

10.0 OBLIGATIONS AND OPPORTUNITIES

The intention of this section of the CMP is to assess the potential obligations and opportunities affecting the place, not only in terms of heritage but also statutory requirements and the requirements of the client.

10.1 OBLIGATIONS ARISING FROM THE SIGNIFICANCE OF THE PLACE

The significance of the place varies over the site as certain elements have been identified as having local or state significance, hence any works that take place should be done so as not to diminish that significance.

10.2 OBLIGATIONS ARISING FROM THE BURRA CHARTER

The Burra Charter (the Australian Icomos charter for the conservation of places of cultural significance) contains guidance on conserving significant places. The main text of the charter embodies seven essential concepts;

- ❑ The place itself is important
- ❑ Understand the significance of the place
- ❑ Understand the fabric
- ❑ Significance should guide decisions
- ❑ Do as much necessary, as little as possible
- ❑ Keep records
- ❑ Do everything in logical order

Any proposed modifications will be assessed in terms of the Charter's 29 articles of conservation principles. The 29 articles are founded on the seven concepts outlines above. Today, all consent authorities apply the Burra Charter to their assessments of the historical and cultural significance of a place.

(The above material is extracted from "The Illustrated Burra Charter" by peter Marquis-Kyle & Meredith Walker 1996 ed./pp10)

10.3 STATUTORY CONTROLS

10.3.1 COMMONWEALTH

ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT (AS AMENDED 2003)

The Environment and Heritage Legislation Amendment Act (No1) 2003, the Australian Heritage Council Act 2003 and the Australian Heritage Council (Consequential and transitional Provisions) Act 2003, came into operation on the 1st January 2004, replacing and expanding upon the Australian Heritage Commission Act 1975. The result of these changes are briefly summarised as follows:

- *The Establishment of a Commonwealth Heritage List* - This list will include places or groups of places that are in Commonwealth lands and waters or under the control of the Australian Government for their management and protection.
- *The Establishment of a National Heritage List* - Nominated places with which the Australian Government Minister for the Environment and Heritage considers to have natural, Indigenous and historic National Heritage values will be included on the List. Places on the national heritage List will be protected under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).
- *Australian Heritage Council* - The Australian Heritage Council will replace the Australian heritage Commission as the advisory body on Commonwealth heritage matters.
- *Register of the National Estate* - The 'Register of the National Estate' is an inventory of places of natural and cultural significance. The Register of the National Estate will be retained by the Australian Heritage Council as a source to guide the Minister for the Environment and Heritage when making decisions under the EPBC Act regarding impacts of actions.

For items listed on the register, it is incumbent upon those charged with the management and maintenance of the site to consult the register prior to carrying out any modifications to the place. Whilst inclusion of a place on the 'Register of the National Estate' imposes obligations on Federal Government bodies and federally funded projects, there is no obligation on State Government agencies. The inclusion of a place on the 'Register of National Estate' however, draws the attention of heritage authorities to its significance.

A search of the on-line Australian Heritage Database on the 11th of March 2005 has identified no listings that affect the subject study site.

10.3.2 NEW SOUTH WALES

THE HERITAGE ACT 1977 (AS AMENDED 1998)

The *Heritage Act (1977 as amended 1998)* was passed to generate opportunities for administration, control, protection, maintenance, preservation, restoration, enhancement and conservation of the environmental heritage of New South Wales (natural and built).

The State Heritage Register was searched on the 11th March 2005 and has identified no listings that affect the subject study site. This non-listing does not suggest insignificance.

A Conservation Management Plan, following endorsement by the Heritage Council can form the basis of a Specific Exemption under Section 57 of the Heritage Act (Exemption 6: Conservation Works). 'Development specifically identified as exempt development by a conservation policy or strategy within a conservation management plan which has been endorsed by the Heritage Council of NSW or within an interim conservation management strategy endorsed by the Director does not require approval under s. 57(1) of the Act.' Approval of the Heritage Council, including the preparation of a Statement of Heritage Impact is still required. The Statement should demonstrate how the proposed works are consistent with the significance of the item or place and indicate how they meet the requirements of the Conservation Management Plan. A copy of the Standard Exemptions is included in Appendix 7.

Section 139 of the Heritage Act also includes additional special provisions passed to protect "relics". A "relic" is defined as meaning *"any deposit, object or material evidence:*

- (a) which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*
- (b) which is 50 or more years old.*

Section 139 further states:

- 1. A person must not disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.*
- 2. A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit*

There is no formal register of "relics" held by the NSW Heritage Office. Some of the sites listed on the State Heritage Register or on LEPs may either be "relics" or have relics associated with them. The NSW Heritage Office is the consent authority for these relics, and they cannot be disturbed in any way without an approved Section 140 (Excavation Permit) application.

For items listed on the State Heritage Register, a permit is required to carry out activities to an item (Section 60). A permit is also required for activities that would affect known or potential archaeological relics (Section 140).

Finally, under Section 146 A person who is aware or believes that he or she has discovered or located a relic must report it to the NSW Heritage Council within a reasonable time.

Exceptions to Section 139

If the proposed works are only minor in nature, and will have minimal impact on the heritage significance of the place, they may be exempt from the provisions of Section 139. On the 7th of March 2003 the Minister for Planning revoked all existing standard exceptions and granted new exceptions. The new standard exceptions relate to a broader range of minor development and will result in a more streamlined heritage approval process. The exceptions are set out below.

'Excavation or disturbance of land of the kind specified below does not require an excavation permit under s.139 of the Heritage Act provided that the Director of the New South Wales Heritage Office (the Director) is satisfied that the criteria in (a), (b) or (c) have been met and the person proposing to undertake the excavation or disturbance of land has received a notice advising that the Director is satisfied:

(a) where an archaeological assessment has been prepared in accordance with Guidelines published by the Heritage Council of New South Wales which indicates that there is little likelihood of there being any relics in the land or that any relics in the land are unlikely to have State or local heritage significance;

(b) where the excavation or disturbance of land will have a minor impact on the archaeological resource;

(c) where the excavation or disturbance of land involves only the removal of fill, which has been deposited on the land.

A person proposing to excavate or disturb land in the manner described in paragraph 1 must write to the Director and describe the proposed excavation or disturbance of land and set out why it satisfies the criteria set out in paragraph 1. If the Director is satisfied that the proposed development meets the criteria set out in paragraph (a), (b) or (c) the Director shall notify the applicant.'

It is noted that some items on the site such as the Mine Managers and Jetty Masters houses would come under the category of "relics" requiring a permit under Section 140. Other items date from c1964 and are therefore not "relics" as they are not 50 years old (until 2014).

THE NATIONAL PARKS AND WILDLIFE ACT, 1974

Aboriginal sites and objects

The National Parks and Wildlife Act contains provisions that relate to Aboriginal sites and objects. All Aboriginal sites are Aboriginal objects. Under the provisions of Section 86 of the *National Parks and Wildlife Act* (1974):

- A person, other than the [Director-General](#) or a person authorised by the [Director-General](#) in that behalf, who:
- (a) disturbs or excavates any land, or causes any land to be disturbed or excavated, for the purpose of discovering an [Aboriginal object](#),
 - (b) disturbs or moves on any land an [Aboriginal object](#) that is the property of the Crown, other than an [Aboriginal object](#) that is in the custody or under the control of the Australian Museum [Trust](#),
 - (c) takes possession of an [Aboriginal object](#) that is in a [national park](#), [historic site](#), [state conservation area](#), [regional park](#), [nature reserve](#), [karst conservation reserve](#) or [Aboriginal area](#),
 - (d) removes an [Aboriginal object](#) from a [national park](#), [historic site](#), [state conservation area](#), [regional park](#), [nature reserve](#), [karst conservation reserve](#) or [Aboriginal area](#), or
 - (e) erects or maintains, in a [national park](#), [historic site](#), [state conservation area](#), [regional park](#), [nature reserve](#), [karst conservation reserve](#) or [Aboriginal area](#), a building or structure for the safe custody, storage or exhibition of any [Aboriginal object](#), except in accordance with the terms and conditions of an unrevoked permit issued to the person under section 87, being terms and conditions having force and effect at the time the act or thing to which the permit relates is done, is guilty of an offence against this Act.

Under section 91 of the Act if Aboriginal cultural material is found during excavation activities, the National Parks and Wildlife Service must be informed. Subsequently, any excavation would need a permit issued under section 90 of the Act:

- (1) A person who, without first obtaining the consent of the [Director-General](#), knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, an [Aboriginal object](#) or [Aboriginal place](#) is guilty of an offence against this Act.
- (1A) Subsection (1) does not apply with respect to an [Aboriginal object](#) that is dealt with in accordance with [Aboriginal](#) tradition pursuant to section 85A.
- (2) The [Director-General](#) may give consent for the purposes of subsection (1) subject to such conditions and restrictions as are [specified](#) therein.

There are also extensive Guidelines for conducting surveys and making applications which specify the information required and the process of consultation with Aboriginal communities, by the Department of Environment and Conservation (DEC) who administer the *National Parks and Wildlife Act*.

Possibility of a National Park

The Catherine Hill Bay Progress Association and Dune Care Inc (CHBPADC) have made claims that the subject area includes rare and threatened species of flora and significant Aboriginal sites and is being proposed as a National Park. The progress association in their submission does not say what the subject area is. There is very little public information on which to base such claims.

The CMP area is land in private ownership. The sites have been investigated by the owners and the areas affected by

mining and the proposed heritage items and the areas around proposed heritage items do not support rare or threatened species or contain Aboriginal sites. The areas of the site that do have conservation and Aboriginal heritage values are either proposed to be dedicated to the public or are to be managed for conservation values.

The owners are not aware of any decision to create a national park. Enquiries made by the owners have not revealed any likelihood of a park being declared over the subject land. Actions that would signal moves or intentions for a national park are an interim conservation order under the NPWS Act, a notice of intent to compulsorily acquire the land by NPWS or negotiations to acquire the land by dedication. None of these actions has taken place.

However, it is proposed to dedicate some land with high natural conservation values to the public, if this is publicly acceptable, whatever else happens on the CMP site.

10.4 PLANNING ISSUES

10.4.1 HUNTER REGIONAL ENVIRONMENTAL PLAN (REP) 1989 (HERITAGE)

The site is affected by the Hunter Regional Environmental Plan 1989 (Heritage).

The general aims and objectives of this plan are:

- (a) to conserve the environmental heritage (including the historic, scientific, cultural, social, archaeological, architectural, natural and aesthetic heritage) of the Hunter Region,
- (b) to promote the appreciation and understanding of the Hunter Region's distinctive variety of cultural heritage items and areas including significant buildings, structures, works, relics, towns, precincts and landscapes, and
- (c) to encourage the conservation of the Region's historic townscapes which contain one or more buildings or places of heritage significance or which have a character and appearance that is desirable to conserve.

Schedule 5- Conservation Areas of the REP (Heritage) list the heritage conservation areas relevant to the plan.

Clause (6) states that when preparing a draft local environmental plan the Council shall:

- (a) where the draft plan applies to a conservation area specified or described in Schedule 5 and shown on the map, investigate and examine its significance and prepare guidelines to assist development control within the area.

The most relevant policy is Clause 63 (2) of the Hunter REP 1989. This clause identifies a need for a study to

determine the feasibility of reservation of open space in the general area (north Wyong, south Lake Macquarie) but on public, not private, land. The study has never been under taken.

10.4.2 LAKE MACQUARIE CITY COUNCIL

Lake Macquarie Local Environmental Plan, 2004

Development in Lake Macquarie City Council area is controlled under the Lake Macquarie Local Environmental Plan 2004. Clauses 43-54 are the heritage clauses of the LEP. They are standard heritage provisions establish on those applying at the time the LEP was prepared. A search of LMCC LEP 2004 found that a number of items within the site are listed as heritage item listed below in Table 10.1.

Table 10.1: Relevant Heritage Items in the LMCC LEP, 2004 situated within the study site.

<i>Item No.</i>	<i>Significance</i>	<i>Item</i>	<i>Address</i>	<i>Property Description</i>
CH-13	L	House "Wallarah House"	1a Keene Street	Lot 2031, DP. 841175
CH-14	L	Coal Loader Jetty	Southern end of the beach	Lot 2031, DP. 841175
CH-16	L	Catherine Hill Bay Colliery Railway	Mine Camp to the coal loader jetty	

Significance Codes are S: State, L: Local.

Lake Macquarie Development Control Plan No.1

DCP No.1 provides additional guidance to the Lake Macquarie LEP 2004 and is intended to act as an integrated planning instrument that manages the development of land. Part 2 of this DCP contains the General Principles of Development. Section 2.4 – Heritage, deals with the council's heritage and intends to "*secure the proper care and management of the City's built, natural and Aboriginal heritage as a means of understanding the present form and character of the City and to ensure that development surrounding items of heritage significance, do not compromise their levels of significance*". The principles of this section are designed to reflect the comparative heritage significance of the item, property or site currently known and thus the level of management considered appropriate.

The Heritage Principles of Development outlined in this Section relate to:

- 2.4.1 European Heritage Items
- 2.4.2 The Catherine Hill Bay Heritage Conservation Area
- 2.4.3 Aboriginal Heritage Items and Sites
- 2.4.4 Natural Heritage Items

The detailed provisions within this section should be read in conjunction with those contained in the 'Heritage Guidelines'

Sub Section 2.4.2 in turn, includes:

- ❑ Identification of the Catherine Hill Bay Heritage Conservation Area,
- ❑ Listed heritage Items in the Catherine Hill Bay Heritage Conservation Area
- ❑ Provisional heritage items including: properties identified in the Lake Macquarie Heritage Study 1993; properties included in Appendix 1 of the Lake Macquarie Heritage Guidelines; Heritage precincts" within the Area Plans forming part 4 of DCP No.1.
- ❑ Examples of typical early cottages found in Catherine Hill Bay; and
- ❑ Options for additions

Guidelines Supporting Development Control Plan No.1 (DCP No. 1 - Principles Of Development)

The Guidelines provide supporting documentation to DCP No.1 - Principles of Development. The overriding purpose of these guidelines is to build on the Heritage Provisions contained in the *Hunter Regional Environmental Plan 1989 (REP)*, *Lifestyle 2020 Strategy and Local Environmental Plan 2002 (LEP)* and Part 2.4 – Heritage of DCP No.1 – Principles of Development. These guidelines also provide further advice on how to ensure proper management of the City's heritage resources, including natural, indigenous and European Heritage Items, Catherine Hill Bay Conservation Area, and Heritage Precincts identified in DCP No.1 - Principles of Development.

These Guidelines should be used for development in/or of Identified Heritage Properties, including the following:

- ❑ Heritage Items, including Natural Indigenous and European, and heritage properties in the Catherine Hill Bay Conservation Area, as identified in LEP 2004,
- ❑ Heritage sites identified in the 1993 *City of Lake Macquarie Heritage Study*, and
- ❑ Any additional heritage item or area of potential heritage significance not currently listed in the LEP 2004, including a number of sites identified in Appendix 1 of the Guidelines.

A specific section of the Guidelines are devoted to different aspects of identified heritage items listed above. Section 4.0 directly relates to Catherine Hill Bay Heritage Conservation Area. The aims and objectives of the Heritage Conservation Area guidelines are to:

- ❑ *retain the surviving fabric of the original settlement,*
- ❑ *preserve the unique and significant features of the local townscape,*
- ❑ *preserve the outstanding natural setting of the township and maintain established relationships of the town to the setting,*
- ❑ ensure new development is in scale and character with the existing, as viewed from all major vantage points,
- ❑ *preserve the existing character as a continuing record of the settlement's unique history, while allowing for gradual change, which may include complementary and sensitive new development.*

The following Sub Sections in turn, include development provisions for the Conservation Area:

- ❑ 4.3 – Heritage Considerations
- ❑ 4.4 – Respect for Fabric
- ❑ 4.5 – Fitting In/Streetscape
- ❑ 4.6 – Break up the Bulk

It should be noted that this section is closely linked to and should be read in conjunction with, Part 7.0 – Common Requirements of the Guidelines. In reading these guidelines however, it is important to note that, they ignore the mining and industrial setting of the Area and tend to focus primarily on the setting of the township.

10.4.3 WYONG SHIRE COUNCIL

Development in the Wyong Shire area is controlled under the Wyong Local Environmental Plan 1991 (as amended September 6 2002). Clauses 32-36 are the heritage clauses of the LEP. They are standard heritage provisions based on those applying at the time the plan was prepared.

Development consent is required under clause 32(1) for a heritage item and for development in a conservation area. Schedule1 - Heritage Items, lists the heritage of the council area protected under the LEP.

The subject site not subject to the heritage provisions of the plan. However, if future listings do occur these heritage provisions will apply.

Wyong Council Conservation of the Built Environment Development Control Plan No. 76

The DCP supplements the heritage controls in the Wyong Local Environmental Plan 1991 and establishes a framework for detailed conservation planning. It sets out council's requirements for a Statement of heritage Impact, which is required for all work on heritage items (pp 23), for Total Demolition Reports (pp 24) and for Conservation Management Plans (pp 25).

Draft Wyong Conservation Strategy (WCS)

The WCS was a science based policy initiative for the shire wide protection of biodiversity. It examined biodiversity conservation needs for the whole of the Wyong Shire Council and determined what was significant and what land was needed for conservation.

The WCS identified the bushland to the west of the Moonee mine site as a secondary wildlife corridor requiring conservation. The degraded areas of the mine site were not required for conservation purposes. Council has not adopted the draft strategy mainly because issues arising from involved in placing large areas of privately owned land under conservation management have not been resolved.

10.4.4 BUILDING HEALTH AND SAFETY REQUIREMENTS

Legislation governing the general safety of buildings may include the following:

- ❑ The Building Code of Australia (BCA)
- ❑ The Occupational Health and Safety Act (OH&S)

Further information on the subject of safety of occupants can be gained from a qualified BCA consultant and from Work Cover authority.

10.4.5 LOWER HUNTER LANDSCAPE IMPROVEMENT STUDY (DEPARTMENT OF ENVIRONMENT AND PLANNING, 1983)

Origins and Objectives

The study had its origins in the late 1970s when concern was being expressed about the urban -industrial image of the Lower Hunter that was regarded as being synonymous with Newcastle. During the preparation of the Hunter Regional Environmental Plan (REP) it was realised that there was a need to identify and protect key natural and cultural areas to avoid further degradation of the environment and consolidation of the misconceived image. Of particular concern were the protection of skylines and the creation of green corridors. The REP was therefore followed by the Landscape Improvement Study: its purpose being to provide advice on landscapes requiring protection and improvement specifically to local councils but also to Government Authorities and private developers.

Comments

The study identified 16 important landscapes, one of which, called the "Swansea Unit". The Swansea Unit includes Blacksmiths and the Swansea Channel to the north and extends as far south as the township of Catherine Hill Bay; however, it excludes some of the site stopping just short of the southern end of Middle Camp Beach. The reason for this is unclear, however, it could be suggested that the study excluded the Coal Preparation Plant, Moonee Colliery and Wallarah Colliery, as these areas would have had little scenic or ecological value at the time the study was undertaken over twenty years ago.

In regard to specific recommendations for the study locality the study makes the following comments:

Ia *High Priority Preservation*

Areas of distinctive and common scenic quality along the coastal and lake foreshores... These are areas of high priority for protection, particularly the areas adjacent to existing urban development.

iiia

Iib *Priority Urban Rehabilitation and Protection*

Four cleared areas, including two mining settlements (Catherine Hill Bay and Middle Camp), would benefit from a tree planting program.¹

government area of Lake Macquarie and defines a methodology to assist with the preparation of visual impact assessments, such as this one.

The objectives of the Clouston study were stated as:

To define the characteristics and range of visual landscape resources of the City.

To ascertain the relative values of this resource to the City.

To ascertain the visibility or accessibility of the landscape.

To provide a basis for formulation of a landscape structure policy and the planning and management of the visual resources of the City in conjunction with other criteria for open space and recreation planning.

The scenic quality guidelines describe the methodology for preparing a VIS as follows:

- ❑ Step 1: Identify the Landscape Setting Unit for the Site
- ❑ Step 2: Refer to the Landscape Setting Unit Resource Sheets
- ❑ Step 3: Refer to Scenic Quality Objectives applicable to the Landscape Setting Unit
- ❑ Step 4: Identify the Scenic Management Zone for the site
- ❑ Step 5: Refer to the Scenic Management Zone Objectives and Strategies
- ❑ Step 6: Prepare the Visual Impact Statement (including a description of the site; a description of the proposal; an assessment of the proposal against the objectives and strategies of the guidelines; suggestions for amelioration if negative impacts are assessed and graphic evidence to illustrate the proposal).

10.5 CLIENT REQUIREMENTS

10.5.1 CURRENT USES OF THE SITE

A mine closure plan (MCP) has been prepared for the site and is currently in the process of mine closure and rehabilitation. This is a statutory requirement under the Mines Act and is overseen by the NSW Department of Mineral resources. The MPC can be viewed at www.lakecoal.com.au. Therefore, the site is required to be rehabilitated under the mine closure plan, this includes the removal of all mining infrastructure unless alternative uses for the infrastructure can be found. The rehabilitation requirement is potentially an extremely broad ranging provision. The provisions could require the removal of all buildings and much vegetation as part of the removal of mine infrastructure. This is qualified by the fact that rehabilitation requirements may be waived if suitable alternative uses can be found for the site. The CMP is part of the process of protecting heritage from rehabilitation requirements, however structures are still being removed.

All hazardous materials, such as asbestos roofing, have been removed as part of the mine Closure operations.

Contaminated land investigations and assessments are completed. No significant contamination other than hydrocarbon residues have been identified and all contamination will be addressed as part of the mine closure

process.

10.6 CURRENT DEVELOPMENT APPLICATIONS FOR THE SITE

At the time of commissioning in 2003, Rosecorp made no specific requirements in relation to the future of the site. Since this initial engagement a number of development proposals have been formulated for the site and submitted to respective councils.

10.6.1 DEVELOPMENT APPLICATION TO LAKE MACQUARIE CITY COUNCIL

Separate Development Applications for part of the subject site have been submitted to Lake Macquarie City Council and Wyong Shire Council.

The Swansea RSL and Rosecorp are applying for consent from Lake Macquarie City Council to relocate and expand the Catherine Hill Bay Bowling Club. This proposal brings together a range of local opportunities that can be achieved without adverse impacts on the locality and consistent with an extensive range of public policy.

The existing bowling club, a key element of the social fabric in an area also including Lake Munmorah and Nords Wharf, is in financial difficulty. When coal extraction ceased a major source of clientele for the club disappeared. Similarly, the local general store closed as a major component of daily business was lost. The Swansea RSL has, in partnership with Rosecorp developed a farsighted proposal to not only provide a sound future for the club but return some economic vitality to the village by promoting tourism.

The land occupied by Moonee and Wallarah collieries and the coal preparation plant is unique. The scale and nature of the local coal mining, and particularly the ocean jetty, are found nowhere else in NSW. The coal mining has resulted in a site with almost no ecological value set in a highly attractive and assessable coastal location. The mining activities have, over the years, achieved a significant visual separation from the local villages. The result has been that the character of the area is inextricably linked to the jetty which is highly visible from the beach and surf club. The mine and coal preparation plants are mostly hidden from public view even though they are in prime coastal locations. The future of the jetty is a major public consideration. The jetty is a heritage item, it is the local landmark and it is in public ownership. In order to retain and maintain the jetty viable economic uses need to be found that will provide sufficient income for its support.

The proposal draws together the threads described above. A soon to be closed mine site, a heritage item, a unique coastal landmark, a key element of the local social fabric, a need for economic renewal, the need to replace lost employment, a largely hidden but accessible coastal location plus an outstanding opportunity to promote tourism all combine in this location. The development proposal is a highly refined response to this opportunity.

As demonstrated in this document the proposal can be achieved without loss of coastal values, without loss of existing local character and without loss of ecological integrity or biodiversity. The proposal is intended to enhance the public access to the coastline and is consistent with the substantial weight of public policy that applies to the site.

A future for Catherine Hill Bay Bowling Club based around tourism and heritage is proposed with opportunities for public access to the jetty enhanced. The new club will provide access to the jetty through the bin building an existing structure built into the cliff. This building will also be adapted to provide recreational and community services. The club will include substantial function rooms in addition to the usual bars, dining and gaming facilities. To support the club and function rooms, and promote local tourism, residential apartments are included in the proposal. Subdivision will be necessary to provide for the proposed foreshore dedication and create an allotment for the club.

The material and public benefits of development over the whole of the mining lands as determined by Rosecorp are listed below. The majority of benefits apply to the Coal Preparation Plant site.

Heritage

- Retention, Restoration and Adaptive Reuse of significant existing items of cultural significance, including:
- The Catherine Hill Bay Jetty
- Historic buildings & elements of the former washery
- Portion of Coastal Railway Line
- Retention, Restoration and Adaptive Reuse of potential additional items of cultural significance

Environmental

- Rehabilitation of large areas of degraded land.
- Provision of land allocation to the Lake Munmorah State Recreation Area.
- Return of significant coastal Headland to public ownership & rehabilitation
- Rejuvenation of the southern headland of CHB beach
- Provision / upgrade and maintenance of fire trails

Community

- Improved public access to Coastal Zone.
- Access to the existing Surf Club.
- Public access to existing and future heritage items.
- Creation of community and public Open Space and parks.
- Change of use of Private Access Road to Public Access Road providing a guarantee of permanent public access.
- Establishment of a viable village community.

Social

- New Social and Coastal Recreation Club, large parks and playgrounds provided.
- Public access to heritage items and designated heritage walks.
- Creation of a Memorial Park for retired Service Personnel and Miners

Employment

- Jobs through low scale tourism and local service for viable village community including two clubs, gardeners, tradesmen etc.

Economic

- Provision of a Social Club and Sports Club component for the village and tourism income for the area.
- Sustainable population for local business
- Economic sustainability for heritage items
- No cost imposition on government to purchase areas zoned 'land acquisition'

Services

- Provision of water and sewerage for the existing village as well as the proposed development
- Upgraded road network and electrical services
- Provision / upgrade and maintenance of fire trails

This Development Application is currently being processed through the Land and Environment Court.

10.6.2 DEVELOPMENT APPLICATION TO WYONG SHIRE COUNCIL

The Development Application submitted to Wyong Shire Council proposed to redevelop the mine site as a coastal village containing a maximum of 900 dwellings in medium density configurations.

The village development will be completed in stages. The first stage is located around the existing cluster of mine buildings but also includes the overall road pattern for the site. Stage one is to be located around and to incorporate the existing cluster of mine buildings. This stage will also provide the network of roads for the entire development site.

The village development has been planned to meet a range of social, economic and environmental objectives. These objectives are:

- The conservation of the mining and industrial heritage of the site and surrounds;
- The establishment of a viable long term use for a degraded mining site;
- The exploitation of existing infrastructure;
- The establishment of legal public access to Moonee Beach;
- The creation of employment opportunities to replace those lost due to the closure of the mine;

- ❑ The realisation of the excellent tourism opportunities afforded by the site;
- ❑ Implement NSW Coastal Policy and Coastal Design Guidelines requirements;
- ❑ The protection and promotion of coastal values, biodiversity and ecological integrity through the implementation of the NSW coastal Policy and Coastal Design Guidelines;
- ❑ The provision of access to innovative housing in a desirable coastal location;
- ❑ The preservation of the character of the adjacent Catherine Hill Bay Hamlet; and,
- ❑ The establishment of a distinctive village allowing sustainable modern living.

This Development Application has been accepted by Wyong Shire Council and is being processed.

10.7 POTENTIAL FUTURE USES OF THE SITE

10.7.1 COMPATIBLE USES

The variety of structures, buildings and landform elements on the site will result in a diversity of compatible uses. The most compatible use of this site would be one that had:

- ❑ Minimal affect on the cultural significance of the place;
- ❑ Retains and maintains as much significant fabric as possible;
- ❑ Meets statutory requirements; and
- ❑ Economically feasible.

Criteria for the Assessment of Compatible Uses

The following criteria could be used to evaluate a compatible use:

- ❑ The cultural significance of the site is not compromised;
- ❑ Any new use is sympathetic to the significance of the site as outlines in this document;
- ❑ The visual relationship between the industrial sites, significant landscapes and buildings is retained and these elements are conserved and enhanced;
- ❑ Significant fabric is retained;
- ❑ The proposed use does not result in the loss of significant elements;
- ❑ The proposed work on items of significance is reversible;
- ❑ Visual catchments are retained and enhanced;
- ❑ The use allows access for interpretation of heritage items for the public and community of Catherine Hill Bay; and
- ❑ Provides for the maintenance and interpretation of significant fabric and historical context.

In addition the proposed uses should allow for:

- ❑ Interpretation;
- ❑ Retention of moveable heritage; and

- ❑ Public Access

Preferred Uses Could Include:

- ❑ Reuse of degraded lands to provide economic independence for the retention of significant buildings and places
- ❑ Public access to Heritage listed items
- ❑ Compatible uses with residential areas and industrial elements of Catherine Hill Bay, Beach and Lake front natures of the site
- ❑ Acquisition of significant coastal headlands and ocean and lake frontages
- ❑ Low scale tourism related development
- ❑ Environmental and scenic protection

Hypothetical Examples of Opportunities for the Site

Hypothetical examples have been formulated for the use of the site as a whole and do not relate to individual items and their use.

National Park – Isolated village, no services, cost on government in terms of management, potential detriment to retention of significant European and industrial heritage. Funding for such a project would have to be gained through government services.

Museum – A mining museum that relates to the site would enhance the significance of the place. Examples of mining sites that have been adaptively reused as museums are the Richmond Main Colliery (originally known as "Richmond Vale Colliery), whereby the pit-top area including the old buildings is now shown as a "Museum" owned by the City of Cessnock Municipal Council; Lithgow State mine Heritage Park and railway is run by The City of Greater Lithgow Mining Museum Inc and is a non-profit body registered in NSW. The site links a number of heritage sites through the rehabilitation of former industrial railway lines.

In order to achieve projects such as these a significant financial resource is required.

Industrial – Industrial uses, comparable in bulk and scale to the former use would enhance the significance of the place and would be most appropriate to the character of the site. Additionally such uses would economically assist in the retention of heritage items. However, this type of use would continue to impact on the amenity of the existing residential area at Catherine Hill Bay.

Residential – This use could utilise of severely degraded industrial land. This use should be restricted to brown field sites and not result in the loss of green field areas.

Tourism – Provide economic security, public access utilisation of heritage significance to underpin tourism for the region and local area. Examples of mining sites that have been established as tourism related developments include the currently approved Paxton development.

Mixed Uses - Benefit all – return lands to government, residential industrial and tourism

10.8 DESIGN PRINCIPLES FOR NEW WORK

Design principles for new works should take into consideration any statutory controls applicable to the site. Any new development near heritage areas should treat the site as a whole so that the significant historical and industrial context of the site remains obvious. This will require consistent design themes and details over various developments and may need overall design control via a Development Control Plan.

10.8.1 BUILDINGS AND STRUCTURES – ALTERATION AND DEMOLITION PRINCIPLES

As is accepted by the NSW Heritage Office, *“the objective in conserving a Heritage area is to sensitively accommodate change, not prevent it. The area must be allowed to live and grow, not become frozen in a time warp”* (NSW Heritage Office publication “Conservation Areas” p.13).

Where any grouping of heritage items within a Conservation Area has a collective significance, loss of any one item can erode the heritage significance of the area as a whole. However, adaptations (ie a controlled degree of intervention) are often needed in heritage places to accommodate modern working or lifestyle requirements. These may include the addition of new facilities, or building additions and alterations, or additional parking. As long as the heritage significance of the place is not adversely affected, such changes can be perfectly acceptable. Changes to fabric of items and area can also result from an understandable desire to reduce maintenance.

Solutions aimed at minimising the intrusion of incompatible building materials, building forms and details are a major management issue in heritage areas and should be encouraged. They should be based on heritage study data analysis, or conservation analyses of the places concerned.

As determined by the NSW Heritage Office there are two basic principles that encourage good heritage site development solutions. They are:

- ❑ Alterations or extensions must have regard to the architectural character and style of the building, area and landscape concerned. Character and style may be major aspects of a building's heritage significance, requiring any change to respect that style. This may mean simply the adoption of an understated character for the new work, so as not to challenge the existing fabric or directly mimic its form. If historical details are mimicked, not only will they not be any heritage value themselves, but they might also camouflage the important characteristics of the genuine part of the building.

- ❑ Alterations or extensions must consider the characteristics of the surrounding built and landscape forms. The impact upon neighbouring properties, landscape and streetscape will be of concern both to the owners of those properties and to the wider community. If these issues are addressed early, problems can be avoided later.

The other important issue relates to the opportunities to interpret materials used over time to construct the significant items within the area. To allow this to happen an implied objective is wherever possible, to re-use on-site materials removed/demolished from significant structures.

10.8.2 LANDSCAPE PRINCIPLES

In relation to infill with new landscaping, the visual form and rhythm provided by gardens, trees and major landscapes may have heritage significance as substantial evidence of particular periods of development of a site. Reinstatement and infill proposals should be carefully considered and based on historical research. Introduced species and forms should serve the established visual character and cultural significance of any significant landscape.

The significant aspects of the setting of the place should be retained including relationships between spaces, landscape and garden layouts, plantings, views and vistas, fencing and walling, the siting and design of new elements and the removal or mitigation of visual and non visual intrusions.

- ❑ Retain the large areas of existing natural vegetation
- ❑ Protection of coast line and Lake frontage
- ❑ Rehabilitate regenerated areas and integration of new compatible landscapes with any development
- ❑ Protect visual catchments from the highway, Flowers Drive and the Village of Catherine Hill Bay.

10.8.3 INFILL PRINCIPLES

The issues of character, scale, massing, materials and details of infill development should especially within heritage conservation areas be strictly based on those elements of the existing environment, including those elements which may not be grand or attractive. In particular any new development proposed near the Village of Catherine Hill Bay should reflect the character of the village and follow the principles set out in Lake Macquarie City Council Heritage Guidelines.

ENDNOTES

- ¹ This recommendation may not be consistent with current thinking as preference may be given to maintaining the existing landscape character of the settlements in an attempt at maintaining the existing cultural landscapes.
- ² Lower Hunter landscape Improvement Study; Pages 44,45 (DEP, 1983)