

Project Application (MP 10-0204)

Ecological Assessment Report

The report does not adequately address the Director-General's Requirements which include consideration of NSW Coastal Policy 1997, the Coastal Design Guidelines for NSW and the Independent Hearing and Assessment Panel's (IHAP) Interim and Final Reports. Nor does the Project Application fulfill the Director-General's Key Assessment Requirements.

At the outset the CHBPA states that this is overdevelopment on an inappropriate site contrary to prevailing LEPs, state coastal policy and all ecological principles. In so doing the developer proposes the total destruction of 60 hectares of coastal land by moving $\frac{3}{4}$ million cubic metres of earth to re-shape it into smooth contours to increase resale profits for the developer. The irresponsibility of this is exacerbated by the lack of control over what is built and how community interests of this 'community' and the adjacent state conservation areas will be managed. The fact that lands already zoned for conservation were 'handed over' to offset this destruction is merely a fabricated distraction, named a 'land bribe' by a respected judge of the NSW court.

1. This project ecological assessment is outdated and should be resurveyed.

Small amounts of data-gathering have taken place in 2007 and 2008 but the vast majority of the ecological data is at least seven years old, having been collected for two earlier and different projects. It seems to be a deliberate attempt to cover up that old data is being used; the executive summary misinforms on page (i) that

Previous ecological investigations have been undertaken across various portions of the land over the past four years.

This is untrue. In fact Table 2.1 (Page 7) of data gathering shows that Wildthing data was reported (after previous data gathering) in 2003 and 2004 (8 and 7 years ago) and the Ecobiological Consultants data was reported in 2006 (5 years ago). Only the RPS data gathering was reported within the last four years and that was in 2007 and 2008. These last two were flora surveys so the table which is supposed to illustrate comprehensive recent data gathering for the Catherine Hill Bay Development can be seen to be almost completely blank since the 7 years old data (see Table 2.1 on page 10). The company has lumped very dated surveys in with all the blanks to make it appear that there has been

a sufficient level of assessment and reporting to occur to satisfy the relevant legislation

The relevant legislation is represented in the DECC Threatened Species Assessment Guidelines. Assessment factors are outlined there and a theme is the importance of gathering recent life-cycle data over the whole area likely to be impacted:

(page 3):

The study area should extend as far as is necessary to take all potential impacts into account.

(page 4):

The assessment of the local population may be extended to include individuals beyond the study area if it can be clearly demonstrated that contiguous or interconnecting parts of the population continue beyond the study area,

(page 5)

...it is important that the applicant/proponent not only has an understanding of the species' life cycle, but also an understanding of the way in which a species makes use of its habitat, the way this may change at particular times or in certain seasonal conditions, and whether the life cycle is dependent on a particular disturbance.

(Page 8):

Factor c)

...When assessing the importance of the habitat likely to be removed, modified, fragmented or isolated in the locality, a quantitative and qualitative approach should be adopted as follows:

- an assessment of the area and quality of habitat of the threatened species, population or ecological community that occurs within the locality from recent Landsat imagery, vegetation mapping, topographic maps, air photos and in some cases data obtained from on-ground investigations*

This EA's lack of recency is patent and is a terminal fault. The word 'recent' is used with inconsistent meaning twice in the summary of RPS work in the lands on page 17, to refer to some broadscale vegetation mapping in areas not previously mapped, in 2007. Apart from that the author describes as 'recent' a 2004 survey in another location whereas on page 57 he uses 'recent' to refer to 2007 while using 'previous' to refer to surveys in 2003 and 2004. We do not regard those as recent, given the pace of change in this area as discussed below. Table 4.1 of this report clearly by repeated use defines 'recent' as in the past three years. We would agree with that and the deliberate conflicting uses of the term elsewhere seem to be designed to make the whole report seem up-to-date.

The life-cycles of the species and communities in these lands and the adjacent lands are in many cases seasonal or annual, so the DECC assessment criteria of recency is not met by data-gathering over a few seasons many years ago. The DECC assessment criteria of breadth of study area is not met because of the small areas, some of which have been part of a mine regeneration program. The proponent could not have developed sufficient understanding of the species and communities involved.

On this site data should be as recent as possible because of the rapid rate of regeneration and regrowth in the development and offset lands. This rate has varied, but the many hectares of undisturbed or less disturbed lands have substantially regrown in the past eight years, as well as in the previous decades, for some areas. Two sets of photos illustrate this below. Firstly three views showing the dramatic revegetation and regrowth on some of the area called despoiled in Rose's proposal:



Figure 1 Catherine Hill Bay Village May 1982 Note bare ridgeline and valley, 'hamlet 6' site on far right.



Figure 2: November 2006 note forested ridgelines and valleys. Hamlet 3 site on far left, hamlets 1 and 2 site on the ridge in centre and hamlet 6 site on right. Viewed from Wallarah National Park



Figure 3 January 2011 (note power pole one left in this photo and 2006 photo) note noticeably denser and taller scrub and forest. Ridge lines which will be completely cleared are at present thickly treed.

The second set Figure 4 below shows on smaller scale the dramatic difference in vegetation and regrowth from June 2005 to the present. This shows the contrast in development lands and offset lands after 2003 and 2004 the time of much of the EAR surveys and data gathering, and now when they should have been done to be of use in this decision.

	
Figure 4: 4 June 2005: dam next to Montefiore St looking towards Moonee Beach	4 January 2011
	
4 June 2005 entry to site of Montefiore St	17 January 2011
	
4 June 2005 coal dump next to Montefiore St as mine rehab plan proceeded	4 January 2011

The EAR is fatally flawed in being mostly based on old data instead of recent data and the airphotos and maps are up to ten years old. The airphotos and maps used were strongly criticized by opponents including Lake Macquarie City Council in the previous development proposal, as overestimating the area disturbed by mining. The airphotos again are extremely old, in fact all are based on one old photo which show the mine just after ceasing operation, with active coal dumps and large hardstands, washery and jetty in operation. For example, figure 2.2 was taken prior to 2005 when the roof was removed from the pithead bathhouse. The airphoto does not show the effects of more than six years' rehabilitation and natural regrowth. Consequently it gives the very false impression that vegetation is sparse and groundcover is poor in the development lands, but

the current habitat is mostly quite dense scrub with emergent substantial trees. Figure 3.3 is apparently based on the same old airphoto and purports to show vegetation communities mapped while the area was still in the mine closure's initial cleanup but now long-overgrown. Its accuracy is questionable.

EAR does not comply with the Government's Coastal Policy and Coastal Design Guidelines and it is not best practice coastal planning.

- The proposal treats the Coastal Policy as a minor instrument despite all the development lands being in the coastline zone of Lake Macquarie LEP 2004. The use it proposes is inconsistent with the LEP and Coastal Policy, while all the surrounding lands are used consistent with the LEP. Thus it would disrupt one of the key points of the LEP and Coastal Policy, to have bushland corridor along the coastline zone. It also would transfer more coastal lands into private ownership.
- Development 'Hamlet 3' should have a perimeter road and much increased setback to put it behind the 7(4) Environmental Coastal Protection Zone.
- The CHBPA agrees with the sentiment behind the statement made in LMCC's objection to the 2007 Rose Proposal:
The impacts of the development would be substantially reduced by limiting disturbance to those areas that have been mapped by Council as disturbed by mining since 1965. This would increase buffers to the wetland vegetation communities and exclude from the development:
 - *sensitive eastern pygmy possum habitat;*
 - *threatened species such as Tetratheca juncea;*
 - *all native vegetation on the headland which has not been disturbed by mining;*
 - *the endangered ecological community - littoral rainforest; and*
 - *remnant wallum scrub.*

We go further in the case of the washery area and the headland. It should be protected from all development because of its high recreation value and scenic value, important coastal habitat with its sea eagle nests and historic significance with the old mine workings and jetty

This subdivision application proposes to clear the land of any trees and heavily modify it to produce back-to-back suburban housing lots on an area which was, until recently, intended for coastal acquisition and conservation. This is a development pattern that is more than 40 years old and cannot reasonably be considered to be sound planning practice in this sensitive location.

It lacks a clear considered design approach which responds to the environmental attributes of the site and attempts to enhance the value of the 'offset' lands. Dropping this suburb into coastal conservation lands is plainly poor ecological management. Ecological corridors will be blocked as the Wallarah National Park is almost cut in two. The Munmorah State Conservation Area will be damaged by the intrusion of pets, feral animals and polluted runoff. Visual impacts and night lighting will be detrimental on both the National Park and Conservation Area.

- Insufficient study area was included in the report; the development and offset lands are contiguous with or interconnected to the Munmorah State recreation Area and the Wallarah National Park but this is repeatedly simply dismissed as offsets proving a contrasting survival to the destruction in the development lands, but needing no other consideration.
- The approval given for the previous development proposal by the federal Minister under the EPBC Act was conditional on comprehensive management plans for certain species including cryptostylis hunteriana as well as the more general impacts on adjoining conservation areas. In contrast to this requirement the EAR sets out minimal detail and no

significant commitment. For instance, the consent requires the developer to 'ensure that public access to Haslet 6 is 'actively managed to reduce the risks posed to the area through increased human access' prior to the removal of those plants to allow housing to be built. We feel this indicates the serious threat to those species and others in the adjacent conservation areas. That threat subsequently gave rise to condition 5, protecting the conservation areas from issues listed such as

- a) pedestrian access
- b) edge effects due to disturbance of adjacent areas
- c) sediment and erosion control measures
- d) water quality and quantity
- e) domestic animals; and
- f) spread of exotic and invasive species

The combined import of these conditions is enough to seriously question the value of the offsets to the development. There is no attempt to estimate that value after development of 600 dwellings and at least 1000 residents and probably around 300 dogs and 200 cats has impacted on the conservation areas.

One particular issue treated very superficially in the EAR is the zone of proximity of the conservation areas to roads, housing, weed concentrations, human incursions and animals introduced by residents. Consider the road effects on the remaining corridor west of 'hamlets' 5, 6 and 7, bisected by Montefiore Street. According to Parks Victoria:

It is important to consider the contribution of roads to the increasing fragmentation of habitats, particularly for species that may react negatively to roads as physical, behavioural or sociological barriers. The associated possibility of genetic isolation of animal populations is also important. (Ecological Effects of Roads, Parks Victoria 2004, p 25)

The road effect zone is defined by the distance to which each different ecological road impact extends outward (Forman 1999). These distances differ for each impact, ranging from a few metres to over a kilometre from... the road

The road effects zone averages 600 m in width (Ecological Effects of Roads, Parks Victoria 2004, p 47.

Additional to the road effect is the impact of humans, night light, weeds and pets on the corridor so that the cumulative effect is potentially devastating to the Wallarah NP and the Munmorah State Conservation Area. In the diagram below the pink area is indicative of the effects zones unquantified by Rose in this proposal. The map below shows the edge effect zone likely for this development in pink, based on Parks Victoria guidelines:



This EAR gives no consideration to the impact of edge effects from the development lands on the offset lands. On the contrary it merely uses a phrase from another project report written by the same consultants as illustrated here:

(page 93)

7. Predation by Feral Cats

The increase of residential development within the area has the potential to increase opportunities for the KTP “Predation by feral cats”. This KTP is unlikely to significantly impact upon local wildlife provided responsible pet ownership is adopted.

Curiously this paragraph is identical to a statement in the Coal and Allied project proposal for lands to the north of the Catherine Hill Bay village (MP10_0089 Page 104 of the EAR of that proposal):

The increase of residential development within the area has the potential to increase opportunities for the KTP “Predation by feral cats”. This KTP is unlikely to significantly impact upon local wildlife provided responsible pet ownership is adopted.

The same statement was used in C&A's 2007 proposal's EAR:

The increase of residential development within the area has the potential to increase opportunities for the KTP “Predation by feral cats”. This KTP is unlikely to significantly impact upon local wildlife provided responsible pet ownership is adopted. (MP07_0095 Ecological Assessment Report, Page 97)

This illustrates the danger of using the same consultants (RPS) as for another development proposal; how can the Director-General rely on EAR statements as being authoritative when they may be word-processed copies from other reports, thrown in to save writing time? How much scientifically sound research went into generating each of these identical conclusions about something as important as a major KTP in offset lands? Was their judgement that pets were ‘unlikely to significantly impact’ based on research like that of Parks Victoria? There is no evidence of relevant study in this EAR and its credibility is weakened.

Other factors of future impact due to climate change

SEPP14 wetlands to the south

The EAR makes no attempt to look forward despite the wealth of climate change information available. The wetlands' potential for harboring arthropod-borne viral illnesses in close proximity to a major residential subdivision is not investigated at all.

Increasing Bushfire risk in Offset lands and Perimeter roads

The edge of ‘hamlets’ 1, 3, 6 and 7 has only partial or no perimeter road. This creates greatly increased bushfire risk as well as edge effects including weed and pest invasion,

The CHBPA rejects the evidence base and the unreliable conclusions in this report. The value of offset lands has not been established with validity to justify the massive destruction of this overdevelopment. The Director-General should reject the report and require current relevant data.