

Director, Strategic Assessment

Department of Planning

GPO Box 39 SYDNEY NSW 2001.

- RE: COAL & ALLIED SOUTHERN ESTATES PROPOSAL-MIDDLE CAMP (MP10_0089)

15 December 2010

I wish to express my clear objection, in the strongest possible terms, to any application to rezone conservation land in the area of Catherine Hill Bay known as Middle Camp.

There are multiple reasons why the proposed subdivision of Middle Camp should never be permitted. Destruction of Historical relics, which have priceless value to the state- an inevitable consequence of the development, and the fact that a development of the size proposed by Coal & Allied will dwarf the heritage protected village, overload the existing infrastructure such as roads and electricity network and destroy the value a recent State Heritage Register listing is intended to protect are major considerations that the Coal & Allied proposal ignores.

But the question posed to the community is whether to support or oppose the designation of the Middle camp sites as State Significant Sites under part 3a of the planning act. And this question is of grave importance because all that makes Catherine Hill Bay so significant nationally is at risk under Part 3a, as the safeguards established in the LEP no longer apply.

This proposal I must vehemently opposed for two very good reasons. One; Middle camp is an inappropriate site for development (or sub-division, as is more accurately the case) and is in an entirely inappropriate proximity to the infrastructure that a development of "State Significance" requires. And Two; the process under which this proposal will be considered should not be used until the recommendations of the ICAC report into Part 3a of the planning act are executed.

Catherine Hill Bay (Middle Camp) is not a "State Significant Site" for the purposes of part 3A of the planning act as it is entirely inappropriate for a large scale development. Any development of the scale required to be considered a State Significant Site should never occur in the vicinity of Middle camp as it is one of the least suitable sites for development of the kind conceptualised by Coal & Allied of any in the Lower Hunter Region. The scale of the proposal and the likely housing yield make laughable any suggestion of state significance regardless of the Planning Department definition. In fact the contingency this development would have toward the Lower Hunter Regional Strategy is minimal at best, and would come at an enormous cost to the state financially and socially.

Furthermore, Part 3a is not adequately designed to safeguard against the influences of vested interests and is to too greater extent subject to ministerial discretion rather than independent oversight, as detailed in the most recent ICAC report. The processes that were put in place to protect small communities like Catherine Hill Bay from the power and vested interest of parties with much greater resources available to them are the normal development approval processes administered by Local Councils. This view is supported by the local community, the Land and Environment Court and the ICAC.

The position of the two Hamlets proposed by Coal & Allied either side of Flower's Drive represent nothing more than a blatant disregard for the heritage value of both sites. The proposal would result in a significant incursion onto the visual catchment of the now Heritage Listed neighbourhood situated on Flowers Drive. The lots to the East of Colliery Road are easily close enough to be seen from most of the existing homes, particularly on the North Western side of Flowers Drive, whose views are protected by the Heritage Listing. The site of the old E Pit colliery is an Archaeological site and would not be suitable for residential development geologically, or socially.

But no doubt the most critical area of the Coal & Allied proposal is the site known as Slack Alley, which is obviously where another subdivision is intended and which is the most inappropriate site for residential development due to its proximity to wetlands, the impact on the visual catchment of the Heritage town, risk of Fire and the problems with emergency access and egress on existing roads. These roads are not large enough to cope with increased traffic and the homes are built too close to the roadside to consider it a major thoroughfare.

This brings us to the matter of community infrastructure. This issue seems to be ever-present in the community and ever-absent from the proposals put to planning by developers.

Catherine Hill Bay has no services other than power, and only enough power for the current population. This means the Coal & Allied proposal is a green-field site requiring all services including roads, as existing roads are not suitable to sustain the additional demand, despite the Traffic report assertions to the contrary. The cost per housing lot is higher, as a result than the equivalent elsewhere. This represents poor value for money.

To call this a state significant site without significantly upgrading the roadway supporting it is a joke and it sends a clear message to the community that Coal & Allied is not the slightest bit interested in the safety of our children. The traffic report in the concept plan is based on flawed research undertaken at the quietest time of the year making assumptions which have no basis in fact. It must therefore be disregarded.

The lack of any regard for the significant value that the community places on the areas of colliery (or Pitt) road and the Sawmill camp are an absolute slap in the face to the region, not to mention to the descendants of those who worked in the mine. It would be unforgivable to ruin these sites with such blatant disregard for community values.

The fragility of the surrounding environment, only just beginning to recover from nearly 100 years of mining, would be put at further risk with increased wildlife mortality likely, further erosion and weed infestation almost inevitable.

And without anything like a proper strategy to address these issues the department of planning runs the risk of irreversibly ruining a living museum, the only remaining unspoiled example of how we used to live, and losing all the tremendous intangible value that resides in this place for exceptionally little in return.

222 houses is not of State Significance. Middle Camp is not a suitable sustainable place for any significant housing development and in fact has much more to offer to the Hunter as conservation land. The zoning must therefore remain unchanged. I call on the minister to see the blinding light of common sense on this issue, acknowledge the groundswell of community opposition to this proposal and save Catherine Hill Bay.

STATE SIGNIFICANT SITES & THE LOWER HUNTER REGIONAL STRATEGY

Catherine Hill Bay (Middle Camp) is not a “State Significant Site”. It is a ghost town. There are two places to buy beer and nowhere to buy bread and milk. If you have no car you have no means of doing almost anything in Catherine Hill Bay. If you do have a car you can expect to travel 10km before you get to the nearest supermarket, Doctors surgery, or chemist.

No development of the scale required to be considered a State Significant Site should ever occur in the vicinity of Middle camp as it is one of the least suitable sites for development of the kind conceptualised by Coal & Allied of any in the Lower Hunter Region. This fact was delivered to the minister for planning by his own department when the LHRS was drafted. Why was this fact ignored by the minister at the time and by numerous subsequent ministers?

The scale of the proposal and the likely housing yield make laughable any suggestion of state significance regardless of the Planning Department definition. There are only 222 home sites proposed. No shops, schools, Doctors, or anything other than 222 home sites. It would not take an enormous leap in departmental logic to realise that a much more suitable site can be found and developed at much better value for money, yielding many more home sites at a lesser environmental and social cost.

It is high time for the planning minister’s thinking to catch up with that of his own department and the wider community.

REZONING UNDER PART 3a

“....under part 3A of the Planning Act or some other instrument introduced by this Government—and you are removing from communities the right to have a say on decisions that really matter to them,

Mr ROB STOKES (Member for Pittwater) [hansard, 22 September 2010](#)

Herein lies the problem with Part 3a. And the following paragraphs detail yet more problems with Part 3a.

PROPERTY developers have handed the NSW Labor Party more than \$4 million in donations in the three years since the laws were changed to give Planning Minister Frank Sartor control of large developments.

Research by the Greens found 10 of the biggest developers paid more than \$1 million to the Labor Party while Mr Sartor considered \$1.5 billion worth of their building works across NSW.

Major projects worth another \$70 million from the same developers are in Mr Sartor's in-tray waiting for his personal tick of approval under his Part 3A planning powers.

[\(SMH April 6 2008 Mathew Benns\)](#)

How can the community have confidence in the Planning process when the government has designated itself as the sole body approving the development applications of its biggest donors? It is the perception of corruption and the belief that the Planning department has disenfranchised the community through the use of Part 3a that led the ICAC to investigate this planning device.

“In 2005, the Commission concluded that development approval processes in NSW face a number of specific corruption prevention challenges. This conclusion was based on the high volume of complaints on planning matters received by the Commission (approximately one-third of all complaints), and a number of investigations involving planning approvals.” (ICAC Report, 2010)

Little wonder proposals such as the Coal & Allied plan for Middle Camp are so strongly opposed by the community and why the whole process is looked upon with such scepticism, when the LEP is over-ridden by the minister and ministerial discretion is the only safe guard.

Community sentiment is again summed up recently in parliament by the shadow planning minister, Brad Hazzard,

“Labor’s architects of the Part 3A and donations system have caused the planning under Part 3A to be suspect in the community’s mind and it must go.”

The rezoning is sought under part 3a of the Planning act. But as the ICAC, in its report from Monday the 13th December, 2010 says.... [“Part 3A has the potential to deliver sizable windfall gains to particular applicants. The attendant corruption risk is obvious,”](#) I believe the only acceptable outcome for this application is for it to be rejected pending the

execution or all 20 of the ICAC's recommendations, in particular recommendations 13 and 18.

Recommendation 13

That the *Environmental Planning and Assessment Act 1979* be amended to give to Joint Regional Planning Panels the NSW Minister for Planning's authority to determine rezoning proposals for prohibited aspects of Part 3A projects.

As the ICAC points out, if the independence of the PAC were strengthened and the responsibilities of the PAC were extended to the determination of Part 3A applications that significantly exceed the development standards of local environmental plans the community would be more confident in the process. As such the Coal & Allied proposal should not be considered until recommendation 18 is executed.

Recommendation 18

That the *Environmental Planning and Assessment Act 1979* be amended to require the NSW Minister for Planning to refer private sector Part 3A applications, which exceed development standards by more than 25%, to the Planning and Assessment Commission for determination.

Part 3a of the planning act, according to the NSW Government Department of Planning website is designed to give the minister scope to declare an area significant on the grounds of its "wider social, economic or environmental significance for the community."

(<http://majorprojects.planning.nsw.gov.au/page/state-significant-sites/> Department of Planning, NSW Government.)

This definition suggests that the "significance to the community" is contingent to its development under Part 3a of the planning act. However, to the community the site of the Coal & Allied proposal is already significant and should remain as conservation land where it provides enormous social and environmental significance to the community.

Remaining conservation land will ensure its economic value is enhanced by the very fact that it holds a unique place on the Australian coast as one of the last remaining examples of its kind – a mining town left as it was when the mine closed. A living tribute to its past and an example of how the ecology can recover once industry pulls out. This would all be substantially eroded by any change in zoning and indeed by the subdivision of 222 lots on the site of the old mine and sawmill, and an unknown number to come at slack alley and the Pines.

In fact 222 lots are only achieved on this site through the provision of Micro Lots, which are roughly half the size of an existing Catherine Hill Bay block. Coal & Allied representatives have stated that these lots are likely to be for affordable housing. This could mean housing for people without their own vehicle, Housing for people with disabilities, housing for people requiring community services, housing for people requiring medical care. All of which are a long way from Catherine Hill Bay. It is therefore not the type of housing that

should be proposed for the area and further evidence that the Coal & Allied proposal is deeply flawed.

A development of the scale required by the LHRs must be close to public infrastructure. It must be close to Major Arterial Roads like the Cardiff Bypass and the F3 Freeway. It must be close to Libraries, Hospitals, Doctors, Shopping Centres, banks and other public amenities. None of these things can be found within 10 Kilometres of the site of the Coal & Allied proposal. It therefore must not go ahead in Catherine Hill Bay.

In response to the ICAC report from Monday the 13th December Opposition Planning Spokesman, Brad Hazzard said "NSW residents are concerned that the Minister acting as a consent authority has considered numerous development applications that no reasonable man or woman could consider fit the category of 'State or regionally significant'.

This sentiment is widely supported in the community and in Catherine Hill Bay in particular.

Hazzard went on to remind us that.... "Even Frank Sartor - former Minister for Planning - noted in his valedictory speech that the media had written stories on donations in the context of development approvals stating, *'this was particularly so because some of the donations were quite large—obscenely large in some cases. The architects of this donation strategy have long since taken refuge in the corridors of power in Canberra.'*

HERITAGE

The Italians would not accept development of houses over the top of the Roman forum. Nor would the French accept a residential development over the top of the mass grave sites at Flanders fields. Coal & Allied would have us believe that we have no obligation to preserve what remains of E Pit just because little remains of the former industrial complex.

We cannot let this happen. It makes no sense to preserve the town where miners lived, protect the site with a listing on the Heritage register and in the same breath desecrate any evidence of the site which sustained the community in the past – the very reason the community existed in the first place- the mine and the sawmill camp.

There is similarly no reasonable explanation for Coal & Allied to demolish existing houses in Sawmill camp. These are heritage buildings regardless of their state of repair and must be preserved. The exclusion of these sites from the area of curtilage the heritage council used for consideration in the recent listing on the register was obviously done to facilitate the demolition of these buildings to make way for Coal & Allied bull dozers.

I deplore the decision to reduce the size of the Heritage council's curtilage area to exclude these houses as nothing more than another "land Bribe" to ALP donors with vested interests. I call on the Minister to review this area's exclusion from the heritage listing before any consideration of further development can take place.

THE MINER/DEVELOPER

It appears that after 100 years or more of Mining companies taking from the Hunter region Coal & Allied would have us believe we should accept yet more taking without any giving. The lease was originally granted on the grounds that the site be returned to the community after mining ceased. We now need Coal & Allied to honour this condition and abandon any intent to develop this land, return it to the nation to be preserved for everyone. Mining has delivered enough profit to the company. It's time for them to give something back.

It seems rather ridiculous that a mining company would have us believe they have the expertise to create what would be essentially a new suburb within Catherine Hill Bay. Regardless of who builds the structure Coal & Allied have designed the footprint, developed the concept plan and provided the scope to the engaged consultants who study the likely impact of the development.

The evidence of Coal & Allied lack of experience in developing land is evident in the poor quality of their proposal. There are numerous examples of insufficient planning and lack of consideration of the impact the development would have on the community.

The "Land Offset" described in the proposal, aside from sounding remarkably similar to what Justice Lloyd characterised as a "Land Bribe", would be compromised by the very existence of the new residential development and certainly by the increased vehicular traffic on Flowers Drive. Furthermore, the proposal does not make any suggestion as to how the offset would be protected from any future development.

Nor does Coal & Allied specify their intentions regarding the area of 12.38 ha to the north west of Northwood Ave. This area is no doubt on the company-radar for future sub-division and sale and would require further infrastructure additions, more heritage building demolition and would impact even more on the community. Coal & Allied must come clean on their intentions with regards this 12.38ha parcel of land.

This development when fully constructed would dwarf the town. It is roughly four times the size of Middle Camp. The proposed housing yield, 222 houses, is obviously an attempt to meet the criteria for consideration as a "State Significant Site" with little consideration of how well the development would fit with the existing community.

Further evidence of Coal & Allied lack of community focus is the provision of community infrastructure which is ad-hoc and disconnected from the existing heritage village. For example the "super Lots" within E Pit have no tangible connection to other parts of the neighbourhood and the "heritage Walk" doesn't even go all the way to the beach, let alone the surf club.

Coal & Allied in fact make no attempt to improve community amenities in this plan. They cannot even commit to upgrading the roadway.

Coal & Allied are not a property developer. They are a mining company and have made millions from the resources Catherine Hill Bay has provided. It is a requirement of the mining lease that the miner regenerate the site after production has ceased. I call on Coal & Allied to honour this commitment under the agreement, abandon their ridiculous developer ambitions and return 100% of this land back to the community as was originally intended.

INFRASTRUCTURE AND PLANNING

The NSW Department of Planning is responsible for ensuring our communities are adequately resourced with the necessary infrastructure to sustain our suburbs and regional centres. How then can the planning department approve a proposal such as this which refuses to admit there will be a need for infrastructure improvements to stormwater drainage, sewage, town water, and most importantly to the roads?

No attempt has been made by Coal & Allied to address the problems of increased vehicular traffic, inevitably following an increase in population. The traffic report is deeply flawed and should be disregarded. Not only was the measurement of existing traffic flows done at the quietest time of the year but the assumptions on which the consultant based critical conclusions were not accurate.

At best the development would increase traffic to become a nuisance to existing homes on flowers drive. But at worst the development would turn flowers drive into an arterial road endangering the children who live in Middle Camp and increasing the risk of vehicle accidents and property damage, with the existing homes built only meters from the carriage way.

The proposal makes mention of the need for a new electrical sub-station, which would be required to provide enough energy to sustain the new population. But nowhere in the proposal are there details of its intended location, nor the likely route of the required transmission incomers to the sub-station required to meet the additional demand.

Coal & Allied have made no solid commitment in this proposal to improve community amenities even after the area has given the company years of profitable mining. Nothing has been proposed for the North end Car Park, Cemetery car park, existing streetscapes, parks or waterways. No cycle way, nature reserve or memorial. Nothing has been proposed to commemorate the areas industrial history. No restoration of heritage items. In fact nothing at all which gives anything back to the community.

The absence of existing service infrastructure means both E Pit and Sawmill Camp are green-field sites. They require all services. Power, Water, Sewer, Etc. And not just to the home. The entire network needs to be constructed in the area at enormous cost. This includes roads, despite the Traffic report assertions to the contrary, because the existing roads are not adequate to be considered major thoroughfares.

This means that the cost per housing lot is higher than the equivalent elsewhere and that represents poor value for money. This coupled with the fact that much more suitable and cost effective sites are available in the lower hunter makes the Coal & Allied proposal even more ridiculous.

The suggestion that the Coal & Allied proposal for Middle Camp is a state significant site without a plan to significantly upgrading the roadway supporting it is a joke. Coal & Allied must not be allowed to abandon its responsibilities in this way. No proposal could possibly be considered appropriate without a comprehensive plan to develop an alternate access road to the pacific highway and as no such plan exists the proposal must be rejected.

ENVIRONMENTAL CONSIDERATIONS

The fragility of the surrounding environment, only just beginning to recover from nearly 100 years of mining, would be put at further risk with increased wildlife mortality likely, further erosion and weed infestation almost inevitable.

No consideration is given in the Coal & Allied proposal to the impact the development would have on the environment in terms of increased numbers of people, vehicle movements, domestic pets, invasive weeds and phosphate run-off.

The proposal makes mention of a “rigorous Field Survey” which was done in preparing the proposal. But as no Rigorous Field Survey will be done in the years after the new homes are built and subsequently occupied this gives little reassurance that environmental concerns will be addressed in the future.

The provision of a vegetative screen around the new development will do little to achieve its desired purpose without an ongoing maintenance plan.

Any suggestion by Coal & Allied that the environmental integrity of the site can be enhanced by this development proposal is simply oxymoronic. The only way the environment of the area is to receive a positive outcome is for no development to be approved.

CONCLUSION

The existing zoning of Middle Camp and surrounding areas has and should continue to protect the intrinsic significance of this unique site forever. It should not be subject to the discretion of one person alone. This development must not be given a green light through the provision of part 3a. It should be subject to the normal approval process under the relevant LEP.

The Minister for Planning must heed the warnings from the community. Acknowledge that the donations made to the Labor Party by the applicant have caused a significant conflict of interest and that “Land Off-set” deals are now widely believed to be “land-bribes”. I urge the minister to accept the recommendations made by the ICAC.

The department of planning runs the risk of irreversibly ruining an invaluable asset to the nation, the only remaining unspoiled example of its kind. It is how we used to live, and losing all the intangible value that resides in this place for the sake of profits is morally reprehensible if not corrupt.

222 houses is not of State Significance. Middle Camp is not a suitable sustainable place for any housing development and must remain conservation land. The zoning must therefore remain unchanged. I call on the minister to reject this proposal and review the entire Part 3a process as recommended by the ICAC and as expected by the community.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Wheatley', written in a cursive style.

Dan Wheatley

Resident

3 Flowers Drive

Catherine Hill Bay