

12 July 2012

**Middle Camp - Residential Development
Concept Plan MP 10_0089**

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 original proposal sought approval for 300 dwellings comprising four separate hamlets. Following the IHAP review, the Proponent amended the proposal by reducing the overall yield from 300 dwellings to 222 dwellings. The Proponent also deleted a bypass road from the proposal. On the basis of the modified proposal, the IHAP recommended the then Minister approve the amended concept plan.

The original concept plan was withdrawn following a Land and Environment Court decision which ruled approvals for other residential development at Catherine Hill Bay and Gwandalan (by the Rose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. The remaining parts of the site were rezoned E1 National Parks and Nature Reserves, E2 Environmental Conservation and RE1 Public Recreation. The proposed development is permissible within the respective zones.

PROPOSAL

This application seeks concept plan approval for a residential development at Middle Camp, Catherine Hill Bay. The site is part of the Coal and Allied Southern Estates, which comprises land holdings located at Nords Wharf, Gwandalan and Middle Camp. The site lies with the Lake Macquarie local government area.

The main activities associated with the proposal include:

- A 222 lot residential subdivision contained in two hamlets. Hamlet A consisting of 59 lots and Hamlet B 163 lots;
- Landscape and open space design concepts;
- Urban design guidelines;
- Provision of associated infrastructure;
- Dedication of 525.87ha of environmentally significant conservation lands;
- Torrens title subdivision to facilitate transfer of land to the NSW Government;
- Retention of 12.38ha of land to maintain the existing occupied dwellings in Coal & Allied ownership;
- Indicative staging; and
- Dedication of 2.3ha of public open space to Lake Macquarie City Council.

Approval is not being sought for a specific lot layout. However, the Proponent has provided an indicative plan showing how 222 dwellings could be accommodated on the site. The site

is proposed to be developed in three stages. 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 24 April 2012, the Commission received the Director-General's Environmental Assessment Report. The report provided an assessment of key issues including:

- Land use and urban design;
- Infrastructure contributions;
- Flora and fauna including interface management;
- Wetland Impacts;
- Stormwater management, flooding and climate change;
- Heritage impacts;
- Traffic and public transport;
- Bushfire management;
- Contamination and remediation; and
- Mine subsidence.

The proposal was exhibited concurrently with Coal and Allied's other proposals for Gwandalan and Nords Wharf. A total of 408 submissions were received during the exhibition for the Middle Camp proposal, including:

- 16 submissions from public authorities; and
- 392 submissions from the general public.

The Department's assessment report concluded that the proposal is in the public interest. The Department considers that the proposal provides development of an appropriate scale, is in an area with limited environmental impacts, dedicates large areas of conservation land and is consistent with the objectives of the Lower Hunter Regional Strategy.

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 and 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. Eight people spoke at the Commission meeting (see Appendix 1). The key issues raised at the meeting included:

- Visual Impacts;
- Heritage impacts;
- Inadequate design guidelines;
- Depth of buffer areas between Middle Camp and the development and along Flowers Drive;

- Building height (2 storeys inappropriate);
- Length of heritage walkway;
- Local area traffic management;
- Asset protection zone maintenance period;
- Fauna and Flora impacts;
- Adequacy of ecological report;
- Wildlife corridor width;
- Edge effects between urban development and conservation lands;
- Pet ownership restrictions;
- Impacts on SEPP 14 wetlands;
- Land ownership;
- Cumulative impacts;
- Errors in assessment report;
- Traffic impacts and standard of intersection upgrades;
- Mine subsidence; and
- Extent of issues to be dealt with at a later stage.

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:

- Design Guidelines;
- Subsidence impacts;
- Flora and Fauna Impacts; and
- Traffic impacts.

Design Guidelines

The Lake Macquarie LEP 2004 requires a development control plan (DCP) to be prepared before any Part 4 development applications can be determined on the site. In this instance, under the transitional provisions for Part 3A, the concept plan approval would satisfy the obligation to prepare a DCP for the site.

The proposed design guidelines submitted by the Proponent provide preliminary controls for future developments on the site, including controls for building types, site coverage, building height, street setbacks, planting and a public domain strategy.

Concern was raised at the public meeting that the urban design guidelines lack detail and would not result in a development that respected the unique character of Catherine Hill Bay. Lake Macquarie Council is of the view that the proposed design guidelines should be modified and requested greater input into their preparation.

The Department has recommended that the proposed Design Guidelines be approved, subject to a number of amendments to ensure that they address the DCP requirements under the Lake Macquarie LEP 2004. In summary, the amendments include controls for maximum heights, materials, massing, style of architecture, and landscaping. 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 also considers that it is important that the Proponent work closely with the Council to prepare the amended guidelines in a form that can be adopted as site specific controls in Council's DCP.

Subsidence

The Commission notes that managing potential subsidence impacts is a key issue for the redevelopment of this site, particularly for Hamlet B where high levels of past mining activity has occurred.

The Department's Environmental Assessment Report notes that the MSB has reviewed the proposal and is satisfied with the project, subject to compliance with MSB requirements.

To ensure subsidence risks are appropriately managed, the Department has recommended future assessment requirements including;

- an investigation to determine the risk of pothole subsidence or other restrictions on development in the eastern part of Hamlet B;
- preparation of a long term Pothole Management Plan to deal with the risks associated with the development; and
- confirmation of the extent and location of single storey construction in Hamlet B.

Notwithstanding the above requirements, the Commission sought further advice from the Department on strengthening the future assessment requirements in line with correspondence from the MSB in its submission dated 30 November 2010.

In response, the Department suggested a new assessment requirement be imposed which requires any development application for subdivision to demonstrate compliance with the requirements of the MSB including:

- geotechnical investigations to demonstrate that there is no risk of mine subsidence affecting the site and the appropriateness of the strata to support the development.
- the plans for subdivision works, including services, have taken into account the geotechnical conditions of the site; and
- the measures required to remove the risk of subsidence.

The Commission accepts the Department's assessment, together with the MSB advice and considers potential subsidence impacts will be adequately managed by the recommended future assessment requirements (as modified). In addition, future applications for subdivision and residential development will be assessed in accordance with the MSB guidelines and include any special requirements to ensure future development can tolerate subsidence impacts, therefore minimising the risk of damage.

Environmental Impacts

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

The Commission notes both the Department and the Office of Environment and Heritage (OEH) consider that the dedication of the proposed conservation lands adequately offset potential flora and fauna impacts associated with the proposal.

The Commission also notes that the Department has 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 to retain endangered ecological communities, where possible, for example through design of roads and stormwater devices;
- preparation of a *Tetratheca juncea* management plan to ensure its long term survival including to identify plants that would be retained in the development area;
- management measures for minimising impacts on fauna during subdivision works including the implementation of appropriate tree clearing protocols;
- an outline of any potential impacts on wetlands, and appropriate mitigation measures and rehabilitation works; and

- details regarding the management of the interface between the development area and conservation lands, 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 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 is also satisfied that the recommended future assessment requirements will adequately manage the environmental impacts associated with the proposal.

Traffic

There are two intersections that provide access to and from the development site onto the Pacific Highway, these are;

- Flowers Drive and the Pacific Highway; and
- Montefiore Street and the Pacific Highway.

The Proponent undertook an analysis of the cumulative traffic impacts of the Coal and Allied and Rose Group developments (Catherine Hill Bay) which indicated that both intersections required upgrading to accommodate the additional traffic volume associated with both projects.

Flowers Drive/Cams Wharf Road/Pacific Highway Intersection

The Department has recommended that Flowers Drive and the Pacific Highway be upgraded consistent with the RMS advice. This includes restricting Flowers Drive traffic movements to left in/left out only and a right turn ban from Cams Wharf Road into the Pacific Highway. A u-turn facility is to be provided on the Pacific Highway or at Nords Wharf Road to accommodate northbound vehicles exiting Flowers Drive.

Concern was raised regarding the standard of the upgrade particularly, restricting Flowers Drive traffic movements to left in/left out only and a right turn ban from Cams Wharf Road into the Pacific Highway. A signalised intersection was the preferred solution for this intersection.

In response to this concern, the Proponent has indicated that if there is a review of speed limits along the Pacific Highway there may be an opportunity to upgrade the intersection to a signalised intersection. In which case, the requirement should be amended to provide flexibility to allow a change in the design requirements for the intersection.

The Commission considers that the Proponent's response is reasonable as it may allow the intersection to be upgraded to a higher standard than currently required. The Commission has amended the future assessment requirement accordingly. If however no such review of the Pacific Highway takes place, the Commission is satisfied that the current recommended intersection upgrade is sufficient.

Montefiore Street and the Pacific Highway Intersection

The Montefiore Street intersection is required to be upgraded as part of the proposed development at Catherine Hill Bay (Rose Property Group). This includes provision of a seagull intersection with full access to Montefiore Street, with traffic signal control on the Pacific Highway southbound and Montefiore Street.

Should the proposed Middle Camp development proceed ahead of the proposed Rose Group development at Catherine Hill Bay, the RMS recommend that Coal and Allied would need to assess alternate access arrangements to Pacific Highway for trips generated by the proposal.

The current approval however, recommends that Coal and Allied is also responsible for the upgrade of the Montefiore/Pacific Highway intersection. The Proponent questioned this with the Commission.

The Commission sought further advice from the Department on this issue. The Department recommended that the recommended requirement be replaced with the following wording:

'In the event that the Middle Camp development proceeds and the Catherine Hill Bay development (as approved by MP10/0204) does not, the proponent shall include in the first development application for subdivision details of the intersection upgrades required to Pacific Highway and Montefiore Street to accommodate the increased traffic from Middle Camp that would use that intersection, in accordance with RMS's requirements.'

The Commission is satisfied with the amended future assessment requirement.

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 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 Commission however emphasizes the importance of preparing adequate design guidelines for the proposal to ensure the controls respect the character of Middle Camp.

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Garry Payne AM
Commission Member

A handwritten signature in black ink, appearing to read 'Richard Thorp' in a cursive script.

Richard Thorp
Commission Member

A handwritten signature in blue ink, appearing to read 'Jan Murrell' in a cursive script.

Jan Murrell
Commission Member

Appendix 1 List of Speakers

Planning Assessment Commission Meeting

Time & Date: 14 June 2012 – Catherine Hill Bay Surf Life Saving Club

Speakers:

1. Ms Sue Whyte
2. Ms Jennifer Hill
3. Dr Deborah Dearing
4. Ms Carmel Brown
5. Mr Wayne DeMarco
6. Ms Joy Llewellyn-Smith
7. Mr Kevin Fitzgerald
8. Mr Damien Hawcroft
9. Mr Graeme Turner