

ASSESSMENT REPORT

Residential Development Middle Camp MP 10_0089 MOD 1

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan approval for a residential subdivision at Middle Camp in the Lake Macquarie local government area.

The request has been lodged by ADW Johnson on behalf of Coal & Allied (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date of the approval.

2. SUBJECT SITE

The Middle Camp site (the site) is located on the Wallarah Peninsula in the Lower Hunter region, approximately 110 kilometres north of Sydney and 26 kilometres south of Newcastle. The site is part of the Coal and Allied Southern Estates, which comprises land holdings located at Nords Wharf, Gwandalan and Middle Camp (see **Figure 1**).

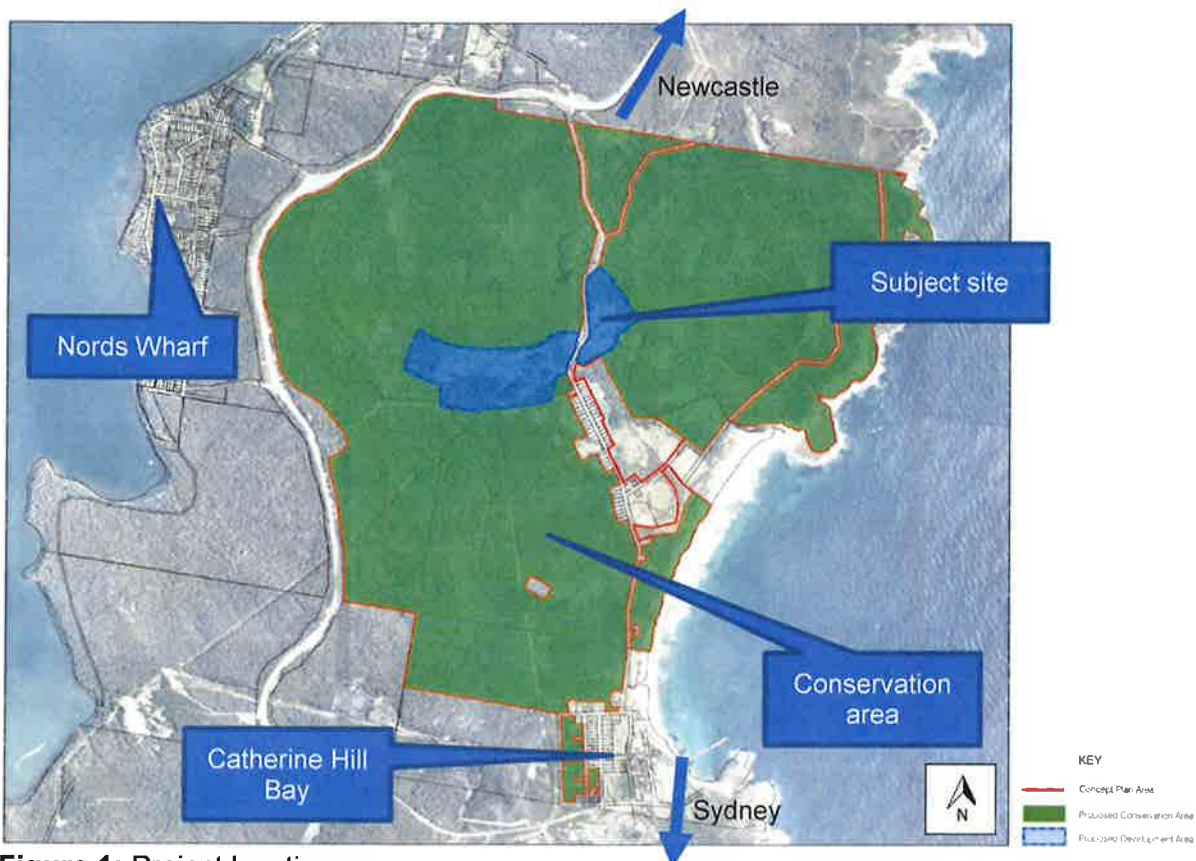


Figure 1: Project location

The site is situated between the Wallarah National Park to the north and Munmorah State Conservation Area to the south, and forms part of the Wallarah Green Corridors which are areas of high conservation value joining key corridors through the Lower Hunter Region. To the south of the site is the existing Middle Camp village comprising approximately 50 dwellings located on either side of Flowers Drive. Catherine Hill Bay village is located approximately 4 kilometres south of Middle Camp.

The site area is approximately 569 hectares comprising of:

- the proposed development area 28.2 hectares
- the proposed conservation lands 525.87 hectares
- an area of 12.38 hectares to be retained by Coal and Allied to maintain the existing occupied dwellings in its ownership
- 2.315 hectares of public open space to be dedicated to Lake Macquarie City Council.

3. APPROVAL HISTORY

On 12 July 2012, the Planning Assessment Commission approved the Middle Camp Concept Plan (MP 10_0089).

The Concept Plan comprised a 222 lot residential subdivision and dedication of 525.87 hectares of environmentally significant conservation lands.

Condition 1.3 states the approval shall lapse five years from the date of the determination unless an application is submitted to carry out a development for which Concept Plan approval has been given.

4. PROPOSED MODIFICATION

On 2 May 2017, the Proponent lodged a section 75W modification application (MP 10_0089 MOD 1) seeking approval to extend the lapse date of the approval by one year from 12 July 2017 to 12 July 2018.

The proposed extension is requested on the basis that it would provide the Proponent with a reasonable timeframe to undertake key actions in accordance with the Concept Approval, and to prepare and lodge a development application with Lake Macquarie City Council.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the EP&A Act. The Department is satisfied the proposed change is within the scope of section 75W of the EP&A Act, and it does not constitute a new application.

5.2 Section 75Y

Former section 75Y of the EP&A Act provides that a condition specifying a lapsing date on an approval may be modified to extend the lapsing period, and the Minister is to review the approval before extending the lapsing period. The Department has therefore reviewed the original approval, as discussed in **Section 7**.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Modification Assessments may determine the application under delegation as:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with the Lake Macquarie City Council (Council) and the Office of Environment and Heritage (OEH) about the proposed modification. The modification was also notified to nearby property owners.

Council and **OEH** do not object to the proposed one year extension.

There were no **public** submissions received on the proposal.

7. ASSESSMENT

Section 75Y of the EP&A Act outlines the Minister may modify the lapsing period, subject to a review of the approval before extending the lapsing period.

The Department has reviewed the original assessment and approval as well as issues raised in submissions, and is satisfied there are no circumstances which have changed since the approval which would result in a different determination of the application today. In particular:

- *The planning context of the site has not materially changed since the original approval:*
The original assessment considered the key planning controls for the site as set out in Lake Macquarie Local Environment Plan (LEP) 2004. The Department notes the relevant provisions for the site in the 2004 LEP were carried over into Council's new Lake Macquarie 2014 LEP.

The Department also notes the site has been mapped under the Draft Coastal SEPP as Coastal Use Area. The Department has considered the planning controls which apply to the Coastal Use Area and considers these issues were already addressed as part of the Department's original assessment of similar provisions under SEPP 71.

The Department is therefore satisfied there are no changes to the planning controls which would change the Department's assessment of the approved Concept Plan.

- *The physical context of the site has not significantly changed:*
There have been no significant changes to the site's physical context or surrounding area that would impact upon the assessment of the original approval.
- *No changes are proposed to the development itself:*
The only aspect of the proposal sought to be modified as part of this application is the lapsing date. The current modification request does not seek to modify any other aspect of the development which would change the environmental impacts of the development.
- *The Department's assessment remains valid:*
The Department has carefully considered the issues raised by Council, Agencies and the community in the original assessment and is satisfied no aspects of the previous assessment have materially changed since the time of the original determination. The Department is therefore satisfied the original assessment remains valid today.

The Department considers an extension to the lapse date by one year is acceptable as the site remains suitable for the approved development and is consistent with the planning context for the precinct.

The Department is satisfied the original assessment remains valid, and an extension to the lapsing period for one year would not result in any change to the Department's original assessment, or any additional environmental impacts, beyond those already assessed and approved. The Department therefore recommends Condition 1.3 of the Concept Plan approval be amended to provide a revised lapse date of 12 July 2018, as outlined at **Appendix A**.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:

- the strategic planning and physical context of the site has not significantly changed;
- the Department's previous assessment remains valid and the extension of time would not result in any adverse impacts; and
- the extension of time does not alter the original Concept Plan approval.

Consequently, it is recommended the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED the Executive Director, Key Sites and Industry Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

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APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

https://majorprojects.affinitylive.com/?action=view_job&id=8418

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

https://majorprojects.affinitylive.com/?action=view_job&id=8418

2. Submissions

https://majorprojects.affinitylive.com/?action=view_job&id=8418