

Concept Approval

Section 75O and 75P of the *Environmental Planning and Assessment Act 1979*

The Planning Assessment Commission of New South Wales (the Commission) under the *Environmental Planning and Assessment Act 1979* ("the Act") determines:

- (a) pursuant to section 75O of the Act, to grant Concept Plan approval for the proposal referred to in Schedule 1, subject to the modifications set out in Schedule 2;
- (b) pursuant to section 75P(1)(a) and 75P(2)(c) of the Act, the further environmental assessment requirements (as specified in Schedule 2, Part D) for subsequent development applications associated with the Concept Plan;
- (c) pursuant to section 75P(1)(c) of the Act, that the subdivision of land that gives effect to the transfer of lands to a public authority or a Minister of the Crown requires no further environmental assessment and approve the development under section 75J of the Act (subject to the conditions set out in Schedule 3 of this approval); and
- (d) pursuant to section 75P(1)(b) of the Act, that all development associated with the Concept Plan be subject to Part 4 (excluding exempt and complying development) or Part 5 of the Act, which ever is applicable.

Member of the Commission

Member of the Commission

Member of the Commission

Sydney,

2012

SCHEDULE 1

Application No:

10_0084

Proponent:

Coal & Allied Operations Pty Ltd

Approval Authority:

Minister for Planning

Land:

Lot 2 DP 1043151 and Lot 57 DP 755266, Kanangra Drive, Gwandalan in Wyong Shire Local Government Area

Local Government Area:

Wyong

Concept Plan:

Concept plan for:

- residential development of a 62.24ha development site into a maximum of 623 dwellings across two stages, referred to as Hamlet A and Hamlet B;
- local open space and bushland reserves;
- dedication of 205.75 hectares of Conservation Lands
- conceptual road, pedestrian and cycleway network;
- conceptual lot layout; and
- associated infrastructure.

SCHEDULE 2

PART A – DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act 1979</i>
APZ	Asset Protection Zone
Construction	Includes all physical work carried out on site, other than survey, acquisitions, fencing, investigative drilling or excavation, building/road dilapidation surveys, minor clearing (except where threatened species, populations or ecological communities would be affected).
Council	Wyong Shire Council
Department, the	Department of Planning & Infrastructure
Director-General, the	Director-General of the Department of Planning & Infrastructure (or delegate)
EPBC Act Approval	Approval granted by the granted by the former Minister for Environment Protection, Heritage, Water and the Arts for the subdivision and residential development of land owned by Coal & Allied at Nords Wharf, Gwandalan and Middle Camp and dated 23 March 2010.
EEC	Endangered Ecological Community
Minister, the	Minister for Planning & Infrastructure
Proponent	Coal & Allied, or its successors in title
RMS	NSW Roads and Maritime Services
Site, the	Land to which Concept Plan Application 10_0084 applies

PART B – ADMINISTRATIVE CONDITIONS

- 1.1 The Proponent shall ensure that all development on site is carried out generally in accordance with the:
- a) Concept Plan Application 10_0084;
 - b) *Gwandalan Concept Plan* (including accompanying appendices) prepared by Urbis dated November 2010;
 - c) *Gwandalan Preferred Project Report*, dated March 2011 prepared by Urbis;
 - d) Correspondence, with attachments, titled Preferred Project Report Submission - Coal & Allied Southern Estates: Gwandalan (MP10_0084) prepared by Urbis and dated 16 June 2011;
 - e) Statement of Commitments (see Appendix 1); and
 - f) this approval.
- 1.2 In the event of an inconsistency between:
- a) the modifications of this approval and any document listed from clause 1.1 a) to 1.1 e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
 - b) any document listed from condition 1.1a) to 1.1e) inclusive, the most recent document shall prevail to the extent of the inconsistency.

Limits of Approval

- 1.3 This concept approval shall lapse 5 years after the date on which it is granted, unless an application is submitted to carry out a development for which concept approval has been given.
- 1.4 To avoid any doubt, this concept approval does not permit the subdivision or construction of any aspect of the proposal which will be subject to separate approvals.

Determination of Future Applications

- 1.5 The determination of future applications for development on the Site under Part 4 of the Act, for which Council is the consent authority, is to be generally consistent with the terms of this approval.

Note: in accordance with the transitional provisions for Part 3A, under Section 75M of the Act, this concept plan approval satisfies the obligation to prepare a development control plan as required for the site, subject to compliance with the modifications in Part C.

PART C - MODIFICATIONS TO THE CONCEPT

Commercial / retail development

- 1.6 The Concept Plan is to be modified to remove the proposed retail/commercial component. Any proposed commercial / retail development within the development area is to be subject to a planning proposal to Council.

Urban Design & Built Form

- 1.7 The indicative lot layout is not approved.
- 1.8 The vegetation buffer along Kanangra Drive is to be offered for dedication to Council. The relevant development application for subdivision must demonstrate that the future ownership and management arrangements for the landscaped buffer have been negotiated with Council. Should Council not accept the dedication of the landscape buffer, these areas should be incorporated into the neighbouring residential lots.
- 1.9 Prior to the first development application for subdivision, the Proponent shall revise the Urban Design Guidelines to address the following additional issues:
- consistency with *Wyang Local Environmental Plan 1991*;
 - remove reference to the local centre retail;
 - 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;
 - private open space and landscaping requirements, including specific requirements for deep soil zones and a detailed plant species selection list;
 - requirements for retention of vegetation within individual lots, having regard for any requirements of *Planning for Bushfire Protection 2006*;
 - site fencing requirements;
 - 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*;
 - 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*; and
 - 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
 - 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.

PART D - FURTHER ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Pursuant with Section 75P(2)(c) of the Act, the requirements listed below shall apply to all future development applications relating to this concept plan.

Urban Design

- 1.10 Each development application for subdivision shall:
- a) demonstrate that the quantity of open space is consistent with the concept plan; and
 - b) include details on the following:

- strategy for retention of trees on the site;
- proposed public domain treatments; and
- proposed landscaping of all public domain areas including swales, detention basins, and roadside verges.

Any such details must be carried into landscaping plans and public domain plans to be completed in consultation with Council, prior to commencement of subdivision works on site.

Contributions and Open Space

- 1.11 A staging plan prepared in consultation with Council and to the satisfaction of the Director-General is to be submitted prior to the first application for subdivision that details the schedule for delivery (and dedication where relevant) of the following:
- a) provision of roads, stormwater and other service infrastructure;
 - b) items identified for Gwandalan in the \$5 million allocated to the Coal & Allied Southern Estates;
 - c) section 94 contributions;
 - d) State Infrastructure Contributions; and
 - e) Location and management regime for open space.

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.

Water Quality

- 1.12 Detailed design of all stormwater management devices, is to be submitted with each development application for subdivision in accordance with Council requirements.
- 1.13 Each development application for subdivision must outline management arrangements for public stormwater facilities prior to dedication to Council, both during and after construction. These arrangements should be negotiated with Council.
- 1.14 A water quality and hydrological monitoring plan is to be provided as part of any development application for subdivision. The program shall include:
- a) Monitoring of data against relevant water quality standards and the baseline data collected prior to commencement of works;
 - b) Monitoring of changes in hydrology caused by the development to ensure no detrimental impact on the water quality in Crangan Bay, seagrass communities in Crangan Bay, and Strangers Gully which adjoins the development area.
 - c) Details on mechanisms and responsibilities for the management and reporting of the results;
 - d) Identification of remedial actions to be implemented in the event of a discrepancy between the actual and predicted performance of the water quality controls and/or any adverse impacts on seagrass beds communities or Strangers Gully; and
 - e) A program to report monitoring results to Council and NSW Office of Water.

Groundwater Impacts

- 1.15 Each development application for subdivision should outline details and depth of excavations and any impact on groundwater. The proponent should also outline the proposed management of any impacts on groundwater and groundwater dependent ecosystem communities including potential infiltration from stormwater detention basins to groundwater.

Note: An authorisation under the *Water Act 1912* or the *Water Management Act 2000* is to be obtained from the NSW Office of Water with the appropriate purpose identified for any activity relating to the taking of or interception of groundwater prior to that activity commencing

Flooding

- 1.16 Each development application for subdivision must demonstrate that;
- each lot would be able to accommodate a dwelling above the 100 year flood level plus 0.5m freeboard; and
 - lots below the Probable Maximum Flood level can be safely evacuated in a flood event.

Contamination

- 1.17 Any development application for subdivision must include a remediation action plan, which includes:
- a) characterisation of the nature and extent of contaminated material;
 - b) details of the proposed remediation process, including treatment methodologies and processes;
 - c) justification of the proposed treatment and remediation criteria;
 - d) details of proposed remediation management measures;
 - e) a site validation plan; and
 - f) details of compliance with the Contaminated Land Management Act 1997.

Mine subsidence

- 1.18 Any development application for subdivision must demonstrate compliance with requirements of the Mine Subsidence Board including:
- a) geotechnical investigations to demonstrate that there is no risk of mine subsidence affecting the site and the appropriateness of the strata to support the development;
 - b) the plans for subdivision works including services have taken into account the geotechnical conditions of the site; and
 - c) the measures required to remove the risk of subsidence.

Traffic and Access

- 1.19 The detailed design for the upgrade of the Kanangra Drive / Pacific Highway must be prepared in accordance with RMS' requirements.
- 1.20 With each development application for subdivision the Proponent must include:
- a) a revised assessment of the predicted impacts of this traffic on the capacity, efficiency, and safety of the surrounding road network;
 - b) details of the local road network, including road widths, and local road upgrades required;
 - c) location of cycleways and parking lanes;
 - d) requirements for parking and street lighting; and
 - e) details of any shared traffic zones, particularly around areas designated as open space and parks.
- 1.21 With each development application for subdivision, the Proponent must demonstrate that opportunities have been investigated to deviate the existing bus route to service the proposed development, and must provide details of the proposed location of bus stops and pedestrian access to bus stops. Where the bus route is proposed to travel through the development area the proponent is to demonstrate the associated roads are designed to accommodate bus movements. These requirements are to be carried out in consultation with Council, Department of Transport, and relevant bus companies.

<p>Note: If bus stops are proposed to be located along Kanangra Drive, any pedestrian access across the vegetation buffer along Kanangra Drive must consider only impacts on threatened species in this location.</p>

Flora and Fauna/Biodiversity

- 1.22 Whilst it is recognised that the biodiversity impacts associated with the proposal have been offset through dedication of 205.75 hectares of conservation lands to the NSW Government, any development application for subdivision shall provide:
- a) details on strategies to minimise clearing and retain mature and/or hollow bearing trees where possible, including through design of roads and stormwater devices, having regard to the recommendations of the Ecological Assessment Report (RPS 2010);
 - b) management measures for minimising impacts on fauna during subdivision works including the employment of an appropriate qualified ecologist to advise and supervise any clearing of vegetation;
 - c) management of *Tetratheca juncea*, *Angophora inopina* and *Phytophthora cinnamomi* during subdivision works;
 - d) details of the location of pedestrian pathways through the vegetation buffer along Kanangra Drive with consideration given to locating pathways to minimise impacts on threatened species; and
 - e) details regarding the management of the interface between the development area and conservation lands, including the foreshore area, and appropriate environmental controls to minimise any potential impacts on the conservation lands. Management procedures should be prepared in consultation with OEH. Information provided should include, but not be limited to, boundary establishment, sediment controls, location and management of construction materials.

Any procedures and strategies identified must be carried into a Vegetation Management Plan to be completed prior to commencement of any works on the Site.

Aboriginal heritage

- 1.23 Any development application for subdivision must be accompanied by an Aboriginal Cultural Heritage Management Plan (ACHMP) that has been developed in consultation with Aboriginal stakeholders and to the requirements of the Office of Environment and Heritage (OEH).
- 1.24 The ACHMP is to be developed and implemented in full consultation with the registered local Aboriginal stakeholders. The plan is to include, but shall not be limited to:
- procedures for ongoing Aboriginal consultation and involvement including, but not limited to, opportunities for the registered local Aboriginal stakeholders to monitor any initial ground disturbance works associated with and adjacent to identified sites and areas identified as “high archaeological potential”;
 - details of the responsibilities of all stakeholders;
 - a statement of the Aboriginal cultural significance of the Site;
 - details of proposed mitigation and management strategies for Aboriginal sites identified to be impacted within the Site;
 - identification and management of any proposed cultural heritage conservation area(s);
 - procedures for the identification and management of previously unrecorded sites (excluding human remains);
 - details of an Aboriginal cultural heritage education program for all contractors and personnel associated with construction activities;
 - details of an appropriate keeping place agreement with local Aboriginal community representatives for any Aboriginal objects salvaged through the development process; and
 - details of proposed Aboriginal cultural heritage interpretation strategies for the Site; and
 - compliance procedures in the event that non-compliance with the ACHMP is identified.

Bushfire Management

- 1.25 Any development application for subdivision must be accompanied by a Bushfire Management Plan, that demonstrates that the development complies with the *Planning for*

Bush Fire Protection 2006, has been prepared to the satisfaction of RFS and provides detailed arrangements for:

- a) a road network and lot layout appropriate for evacuation purposes;
- b) property access roads which allow for the safe access, egress and defensible space for emergency services;
- c) the location and composition of all APZs, including the inner and outer protection zones, including in relation to proposed building footprints;
- d) the responsibility of ongoing maintenance requirements within the APZs to ensure compliance with the required standards (for APZs outside individual lots this must be negotiated with council and the RFS);
- e) a staged approach to management of bushfire hazard and APZs during the development process; and
- f) a management plan for the vegetation buffer along Kanangra Drive, which is consistent with the requirements of the EPBC Act approval. The management plan must include provisions for future ownership of the buffer zone.

Bulk Earthworks

1.26 Each development application for subdivision shall include an assessment of the proposed civil works including final contour plans. The assessment shall include details of the suitability of any externally sourced fill and any associated impacts.

Construction Impacts

1.27 Any development application for subdivision must include a Construction Management Plan, which shall include (but not limited to):

- a construction noise and vibration mitigation plan;
- an air quality and dust management plan;
- a soil and water management plan, prepared in accordance with Landcom's *Managing Urban Stormwater: Soils and Construction guidelines*;
- a vegetation management plan;
- a waste management plan;
- a construction traffic management plan;
- a complaints management plan detailing the procedures that would be implemented to receive, handle, respond to and record any complaints that are received; and,
- an archaeological management plan which provides for the monitoring of works and contingency plans should previously unidentified archaeological deposits be discovered;
- a dilapidation report of public infrastructure in the vicinity of the site; and
- any other plans that that may be required as a result of the environmental assessment of potential impacts; and
- any other plans that that may be required as a result of the environmental assessment of potential impacts.

SCHEDULE 3

CONDITIONS OF PROJECT APPROVAL

PART A – ADMINISTRATIVE CONDITIONS

Development Description

Project Approval is granted only to carrying out the subdivision of lands specified to enable the transfer of lands to a public authority or the Minister of the Crown.

Development in Accordance with Plans and Documentation

The development shall be in accordance with the following plans, documentation and recommendations made therein:

- The *Gwandalan Land Transfer Plan* prepared by Monteath and Powys dated 25 August 2008 (see Appendix 2); and
- Conditions of this Approval.

Lapsing of Approval

The project approval will lapse 5 years after the approval date of this project approval.

Prescribed Conditions

The Proponent shall comply with the prescribed conditions of project approval under Section 75J(4) of the Act.

PART B – PRIOR TO SUBDIVISION CERTIFICATE

Planning Agreement

The Proponent must enter into a planning agreement in accordance with the letter of offer dated 12 August 2011.

Easements

Easements for services, drainage, maintenance access or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over those lots pursuant to the *Conveyancing Act 1919*.

Documentary evidence of restrictions on title

Prior to the issuing of the Subdivision Certificate, the Proponent is to provide documentary evidence of the proposed easements to the accredited certifier or Council

Costs to be borne by the Applicant

All costs associated with the preparation and registration of any covenant or restriction on title, whether directly or indirectly, will be borne solely by the Proponent.

Appendix 1

Statement of Commitments

Appendix 2

Land Transfer Plan