



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.

General Manager  
Port Stephens Council

(By e-mail)

11 June 2013

**DA 275/2013 – Tourist Recreation Facility and Six (6) Lot Subdivision – 21 Cabbage Tree Road Williamtown: OBJECTION**

While the location of this DA is well outside the Tomaree Peninsula, it raises the same important planning issues of significance to every resident or ratepayer in Port Stephens LGA that we listed in our objection to a similar proposed development at Lavis Lane Williamtown (DA 777/2012), submitted to Council on 22nd January 2013.

The intersection of Nelson Bay and Cabbage Tree Roads is the major gateway for all residents and tourists to the Peninsula. TRRA objects to the proposal on various grounds including inconsistency with zoning and a future development strategy; flooding and drainage problems, and aircraft noise constraints.

***Inappropriate use in Rural zoning***

The Draft LEP 2012 which has recently been endorsed by Council is proposing to significantly tighten the permitted uses on rural zoned land. While we understand that this DA must be assessed against the current LEP 2000 zoning descriptions until the new LEP is approved by State Government, we submit that sound planning should legitimately take account of the future intentions expressed in the new LEP.

The allowance in the current Rural 1A zoning description for some 'tourism' uses ancillary to primary uses is clearly not intended to allow for significant commercial development such as that proposed in this DA. The zoning description also states that any development should "maintain the rural character of the land/area" and "ensure that the development is compatible with rural land uses and does not adversely affect the environment or the amenity of the area" (LEP 2000 Clause 11(2)). The proposed development would clearly not meet these criteria.

The unfortunate precedent established by the approval of McDonald's fast food outlet on Lavis Lane, contrary to planning advice, should not influence the decision in favor of

approval – that was a mistake and should not be repeated again either by this proposal or by the Lavis Lane “Tourist” development DA still before Council.

### ***Inconsistency with strategic planning framework***

The Lower Hunter Regional Strategy and all of the Council’s subsequent plans make provision for commercial and industrial development in the Williamstown area in a carefully designed framework for aerospace and other airport related development on land to the northwest of Nelson Bay Road and north east of Cabbage Tree Road. Major retail and other commercial development is to be concentrated on existing centers, including bulky goods outlets at Taylors Beach and Heatherbrae. It is important that piecemeal developments are not permitted in the surrounding areas to maintain the rural character and to ensure that the land already zoned for development is developed fully through a staged process before other land is opened up for development. We believe that the community does not want to see multiple fast food outlets in this location, which would also risk commercial failure resulting in empty buildings at this important gateway to Port Stephens.

Any requirement for further restaurants and fast food outlets can and should be contained within the area of the Business Park and along Williamstown Drive into the airport – areas already zoned for commercial development.

Allowing commercial or retail development on the subject site would be directly contrary to the planning framework for Port Stephens and would undermine the viability of established centers.

### ***Flooding and Drainage to the Hunter River***

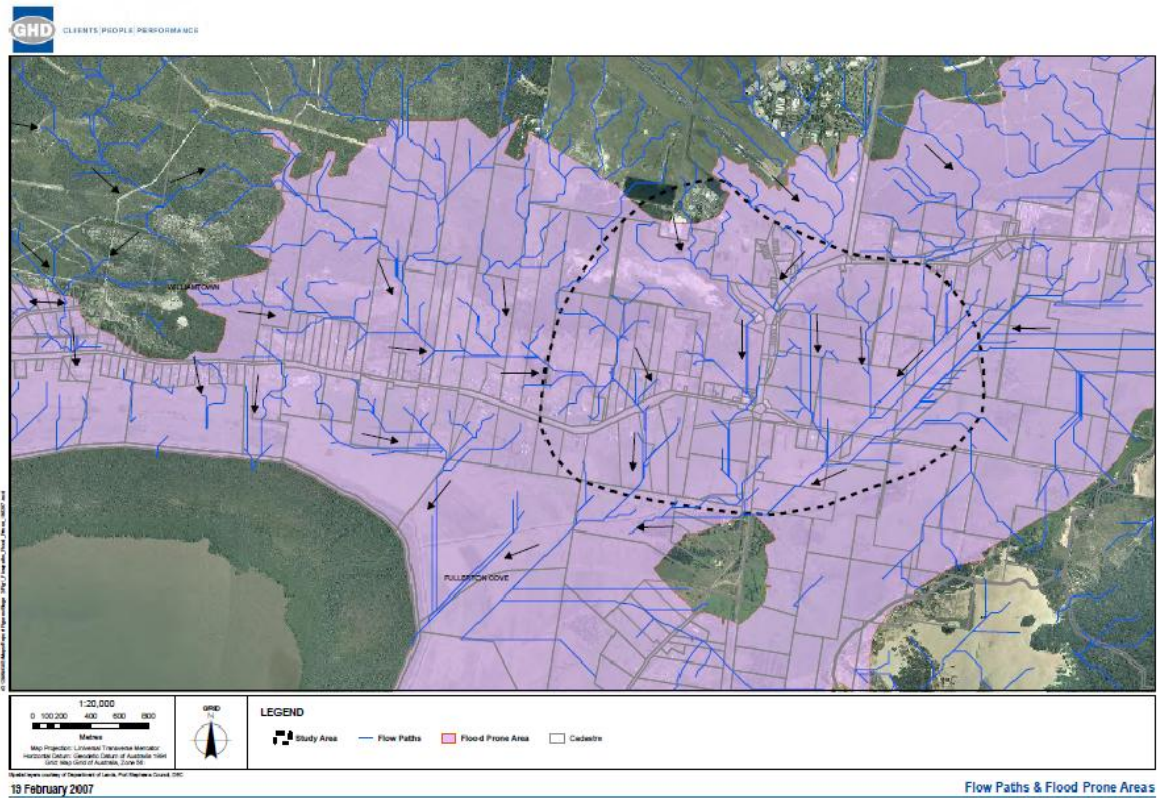
The Williamstown Defence and Airport Related Employment Zone (DAREZ) report<sup>1</sup>, prepared by GHD Pty Ltd for the Department of Planning in consultation with Port Stephens Council, Department of Defence, Hunter Water Corporation, Newcastle Airport Limited, NSW Premiers Department and the Department of State and Regional Development, states in the introduction chapter:

“Preliminary investigations lead to a Selected Site for the focus of the more detailed investigations and analysis. Those further investigations however, identified constraints to development in the southern more low lying land along Cabbage Tree Road.”

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<sup>1</sup> [http://www.portstephens.nsw.gov.au/index.php?option=com\\_content&view=article&id=1133011:williamtown-defence-and-airport-related-&catid=2795:planning-strategies-portstephens&Itemid=4006](http://www.portstephens.nsw.gov.au/index.php?option=com_content&view=article&id=1133011:williamtown-defence-and-airport-related-&catid=2795:planning-strategies-portstephens&Itemid=4006)

Figure 1 in Volume 2 Hydrology Flooding drainage Assessment:



Williamstown Employment Zone - Stage 2

Figure 1

This clearly shows the whole area as flood prone and the importance of drainage flow from Tilligerry Creek through to Fullerton Cove. A major flow is highlighted from the Business park area across Cabbage Tree Road and through this proposed development. It is impossible to accurately predict the effects on the surrounding land and roadways of building another island from fill, as proposed, particularly until the Business Park is developed. The SEE looked at damming effects to the south, but hasn't addressed flows from the north into the proposed site, particularly the major drain/canal running adjacent to the development along Nelson Bay Road.

It cannot be stated with confidence that another development (island) on filled land will not have any great effect on the overall drainage of the area. The hydrology of the area is clearly complex and the flood plain works in conjunction with the mangroves surrounding Fullerton Cove in filtering and controlling water flows.

The whole development area is proposed to have up to 1m in height of fill imported into the site, to raise it above the flood level.

There appears to be little point in raising the buildings to 2.9m AHD if the car parks, access road and "Tourist area" are going to be under water, particularly with predicted future rises in the water table and sea levels. The grassed recreation area within the Tourist area acting as a detention basin meets current needs for holding excess water flows in heavier rainfall events but we question with rising water levels will this soon become a permanent lake? It is likely in the medium term future both Nelson Bay and Cabbage Tree Roads will need to be raised, causing more drainage issues in this area.

### ***So-called Tourist Facility***

The presentation of this DA as a tourist facility is misleading, and clearly designed both to fit the loophole in Rural 1A zoning and to give a spurious impression of 'community benefit'. While a safe off-road parking bay with a couple of picnic tables to allow drivers somewhere to rest could possibly have some benefit if located in a remote area or adjacent to an attraction, it is hard to image what benefit this tourist area has to the travelling public over what the proposes restaurants and fast food outlets have to offer. Native landscaping and four signboards would be much better located overlooking the Stockton sand dunes or near Birubi beach next to a midden rather than in a flood plain overlooking a fast food outlet. There is not even a mention of a map of the area to assist tourists new to the area. There appears to be proposed separate freehold titles for each restaurant, but no mention of who will hold title to "Tourist Area" and who will continue to maintain the area and also Lot 2 between the restaurants.

### ***Traffic***

The RMS has advised that a roundabout would be necessary to allow safe access to the proposed development, but as the site has only a 390m frontage along Cabbage Tree Road and the access road is approximately two thirds the distance from Nelson Bay Rd, this would place the new roundabout only 250m from the existing major roundabout, which is far too close.

No mention has been made of cycle or pedestrian access to the site, or of the likely interaction between the proposed developments and the prospective adjacent Business Park and airport. It would seem likely that locating another fast food outlet on this site would generate significant extra local vehicular traffic around the two roundabouts, whereas a location in the Business Park would allow staff and customers alike to walk and would minimise additional local traffic.

Pedestrian access and connectivity, including across the drain/canal along Nelson Bay Rd, has not been addressed. There would inevitably be some demand for pedestrian movement between this proposed development and the existing and proposed developments on both corners of Lavis Lane. The developer would need at least to provide a safe footpath and foot bridge over the drain, and some form of safe crossing of busy Nelson Bay Rd, unless railings were erected to prevent pedestrian crossing the approach to the roundabout.

There is no mention of traffic impact or management for the truck movements that would be required for the huge amount of fill. This needs to be assessed in light of other current proposals for major increases in sand truck haulage along Nelson Bay and Cabbage Tree Roads.

### ***Landscaping Buffer Zones***

Too many developments on major roads in Port Stephens have been approved without adequate landscape buffer zones – resulting in an untidy and unattractive appearance which seriously detracts from the visual amenity of the LGA. Any new development should be required to have a significant vegetated buffer zone to include, in due course, a screen of mature trees. The community does not want the main entrances to Port Stephens to be defined by fast food outlets and petrol filling stations. If this development was to be approved, the "Tourist Area" as the major feature should be located on the Cabbage Tree

and Nelson Bay Road corner and not hidden away as an afterthought on the western boundary. This would then provide a more satisfactory vista.

### ***Aircraft Noise***

The proposed site lies within the ANEF 30 aircraft noise contour, this is the maximum allowed for a commercial development. It may be appropriate for customers who will be staying for short periods, however the SEE appears to dismiss the need to ensure insulation of the buildings to ensure that noise levels for staff are within safe levels.

### ***Future Development***

Reference is made "Lot 5 will be created to avoid any future subdivision that would be necessary to extricate the land". It is clear that the proposal envisages, and services, future developments on Lot 6, the largest parcel of land. We submit that with this clear intention in mind, the assessment of the current DA must take account of the overall impact of the development of the whole site.

### ***Conclusion***

On a large number of grounds, this DA should be refused. It is clearly an opportunistic commercial bid for windfall profits on private land, careless of sound planning principles and even for the proper process of a rezoning application before any DA. Past approval of DAs for major commercial and other developments on rural land have set an unfortunate precedent, which need not and should not be followed in this case. The need for proper limits on rural land development has been recognized in the draft LEP 2012, and Council should apply this long overdue policy in this case.

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Yours Faithfully,



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