

12 July 2012

**Nords Wharf Residential Development
Concept Plan MP 10_0088**

BACKGROUND

In February 2007, the Proponent lodged a concept plan to redevelop the site. The concept plan was subject to an Independent Hearing and Assessment Panel (IHAP) review. The IHAP recommended the then Minister for Planning approve the amended concept plan based on a modified scheme.

The original concept plan was withdrawn following a Land and Environment Court decision which ruled approvals for other residential development at Catherine Hill Bay and Gwandalan (by the Rose Property Group) to be invalid.

The current concept plan (lodged June 2010) incorporates recommendations made by the IHAP in respect of the former concept plan proposal. Recommendations made by the IHAP have also been considered by the Department in its assessment of the current application.

The site has also recently been rezoned through the State Significant site process by way of an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2004 on 13 April 2012. The amendment rezoned the development site R2 Low Density Residential and the conservation lands E1 National Parks and Nature Reserves and E2 Environmental Conservation. The proposed development is permissible within the respective zones.

PROPOSAL

This application seeks concept plan approval for a residential development at Nords Wharf. The site sits to the south of the established village of Nords Wharf, in the Lake Macquarie local government area (LGA).

The site is part of the Coal and Allied Southern Estates, which comprises land holdings located at Nords Wharf, Gwandalan and Middle Camp.

The main activities associated with the project include:

- residential development of up to 90 dwellings across 10.18ha of the site;
- dedication of 116.6 ha (92%) as conservation lands;
- conceptual road design and access arrangements; and
- urban design guidelines.

Approval is not being sought for a specific lot layout. However the Proponent has provided an indicative lot plan showing how 90 dwellings could be accommodated on the site. The site is proposed to be developed in a single stage. The Proponent for this application is Coal and Allied Operations.

DELEGATION TO THE COMMISSION

The project was referred to the Commission for determination under the terms of the Ministerial delegation dated 14 September 2011.

Mr Garry Payne AM, Ms Jan Murrell and Mr Richard Thorp were nominated Commission members for the project. Mr Garry Payne AM chaired the Commission.

DEPARTMENT'S ASSESSMENT REPORT

On 26 April 2012, the Commission received the Director-General's Environmental Assessment Report. The report provided an assessment of key issues including:

- Urban design and built form;
- Infrastructure contributions and local services;
- Biodiversity;
- Soils and water;
- Bushfire risk;
- Traffic and transport; and
- Heritage.

The proposal was exhibited concurrently with Coal and Allied's other proposals for Gwandalan and Middle Camp. For the Nords Wharf proposal, the Department received 12 submissions from public authorities and 43 submissions from the general public.

The Department's assessment report concluded that the concept plan should be approved as the proposal is in the public interest. The Department considers that the proposal provides development of an appropriate scale given the local context and site constraints, and facilitates the dedication and protection of conservation lands in perpetuity.

Meetings with Key Stakeholders

Proponent

On 10 June 2012, the Commission met with the Proponent to discuss the proposal. The discussion focused on the background of the proposal, subsidence impacts, ownership and management of open space and traffic issues.

Lake Macquarie Council

On 10 June 2012, the Commission met with Council officers to discuss the application. The key issues raised by Council included, adequacy of the design guidelines, future management of the Asset Protection Zones, Heritage impacts (including a request for a wider buffer between the established Middle Camp village and the proposed development).

Public Meeting

The Commission held a public meeting on 14 June 2012 to hear the public's views on the Department's assessment report and recommendation. Nine people spoke at the Commission meeting (see Appendix 1). The key issues raised at the meeting included:

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| • Inadequate design guidelines; | • Traffic impacts and standard of intersection upgrades; |
| • Asset protection zone maintenance period; | • Standard of local roads for boat owners; |
| • Fauna and Flora impacts; | • Number of access points; |
| • Adequacy of ecological report; | • Scale of development will overwhelm Nords Wharf; |
| • Wildlife corridor width; | • Stormwater discharge into lake Macquarie; |
| • Edge effects between urban development and conservation lands; | • Status of Scout Hall; |
| • Pet ownership restrictions; | • Mine Subsidence; and |
| • Land ownership; | • Extent of issues to be dealt with at a later stage. |
| • Cumulative impacts; | |
| • Errors in assessment report; | |

COMMISSION'S COMMENTS

The Commission considers that the Department's assessment report and recommended modifications adequately address the majority of issues raised at the public meeting. Further, many of the detailed design issues raised at the public meeting will be considered during the assessment of future development applications. The indicative lot layout is not approved as a part of this concept plan.

Notwithstanding, the Commission gave further consideration to the following issues:

- Environmental Impacts;

- Design Guidelines; and
- Traffic.

Environmental Impacts

Concern was raised regarding the impact of the proposal on the natural environment, particularly flora and fauna impacts, edge effects and the width of the wildlife corridor.

The Commission notes the development footprint has been designed to respond to the ecological and heritage constraints of the site. The footprint has been located to avoid the EEC Swamp Mahogany Paperbark Forest and to provide an appropriate setback to Lake Macquarie to protect foreshore vegetation and an Aboriginal heritage midden.

The Department's Environmental Assessment Report notes that the Office of Environment and Heritage (OEH) consider that the dedication of the proposed conservation lands which makes up 92% (116.6ha) of the subject site will adequately offset potential flora and fauna impacts associated with the proposal. OEH also indicate that the potential impacts on threatened species have been adequately addressed, and that the proposed offsets comply with OEH offsetting principles.

The Commission acknowledges that the urban footprint extends towards the Pacific Highway which reduces the width of the wildlife corridor. However, the Commission considers that the width of the corridor, at 100m between the Pacific Highway and the established village of Nords Wharf, is acceptable. In addition, securing the offset lands in public ownership will cease any further encroachment onto the wildlife corridor. The dedication of conservation lands will also contribute to the long term protection of the wildlife corridor linking the Wallarah National Park to the north and Munmorah State Conservation Area to the south. The Commission also notes that the Asset Protection Zone will be located within the approved development area therefore minimising the impact of the proposal on the conservation lands.

The Department has also recommended controls to manage the environmental impacts associated with the proposal, and edge effects between the development and conservation areas. Any subdivision application is to provide the following:

- details on strategies to minimise clearing and retain mature and/or hollow bearing trees where possible,
- management measures for minimising impacts on fauna during subdivision works including the employment of an appropriate qualified ecologist to advise and supervise any clearing of vegetation;
- management of *Phytophthora cinnamomi* during subdivision works; and
- details regarding the management of the interface between the development area and conservation lands, including the foreshore area, and appropriate environmental controls to minimise any potential impacts on the conservation lands.

Based on the Department's assessment and advice from OEH, the Commission is satisfied that impacts upon flora and fauna will be adequately offset through the dedication of the conservation lands. The Commission is also satisfied that the development footprint appropriately responds to the environmental constraints of the site and the recommended conditions of approval will adequately manage the environmental impacts associated with the proposal.

Design Guidelines

Concern was raised at the public meeting that the urban design guidelines lack the necessary detail to guide the future development of the area.

Lake Macquarie Council considers the proposed design guidelines should be modified and requested greater input into the preparation of the guidelines. Council also requested that

the guidelines be amended to include controls for other types of development permissible on the site but not covered by the guidelines.

The Department has recommended that the proposed Design Guidelines be approved, subject to a number of amendments including:

- consistency with State Environmental Planning Policy (Nords Wharf) 2012;
- details on how 'cut and fill' is to be minimised;
- private open space and landscaping requirements;
- requirements for retention of vegetation;
- site fencing;
- setbacks for secondary frontages on corner lots;
- controls to ensure that garages are located behind the front building line; and
- site cover controls.

Further, the Department recommends the final urban design guidelines should be prepared in a form which could be adopted as site specific controls within the Council's DCP at some stage in the future.

The Commission considers that the revised design guidelines will provide a more detailed and comprehensive set of controls to guide the future redevelopment of the site and will address many of the concerns raised at the public meeting. The Commission wishes to emphasize the importance of the Proponent working closely with the Council to prepare the amended guidelines in a form that can be adopted as site specific controls in Council's DCP.

Traffic

Concern was raised regarding the upgrade of local roads servicing the development. The Commission notes the concept plan approval requires the Proponent to demonstrate that;

- all local road upgrades have been designed in accordance with council requirements; and
- the intersections of Banter Road/Government Road and Awabakal Road/Government Road can safely and efficiently cater for the additional vehicular traffic generated by the proposal.

The Commission also notes that the proposal would trigger the Pacific Highway/Awabakal Drive intersection upgrade. The Department has recommended that the Pacific Highway/Awabakal Drive intersection be upgraded to a signalised seagull intersection, in accordance with RMS advice.

Overall, the Commission accepts the Department's assessment, together with the RMS advice and considers the traffic impacts associated with the proposal will be adequately managed by the recommended future environmental assessment requirements.

COMMISSION'S DETERMINATION

The Commission has carefully considered the views expressed at the public meeting, the Department's Assessment Report and agency and public submissions.

On balance, the Commission agrees with the Department's recommendation that the proposal should be approved. The proposal is permissible development, will provide large areas of conservation land and is consistent with the Lower Hunter Regional Strategy.



Garry Payne AM
Commission Member



Richard Thorp
Commission Member



Jan Murrell
Commission Member

Appendix 1

List of Speakers

Planning Assessment Commission Meeting

Venue: Catherine Hill Bay Surf Life Saving Club
14 June 2012

1. Ms Joy Llewellyn-Smith
2. Mr Frank Mulhall
3. Mr Graham Healy
4. Mrs Louise Marsh
5. Mrs Joan Dent
6. Mrs Liz Harris
7. Mr Wayne DeMarco
8. Mr Kevin Fitzgerald
9. Mr Boris Branwhite