



INDEPENDENT HEARING AND ASSESSMENT PANEL

COAL AND ALLIED SOUTHERN ESTATES – MIDDLE CAMP, GWANDALAN AND NORDS WHARF – CONCEPT PLANS

KEY PLANNING PRINCIPLES REPORT

The Independent Hearing and Assessment Panel for the three Coal and Allied Concept Plan Applications at Gwandalan, Middle Camp (Catherine Hill Bay) and Nords Wharf has prepared this report to inform the Minister and the Director General of its assessment of the submitted concept plans. The report has been prepared following a detailed review of the concept plans, public hearings, the review of public and agency submissions and discussions with the proponent and Community Reference Groups. The Report recommends key planning principles that should be adhered to prior to any approval of the Concept Plans for the subject lands.

1. PRELUDE

The Independent Hearing and Assessment Panel for the Coal and Allied Southern Estate Concept Plans was constituted to advise the Director General on 19 June 2007. The terms of reference of the Panel are as follows:

Under Section 75G(1)(a) of the Environmental Planning and Assessment Act 1979, I, the Minister for Planning, direct that a Panel of Experts be constituted for the proposal by Coal & Allied Operations Pty Limited for the Concept Plans described in Schedule 1, Schedule 2 and Schedule 3. The Panel of Experts is to:

1. Consider and advise on the:
 - (a) following impacts of the project:
 - Heritage conservation;
 - Built form and urban design;
 - Visual impact;
 - Appropriateness of the proposed urban footprints;
 - Access to coastal and recreation areas;
 - Vehicle and Pedestrian circulation onsite and in the locality
 - (b) relevant issue raised in submissions in regard to these impacts; and
 - (c) adequacy of the proponent's response to the issues raised in submissions, and
2. Identify and comment on any other related significant issues raised in submissions or during the panel hearings.

The Concept Plans included in the Schedules are:

- a Concept Plan for the development at Gwandalan of up to 700 dwellings
- a Concept Plan for the development at Nords Wharf of up to 90 dwellings
- a Concept Plan for the development at Middle Camp / Catherine Hill Bay of up to 300 dwellings.

This report is consistent with the above terms of reference with the exception of item 1(c). At this time of writing the proponent has not yet submitted a response to issues raised in submissions (Preferred Project Report). This report has been prepared to assist with this response and it is envisaged that the Panel will make a further report once this response has been received.

In October 2006 a Memorandum of Understanding (MOU) was reached between the Minister for the Environment, the Minister for Planning, the Minister for Lands and Coal and Allied Industries Ltd. The MOU provided for dedication of land within the Lower Hunter for conservation, and development of other land at Gwandalan, Nords Wharf and Middle Camp/Catherine Hill Bay.

Specifically the MoU referred to the conservation of land in the Southern Estates being 657ha of land at Catherine Hill Bay and the Wallarah Peninsula, and 192ha of land at Gwandalan and Crangan Bay to be transferred to the Minister for Environment (for dedication as part of the national park estate or as a conservation reserve). The development potential identified in the MoU for the various components of the Southern Estates was as set out below:

<i>Development Lands</i>	<i>Development Potential</i>
<i>Southern Lands – Catherine Hill Bay – nominated as “blue land” on the Map prepared by Urbis JHD</i>	<ul style="list-style-type: none"> ▪ <i>Residential development covering up to 50 hectares to achieve 300 dwellings</i> ▪ <i>Residential development to be in accordance with the development footprint on the map titled “Catherine Hill Bay – Middle Camp Urban Area” as prepared by Allen Jack + Cottier</i>
<i>Southern Lands – Nords Wharf – nominated as “blue land” on the Map prepared by Urbis JHD</i>	<i>Residential development covering up to 9 hectares to achieve 90 dwellings</i>
<i>Southern Lands – Gwandalan – nominated as “blue land” on the Map prepared by Urbis JHD</i>	<i>Residential development covering up to 80 hectares to achieve 700 dwellings</i>

The Panel acknowledges that the MoU establishes the context for the current development proposals and assessment process. However, it further notes that it does not fetter the Minister’s discretion in exercising his functions under the EP&A Act, nor does it bind the Panel or the Director General of the Department of Planning in any way. The Panel therefore makes this report independent of the stated MoU arrangements.

2. PROCESS TO DATE

The Concept Plans for the subject sites were exhibited between 5 December 2007 and 29 February 2008.

A total of 2,865 submissions were received in relation to the three Concept Plans (and three Project Applications submitted concurrent with each Concept Plan). 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, 2280 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 three proposals).

A break down of submissions (including proforma letters) received is provided below:

GWANDALAN, CATHERINE HILL BAY & NORDS WHARF PUBLIC SUBMISSIONS						
FORM LETTERS		Gwandalan	Catherine Hill Bay	Nords Wharf	Gwandalan, Catherine Hill Bay & Nords Wharf	TOTAL
Form	1		198			198
Form	2		401			401
Form	3		416			416
Form	4	2				2
Form	5	5				5
Form	6	5				5
Form	7		1188			1188
Form	8				10	10
Form	9	25				25
Form	10	3				3
Form	11	32				32
Form	12	5				5
Form	13	45				45
Form	14			82		82
Form	15	7				7
Form	16	9				9
Form	17	18				18
Form	18	19				19
Form	19	41				41
Form	20	18				18
Form	21	8				8
Form	22	10				10
Form	23	12				12
Form	24	9				9
Form	25	23				23
Form	26	10				10
Form	27	7				7
Form	28	40				40
Form	29	15				15
Form	30	7				7
Form	31	0				0
Form	32	8				8
Form	33	4				4
Form	34	9				9
Form	35	8				8
Form	36		48			48
Form	37	6				6
Form	38	7				7
Form	39	6				6
Form	40	4				4
Form letters total		427	2251	82	10	2770
General objections		25	29	19	22	95
Support letters		0	0	0	0	0
TOTAL		452	2280	101	32	2865

Note: Total number of submissions received - 2896

In addition submissions were received from the following public agencies:

- Department of Environment and Climate Change
- Department of Primary Industries (Mineral Resources)
- Department of Water and Energy
- Department of Education and Training
- Ambulance Service NSW
- Hunter Regional Development Committee
- Hunter Water
- Lake Macquarie City Council
- Mine Subsidence Board
- National Trust of Australia (New South Wales)
- NSW Health
- NSW Police
- Rural Fire Service
- Ministry of Transport
- Wyong Shire Council

Specialist advice was also received from the Department of Planning's Coastal and Heritage Branches.

On 12 February 2008 the Panel held a hearing to allow members of the public to present their submissions in relation to the project. 22 persons presented to the Panel at the hearing including representatives of:

Gwandalan

- Gwandalan / Summerland Point Action Group
- Wyong Shire Council

Middle Camp

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

General

- Urge Residents Group for the Environment of Lake Macquarie
- National Trust of Australia

Major issues raised in the submissions and presentations included:

Gwandalan

- Impact on threatened species (e.g. orchids, angophora inopina, scribbly gum, tetraetheca juncea etc).
- Impact on Strangers Gully wetland and biodiversity
- Mine subsidence
- Isolation of site, lack of access to infrastructure and impact of highly car dependent development on environment and Global warming
- Impact on water quality of Crangan Bay, wetlands, hydrology of area
- Environmental values of land as only green buffer left between Wyong and Newcastle
- Inadequacy of environmental survey work undertaken (many plants and birds not identified by surveys which are on site)

- Removal of vegetation will impact on seagrasses etc. which are vulnerable to wind
- Sterilisation of remaining coal resource located beneath site

Middle Camp

- Impact on Heritage values of area and landscape setting
- Visual impact of development and inadequate visual assessment
- Scale of development
- Need to assess impact cumulatively with Rosecorp development
- Traffic impacts
- Impact on regenerated bushland
-

Nords Wharf

- Narrowing of wildlife corridor
- Change to development footprint identified in MOU
- Ecological reports not adequate (lack of identification of orchids due to limited timeframe of surveys)
- Impact on EECs
- Impact of clearing for development on endangered and vulnerable species (e.g. Glossy Black Cockatoo, White Bellied Sea Eagle, Barking and Powerful Owls etc.)

General issues

- Lack of information on offset areas including whether threatened species located on sites to be developed are represented in the offset area
- Part 3A process
- Coal and Allied previously indicated would only develop despoiled lands
- Mine subsidence
- Edge effects
- Habitat loss

3. BIODIVERSITY VALUES OF LANDS

In both the Panel hearings and in public and agency submissions a number of issues were raised about the environmental impacts of development on the subject lands (particularly in relation to the Gwandalan site) and the claimed inadequacy of the environmental information submitted with the Concept Plans. Accordingly the Panel requested specialist advice from the Department of Environment and Climate Change in regard to these matters. The Department of Environment and Climate Change was also asked to provide advice to the Panel regarding the biodiversity values of the proposed offset lands (that is lands to be transferred to the State for conservation) and whether the biodiversity values of these lands would adequately “make up” for any biodiversity values lost in the development of the development lands.

The DECC provided a detailed advice to the Panel on these matters and in general concluded that the development proposed in the Concept Plans (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 DECC advice did however identify some specific issues in relation to the Concept Plan proposals which required either amendment to the respective Concept Plan or further resolution. These matters included recommendations for no development on certain highly sensitive environmental lands, further mapping of EECs in some areas (and potentially adjustment to the development footprint to avoid these communities), further consultation

with Aboriginal communities on some lands and the imposition of strict stormwater management measures to minimise impacts on adjacent water bodies.

The DECC advice has been considered by the Panel and has formed a fundamental consideration in its deliberations on the proposed Concept Plans.

4. KEY PLANNING PRINCIPLES

Following detailed consideration of the Concept Plans the Panel has formulated key planning principles that it considers are critical to the acceptable development of the subject lands.

While the Panel's Terms of Reference do not include consideration of the Project Applications for the proposed developments, it has considered the structure of the proposed developments and the submitted design guidelines. The Panel considers that subject to amendment of the Concept Plans in accordance with the key planning principles outlined below, the proposed urban structure, housing densities, subdivision plan, built form, public domain, landscape character and development staging does not give rise to any concerns subject to detailed design resolution.

The Panel does however retain reservations about the development of land within the Northern Hamlet (Area A) at Gwandalan for Retirement uses given the site's lack of access to facilities, public transport and support services. In this regard it is noted that the land identified for retirement uses has been designated as a superlot for later development. The Panel recommends that any future application relating to this use should be considered in light of the requirements set out for Seniors Living developments in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The DECC advice provided to the Panel has indicated that the current ecological assessment submitted with the concept applications is inadequate and does not meet the Director-General's requirements for the proposals. The DECC has therefore recommended that prior to determination of the proposals further targeted surveys and mapping be undertaken. These surveys and mapping may result in changes to the proposed urban footprints and proposed conservation offsets. Any such changes may impact on the recommendations outlined below.

In addition the Panel notes that two outstanding issues have been identified through the exhibition process: (1) mine subsidence (Middle Camp and Nords Wharf) and (2) the existence of an existing mining lease to mine the coal resource beneath the Gwandalan site. These issues are the subject of a request for further information by the Department of Planning and additional information on this matter is not available at the time of writing. The Panel therefore notes that it has not given detailed consideration to these matters and the recommendations contained herein may vary depending on the outcome of investigations in this regard.

4.1 Gwandalan

The IHAP considers that the Gwandalan site is of a very high biodiversity value and therefore represents of all the Concept Plan proposals the greatest potential environmental impact due to the amount of vegetation to be cleared, subsequent loss of diversity of flora and fauna habitat features, and the potential for impacts on the natural values of Crangan Bay. Notwithstanding this the Panel has been advised by Department of Environment, Conservation and Climate Change (DECC) that subject to recommended changes to the

proposal (included in the principles below) and the imposition of strict development controls to minimise the potential impact of development on Crangan Bay, the proposed development is appropriate in terms of biodiversity impacts. The Panel further considers that subject to the changes outlined below the proposal is acceptable in terms of urban structure, housing densities, subdivision plan, built form, public domain, landscape character and development staging. The Panel therefore considers that prior to approval the Gwandalan Concept Plan shall be amended as set out in the key principles below:

Key Principles

The Panel considers that any development at Gwandalan shall comply with the following key planning principles:

1. The development footprint shall be reduced through the deletion of development in Area C – the Southern Hamlet and the area identified as Strangers Gully as illustrated in the Concept Plan. The Panel notes that this accords with the development footprint shown in Option 2 in the Concept Plan application for Gwandalan. As noted by DECC this will protect the ecologically significant Strangers Gully, high conservation value vegetation further to the east and enhance protection of Crangan Bay and Lake Macquarie's ecology.
2. The development shall be further revised to incorporate increased development setbacks from the foreshore and riparian zones, implementation of strict stormwater controls and provide for the proper management and control of foreshore vegetation and human access / recreation areas having regard to potential impacts on the Lake.
3. Any future application relating to the proposed retirement uses within the Gwandalan site should be assessed in light of the requirements set out for Seniors Living developments in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

4.2 Middle Camp, Catherine Hill Bay

The IHAP considers that Middle Camp and Catherine Hill Bay villages and the land between the two, represent a precinct of exceptional aesthetic, landscape, social and cultural heritage significance. The area has very high natural and cultural heritage significance as an industrial urban site in a highly aesthetic landmark context and setting. The site is unique, representing a largely intact 19th Century mining village characterised by development along a single street with single storey cottages sited on either side. In addition to the cottages themselves the spaces between the cottages and the landscape setting are also significant as too is the relationship between the workers' cottages, the Mine Manager's House, the Mine itself and the Jetty. These relationships, the landscape setting and the traditional layout of the two villages, provide a valuable opportunity for acknowledging and interpreting the site's historic past as a company mining town.

Key Principles

Having regard to the above the Panel considers that any development at Middle Camp, Catherine Hill Bay shall comply with the following key planning principles:

1. Any development in the vicinity of Middle Camp at Catherine Hill Bay 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 the Middle Camp and Catherine Hill Bay Villages and will not impact on views to and from the village.

2. There should be no significant new development in the area shown on the attached principles plan as the "Catherine Hill Bay Cultural Precinct". This does not include minor alterations and/or additions to existing dwellings and other development that is permissible either with or without consent under the Lake Macquarie Local Environmental Planning Controls.
3. Any development in the vicinity of Middle Camp at Catherine Hill Bay should comply with the principles and intent contained in the NSW Government's Coastal Policy (1997) and the Coastal Design Guidelines for NSW (2003) particularly section 1.6 New Coastal Settlements: Villages and Hamlets.
4. It is noted that the development at Middle Camp is proposed in four distinct precincts totalling a developable area of 50ha (300 lots) at an average dwelling density of 6 dwellings per hectare:
 - (i) Precinct A "Sawmill Camp" 7.3ha (61 lots including 30 integrated housing lots) - the area of generally disturbed land to the north east of the existing Middle Camp Village. This precinct is generally contained by Flowers Drive to the west, steep topography to the north and east and the old railway line to the south.
 - (ii) Precinct B "Colliery Hamlet" 21.4ha (161 lots including 27 integrated housing lots) - the area of disturbed land to the north west of Middle Camp Village. This area is generally contained by Middle Camp Gully to the north, Flowers Drive to the east, the ridgeline and Pitt Road to the south; and
 - (iii) Precinct C "South West Hamlet" 13.9ha (56 lots) - the area to the south west of the existing Middle Camp Village. The area is defined by the proposed By Pass Road on the east and vegetated ridgelines to the north, south and west.
 - (iv) Precinct D "South East Hamlet" 7.4ha (22 lots) – the area is located to the east of the existing Middle Camp settlement and is defined by Middle Camp Creek to the north, Northwood Road and its landscape buffer to the south and wetlands to the east.

Having regard to Principle 2 above it is considered that 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 Village in the north and Catherine Hill Bay Village in the south.

5. 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 as outlined above 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.
6. Any expansion of development within Precincts A and B should:
 - (a) be contained to previously disturbed lands or lands adjoining disturbed areas that are not of heritage, environmental, ecological or scenic significance;
 - (b) Ensure adequate separation from the existing Middle Camp Village to preserve the integrity and setting of the existing village;
 - (c) be designed according to best practice planning principles;

- (d) be screened from view from Flowers Road, the beach, the existing village of Middle Camp, the existing village of Catherine Hill Bay and other significant vista points;
 - (e) provide for a significant landscape buffer (minimum 30 metres) separating the development from Flowers Drive, Middle Camp Village and any new proposed bypass road; and
 - (f) provide for development within a landscape setting by retaining significant trees and 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).
7. The Panel considers that Precinct D is highly sensitive given its location in close proximity to the beach, the cemetery and the old railway alignment. It is of the view that consideration should be given to the provision of a public recreational park in the location of the existing Precinct D on land not taken up by the existing 4 dwellings and their allotments (to be created). Further work is required to determine appropriate allotment boundaries for these existing dwellings given the sensitive nature of the area.
 8. Any approved Concept Plan shall retain the proposed heritage walk along the former rail line to provide access from the Colliery Hamlet (Hamlet B) to the beach and to provide for interpretation of the important historic element of the area.
 9. Given Recommendation 4 above regarding the removal of Precincts C and D from the proposed development, the Panel questions the need for the proposed By Pass Road and considers its deletion on aesthetic, landscape and cultural heritage grounds would be preferred. However, if the applicant considers that the road should remain in the application it is considered that it should be justified on the basis of detailed traffic modelling and its impact on the aesthetic, landscape and cultural heritage of the area given careful consideration.

Subject to the above matters being incorporated into the Concept Plan, the Panel 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.

4.3 Nords Wharf

The Panel has been advised by the DECC that the proposed Nords Wharf development has the potential to result in a negatively impact on a small area of Littoral Rainforest EEC and that further mapping should be undertaken in this regard to determine whether it can be protected through changes to the design. In addition DECC has raised concerns about a number of off site impacts that may result from the proposal including impacts as a result of stormwater discharge to Lake Macquarie, erosion of the foreshore and impact on the natural values of the Crangan Bay, including seagrass beds and Coastal Floodplain EECs within the conservation area.

DECC has also requested that further consultation be undertaken with the local Aboriginal community in relation to potential impacts on Aboriginal heritage features. The Panel concurs with these views.

The Panel 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.

Key Principles

The Panel considers that any development at Nords Wharf should comply with the following key planning principles:

1. Further mapping shall be undertaken of the Littoral Rainforest EEC in the vicinity of the proposed development as identified by Stephen Bell (Eastcoast Flora Survey, 2008) and the proposal be redesigned to ensure that the development will not impact on the extent of this community;
2. Further advice be provided by the proponent that illustrates, to the satisfaction of the DECC and the Department of Primary Industries (DPI), how it will ensure that the development does not result in any negative impacts on the natural values of Crangan Bay including, but not limited to:
 - Water quality of Lake Macquarie;
 - Seagrasses; and
 - Erosion of the foreshore.
3. The proponent to undertake further consultation with the local Aboriginal community to determine whether the proposal will result in potential impacts on Aboriginal heritage features. If this is the case the proposal shall be redesigned to minimise any impacts.
4. The Waterfront reserve shall be a minimum width of 75m and publicly available at all times.

5. CONCLUSION

Having regard to the above the Panel has concluded that the Concept Plans for Gwandalan, Middle Camp and Nords Wharf dated November 2007 should be revised in accordance with the recommendations outlined herein prior to being approved by the Minister.

The Panel has indicated to the proponent that its recommendations and key planning principles outlined herein in relation to the three Concept Plans will result in the loss of 74 allotments at Middle Camp (excluding the existing 4 dwellings to be retained within Precinct D) and 77 allotments at Gwandalan and will require changes to the Concept Plans in the form of a Preferred Project Report. In response to this advice the proponent has verbally advised that it accepts the Panels recommendations and will in its Preferred Project Report for each of the Concept Plans amend the applications in accordance with the Panel's recommendations.

While it is not within the Panel's purview to consider the Project Applications submitted concurrent with the Concept Plans is it considered that consideration of the Project Applications should be deferred pending amendment of the Concept Plans consistent with the principles contained herein.

The Panel considers that subject to the Concept Plans being amended in response to the key planning principles contained herein, further public exhibition of a revised Concept Plan (submitted in conjunction with a Preferred Project Report) should not be necessary outside

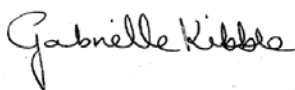
of that normally undertaken for a Preferred Project Report. The Panel is of the view that any such amended plan would be of lesser impact than that originally exhibited and the direct result of issues raised through the exhibition process.

Consistent with the Panel's Terms of Reference it anticipates that it will consider the Preferred Project Reports (and amended Concept Plans submitted therewith) and provide further advice to the Minister and Director General on the consistency of those documents with the Panel's Key Principles once submitted.

6 . R E C O M M E N D A T I O N

It is recommended that the Minister and the Director General:

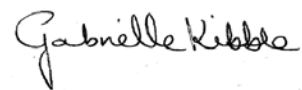
1. Note the Panel's report.
2. Publicly release this report to inform both the local community on the outcome of the Panel's deliberations and to assist the proponent to prepare Preferred Project Reports for the Concept Plans which respond to the principles contained herein;
3. Defer consideration of the submitted Concept Plans until such time as Preferred Project Reports have been prepared and the Concept Plans amended in accordance with the recommendations contained herein;
4. Defer consideration of the submitted Project Applications until such time as they have been amended consistent with the above recommendations.
5. Refer the proponents Preferred Project Reports (and amended Concept Plans) once received to the Panel for further advice as to consistency with its recommendations and Key Planning Principles.



Gabrielle Kibble
Chair



Mike Collins



For

Andrew Andersons

2 June 2008



**Catherine Hill Bay
Cultural Precincts &
Indicative Development Areas**

- Roads
- CHB Cultural Precinct
- Indicative Developable Area