

APPENDIX I. ENVIRONMENTAL PLANNING INSTRUMENTS & OTHER RELEVANT LEGISLATION

The proposal is subject to the following planning instruments and strategies:

State Environmental Planning Policy (Major Projects) 2005

The Major Projects SEPP outlines the types of development declared to be a Major Project for the purposes of Part 3A of the Act. On 25 June 2007, the Minister for Planning, declared by order pursuant to Section 75B(1)(b) that Part 3A of the Act applied to the proposed development. On 6 July 2007, a notice of the Minister's declaration was published in the Government Gazette.

A new Part dealing with Wallarah Peninsula is to be inserted into the Major Projects SEPP (amendment no 26). The new part replaces the Council provisions applicable to the land that the development applies. No savings or transitional provisions applied, such that the development must satisfy the zoning provision of the new Part to Schedule 3 of the Major Projects SEPP.

Compliance with the relevant provisions of Major Projects SEPP (amendment no 26) are summarised in the table below.

| Clause | Explanation | Compliance |
|---|--|------------|
| Clause 8 Zone R2 Low Density Residential | Proposed development complies with the objectives and permitted uses. | complies |
| Clause 9 Zone E1 National Parks and Nature Reserves | Proposed development complies with the objectives and permitted uses. | complies |
| Clause 10 Zone E2 Environmental Conservation | Proposed development complies with the objectives and permitted uses. | complies |
| Clause 11 Additional Permitted Uses | Proposed development complies with the objectives and permitted uses. | complies |
| Clause 16 Height of buildings | Proposed development complies with the maximum height of buildings on the Site | complies |
| Clause 17 Exceptions to development standards | No controls have been varied in the proposed development | complies |
| Clause 18 Development within a coastal zone | Proposed development ensures the protection of the coastal environment through the enforcement of the NSW Coastal Policy | complies |
| Clause 19 Heritage Conservation | Proposed development protects and conserves items of environmental heritage in Site. | complies |
| Clause 21 Underground mining | Proposed development does not hinder underground mining on the South Wallarah Peninsula | complies |

Furthermore, the Director-General has certified that satisfactory arrangements have been made with respect to the project application relating to the Gwandalan subdivision (and associated works).

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

This SEPP identifies the circumstances in which mining, petroleum production, extractive industries and related industries are permissible with consent, permissible without consent, and prohibited. The SEPP also includes provisions for exempt and complying development. The SEPP includes matters that need to be considered for development that is permissible with consent.

The SEPP applies to the State (including its coastal waters) and is of particular relevance given that mining and petroleum leases apply to the land proposed for development.

The impact of the development has been assessed as part of the Director General's Environment Assessment Report and addressed by the Conditions of Consent. The proposed development is compatible with the relevant aim of the SEPP *that is 'to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources'.*

State Environmental Planning Policy (Building Sustainability Index) 2004

This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX.

BASIX ensures homes are designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for house and units. Future Project Applications are required to be assessed against BASIX requirements.

State Environmental Planning Policy No. 11—Traffic Generating Developments

The purpose of *State Environmental Planning Policy No. 11 – Traffic Generating Developments* (repealed by Infrastructure SEPP, which commenced on 1 January 2008) purpose is to ensure that the Roads and Traffic Authority is aware of major traffic generating developments and provides comment through the regional traffic committee system. Developments of the types listed in Schedule 1 and 2 of the SEPP required referral to the Roads and Traffic Authority. The development is subject to SEPP 11 by virtue of clause (g) in Schedule 1.

The development was considered by the Hunter Regional Development Committee at its meeting on 24 October 2007. Their comments have been duly considered and their suggested conditions of approval have been incorporated into the modifications of the Concept Plan approval.

As noted above, SEPP 11 was repealed by *State Environmental Planning Policy (Infrastructure) 2007*. However, the Infrastructure SEPP does not apply to the proposal by virtue of the savings and transitional provisions of this policy.

State Environmental Planning Policy No. 14 – Coastal Wetlands

This SEPP identifies land within NSW as coastal wetlands and seeks to ensure that development preserves and protects these wetlands. Maps are associated with these wetlands. The SEPP 14 wetland 893 was identified as south of the land proposed for development. The Department has recommended a number of measures to help mitigate the impacts of Development at Catherine Hill Bay on the SEPP 14 wetland.

State Environmental Planning Policy No. 55 – Remediation of Land;

State Environmental Planning Policy No. 55 – Remediation of Land aims to promote the remediation of land contaminated by past activities to reduce the risk of harm to human health or the environment.

Clause 7 of the SEPP requires consideration of whether the land is contaminated; if the land is suitable for the proposed development in its current unremediated state; and if remediation is required, whether the land can be made suitable for the proposed development. In the event that land requires remediation, the SEPP identifies that development can not proceed without the remediation of the contaminated land. The SEPP identifies that remediation may occur without consent (Category 1 remediation) or with consent (Category 2 remediation).

The former mining activities at Catherine Hill Bay and the quarrying activities resulted in the contamination of land. Information provided by the Proponent indicates that the land can be made suitable at both sites. However, the site auditor advising the Proponent recommended that a Remediation Action Plan be completed prior to determination of a project application at Catherine Hill Bay, and at the completion of remediation, a site audit statement and site audit report be prepared confirming the suitability of the Site for its intended purpose.

State Environmental Planning Policy No. 71 – Coastal Protection,

State Environmental Planning Policy No 71—Coastal Protection (SEPP 71) aims to ensure development assists in protecting, preserving, and managing the coast of NSW. This SEPP applies as the proposed development is falls within the Coastal Zone.

In the context of this development, the SEPP would require development to be subject to a SEPP 71 master plan. The SEPP identifies certain matters for consideration to be addressed during the preparation of this master plan and includes specific matters that the development application would need to address. For the purposes of this SEPP, the Concept Plan is equivalent to and satisfies the requirement for the submission of a master plan.

Lake Macquarie Local Environmental Plan 2004 & Wyong Local Environmental Plan 1990

The existing planning framework for the assessment of development proposals at Catherine Hill Bay is provided by *Lake Macquarie Local Environmental Plan 2004*, which is zoned 7 (4) Environmental (Coastline) and 7(1) Conservation (Primary) and 9 (Natural Resources).

The existing planning framework for the assessment of development proposals at Gwandalan is provided by the *Wyong Local Environmental Plan 1990*, with the land being zoned 7(b) Scenic Protection.

The proposed inclusion of Catherine Hill Bay and Gwandalan as a State significant site within Schedule 3 of the Major Projects SEPP will effect the required change to the range of permissible and prohibited uses to enable the intended redevelopment of the site.

Draft Central Coast Regional Strategy and Lower Hunter Regional Strategy

The draft Central Coast Regional Strategy is a broad strategic plan that seeks to promote and manage growth in the Central Coast up to 2031. The draft Central Coast Regional Strategy identifies that the land to which the proposed development applies is covered by the Lower Hunter Regional Strategy.

The Lower Hunter Regional Strategy is a broad strategic plan that seeks to promote and manage growth in the Lower Hunter up to 2031. The Lower Hunter Regional Strategy establishes a dwelling target for 115,000 new dwellings in the Lower Hunter Region by 2031 of which 36, 000 additional dwellings are to be provided in the Lake Macquarie LGA. The provision of housing at Gwandalan and Catherine Hill Bay will contribute to the housing targets in the Lower Hunter Regional Strategy.

The Lower Hunter Regional Strategy identifies both land at Gwandalan and Catherine Hill Bay as partly "proposed urban area" and "proposed conservation lands" to be delivered through land dedication agreements. The Strategy identifies that land dedication agreements will facilitate regional environmental conservation objectives through the protection of the Wallarah Peninsula and deliver a natural break between the Central Coast and the Lower Hunter communities.

Hunter Regional Environmental Plan 1989

The Hunter Regional Environmental Plan 1989 is a planning instrument that identifies environmental planning policies to be considered in the preparation of plan making or development assessment. The matters for consideration include land use settlement strategies, transport, and housing.

This REP applies only to land within Lake Macquarie Council as it is identified by the REP as forming part of the Hunter region; Wyong Council is not located within the region.

The increase in area of publicly owned land by way of the Memorandum of Understanding, contributes to the maintenance of a green buffer between urban areas as per Clause 63 in the Lower Hunter Subregion and Wyong Council area.

The impact of the development has been assessed as part of the Director General's Environment Assessment Report and addressed by the Conditions of Consent. The compatibility of the development with regards to the future development strategy for the Region has been addressed as part of the State Significant Site Study.

Hunter Regional Environmental Plan 1989 (Heritage)

The Hunter REP (Heritage) 1989 identifies Catherine Hill Bay as a Heritage Conservation Area and requires the investigation of its significance and preparation of guidelines to assist development control within the area.

This REP applies only to land within Lake Macquarie Council as it is identified by the REP as forming part of the Hunter region; Wyong Council is not located within the region. The REP lists the Catherine Hill Bay Conservation Area in Part B, Schedule 5 of the Plan.

The impact of the development on the CHB Conservation Area has been assessed as part of the Director General's Environment Assessment Report and addressed by the Conditions of Consent. The aims of

conserving, promoting, and encouraging heritage conservation have been addressed by the conditions of consent and by the heritage provisions in Amendment no.26 of the Major Projects SEPP.

Commonwealth Environment Protection & Biodiversity Conservation (EPBC) Act 1997

On 16 May 2007, the Commonwealth Department of the Environment & Water Resources identified that the development was a "controlled action" under the Section 18 and 18A of the EPBC Act, as it was considered likely that the proposal would significantly impact the Nationally Significant Black Eyed Susan (*Tetratheca juncea*).

In January 2007 the Commonwealth and NSW governments signed a Bilateral Agreement which allows the assessment regimes under Part 3A, Part 4 and Part 5 of the Environment Planning and Assessment (EP&A) Act to be automatically accredited under the EPBC Act. This means that separate assessment processes are not required under both the EPBC Act and the EP&A Act for a development declared to be a controlled action and the NSW assessment process is to be followed.