



23 May 2013

**Determination of Concept Plan Application for Mixed Use Development  
at Tallawarra (MP09\_0131)**

**1. DELEGATION TO THE COMMISSION**

The above Concept Plan application lodged by Energy Australia Tallawarra Pty Ltd (the Proponent) has been referred to the Planning Assessment Commission (the Commission) for determination under Ministerial delegation dated 14 September 2011, as more than 25 submissions in the nature of objections were received and the Proponent has declared a reportable political donation.

The Commission constituted to determine the Concept Plan application consists of Mr Garry West (chair) and Ms Jan Murrell.

**2. CONCEPT PLAN APPLICATION**

The Concept Plan application is for a mixed use development at the Tallawarra Lands, Yallah. The Concept Plan includes:

- Three residential precincts known as the North Shore Precinct, Central Precinct and the Lakeside (southern) Precinct that will accommodate a total of 1,010 lots;
- A 200 dwelling retirement village and primary school within the B7 Business Park zoned land;
- A neighbourhood centre (4.25ha) within the Central Precinct;
- A enterprise corridor (12ha) in the Lakeside Precinct, which will include an area suitable for retail and small business park;
- Approximately 54 hectares of land for industrial and light industrial uses on the northern and southern side of Yallah Bay;
- A tourist site (2.5 ha) at the eastern end of the Central Precinct on the headland along the foreshore of Lake Illawarra;
- Associated facilities – road networks, foreshore open space network, walkways, cycle paths, share paths; and
- Provision of approximately 360 hectares of open space.

Following exhibition of the Environmental Assessment (EA) the Proponent provided a Preferred Project Report (PPR) in response to the issues raised in submissions. The PPR modified the proposal as follows:

- the provision of a road linkage to the suburb of Haywards Bay;
- reconfiguration of the lot layout in the northern residential precinct;
- clarification and justifying the proposed flood risk management; and
- amendment to the proposed cycleway network.

The proposed development as amended by the PPR is set out in detail in section 2 of the Department's Assessment Report (the Assessment Report).

### **3. THE ASSESSMENT REPORT**

The Assessment Report identified the following key issues for assessment:

- Permissibility;
- Noise;
- Flooding;
- Environmental issues; and
- Roads and access.

Following careful consideration of issues raised in submissions from the public, councils and agencies, the amendments made in the PPR and its assessment of the key issues, the Department was satisfied that the application could be approved subject to its recommended modifications and conditions of approval. The modifications include the deletion of the following:

- The proposed southern access road to the Lakeside Precinct to satisfy environmental and road safety concerns;
- The proposed road and bridge across Duck Creek, as the Minister is unable to approve this aspect of the Concept Plan as it is prohibited within the zone and located within an area of environmental State significance; and
- The primary school and retirement village proposed within the B7 Business Park zone to be removed to protect employment lands.

The Commission notes that the Department also requested that site contamination should be further addressed via further investigations and its suitability for the intended uses is to be verified by a site auditor.

### **4. MEETING WITH STAKEHOLDERS**

On 11 April 2013, the Commission met with Wollongong City Council and Shellharbour City Council for a briefing of issues of concern to the Councils. The Commission also visited the site with the Proponent before the scheduled public meeting in the afternoon.

#### **4.1 Wollongong City Council (WCC)**

At the meeting with the Commission, Council confirmed its general support for the proposal with the modifications recommended by the Department and also provided comments on the following matters:

- Council support the removal of the school and retirement village from the Concept Plan;
- The Development Control Plan (DCP) should be submitted when the first development application is lodged;
- A number of the draft conditions (A5, B1, B2, B3, B4, B5) did not identify time lines. They should be linked to the first future application when lodged;
- Council considers that the Duck Creek bridge should be provided as part of the Concept Plan Approval rather than reliant upon a future Voluntary Planning Agreement (VPA) between the Council and the Proponent. Council is concerned that if the bridge is not included in the Concept Plan, there is a risk that the Proponent could seek not to construct it at a later date. Council requested a review of the inclusion of the bridge as part of the approval;
- The definition of “the first future application” needs to be made clearer;
- The closure of Cormack Avenue requires approval under the *State Roads Act 1986* by the elected Council. Community consultation and the concurrence of the local Traffic Committee are required. The design details should be provided with the first future application for the superlot subdivision; and
- Council supports a staged approach and considers the employment lands should be constructed in the early stages of the development.

#### **4.2 Shellharbour City Council (SCC)**

At the meeting with the Commission, the SCC discussed the following issues:

- Lack of detail regarding a staged approach which may favour the residential development rather than employment lands. There is a need for employment lands in the area and therefore Council prefers that employment lands are constructed at the early stages of the development. Failing to develop employment lands before residential lands may lead to complaints from residents;
- Concern that the creation of superlots will result in fragmentation of ownership and multiple Development Applications (DA's) being submitted to Council. Each DA will have a different focus, a holistic approach to environmental controls and funds will not be achievable;
- Inadequate visual assessment;
- VPA unable to be drafted until applicant is known, concerned that the Concept Plan will be approved without a responsible party in force;
- Uncertainty regarding water and sewer infrastructure capabilities in the area;
- Concern about the impacts the development will have on Lake Illawarra;
- Inadequate information on stormwater management;
- Noise impacts from Shellharbour Airport;
- Management of Duck Creek if there are multiple owners; and
- Contamination from ash ponds.

#### **4.3 Public Meeting**

A public meeting was scheduled for Thursday 11 April 2013. However, due to the fact no members of the public registered to speak, the public meeting was cancelled. Notwithstanding this, the Commission members considered it prudent to still be present at the venue for the scheduled meeting in the event that interested parties were not aware that the meeting had been cancelled. Several residents came to the venue with a view to observe the proceedings. The Commission explained to them the reason for the cancellation of the meeting.

#### **4.4 Proponent**

The Commission met with the Proponent on 16 April 2013, and discussed the following:

- A 10 year approval lapse rather than 5 years;
- Landuse conflicts;
- Staging;
- Zoning of the Northern Precinct.

The proponent also provided some comments on the recommended conditions.

On 22 April 2013, the proponent provided a written response to the issues discussed at the meeting with the Commission.

#### **4.5 The Department of Planning and Infrastructure**

On 12 April 2013 the Commission met with the Department to seek clarification of the following matters:

- Permissibility of the bridge over Duck Creek;
- Difficulty obtaining a VPA with multiple land owners;
- Staging of the development; and
- Noise impacts.

On 8 May 2013, the Department provided written advice to the Commission including comments on the proponent's response to issues raised by the Commission at the meeting with the proponent and the issues raised by the Councils.

## **5. COMMISSION'S CONSIDERATION**

The Commission has carefully considered the Department's Assessment Report, documents provided, written submissions and views expressed in meetings with the two Councils, the proponent and the Department. There were a number of issues that emerged which are discussed in further detail below. The Commission also considered other issues including noise, flooding, contamination and potential geotechnical issues, zoning of the northern precinct, road upgrading works and land ownership and believe these issues have been adequately addressed in the Department's Assessment Report. The Commission is satisfied that any residual impacts and issues can be managed by the implementation of the recommended conditions and definitions.

### **5.1 Request for Terms of Approval to be amended to 10 years**

The Commission notes the Department's comment that the northern residential precinct is likely to be developed within five years which would enact the concept plan approval therefore an extension of the lapsing period is unnecessary. The Commission recognises that while this is a matter for the Proponent at the same time the Proponent would have the option of making an application under Section 75W to modify the approval lapse period if required. Therefore, the Commission believes that an approval lapsing period of 5 years is appropriate in this circumstance.

### **5.2 Staging of the development and clarification of the intent of Terms of Approval**

Wollongong City Council raised concern regarding the wording of condition A5 and A6. The Department provided further clarification which stated that the original reference to super lot subdivision relates to the super lot subdivision of the entire site, rather than the lodgement of an application to develop a single super lot. The Commission accepts the revised wording provided by the Department for conditions A5 and A6.

### **5.3 Access Road and Bridge over Duck Creek**

The Commission agrees with the advice provided by the Department that condition 1, Schedule 3 should be modified to ensure that the construction of the access road and bridge over duck creek is constructed at no cost to Wollongong City Council and before the first application for development in the southern precinct.

### **5.4 Future Assessment Requirements**

Wollongong City Council raised concern regarding the future assessment requirements and requested that a holistic approach be undertaken in regards to future assessments. The Department reviewed the Council's request and suggested adding "the first future application to Council (Refer to condition A6)" which would impose a holistic approach to future assessment requirements. The Council also requested additional conditions in regards to stormwater management and floodplain risk assessment and management be included. The Department sought further advice in regards to Council's request and did not object to the amendments. The Commission agrees that a holistic approach to future assessments would be beneficial and therefore concurs with the changes suggested by Council and the Department.

### **5.5 Consideration of the ANEF contours of the Illawarra Regional Airport as requested by Shellharbour City Council**

The Commission recognises the importance of the Illawarra regional airport as a strategic regional asset and considers land use planning around the airport and its flight paths must take this into account as a key consideration. Subsequently, the Commission reviewed the

Australian Noise Exposure Forecast (ANEF) contours, the proposal is outside the ANEF 20 contour and therefore the Commission considers that noise impacts from the airport should be appropriately managed and/or mitigated. The Commission agrees with the Department that it would be unreasonable to constrain residential development on the site occurring within zones identified for that purpose on the basis with the possibility only for the Illawarra Regional Airport to be expanded.

#### **5.6 Deletion of the School and Retirement Village from Concept Plan**

The Commission supports the Department's recommendation that the proposed primary school and retirement village should be deleted from the Concept Plan and the lands should be reserved for employment generating developments consistent with their zonings of B6 (Enterprise Corridor) and B7 (Business Park). The Commission is of the opinion the benefit the employment lands provides for the region is a priority and should not be compromised by uses that could restrain their development potential.

#### **5.7 Design requirements and tonnage limits for Haywards Bay Road link**

Shellharbour City Council requested design requirements and tonnage limits be applied to the Haywards Bay Road link. The Department considers that these matters should be considered as part of the assessment of the relevant Development Applications to Council. The Commission agrees with the Department's response in this regard.

#### **5.8 Recommended Conditions**

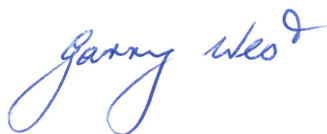
The Proponent requested changes to the following:

- Condition 3: Acoustic Impacts – Residential;
- Condition 5: Per Lot Industrial Noise Contribution Calculation;
- Condition 6: Cultural Heritage Management Plan;
- Condition 7: Transfer of Environmentally Sensitive Land and Open Space;
- Condition 10: Asbestos;
- Condition 13: Upgrade of the Junction of Princes Highway and Yallah Bay Road to a roundabout;
- Condition 16: Requirement for a Concept Design for road works and lighting on the Princes Highway; and
- Condition 19: Railcorp requirements.

The Commission referred the request to the Department for advice. The Department carefully considered the Proponent's requests and advised the Commission that the amendments were not necessary. The Commission accepts the Department's response.

### **6. Commission's Determination**

The Commission generally agrees with the Department's conclusions and recommendation. In the Commission's view, the proposed Concept Plan will provide long term employment, social and economic benefits for Wollongong and Shellharbour Local Government Areas. Additionally employment opportunities would be created through the construction and operation phases, the proposal would also increase housing, tourist and commercial and employment opportunities. The application is approved subject to recommended conditions of approval as amended by the Department's letter dated 8 May 2013.



Garry West (Chair)  
PAC Member



Jan Murrell  
PAC Member