



## **SUBMISSION – OBJECTION TO 3 LOT SUBDIVISION AT 155 SALAMANDER WAY (Salamander Shopping Centre) - DA 720/2012**

TRRA Inc declares that the organization has no financial interest in the planning application nor has TRRA Inc made any reportable political donations or gifts over the last two years.

### **BACKGROUND:**

The Development Application involves a 3 lot subdivision at Lot 284 DP 806310 at 155 Salamander Way (shopping precinct site) and a TT & Stockpile at Lot 51 DP 803471 at Diemars Quarry. Both lots are owned by Port Stephens Council.

155 Salamander Way was the subject of a major DA in 2009 and this new application is a slightly revised subset of the proposal in that DA.

The main purpose appears to be to facilitate the purchase of Lot 2 by Fabcot Pty Ltd on behalf of Big W, which is the subject of a separate DA currently being assessed.

It is assumed that the ratepayers of Port Stephens Council will be funding the entire cost of the associated infrastructure for this sale to proceed.

The actual profit to Council when this factor is taken into account is questionable.

### **MAJOR ISSUES:**

- Lack of Transparency in Advertising and Public Consultation
- Financial
- Conflict of interest in Port Stephens Council being both the owner/developer and the approver of the DA.
- The lack of a Masterplan for the whole site as consistently called for by the Tomaree community and as recommended by the Chair of the Joint Regional Planning Panel in 2010



- The concern that this subdivision, with only a first stage of partial infrastructure works is a deliberate ploy to avoid scrutiny by the Joint Regional Planning Panel by keeping the estimated cost below \$5M.
- The lack of Development Control Plans to provide some substantive controls of what is the main shopping centre for the Tomaree Peninsula
- The incorrect premise that since 2002 the function of the site is purely for shopping and no longer a town centre, with a range of important community facilities,
- The lack of connectivity for pedestrians, cyclists and motor vehicles from north to south and east to west and with potential future bus stops
- The serious safety concerns with increased traffic, particularly along Bagnall Beach Road between Sandy Point Road roundabout and the existing Town Centre circuit where most pedestrian activity from children from the nearby schools is focussed. The major safety concern of the proposed junction of Road 1 and Bagnall Beach Road being unacceptably close to the new exit from the new Kentucky Fried outlet onto Bagnall Beach Road from the Rigby Centre site
- Drainage and the potential effect on nearby environmentally sensitive wetlands and who will pay for this costly infrastructure?
- The potential effect on important koala habitat
- The lack of information relating to what the future holds for the library, community centre and pre school.
- Double movement of sand from site and return and the noise impact on residents on the truck movement route
- No consideration to potential to expand the shopping centre up rather than out and provide residential accommodation to give life

## 1. LACK OF TRANSPARENCY AND PUBLIC CONSULTATION

### (a) Transparency

The advertisement which appeared in the Examiner on 22 November 2012 was not transparent. There was no indication that 155 Salamander Way is in fact our major shopping centre. In addition the mention of 3 Lot subdivision was aligned with the related entry above it at 1 Diemar Road. One could deduce from a quick reading that the subdivision related to Diemar Quarry.

For a development proposal of such major importance to the community of Port Stephens to be restricted to providing submissions by the 5<sup>th</sup> December is unacceptable. A proposal which has been in production since 2009 is afforded a few weeks for public scrutiny, it should be open for consultation for months.

This major development is of public interest and even the Council website “What’s on Exhibition” does not include this DA. Using DA Tracker, the only way to access information about this was via 1 Diemar Road and for this part of the development.



It is misleading that council claim that the quarry is an important part of the DA. When you look through the SEE, it only contains a few pages of information on the quarry compared to the large folder mainly detailing the 3 lot subdivision.

It also uses a photo of the Diemars quarry that shows the operation of the quarry in 2007. If the proponent had made any effort to provide accurate and current information on this site, they would see that a large part of this quarry has been filled with water for many years. (Ref Aerial Photos 2007 & 2012)

The advertising and the SEE are clearly misleading and should have mentioned Salamander Shopping centre in the first section in addition to accurate details on the proposed storage site.

The proposal makes no effort to provide details of how the excess sand/soil will be transported to the proposed storage at Diemars quarry.

Information that should be provided includes:

How much spoil is involved?

How many trucks will be used?

When will they operate?

Where will the spoil be stored?

Has this quarry been used for such a purpose before?

How will Council mitigate the affect of high winds on the dried sand?

What will be the environmental impact on nearby Oyster Leases?

Etc.

The SEE proposes to provide a transportation plan at the “Construction Certificate” phase, i.e. after the DA is approved. This gives Council the opportunity, once again, to be the proponent and, by acting as the Principal Certifying Authority, to approve any such plan without any public access. This is not the level of transparency that the public expects from its Council.

### **(b) Consultation – Guiding Principles**

The consultation process of July 2012 which involved a very small segment of the community and where planning principles were developed had a questionable outcome, particularly when compared with the outcomes of the individual planning workshop outcomes.

These discrepancies are highlighted throughout this submission.

Planning Principles approved by council did not endorse development such as a single lot sell off without further planning such as a Master plan.

## **2. FINANCIAL**

TRRA Inc believes that it is unacceptable to sell off an asset to pay for poor financial management in the past, particularly maintenance. Any profit from Salamander land sales should be targeted at providing additional assets at



Salamander such as a Town Hub as identified in the PP. No plans have been submitted for anything apart from roads.

Further financial concerns are well highlighted in other sections of this submission, particularly relating to the cost of infrastructure.

### 3. CONFLICT OF INTEREST

Port Stephens Council is both the owner/developer and the approver of the DA. The PSC Commercial Services Division has basically prepared the DA (including a SEE prepared by EPS) and the PSC Planning Department will be making the recommendation to Councillors to approve.

If the cost of completing all infrastructure (including Lot 3) is included in the costing, this would put the proposal well outside the domain of the Council based approval and into that of an independent assessor, such as the Joint Regional Planning Panel.

### 4. LACK OF A MASTERPLAN

Council voted 10 November.2009 to not have a Masterplan despite the clear views of the Tomaree community for such a plan. The Chair of the Joint Regional Planning Panel, at the Panel hearing on 28 July 2010 (where Council's 2009 DA was withdrawn) recommended a Masterplan.

Lot 3 has the library preschool and community centre yet this is shown purely as one block of land without provision for Council to continue ownership of these important community facilities if Lot 3 is later sold as one parcel.

### 5. ALLEGED DELIBERATE AVOIDANCE OF SCRUTINY BY JOINT REGIONAL PLANNING PANEL

TRRA Inc is concerned that this "part subdivision" is a deliberate ploy to avoid scrutiny by the Joint Regional Planning Panel by keeping the potential cost estimate below \$5M.

The costings should include future costs of providing infrastructure to Lot 3 and all the associated environmental issues involved in that particular site.

We question whether the cost estimate even includes all of the costs required for the initial proposal including the management of stormwater from the proposed Big W development on Lot 2.

In addition, as there is no plan for managing the removal of soil, one could ask the question, "how much will this cost?" There is no evidence that such costs have been included – once again, how could they, when there is no plan included in the SEE. This lack of accurate financial information can only lead to the conclusion that costs have been minimised to an estimate of \$4,370K within the DA so that Council, as the proponent, can also be the assessing authority.



The Dept of Planning is a more appropriate authority to provide an unbiased assessment of such a large scale public infrastructure project.

## 6. DEVELOPMENT CONTROL PLANS

As recently as 27 November, 2012, 7 of the 10 Councillors have opted to not even propose a Development Control Plan but instead have focussed on the potential commercial gain, regardless of the long term outcome for the community.

Without Development Control Plans to provide some effective controls of what is the main shopping centre for the Tomaree Peninsula, Council will have responsibility or influence.

Who will control shopping trolleys, provide sunshades for summer, provide future facilities for storage of mobility scooters and the like, maintain the buildings to an acceptable standard, collect the rubbish, landscape and maintain the gardens to a presentable standard? What will the buildings look like? How will pedestrian, cycle and motor vehicle connectivity be assured?

This will all be out of Council's control without a DCP. The Planning Principles for the Council owned land recently adopted are simply guidance – a 'wish list' which cannot be enforced.

## 7. TOWN CENTRE V SHOPPING CENTRE

On what premise is Point 3.4.4 based?

This purports that, since 2002, this area has somehow changed from being a town centre like Nelson Bay or Shoal Bay, to being only a shopping centre.

We have the location of our only library and Community Centre on the site, as well as a preschool. If it wasn't to be a major town centre, then why were these facilities moved from Nelson Bay?

Have the residents in the surrounding main permanent residential areas of Corlette and Salamander Bay been considered? Salamander is definitely their town centre.

The outcomes of Workshop 2 – report by ADW Johnson of 19 July 2012 clearly indicate community support for the comments made in this submission.



## 8 CONNECTIVITY

### (a) Pedestrians

The long narrow shopping centre which is developing is not suitable for pedestrians.

More detail is required of actual connections in the plans.

There is still no user friendly access to the Rigby Centre from the existing shopping centre. This is just a repeat of the lack of accessibility to other shops in the existing centre adjacent Town Centre Circuit. Crossing busy streets is not a safe option.

Proposed access at Plimsoll Close does not assist Sandy Point Road pedestrians, only a small number who live locally in Mariner Crescent area. It is unnatural to walk from Sandy Point Road via Worimi Drive-Mariner Crescent- Plimsoll and then walk back towards the shopping centre. The access needs to be via a tunnel through the existing mound from Purser Street.

### (b) Cyclists

There is mention of existing bike path along the back of the residents on the northern boundary connecting into the NW corner of the development. It is not clear how this will work.

In addition to the Plimsoll Close access, there needs to be access from Purser Street. Much more creative use of the wetlands area could be made if a Masterplan was prepared which included recognition of this significant area as a potential cycleway at ground level via suitable boardwalks, rather than unsafe roadside cycleways.

### (c) Motor Vehicles

Comments made relating to safety apply to motorists and clearly demonstrate the deficiencies in the plan.

Road No 3 is the only access route into and out of the proposed Big W car park. It does not connect to the other car park of the existing shopping centre to the south west. Road 1 and Road 3 are being constructed purely for Big W in this plan.

There is no access to Sandy Point Road to take the pressure off Bagnall Beach Road and Salamander Way. This would involve resumption of property to achieve this outcome or access via Worimi-Purser Streets.



**(d) Bulky Goods Delivery Trucks**

The manoeuvres to be made by heavy vehicles already present major challenges to the centre. This will be further exacerbated and cause inconvenience to other vehicles during business hours.

At night the noise from deliveries to Big W area along the tunnelled Road No 3 could prove untenable for the neighbours, regardless of the measures taken to overcome this.

**(e) Bus Passengers**

The bus Interchange along the eastern side of Road No 2 will have all passengers having to cross the very busy Road No 2 and car park to access the existing centre.

There is no demonstrated connectivity with the western side of shopping centre as there will be No Through Road around Lot 2.

There is no mention of a much needed covered walk way to the shops.

**9. SAFETY CONCERNS AND AMENITY****(a) Safety of School Children**

The planned new road (Road 1) behind the Rigby Centre will add to the congestion very close to an already busy roundabout (Sandy Point Road/Keel Street/Bagnall Beach Road). It will come out onto Bagnall Beach Road close to the new Kentucky Fried exit. This is where all the school children cross the road. The traffic island where the children cross is to be narrowed down to allow an extra turning lane. This is unsafe for children. Council expects that the children will walk to the new traffic lights planned adjacent to McDonalds.

The whole area between McDonalds and Kentucky Fried outlets along Bagnall Beach Road will need to be made into a 40 km 24/7 zone and even then it won't be safe, particularly with the new road rules relating to pedestrians introduced on 1.11.12 by the NSW State Government which seems to make J walking quite legal with motorists now at fault for the actions of pedestrians.

**(b) Safety of KFC Exit**

The fact that council pushed through the KFC has a very serious effect on this plan. As the left in/left out access Road No1 as displayed is hard against the back of Rigby Centre, Council simply cannot have traffic coming out of KFC and within one metre of a major road out of the Shopping Centre.



Road No1 now needs to be redirected further south along Bagnall Beach Road but this will then be too close to the new traffic lights and will cut Lot 1 in half.

### **(c) Noise and Amenity**

Road No 3 with the 4.7m high wall will become a wind tunnel with strong winds. Out of hours this road will become a racing track as it is out of sight. It would be poor design to put speed humps in.

## 10. DRAINAGE PLANS AND POTENTIAL ENVIRONMENTAL IMPACT

There is a lack of information relating to drainage, the potential effect on nearby environmentally sensitive wetlands and who will pay for this costly infrastructure? Storm water appears to be covered for runoff from the new roads. It is understood that the existing storm water is at capacity and not really up to standard. The assumption is being made that drainage from the three Lots will go through existing permeable surface until future development.

Big W Lot 2 DA states - Fabcot Pty Ltd will be supplied with a site for Big W serviced with "storm water". Plans for Big W indicate responsibility only to the boundary. What happens after that? There doesn't appear to be any mention in this DA of how this will be achieved through a detention basin or the like. Is it going straight into the wetlands?

## 11. KOALA HABITAT & ENVIRONMENTAL ISSUES

Overall site the contains 3ha of swamp forest with an expected loss of only 0.5 ha including 4 koala feed trees, to be ameliorated by revegetation of three nearby cleared areas within Mambo wetlands to the west. It is admirable to revegetate. However this is not really an offset as cleared land should not have been cleared in the first place. It is protected land so can't be used for anything else and will over time be revegetated any way either naturally or through community groups replanting.

A multiple page submission by TRRA Inc as submitted previously is available which details the environmental concerns of this whole area. A copy can be forwarded on request

## 12 FUTURE OF COMMUNITY FACILITIES ON LOT 3

It is not clear from this DA what the future holds for the community facilities located on Lot 3. Our library and main community centre is there as is a pre school.

## 13 MOVEMENT OF SAND AND NOISE IMPACTS

### **(a) Sand Movements**

It is likely that 130 000 cubic metres of sand will be transported to Diemars quarry and then back again. It is estimated there could be 64 truck movements per day





for 10-12 weeks with no time limits stated. There could also be approximately 10-15 extra truck movements per day with construction work.

The wisdom is questioned of the Carbon miles on transporting this twice for “potential reuse to fill other low lying areas of the proposed subdivision following any subsequent development consent for Lot 3.”

TRRA Inc would prefer this was not stock piled on site due to potential environmental damage to vegetation.

A Masterplan in the first instance would have been much more environmentally and financially sustainable.

### **(b) Noise Impacts En Route to Quarry**

The proposed route for these trucks includes the use of Homestead Street, Salamander Bay. This is a quiet, residential street, with no major through traffic. Councils’ notification schedule does not include advising residents in this street of this DA, let alone the proposal to use their quiet street to handle multiple truck movements to and from Diemars Quarry.

TRRA Inc has the name of at least 3 residents in Homestead Street who were not consulted and these names can be provided on request..:

The lack of formal advice to these residents means that Council should not proceed further without re-advertising this DA. Residents, (including the 3 mentioned above), who will be affected by this proposal have been advised of their right of appeal on this matter.

### **14 FOOTPRINT OF SHOPS**

No consideration appears to have been given to the long-term potential re-development of the existing shopping centre into a multi storey building or extending it out to the sides. It would be negligently short sighted for Council to assume, as it appears to, that the existing shopping centre is a permanent feature in its current form.

The benefit of raising the levels, which could even incorporate residential accommodation, could give life to the centre after hours.

If Big W is located as proposed in Lot 2, it will become a very long narrow shopping centre making it a long distance from Big W to Coles which shoppers are unlikely to travel. They will only go to one end.

Moving up or Big W going in, say near the newsagents, would make everything more central. Big W and K Mart will be located at the same end and offer much the same type of merchandise.



RECOMMENDATIONS:

1. That this Development Application be refused.
2. That Council commission independent experts to develop a Masterplan, followed by an enforceable Development Control Plan, to include transparent public consultation.
3. That Town Centre Circuit adjacent to McDonalds be immediately widened and a traffic light installed at the Bagnall Beach Rd intersection. This is a recognised immediate need.

**Dick Appleby**  
**Vice President**  
**Tomaree Ratepayers & Residents Association Inc.**  
4 December 2012

ATTACHMENT:

Various maps  
Comparison photographs of Diemars Quarry

