

# Concept Plan Approval

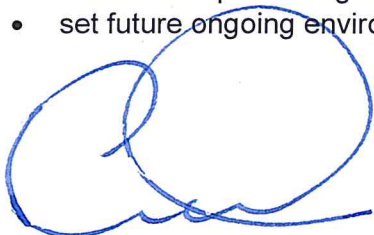
## Section 75O of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 27 February 2013, pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act) I determine:

- (a) to approve the concept plan referred to in Schedule 1 subject to the terms of approval and modifications in Schedule 2 and the proponent's Statement of Commitments in Schedule 3,
- (b) under section 75P(1)(b) of the Act, development the subject of the concept plan is subject to Part 4 or Part 5 of the Act, whichever is applicable,
- (c) under section 75P(2)(c) of the Act, where development is subject to Part 4 or Part 5 of the Act (other than complying development), that development is subject to the further environmental assessment requirements specified in Part C of Schedule 2.

The modification and further assessment requirements are required to:

- encourage the orderly development of the site;
- ensure adequate mitigation of environmental impacts of future development; and
- set future ongoing environmental management for the site.



Chris Wilson  
Executive Director  
Development Assessment Systems & Approvals

Sydney

9 July

2013

## SCHEDULE 1

### PART A – TABLE

Application No:	05_0091
Proponent:	Codlea Pty Ltd
Approval Authority	Minister for Planning and Infrastructure
Land:	Lot 1 DP 871039, Bayside Way, Brunswick Heads located in the Byron local government area
For the carrying out of:	Concept plan for residential subdivision comprising: <ul style="list-style-type: none"><li>• 162 residential lots;</li><li>• 1 medium density lot;</li><li>• road and pedestrian traffic routes;</li><li>• rehabilitation of conservation areas;</li><li>• dedication of public reserves;</li><li>• stormwater management; and</li><li>• bulk earth works across the site.</li></ul>

## PART B – NOTES RELATING TO THE DETERMINATION

### Responsibility for other consents / agreements

The proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### Appeals

The proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

## PART C – DEFINITIONS

Act		means the NSW <i>Environmental Planning and Assessment Act 1979</i>
BCA		means the Building Code of Australia
Council		means Byron Shire Council
OEH		means the NSW Office of Environment and Heritage or its successors
Department		means the NSW Department of Planning and Infrastructure or its successors
Director-General		means the Director-General of the department or his/her nominee
Environmental Assessment		means the Environmental Assessment entitled <i>Concept Plan MP05_0091 Environmental Assessment (Subdivision of Lot 1 DP 871039 Bayside Way, Brunswick Heads “Bayside Brunswick”)</i> prepared by Land Partners and dated 18 August 2011
Crown Lands Division		means the Department of Trade and Investment, Crown Lands Division
Preferred Report	Project	means the document titled Preferred Project Report and Statement of Commitments <i>Concept Plan MP05_0091 Bayside Brunswick, residential Subdivision, Brunswick Heads prepared for Codlea Pty Ltd by Jim Glazebrook and Associates Pty Ltd and dated December 2012</i>
Project		means the proposal as described in term A1 of Schedule 2
Proponent		means Codlea Pty Ltd or any party acting upon this approval.
Regulation		means the <i>Environmental Planning and Assessment Regulation 2000</i>
Site		means the land to which this project applies, being lot 1 DP 871039

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## SCHEDULE 2

### Part A – Terms of Concept Plan Approval

#### Project description

- A1 Concept plan approval only is granted to the carrying out of the project generally as described below:
- a) residential subdivision;
  - b) road and pedestrian traffic routes;
  - c) rehabilitation of conservation areas;
  - d) dedication of public reserves;
  - e) stormwater management;
  - f) bulk earth works; and

as modified by the modifications in Part B of Schedule 2.

Note: the proponent sought concept plan approval for a 163 lot residential subdivision (including 1 medium density lot). Due to environmental constraints, approval has not been granted to that scheme. Modifications to the concept plan are detailed in Part B of this schedule.

#### Project in accordance with documents and plans

- A2 The proponent shall carry out the concept plan and all related future applications generally in accordance with the:
- a) Environmental Assessment: *Concept Plan MP05\_0091 Environmental Assessment (Subdivision of Lot 1 DP 871039 Bayside Way, Brunswick Heads “Bayside Brunswick”)* prepared by Land Partners and dated 18 August 2011;
  - b) Preferred Project Report and Statement of Commitments: *Concept Plan MP05\_0091 Bayside Brunswick, residential Subdivision, Brunswick Heads prepared for Codlea Pty Ltd by Jim Glazebrook and Associates Pty Ltd and dated December 2012;*
  - c) drawings listed in the following table:

Concept Plans prepared by Land Partners and CivilTech Consulting Engineers			
Drawing No.	Issue	Name of Plan	Date
LM080082-DR20	H	Lot layout and proposed tree removal	7.12.12
LM080082-DR21	G	Lot layout and proposed tree retention	29.10.12
LM080082-DR22	F	Bulk earthworks and cut/fill concept plan	29.10.12
LM080082-DR24	F	Road works and levels	29.10.12
LM080082-DR25	F	Water and sewer services	29.10.12
LM080082-DR30	D	Staging Plan	29.10.12
LM080082-DR31	F	Lot layout	7.12.12

except for

- 1) any modifications which may be necessary for the purposes of compliance with the BCA and any Australian Standard incorporated in the BCA; and
- 2) otherwise provided by the modifications and further assessment requirements of this approval.

## **Inconsistencies**

A3 In the event of any inconsistency between:

- a) the terms of this approval and the Statement of Commitments (at Schedule 3), the terms of this approval prevail;
- b) the terms of this approval and the drawings/documents referred to in A2, the terms of this approval prevail; and
- c) any drawing/document listed in A2 and any other drawing/document listed in A2, the most recent drawing/document shall prevail to the extent of the inconsistency.

## **Limits of approval**

A4

- (1) This concept plan approval shall lapse five (5) years after the date this concept plan approval is determined, unless works the subject of any related application are physically commenced, on or before that lapse date.
- (2) To avoid any doubt, this approval does not permit the construction of any component of the concept plan (including any clearing of vegetation), which will be subject to separate approval(s).

## **Part B – Modifications to the Concept Plan**

### **Subdivision layout**

- B1 Proposed lots B151 to B155 are not approved and this land is to remain vegetated, including the retention of trees identified on Drawing LM080082-DR20 Issue H. This land should either be incorporated into lots B146 or B156, become a public reserve, or be consolidated in to one lot.
- B2 The number and location of lots between proposed roads 5 and 9 are not approved and must be redesigned to be consistent with the outcomes required under modification B4.

### **Access**

- B3 Road 1 is to have a minimum kerb to kerb width of 8m.

### **Stormwater Management**

- B4 The Stormwater Concept and associated Wallum Froglet compensatory habitat rehabilitation as described in the PPR is not approved. A revised Stormwater Concept for the project must be prepared by a suitably qualified person in consultation with council to achieve the following objectives:
- a) retention of the existing north-south drain alignment with a buffer of 20m either side of the channel such that the existing wallum froglet habitat in this area is conserved and enhanced. Minor infringements of up to 5m into the buffer area can occur provided they are offset on the other side of the channel. For example, a buffer may be 15m on one

side of the channel provided this is offset by increasing the other side to 25m (ie a total width of 40m plus channel width);

- b) the buffer areas should not contain stormwater management facilities other than a stormwater treatment basin at the southern end of the channel, where required;
- c) no significant change to the flow regimes from the pre-development regime;
- d) stormwater management consistent with the objectives in Byron Shire Development Control Plan 2010;
- e) urban stormwater impacts to lot B156 are minimised; and
- f) bio-retention basins need to be accessible by Council vehicles for maintenance purposes.

The revised stormwater concept for the site is to be submitted to and approved by the Director-General prior to the lodgement of the first development application.

Note: An alternative Stormwater Concept has shown that bio-filtration systems with an area of approximately 2452m<sup>2</sup> between Roads 5 and 9 and located in other strategic locations across the site can achieve the above objectives. The location of the bio-filtration systems is indicative only and can be adapted to ensure modification B4 a) is achieved.

### **Public reserves**

- B5 The existing north-south drain alignment and buffer (as determined under modification B4 of this approval) is to become a public reserve.
- B6 The Asset Protection Zone for lots along Road 3 is to be contained wholly within the residential lots and the road reserve and not within the proposed P1 Reserve.

### **Earthworks**

- B7 The bulk earthworks cut and fill plan as shown in drawing LM080082-DR22 of the Preferred Project Report is to be modified having regard to the revised Stormwater Concept as required by B4.
- B8 All residential lots are to achieve a flood planning level of 4.1m AHD.

### **Erosion and Sediment Control**

- B9 The Erosion and Sediment control concept is not approved. A revised Erosion and Sediment control concept is to be prepared by a suitably qualified person in consultation with council and is to achieve the following objectives:
  - a) retention of the existing north-south drain alignment with no erosion and sediment control infrastructure located within the channel or within 20m either side of the channel; and
  - b) prepared in accordance with the Blue Book – Managing Urban Stormwater: Soils and Construction (Landcom, 2004)

The revised erosion and sediment control concept is to be submitted to and approved by the Director-General prior to the lodgement of the first development application.

### **Domestic Animals**

- B10 The keeping of dogs and cats (except for an assistant animal, as defined under the Commonwealth *Disability Discrimination Act 1992*) on the site is not approved.

## **Part C – Environmental Assessment Requirements for Future Applications**

Pursuant to section 75P(2)(c) of the Act the following requirements apply, as relevant, with respect to future stages of the project to be assessed under Part 4 or 5, as relevant, of the Act:

### **Stormwater Management**

- C1 All future development applications for each development stage are to include a detailed Stormwater Management Plan based on the Stormwater Concept required by modification B4. The Stormwater Management Plan must address and outline measures based on Water Sensitive Urban Design principles which address impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sediment controls at construction and occupation stages.
- C2 Each plan described in term C1 is to include a detailed design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system.

### **Crown Public Road**

- C3 For any development application that includes the use, obstruction or closure of the Crown road, details must be provided demonstrating how properties to the south of the site will retain legal access.

### **Flooding**

- C4 All future development applications for each stage of development must demonstrate how they achieve a flood planning level of 4.1m AHD.

### **Bushfire**

- C5 All future development applications must include a detailed bushfire hazard assessment prepared by a suitably qualified person, in consultation with the NSW Rural Fire Service (RFS). This assessment must take into consideration the recommendations in the updated Bushfire Hazard Assessment prepared by BushfireSafe (Aust) Pty Ltd, dated November 2012 and submitted as Appendix F of the PPR, and be prepared in accordance with the following:
  - a) Planning for Bushfire Protection 2006 (RFS);
  - b) the modifications to the project described under Part B of this approval; and
  - c) all asset protection zones are to be clearly identified on the plans and all affected lots are to be encumbered to this effect with a section 88B instrument under the NSW *Conveyancing Act 1919*.

### **Vegetation Management**

- C6 The proponent is to submit with the first development application, a Vegetation Management Plan to apply to the land that comprises public reserve on the site. The plan shall be prepared in consultation with OEH and council and shall include, but not be limited to:
  - a) dimensions of the reserves;
  - b) details of how any rehabilitation within the reserves is to occur;
  - c) actions required to protect and improve habitat for threatened species including Koala, Glossy Black Cockatoo and Wallum Froglet as well as actions to re-establish habitat for threatened species on cleared lands;
  - d) measures to control weeds;

- e) details of any fencing to protect the reserves;
- f) identification of timeframes and responsibilities for each action;
- g) bushfire management;
- h) measures to control public access within the reserves to minimise damage; and
- i) details of future management and funding arrangements for the areas and measures to be implemented for the long term protection of the areas, for example, through dedication.

Note: The public reserve is proposed in the eastern part of the site (P1 reserve). As a requirement of this approval the area in and around the north-south drainage channel is to also form a public reserve as well as potentially, the land referred to as lots B151 to B155.

### **Domestic Animals**

- C7 Future applications must demonstrate that the keeping of dogs and cats (with the exception of assistant animals, as defined under the Commonwealth *Disability Discrimination Act 1992*) within the site is prohibited and that all residential lots are to be encumbered to this effect with a section 88B instrument under the NSW *Conveyancing Act 1919*

### **Traffic and Access**

- C8 Future applications must demonstrate that the perimeter roads (being roads 1, 2, 3 and 5) are designed to minimise impacts on koalas through the use of speed limiting devices such as speed humps and chicanes.
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## **SCHEDULE 3**

### **Statement of Commitments**

Appendix H of PPR