this unplanned and uncoordinated strip development.

## **Other Environmental, Design and Construction Issues**

The 2006 Determination gave a number of reasons for refusing the original application relating to issues such as site levels and filling, drainage, erosion protection, acid sulphate soil management, impact on SEPP 14 wetlands, Aboriginal heritage and flooding. The revised proposal and the EIS appear to have addressed these issues. However, TRRA defers to the Department's professional assessment of these mitigating measures.

Design details including colour schemes, renewable energy, landscaping and interpretation are to be commended.

Apart from the threshold issue of inconsistency with zoning, some other concerns which we believe should require close scrutiny are:

- The expected need to remove some surface soils for ground level slabs and footings with implications for acid sulphate soils
- The capacity to accommodate most parking under the buildings given the potential excavation and drainage issues
- The practicality of on-site detention of storm-water where high groundwater levels prevail.
- The safety of west-bound traffic turning right across the recently reconstructed Nelson Bay Road to gain entry to the Resort.
- The absence of specific provision for parking of boat trailers and other frequently towed recreational equipment such as jet skis and motor bikes.

Our primary objection remains that this DA fails at the first hurdle of inconsistency with the objectives of the Rural Landscape zone – specifically that it is clearly in the nature of 'Hotel or Motel Accommodation' and/or 'Serviced Apartments', which are expressly prohibited. The applicant should be required in the first instance to submit a planning proposal for re-zoning of the land to a category which permits large scale accommodation.

Yours sincerely  
Margaret Wilkinson  
Secretary TRRA Inc  
7 August 2015