The Bay Resort, Anna Bay
Application No SSD-5916

THE BAY RESORT, ANNA BAY OBJECTION 6/5/2021

Review of the amended EIS still highlights many areas of concern for the proposed "The Bay Resort, Anna Bay."

Key matters of concern are listed below. Pursuant to Schedule 2 Part 2 Clause 3 (8) Environmental Planning & Assessment Regulation 2000, the EIS does not comply with all the environmental assessment requirements.

In our opinion the EIS significantly fails to adequately describe, assess and properly manage many critical environmental impacts of the proposal both from construction and operation of the facility.

The Blanch family has ties to the proposed site, dating back seven generations to the 1870's. The rural atmosphere and unique nature of the land has always been central to the way the Blanch families have lived, worked and played.

Our house is currently the third Blanch house on this site. We have lived on this parcel of land for 36 years, enjoying the quiet peaceful aspects of a rural lifestyle. There are currently three generations of the Blanch family enjoying the idyllic country lifestyle that this land provides, as it also did for the previous generations.

The construction and operation of the proposed resort will affect the lifestyle and general wellbeing of ourselves as residents as well as that of our daughter, son-in-law and four small children residing in the attached duplex. It will also affect our youngest daughter and son-in-law and their 4 young children who regularly spend time with us their grandparents, being babysat and playing with their cousins. Our children grew up with the chance to see and hear the native fauna that regularly frequent our backyard and surrounding area while they played, an opportunity that with approval of the proposed development would not be afforded to our grandchildren. The proposed resort will destroy the ambient amenity that we enjoy from our back veranda, as we often take in the sunrise and sunset across the beauty of the natural vista and surroundings and our sense of space will be diminished. We will be thrust into a new noisy landscape of hundreds of trucks, delivering soil/sand, machinery thumping piles into ground, construction vehicles and workmen, not to mention inevitable dust blowing around our home during construction stage.

A summary of concerns is listed below:

Acid Sulphate soils (ASS)

- In the Stakeholder Strategy Response, a number of Agencies request more info on ASS/PASS but the only response is Douglas Partners (2016) Geotech Report recommending an ASSMP, but it will not be done till construction stage.

  Comment: Where is this Geotech Report and Appendix 4 and why is the ASSMP not available till construction stage as ASS/PASS is known to be on site.

  "Disturbance to the existing soil profile is expected from construction of foundations/piles for the units and walkways, carpark and road construction, services trenching and drainage works" PASSMP page 6

  Comment: The fact that ASS is known on site and as per the last objection, the same matters re ASS treatment and excavation area still valid for this objection. The risks to the environment are too great to not undertake more detailed assessment now. The reliance on a plan of management later does not provide any certainty the environmental impacts can be managed and the levels of ASS and dewatering can be adequately mitigated on site.

- Appendix V – Preliminary ASS Plan

3. Anticipated Disturbance Pg 6
"Disturbance to the existing soil profile is expected from construction of foundations/piles for the units and walkways, carpark and road construction, services trenching and drainage works".
"In order to construct the footings, it is anticipated that localised temporary dewatering activities will be required"

Comment: What effect will dewatering have on surrounding residents? – could it, even temporarily, lower water table and interrupt the ability to draw water from the spear points which provides all water in 4181, and 4183.
No projections are given as to the amount of dewatering required. Due to the scale of the proposed project, it could be significant but seems down played in the EIS.
Given the site levels are 0.5m AHD and tidally influenced, pumping out groundwater during construction could be endless and the issues raised in our previous objection re groundwater dissolved metal levels etc. remain valid for this objection. The risks to the environment are too great to not undertake more detailed assessment now. The reliance on a plan of management later does not provide any certainty the environmental impacts can be managed and the levels of ASS and dewatering can be adequately mitigated on site.

- 6.9.3 Dewatering -Amended EIS
"Discharge of ground water is to be onsite and undertaken in a manner so as not to produce runoff."
Earth bunds should be constructed downstream of the irrigation area to ensure that runoff off site does not occur."

Comment: No detail is provided on how functionally this will work to not have runoff. Given the risks of ASS release to the environment as outlined in the previous response, the same groundwater and ASS issues remain for the project. This requires further details as per the previous objection the impact of release of groundwater would have significant environment effects on the SEPP14 wetland and marine park given the levels of metals in the groundwater and the potential to also release ASS water.

- 6.9.4 Mitigation Measures- Amended EIS
"Dewatering is to be limited to facilitate excavation and construction activities only and staged to minimise exposure of PASS to oxidation. Testing of extracted groundwater is to be undertaken in accordance with the PASSMP prior to discharge"

Comment: Given the site to be filled is around 05m – 1m AHD and regularly inundated and subject to flooding and tidal flows as outlined in the EIS, the amount of dewatering required should be quantified as it seems logical it would be a very large amount of dewatering required and this must be assessed as part of the EIS to ensure the level of dewatering can be managed on site.

- A Contingency Procedure Plan shall be prepared as part of the CEMP and is to set out the process governing what should happen if the above acid Sulphate soil management measures fail."

Comment: Assessment of what would occur to the environment if the CEMP ASSMP fails has not been considered and given the sensitive nature of the receiving environment this is a considerable concern. These matters should be considered as part of the environmental assessment as otherwise there is no certainty of the mitigation proposal to manage such a situation.

- 6.9.3 Assessment – Amended EIS
Soil Excavation
"Excavated soils are to be treated as soon as practicable after disturbance from their natural state. Soils are to be dosed with lime….."

Comment: The use of lime (especially hydrated Lime) has potential serious health risks. Where and how is it to be stockpiled to ensure surrounding residents are not breathing in, coming into contact with or ingesting lime dust.

- 6.9.3 Monitoring Program – Amended EIS
  This plan states that no ongoing monitoring for groundwater discharge is considered necessary.

  Comment: Due to the sensitive nature of the soil to acidification and the resultant damage of the water to downstream activities (Tilligerry Creek and Wallace Creek), should not ground water discharges be continually monitored in both construction and post completion stages.

- 6.9.4 Mitigation measures- Amended EIS
  "Soil water leachate produced from excavated soils is to be contained and treated prior to discharge per the dosing rates in the PASSMP."

  Comment - The treated water should be required to meet ANZECC guidelines for water quality before release into a SEPP14 area and a Marine Park. Release of soil leachate water into the environment has not been properly assessed given the levels of metals in the groundwater and PASS.

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- 6.10. Contamination – Amended EIS
  6.10.3. Assessment
  "The proposed development may disturb ASS at the site and may uncover ACM from previous structures on site. Appropriate management of these issues will occur through the preparation of an Acid Sulphate Soils Management and Dewatering Plan (ASSDMP) prior to works commencing and a Site Management Plan (SMP) focused on delineation and removal of ACM."

  Comment: Given the significant impact of release of groundwater and ASS water, the management plans need to be detailed as part of the EIS to provide certainty for the assessment.

- 6.10.4. Mitigation Measures – Amended EIS
  "The findings of the Contamination Assessment identified ACM on the site surface, as well as the presence of metals, nutrients and acidic pHs on a regional scale (i.e not likely associated with activities at the site). Groundwater beneath the site is unsuitable for irrigation on the basis of its nutrient content and acidic pHs. The presence of potential acid sulphate soils (PASS) and actual acid sulphate soils (AASS) at the site will require careful consideration and management prior to the commencement of the development. As such, a ASSDMP, depending on water quality, for construction should be derived specifically for the proposed development."

  Comment: Given the presence of PASS and AASS at the site, the ASSDMP needs to be detailed as part of the EIS to provide certainty for the assessment.

- 6.10.5. Conclusion – Amended EIS
  "The Contamination Assessment concludes that subject to the mitigation and management measures outlined within the assessment the proposed development does not present unacceptable risk to human health and the environment."

  Comment: As per the previous comments the amount of dewatering and potential for ASS water to be released, the risk posed by the development with no detailed plan to address the mitigation and management of these matters is extremely high given the SEPP 14 wetland and Marine Park that would be impacted by these issues.

Groundwater

- 6.11.2 Groundwater assessment – Amended EIS
  "Depth of water ranged from 0.31 to 4.13m below ground level"

  Comment: 0.31 is very shallow for the areas of the site where the development is proposed and the amount of dewatering could be considerable but is not quantified in the EIS

- 6.11.3.2 Groundwater Assessment - Amended EIS
  Increased Loading
  "The increased effective stress will act to increase pore water pressure with a resulting rise in the water table"

  Comment: This will have a drastic effect on lower areas of residential lots 4181 and 4183 Nelson Bay Road especially in winter or during rain events as water will not be able to soak into the ground and will pond on the surface.

- 6.11.3.8 NSW Aquifer Interference Policy - Amended EIS
  "It is considered that the project will have no significant impact on the water table within 40m from any high priority ground water dependent system"

  Comment: Residences at 4181 and 4183 are less than 40m from the project and will be impacted by interference to the water table. Ground water is the only source of water for these residences.

- 5.1.9 Port Stephens Local Environment Plan 2013 – Amended EIS
  "Storm water quality improvement devices will be installed to treat water to remove nutrients and sediment using the NorBE procedure and MUSIC water quality modelling tool"

  Comment: What are the identified nutrients and sediments that are specific to the proposed area?
  On page 14 of Concept Stormwater Management Plan, the proponent states that "Port Stephens Council does not have a default rural source node, so pollutant loads defined in the 2015 MUSIC modelling guidelines have been adopted".
  Therefore, no site-specific identification has been carried out. Table 7 only identifies suspended solids, phosphorus and nitrogen from the MUSIC modelling guidelines.
  Is this appropriate for such a large-scale development, given the scope of the design and the complex nature of the alluvial and saltmarsh soils that are proposed to receive the stormwater runoff?

Air Quality

- VIPAC (2015) Air Quality Impact Assessments

  Comment: This assessment has the same issues as per our previous 2015 objection.
  Background concentrations for PM2.5 were obtained from the Wallsend Monitoring station 45 km away and is not truly representative of the proposed area chosen, therefore Data chosen is irrelevant.
  Figure 4.1 pg8, Figures 4.2, 4.3, 4.4 pg 9 in VIPAC Air Quality Assessment uses data collected in 2013. This data is now 8 years old.

- 6.12.1 Methodology – Amended EIS
  "Since the modified design is much smaller in scale, predicted air quality stemming from it will be lower than for the 2015 assessment and satisfaction of the pollutant criterion levels can be deduced without the need for full quantitative assessment."

  Comment: We disagree strongly with this as data was collected from 2013 and an updated full quantitative assessment should be provided.

- "Air Quality Assessment is contained in -Appendix Y"

  Comment: All meteorological data inputs (TAPM) were modelled from 1/1/2013 to 31/12/2013.This data will be out of date. The data should be updated to understand any changes in particulate levels.

Mosquito Management

- 6.7.2 Existing Environment – Amended EIS
  "Mosquitoes are an important component of wetland ecosystems as they recycle nutrients, provide food for birds, bats, amphibians, fish and macro invertebrates and pollinate some plants. Port Stephens is the largest estuary of any kind in New South Wales and contains the largest area of mangrove forest in NSW and the largest area of saltmarsh in the state".

  Comment: This is an argument for not controlling the breeding cycle and the number of mosquitoes.

- 6.7.5. Conclusion – Amended EIS
  "The proposed eco-tourist development provides a minimum of 100m buffer from the coastal wetland boundary"

  Comment: Are mosquitoes unable to fly beyond 100m?

  "Regardless of the control strategies implemented, mosquitoes will always be locally active during the warmer months of the year"

  Comment: This is a general admission that mosquito control will not be successful.
  The area under the proposed development is consistently inundated with water and even the smallest catchment is in its-self a breeding ground for mosquitoes. About 50% of this development is a Saltmarsh Estuarine Complex and would be regarded as a high -risk breeding ground. Who would want to stay in a mosquito infested saltmarsh? This underlies the fact that this development is in the wrong location. Will there be provision for education to workers/patrons on mosquito borne diseases or just personal mosquito protection measures? Will patrons know they are at risk of potentially contracting Ross River Fever.

- Mosquito Management Plan Appendix T
  4.4 Chemical Control
  "Chemical control can be an effective method in reducing mosquito numbers, however chemicals can also have detrimental effects on environment and human health."

  Comment: How can this be consistent with ecological sensitivity.

Geotech

- Where is Geotech report from Douglas Partners (2016) Appendix 4? It is referred to multiple times but unable to locate.

Traffic

- 6.5.3.1 Peak Hour Impact on intersections - Amended EIS
  "In peak hour, the intersection most likely to be impacted by the proposal would be the 4 way round about at the intersection of Nelson Bay Rd and Port Stephens Drive"

  Comment: This statement is incorrect as the intersection most likely to be impacted will be that of Nelson Bay Road and Crown Road, (not an intersection 1.5 km to the east). This intersection is where all construction and ongoing traffic will have to slow down and turn into.
  Is this another misleading statement to favour the proponent?

- 6.5.3.1 Impact of Construction Traffic – Amended EIS
  "The majority of construction work will be contained within the site, so there will be minimal impact upon the external road network"

  Comment: What about the 2,500 loads of fill to be trucked in on the Crown Road to provide for the 40,000 cubic metres of fill required as well as the return journey of each empty truck? The increase of heavy traffic volume is a safety concern for the 5 small children (and potential visiting children) whose homes face the Crown Road.

- 6.5.3.1 Proposed Upgrade of Nelson Bay Road Intersection Fig 23 Pg79 – Amended EIS
  "Existing culvert and driveway to be removed" "Proposed relocated bus stop"

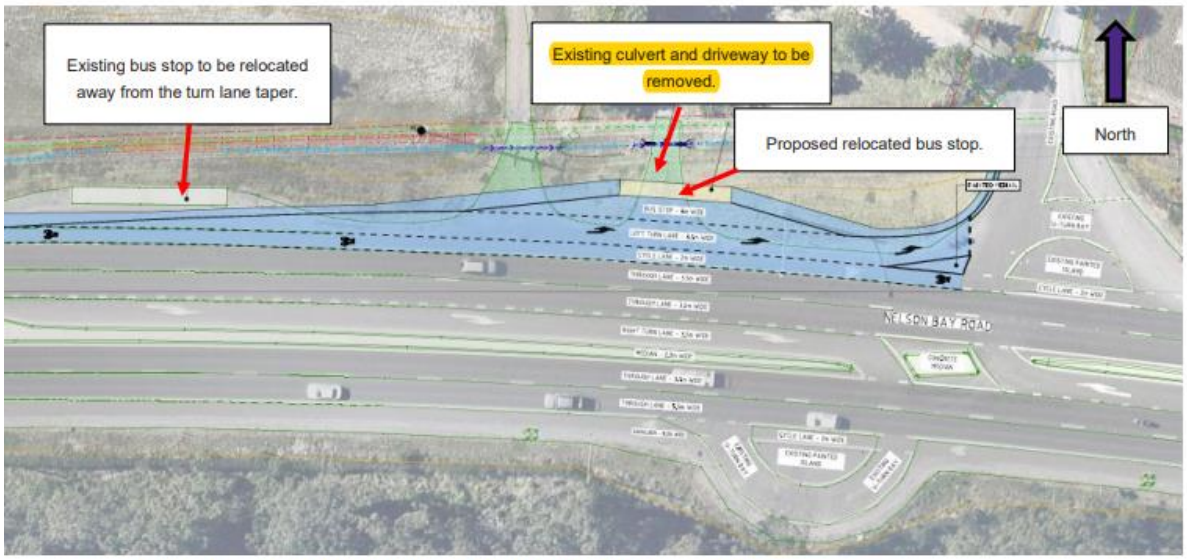


Figure 23 Proposed upgrade of Nelson Bay Road intersection
(Source: Northrop Consulting Engineers)

Comment: This upgrade denies legal front access to property 4181 Nelson Bay Road. This access has been in use since 1984. This again shows no consideration to adjoining landowners and the lack of technical expertise exercised, consultation or care in developing the proposal.

- Stakeholder Engagement Strategy Appendix EE- Roads and Maritime Services
  "Consideration must also be given to any existing property accesses that may be impacted by the proposed deceleration lane"

  Comment: No consideration given to adjoining landowners.

Noise

- Port Stephens Control Plan 23rd August, 2018 states:
  "An acoustic report is required for development that has the potential to produce offensive noise, meaning: interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted"

  Comment: This development on all levels and all stages will interfere unreasonably with the comfort or repose of all adjoining landowners.

- Noise Impact Statement - Appendix S
  This Impact Statement is based on a report made by VIPAC in 2015 when major road works were being carried out.

  Comment 1: Why has a new report not been carried out showing correct comprehensive acoustic assessment at a normal period without the extra noise from major road works?

  Comment 2: What assessment has been carried out for the Crown Road under normal road traffic volume? No attempt has been made to include in data the estimated daily construction traffic noise on the Crown Road in this report. This is where major noise levels will occur with the greatest impact on residences at 4181, 4183 and 4185.

  Comment 3: The latest proposal relies heavily on a very large number of piles to support the buildings and walkways. With no supporting geo-tech report to determine the depth to refusal, the piles could be very

long, all which need to be screwed or hammered into the ground – no noise or vibration assessment of the piling has been undertaken to consider the impacts to surrounding residents.

- Conclusion -Noise Impact Statement Appendix S pg6
  "…..there is no foreseeable need for a NMP or for compliance monitoring to be included in approval of proposal"

  Comment: This totally unacceptable given the operations are 24hr x7day week and adjacent to dwellings that currently have no tourism development issues. Issues such as noise in the car park due to late arrival, people being loud in the car park and at the units where outside activities are encouraged and deliveries of supplies. All these will be potential noise issues faced by surrounding residents let alone the unending procession of vehicles going up and down the un-named Crown Road.

- 6.6.2.1 Operational Scenario- Amended EIS
  "The Noise Impact Assessment provided in Appendix S observes that the modified concept design is much smaller in scale and noise emissions will be lower than for the 2015 assessment (Vipac,2015) and satisfaction of the noise trigger levels can be deduced without the need for full quantitative assessment."

  Comment 1: What about the carpark at the northern boundary of my property – this is new and will have noise impacts compared to current rural environment.

  Comment 2: No assessment of noise and vibration has been undertaken for pile driving for the suspended walkways and units proposed – this must be undertaken to determine if the project will impact on adjoining landowners.

- 6.6.3 Mitigation measures – Amended EIS
  "There are no specific mitigation and management measures required in relation to noise."

  Comment: This statement simply negates the presence of residents 4165, 4181, 4183 and 4185 who will suffer major impacts from construction and ongoing activities.

Construction

- Amended EIS
  No mention is made of the pile driving processes on the sensitive vegetation and soils of the area. As several thousand piles will have to be driven, there must be damage by the piling machine's progression over the previously identified unstable land.

  Comment: How will this damage effect PASS, groundwater movement and native flora and fauna?
  How will the damage be remediated? This issue is not addressed in the EIS.

- 3.6 Demolition and Site Preparation – Cut and Fill - Amended EIS
  "The areas of the site requiring fill will be raised to lift the car parks, roads, studio apartments and administration building above the Council's flood planning level of 2.7 metre AHD."
  Runoff from adjacent properties Lot 1 DP 747399 (4165 Nelson Bay Road) in the south west and Lot 6223 DP 700904 (4181 Nelson Bay Road) in the south east are captured by the series of drains a discharged ultimately to the north-west".

  Comment: Approximately 2.4 metres of fill across the rear boundary of 4181 will cover the current drain which services 4181 Nelson Bay Rd. This will mean drainage of 4181 will cease and the site become water-logged or even flooded during extreme rainfall events. This will destroy the current vegetable garden and fruit trees. Proponent proposes a pipe to take away excess water from the low point in 4181 and direct the water downstream.
  This illustrates just one of many points that the project proponent should have consulted with adjoining residents on the impact of the proposed development and remediating procedures.

- 3.7 Construction of buildings – Amended EIS
  "Below and close to the walkways the development will require the construction of on-grade maintenance access tracks. These will be constructed of permeable material and/or gravel to enable light weight maintenance vehicles".

  Comment: This will mean further removal of ASS and importation and compaction of exotic fill, this being incompatible with native soils. How is this ecologically sound practice?
  Have these identified issues been taken into account in the development proposal, or will a significantly larger amount of fill be required from off-site?

- Appendix Q Preliminary Earthworks Plan - 2. Earthworks Operation
  "Additional investigation should include a program of subsurface investigation to proposed building areas to assess the variability in the thickness of soft clay and the most appropriate improvement option"

  Comment: Site soil testing has been done by Douglas Partners in 2013. The proponent should have access to this report and prepared a plan of action to counter the perceived soft clay soil problems. Why has this investigation been put off until after construction starts? Again, where is the 2013 Geotech report by Douglas Partners?

- Appendix Q_ Preliminary Earthworks Plan - 4. Quantities
  "The cut fill balance on the design surface shows th
  at approx. 40,800cubic metres of fill is required to be imported for the fill pad."

  Comment: The importation and addition of 40,000 cubic metres of fill onto this site cannot be justified as environmentally sound.
  What damage is being done to the quarry site with the removal of this quantity of sand?
  Has there been a study to determine pollution, noise levels, traffic disturbance, road safety and road damage by the estimated 2,500 truckloads of fill travelling 20 km each way from the quarry to the proposed site and passing less than 10m from the front door of the duplex on our property.This is way too close and will produce excessive noise and disturbance levels.

Heritage

- 6.14 Aboriginal Cultural Heritage – Amended EIS
  Comment: How will the midden at AHIMS 38-5-0250 be protected?
  Does AHIMS 38-5-0250 merit value as an eco-tourist attraction due to its low significance rating by local indigenous representatives?

Flooding

- 6.3 Hydrology and flooding impacts – Amended EIS
  6.3.3 Assessment
  "The western part of the south west portion of the site is dominated by Hunter River flooding and the rest of the site dominated by local catchment flooding."

  Comment: Not Hunter River – Port Stephens is not connected to the Hunter River

- 6.4.2 Existing environment
  "Due to the low-lying nature of the site, it is affected by tidal influence and the majority of the subject site is inundated during a predicted highest astronomical tide (HAT). Ruoff from the greater upstream catchment also affects the site, with water spilling into the overbank areas from the main drain and floodgate arrangement to the north."

  Comment: Continual evidence the area is a tidal estuarine area not suitable for building on.

Ecology

- 6.2 Ecology and biodiversity – Amended EIS
  6.2.1 Methodology
  "The DP&E letter dated 24 April, 2019 as contained in Appendix F, requires a detailed ecological assessment of the amended design incorporating the following:
  Assessment of likely impacts on Coastal Swamp Oak (Casuarina glauca) Forest of NSW and South East Queensland EEC listed under the EPBC Act"

  Comment: The Biodiversity Assessment Report 2015 prepared by RPS notes that Swamp Oaks are on this site. If this vegetation is to be removed, then the project will require a referral to the Commonwealth under the EPBC Act.

- 6.2.3.4 Avoid and minimise impacts – Amended EIS
  "Given the need for a minimum area to achieve a viable economic development, impacts on threatened ecological communities have been minimised as far as possible. There is no other part of the Project area where the development could be feasibly sited."

  Comment: This is not a valid reason to build on a tidal estuarine area – the site is simply not suitable for development.

Visual Impacts

- 6.1.3 Visual Impacts - Amended EIS.

Figure 18 Viewpoints selected for analysis.

Comment:
View-Point 1 is not in correct position on the location map, therefore it gives a misleading perspective. The blue dot shows the actual position the supposed views at View Point 1. The views represented are completely different from those that would be obtained at VP01.
View-Point 3 and 4 are 2km away from proposed site.
View-Point 6 is 1.5km from proposed site.
View-Point 5 is 5km from site.
View-Point 3,4,5 and 6 are all shielded by vegetation and topography from proposed site.
There are no view-points from adjoining rural properties ie 4165, 4181, 4183, 4187 Nelson Bay Road. These will be the most visually affected and their visual amenity dismissed.

- 6.1.3 Visual impacts – Amended EIS
  "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/residents."

Comment: There has been no consultation with local residents on the visual impact of the proposal and the effect it will have on these residents. This is clearly seen by the selection of irrelevant viewpoints, as shown in Fig 18. No viewpoints from resident's homes only from roadways. We will have significant permanent 24/7 visual impact from both houses on our property. The raising of land by 3m will block our present unhindered view of the existing wetlands and the elevated pedestrian boardwalk along the western boundary to the midden will be another point where our privacy and view of surrounding area will be compromised.

- 3.2 View point analysis VP01 4181 Nelson Bay Road Anna Bay
  Figure 15 VP01 incorrectly shows the position of property boundary line and indicates in the summary of viewpoint that even at 10m distance from the site, visual effect and impact is low. The analysis states" It is likely that visual receivers in this location will be vehicles travelling 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.

  Comment: This view point is from Nelson Bay Road and it will take many years after construction for screening vegetation to grow to a point of recovery. No assessment has been made with regard to the view point from our rear veranda which looks directly onto this sites' carpark, multi-purpose amenity building, pool, and 119 units/villas, boardwalks etc. There has been no consultation with local residents on the visual impact of the proposal and the effect it will have on them and their visual amenity has been dismissed.

- 6.1.3 Visual Impact Statement – Amended EIS
  "Buffer planting will have a 3- tier structure to reduce potential visual impact and noise pollution to neighbouring properties"

  Comments: Will the plantings be advanced to provide immediate visual barrier or is this another long- term fix that will have a substantial effect on our privacy and visual amenity in the short term. Also, trees and foliage are not regarded well as attenuators of noise.

- 6.1.4 Visual Impact Assessment - Mitigation Measures- Amended EIS
  "Minimize light spill from the site into adjacent visually sensitive properties by directing construction lighting into the construction areas and ensuring the site is not over-lit. This includes the sensitive placement and specification of lighting to minimize any potential increase in light pollution."

  Comment: This statement suggests that surrounding properties have the potential for visual sensitivity but in other statements regarding visual impact, the adjacent properties impacts have not been taken into account. The significance of the night light regime has not been appropriately considered for our dwellings or that of 4165, 4183 and 4185 Nelson Bay Road. At present the area has no lights and the development will introduce a considerable change with a large amount of lighting for the car park and development. The car park lighting will need assessment for our dwellings as this could be light all night and have light spill into our dwellings causing nuisance.

  "Artificial light spill is now regarded worldwide as a major problem and represents a potential indirect impact on wildlife occupying this area."

  Comment: As there are many species of fauna that currently inhabit the proposed site, should not more stringent mitigation measures be included and listed in the EIS.

- 4.1.2. Stakeholder consultation – Amended EIS
  "In March 2017 Bob Young was engaged to liase with adjoining landowners and other stakeholder groups after public exhibition of the original EIS. A report on the consultation process and outcomes is contained in within the Consultation Strategy contained in Appendix EE.

  Comment: There has been no consultation or community engagement since 2017.
  Why has this proposal (2021) been kept secret from the community?
  Community engagement is an important part of the development process as outlined in previous rejection documentation.

  "It is noted that DPIE as stated in their letter dated 24th April, 2019 requires a detailed community and stakeholder engagement strategy for the modified design. The strategy will identify who in the community has been consulted and a justification for the selection, other stakeholders consulted and the form/s of the consultation. The strategy will also provide details of the proposed future community and stakeholder engagement activities throughout the construction and operation of the development.
  Given the amended design has arisen as a consequence of Court proceedings and the proponent has progressed the amendment bases on a proposal previously presented to the Department, the proponent has not undertaken a significant community stakeholder program on the amended design. The proponent will however, review and respond to public submission received during the exhibition of the amended EIS and if required engage in further community and stakeholder engagement activities after exhibition."

  Comment: Obviously community and stakeholder engagement holds little importance or relevance to the proponent when a requirement of the DPIE clearly states a detailed community and stakeholder engagement for the modified design is required but to date no engagement has taken place for this new amended proposal and only makes you wonder if engagement is made after exhibition how much weight it will actually have.

- 4.2 Future Community and Stakeholder Engagement Activities – Amended EIS
  "The following is a list of some of the engagement techniques that proponent **will apply** to the post-approval phase, some which may be required as part of the conditions of approval".
  Formation of a Community Consultative Committee (CCC).

BUT

Appendix EE Stakeholder and Community Engagement 2.5 Conclusion states:
"However, it is not considered that a community consultative committee technique would be necessary for the project."

Comment: Previous documentation from DPE recognised the importance and need for community involvement. A Community Consultative Committee must be part of any proposed development.

- 5.1.12 Lower Hunter Regional Conservation Plan
  "The site adjoins the Tilligerry Nature Reserve located to the site's north. This reserve is a key element of the proposed "green corridor" identified above". "The proposed Eco Tourist facility is designed so as to ensure that the development is compatible with its location adjacent to the Tilligerry Nature Reserve and part of the proposed Green Corridor."

  Comment: This is not explained but only stated – how does this outcome occur when the development is on an estuarine tidal area of salt marsh and wetlands and will cause direct and indirect impacts on the environment.

- 6.16 Erosion and sediment – Amended EIS
  6.16.2 Proposed fill platform
  "An initial geotechnical investigation has been undertaken by Douglas Partners and the results are presented in their report on Geotechnical Investigations for The Bay Resort (August 2016)……." " Additional investigation should include a program of subsurface investigation in proposed building areas to assess the variability in the thickness of soft clay and the most appropriate improvement option."

  Comment: Where is Geotech report!!!
  The project intends to drive piles to support suspended two storey units above tidal zone areas of wetlands – this results in considerable uncertainty of the depth to refusal for piles and hence the full construction impacts of the length of piles, the size of machinery to drive the piles cannot be determined and the noise of pile driving has not been considered -which would be considerable given the number of piles proposed.

- 9 Justification for the proposal – Amended EIS
  9.1 Social and economic
  "Overall the social and economic impact of the Project is considered to be positive, contributing to regional economic activity and employment generation with only minor potential risks to the Lower Hunter region economy and tourism market"

  Comment: Neighbouring landowner impacts have not been clearly addressed and need further consultation.

- 9.2 Environmental Impacts – Amended EIS
  Visual Impact
  "Principles identified within the visual impact assessment have been incorporated into the concept design and seek to achieve better visual integration of the proposal and the existing visual character at both, local and regional scales."

  Comment: The visual impact from the current rural, wetlands outlook of only natural environment from our dwellings to the proposed car park on our boundary and the development spread across the main dwelling view to the north has not been considered and results in a significant change and impact for ourselves and that of our family.

  Noise
  "The operational and traffic noise impacts at surrounding residential receivers have been reassessed. An updated acoustic assessment has found that the modified concept design will comply with typical noise emission criteria"

Comment: This data again was based on Vipac (2015) report. Construction piling and vibration needs to be considered.

- 9.4. The precautionary principle – Amended EIS
  "The precautionary principle, in summary, holds that where there are threats of serious or irreversible environmental damage, the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation."

  Comment: The uncertainty with regards to ASS and dewatering with the potential for serious environmental damage on SEPP14 wetlands and the marine park are reasons for postponing approval of the development until an acceptable compliance solution can be demonstrated. Reports do not provide certainty and require more assessment to understand the environmental impacts that the proposal may result in.

  "The greatest threat to serious or irreversible environmental damage is impacts to the surrounding wetland areas and salt marsh vegetation.

  Comment: The best way to manage impacts to the wetlands is to not develop the site as it's in a tidal zone and would regenerate naturally much better if no development was proposed over the top of this sensitive area.

- 9.5 Social and inter-generational equity – Amended EIS
  "The various consultation activities that have been undertaken, as outlined in Section 6 and the engagement of suitably qualified and experienced consultants have ensured that the planning, design and the environmental assessment phases of the proposed development have been transparent."

  Comment: If this has all been undertaken in a transparent manner, why have we and other neighbouring landowners not been consulted about the revised proposal.

- 9.6 Conservation of biological diversity and ecological integrity
  "The principle of conservation of biological diversity and ecological integrity should be a fundamental consideration for the proposed development."

  Comment: Building on a wetland estuarine area where no other development occurs is not aligned with the objective of the principle.

ESD - Amended EIS

- Targets will be set on completion of an energy model to see what may be realistically achieved for this type of development. Subject to targets, attention will be given to the issues and actions required to achieve these targets. This would include "deemed to satisfy" energy code compliance requirements as a minimum. It may also include the need for design workshops and modelling input. This should guide the design to achieve the nominated targets. Post construction monitoring will be provided to ensure the buildings operate as designed.

  Comment: Should not an eco-tourist development have these targets for eco sustainability already set and these targets be transparent in the EIS?

Strategic Need

- 1.4.1 Strategic need for the proposal – Amended EIS
  "The proponent considers the unique natural settings associated with the site to be a major asset. Overall, the strategic philosophy underpinning the proposal is for a fully integrated eco-tourist facility which fits into the surrounding natural context, ensuring that the integrity of the environment is preserved. This in turn will create the opportunity for key habitat to be regenerated and for the facility to cater for a unique tourist market segment in the Lower Hunter region".

Comment: Having lived adjacent to the proposed site for over 60 years, I am witness to the fact that since the removal of the flood gates, the site has been regenerating naturally to saltwater marsh. It does not need human intervention in the form of a supposed eco-tourist complex. This can be supported by the EIS extract shown below which shows multiple areas of standing water in areas once containing agricultural pasture. See also Page 13, Paragraph 7

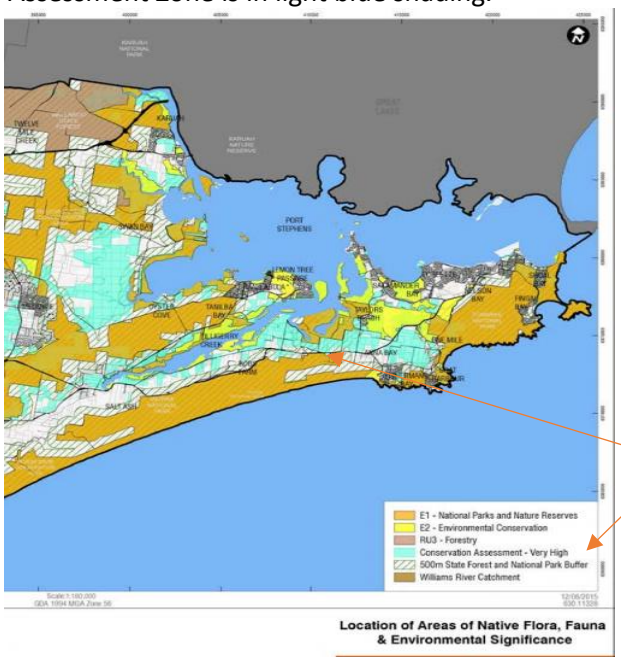
In addition, mosquito control will also be an issue with the large areas of standing water.

Note: Areas in black show existing standing water

Port Stephens and NSW Government Policies

Port Stephens Rural Residential Strategy/ Volume 1

- Extract from Volume 1 shows that the proposed development is in the Very High Conservation Assessment Zone. Assessment Zone is in light blue shading.



This highlights the presence of the proposal in a High Conservation Area

Figure 7

3.2 Cultural and Physical Environment

- **Environmentally sensitive land** - This is defined by State policy to include coastal lakes and SEPP 14 wetlands. Other important wetlands are shown in Figure 7 and **development should be avoided in these areas.**

Comment: Why is Port Stephens Council allowing a development in an area already identified as significant wetlands?

Port Stephens Council LEP 2013

- "The objectives of the RU2 Rural Landscape zone are as follows:
  To encourage sustainable primary industry production by maintaining and enhancing the natural resource base
  To maintain the rural landscape character of the land"

  Comment: How is the construction of 122 buildings and 112 car parking spaces comply with the objectives listed above?

State Environment Planning Policy (Rural Lands) 2008 No 128
Part 2 Rural Planning Principles

- "e) 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,"

  Comment: How is the construction of 122 buildings and 112 car parking spaces comply with the objectives listed above?
  We consider the eco-tourist proposal will not be able to abide by these local and state government policy regulations and as per all the arguments presented above.

On balance, it is considered that the proposed development is again unacceptable. The destruction of such sensitive tidal estuarine wetlands cannot be risked therefore this proposal should be refused for the reasons outlined in this submission.