



Catherine Hill Bay

Preferred Project Report
September 2008

COAL
&
ALLIED



Preferred Project Report

Catherine Hill Bay

Prepared for Coal & Allied

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1 Introduction

This Preferred Project Report (PPR) has been prepared on behalf of Coal & Allied relating to the Coal & Allied owned Catherine Hill Bay (Middle Camp) site.

The report has been prepared in accordance with the provisions of Section 75H(6) of the Environmental Planning and Assessment Act 1979 (the Act) which states:

The Director-General may require the proponent to submit to the Director-General:

- (a) a response to the issues raised in those submissions, and*
- (b) a preferred project report that outlines any proposed changes to the project to minimise its environmental impact, and*
- (c) any revised statement of commitments.*

The PPR provides a brief history of the Catherine Hill Bay Project, including the key steps associated with the preparation, lodgement and assessment of the Part 3A application and outlines the proponent's response to the issues raised by Department of Planning (DoP) in their role as the assessment authority and the issues arising from the public exhibition of the application.

The report summarises the proposed amendments to the Concept Plan proposal, which essentially entails a reduced yield in residential lots, to minimise its potential impacts and provides revised Statements of Commitments.

The PPR also outlines the proponent's preferred approach to the consent authority arrangements for the future stages of the project and the proposed amendments to the local town planning controls.

Each of these matters is addressed in the following sections:

- Section 2 – The Coal & Allied Lower Hunter Project and Memorandum of Understanding
- Section 3 – Part 3A Application Process.
- Section 4 – Site Description.
- Section 5 – Development Description & Modification to Part 3A Application
- Section 6 – Assessment against Amendments to Planning Controls
- Section 7 – Identification of Key Issues
- Section 8 – Response to Key Issues
- Section 9 – Revised Statements of Commitments.
- Section 10 – Consent Authority Arrangements.
- Section 11 – Amendments to SSS Listing

The PPR is supplemented by the following documents to assist DoP in the final assessment of the Part 3A application:

- Updated Conservation and Development Areas Plan prepared by AJ+C at **Appendix A**.
- Updated Illustrative Concept Plan prepared by AJ+C and Aspect Studios at **Appendix A**.
- Updated Indicative Lot Layout prepared by AJ+C and Aspect Studios at **Appendix A**.
- Subdivision Transfer Plan & letter prepared by Monteath and Powys and included at **Appendix B**.
- Copy of the Memorandum of Understanding at **Appendix C**.
- Addendum to the Heritage Impact Assessment by ERM at **Appendix D**.

- Letter from Coal & Allied outlining consultation with Aboriginal communities undertaken to date, and an outline of what further consultation is to be undertaken included at **Appendix E**.
- Copy of the IHAP Report at **Appendix F**.
- Response to Submissions at **Appendix G**.
- DECC Report to IHAP dated March 2008 and Bell report dated March 2008, **Appendix H**.
- Ecological Addendum Report prepared by RPS Harper Somers O'Sullivan and included at **Appendix I**.
- Hydrology/Stormwater Management relating to WSUD, water quality and climate change Addendum prepared by GHD and included at **Appendix J**.
- Groundwater Conceptual Model prepared by Douglas Partners and included at **Appendix K**.
- Table of Compliance Assessment for NSW Coastal Policy and Coastal Design Guidelines by Urbis **Appendix L**.
- Bushfire Threat Assessment Addendum by RPS Harper Somers O'Sullivan and included at **Appendix M**.
- Traffic and Transport Addendum Report by Hyder Consulting at **Appendix N**.
- Additional Contamination Assessment and Remediation Requirements prepared by Douglas Partners and included at **Appendix O**.
- Revised Statement of Commitments included in **Appendix P**.
- Coal & Allied \$5 million Allocation included at **Appendix P**.
- SSS Listing in **Appendix Q**.
- S.50 from Hunter Water included at **Appendix R**.

In response to recommendations by IHAP and the DoP, the Stage 1 Project Application that was submitted concurrently with the initial Concept Plan has been withdrawn.

2 The Coal & Allied Lower Hunter Project

The protection and management of vegetation corridors is a key focus of the Lower Hunter Regional Strategy (LHRS) and the companion Draft Regional Conservation Plan. The Catherine Hill Bay (Middle Camp) site has been recognised for its State and Regional significance based on its inclusion in the Lower Hunter Regional Strategy for both residential development and conservation, with the conservation land to be dedicated to New South Wales Government (NSWG) to complete important conservation corridors included in the Draft Regional Conservation Plan.

In finalising the LHRS, the NSWG reached agreement with Coal and Allied for the dedication of 3,322 ha (80 per cent) of Coal & Allied land in the Lower Hunter for conservation corridors upon receipt of development rights on 849 ha (20 per cent). The details of the negotiations are set out in a Memorandum of Understanding (MoU) between Coal & Allied, the Department of Planning, Department of Environment and Conservation and the Department of Lands (Refer to **Appendix C**). Under this MoU, residential development is proposed on 50ha of Catherine Hill Bay (Middle Camp), with a maximum yield of 300 lots to be subdivided. The balance of the site (530ha or 91.4%) is identified in the MoU table as land to be dedicated to the NSWG for conservation purposes. The MOU also encompasses other Coal and Allied owned sites in the Lower Hunter and adjacent region which will be the subject of similar but separate applications to DoP. The MoU is discussed in detail below.

The Coal and Allied land that will be dedicated for conservation will play a significant role in securing in perpetual public ownership the long sought-after Wallarah Peninsula conservation corridor which will provide a green inter-regional buffer separating the Lower Hunter from the Central Coast.

The proposed land dedication is a positive conservation step that will protect an important array of vegetation communities, flora and fauna species, and natural landscape assets, including threatened species and endangered ecological communities in the conservation lands. The environmental gain from the environmental land offset package is a once in a generation opportunity that will provide an enduring legacy for the community and future generations.

2.1 New South Wales Government Memorandum of Understanding

In finalising the LHRS the NSW Government reached agreement with four major landholders in the Lower Hunter for the dedication of over 12,000 hectares of land in return for the recognition of additional development potential of 3,280 hectares. The details of the negotiated outcomes are set out in a series of Memoranda of Understanding (MoUs) between the Government and the four land owners, including Coal & Allied.

The MoU also provides for completion of a binding agreement between the Government and Coal & Allied, a Part 3A approval process for the development proposals and a proportional adjustment of the area of conservation lands to be transferred in the event that developable land areas approved vary from the scheduled areas. The MoU is currently being developed into a Deed of Agreement between Coal & Allied, the Department of Planning, the (renamed) Department of Environment and Climate Change (previously known as DEC) and the Department of Lands. At the time of writing the Deed of Agreement is currently under review.

It is important to note that when the MoU was negotiated it was never the intent that every threatened species individual or square metre of EEC would be protected, rather a regional approach as adopted where large parcels of offset land would be identified for conservation. The large parcels provide greater habitat value, greater linkages across the landscape, increased protection against events such as fire and improved management outcomes. Accordingly, it was accepted that there would be some loss of biodiversity, including threatened species, in the development lands.

Due to the restricted and localised nature of many of the vegetation communities and habitats within the Coal and Allied lands, there are limited opportunities elsewhere in the Lower Hunter to ensure their adequate protection and management into the future. Thus, the offset lands provide a valuable avenue to achieve these goals.

The MOU suggests that Coal and Allied Southern Lands contain a total of 988 hectares. Monteath and Powys are the surveyors for the project and have since determined the correct area for the Southern Lands. The correct legal description and areas of the development and conservation land of the Southern Lands in the MOU is as follows:-

Legal Description	Area
Lot 2 DP 1043151	170.9 ha
Lot 57 DP 755266	97.12 ha
Lot 202 DP 702669	0.11 ha
Lot 2030 DP 841175	40.29 ha
Lot 6 DP 746077	119.9 ha
Lot 5 DP 736170	91.95 ha
Lot 12 DP 854197	75.77 ha
Part Lot 9 Section D DP 163	0.06 ha
Part Lot 10 Section D DP 163	0.09 ha
Lot 223 DP 1102989	238.16 ha
Lot 16 DP 755266	129.5 ha
TOTAL	963.8 ha

The detailed survey investigation by Monteath & Powys has revealed that the total area owned by Coal & Allied in the Southern Estates is closer to **963.5ha** as opposed to **988ha**. Detailed survey investigations also revealed that the original perimeter boundaries of the southern lands shown in the plans attached to the MoU have not altered. Consequently the perimeter of the lands nominated in "Schedule 2 – Environmental Lands Offset" of the MOU has not changed. The schedule of Lots/DP's as listed in the SSS has also not changed. Detailed survey investigations have simply meant that the calculation of the areas contained within those boundaries has resulted in a lesser area being available. That is, Schedule 2 suggests that 849 ha of land will be transferred to NSWG. In fact, it is now proposed that 856 ha of land will be transferred to NSWG.

The reason for the difference between the current survey figures and the figures used in the MoU is that the title plans used to calculate the areas for the MoU were over 100 years old. For instance Lot 16 DP 755266 was surveyed in 1851. At Gwandalan the areas had to be adjusted to allow for the "100 foot crown reservation" to High Water Mark. It has been agreed with the Land Title Office that the official total area for Gwandalan is 268ha and not 272ha as stated in the MoU. Refer to **Appendix B**, letter by Monteath and Powys.

It is important to note that the intent of the MoU has not been altered in anyway and the current proposal for the 3 southern sites will result in a greater amount of land to be transferred to NSWG than required by the MoU. Coal and Allied are transferring the balance of the landholding as originally intended, subject nonetheless to the changes that have occurred following the acceptance of the IHAP and DECC recommendations that form the basis of proposed amendments to the Concept Plan that are subject to the PPR for the Coal and Allied Nords Wharf, Catherine Hill Bay (Middle Camp) and Gwandalan projects.

The proposed modifications to the Concept Plan at Catherine Hill Bay (Middle Camp) has resulted in a reduced maximum yield from the initial Concept Plan of 300 residential lots to 222 residential lots and a decrease in the overall developable area from approximately 50ha to 28.76ha. Importantly, the

modifications to the Concept Plan at Catherine Hill Bay (Middle Camp) will result in an overall increase in the conservation area lands to be dedicated to NSWG is proposed from approximately 530 ha to 535.4 ha (taking into account the revised site areas calculations for the Coal and Allied lands, the land that is now to be dedicated to Lake Macquarie City Council and land that is to be retained by Coal and Allied). It is crucial to note that approximately 94.1% land dedication at Catherine Hill Bay (Middle Camp) for conservation purposes is well in excess of traditional conservation outcomes from development offset processes.

Similarly, the modifications to the Concept Plan at Gwandalan have resulted in a reduced maximum yield from the initial Concept Plan of 700 residential dwellings to 623 residential dwellings, a decrease in the overall developable area from 80 ha to 63.29 ha and an overall increase in the Conservation Area lands to be dedicated to NSWG from 192ha to 204.7ha. In respect to Nords Wharf, modifications have resulted in a minor increase in the overall developable area from 9ha to 10.18ha and a minor decrease in the Conservation Area lands to be dedicated to NSWG from 127ha to 116.6 ha.

The overall modifications to the 3 Coal and Allied southern sites has resulted in an overall decrease in yield from 1,090 residential lots to 935 residential lots, a decrease in the overall developable area from 139 ha to 102.23ha and an overall increase in the Conservation Area lands to be dedicated to NSWG from 849 ha to 856.7 ha. Further, Coal & Allied has not sought to apply the MoU 'proportionality' clause which, if applied would have reduced the conservation land to be transferred in the Southern Estates by over 120 ha. The company has been responsive to the IHAP suggestion that the originally proposed area be still transferred and as indicated above the area is larger than originally proposed.

3 Part 3A Application Process to date

The preparation of the Part 3A application, comprising a Concept Plan and Stage 1 Project Application, was subject to a lengthy process, including extensive consultation with existing residents, neighbouring land owners, Council and the likely future community, liaison between the proponent, State and local government and other key stakeholders, and detailed investigations, research and analysis by a range of specialist consultants.

Since the lodgement of the application on 15 June 2007, the proposal has been subject to a rigorous assessment process, including the public notification of the proposal for 54 days (5 December 2007 to 29 February 2008), review of submissions from a range of stakeholders and a comprehensive assessment lodged in association with the SSS Listing, Concept Plan and Stage 1 Project Application.

Key dates in the preparation, lodgement and assessment of the Part 3A application are outlined as follows:

November 2006 to 30 August 2007	<p>Coal & Allied undertook a series of community consultation initiatives to ensure that the views of the community were considered in the process following the MOU being signed with the NSW Government up to the lodgement of the Concept Plans for Catherine Hill Bay, Nords Wharf and Gwandalan including:</p> <ul style="list-style-type: none"> ▪ Community meetings; ▪ A series of targeted stakeholder meetings; ▪ Community workshops; ▪ Community newsletters, newspaper advertising and media releases; and ▪ Community input into the regional forum and design charette. <p>The design charette process built upon the preliminary structure plan by drawing together key government, community and project stakeholders to make recommendations which informed the final Concept Plan and Project Application for the Catherine Hill Bay (Middle Camp) site. An overview of the consultation undertaken by Coal & Allied is provided in Section 3 of the Concept Plan Environmental Assessment report.</p>
20 February 2007 and 7 May 2007	<p>A Preliminary Environmental Assessment (PEA) was lodged with DoP in accordance with Section 75F of the Act requesting that Director-General's Environmental Assessment Requirements (DGEARs) be issued by DoP for the Catherine Hill Bay (Middle Camp) project.</p>
30 June 2007	<p>The Minister for Planning formed the opinion that the development proposal for Catherine Hill Bay (Middle Camp) be considered as a Major Project under Part 3A of the Environmental Planning and EP&A Act. The Minister also agreed to consider the Catherine Hill Bay (Middle Camp) as a potential State Significant Site (SSS) under Schedule 3 of the Major Project SEPP 2005 (Major Projects SEPP).</p> <p>Given the size and complexity of the proposal, the Minister for Planning also authorised submission of a Concept Plan for the site.</p>
30 July 2007	<p>The DGEARs were issued by Council on behalf of the Director-General outlining the matters to be addressed in the Environmental Assessment</p>

PART 3A APPLICATION PROCESS TO DATE

25 October 2007	An Environmental Assessment was lodged with Department of Planning (DoP) for a test of adequacy in accordance with the provisions of Section 75H of the Act. Correspondence was subsequently issued on 1 November 2007 directing that a range of issues are required to be addressed within 21 days of the date of the letter.
13 November 2007	An application seeking approval for a Concept Plan Approval for the redevelopment of the site and approval for a Stage 1 Project Application for subdivision and construction of the first stage of the planned renewal was lodged with DoP. The Environmental Assessment lodged with the application was prepared in accordance with the provisions of Part 3A of the Act and the Environmental Assessment Requirements.
16 November 2007	A Site Inspection with Coal & Allied and Members of IHAP (Gabrielle Kibble, Andrew Andersons and Mike Collins.
5 December 2007 to 29 February 2008	The Part 3A application, comprising the Concept Plan and Stage 1 Project Application, was publicly exhibited for 54 days.
30 January 2008	A meeting was held at the Catherine Hill Bay Surf Club with the Community Reference Group, (comprising elected community members from each of the three surrounding communities) and the IHAP Members to discuss the Concept Plans for each estate that were at the time on public exhibition.
20 March 2008	Copies of all submissions received by Department of Planning during the public notification process were provided to the proponent, including: <ul style="list-style-type: none">▪ Government authorities and major stakeholders▪ Local Councils▪ Progress Associations▪ Residents.
March 2008	The IHAP Members commissioned its own environmental report which has been completed. Coal & Allied have responded to that report and a number of matters have been subsequently addressed with some additional on ground survey work.
8 and 15 May 2008	A number of meetings have been held between the Members of IHAP, DoP and Coal & Allied to discuss concerns raised by the Panel with respect to the Concept Plan and their application in the Stage 1 Project Application.
20 May 2008	A site inspection of all three estates was held jointly with members of DECC, DEWHA and Coal & Allied.
18 July 2008	Correspondence was issued by DoP providing specific comments regarding the assessment of the Concept Plan, including: <ul style="list-style-type: none">▪ Coal & Allied Table of Responses to submissions to the proposal should be updated to clarify reports have been updated to respond to submissions. The

	<p>Coal & Allied Table of Responses should provide a considered response to each submission issue.</p> <ul style="list-style-type: none"> ▪ DECC's submission to IHAP. ▪ IHAP's Interim Report. ▪ Design Guidelines. ▪ Contamination. ▪ The responsibilities and costs of the Statement of Interim Management Intent (SIMI) should form part of the Business as Usual Statement of Commitments. ▪ Water sensitive urban design.
22 July to 13 August 2008	<p>Further meetings have been held by Coal & Allied which entailed:</p> <ul style="list-style-type: none"> ▪ Briefing to Lake Macquarie City Council on 22 July 2008 and Wyong Council on the 13 August 2008 of the changes that Coal & Allied will adopt in the overall Concept Plans when submitted to DoP for final approval under Part 3A. ▪ Meeting with DECC in Newcastle on 6 August 2008. ▪ Meeting with Hunter Water on 6 August 2008 to discuss main trunk infrastructure services to Catherine Hill Bay and Nords Wharf.
11 and 20 August 2008	<p>Meeting held with DoP staff to discuss issues arising from the public notification and associated submissions on 11 August 2008.</p> <p>Meeting held with DoP staff on 20 August 2008 to clarify boundary and Asset Protection Zone (APZ) alignment at Catherine Hill Bay, Nords Wharf and Gwandalan following the redesign of development areas.</p>

This PPR identifies each of the key issues raised during the assessment process and provides a comprehensive response to each of these issues, as outlined in **Section 8**.

4 Site Description

4.1 Regional and Local Context

Catherine Hill Bay is positioned within the Lake Macquarie Council Area, and is located approximately 90km from Sydney and 30km from Newcastle.

Catherine Hill Bay is located between Pacific Highway and the Pacific Ocean and comprises of two small townships: Middle Camp and Catherine Hill Bay. In total, Catherine Hill Bay has an estimated population of 153 persons and represents a small and relatively undeveloped community located in natural surrounds;

The subject Concept Plan relates to land within Middle Camp, accessed from Pacific Highway, either from Flowers Drive to the north or Montefiore Street to the south.

Currently, Middle Camp comprises of approximately 50 residential dwellings along Flowers Drive, the central spine between Middle Camp and the Catherine Hill Bay township to the south;

Swansea located approximately 9 kilometres north of the site is the closest town centre, providing shopping and business services. Morisset to the south west, is identified as an emerging major regional centre which provides a wider focal point of employment, business, higher order retailing, professional services and other subregional functions.

Situated between the Wallarah National Park to the north and Munmorah State Conservation Area to the south, Catherine Hill Bay forms part of the Wallarah Green Corridors which are areas of high conservation values joining key corridors through the Lower Hunter Region. The Wallarah Peninsula Corridor is to be protected to provide a natural break between the Central Coast and the Lower Hunter.

The whole of the site forms part of the Concept Plan for the purposes of excising the conservation lands from the developable lands.

4.2 The Site

The subject Concept Plan relates to land within the Middle Camp township of Catherine Hill Bay. The Middle Camp site is owned by Coal & Allied Operations and is legally described as follows:

- Lot 202 DP 702669;
- Lot 2030 DP 841175;
- Part Lot 6 DP 746077;
- Part Lot 5 DP 736170;
- Part Lot 12 DP 854197;
- Lot 223 DP 1102989 (note that this title reference has superseded Lot 22 DP 593154 following a recent road widening acquisition in favour of Lake Macquarie Council); and
- Lot 16 DP 755266.

The site is well vegetated by natural bushland communities with some areas around Middle Camp exhibiting weed infestations. The initial Concept Plan identified four developable areas around the existing township of Middle Camp, being denuded of vegetation or has vegetation re-growth. These four areas totalled up to approximately 50 ha of developable land.

As identified in the initial Concept Plan application, the key aspects of the site are:

- The site is currently zoned 7(1) Conservation (Primary) Zone and 7(4) Environmental (Coastline) Zone, along the eastern edge of the site pursuant to the Lake Macquarie LEP 2004. The proposed developable areas remain confined to the 7(1) zoned portion of the Coal & Allied lands;
- There are several existing houses owned by Coal & Allied on the site and Coal & Allied's ownership will continue, however some of the houses will be demolished.
- The proposed developable sites are located on relatively flat land in valleys between ridges.
- Several creeks run through the site to the Middle Camp Gully and discharges at the Middle Camp Beach.
- Access to Middle Camp is from the Pacific Highway and Flowers Drive to the north and Montefiore Street to the south.

5 Development Description & Modifications to the Part 3A Concept Plan

5.1 Concept Plan

This PPR accompanies a modified Concept Plan for the future residential subdivision of the Middle Camp sites. In response to the issues raised by the Independent Hearing Assessment Panel (IHAP), the key amendments to the plans involve:

- deletion of the developable Areas C & D and bypass road such that no development is proposed between the Middle Camp and Catherine Hill Bay townships to preserve the heritage significance of Catherine Hill Bay; and
- reduced maximum dwelling yield from the initial Concept Plan of 300 lots to 222 lots.

Overall, the modified Concept Plan provides for less developable area and an increase in conservation lands to be dedicated to government. As such, the modified Part 3A Concept Plan seeks approval for:

- Dedication of 535.4 ha of conservation land comprising approximately 94.1% of the site as shown in the Conservation and Development Areas Plan (**Figure A.1.1.1**) prepared by AJ+C and Aspect Studios;
- Two developable areas are identified under the modified Concept Plan located to the north of the Middle Camp heritage township, in the northern areas where development is less visible from existing roads:
 - Developable area A (northeast) = 7.32ha;
 - Developable area B (northwest) = 21.44ha.
- Developable area A has decreased marginally from the initial Concept Plan to take into account a road widening acquisition in favour of Lake Macquarie Council.
- Developable area B boundary is modified marginally from the initial Concept Plan scheme to accommodate:
 - an Asset Protection Zone (APZ) along the southern boundary as part of the developable area boundary. This has entailed a marginal shift of the eastern portion of the southern boundary approximately 11m towards the south.
 - towards the eastern end of the northern boundary, the boundary has been adjusted to exclude the extent of a dam from developable Area B.
 - a minor realignment of the north eastern boundary to take into account a road widening acquisition in favour of Lake Macquarie Council.
- The total proposed developable area equates to 28.76ha, which is a significant reduction compared to the total developable area of the initial Concept Plan scheme and the MoU.
- Maximum dwelling yield of 222 lots (including 57 integrated housing lots) over 28.76 ha as shown in the Illustrative Concept Plan (**Figure A1.2.1**) prepared by AJ+C and Aspect Studios as attached under **Appendix A** of the PPR;
- Land uses as proposed in the SSS listing and as indicatively shown on **Figure A2.2.1** prepared by AJ+C and Aspect Studios and included at Appendix A of the Environmental Assessment Report .. Following the Minister's determination of the Concept Plan, this plan will be updated to reflect the deletion of developable areas C and D;
- Conceptual road layout and access arrangements as shown on drawing **Figure A2.4.1** prepared by AJ+C and Aspect Studios and included at Appendix A of the Environmental Assessment Report .

Following the Minister's determination of the Concept Plan, this plan will be updated to reflect the deletion of developable areas C and D;

- Landscape, open space and heritage design concepts as shown in drawing **Figure A2.3.1** prepared by AJ+C and Aspect Studios and included at Appendix A of the Environmental Assessment Report. Following the Minister's determination of the Concept Plan, this plan will be updated to reflect the deletion of developable areas C and D;
- Associated infrastructure arrangements.
- The indicative development staging plan submitted in the initial Concept Plan package will be updated following determination of the Concept Plan.

The Concept Plan includes the torrens title boundary realignment of Coal & Allied land and is illustrated in the following plans:

- Figure A.1.1.1 "Catherine Hill Bay Conservation & Development Area " by AJ+C under **Appendix A**; and
- "Proposed Subdivision Catherine Hill Bay" Sheet 1 and 2 drawing by Monteath & Powys Pty Ltd in **Appendix B**.

The title boundary realignment of Coal & Allied land will achieve the following:

- enable land 535.4ha in area that is occupied and owned by Coal & Allied to be excised and to be dedicated to State Government for conservation land.
- transfer of land 1.6ha in area, located between the cemetery and the oval and including adjacent car park to Lake Macquarie Council.
- enable land 2.86ha in area that is owned by Coal & Allied comprising four houses west of Northwood Road to be excised from the Conservation land and land 0.17ha east of Flowers Drive, near Pine Street. These lands are to be retained by Coal & Allied.

As per the original submission, approval is not sought under the Concept Plan for a specific lot layout or individual housing designs. An indicative lot layout has been prepared by AJ+C and Aspect Studios as shown in Figure **A1.3.1** and included at **Appendix A**. The indicative lot layout indicates how the maximum yield of 222 dwellings could be achieved on the site.

Graphics of the key plans illustrating the deletion of developable areas C and D in the revised concept plan are included at **Appendix A**. Following the Minister's determination of the Concept Plan, the complete Concept Plan documents will be updated to reflect the deletion of developable areas C and D.

The capital investment value of the Concept Plan is approximately \$53.48 million. The Concept Plan will create approximately 326 direct, full time jobs per annum (in the Hunter) during the construction phase over a 8 year period as well as support a further 836 jobs (414 local) from the multiplier employment stimulus amongst construction related industries resulting from primary expenditure.



Figure 1 – Updated Illustrative Concept Plan by AJ+C and Aspect Studios

5.2 Project Application

In response to recommendations by IHAP and the DoP, the Stage 1 Project Application that was submitted concurrently with the initial Concept Plan has been withdrawn.

6 Assessment against Amendments to Planning Controls

6.1 Gazettal of the Catherine Hill Bay Heritage Conservation Area under Lake Macquarie Local Environmental Plan 2004

Since the lodgement of the Concept Application on 13 November 2007, an amendment to the Lake Macquarie Local Environmental Plan 2004 (LEP 2004) was gazetted on the 20 March 2008 to identify Catherine Hill Bay as a heritage conservation area. The extent of the heritage conservation area applies to the majority of the land owned by Coal & Allied and subject to the proposed Concept Plan.

A heritage impact assessment was prepared by Environmental Resources Management (ERM) and was submitted with the initial Concept Plan application. This report provides an assessment relative to the Urban Conservation Area for Catherine Bay identified by the NSW National Trust.

The Urban Conservation Area identified by the NSW National Trust entails two precincts of Catherine Hill Bay and Middle Camp. In particular, the Middle Camp precinct covers *“generally the boundaries of the existing urban settlement, i.e rear of properties on the east and west sides of Flowers Drive from the commencement of the settlement in the north to its end in the south.”*

The gazetted Heritage Conservation Area under the LEP 2004 covers a wider area beyond the boundaries of the National Trust listing and this is addressed within the Heritage Impact Assessment Addendum, attached under **Appendix D**. The impact assessment report has determined that the proposed modified Concept Plan represents an acceptable outcome provided that mitigation measures are implemented which will adequately minimise the visual impacts on the Heritage Conservation Area and the impacts on the archaeological resources of E Pit. The revised Statement of Commitments includes these mitigation measures.

In summary, it is assessed that the proposal will pose minimal impact to the visual catchment of Middle Camp as it does not impact on the heritage values of the individual buildings and surrounding areas. The development is planned to respect the visual catchment of Middle Camp, achieved by creation visual buffers and complementary building forms. The retention of heath land will also provide additional buffering and screening between new and established areas.

6.2 State Heritage Register

The WWII RAAF Radar Station 208 (Former) was recently included in the NSW State Heritage Register and the potential impacts of the proposal have been assessed by ERM in the Heritage Impact Assessment Addendum. The item is situated approximately 1km from the developable areas and the proposal will not have any physical or visual impacts on the Radar Station site and its heritage values. The incorporation of the Radar Station within the conservation lands to be transferred to DECC represents a positive outcome.

7 Identification of Key Issues and Responses

7.1 Overview

The Environmental Assessment prepared in association with the Part 3A application for Middle Camp, CHB was made publicly available for a total of 54 days between 5 December 2007 and 29 February 2008.

A total of 2,865 submissions were received in relation to the three Concept Plan and three Project Applications submitted concurrently with each of the 3 Coal & Allied southern sites. All submissions raised objection to the proposed developments, 32 submissions related to all three Concept Plans (Gwandalan, Middle Camp and Nords Wharf), 452 raised issues solely about the Gwandalan proposal, 2,280 solely related to the Middle Camp proposal and 101 about the Nords Wharf proposal. A total of 2,770 submissions were in the form of proforma letters (32 types relating to Gwandalan, 5 relating to Middle Camp, 1 type relating to Nords Wharf and 1 type relating to all 3 proposals).

This section of the PPR outlines the key issues arising from both the preliminary assessment of the Concept Plan and Stage 1 Project Application by Department of Planning, the Independent Hearing & Assessment Panel and a review of each of the submissions arising from the public notification process.

The key matters raised by Department of Planning during the preliminary assessment of the Part 3A application were articulated through general discussion and emails of the 18 July 2008. A comprehensive response to each of these matters is provided in **Section 8** of this PPR.

The key matters raised by IHAP during the preliminary assessment of the Part 3A application were articulated in correspondence dated 2 June 2008 (Refer to **Appendix F**). A comprehensive response to each of these matters is provided in **Section 8** of this PPR.

Each of the issues raised by the public authorities and agencies, non-government agencies, local interest groups and the existing and surrounding residents and land owners during the notification of the Part 3A application is also addressed. The key matters for consideration are discussed in detail in **Section 8** of this PPR.

It is noted that Coal & Allied has found the feedback to be constructive and has made significant amendments to the Concept Plan and revision to the Statement of Commitments. In response to recommendations by IHAP and the DoP, the Stage 1 Project Application that was submitted concurrently with the initial Concept Plan has been withdrawn.

7.2 Department of Planning

Following the preliminary assessment of the application by the DoP, the key issues identified by DoP as outlined in an email prepared by DoP dated 18 July 2008 and a meeting on 11 August 2008 are as follows:

- DECC's submission to IHAP.
- IHAP's Interim Report.
- Coal & Allied is to provide a stronger confirmation that the land is suitable for residential development in respect of contamination and an explanation as to how that recommendation is supported.
- Coal & Allied to provide more details on the proposed water sensitive urban design.

Other considerations identified by DoP included:

- The responsibilities and costs of the SIMI should form part of the Business as Usual Statement of Commitments.

- DoP does not undertake an adequacy review of Response to Submissions Reports. However, the DoP provided Coal & Allied with some comments that related to the general scope/presentation of the responses. DoP requested that the Coal & Allied Table of Responses to submissions to the proposal should be updated to clarify if reports have been updated to respond to submissions; and that the Coal & Allied Table of Responses should provide a considered response to each submission issue. It is noted that the Coal & Allied Table has been updated to respond to DoPs preliminary comments and is attached under **Appendix G**.
- Future development on the site will be controlled by the Major Project SEPP, Concept Plan and Urban Design Guidelines.

Each of these matters (excluding the last two dot points above that do not require any further explanation) is addressed in the following sections of the report.

7.3 Independent Hearing and Assessment Panel

The Independent Hearing and Assessment Panel (IHAP) prepared a Key Planning Principles Report, dated 2 June 2008 which identified the key issues and recommended design principles for achieving a suitable outcome for the site. These design principles have been considered and taken into account as part of the modified Concept Plan and the withdrawal of the Stage 1 Project Application. In summary, the key issues and principles identified by IHAP relative to the Concept Plan are as follows:

- Biodiversity values of land
- Impacts on the scenic, aesthetic and cultural heritage qualities of the area
- No significant development in an area identified by IHAP as the “Catherine Hill Bay Cultural Precinct”.
- Compliance with the principles and intent of the NSW Coastal Policy (1997) and the Coastal Design Guidelines for NSW (2003).
- Deletion of development Precinct Areas C & D.
- Potential for a moderate expansion of development in Precincts A and B through either minor increase in development footprint and/or increased densities.
- The criteria for consideration of any proposed expansion of development within Precincts A and B
- Consideration for the provision of a public recreation park in the location of Precinct D, on land not occupied by existing 4 dwellings and associated allotments (to be created).
- Provision of a heritage walk.
- Deletion of the proposed by-pass road.

These issues and principles have been addressed within the revised Concept Plan are considered in detail in **Section 8** of this report.

The IHAP Report stated that subject to the above matters being incorporated into the Concept Plan, IHAP *“does not consider that the proposal gives rise to any other issues of significance that would preclude the development and considers that the proposed urban structure, housing densities, subdivision plan, built form, public domain, landscape character and development staging are appropriate”*.

7.4 Key Stakeholder and Public Submissions

Written submissions were received from a range of state and local public authorities and agencies, including:

- NSW Department of Environment and Climate Change

- NSW Department of Primary Industries (Mineral Resources).
- NSW Department of Water & Energy.
- NSW Department of Education and training.
- NSW Heritage Council.
- Lake Macquarie Council
- Ambulance Service of New South Wales.
- Hunter Regional Development Committee.
- Hunter Water Corporation.
- Mine Subsidence Board.
- Rural Fire Service.
- Hunter New England NSW Health.
- Ministry of Transport
- Roads and Traffic Authority.

Submissions were also received from a number of non-government organisations and local interest groups, including:

- Catherine Hill Bay Progress Association & Dune Care Inc.
- The Greens.
- National Trust

Further, a significant number of submissions were received from local residents and land owners.

Copies of all submissions received arising from the public notification of the application were provided to the proponent for review following the completion of the exhibition period.

Each of the issues raised by the public authorities and agencies, non-government agencies, local interest groups and the existing and surrounding residents and land owners during the notification of the Part 3A application have been addressed in the Submissions Response Table, which is attached as **Appendix G**. This table provides a summary of the issues raised in the public submissions and documents the response by the relevant specialist consultant on behalf of the proponent.

Representations to the IHAP on 12 February 2008 specifically in respect to Middle Camp were made by:

- Catherine Hill Bay Progress Association,
- Catherine Hill Bay Surf Life Saving Club,
- Wyong Shire Council
- Lake Macquarie City Council,
- Stocklands
- CHB – Radar Station.

The key issues raised in the submissions with respect to the Middle Camp Concept Plan are identified to be:

- Visual impact and heritage values of the area and landscaped setting

- Scale of development
- Need to assess impact cumulatively with Rosecorp development
- Traffic impacts
- Impact on regenerated bushland.

Other general issues which related to all of the Concept Plans for each site of the southern lands are:

- Ecological reports not adequate (lack of information on offset areas whether threatened species located on sites to be developed are represented in the offset area).
- Part 3A process
- Coal & Allied previously indicated would only develop on despoiled lands
- Mine subsidence
- Edge effects
- Habitat loss

A detailed response to the above issues is discussed in the following sections of this PPR.

8 Response to Key Issues raised

The comments made by Department of Planning, IHAP public authorities and agencies, non-government agencies, local interest groups and the existing and surrounding residents and land owners during the notification of the Part 3A application with regard to the assessment of the CHB (Middle Camp) Concept Plan have been given full and detailed consideration.

A number of amendments to the Concept Plan and the Statement of Commitments have been made in response to the issues raised by DoP, IHAP and key stakeholders, which are outlined on the following pages. However, it is also considered important to understand the background to the preparation of the Concept Plan and the rationale underpinning the principles and guidelines articulated in this document.

The preparation of the CHB Concept Plan was based on a rigorous and thorough design process, including detailed investigations and analysis of a range of specialist studies, demographic analysis, community consultation, market research and financial modelling.

Specific responses to the issues raised by DoP, IHAP and key stakeholders made with regard to the assessment of the Concept Plan are provided below. All other issues arising from the public notification process are addressed in detail in the Response Table to Submissions included in **Appendix G**.

8.1 Biodiversity Values of land and Impact on regenerated bushland

In both the IHAP hearings and in public and agency submissions a number of issues were raised about the environmental impact of development on the three Coal & Allied sites (particularly in relation to the Gwandalan site) and the claimed inadequacy of the environmental information submitted with the Concept Plan. Accordingly IHAP requested specialist advice from the Department of Environment and Climate Change (DECC) in regard to these matters. DECC was also asked to provide advice to IHAP regarding the biodiversity values of the proposed offset lands (that is lands to be transferred to NSWG for conservation) and whether the biodiversity values of these lands would adequately compensate for any biodiversity values lost by development of the development lands.

The DECC provided detailed advice to IHAP on these matters and in general concluded that the development proposed in the Concept Plan and the environmental offset lands in DECC's view *"delivers a sound and defensible conservation outcome for the Wallarah Peninsula....seen in the context of the ecological values of the offset lands"*. The key considerations of the DECC in signalling its overall support for the proposal and the MoU included the following:

- *"Significant biodiversity values of the conservation land as highlighted in the available data;*
- *Excellent landscape connectivity and contiguous with existing reserves;*
- *Overall, across the Middle Camp, Gwandalan and Nords Wharf sites, 225ha have been proposed for development and 1,159ha earmarked for conservation, effectively providing a 5:1 offset ratio and DECC believes this delivers significant biodiversity conservation outcomes;¹*
- *Extensive (and historical) community and government interest in the protection of the Wallarah Peninsula and creation of a green corridor between Central Coast and Newcastle;*
- *Ability to achieve a security of conservation tenure (in perpetuity);*
- *Consideration of social and economic imperatives in identifying areas for development, including: consolidation of urban footprints, infrastructure provisions, demand for residential land, etc.*
- *The offset lands contain high biodiversity values and represent important gains in the Wallarah Peninsula Area;*

¹ These figures identified by DECC appear to include Rose Group sites. Refer to the MoU attached under Appendix C for Coal & Allied MoU figures.

- *The offset lands contain similar habitat and ecological features to the lands to be developed and, as such, generally offset the potential biodiversity impacts from the development;*
- *The development lands contain areas of high biodiversity value. These values are represented in the offset lands, other DECC reserves or the range of the species extends beyond the Wallarah Peninsula;*
- *The proposed developments will not compromise the integrity of wildlife corridors in the Region, given the conservation outcome achieved;*
- *Importantly, the Department did not want a series of small reserves, not connected to existing reserves or other areas of contiguous habitat. In this respect, DECC accepted there would be **localised biodiversity impacts from the proposed developments but these would be outweighed by the biodiversity offsets**. The expert review of the MoU confirms that these objectives have been achieved” (our emphasis)*
- *It is noted that DECC remains committed to the MoU process. It is DECC’s view that the total offset package, as set down in the various MoUs, delivers a sound and defensible conservation outcome for the Wallarah Peninsula. This must be seen in the context of the ecological values of the offset lands”.*

Therefore, it has been concluded that the proposed development and associated conservation offset package will deliver significant biodiversity conservation outcomes.

The DECC advice did however identify some specific issues in relation to the Concept Plan proposals for the three Coal & Allied southern sites which require either amendments to the respective Concept Plans of further resolution. For Catherine Hill Bay (Middle Camp), these matters included specific recommendations for further mapping of EEC “*Low Woodland with Heathland on indurated sand at Norah Head*”, assessment of impacts on climate change and impacts on adjacent conservation areas for all 3 sites. Specifically to Catherine Hill Bay, it was identified by DECC that “*no significant ecological issues are evident which would warrant a modification of the urban footprints. It is considered that any local impacts can be adequately mitigated through appropriate planning and development controls/conditions.*” The DECC report dated March 2008 and the Bell report, prepared for DECC dated March 2008 are attached under **Appendix H**. These issues are discussed in detail below.

8.1.1 Impacts on EECs

DECC identified further assessment should be undertaken for the potential occurrence of the EEC. “*Low Woodland with Heathland on indurated sand at Norah Head*”. In consideration of this comment, RPS Harper Somers O’Sullivan has noted that this community has some affinities with Coastal Clay Heath.

The revised Concept Plan deletes Area C and D from the scheme such that development is now limited to Areas A and B which do not contain the identified community, consequently 100% of Coastal Clay Heath will be conserved under the revised proposal. No part of the proposal adjoins any of the Coastal Clay Heath vegetation and therefore it is assessed that it is highly unlikely that this EEC will be impacted by the proposal. Refer to the Addendum Ecological Assessment Report by RPS Harper Somers O’Sullivan attached under **Appendix I** for further detail.

8.1.2 Flooding and Climate Change

The GHD Addendum Report for Lower Hunter Land Project “*Hydrology / Stormwater Management: Catherine Hill Bay further advice on WSUD, Water Quality and Climate Change*” provides further details on the flood modelling undertaken to support the Concept Plan application. This report outlines development of the hydrology for Middle Camp Gully and the development of a 2-D flood model, which was used to determine flood risk and flood extent for the 100-year ARI event and the PMF.

Climate change consideration has been undertaken in respect to Coal & Allied’s commitments to energy and water saving. Future dwellings are to comply with or exceed Basix targets.

The development has taken into account possible impacts of climate change in terms of sea level rise and increased storm intensities and volumes. The Addendum Report by GHD provides additional assessment relating to climate change impacts on flooding, taking into account Lake Macquarie City Council's report on adaptation to sea level rise and climate change and the DECC Practical Consideration of Climate Change, October 2007 guidelines. Refer to **Appendix J** for further detail.

On this basis, the high level ocean impact scenario was adopted for the Catherine Hill Bay proposal in conjunction with increase in storm intensities of 30% in peak rainfall and storm volume. This is considered as an upper envelope of climate change for a 2100 planning horizon and was reassessed in respect to the flood modelling assessment.

The results identify that the flood extent in the 100-year ARI event for a 2100 climate change scenario is only increased by a small additional area of inundation adjacent to the precincts. The impact is greater downstream of the precinct due to backwater effects from elevated ocean levels. In a 100-year ARI event, the flood levels adjacent to the site are expected to increase by no more than 0.3m under the future climate scenario. This is not considered as a significant increase and dwelling floor levels would need to take this into account, by providing adequate freeboard over and above future predicted flood levels. Future project applications for the subdivision of the land will require a more detailed Floodplain Risk Management Study, accompanied by further detailed flood modelling and mapping.

8.1.3 Edge effects and Statement of Interim Management Intent (SIMI)

DECC and the community in general have raised concern about the potential impacts onto adjoining conservation lands. A number of direct and indirect impacts are possible, including from stormwater run off, dumping of rubbish, weed encroachment, creation of trails and increased human access/visitation. DECC has recommended that the way to minimise such impacts onto the conservation lands would be in the development of a Statement of Interim Management Intent (SIMI) by the owner in consultation with DECC's Parks and Wildlife Group. The plan will have the benefit of guiding management of the conservation reserves until a formal plan of management, as required by the *National Parks and Wildlife Act, 1974* is prepared.

In direct response to this recommendation, Coal & Allied has revised its Statement of Commitments as follows:

"Prepare a Statement of Interim Management Intent (SIMI) prior to commencement of works for the protection of transferred conservation lands. The SIMI will relate to the interface (maximum width of 100m) between the development areas and the conservation lands as identified in the plan prepared by Harper Somers.

The Owner's involvement with the SIMI will be limited to:

- Cost of preparing the SIMI;
- The actions arising from the SIMI for a specified period of the lesser of 5 years commencing from the date the SIMI takes effect or until all the lots are sold.

The SIMI will include an orchid management plan for the land contained within the development area precincts only.

The SIMI will include undertaking ongoing management of Asset Protection Zones (APZ's) for a period the lesser of 5 years from commencement of works or until all lots are sold relative to each development area precinct. Management will be undertaken in accordance with Council / NPWS best practice respective to the land ownership plan prepared by Harper Somers attached herewith. The Owner is to prepare the APZ Management respective to the land ownership plan prepared by Harper Somers attached herewith. The Owner is to prepare the APZ Management Regime prior to commencement of works."

8.1.4 Other ecological considerations

In response to specific comments by DECC and the independent consultant Stephen A.J Bell commissioned by DECC, further detailed studies and information has been provided in the Addendum Ecological Assessment Report by RPS Harper Somers O'Sullivan attached under **Appendix I**. This report takes into account the reduced development footprint under the modified Concept Plan and relates to:

- Narrabeen Wallarah Sheltered Grassy Forest;
- Threatened Cryptic Orchid Species;
- Regionally Significant Orchid Species;
- Regionally Significant Undescribed Cryptic Orchids;
- Threatened Species:
 - *Pultenaea maritima*;
 - *Rutidosis heterogama*;
 - *Tetratheca juncea*;
- Ground water dependent ecosystems; and
- Swift Parrot Surveys.

The addendum also provides a revised assessment of the extent of vegetation removal/retention in which the revised Concept Plan results in increased areas of retained vegetation following the deletion of Areas C and D. Refer to **Appendix I** for further detail.

Douglas Partners and RPS Harper Somers O'Sullivan have provided supplementary detail relating to impacts on groundwater dependent ecosystems (GDEs) communities which identifies that there will be minimal impact on groundwater levels and GDEs providing that existing surface water flow rates / levels and fluctuations of the creek north of Area B and south of Area A are maintained post development. This will be achieved by implementing Water Sensitive Urban Design Management practices. Refer to **Appendix K** and **Appendix J** for further detail.

8.1.5 Aboriginal Cultural Heritage

A submission from DECC identified the preparation of an Aboriginal Cultural Heritage Management Plan and a recommendation that the applicant continue to consult with and involve the Aboriginal representatives for the project.

The preparation of an Aboriginal Cultural Heritage Management Plan is identified in the SoC and details of outlining consultation with Aboriginal communities undertaken to date, and an outline of what further consultation is to be undertaken is included at **Appendix P**.

8.2 Visual impact and heritage impact of Middle Camp and landscape setting of Middle Camp

One of the key planning principles identified by IHAP for Middle Camp states that development *"...should not prejudice the scenic, aesthetic and cultural heritage qualities of the area and should generally only be located on previously disturbed land that is visually separate from the existing village, is not located between Middle Camp and Catherine Hill Bay Villages and will not impact on views to and from the village."*

IHAP further identified an area between the Middle Camp and Catherine Hill Bay villages as the *"Catherine Hill Bay Cultural Precinct"*. This precinct is attached under **Appendix F**, which includes an

overlay of the proposed development areas. IHAP has stated that there should be no significant new development in this area, such that it was recommended that development should not proceed in developable areas C and D. However, IHAP has expressed that minor alterations and/or additions to existing dwellings and other development permissible either with or without consent under the LEP may be considered. The IHAP report further noted that there is potential for residential development in developable areas A and B as follows:

“...there is potential for residential development as generally detailed in the Concept Plan within Precincts A and B but that development should not proceed in Precincts C and D having regard to the significance of this land in providing a visual, cultural and landscape connection between Middle Camp in the north and Catherine Hill Bay Village in the south....There may be potential for a moderate expansion through a minor increase in development footprint and / or increased densities) of development in Precincts A and B ... given that the development of these areas is separate and screened from the existing village and will therefore have minimal impact on the significance of Middle Camp as a place.”

The modified Concept Plan deletes Area C and D to satisfy IHAP's principle of providing no significant development in the CHB Cultural Heritage Precinct and transferring the previous Area C land and a portion of the previous Area D land to NSW Government as conservation land in perpetuity. The deletion of Developable areas C and D address concerns relating to both heritage and visual impact issues.

Coal & Allied currently own four dwellings within this heritage precinct, which are proposed to be excised from the lands that will be dedicated to government to enable Coal & Allied to continue to retain these dwellings and associated allotments. The retention of these houses and future minor alterations and additions would be acceptable and within the principles set by IHAP.

The remaining developable areas A and B proposed under the modified Concept Plan are designed as discreet hamlets within an area confined to disturbed bushland and are well setback from the coastal foreshore, consistent with the above principle by providing no development between the Middle Camp and Catherine Hill Bay villages. The visual impact of the proposed development has been a key consideration in the concept planning of the site and to provide for additional visual mitigation measures, developable areas A and B will include screen planting buffer areas to Flowers Drive. The vegetation buffer to area A is effectively 23m wide. The vegetation buffer to Area B is 30m wide. These buffers are considered to be more than adequate to shield the proposed development Area A and B from Flowers Drive.

Appropriate building heights and built form controls have been established and submitted with the Concept Plan.

ERM has undertaken a visual impact assessment of the revised scheme relative to the gazetted CHB Conservation Area where it is assessed that the proposal will pose minimal impact to the visual catchment of Middle Camp as it does not impact on the heritage values of the individual buildings and surrounding areas. The development is planned to respect the visual catchment of Middle Camp, achieved by creating visual buffers and complementary building forms. The retention of heath land will also provide additional buffering and screening between new and established areas. Refer to the Heritage Impact Assessment Addendum by ERM under **Appendix D** for further detail on the visual impact assessment.

8.3 Scale of development

Numerous submissions received related to the extent of development proposed and its associated impacts. The modified Concept Plan entails a significant reduction in the scale of development with the deletion of developable areas C and D to address the heritage and visual impact issues. The initial Concept Plan entailed a total of 300 dwellings over a total developable area of 50ha and the modified scheme proposes 222 dwellings over 28.76ha.

It has been recognised by IHAP that the deletion of dwellings from the more sensitive locations of Middle Camp provides for a potential expansion of dwelling density or development footprint in Areas A

and B. Coal & Allied have not chosen to expand the development areas of A and B, with the exception of a minor extension of the southern boundary of developable area B to accommodate an APZ for bushfire mitigation measures. In this respect, the proposed scale of development in conjunction with appropriate built form controls for future development will achieve an appropriate scale of development for Middle Camp.

The IHAP Report stated that subject to the above matters being incorporated into the Concept Plan, IHAP *“does not consider that the proposal gives rise to any other issues of significance that would preclude the development and considers that the proposed urban structure, housing densities, subdivision plan, built form, public domain, landscape character and development staging are appropriate”*.

8.4 NSW Coastal Policy (1997) & Coastal Design Guidelines for NSW (2003)

The principles and intent of the NSW Coastal Policy (1997) and the Coastal Design Guidelines for NSW (2003), particularly Section 1.6 New Coastal Settlements: Villages and Hamlets are identified by IHAP as a key principle to be met.

The modified Concept Plan deletes developable areas C and D, which were positioned closer to the coastline such that development is limited to Areas A and B within discreet hamlets well setback from the coastal foreshore. Relative to the above coastal policies, a revised assessment has been undertaken and is provided in the tables contained within **Appendix L** of this report.

Relative to the NSW Coastal Policy 1997, the assessment illustrates that the modified development concept for the future development of the Middle Camp sites satisfactorily achieves objectives of managing the NSW coastal zone as follows:

- The removal of Areas C and D from the Concept Plan will enable the transfer of additional land to NSW Government for conservation land.
- The removal of Areas C and D from the Concept Plan is consistent with IHAP’s Cultural Precinct designated area in which no new significant development was recommended by IHAP to occur.
- Items of cultural heritage are to be retained within proposed open space areas.
- Developable Areas A and B are confined to areas that are well setback from the coastal foreshore to ensure no impacts on the coastal setting and situated on land that has already been disturbed and to those areas that are of lesser ecological value.
- Landscaped buffers to Flowers Drive off areas A and B are to be incorporated into the proposal to assist in maintaining the character and amenity of the area.
- Sustainable development and resource management have been addressed through the dedication of a large proportion of the Catherine Hill Bay land for conservation purposes and the inclusion of environmental management measures such as stormwater and erosion control to mitigate potential pollutant impacts.

Relative to the desired future character of coastal hamlets as set out in the Coastal Design Guidelines for NSW, the assessment illustrates that the modified development concept for the future development of the Middle Camp sites satisfactorily achieves relevant design guidelines as follows:

- Developable areas will be separated from the natural and built surrounds by buffer landscape treatments.
- Impacts on sensitive heritage and archaeological places will be minimised through appropriate siting of development and preservation within future open space areas.
- The development has been planned to ensure minimal visual impacts upon the coastal environment through the placement of buildings well back from the foreshore. Areas C and D, which were precincts closest to the foreshore have been deleted to satisfy the issues raised by IHAP.

- The street design for the proposal will be of similar nature to the existing network and is consistent with the street hierarchy suggested for coastal hamlets.
- Design guidelines for each precinct will ensure that the desired character for the area is maintained and development remains consistent in terms of scale.

The proposal is also consistent with the design principles specific to the identified future character for coastal settlements outlined in the Coastal Design Guidelines for NSW as follows:

- The Concept Plan is modified to reduce the extent of Development precincts to include only Areas A and B within small scale, individual precincts.
- The open space areas within Areas A and B have been sited to incorporate key historic elements or function as stormwater management that also function as both passive and active recreation areas.
- The proposal improves pedestrian accessibility to Middle Camp Beach through the establishment of the Heritage Walk from Areas A and B to land to be dedicated to Lake Macquarie Council for beach car park and / or recreation purposes. Similarly, pedestrians will be accommodated through the provision of pathways along all proposed roads.
- Visual and environmental amenity will be preserved through deletion of developable areas from an identified "Cultural Heritage Precinct" by IHAP and ensuring appropriate landscape buffers are provided along Flowers Drive.

8.5 Development in Precincts (Developable areas) A and B

The potential for development in Developable areas A and B, including a potential expansion of dwelling density or development footprint has been recognised by IHAP. Based upon the deletion of Developable areas C and D, the original developable areas of 50ha (300 lots and an average dwelling density of 6 dwellings per ha) are significantly reduced. In this regard, IHAP has recognised a potential for a moderate expansion of Developable areas A and B through a minor increase in development footprint and / or increased densities of development given that these developable areas are screened from the existing village and have minimal impact on the significance of Middle Camp as a place.

In respect to expansion of Developable Areas A and B, IHAP has identified various considerations to be met:

- additional development footprint to be located on land with no heritage, environmental, ecological or scenic significance;
- maintain separation with Middle Camp Village;
- design to preserve the integrity and setting of the existing village;
- best practice planning principles;
- provision for adequate screening to key vantage points and provision for significant landscape buffer (minimum 30 M) from Flowers Drive, Middle Camp Village and any new proposed bypass road; and provide for landscape setting by minimising tree loss.
- A significant tree audit should be conducted and this should inform the final subdivision layouts and permissible building areas on each lot.

The modified Concept Plan does not entail increasing the residential densities of Areas A or B, such that Developable area A will remain proposed at 61 lots including 30 integrated housing lots in a developable area of 7.32ha. Developable Area B will remain as proposed for 161 lots including 27 integrated housing lots in a developable area of 21.44. The boundary of the Developable area B has changed marginally to accommodate for a satisfactory Asset Protection zone to the southern boundary and reduced areas relative to the dam and widening of Flowers Drive by Lake Macquarie City Council. This has entailed a minor shift of the eastern portion of the southern boundary approximately 11m

towards the south. These minor boundary changes will have insignificant impacts relating to ecological, environmental, heritage or scenic considerations as follows:

- The APZ area is situated within vegetation mapped as “*Narrabeen Wallarah Sheltered Grassy Forest*” which is not identified as EEC community. This vegetation has potential habitat for threatened species but given the extent of the offset lands to be dedicated to NSW Government that contain high biodiversity values, the impacts are minimal. The deletion of Areas C and D will further increase lands to be dedicated government as part of the total offset package to deliver a sound and suitable conservation outcome for the Wallarah Peninsula.
- The additional land affected is not associated with particular heritage significance.
- The APZ will be managed as an APZ and will retain a level of vegetation to meet the principles outlined by Planning for Bush Fire Protection, such as to thin the understory and retain tall trees (preferably those with smooth bark).
- The additional land for APZ purposes is located in an area that is not readily visible from the key vantage points in and surrounding the township. The APZ will be retained as a vegetated zone in accordance with bushfire protection guidelines, adjacent to proposed conservation lands and will not impact on the scenic amenity of the area. Refer to Addendum Bushfire Threat Assessment report by RPS Harper Somers O’Sullivan for further detail under **Appendix M**.
- An appropriate separation will be provided between Developable area B and Middle Camp village as the boundary shift for APZ purposes is minor and does not entail extending toward the village such that there is no impact to the integrity and setting of the township.
- The extension to Developable area B does not entail expanding the residential area as sought under the initial version of the Concept Plan and therefore will not require additional landscape buffer screening.

8.6 Public Recreation Facilities

IHAP has recommended the creation of public recreational park in the area previously identified for Developable area D but excluding the existing four dwellings and associated land currently owned by Coal & Allied. IHAP has proposed this recommendation on the basis of this land’s close proximity to the beach, the cemetery and the old railway alignment.

Coal & Allied has not proceeded with this consideration and will transfer the land to the NSW Government for conservation lands. However, the land situated in between the cemetery and the oval, currently utilised for beach parking will be transferred to Lake Macquarie Council.

8.7 Retention of proposed heritage walk

As part of the heritage interpretation of Middle Camp, Coal & Allied propose to provide a Coastal “Heritage Walk”, a walkway that will follow the former rail line and provide access from Area B to the land to be transferred to LMCC for a public car park. This facility is identified in the Statement of Commitments. It is not proposed to construct the walkway beyond the northern boundary of the land to be transferred to Council as Council intends to utilise this area for car parking and / or recreation, however the land will be dedicated by Coal & Allied to Council for their future design and construction.

8.8 Removal of the by pass road

The initial Concept Plan scheme entailed developable areas C and D and a bypass road that provided access from the northern end of Flowers Drive to these Precincts. This bypass road was proposed to minimise traffic generated by these precincts from Flowers Drive. Given that precincts C and D have been deleted from the scheme, IHAP has stated that it is preferable that the bypass road be deleted on the basis of aesthetic, landscape and cultural heritage.

The amended scheme, the subject of this PPR has deleted the bypass road as Developable areas A and B are not reliant on the bypass road.

8.9 Part 3A process overrides current zoning

Some of the public submissions, including Lake Macquarie Council stated that the offset conservation lands were already protected by the current land use zone and the Part 3A process not supported.

The Part 3A process is necessary because the Catherine Hill Bay (Middle Camp) land forms an important part of an overall environmental land offset package for the Lower Hunter by Coal & Allied which includes seven Coal & Allied owned sites in the Lower Hunter and spans four local government areas (Wyong, Newcastle, Lake Macquarie and Cessnock Councils). This creates complications given the likely differing views of the respective Councils as to how and whether or not the proposals for each site should proceed. Separate consent arrangements are unlikely to enable an appropriate conservation and land use framework to be achieved in a timely, effective and efficient manner. The sites need to be considered in a regional context rather than a Council-by-Council basis to allow for the coordinated protection of priority areas of biodiversity. This will result in a more targeted conservation action, than an uncoordinated approach to the sites.

It is therefore important that Catherine Hill Bay (Middle Camp) be considered in a coordinated manner by NSWG to achieve permanent preservation of the Wallarah Peninsula conservation corridor. Given the overall environmental land offset package for the Lower Hunter by Coal & Allied spans four local government areas, the environmental gains to the community would not be achieved if each site was separately considered by the individual Councils under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Although, the land is currently zoned for conservation it is also currently in private ownership. Consequently there is no guarantee that these lands cannot be protected in accordance with NPWS best practice and it is quite possible that the zoning and use of the land will be subject to change over time. If however these lands are dedicated to NSW Government they will be locked away permanently and protected in perpetuity. This is a significant gain to the community.

It is noted that in DECC's opinion the conservation offset lands contain high biodiversity values and represent important conservation gains in the Wallarah Peninsula area. Overall the total development/conservation offset package, as set down in the various MoUs, delivers a sound and defensible conservation outcome for the Wallarah Peninsula. This is seen in the context of ecological values of the offset lands.

8.10 Strategic Justification

Some of the public submissions stated that the strategic justification to the proposal is inadequate and not supported. The Lower Hunter Regional Strategy (LHRS) identifies the site for proposed urban development and proposed conservation land dedications. The proposal is entirely consistent with the LHRS. The LHRS is the key statutory planning policy to guide the growth in the Lower Hunter for the next 25 years by identifying future development areas, principal land use types, settlement patterns and conservation outcomes.

The Environmental Assessment submitted with Concept Plan provided more than adequate strategic justification for the proposal. The site is one of the four Coal & Allied sites in the northern and southern lands proposed for residential development which will provide approximately 5% of the growth in the Lower Hunter. Whilst geographically separate they do contribute to the overall growth of the Lower Hunter region. This is not inconsequential.

The proposed dedication of 535.4ha of Coal & Allied land at Catherine Hill Bay (Middle Camp) for conservation and 321.3ha of lands associated with the Coal & Allied Nords Wharf and Gwandalan Concept Plan projects comprises approximately 70% of the land needed to complete the South Wallarah peninsula conservation area. The development of the Catherine Hill Bay (Middle Camp) site and consequential land dedication is an integral element of the LHRS.

The securing, protection and management of conservation corridors is a key focus of both the LHRS and the companion Draft Regional Conservation Plan. The development of the three sites (including Catherine Hill Bay (Middle Camp)) in return for 856.7ha of conservation land dedication is crucial in achieving the State Government's objective of securing major conservation corridors identified in the LHRS, most notably the Wallarah Peninsula Corridor.

8.11 Development should be established around major centres and corridors.

Some of the public submissions raised concern that the proposed development will result in urban sprawl between regional centres and development should be established around major centres and corridors.

Although the land identified for development is not around a major centre, the land identified for development is an appropriate extension of the existing township at Middle Camp through the provisions of discreet hamlets. It is in close proximity to an existing range of amenities and community facilities in CHB and is situated approximately 9km from Swansea, north of the site which provides for town centre shopping and business services. Furthermore, the site is identified for urban development and Conservation in the LHRS. The proposed development and associated conservation offsets are entirely in accordance with state government strategic approach to the Lower Hunter.

The Social Impacts Assessment prepared by Urbis and submitted with the Concept Plan for the site concluded that there are no significant effects of the additional population from the proposed development on services or social infrastructure.

8.12 Mine subsidence

Coal mining at Catherine Hill Bay commenced in 1873 and concluded in 2002. The mining was carried out by a number of different companies at various locations, one such company being the Wallarah Coal Company.

Coal & Allied acquired the Wallarah Coal Company in 1955 and conducted mining operations at Catherine Hill Bay under various mining leases, some of which were consolidated to become known as Consolidated Coal Leases (CCL) 706 and CCL 707. The collieries and associated mining leases including CCL 706 and 707 were sold to the Wallarah Joint Venture in 1994.

The Wallarah Joint Venture continues to hold CCL's 706 and 707. Lake Coal, the Manager and Agent of the Wallarah Joint Venture, assumed all responsibility associated with the CCL's 706 and 707 as part of the 1994 sale agreement and worked with the Department of Mineral Resources (DMR) in preparing a "FINAL Mine Rehabilitation & Closure Plan Wallarah & Moonee Collieries, Catherine Hill Bay Coal reparation Plan" dated 10 November 2003.

Lake Coal made an application to the DMR for relinquishment of those parts of the leases covering the Coal & Allied landholding at Catherine Hill Bay which was approved by the DMR in December 2003. As such there are no mining titles affecting the landholding.

Further, as evidenced by the DMR's approval of the relinquishment of the mining leases over the landholding, there are no outstanding requirements in relation to mine operation and closure. In addition, there are no future mining proposals for the site.

Potential mine subsidence issues were raised by the general public relative to all three southern estates. The Concept Plan application was referred to the Mine Subsidence Board (MSB) by the DoP in which no objection was raised but the MSB indicated that any development is required to undertake the following measures:

- The Board would not support surface development where there is a risk of pothole subsidence unless the risk is eliminated by action such as grouting of workings.
- MSB approval is required for surface development.

- Shafts and entries need to be identified and sealed off as required by the Dept. of Primary Resources – Mineral Resources. Structures should not be built over these locations unless subject to engineered filling operations.
- Applicant to develop and maintain a long term management plan to deal with the risks associated with the development.

These requirements will be considered as part of the future Project Applications for the subdivision of Developable areas A and B. Any risk of future potholing within the development areas will be managed by the preparation of a Pothole Management Plan and will include grouting of the mine workings as necessary. Conventional style houses can be readily designed to meet the potential subsidence criteria. Houses are designed to accommodate potential subsidence across much of the region.

8.13 Habitat loss and lack of information on offset areas whether threatened species located on sites to be developed are represented in the offset area

Some community concern has been raised about habitat loss and lack of information on offset areas whether threatened species located on sites to be developed are represented in the offset area. The Ecological Report prepared by HSO and submitted with the Concept Plan considered the potential ecological impacts of the proposal. In summary, coupled with the MoU (signed by the NSW Planning, Environment and Lands Ministers) it was found that the habitat loss in relation to the wider conservation gain was acceptable. It is unlikely that any habitat loss in the development area will have significant consequences given the large tracts of similar habitat that is to be conserved and managed (in perpetuity) in the offset lands by DECC's Parks and Wildlife Group. This is concurred by DECC in its report to IHAP. This report concluded that the development proposed in the Concept Plan and the environmental offset lands in DECC's view "*delivers a sound and defensible conservation outcome for the Wallarah Peninsula...seen in the context of the ecological values of the offset lands*". It is therefore considered unnecessary for Coal & Allied to undertake any further assessment of the adequacy of the offset area for various threatened species.

8.14 Traffic Impacts

Traffic assessment of the initial Concept Plan was undertaken by Parsons Brinckerhoff relative to the initial four development precincts and proposed bypass road. The traffic assessment was submitted as a traffic and transport report as part of the Concept Plan documentation. The report provided a review of existing traffic conditions, the development of a spreadsheet based traffic model, the determination of future traffic demand, cumulative traffic impact and a traffic assessment of the proposed short listed future network options with full development.

The traffic generation from the initial proposed development of 300 dwellings was assessed to be satisfactorily accommodated within the proposed traffic network and well within the environmental goal for residential streets as set out by the RTA, such that the proposed road system would be sufficiently robust to accommodate the additional peak holiday traffic.

The amended Concept Plan with a reduced yield to 222 proposed lots and the deleted bypass road was reassessed by Hyder Consulting in terms of the impacts on the local road, as contained within the Traffic and Transport Addendum under **Appendix N**. In summary, the findings of the traffic assessment identify that:

- The revised yields will reduce the trip generation by 25% compared to the initial Concept Plan yield, providing for 189 peak hour two way trips in comparison to initial Concept Plan estimated 255 trips;
- Main access points for developable areas A and B is envisaged to be more directly to and from Pacific Highway via Flowers Drive;

- Modelling results indicate slightly better intersection performance than the initial Concept Plan but key intersections on the Pacific Highway will still require upgrading works. This entails the provision of:
 - a seagull intersection at Cams Wharf Road/Flowers Drive with full access to Cams Wharf Road and left in/left out only for Flowers Drive; and
 - a seagull intersection at Montefiore Street with full access to Montefiore Street and traffic signal control on the Pacific Highway southbound and Montefiore Street.
- Deletion of the bypass road will increase traffic on Flowers Drive through Middle Camp, with forecasted volumes of 220 vehicles in one peak hour and 2,130 vehicles per day. Relative to the environmental goals set by the RTA for residential streets, the degree of post development traffic will satisfactorily achieve the RTA environmental goals.
- The revised Concept Plan will not affect intersection controls on the remaining internal road network in developable areas A and B and the proposed bus route 99 extension will be unaffected.

8.15 Cumulative impacts

Cumulative impacts including consideration to Nords Wharf and Gwandalan proposals by Coal & Allied and the Rose Group development at CHB were examined in respect to traffic, impacts on Crown land, heritage and service infrastructure.

Augmentation to the water supply network will be undertaken to cater for the proposed development. In order to service Coal & Allied's Catherine Hill Bay development, Hunter Water has identified that a reservoir will need to be built at North Wallarah and a watermain provided from the reservoir to Catherine Hill Bay. The new reservoir site has been identified as part of the Rose Group proposal for Catherine Hill Bay and Stage 1 (4ML) is expected to be on line in late 2008. Stage 2 will include an additional 4ML storage capacity. At the time of writing a joint meeting with Coal & Allied, Rose Group and Hunter Water to discuss servicing strategy including, in-or above ground pipelines, likely easement routes and use of existing sewer connection point at Pacific Highway/Flowers Drive was proposed. It was also proposed to discuss the proposal with RTA to get in-principle support for use of Pacific Highway road reserve as a services corridor. Rose Group and Coal & Allied will discuss cost sharing options for the augmentation works in due course.

The proposed Coal & Allied development at Catherine Hill Bay, Nords Wharf and Gwandalan in conjunction with the Rose Group development at Catherine Hill Bay and Gwandalan will introduce an increased population which has the potential to affect conservation of biodiversity through increased use of Crown land.

Notwithstanding, the dedication of 856.7ha of Coal & Allied lands at Catherine Hill Bay, Nords Wharf and Gwandalan in conjunction with the dedicated land by Rose Group land at Catherine Hill Bay and Gwandalan has the positive cumulative effect of providing large, contiguous north south and east west conservation corridors with high environmental value which will be dedicated to NSWG for conservation purposes. These corridors align with existing public reserves, and will link and expand the three state conservation areas of Lake Munmorah State Recreation Area, Lake Macquarie State Recreation Area and Wallarah National Park. Securing and the long term protection and management of these corridors for conservation and biodiversity is a key focus of the LHRS and the companion regional Conservation Plan developed by the Department of Environment and Conservation.

The cumulative effect of the rezoning of part of the Coal & Allied Catherine Hill Bay, Nords Wharf and Gwandalan sites for environmental protection and dedication of this land for conservation purposes means that any potential Archaeological remnants located in coastal areas and other waterbodies such as around Crangan Bay from Nords Wharf to Gwandalan will be conserved in perpetuity.

Cumulative impacts are likely to arise from the interaction of the construction and operation of the Coal & Allied site at Catherine Hill Bay with other development proposals planned for the Coal & Allied sites at Nords Wharf and Gwandalan and Rose Group sites at both Catherine Hill Bay and Gwandalan. The

combination of these developments would result in impacts on the following key intersections with the Pacific Highway:

- Cams Wharf Road/Flowers Drive;
- Montefiore Street;
- Awabakal Drive;
- Kanangra Drive; and
- Nords Wharf Road.

Proposed intersection upgrading works on the Pacific Highway are triggered by the Coal & Allied development at the Middle Camp, Catherine Hill Bay and by the Rose Group development at Catherine Hill Bay. In the future, the surrounding road network would need to cater for traffic from the full proposal and for the growth in cross-regional traffic on the Pacific Highway.

The amended Concept Plan with a reduced yield to 222 proposed lots and the deleted bypass road was reassessed by Hyder Consulting in terms of the impacts on the local road network taking into account the cumulative impacts of the other Coal & Allied developments at Nords Wharf and Gwandalan and the Rose Group development at Catherine Hill Bay and Gwandalan. Overall it was determined that the cumulative traffic impacts will be satisfactorily accommodated by the existing road network subject to upgrading requirements as follows:

- Cams Wharf Road/Flowers Drive: provision of a seagull intersection with full access to Cams Wharf Road and left in/left out only for Flowers Drive; and
- Montefiore Street: provision of a seagull intersection with full access to Montefiore Street and traffic signal control on the Pacific Highway southbound and Montefiore Street.
- Awabakal Drive: provision of a seagull intersection with full access to the Pacific Highway and Awabakal Drive.
- Kanangra Drive: additional slip lanes on the Pacific Highway and a storage lane on Kanangra Drive;
- Nords Wharf Road: minor traffic works.

In summary, no significant adverse cumulative effects are likely to arise from the Middle Camp project.

8.16 Contamination assessment and remediation requirements

Further clarifications to the suitability of the site for residential development of developable Areas A and B has been provided by Douglas Partners in respect to contamination and remediation. It is confirmed that site is suitable for residential development subject to further assessment and remediation.

The preliminary contamination assessment (PCA) provided with the initial Concept Plan identified that:

- Developable Area A was subject to stockpiling of coal and placement of general fill on the lower southern part of the site. Preliminary tests identified the absence of gross contamination but it was recommended that detailed assessment of this part of the site to be undertaken prior to construction.
- Developable Area B contains potential contaminants, including fibro sheeting and fill material as it was utilised for heavy industry and includes former Pit E. Preliminary tests identified contaminants which exceed residential land use criteria and additional testing was recommended.

Based on the results of the PCA, site remediation is required to developable Area B, concentrated on the former Pit E site and potentially localised remedial works in developable Area A. A remediation action plan (RAP) will be required to identify:

- excavation and removal/disposal/capping of contaminated soil;
- testing requirements in accordance to State Environmental Planning Policy 55 and the NSW Department of Environment and Climate Change; and
- removal of black slag material.

Based on the known and potential contaminants of the site and the ability to remediate the contaminants, Douglas Partners confirm that the site is suitable for residential development following remediation processes. In particular, Douglas and Partners identify the following works must be undertaken as part of the future applications for subdivision:

- detailed contamination assessment for Areas A and B in accordance with SEPP 55 and NSW DECC guidelines;
- development of a Remediation Action Plan;
- appropriate remediation to remove contaminants exceeding the DECC Land use criteria;
- removal of deleterious material and possible associated surface impact;
- validation testing and verification;
- validation of asbestos contamination by a qualified asbestos consultant; and
- waste classification to DECC guidelines of materials destined for off-site disposal at a licensed land fill.

For further detail, the additional report provided by Douglas Partners is attached as **Appendix O**.

8.17 Water Sensitive Urban Design

In response to queries from government agencies, GHD has provided additional information relating to the proposed Water Sensitive Urban Design Strategy (WSUD). The Lake Macquarie Council principles relating to WSUD have been adopted in the proposed management of stormwater and treatment of stormwater quality for this site. The proposed WSUD strategy entails on-lot systems to manage on-lot impervious area increases and smaller precinct co-located bio-retention /detention facilities to manage increased runoff such as from roads. This includes:

- Onsite detention and bio-retention system for individual lots to provide dual purpose of stormwater quantity and quality management;
- Precinct co-located bio-retention / detention facilities at key locations and in some cases to provide dual purpose of stormwater quantity and quality management;
- Provision of swales and bio-retention swales adjacent to major roadways; and
- Rainwater tanks recommended for each dwelling, which will also assist in detaining stormwater flows to a certain extent.

These facilities are proposed within the development boundary and not located in lands to be dedicated as conservation land. The facilities will discharge to adjacent riparian or receiving environments, through outlets designed to minimise risk or erosion. For Catherine Hill Bay, the development discharges would be routed to bio-retention/detention basins, which would then discharge to the conservation land via a number of outlets via existing overland flow paths, which may require erosion protection using rock and other environmentally acceptable strategies. In reference to Council's performance requirements, it has been assessed that stormwater quantity and quality management can be met.

For further detail, the additional report on Stormwater/Hydrology, WSUD, Climate Change and Flooding Assessment by GHD under **Appendix J**.

9 Revised Statements of Commitments

9.1 Business as Usual

The Draft Statement of Commitments included at **Appendix P** outlines the Statement of Commitments proposed for the Catherine Hill Bay (Middle Camp) Concept Plan. These are 'business as usual' commitments that are expected to be delivered as part of the development of the site and basically standards that will have to be met to achieve approval.

The draft Statement of Commitments identifies the following:

- General terms that the project will adhere to.
- Contributions made by the proponent.
- Measures to mitigate any environmental impacts.
- Measures to monitor the environmental performance of the project.
- Achieving minimal impact in the environment and a positive environmentally sustainable outcome.

The intersections of Pacific Highway with Flowers Drive and Montefiore Road will be upgraded by providing a full seagull at the intersection that allows a left in and left out on Flowers Drive and partial signals on the Pacific Highway/ Montefiore Road intersection. This is subject to Montefiore Road being dedicated as a public road. The Owner will enter into a Voluntary Planning Agreement with the Department of Planning with details on the final design to be submitted with the Construction Certificate application for Stage 1.

Because the Stage 1 Project Application that was submitted is now withdrawn, the statement of commitments have been revised to ensure the commitment only relates to the Concept Plan

9.2 Coal & Allied \$5 million Allocation

In addition, Coal & Allied has allocated an amount of \$5 million for initiatives associated with the delivery of social infrastructure to support the existing and future communities at Catherine Hill Bay, Nords Wharf and Gwandalan. The \$5 million fund is directed at initiatives that would not ordinarily be provided as part of the development of a new residential estate and accordingly, the initiatives identified are those that are considered 'over and above' what is reasonably necessary to satisfy State and Local Government approval requirements.

The \$5 million allocation may be used for sustainability initiatives for future residents, additional infrastructure to support existing and future residents, educational and or community programs. A Design Charette process was undertaken in August 2007 for the three Coal & Allied owned southern sites and was utilised to draw out the community priorities and help identify to what purposes the \$5 million fund will be spent. The \$5 million allocation has been subject to on-going consultation, costing and required final approval by Coal & Allied.

The final list of initiatives to be implemented for Catherine Hill Bay (Middle Camp) is included at **Appendix P** and relates to:

- Employment generation
- Heritage
- Sustainability
- Community Infrastructure
- Traffic / Access
- Aboriginal Community

10 Consent Authority Arrangements

The Minister for Planning has already agreed that the development proposal for the site is of State or regional environmental planning significance and that Part 3A of the Act applies. On 29 June 2007, the Minister declared the project to be a 'Major Project', for which the Minister is the consent authority under Part 3A of the Act. No change is proposed to this regime. It is proposed that the Minister is the consent authority for the Concept Plan and the future Project Application for the subdivision of Areas A and B. All other development proposed for the site is to be subject to Part 4 or 5 of the Act as applicable, for which Lake Macquarie Council is generally the consent authority. The Minister for Planning is also the consent authority for any modification to the Concept Plan.

The proposed approvals process for future development is set out below.

Future Development	Process	Consent Authority
Residential development and other permissible development in the residential subdivision.	<ul style="list-style-type: none"> Part 3A of the development meets state significant development criteria. Project Application for submission of Area A and B. Part 4 Development Application for proposed development of individual lots. 	<ul style="list-style-type: none"> Minister for Planning Minister for Planning Lake Macquarie Council

If the Minister determines under Section 75P (1) of the Act that future stages of the project will be assessed under the provisions of Part 4, then it is considered appropriate for the following to occur:

- Determination of any future development application should be generally consistent with the terms of approval of the Concept Plan and the associated Statement of Commitments.
- The future stages of the project are not to be considered as integrated development.
- The assessment of the future development applications is to be undertaken in accordance with the requirements determined by the Minister when approving the Concept Plan.
- The provisions of any environmental planning instruments that prohibit or restrict the carrying out of the project or stage of the project do not have effect if the Minister so directs.

11 Amendments to SSS listing

Pursuant to clauses 7 and 8 of the State Environmental Planning Policy (Major Projects) clauses are to be inserted into Schedule 3 of the SEPP (Major Projects) and be the provisions that relate to the carrying out of development on the site.

The proposed listing in SEPP Major Projects – Schedule 3 has been modified as follows:

- The zoning map has been modified to reflect the deletion of Developable Areas C & D and the bypass road from the Concept Plan and the additional dedication of land to Department of Climate Change and Lake Macquarie Council as illustrated in the amended Land Zoning Map in **Appendix Q**.
- Inclusion of a zone for the land to be dedicated to Lake Macquarie Council and land to be retained by Coal & Allied.
- To correct minor inconsistencies with the Standard *Instrument (Local Environmental Plans) Order 2006*.
- To provide that demolition of non-statutory heritage listed items be exempt development.
- A provision on definitions has been added so that the dictionary in Schedule 1, in the Standard Instrument (Local Environmental Plans) Order 2006 defines words and expressions for the purpose of controls affecting the land covered by the concept plan.

Refer to **Appendix Q** for the proposed listing in SEPP Major Projects.

12 Conclusion

The Catherine Hill Bay (Middle Camp) modified Concept Plan proposal represents an integral part of the overall Coal & Allied environmental land package that will achieve substantial conservation outcomes through dedication of 535.4 ha of conservation land as set out in the MOU between Coal & Allied and the NSW State Government.

The modified proposal presented as part of this PPR appropriately addresses all relevant submission and responses received during the assessment process. This is primarily achieved through the amendments to the Concept Plan that has deleted two developable areas from an initial scheme of four developable areas. An amended and strengthened statement of commitments will further ensure the impacts of future development are appropriately managed.

In summary, the modified project Catherine Hill Bay (Middle Camp) will:

- Conserve in perpetuity key strategic parcels of land that complete long sought-after regional biodiversity conservation corridors and buffer areas;
- Provide development within two discreet hamlets that will be appropriately sited to avoid impacts to the integrity of the Catherine Hill Bay Heritage Conservation Area;
- Provide for no significant development between the Middle Camp and the Catherine Hill Bay township in accordance with the recommendations by IHAP;
- Allow for new heritage interpretation and improve public access via the Coastal heritage walk;
- Incorporate water sensitive urban design features into the development to ensure that systems are carefully planned, designed and located to prevent the disturbance, redirection, reshaping or modification to watercourses and associated vegetation and to protect the quality of receiving waters;
- Retain vegetation in between the established areas and the proposed areas to establish a visual separation from the Middle Camp township;
- Respect the existing townships through the establishment of urban design guidelines for new housing, addressing proportion, size and landscape elements; and
- Provide 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 project is of clear significance to the region and state in terms of its significant delivery of environmental gain from the environmental land offset package and the implementation of the objectives of the LHRS and draft Lower Hunter Regional Conservation Plan. In view of the clear merit of the proposal, we therefore seek approval of the SSS Listing and Concept Plan for Catherine Hill Bay (Middle Camp) as amended by the PPR.

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