



Ms Abigail Hawtin
Strategic Land-use Planner
Lake Macquarie City Council
Box 1906
Hunter Regional Mail Centre, NSW, 2310

By email: ahawtin@lakemac.nsw.gov.au

Dear Ms Hawtin

Planning Proposal for Raffertys Resort at 1 Wild Duck Drive and 2 Lorikeet Loop Cams Wharf

I refer to your request of the 29 March 2023, seeking comments on the planning proposal for the Raffertys Resort at Cams Wharf. The Local Environment Plan (LEP) amendment seeks to increase the height limit on part of Lot 31 DP270043 from 8.5 metres to 36.5 metres and on part of Lot 30 DP270043 from 8.5 metres to 16 metres. This planning proposal was referred to us for comment on whether the planning proposal is consistent with Ministerial Direction 2.2 (Coastal Management).

Biodiversity and Conservation Division's (BCD) recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you have any further questions about this matter, please contact Karen Thumm, Senior Conservation Planning Officer, on 4927 3153 or at huntercentralcoast@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink that reads 'Joe Thompson'.

Joe Thompson
Director
Hunter Central Coast Branch
Biodiversity and Conservation Division
13/4/23

Enclosure: Attachments A and B

BCD's recommendations

Raffertys Resort Planning Proposal – Advice on proposed development and rezoning of Raffertys Resort, Cams Wharf.

1. BCD recommends that the scale and height of proposed development is reconsidered to ensure that it conforms with the provisions of the Resilience and Hazards (RH) SEPP with regards to visual amenity and scenic qualities.
2. BCD recommends that the scale and height of proposed development is reconsidered to ensure that it conforms with the mandatory provisions of the draft Coastal Design Guidelines with respect to Outcome B.2 "Respond to and protect elements which make the place special".
3. The flood model should be revised to ensure that it reflects current and future flood risk.
4. Flood modelling should reflect an appropriate design horizon (post 2100) for determining future risk to the development.
5. The proponent should demonstrate safe evacuation routes from each of the sites where an increase in residential or visitor occupation is requested. For evacuation purposes floods up to the Probable Maximum Flood (PMF) should be considered. Vertical evacuation (Shelter In Place, SIP) is not considered to be evacuation from an area of risk.
6. The proponent should demonstrate how the proposal is consistent with the special flood consideration or Section 4.1.4 of the Local Planning directions with respect to land between the flood planning area and the PMF.
7. Further detail would be required to consider any proposal for shelter in place.

BCD's detailed comments

Raffertys Resort Planning Proposal – Advice on proposed development and rezoning of Raffertys Resort, Cams Wharf.

Coastal Management

1. The proposed development is not consistent with the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 with regard to visual amenity and scenic qualities.

The proposed development site is located within the mapped Coastal Use Area defined by the State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP). The RH SEPP states that development should not adversely impact the visual amenity and scenic qualities of the coast, including coastal headlands. The height and scale of the proposed development is not considered consistent with these provisions.

Recommendation 1

BCD recommends that the scale and height of proposed development is reconsidered to ensure that it conforms with the provisions of the RH SEPP with regards to visual amenity and scenic qualities.

2. The scale and height of the proposed development is not consistent with the mandatory requirements of the draft Coastal Design Guidelines

The draft Coastal Design Guidelines state that development should not adversely impact foreshores and the natural beauty of coastal areas. Outcome B.2 "Respond to and protect elements which make the place special" states that it is mandatory to:

- a) Integrate development within the natural topography of the site and ensure building type, scale and height responds sympathetically to coastal landforms; and
- b) Avoid development that dominates coastal elements, including foreshores, public spaces and other areas of natural beauty.

It is considered that the proposed development is of a scale and height that is not consistent with this mandatory requirement.

Recommendation 2

BCD recommends that the scale and height of proposed development is reconsidered to ensure that it conforms with the mandatory provisions of the draft Coastal Design Guidelines with respect to Outcome B.2 "Respond to and protect elements which make the place special".

3. The flooding report requires revisions and clarification for flood risk to be assessed

The flood report by Xavier Knight, Flood Management Report Project 210828 dated 30/6/22 Issue C, has been reviewed. Additional information and clarification are required before this report can be used to determine the flood risk at the location of the proposed LEP change.

Matters which require clarification/review are listed below:

- (A) A “Mannings n” roughness of 0.08 has been used for the whole of the creekline. This may be suitable for vegetated waterways however the constructed waterway through the existing site is noted as rock lined in other documents provided with the proposal. “Mannings n” should be verified by site visit to ensure that appropriate values are used for each section of waterway.
- (B) The Digital Elevation Model (DEM) which underlies the model has been obtained from LiDAR. This is standard practice however some verification against state survey marks or work as executed drawings should take place.
- (C) No stormwater drainage has been included in the model. As a minimum the waterway crossing at Wild Duck Road should be included together with appropriate blockage assessment.
- (D) The flood mapping provided gives a flood extent however it does not show the flood planning area
- (E) The maps for the 1% flood and the Probable Maximum Flood (PMF) show the hazard for the 1% flood to be higher than the PMF . This is considered unlikely and more explanation is required.
- (F) The site is impacted by flooding from Yalliwai Creek and by flooding from Lake Macquarie. The extent of both floods should be shown on plans.
- (G) Flood hazard has used low and high hazard rather than the H1 to H6 hazard categories which are now considered best practice.
- (H) The report states that it is not a site specific report. No analysis of the impact of proposed development of the bulk and scale proposed on flood levels and velocities has been made. The flood report should include both pre and post development scenarios to determine if off site impacts occur.

Recommendation 3

The flood model should be revised to ensure that it reflects current and future flood risk.

4. The flood model has not considered the appropriate climate change scenario

The Lake Macquarie Development Control Plan (DCP) 2014 Part 6 Section 2.10 requires that mixed use medium and high density development should use an assumed asset life of 100 years for climate change assessment. The flood report has used a mid-range 2050 scenario and requires updating to meet the DCP requirements and NSW guidance. A flood event equivalent to 0.2% event can be used in lieu of an increase in rainfall.

The NSW Government does not stipulate what sea level rise figure should be used in the modelling, only that the best available and most up-to-date science should be considered in determining an appropriate scenario and risk profile. The Intergovernmental Panel on Climate Change (IPCC) has recently released the AR6 Synthesis Report - Climate Change 2023. The IPCC have now moved to a different modelled suite in AR6 known as Shared Socio-economic Pathways (or SSPs) with projections out to 2150. These figures should be considered in the modelling.

Recommendation 4

Flood modelling should reflect an appropriate design horizon (post 2100) for determining future risk to the development.

5. The proposed change to the LEP is not consistent with Local Planning Directions Focus Area 4 Resilience and Hazards

The planning proposal has requested significant increase in the allowable height of buildings on the site to enable more residential development and more visitor accommodation. Lot 14 is

within the flood planning area and entirely surrounded by flood water in a 1% event. Increase in building height in this location is not supported because it is a significant variance to clause 3.1 3d by promoting a significant increase in development density on that land. The current proposal is to increase height limit from 8.5m to 16m. The degree to which lot 30 is within the flood planning area cannot be determined until the flood study is updated. At present at least a portion of the lot and the area facing the creekline is impacted. The architectural drawings do not give sufficient information to determine if egress from a building sited on lot 30 is possible during a flood event.

The flood report indicates a critical storm duration of 0.25hours in a PMF event and no flood warning system is in place.

Building height on lot 31 is proposed to be increased from 8.5m to 36.5m which is a substantial increase. The extent to which lot 31 may be impacted by flood will be reviewed after update of the flood information. The proposed development on lot 31 has also been suggested as a possible evacuation site for the other lots. Suitability of this site would need to be demonstrated together with whether this is supported by proposed staging.

Shelter in place above the flood level has been suggested as a method of protecting occupants in the developments. Shelter in place is not an option currently supported by the SES. BCD agrees that shelter in place may be safer than moving through flood water in flash flood circumstances however the ability to shelter in place should not be used to justify increased development of a site.

Recommendation 5

The proponent should demonstrate safe evacuation routes from each of the sites where an increase in residential or visitor occupation is requested. For evacuation purposes floods up to the PMF should be considered. Vertical evacuation (SIP) is not considered to be evacuation from an area of risk.

6. Special flood consideration LEP clause has not been considered

The proposal has indicated that the special flood consideration clause should not apply because Council has not adopted this clause. Following the NSW flood enquiry, it has been recommended that the special flood consideration clause become mandatory, or it be considered as part of the resilience and hazards SEPP.

Recommendation 6

The proponent should demonstrate how the proposal is consistent with the special flood consideration or Section 4.1.4 of the Local Planning directions with respect to land between the flood planning area and the PMF.

7. Further flood information would be required if shelter in place is to be considered

Shelter in place may leave people within a hazardous area and may also put emergency services personnel and residents in danger if it becomes necessary to evacuate once buildings are surrounded by hazardous flood waters. Resupply and medical issues can be more difficult to manage when people are encouraged to stay in a flooded area which is cut off. For shelter in place to be considered it is necessary to demonstrate the duration of the likely shelter, how the building will be constructed to ensure it is structurally sound and how essential services such as power and sanitation will be provided during a flood.

The ability to shelter in place can reduce risk in short flash flood situations and reduce losses if habitable spaces are located above the PMF level. Shelter in place may be an acceptable

method of managing flood risk for existing land uses however is not supported as a method of increasing the population at risk.

Recommendation 7

Further detail would be required to consider any proposal for shelter in place.



NSW RURAL FIRE SERVICE

Lake Macquarie City Council
Box 1906
HUNTER REG MAIL CENTRE NSW 2310

Your reference: (REF-2076) PP-2022-2522
Our reference: SPI20230329000046

ATTENTION: Abigail Hawtin

Date: Monday 17 April 2023

Dear Sir/Madam,

Strategic Planning Instrument
LEP Amendment – Planning Proposal
Amend the Lake Macquarie LEP 2014 Height of Building Map.

I refer to your correspondence dated 29/03/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

- The NSW RFS raises no concerns regarding the proposed amendments to the Lake Macquarie Local Environmental Plan (LMLEP) 2014.
- Future development on the site will need to demonstrate compliance with *Planning for Bush Fire Protection 2019* including Section 8.2.2 Multi-storey residential development. This must address the following:
 - Population - higher resident densities can pose issues for emergency management;
 - Location – bush fire impacts can be increased where high rise buildings are located in higher elevations or on ridge tops;
 - Egress - is more challenging and places an increased demand on road infrastructure during evacuation;
 - Construction - there is a higher external façade surface area that may be exposed to bush fire attack and:
 - car and storage facilities on the ground level can provide an additional fuel loading;
 - balconies and external features can easily trap embers which can ignite combustible materials.
 - Height -the height can result in increased exposure to convective heat.
- A detailed bushfire evacuation plan would need to be prepared including details of safe onsite and offsite evacuation procedures for all residents and visitors. This may need to include a traffic study which looks at the impact of emergency evacuation on the broader community and to the Pacific Highway.
- Council is advised to consider preparing a broad strategic study to support any future density increases in the region.

For any queries regarding this correspondence, please contact Joshua Calandra on 1300 NSW RFS.

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

Yours sincerely,

Adam Small
**Supervisor Development Assessment & Plan
Built & Natural Environment**

Mark Parker,
Assessment Officer
NSW Department of Planning and Environment
Via Email: mark.parker@planning.nsw.gov.au

Re: Planning Proposal to increase allowable Height Limits at Rafferty's Resort, lots 30 and 31 in DP 270043

Dear Mr Parker,

This letter provides Subsidence Advisory's advice regarding a planning proposal at Rafferty's Resort, Cams Wharf. It is understood that the proposal is to increase the maximum allowable height limit at Rafferty's Resort (Lots 30 and 31, DP 270043) from 8.5m up to a maximum of 36.5m.

The site is within a declared Mine Subsidence District (MSD) and future development will require Subsidence Advisory's approval. Subsidence Advisory's records indicate a negligible risk that future subsidence impacts will occur at the site as it is not undermined, is located outside the influence of historical coal mine workings and located outside of an active coal mine or exploration title.

Subsidence Advisory's would approve development consistent with the proposal under our *Development Application Merit Assessment Policy*, a copy of which can be found here; <https://www.nsw.gov.au/subsidence-advisory/merit-policy>.

Conditions of approval may include a requirement that the applicant provide confirmation following construction that works were carried out in accordance with approved architectural plans.

If you would like more information, please contact myself on 4908 4300 or subsidedevelopment@customerservice.nsw.gov.au.

Sincerely,



Kieran Black
Technical Specialist

28 April 2023

File No: NTH22/00189/02

Your Ref: PP-2022-2522

Chief Executive Officer
Lake Macquarie City Council
PO Box 1906
HRMC NSW 2310

Attention: Abigail Hawtin

PLANNING PROPOSAL- PP-2022-2522, PROPOSED LEP AMENDMENT TO INCREASE BUILDING HEIGHT, LOTS: 30 & 31 DP: 270043, RAFFERTYS RESORT CAMS WHARF

I refer to the abovementioned Planning Proposal referred to Transport for NSW (TfNSW) on 29 March 2023 for agency consultation.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with the *Future Transport Strategy*.

Pacific Highway (HW10) is a classified State Road and Cams Wharf Road and Wild Duck Drive are local roads. Council is the roads authority for these roads in accordance with Section 7 of the *Roads Act 1993*.

As discussed with Council and the proponent at recent meetings, assumptions provided in the Traffic Impact Assessment prepared by Seca Solution dated June 2022 are not supported. The proposal will add additional movements to the intersection of Pacific Highway, Cams Wharf Road and Flowers Drive. There are existing safety concerns at the intersection, namely risks associated with high speed / high severity crashes and this is evidenced by two fatal crashes recorded at this intersection related to right turn out.

At this time TfNSW object to progression of the Planning Proposal, however, TfNSW intention is to continue to collaborate with DPE, Council and the proponent to explore viable options that should facilitate a solution and enable the Planning Proposal to be supported in due course.

Should you require further information please contact Holly Taylor, Development Services Case Officer, on 1300 207 783 or by emailing development.north@transport.nsw.gov.au.

Yours faithfully



Liz Smith
Manager Development Services
North Region | Community & Place
Regional & Outer Metropolitan

OFFICIAL