

# Modification of Concept Plan

## Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegates of the Minister for Planning and Public Spaces, we modify the Concept Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Wilson (Chair)  
**Member of the Commission**



Stephen O'Connor  
**Member of the Commission**



Wendy Lewin  
**Member of the Commission**

Sydney

12 March 2020

File OBJ17/05252

### SCHEDULE 1

<b>Development Approval:</b>	<b>MP 10_0088</b> granted by the Planning Assessment Commission on 12 July 2012
<b>For the following:</b>	Concept plan for Nords Wharf, comprising: a 90 lot subdivision with conceptual lot layout, density and urban design (developable area 10.18 hectares); and dedication of 116.6 hectares of conservation land.
<b>Applicant:</b>	Coal & Allied Industries Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>The Land:</b>	Land at Nords Wharf comprising part Lot 6 DP 746007, part Lot 5 DP 736170, and part Lot 12 DP 854197 in the Lake Macquarie Local Government Area
<b>Modification:</b>	<b>MP 10_0088 MOD 1:</b> the modification includes an amendment to the road layout and internal residential footprint.

## SCHEDULE 2

### PART B – ADMINISTRATIVE CONDITIONS

- (a) Schedule 2 Part B – Administrative Conditions Condition 1.1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:
- 1.1 The Proponent shall ensure that all development on site is carried out generally in accordance with the:
- a. Concept plan application 10\_0088;
  - b. *Nords Wharf Concept Plan Environmental Assessment Report* (including accompanying appendices) prepared by Urbis dated November 2010;
  - c. Correspondence, with attachments, titled *Preferred Project Report Submission - Coal & Allied Southern Estates: Nords Wharf (MP 10\_0088)* prepared by Urbis and dated 11 March 2011;
  - d. Correspondence, with attachments, titled *Preferred Project Report Submission - Coal & Allied Southern Estates: Nords Wharf (MP 10\_0088)* prepared by Urbis and dated 16 June 2011;
  - e. **Nords Wharf S75W Planning Report (including accompanying appendices) prepared by Urbanise Consulting dated 10 May 2017;**
  - f. **Response to Submissions prepared by ADW Johnson Pty Ltd, dated May 2018**
  - g. **Updated Response to Submissions prepared by ADW Johnson Pty Ltd, dated 19 March 2019**
  - h. **Additional Information Letter prepared by ADW Johnson Pty Ltd, dated 19 February 2020**
  - i. **Amended Concept Plan, 239566-ESK-008-A dated 18 February 2020**
  - j. **Bushfire Threat Assessment prepared by Anderson Environment and Planning, dated June 2019;**
  - k. Statement of Commitments **dated June 2011** (see Appendix 1); and
  - l. this approval.
- (b) Schedule 2 Part B – Administrative Conditions Condition 1.2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:
- 1.2 In the event of an inconsistency between:
- a. The modifications of this approval and any document listed from condition 1.1a to 1.1j inclusive, the conditions of this approval shall prevail to the extent of the inconsistency
  - b. Any document listed from condition 1.1a to 1.1j inclusive, the most recent document shall prevail to the extent of the inconsistency
  - c. **The Statement of Commitments and the conditions of this approval, the conditions of this approval shall prevail to the extent of any inconsistency.**
- (c) Schedule 2 Part B – Administrative Conditions is amended by the insertion of the following new Condition 1.2A:
- 1.2A MP 10 0088 MOD 1 approves an Amended Concept Plan layout, with the total number of lots to be provided to the satisfaction of Council prior to the determination of any future subdivision or modification application. The proposed changes to intersection upgrades are not approved.**

- (d) Schedule 2 Part B – Administrative Conditions insert a notation after Condition 1.4 as indicated by the **bold and underlined** words / numbers as follows:

### **Limits of Approval**

- 1.4 To avoid any doubt, this concept plan approval does not permit the subdivision or construction of any aspect of the proposal which will be subject to separate approvals/consents.

***Note: MP 10\_0088 Concept Plan did not include conditions numbered 1.6, 1.7 or 1.8.***

### **PART C – MODIFICATIONS TO THE CONCEPT**

- (e) Schedule 2 Part C – Modifications to the Concept Conditions, existing Condition 1.9 is deleted:

~~1.9 The indicative lot layout and indicative road layout are not approved as part of the concept plan.~~

- (f) Schedule 2 Part C – Modifications to the Concept Conditions, Condition 1.10 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

~~1.10 Prior to the first application for subdivision, the proponent shall revise the urban design guidelines in consultation with council to address the matters outlined below. The final urban design guidelines are to be in a format which could be adopted as site specific controls within council's development control plan at some stage in the future.~~

~~a. consistency with State Environmental Planning Policy (Nords Wharf) 2012, but~~

~~having regard to the potential for mine subsidence and implications for the height of buildings;~~

~~b. details on how cut and fill is to be minimised and requirements for retaining structures including maximum heights and design approach, acceptable materials, and associated landscaping;~~

~~c. private open space and landscaping requirements, including specific requirements for deep soil zones and a detailed plant species selection list;~~

~~d. requirements for retention of vegetation within individual lots, having regard for any requirements of Planning for Bushfire Protection 2006;~~

~~e. site fencing requirements;~~

~~f. set backs for secondary frontages on corner lots to be consistent with or greater than the requirement of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;~~

- ~~g. controls to ensure that garages are located behind the front building line, and to restrict garage widths to be consistent with those allowed under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;~~
- ~~h. site cover controls to be equal to or less than the controls outlined in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;~~
- ~~and~~
- ~~i. demonstrate how necessary storm water infrastructure can be accommodated on individual lots, in particular small lots.~~

~~The revised Guidelines must be prepared in consultation with council, and to the satisfaction of the Director-General. The final approved copy is to be submitted to council prior to lodgement of any development application for a dwelling on the site.~~

**1.10 The Proponent shall revise the Urban Design Guidelines to be consistent with the approved Amended Concept Plan layout. The final version must be submitted to and approved by Council prior to the determination of any future subdivision application or modification application for the site.**

**PART D – FURTHER ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

- (g) Schedule 2 Part D – Further Environmental Assessment Requirements Condition 1.13 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

**Contributions**

- 1.13 ~~An updated staging plan prepared in consultation with council and to the satisfaction of the Director-General is to must be submitted and approved by Council prior to the lodgement of the first any subdivision development application or modification application (pursuant to MP 10 0088 as modified). The updated staging plan must include a detailed schedule~~ for the delivery of (and dedication where relevant) the following contributions:
  - a. provision of roads, stormwater and other service infrastructure;
  - b. items identified for Nords Wharf in the \$1.185 million allocated to Nords Wharf under the Coal & Allied Southern Estates approvals;
  - c. section 7.11 contributions **(as outlined in Further Environmental Assessment Requirement 1.14A)** and
  - d. State Infrastructure Contributions.

Note: In relation to section 7.11 contributions any works in kind or dedication of land in lieu of monetary contributions required under Council's relevant Contribution Plan, must be agreed to by Council.

- (h) Schedule 2 Part D– Further Environmental Assessment Requirements Condition 1.14 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:
- 1.14 In preparing the staging plan identified in condition 1.13 as it relates to the \$1.185 million allocation, the proponent ~~is to~~ **must:**

- a. consider revising the proposed footpath to the Nords Wharf school to provide access to Gathercole Park.
- b. update the schedule to note that the upgrade of parking could be for the Branter Road and/or Cams Wharf Road boat ramp.

**Note: The schedule of contributions outlined in the Statement of Commitments is subject to final approval by Council, and the initiatives, funding and staging may be altered.**

- (i) Schedule 2 Part D– Further Environmental Assessment Requirements is amended by the insertion of the following new Condition 1.14A:

**1.14A Notwithstanding the Revised Statement of Commitments in Appendix 1, future development consents or modification approval(s) (relating to MP 10 0088 as modified) shall include the requirement for the Applicant to pay development contributions for all residential lots in accordance with the Council's contributions plan in force at the time of determining the development application(s) or modification application.**

- (j) Schedule 2 Part D– Further Environmental Assessment Requirements Condition 1.24 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

#### **Bushfire hazard**

- 1.24 Any subdivision application must:
  - a. demonstrate that the development complies with the version of the *Planning for Bushfire Protection* document in force under section 4.14(1)(a) of the *Environmental Planning and Assessment Act 1979* and is to the satisfaction of the RFS;
  - b. demonstrate that all APZs are located within the approved development area and outside the conservation lands;
  - c. demonstrate that the location, layout and management arrangements for APZs has been agreed to by Council and the RFS;
  - d. provide a map showing the composition of APZs, including the inner and outer protection zones, and their relationship to the proposed building footprints; and
  - e. outline proposed arrangements for management of bushfire hazard and APZs during the development process
  - f. **require a restriction on lots burdened by APZs under Section 88 of the Conveyancing Act 1919:**
    - **prohibiting buildings other than class 10b structures within the APZs and the BAL-40 extent**
    - **requiring the ongoing management of APZs**
  - g. **provide plans showing a perimeter road connecting the development to Branter Road and Government Road, or demonstrate that an alternative solution has been agreed to in writing by Council and RFS; and**
  - h. **demonstrate that an 8m carriageway width kerb to kerb with roll top kerbing on the hazard side of the road, including the proposed road will be provided.**

- (k) Schedule 2 Part D– Further Environmental Assessment Requirements Condition 1.25 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

## **Traffic and transport**

- 1.25 The detailed design for the upgrade of the Pacific Highway / Awabakal Drive intersection must be prepared in accordance with RMS's requirements **(outlined in the advice provided to the Department, Reference: 252DA144:1, dated 16 December 2010 and as amended by Condition 1.25A)**. In designing the upgrade the Proponent should consider opportunities to provide a pedestrian phase in consultation with council and the RMS.
- (l) Schedule 2 Part D– Further Environmental Assessment Requirements is amended by the insertion of the following new Condition 1.25A:

### **Works Authorisation Deed**

**1.25A As road works are required on the Pacific Highway, the developer must enter into a WAD with RMS, and:**

- a. **All road works under the WAD shall be completed prior to issuing any Subdivision Certificate for the development.**
- b. **All works associated with the subject development shall be undertaken at full cost to the developer and at no cost to RMS or Council, and shall be undertaken to Council's requirements.**

**Note: the Conditions of Consent do not guarantee final consent of RMS to the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. RMS must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work.**

End of MP 10\_0088 MOD 1