

Modification of Concept Plan

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

As delegate of the Minister for Planning, I modify the Concept Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Member of the Commission

Sydney

2019

SCHEDULE 1

Development Approval: **MP 10_0088** granted by the Planning Assessment Commission on 12 July 2012

For the following: 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.

Applicant: Coal & Allied Industries Pty Ltd

Consent Authority: Minister for Planning

The Land: 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

Modification: **MP 10_0088 MOD 1:** the modification includes an increase in the number of lots from 90 to 96.

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. **Amended Concept Plan Indicative Layout, 239566-ESK-007-C dated 5 June 2019**
 - h. **Bushfire Threat Assessment prepared by Anderson Environment and Planning, dated June 2019;**
 - i. Statement of Commitments **dated 10 March 2011** (see Appendix 1); and
 - j. 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 1.1e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency
 - b. Any document listed from condition 1.1a to 1.1f 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 indicative subdivision layout for 96 lots. The proposed changes to intersection upgrades and removal of the contribution are not approved.**

- (d) Schedule 2 Part B – Administrative Conditions Condition 1.4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ 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.

The proposed concept plan for a 96 lot residential subdivision is indicative only and the final layout is subject to further approval by Council.

PART C – MODIFICATIONS TO THE CONCEPT

- (e) Schedule 2 Part – Administrative Conditions, 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 – Administrative Conditions is amended by the insertion of the following new Condition 1.10A:

1.10A The Proponent shall revise the Urban Design Guidelines to be consistent with the approved Aindicative subdivision layout. The final version must be submitted to and approved by Lake Macquarie Council prior to the lodgement of any subdivision 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 A staging plan prepared in consultation with council ~~and to the satisfaction of the Director-General is to~~ **must** be submitted **and approved by Lake Macquarie Council** prior to **the lodgement of** the first **any** subdivision application that details the schedule for delivery of (and dedication where relevant) the following contributions:
- provision of roads, stormwater and other service infrastructure;
 - items identified for Nords Wharf in the \$5 million allocated to the Coal & Allied Southern Estates;
 - section 94 contributions **(in accordance with the relevant contributions plan at the time of determining development application(s))**; and
 - State Infrastructure Contributions.

Note: In relation to section 94 contributions any works in kind or dedication of land in lieu of monetary contributions required under council's Section 94 Plan must be negotiated with 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 \$5 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 Lake Macquarie Council, and the initiatives, funding and staging may be altered.

(i) 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 *Planning for Bushfire Protection 2006* and is to the satisfaction of the Rural Fire Service;
- 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 negotiated with 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**
 - **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 Lake Macquarie Council and RFS**
- 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.**

(j) 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.

- (k) Schedule 2 Part D– Further Environmental Assessment Requirements is amended by the insertion of the following new Condition 1.25A:

1.25A Works Authorisation Deed

As road works are required on the Pacific Highway, the developer must enter into a WAD with Roads and Maritime, and:

- a. **All road works under the WAD shall be completed prior to issuing any Construction 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 Roads and Maritime or Council, and to Council's requirements.**

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

- (l) Appendix 1 – Nords Wharf – Revised Statement of Commitments, dated June 2011, is amended as follows:

Subject: Commitments comprising payment of a monetary contribution, or dedication of land/carrying out of work for local infrastructure

Description: The Owner will **pay contributions for all residential lots in accordance with the relevant Lake Macquarie Council contributions plan at the time of determining the development application(s)** ~~contribute in accordance with the Lake Macquarie Council Section 94 Contributions Schedule operational from 2004.~~ The total monetary amount of contribution will be made by either dedication of land free of costs, payment of contribution, or works in kind, or any combination of them. ~~The total monetary amount of contribution payable is as follows (valued until 14th Feb 2011):~~

- ~~• Open Space ————— \$7,702 per lot (may include works in kind)~~
- ~~• Recreation facilities ————— 5,772 per lot~~
- ~~• Community facilities ————— \$2,927 per lot~~
- ~~• Management ————— \$175 per lot~~

No parks or local open space are being dedicated at Nords Wharf. The Owner will enter into a Deed of Agreement with Lake Macquarie City Council.

End of MP 10_0088 MOD 1