

20 February 2007

Mr Michael File
Team Leader Strategic Assessment
NSW Government Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Michael

**RE: COAL & ALLIED OPERATIONS PTY LTD NORDS WHARF
REQUEST FOR THE MINISTER TO AUTHORISE THE
PREPARATION OF A CONCEPT PLAN FOR THE SUBJECT LAND
AND ISSUE DIRECTOR GENERAL REQUIREMENTS**

We refer to your letter (Ref S06/00813) and our recent discussions with yourself and other representatives from the Department of Planning (DOP) and now submit the following details in respect of the proposal to rezone and list the subject land as a State Significant Site (SSS) on Schedule 3 of State Environmental Planning Policy (Major Projects) 2005 (SEPP MP) to facilitate the development of Nords Wharf.

This letter is also to formally request the Minister's authorisation to submit a Concept Plan for Nords Wharf pursuant to section 75E, Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act).

We also seek the Director General's environmental assessment requirements (DGRs) for the site pursuant to Section 75F of the Act.

The Site

The subject site is owned by Coal & Allied Operations Pty Ltd (Coal & Allied) at Nords Wharf and is legally described as follows (see attached Cadastre Plan):

- Part Lot 6 DP 746077
- Part Lot 5 DP736170
- Part Lot 12 DP 854197

The Nords Wharf site is approximately 136 ha in area, and includes all the land owned by Coal & Allied located west of Pacific Highway. The proposed Concept Plan will apply to Nords Wharf.

It is important to note that separate land located to the east of the Pacific Highway and owned by Coal & Allied, known as Catherine Hill Bay was included in a similar, separate application that was submitted to the Department of Planning (DOP) on 22 December 2006.

The site is zoned 7(1) Conservation (Primary) Zone pursuant to the Lake Macquarie LEP 2004. The land is located in the Lake Macquarie City Council local government area.

Background

The site is the subject of a Memorandum of Understanding (MOU) with the NSW State Government (NSWG) which identifies 9ha of developable land with a maximum yield of 90 lots to be subdivided. While the infrastructure and asset protection zones may extend slightly to the west of the 9ha site shown in the MOU, it will be offset by Coal & Allied providing a larger setback from the high water mark of Crangan Bay, Lake Macquarie in the interests of public access to the waterfront and preservation of a foreshore reserve. The balance of the site (127ha) will be dedicated to the NSW State Government (NSWG) for conservation purposes.

The MOU also encompasses four other sites in the Lower Hunter and adjacent region which will be the subject of separate applications to DOP.

Coal & Allied have identified the areas suitable for development and for conservation using GIS data, vegetation mapping, regional context analysis, site inspections and preliminary ground truthing.

The land identified for conservation has regional ecological value that provides substantial areas of contiguous vegetation providing an important component of the north/south conservation corridor link on the Wallarah Peninsula.

The land identified for development is located in areas which are less physically constrained and adjoins the existing township at Nords Wharf.

The land that is the subject of this application was owned by Coal & Allied for many years for coal mining and is now surplus to its core business needs. The lease for underground and surface mining for the site has been relinquished. There are some structures on the site of light construction, which are used by the Scouts Association. Discussion is proposed by Coal & Allied with the association to resolve future use for scouting purposes.

The land owned by Coal & Allied will, when developed and or dedicated to NSWG, provide valuable social, economic and environmental outcomes for the Region as identified in the Draft Lower Hunter Regional Conservation Plan released in October 2006.

Nords Wharf must be considered in a regional context rather than a single site consistent with the terms of the MOU. The overall Coal & Allied land package in the Lower Hunter will achieve sustainable conservation outcomes, with 80% of the Coal

& Allied landholdings to be dedicated to NSWG for environment protection. Nords Wharf forms an important part of this environmental land offset package.

The proposed development and conservation lands meet the requirements of the Lower Hunter Regional Strategy and the Draft Regional Conservation Plan issued by the Department of Environment and Conservation.

All of the above considerations meet the criteria for a State Significant Site.

Project Cost

The project proposed will be a maximum of 90 dwellings with site infrastructure to accommodate all necessary services. Total development costs are anticipated to exceed \$20 million.

Relevant Planning Requirements

The following planning instruments and strategies are the most relevant to the future development of the 9 Ha of land at Nords Wharf:

- Lower Hunter Regional Strategy
- SEPP Major Projects
- NSW Coastal Policy
- SEPP 71 - Coastal Protection
- SEPP 44 - Koala Habitat Protection
- Hunter Region Environmental Plan 1989
- Hunter Region Environmental Plan – Heritage 1989
- SEPP 1 Development Standards
- SEPP 4 Development without Consent
- SEPP 6 Number of Storeys in a Building
- SEPP 11 Traffic Generating Developments
- SEPP 14 Coastal Wetlands
- SEPP 55 Remediation of Land
- SEPP 64 Advertising and Signage
- SEPP Building Sustainability Index

Stakeholder Consultation

Over the past 12 months Coal & Allied has undertaken extensive consultation with the Department of Planning (DOP) and Department of Environment and Conservation (DEC) relative to its surplus land holdings in the Lower Hunter. Nords Wharf forms part of that total land holding. Negotiations with the Minister for Planning, DOP, and DEC together with the results of the GIS constraints mapping has resulted in the 9ha being identified as being suitable for residential development. The developable and conservation land is shown in the attached aerial photography and plans.

Community Consultation

An initial meeting was held on 17 November 2006 at the Catherine Hill Bay Surf Club to discuss the C&A owned sites at Catherine Hill Bay and Nords Wharf. A further meeting was convened with the Officers of the Progress Association on 14 December 2006, when a proposed way forward was agreed, that is to work with Coal & Allied on the conservation land transfer and development project to achieve community input to design. The preferred way forward resolution was put to the Progress Association meeting on 15 December 2006 and passed regardless of a number of dissenters.

The Mayor of Lake Macquarie Council attended the public meeting held at the CHB Surf Club and was also present at a meeting at the surf club attended by the Minister for Planning when the proposed development area was discussed.

A further meeting was held on 17 January 2007 with the Secretary of Catherine Hill Bay Progress Association (others were invited but were unable to attend on the day) at Catherine Hill Bay. At this meeting C&A briefed the Secretary on the planning processes and that approval for the development will be sought through Part 3A of the Act, and that a planning agreement was being developed between C&A and NSW to formalise the MOU. The Scouts Camp was also discussed. Further community consultation meetings are proposed within the next few months.

Concept Plan Outline

It is anticipated that Coal & Allied will submit a Preliminary Structure Plan to assist the DOP by the end of February 2007 prior to receipt of the Minister's authorisation. Possible planning principles for the site are outlined below. While these principles are not 'Concept Plan' proposals, they illustrate the broad intentions for the site and will only be the starting point for future environmental analysis and master planning to inform the future Concept Plan proposal. They involve:

- Dedication of conservation land. Provision of 127ha of land including lake foreshore and bushland as 'conservation land' as an extension of the Wallarah National Park to the north and Mummurah State Conservation Area to the south.
- Protection of sensitive lake foreshore area and areas of aboriginal cultural significance by limiting development along the lake foreshore.
- Provide parkland and public access along the foreshore.
- Engage the community. Major concerns of the community will be considered when considering the conceptual layouts capable of generating the agreed lot yields consistent with the MOU.
- Maintain and relocate the Scouts Camp to an appropriate location on the site or alternative location to be determined in consultation with the Scouts.

The concept design will propose a series of principles for maintaining and enhancing the natural landscape setting of Nords Wharf. Vegetation along the ridge to the east is to be retained to reinforce the existing bushland backdrop to Nords Wharf and maintain a vegetation corridor along the Pacific Highway. Proposed new

development is separated from the existing township at Nords Wharf by a vegetated buffer zone. The character of new housing will respect the scale and setbacks of development existing at Nords Wharf from the foreshore of Lake Macquarie.

A swale will be provided along the existing creek to provide water sensitive stormwater drainage and a green wildlife corridor.

A new public park is proposed along the foreshore. This will allow public access to the foreshore and will also protect the foreshore of Lake Macquarie that may be of Aboriginal cultural significance.

The existing Scout Hall and associated buildings are likely to be relocated to the north of the foreshore parkland to provide access from Branter Road and where there is a level change in the land to ensure greater separation from the proposed and existing residential uses. This location is also the least sensitive along the foreshore for aboriginal heritage and endangered ecological species.

A high proportion of the proposed lots will have desirable aspects to bushland, with a number of lots having views over Lake Macquarie.

The residential lot yield for the site will depend on the outcome of more detailed environmental assessment studies which will be commissioned immediately the DGRs are issued. The maximum yield for the site will be 90 lots.

Servicing the development will be considered from two differing perspectives. Firstly the provision of full, or at least partial, sustainability to address water, sewer, recycled water and power. Secondly, the provision of infrastructure to provide full servicing of residential lots.

State & Regional Significance

The Minister of Planning has agreed to consider listing the site under Schedule 3 of the SEPP, subject to consideration of various matters listed in your letter (Ref S06/00813). These matters will be addressed in a formal submission which will be lodged with DOP concurrently with the Concept Plan.

The protection and management of vegetation corridors is a key focus of the Lower Hunter Strategy and the companion Draft Regional Conservation Plan. The Nords Wharf site has been recognised for its State and Regional significance based on its inclusion in the Lower Hunter Regional Strategy for development and conservation with the conservation land to be dedicated to NSWG to complete important conservation corridors included in the Draft Regional Conservation Plan.

The Wallarah Peninsula is to be protected to provide a natural break between the Central Coast and the Lower Hunter. The proposed dedication of a substantial percentage (93%) of the Nords Wharf site owned by Coal & Allied to the NSW Government for conservation provides a significant contribution to the creation of the important conservation corridor on the Wallarah Peninsula.

All of the above considerations meet the criteria for a State Significant Site.

The Suitability of the Site

The site is identified in the LHRS for urban development. As discussed, the proposed development and conservation lands meet the requirements of the Lower Hunter Regional Strategy and the Draft Regional Conservation Plan issued by the Department of Environment and Conservation.

The land identified for future residential development is considered to be an acceptable extension of the existing township at Nords Wharf. The site is in close proximity to an existing range of services and facilities at Nords Wharf, Gwandalan and Swansea, including shops, schools, sporting and recreation facilities, and childcare.

The land identified for development is located in areas which are less physically constrained by slope and adjoins the existing township at Nords Wharf. It is noted that 54.6ha of Swamp Mahogany – Paperbark Swamp Forest and 4.46ha of Swamp Oak – Rushland Forest EEC will be preserved within C&A land set aside for conservation within the southern lands as per the MOU and LHRS. EECs existing within the development site are on the fringe of the above mentioned endangered ecological communities, which are located on land that is to be dedicated to NSWG as ‘conservation land’ and to which the biodiversity offset arrangements in the MOU would apply.

Preliminary constraints analysis indicates that Nords Wharf will easily permit the provision of a range of dwelling houses, which would be consistent with the character of the existing dwellings at Nords Wharf and along the Lake Macquarie coastline. Safe access to the site is available along Awabakal Drive and Branter Road via the Pacific Highway.

Recommended Zonings

With regard to the proposed land use zones, the proposed zones have been based upon the Department’s recently gazetted LEP Template. It is proposed that the zoning for the developable land will be “R2 - Low Density Residential Zone” with restrictions/constraints/design requirements to allow the establishment of a low scale coastal village development. The land to be dedicated to the NSWG will most likely be zoned “E1 - National Parks and Nature Reserves”. This will be subject to the outcomes of the Concept Planning process.

Developer Contributions

As discussed, Coal & Allied will investigate two separate options in respect of the perceived necessary infrastructure, these being:

- Consideration of total or partial sustainability in respect of water, sewerage, power.
- Contributing to the provision of all on site infrastructure required by this development.

It is considered that either option together with the significant contribution of conservation land should more than satisfy Section 94 contributions and developer agreement requirements that would normally be considered as part of a development approval.

Conclusion

The above and attached information together with documents previously provided to DOP, provides preliminary information to enable the Minister for Planning to authorise the preparation of a Concept Plan for the land owned by Coal & Allied at Nords Wharf and issue the Director General Requirements.

The Nords Wharf land forms part of the land included for consideration by the NSW Government in a MOU which proposes 80% of Coal & Allied land holdings in the Lower Hunter be dedicated to the State for conservation and the balance be zoned for development.

The total development area of Nords Wharf (9 ha) represents 7% of the total Coal & Allied land holdings west of the Pacific Highway. The balance of remaining land (93%) being dedicated for inclusion in the important Wallarah Peninsula conservation corridor. This is a significant contribution by Coal & Allied and a significant opportunity for the Government to secure valuable conservation corridor links in public ownership for future generations.

The site is considered to meet the criteria for a State Significant Site both as an individual parcel and as an integral part of the overall Coal & Allied land package that will achieve substantial conservation outcomes through land dedication as set out in the MOU between Coal & Allied and the NSW State Government.

The site displays the following criteria:

- The total development cost will exceed \$20 million.
- The site is of regional importance with the dedication of 127 ha of conservation land to include as a significant part of the vitally important Wallarah Peninsula green corridor, which provides a natural break between the Central Coast and the Lower Hunter. This environmental gain is a once in a generation opportunity that will provide an enduring legacy for the community.
- Alternative planning consent arrangements are necessary because of the potential perceived conflict for Lake Macquarie Council which has continued to refuse development approval in the surrounding Catherine Hill Bay area. The Nords Wharf land also forms an important part of an environmental land offset package for the Lower Hunter by Coal & Allied which spans four local government areas. Four separate consent arrangements are unlikely to enable an appropriate conservation and land use framework to be achieved in a timely, effective and efficient manner.
- Protection of sensitive lake foreshore areas.
- Protection of areas of aboriginal cultural significance.
- Protection of riparian zones and waterways.

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Managed by Rio Tinto Coal Australia

- Provision of housing to help achieve the Lower Hunter Strategy dwelling targets to cater for the predicted population growth for the Region over the next 25 years.

In summary, the listing of the site on Schedule 3 of SEPP MP will facilitate the orderly use, development and conservation of a regionally important site of environmental and social significance to the state.

We trust the information contained in this letter is sufficient to secure early authorisation to proceed with the preparation of a Concept Plan and rezone and list the subject land as a State Significant Site. Please do not hesitate to contact either Keith Dedden (0400 702 579) keith.dedden@rtca.riotinto.com.au or Scott Frazer (0418 408 129) or sfrazer@catylis.com if you require any further information.

Yours sincerely



Keith Dedden
Project Director -- Land Development



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Nords Wharf
Structure Plan
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