



3 May 2011

**REPORT ON
DRAFT GWANDALAN DEVELOPMENT CONTROL PLAN**

1. INTRODUCTION

The South Wallarah Peninsula SEPP requires a development control plan (DCP) be prepared before any Part 4 development applications can be determined. A draft DCP for Gwandalan was lodged with the project application for subdivision. The former Minister for Planning, the Hon Tony Kelly MLC, requested the Planning Assessment Commission to comment on the draft DCP prior to the Director General's making of the DCP.

2. LEGAL FRAMEWORK FOR THE PREPARATION OF THE DCP

2.1 Major Development State Environmental Planning Policy

The site is listed in Part 14 (South Wallarah Peninsula site) Schedule 3 of the Major Development SEPP. Clause 29 states that

- (2) *Development consent must not be granted for development on land within Zone R2 Low Density Residential unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.*
- (3) *The development control plan must provide for all of the following:*
 - (a) *a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*
 - (b) *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
 - (c) *an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
 - (d) *a network of passive and active recreational areas,*
 - (e) *stormwater and water quality management controls,*
 - (f) *amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
 - (g) *detailed urban design controls for significant development sites,*
 - (h) *measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
 - (i) *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

2.2 Clause 6 Exemption for Part 3A project

Clause 6 in Division 2 Part 14 Schedule 3 of the Major Development SEPP excludes the application of certain clauses (including Clause 29) to a project to which Part 3A of the Act applies. Hence an adopted development control plan is not a pre-requisite to the approval of the subdivision application. However, one of the Director General's requirements is:

The EA must address the following key issues and discuss how the proposed development is consistent with the Development Control Plan prepared for this part of the site:

Development Control Plan

- *Provide a Development Control Plan which includes, but is not limited to, the matters listed in Clause 29 in Schedule 3, Part 14 (South Wallarah Peninsula site) in the Major Development SEPP.*

3 DRAFT GWANDALAN DCP PREPARED BY THE PROPONENT

The draft DCP submitted by the proponent sets out very preliminary controls for future developments on the site. It is important to note that the draft DCP included reference to the Wyong DCP to the effect that if a matter is silent in this DCP, the relevant provisions in the Wyong DCP are to be considered. Further that “the Wyong DCP will provide the built form controls for future development of dwelling houses on the lots created by the this subdivision”.

4. WYONG COUNCIL’S SUBMISSION ON THE DRAFT DCP

Wyong Council raised several issues in relation to the draft DCP. It is of the view that the DCP:

- Fails to include an object to promote housing choice and affordable housing;
- Fails to satisfy objective (b), ie provide for an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists;
- Ignores objective (i) ie provide for suitably located public facilities and services, including provision for appropriate traffic management facilities and parking;
- Fails to adequately address the requirements of Clause 29 of the Major Development SEPP, including matters listed under (d), (g), (h) & (i)
- Is inadequate to provide guidance for future development and contains a number of inconsistencies.

5. REVISED DRAFT DCP BY THE DEPARTMENT OF PLANNING & INFRASTRUCTURE

Following the exhibition of the draft DCP, the Department revised the draft DCP to include more details of the built form controls in Section 12. It also included a new section (14) to deal with mine subsidence.

6. COMMISSION COMMENTS

6.1 Compliance with Clause 29 of Major Development SEPP

The Commission noted the draft DCP makes no specific provision for stormwater and water quality management controls except in section 6 which deals with the EPBC approval and section 10 which deals with subdivision & staging. The Commission considers the location of the site adjoining a State Conservation Area and Lake Macquarie, a sensitive water body, guidelines should be provided for stormwater runoff and water quality guidelines to ensure protection of significant flora and fauna and the Lake.

6.2 Application of DCP to future applications

The Commission noted the Exempt and Complying SEPP applies to the site and that dwellings that comply with the standards in that SEPP will not require development consent. The DCP will not be relevant to these applications. However, dwellings that do not comply with the standards in that SEPP or development applications that are not covered by the

Exempt and Complying SEPP will require development consent and the Gwandalan DCP will be a relevant consideration and must be in place before consent can be granted.

6.3 Other Comments

The Commission agreed with Council that an additional objective should be included to promote housing choice and affordable house. Other comments include:

- Table of contents – section 14 Mine subsidence is missing.
- Section 6 – Section 88B – should read Section 88E?
- Section 7 – landscape principles should include one to ensure the design requires low maintenance
- Section 8 – Need for a Transport Action Plan and post construction pedestrian and bicycle safety audit? Road numbers should be indicated on the Access and Circulation Plan.
- Section 12 – front and side setback should be consistent with the Complying codes. Table 4 landscape minimum should read deep soil landscape. *Angophora costata* should be excluded in the private domain trees list in the Landscaping species table.
- Wyong Council's Comments should be considered and addressed where relevant.



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