

**PART 3A CONCEPT PLAN
APPLICATION
EPAA 1979**

Submission in Response to Public
Notification

**PART LOT 6 DP 746077 PART LOT 5
DP 736170 PART LOT 12 DP 854197
"CAMP KANANGRA"**

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planning submission in response to public notification

Submission to

NSW DEPARTMENT OF PLANNING

**CONCEPT PLAN TO DEVELOP PART LOT 6 DP 747077 PART LOT 5 DP 736170
PART LOT 12 DP 854197 NORDS WHARF FOR RESIDENTIAL PURPOSES TO
PROVIDE UP TO 90 DWELLINGS – CAMP KANANGRA**

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TABLE OF CONTENTS

1.0	INTRODUCTION.....	5
1.1	Background.....	5
1.2	Our Client – Scouts Australia (NSW)	5
1.3	Planning Regime	6
2.0	SITE LOCATION AND DESCRIPTION	6
3.0	THE PROPOSAL	7
4.0	NATURE OF SUBMISSION	7
5.0	KEY ISSUES.....	8
5.1	Statutory Controls	8
5.1.1	Zoning under LMLEP 2004.....	8
5.1.2	LMDCP No 1	9
5.1.3	State Significance.....	9
5.1.4	NSW Coastal Policy 1997	10
5.1.5	The Public Interest	10
5.2	Social Impact	10
5.3	Landscaping and Visual Impact	11
5.4	European Heritage.....	11
5.5	Legal Advice and Title Issues	12
6.0	CONCLUSION	12

TABLE OF ANNEXURES

ANNEXURE 1 – PHOTOGRAPHIC PALETTE

ANNEXURE 2 – LOCATION OF PROPERTY

ANNEXURE 3 – AERIAL PHOTOGRAPH

1.0 INTRODUCTION

1.1 Background

This document has been prepared in order to provide a response to public notification of a Concept Plan Application in respect of a property located at Nord's Wharf and known within the Scouting community and more generally as "Camp Kanangra".

The proponent's application provides for subdivision of part of the land to provide for a maximum of 90 dwellings as well as the dedication of another significant part of the land to the New South Wales Government.

The site is located west of the Pacific Highway adjacent to a small residential enclave known as Nord's Wharf and has been used by Scouts Australia (NSW) as a regional camping and activities facility since 1964.

Turnbull Planning International (TPI) has been briefed to review the implications of the development scheme put forward by the proponent and to consider any adverse impacts that may arise as a result of the current Part 3A proposal.

The writer has viewed and photographed the property the subject of the application and become acquainted with the applicable statutory and subordinate planning controls, as well as the various documents comprising the application. Particular attention has been paid to the Environmental Assessment.

1.2 Our Client – Scouts Australia (NSW)

Scouting is a worldwide movement that has shaped the development of youth and adults for over 100 years in an Australian context. Scouts are in every part of our community and Scouts is the biggest and most successful youth organisation in Australia.

More than 20,000 thousand boys, girls, and adults in New South Wales from wide cultural and religious backgrounds or with an intellectual or physical disability, enjoy an almost unlimited range of activities through the use of Scouting facilities located throughout the State.

The aim of Scouting is to encourage the physical, intellectual, social, and spiritual development of young people, so that they may play a constructive role in society as responsible citizens and as members of their local and international communities. This aim is achieved through a strong and active program that inspires young people to 'do their best' and to always 'be prepared'.

Our client's details are as follows:

Name	Address
Scout Association of Australia (NSW)	Level 1 Quad 3 102 Bennelong Parkway Sydney Olympic Park NSW 2107

In preparing this submission we have interviewed our client's representative, Mr Stephen Fernie, who holds the position of Regional Commissioner Hunter and Coastal Region, Scouts Australia (NSW).

1.3 Planning Regime

Consideration has been given to the following legislation and other planning documents:

- *NSW State Plan 2010;*
- *Lower Hunter Regional Strategy;*
- *Lower Hunter Regional Conservation Plan;*
- *NSW Coastal Policy 1997;*
- *Coastal Design Guidelines for NSW;*
- *State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);*
- *State Environmental Planning Policy BASIX 2004 (SEPP BASIX);*
- *State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71);*
- *State Environmental Planning Policy (Major Development) 2005 (SEPP MD);*
- *State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44);*
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries (SEPP MPE);*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *The NSW Environmental Planning and Assessment Act, 1979 (EPAA);*
- *Hunter Regional Environmental Plan 1989 Heritage (HRLEP 1989);*
- *Lake Macquarie Local Environmental Plan 2004 (LMLEP);*
- *Lake Macquarie Development Control Plan No 1 (LMDCP No1).*

2.0 SITE LOCATION AND DESCRIPTION

Annexure 1 provides a palette of photographs showing the site and locality which is the subject of this submission.

The subject property is located within the Lake Macquarie Council area and enjoys road transport linkages to Sydney and Newcastle. The property is approximately 90 km north of Sydney and 30 km south of Newcastle and lies adjacent to the village of Nord's Wharf. Lake Macquarie lies directly to the west.

The site forms part of a major habitat corridor known as the Wallarah Peninsula Corridor (WPC). The WPC is recognised as having very high environmental and conservation value in terms of a variety of flora and fauna

habitats. The property lies between Wallarah National Park to the north and Munmorah State Conservation Area to the south.

The subject site is described as Lot 6 in DP 746077, Part Lot 5 in DP 736170 and Part Lot 12 in DP 854197.

The land, the subject of the concept plan application, has an area of approximately 127 ha. A significant part of the land is currently occupied by Scouts NSW as a regional activity/camping facility. Existing infrastructure on the site includes the following:

‘Indoor accommodation unit (4 bunks, 20-25 floor), includes dining and cooking facilities (electric stove, refrigerator, freezer, cooking equipment). Four (4) A frame cottages (8 bunks each) accommodating 32 persons and nearby BBQ facilities. Outdoor camping (300). Town water supply. Male/female septic toilets, showers (hot). Camp activities on shore of lake include swimming, canoeing, sailing, fishing, hiking.’ (Source:<http://webmail.nsw.scouts.com.au>).

Annexure 2 provides a map showing the location of the property in a regional context.

Annexure 3 is an aerial photograph of the property and surrounding land.

3.0 THE PROPOSAL

The development involves a proposed residential subdivision and a land transfer incorporating a total parcel of some 127ha. The components of the scheme include the following:

- A Torrens title subdivision providing a yield of some 90 dwellings over 10.18ha;
- Provision of associated infrastructure (presumably infrastructure to service the subdivision);
- Dedication of 116.6ha of land to the NSW Government.

The proposal is stated as not involving a specific road layout nor is approval sought in the subject application for erection of dwellings. The dedication would involve a Voluntary Planning Agreement between the current owners (Coal and Allied Limited – Rio Tinto Limited) and the NSW Government under s93F of the EPAA.

4.0 NATURE OF SUBMISSION

Having considered the site and its surrounds and the details of the proposal currently before DoP, it is our view that the development proposal does not address itself to significant planning issues that arise and therefore should not be approved in its present form.

New development must take account of the social impacts of a proposal and the effect the development will have on existing social fabric and infrastructure. The existing ‘Camp Kanangra’ camping and activity facility forms an integral part of that fabric and infrastructure and caters to Scouting in a local, regional and State context. Whilst the proponent has prepared a Social Infrastructure Study (SIS) relating to the proposal, the SIS fails to

acknowledge or address the community benefit currently being provided by Camp Kanangra for the youth of the Region and beyond.

Whilst it is recognised that there is the possibility of further development on the land, the Concept Plan must deal with this significant issue relating to the current site occupation and offer a commitment to Scouts Australia in terms of accommodation in a re-configured manner on the site, or relocation of the facility to an alternative property offering a similar level of amenity. This would of course necessitate the reconstruction of facilities that have existed on the land and that have been provided by countless volunteers going back to 1964.

The Director General's Environmental Assessment Requirements dated 19 August 2010 (DGEARS) requires that the proponent, inter alia:

"Identify and address the impacts of additional demand created by the development on existing infrastructure including public transport, open space and recreation facilities, retail facilities and other social and community facilities. Identify the need for additional facilities through negotiation with State or local government agencies. This should inform the scope of proposed State and local infrastructure contributions."

The proponent has failed to address this issue in the EA or SIS that has been prepared. This being said, our client is more than willing to participate with the developers in meaningful dialogue in order to achieve an acceptable development outcome.

This submission constitutes an objection to the Concept Plan Application as submitted to the NSW Department of Planning.

This objection is based on various grounds which are detailed in the following paragraphs.

5.0 KEY ISSUES

The following paragraphs deal with the Concept Plan proposal on an issues basis.

5.1 Statutory Controls

5.1.1 Zoning under LMLEP 2004

The property is currently zoned 7(1) Conservation (Primary) under the provisions of the LMLEP 2004. The objectives of the 7(1) zone are as follows:

- (a) provide and conserve land having ecological, scientific, geological, educational, faunal, floristic or aesthetic values, and
- (b) preserve and enhance areas of significant vegetation and habitat to promote the regeneration of ecosystems and eradication of invasive species that compete with native flora and fauna, and

- (c) conserve, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material, and
- (d) exclude activities which would prejudice the ongoing conservation or rehabilitation of land, and
- (e) encourage activities that meet conservation objectives, and
- (f) protect land within this zone from impacts from development on adjoining zones, and
- (g) provide for sustainable water cycle management.

Whilst the use by Scouts as a 'recreation facility' is probably a use prohibited in the 7(1) zone, the landuse has been operating since 1964 in a continuous manner and is likely to be an 'existing use' as defined under Section 106 (Division 10) of the EPAA. We are of the opinion that the use is therefore lawful.

The prohibited nature of the purpose notwithstanding, it is our opinion that the current use of the land is consistent with the zone objectives referred to above.

Contrary to Scouts occupation, the current Concept Plan Application before the consent authority is both prohibited in the 7(1) zone and inconsistent with the aforementioned zone objectives.

The present development proposal has not been adequately justified and despite there being a mechanism to override the local controls by making the site 'State Significant' (SEPP MD) the proposal nonetheless makes a mockery of the current local statutory controls.

5.1.2 LMDCP No 1

Lake Macquarie Development Control Plan No 1 (LMDCP No 1), provides detailed guidelines for building subdivision and land development, to ensure that land use and development is carried out in an ecologically sustainable manner. The DCP supports the core values of the strategy of sustainability, equity, efficiency and, liveability for much of the Lake Macquarie area and was originally adopted by the Lake Macquarie Council in 2006, following consultation with the local community. The submitted EA ignores the provisions contained in this document and indeed merely cites the fact that the Concept Plan Proposal will override LMDCP No 1.

It is noted that the density of development proposed in the 90 Lot subdivision represents a paradigm shift away from the density controls promoted in and adopted by the LMDCP No 1.

5.1.3 State Significance

The proposal is not adequately justified as a State Significant Project as it fails to recognise that the entire area of the land is already protected in terms of conservation objectives under the existing local controls (namely the 7(1) zone under LMLEP 2004). The project does

provide for ecological protection off – sets, however also sets aside a significant area for development, that is as valuable in an ecological context. The outcome is that there would be a net loss of environmentally protected land area, should the Concept Plan Application be approved.

5.1.4 NSW Coastal Policy 1997

We submit that the proposal in its present form is inconsistent with NSW Coastal Policy 1997 objectives. These objectives include protecting areas of high natural aesthetic quality; effectively managing and conserving cultural heritage places and landscapes; and ensuring that urban development expansion avoids or minimises impacts on areas of environmental sensitivity or cultural heritage. The land is recognised by the local planning controls as an area of environmental sensitivity. It is submitted also that given long occupation of the land by Scouts, the property is also worthy of recognition as an item of European cultural heritage. The Concept Plan Application fails to adequately recognise the above matter and provide mitigation measures and as such is inconsistent with NSW Coastal Policy objectives.

5.1.5 The Public Interest

We submit that the proposal in its present form is contrary to the public interest. This is because of the form of the application being so contrary to the legitimate regime of planning controls, as to undermine confidence in the NSW Planning System. As such, the proposal, if approved, would be contrary to the public interest.

5.2 Social Impact

This concern is significant and forms the core of the submission now made. Despite the fact that the proponent for the scheme has arranged preparation of a Social Infrastructure Study (SIS), the proposal largely ignores the existence of the Camp Kanangra Scout Facility, on the land in question.

Whilst design charrettes (workshops) have been held to discuss alternatives to the scheme put forward as preferred by the proponents, incorporation of a Scout Facility was not considered as part of any of the alternatives investigated. It is trite to suggest that this represents a significant flaw in the EA that has subsequently been produced. The reasons for this are unknown. It is however correct to say that concern regarding the future of the Scout Camp was made known to the proponent in the charrette process.

The SIS produced by the proponent does make much of the fact that the population of this area is characterised by a significant proportion of 5 -19 year olds and a lower proportion of people aged 65 and over, than Lake Macquarie generally and Australia overall. This earlier demographic group represents the age range that forms the significant part of the population targeted by Scouts to participate in Scouting activities and programs.

The SIS fails to identify key social impacts to groups or individuals that may be affected by the proposal, either economic or otherwise. In particular no value is placed on the infrastructure that has been provided by volunteers within the Scouting community over many, many years. The SIS also fails to assess any impacts that may occur or provide recommendations based on evidence derived from the assessment, or to offer mitigation alternatives. As a result of this failure, the Statement of Commitments (SOC) also does not properly address these critical social issues.

The SIS claims that there is unlikely to be any negative impact for the community of Nord's Wharf nor is the scheme likely to have an adverse impact upon social infrastructure. There appears no evidence contained in the SIS to support these claims. The SIS also fails to identify the parties that will benefit in a social impact context.

Despite the findings of the SIS, an important facility used regularly in the delivery of the Scouting program in NSW will cease to exist if the Concept Plan Application is approved in its present form. This facility is used widely, not just in the Hunter and Coastal Region, but by Scouts and their families throughout the State. Use is regular and occurs most weekends throughout the summer months of the year.

5.3 Landscaping and Visual Impact

The likely visual impacts are significant in this case, due to the magnitude of change proposed through development of an area that to a great extent remains undisturbed and in its natural state. This level of environmental change is coupled with the fact that there is the ability to view the area both from land based locations and from Crangan Bay. The combination of factors is likely to lead to an adverse visual impact from areas surrounding the precinct. In particular it is noted that:

- The urban design guidelines do not provide appropriate design quality controls, contrary to the DGEARS;
- There is an absence of detail in respect of landscaping parameters for the development of each new residential land parcel;
- There is a significant lack of information in the SOC relating to the means of translating the concept urban design prepared by the proponent into measurable conditions of approval or further detailed plans (ie through a subsequent development control plan).

5.4 European Heritage

Both the EA and the SOC fail to provide an alternative site or suitable infrastructure for ongoing delivery of the Scouting program. Apart from paying lip service to the organisation by 'recognising the Scouts occupation of the site' through heritage interpretation and a 'history of Scouts in the region', there is no commitment relating to permitting the ongoing application of the Scouting program on this, or another nearby suitable land parcel.

5.5 Legal Advice and Title Issues

Scouts has advised the writer that legal advice is being sought on the ability of the owner (Rio Tinto) to evict Scouts from the land as a result of the development proposal proceeding.

6.0 CONCLUSION

In our opinion the Concept Plan proposal requires significant modifications to render it acceptable.

The proposal is completely at odds with the existing regime of local statutory and subordinate controls and the development will result in significant adverse effects in terms of the ongoing ability of Scouts to deliver its program in support of youth in NSW.

The mantra of providing some conservation protection in terms of ecological communities, per the Environmental Assessment Report (already protected by local controls in any case), should not come at the cost of a sound planning approach that caters to the interests of all stakeholders, including the current site occupant. The proposal as it has currently been promulgated, is breathtaking in terms of its absolute disregard for the interests of our client.

The proponent has failed to demonstrate that compliance with the relevant local statutory controls is unreasonable and unnecessary in the particular circumstances of the matter.

Whilst it is recognised that the provisions of Clause 75R(3) provide the Minister with a wide discretion in Concept Plan applications submitted under Part 3A of the EPAA, the proposal currently under consideration is so far from acceptable on this social impacts planning measure, such that it would be inappropriate for such a discretion to be exercised.

This scheme has a number of serious flaws and inadequacies which have been identified in this submission.

For the scheme to be wholeheartedly supported, benefit needs to flow to the community without significant impacts and costs, in a social and environmental context, to key stakeholders. This is not evident in the present Concept Plan iteration.



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ANNEXURE 1 - PHOTOGRAPHIC PALETTE



Photo Plate 1: Pedestrian Entrance to Camp Ground Showing Identification Signage



Photo Plate 2: Street Frontage of Camp Kanangra Looking East



Photo Plate 3: Water Frontage Component of Camp Kanangra Looking North West



Photo Plate 4: Water Frontage Part of Camp Kanangra Looking South East



Photo Plate 5: Land Water Interface Looking South East



Photo Plate 6: Looking East from Water Frontage Showing Areas for Scout Activities



Photo Plate 7: Barbeque Facilities Built by Scouting Volunteers



Photo Plate 8: Looking South West Towards Water Frontage



Photo Plate 9: Existing Shower/Toilet Facilities Provided by Scouting Volunteers



Photo Plate 10: Equipment Storage Facilities



Photo Plate 11: Administrative Building Located towards Eastern Part of Camp Kanangra



Photo Plate 12: Administrative Building Located towards Eastern Part of Camp Kanangra

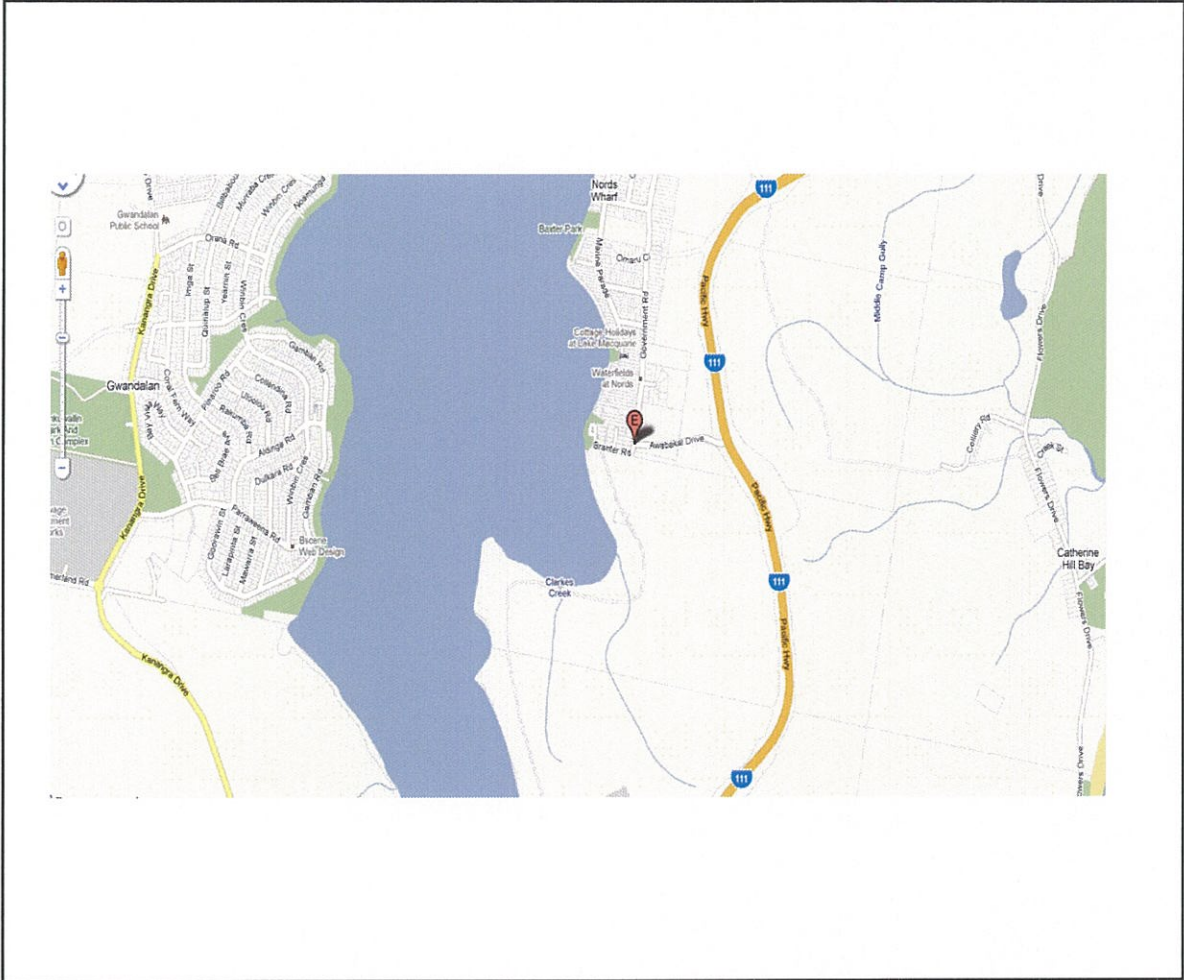


Photo Plate 13: Looking West With Street Frontage of Camp Kanangra to Left of Field



Photo Plate 14: Camp Warden Residence Viewed From Street

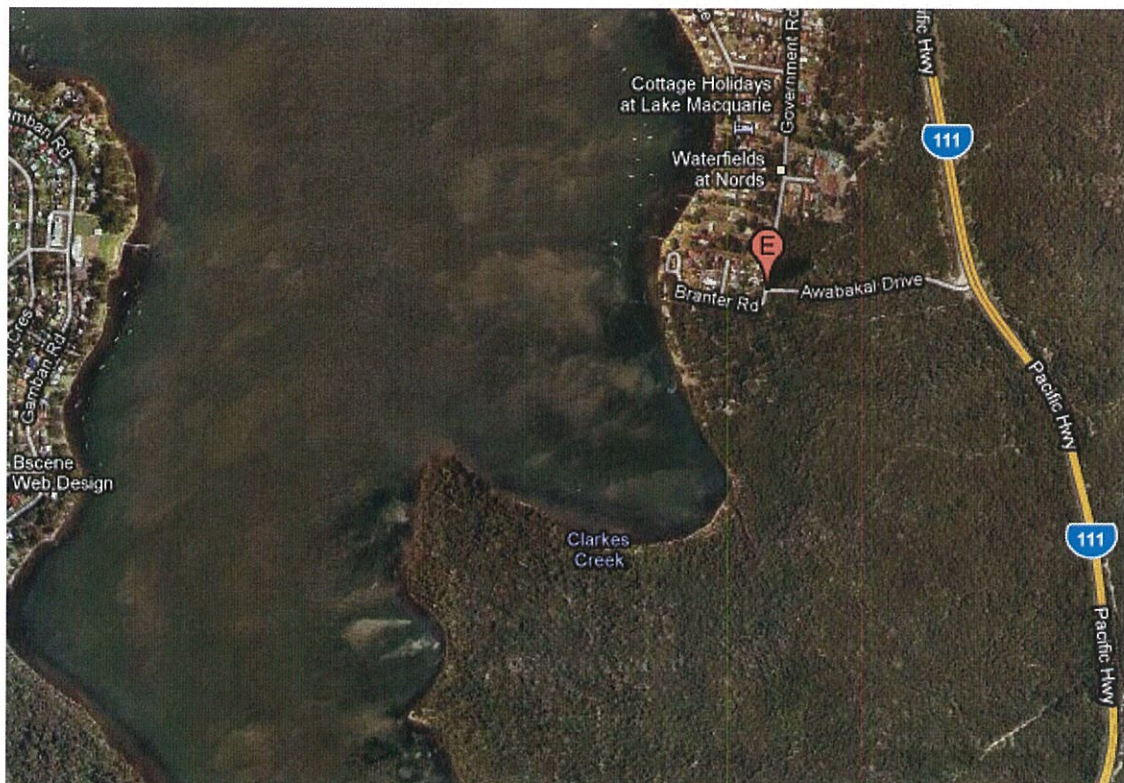
ANNEXURE 2 - LOCATION OF PROPERTY



LOCATION PLAN

Courtesy of Google Maps

ANNEXURE 3 – AERIAL PHOTOGRAPH



AERIAL PHOTOGRAPH

Courtesy of Google Earth