7 November 2022

The General Manager
Port Stephens Council

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Council reference DA 16-2022-544-1

Objection: DA 2022-544: 4473 Nelson Bay Road, Anna Bay: Caravan Park (Residential Lifestyle Community) comprising 171 long term sites, 2 short term sites, clubhouse and associated infrastructure

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About TRRA

The Tomaree Ratepayers and Residents Association Inc (TRRA) 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.

Introduction

We submit that it is intensely frustrating for the community to see this DA still referred to as a 'caravan park' when it is in reality for a major expansion of Latitude One land lease community, comprising in effect 171[1] high specification permanent dwellings. However technically arguable, Council should insist on more accurate and meaningful descriptions of developments.

Despite a questionable planning history, TRRA accepts that the Latitude One development is now part of the Tomaree community. It and other similar land-lease communities are filling a gap in the housing market in Port Stephens and meeting a demand. The development first approved in 2011 for 229 dwellings, with 12 subsequent modifications including an increase to 270 dwellings, is now substantially complete.

However, this DA proposes the addition of sites for a further 171 dwellings[2] (a 63% expansion) and severely compounds a number of existing issues, including concerns about the impact of additional traffic and of the load on existing onsite community facilities, as well as having a major effect on connectivity of a significant wildlife movement corridor.

Consultation

In our submission on the Planning Proposal that preceded this DA and foreshadowed it with a Concept Plan, we argued that there was an opportunity to improve safety, amenity and environmental outcomes, and in particular to ensure that the site layout and vegetation management contributes as much as possible to flora and fauna habitat, in the context of important habitat corridors in the immediate area.

Some of our concerns were also raised by State Government agencies and Council's own staff. **We and other objectors were assured that many of our concerns could be addressed at the DA stage, and the Planning Proposal was approved on that understanding.**

We are disappointed to find that some of the key documents (e.g.Traffic Assessment and BDAR) have not even been updated since 2021, and few of the concerns raised have been addressed.

This is despite what appeared to be a willingness by Ingenia to engage with the local community and environment groups and Council to seek 'win-win' outcomes. However, we have to question the sincerity of the applicant, when it appears that there have been only minimal changes to the design of the development from the concept plan presented with the Planning Proposal.

[1] The Staging plan outlined on pp10-11 of the SoEE numbers a total of only 132 sites – 39 sites are missing? The numbering on the site plans is too small to read to check this anomaly.
[2] The DA has one more site than the Planning Proposal concept plan

In this respect, it is also very disappointing that we can find no reference in the Statement of Environmental Effects[3] (or accompanying documents) to consultation with the local community (other than the required consultation with Registered Aboriginal Parties (p36)). Given that Ingenia have been well aware of community concerns from the Planning Proposal process, we would have expected them to have expressly addressed those concerns in their DA.

Consultation with existing residents

We note that since early 2021, Council's Community Engagement Strategy has required reasonable steps to inform and consult with Residents Committees or equivalents of caravan parks and manufactured home estates about planning changes.

We do not know if the existing residents of Latitude One have been briefed by Ingenia about the detailed DA. We submit that Council should take steps to ensure that residents have been made fully aware of the DA. The views of existing residents are important and it is essential that they be taken into account.

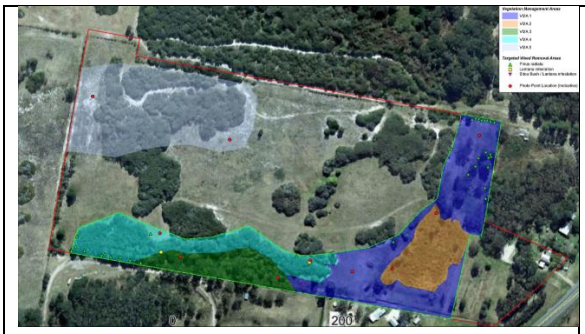
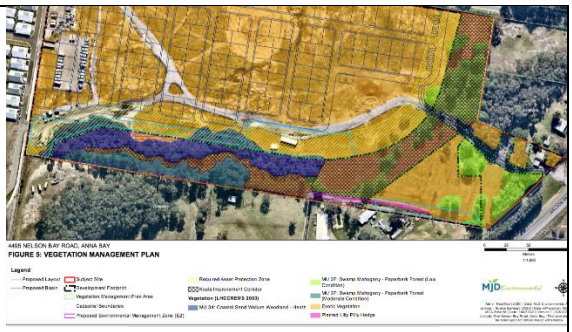
We submit that Council needs to inform itself about any feedback from existing residents, specifically including any concerns about traffic, alternative transport and community facilities. A summary of the feedback from residents should be included in the report to the Council on the DA.

Environmental Conservation and Vegetation Management

TRRA welcomed the earlier rezoning of part of Lot 25 to 'Environmental Conservation' (classified as C2 since late 2021). We also welcomed the intention to re-plant to establish a corridor (comprising several Vegetation Management Areas (VMAs) potentially linking native wildlife habitat to the east and west of Lot 25.

However, as we pointed out in our submission on the Planning Proposal, it would appear that the 2017 Vegetation Management Plan (VMP) has not been updated to reflect either the current state of the site, the Biodiversity Assessment Report (BDAR - August 2021) or the outstanding comments of the BCD and Council. The location and size of the VMAs as shown in the BAR appears to be significantly different (and overall much smaller) from the VMAs shown in the 2017 VMP which is still the proponent's 'current offer' (see two figures in Table below). These differences, and the failure of the proponent to submit an updated VMP does not inspire confidence in Ingenia's commitment to the future of the VMAs/C2 zone.

[3] The SoEE has a discontinuity in page numbering – p11 is followed by a second p2, so there are duplicate page numbers 2-11. This is most unhelpful as it makes it difficult to accurately reference pages.

	
Vegetation management areas (VMAs) in the 2017 Vegetation Management Plan.	Figure entitled Vegetation Management Plan in the 2021 Biodiversity Assessment

We note that a letter to Council from MJD Environmental (1 July 2022) only foreshadows **preparation** of a Vegetation and Fauna Management Plan (VFMP) in response to an anticipated consent condition.

We submit that this leaves far too much discretion for the applicant, who may or may not produce and then implement an adequate Management Plan. The applicant should be required to provide an updated VMP (or VFMP) **before** the DA is approved.

Acceptance of an updated VMP should also be conditional on provision for safe wildlife crossing of Latitude Drive (see further below).

We note that during consideration of the Planning Proposal, both the Biodiversity Conservation Division (BCD) of DPIE and Council queried compliance with previous requirements. It appears that the VMP required as a condition of approval for the 'Borrow pit' DA 2017-282 for Lot 25 was never fully implemented, and that more vegetation may have been cleared from Lot 25 than was approved. These past compliance failures do not inspire confidence in the proponent's commitment to the proposed VMP/VFMP.

We note that in its letter dated 14 September 2021, the BCD reserved its position in relation to the proponent's Biodiversity Assessment Report. We submit that it would be premature for Council to approve this DA until BCD's comments on the DA have been received and any concerns satisfied.

We note that the BCD recommended a Biodiversity Stewardship Agreement in addition to the VMP for the C2 zone. They point out that '*the development will impact on preferred koala habitat mapped under the Port Stephens Council Comprehensive Koala Plan of Management*'. While it appears that much of the koala habitat previously present on Lot 25 may have been cleared (possibly unlawfully), BCD recommended that '*The koala corridor should be reinstated to be a complete functioning vegetation community with all vegetation structural*

layers…' and that '*In order for the corridor to function for wildlife movement and to not suffer from edge effects it will need to be as wide as possible.*'

TRRA strongly supported the BCD recommendations, which also appear to have been endorsed by Council's own Natural Resources section.

As noted above, the layout of the VMAs in the BAR is different from those in the 2017 VMP. We also note that the BAR was vague about the presence of koala scats on Lot 25. The BAR also suggested that the replanting of Swamp Sclerophyll Forest species included in the VMP seems to have been dropped (on the basis that the species is already present in the conservation area), and that there will be minimal habitat fragmentation, despite the VMAs appearing quite patchy in the south east corner. We are not confident that either of these assertions are true given the extent of the clearing to date.

We submit that all of these concerns reinforce the need for an updated VMP **before** the DA is approved.

The contribution of a VMAs/C2 zone on this site needs to be seen in the context of wider connectivity between areas of bushland, and fauna habitat, which surround Latitude One on all sides. We submit that provision for safe wildlife crossing of Latitude Drive should be made a condition of approval of the DA.

Consideration should also be given to provision of safe crossing of Nelson Bay Road by native wildlife including koalas. These connectivity provisions should have been addressed in the approvals of the original DA and of the Planning Proposal, but it is not too late for crossing options (e.g. underpasses) to be investigated, and implemented, with an appropriate financial contribution from the developer.

We are also remain concerned that the outdated VMP did not provide sufficient guarantees of ongoing maintenance of the VMAs/C2 zone. In the absence of an updated Management Plan there can be no confidence that there is an adequate binding requirement for ongoing maintenance. We submit that approval of the DA should be conditional on either continuing maintenance of the VMAs/C2 zone **in perpetuity** or funding ongoing maintenance by Council or some other body.

The question of whether the housing development itself can be made 'wildlife - friendly' also needs to be addressed. We note that the history of approvals for 'lifestyle communities' in Port Stephens has been one of initial assurances that provision would be made for koalas to move through the sites, with koala friendly fencing and some feed trees within the site, and guarantees of no dogs. However, subsequent assertions that this would be too risky for the wildlife has led to approval by Council for exclusionary fencing, no feed trees, and in some cases allowance of domestic pets (which may also now be required for other

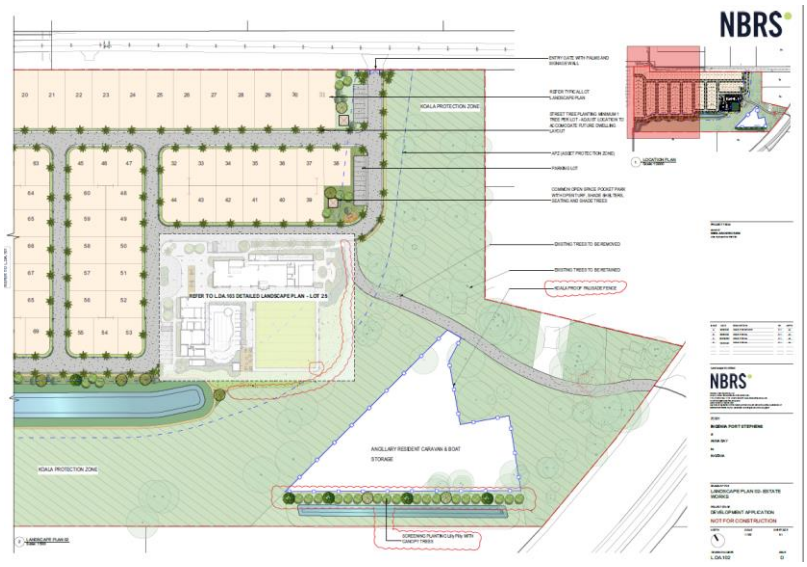
reasons). We understand that domestic animals are already permitted in the existing Latitude One development.

We submit that Council should engage with Ingenia and local volunteer Koala groups (Koala Koalition EcoNetwork Port Stephens and Port Stephens Koalas) to devise appropriate conditions for the expanded village to address native wildlife issues. Options include appropriate fencing, planting of koala feed trees within the development and a requirement to keep domestic pets indoors at night.

Caravan and boat storage

We note that in their comments on the Planning Proposal, the BCD questioned the placement of the proposed caravan and boat storage in an area covered by the Vegetation Management Plan (VMP) which was a condition of the 2017 approval for sand extraction from Lot 25, but which has not been implemented. The response of the proponent's consultants was dismissive – effectively arguing that the proposed new VMP replaces the 'missing' VMP and will give improved outcomes. We submit that Council should not simply accept this assertion – another good reason for requiring an update Management Plan **before** the DA is approved.

The plans clearly indicate that the caravan and boat storage area will be entirely cleared and presumably either graded or paved, and will therefore have no environmental value. The proposed location of the caravan and boat storage area to the south-east of the VMP lands (see Figure below from p3 of the NBRS Landscape Plans) remains a major concern.



The storage area is proposed to be raised above flood level, which will make it more prominent and visible. The location south of the VMP lands will effectively hide the caravans and boats from the residents of Latitude One but expose them

to motorists on Nelson Bay Road, adding to the already unacceptable visual pollution of that 'Gateway' to the peninsula.

The revised plan in the SoEE (p5) (below) shows a single row of Lily Pily trees with 4 canopy trees on the southern boundary of the caravan/boat storage area.

Figure 19. Screen Planting around the Caravan storage area

We question how long it will take for any new planting to provide a visual screen and whether the single row will ever effectively screen the storage area from Nelson Bay Road. We submit that a thicker belt of new planting be required and that the storage area not be opened for use until the planting is mature enough to provide a visual screen.

Access to the caravan and boat storage would also cut through the C2 zone and area subject to a VMP, threatening its integrity and utility as a flora and fauna corridor. We note from the July 2022 letter from MJD Environmental an 'intention' not to fence the road corridor through the C2 zone, but this remains only a promise – it should be a requirement. The effect is also largely negated but the proposed fencing of the entire ancillary storage area (koala proof palisade fencing – see Figure 19 above). This will prevent any wildlife moving south from easily finding its way to the C2 zone in the west of the site. Only a very narrow corridor will be available between the Community bowling green and the fencing.

The entire layout, and proposed fencing, of the caravan and boat storage area seems problematic and a poor design for which no justification is provided.

We submit once again that the applicant should be required to provide any caravan and boat storage on the other (northern or western) side of the VMAs/C2 land, as part of the residential development that it will service, even if this requires a reduction in the number of dwelling lots.

Re-location of the storage area would allow the VMAs/C2 land to be extended to include the SE corner of Lot 25, increasing its value as a flora and fauna corridor – this would seem to be consistent with the concerns expressed by the BCD and Council Natural Resources section at the time of the Planning Proposal. Re-location would also re-inforce the visual and noise barrier between the development and Nelson Bay Road, helping to maintain the rural character of the wider locality.

Re-location of the storage area may also reduce the requirement for expensive and disruptive landfill and possibly also for the extra stormwater retention basin. We are concerned that the proposal for a stormwater drainage easement across Lot 27 could involve the clearing of a substantial area of native vegetation. See below under 'Drainage' for further discussion of this.

Short term sites

The proposal includes 2 short term sites for touring caravans or motor homes. These sites appear to be a token gesture to continue the pretence of the residential development being a 'caravan park'. The SoEE admits that the sites will be for the use of friends and family (p18)

We submit that there is clearly no intention to allow short term occupation, and that Council should waive any *requirement* for the 2 short term sites, making it clear that it rejects the pretence that the development is a 'caravan park', when it clearly is not, in any practical sense.

Community facilities

We note that the DA includes a new community facility (clubhouse etc.) but only as part of Stage 3. The numbers of sites in each stage given on pp10-11 *totalling 132) does not match the staging plan on p10 which shows all 171 sites. Assuming the plan is correct, Stages 1 & 2 are for 118 sites and Stage 3 for 53. This means that the residents in at least 118 new dwellings will all be expected to use the existing community facilities of Latitude One, at least until a new facility is constructed in Stage 3 – assuming it is ever completed – there is presumably no guarantee that it will be.

This will be an issue of particular interest to current and future residents of the 270 existing dwellings.

We submit that the applicant should be required to construct and open the additional community facilities much earlier in the staged development of the site.

Traffic issues

The proposed 63% expansion of the 'village' will obviously generate a significant amount of extra vehicular traffic entering and exiting Latitude Drive from Nelson Bay Road (MR108 under the control of Transport for NSW).

We note that the applicant acknowledges that the DA will need to be referred to Transport for NSW (TfNSW). We submit that there are several important issues for TfNSW and Council traffic engineers to consider.

The limited road works required at this T-junction as part of the original approval are arguably already inadequate. We are aware of significant concerns about the safety of the junction, given that

- The junction allows for vehicles exiting Latitude Drive to turn right across the eastbound[4] carriageway of a road with a 90kph speed limit
- Westbound vehicles turning into Latitude Drive have to wait in the centre of Nelson Bay Road, in only a marked turning lane, without any physical protection from either following or oncoming traffic
- The junction is situated at a natural 'pinch point' between two long stretches of road with 3 lanes (2 lanes eastbound just to the west and two lanes westbound just to the east), with the 90kph traffic having to merge into one lane and avoid any vehicle waiting in the centre lane to turn
- Eastbound vehicles come round a blind corner to find themselves behind vehicles unexpectedly slowing to turn into Latitude Drive, notwithstanding the provision of a short slip lane.
- The junction is located in a rural area with little or no sign that it services a substantial urban density development that generates a lot of 'unexpected' vehicular traffic

All of these existing issues will be compounded by the significant increase in vehicular traffic that would result from the proposed expansion.

The proponent's Traffic Assessment (InTersect Traffic, June 2021) claimed that the junction met all relevant standards and that Nelson Bay Road has the capacity to handle the estimated doubling of traffic (including from the then 47 yet to be occupied sites in the existing village).

We submit that Council and TfNSW/RMS need to satisfy themselves independently rather than simply relying on the consultant's opinion.

We note that the traffic count relied on was limited to two one-hour periods on a single Monday (15 March) late in the 2021 COVID affected holiday season, and we submit that this should not be accepted as representative or predictive. We submit that a much more comprehensive traffic survey should be required as a basis both for technical assessment against the RTA/RMS Guidelines and for a separate 'common sense' appraisal of the actual situation on the ground at this location. We understand that there has already been one serious accident in the

[4] While Nelson Bay Road runs SW-NE at the Latitude Drive junction, we have referred to traffic on Nelson Bay Rd as either 'eastbound' (towards Nelson Bay) or 'westbound' (towards Anna Bay) as the route overall runs more west-east than north-south.

vicinity of the junction involving a right turn out of the development by a vehicle and trailer.

Improvements to the junction of Latitude Drive and Nelson Bay Road are essential to prevent further serious accidents which are only a matter of time even with the existing development. This risk will only increase with the proposed expansion.

Serious consideration should be given by TfNSW/RMS to requiring a roundabout, or at least a physically protected centre lane in Nelson Bay Road for vehicles turning right out of Latitude Drive. The developer of Latitude One should make at least a significant contribution to the cost of any junction improvements.

We are also aware of existing residents' concern about the absence of a speed limit on the public part of Latitude Drive. If by default the limit is 90kph as on Nelson Bay Road at the junction this is even more of a concern. We submit that at least a 50kph limit would be appropriate, or even 40kph given that pedestrians and cyclists have to share the road.

Alternative Transport

The now outdated (June 2021) Traffic Assessment for this proposal confirms that there is no realistic safe access to and from Latitude One for pedestrians, cyclists or users of mobility scooters, and that the nearest public bus services are nearly 2km away. The only alternative to total car dependency is the Community's own courtesy bus, operation of which is presumably at the discretion of Ingenia, with no guaranteed level of service.

We note that the 400 metre length of Latitude Drive which has been adopted by Council as a public road does not have any footpath or cycleway, so residents could not safely walk, cycle or 'scoot' to and from the village even if they want to. This seems to have been very shortsighted by Council, and consideration should be given to requiring the developer to fund at least the 'marking' of a shared path (and street lighting) along Latitude Drive.

We understand that the village currently has a smally courtesy bus which can be driven by volunteer residents, and that this makes a few scheduled trips to local centres each week, and is otherwise available 'on request' provided a driver is available. Consideration is being given to a second small bus so that this service can be extended. This may provide a viable solution to the lack of easy access to public bus services, and we submit that Council should facilitate discussions between the operators of the various existing and proposed residential parks in the area, with a view to sharing access to courtesy bus services – this could provide a higher level of service more cost-effectively than each 'village' running its own buses.

Water supply and sewerage

It appears that there may be constraints on the development in terms of the capacity of wastewater (sewerage) infrastructure. Developer funded improvements to Hunter Water infrastructure required for the initial development of Latitude One and the nearby Sunrise village at Bobs Farm do not appear to have anticipated the expansion now proposed. We assume that Council will ensure that any concerns Hunter Water has about the proposal are addressed and, if further works are required, meeting the cost is imposed as a condition on the developer.

Stormwater management

In the Stormwater Strategy prepared by ADW Johnson for the Planning Proposal (June 2021) there is a conclusion that appropriate stormwater controls can be readily implemented at the development applicant stage. The Northrop Civil Engineering plans (rev 2 dated 13/5/22) show retention basins draining south over an adjacent lot. Obviously Hunter Water and Council will need to be satisfied that this adequately provides for excess stormwater, but we would also like to see assurances that these arrangements will not necessitate additional tree clearing on the adjacent lot.

Summary

TRRA submits that the following issues need to be addressed and resolved before a Determination is made on this DA:

1. Feedback on this DA should be pro-actively obtained from existing residents of Latitude One and a summary of the feedback included in the report to Council on the Proposal.
2. Comments on the DA from the Biodiversity Conservation Division (BCD) of DPIE on the Vegetation Management Plan (VMP) should be addressed in an updated VMP/VFMP for the VMAs/C2 zone **before** the DA is determined and a Biodiversity Stewardship Agreement should be required in addition to a VMP/VFMP.
3. A safe wildlife crossing option for Latitude Drive should be required and implemented at the expense of the developer.
4. Consideration should be given to a safe wildlife crossing of Nelson Bay Rd to the NE of the Latitude Drive junction, again with an appropriate contribution by the developer to the cost, and integration with the required road safety improvements to the junction.
5. Council should require discussions between the proponent and volunteer koala care and protection groups about arrangements for fencing, planting and control of domestic animals within the Latitude One development, and protection of native wildlife in the VMAs/C2 zone..

6. Council should require the caravan and boat storage area to be re-located to the north or west of the VMAs/C2 zone, and that zone extended to include the SE corner of Lot 25.
7. Provision of the proposed new community facilities for residents should be 'locked in' to a much earlier stage of the development.
8. A much more comprehensive traffic survey should be required as a basis both for technical assessment against the TfNSW/RTA/RMS Guidelines and for a separate 'common sense' appraisal of the actual situation on the ground at this location.
9. Council and/or Transport for NSW/RMS should implement a low speed limit on the public part of Latitude Drive, and serious consideration should be given to a reduced speed limit on Nelson Bay Road.
10. Improvements to the junction of Latitude Drive and Nelson Bay Road are essential to prevent further serious accidents which are only a matter of time even with the existing development. This risk will only increase with the proposed expansion.
11. Serious consideration should be given by Transport for NSW to a roundabout, or at least to a physically protected centre lane in Nelson Bay Road for vehicles turning right out of Latitude Drive. Junction improvements should be made a condition of confirmation of consent.
12. Any use of the 'maintenance and emergency' access road directly to Nelson Bay Road will pose a significant risk, given position of that access even closer to the eastbound bend than Latitude Drive itself, and the speed of traffic on Nelson Bay Road at that point.
13. This risk would be significantly increased if any use of that road to give access to or from the caravan and boat storage area were permitted. There should be strict conditions relating to the use of this access road.
14. The developer should be required to fund at least the 'marking' of a shared path (and street lighting) along Latitude Drive, including the approx. 400m stretch for which Council is responsible.
15. Any concerns Hunter Water has about the proposal should be addressed, with the cost of any further works required to be met as a condition on the developer.
16. There should be conditions relating to any works required for excess stormwater drainage across adjacent property, including limiting the extent of any tree clearance for these works.

Thank you for your consideration. We have no objection to this submission being published, in full and unredacted.

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