



190454E BWH/BM

15<sup>th</sup> January 2019

The Secretary  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir / Madam,

**RE: SECTION 75W MODIFICATION APPLICATION – PART 3A CONCEPT APPROVAL MP-0084  
GWANDALAN RESIDENTIAL SUBDIVISION , 85-95 KANANGRA DRIVE, CRANGAN BAY  
PROPOSED MODIFICATION TO STATEMENT OF COMMITMENTS BY REMOVAL OF  
UNNECESSARY RESTRICTION TO BUILDING HEIGHT**

## **1.0 INTRODUCTION**

This Section 75W modification application has been prepared on behalf of Scape Constructions Pty Ltd and seeks to modify Concept Approval MP10\_0084 which was granted by the Planning Assessment Commission on 12<sup>th</sup> July 2012. The key features of the Concept Approval include:

- Development of up to 623 dwellings;
- Dedication of conservation land comprising approximately 206ha;
- Associated infrastructure; and
- Height limit of one (1) storey over approximately 60% of the development site.

During the original assessment for the Concept Approval; Subsidence Advisory NSW (formally the Mine Subsidence Board), identified the need to limit development to single storey in areas where risk of predicted subsidence and tilts exceeded 0.4m and 4mm/m, respectively. Development within some areas of the site was therefore restricted to single storey brick veneer, whilst allowing for two (2) storey brick veneer on the remainder of the site. Accordingly, a height limit map was submitted as part of the Urban Design Guidelines, identifying a height limit of one (1) storey over approximately 60% of the development site.

The proposed modification seeks to amend the Concept Approval to allow for two (2) storey development across the entire site, based on the new guideline applied to the area by Subsidence Advisory NSW. The new guideline supersedes previous Subsidence Advisory NSW provisions that applied to the site, and allows for the construction of two (2) storey dwellings. This modification application seeks to ensure that the Concept Approval is consistent with the new Subsidence Advisory NSW guidelines as they apply to the subject site.

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The proposal is minor in nature and remains entirely consistent with the approved concept and original assessment conducted by the Department and the Planning Assessment Commission's Determination. The proposal represents no environmental impact beyond that which was assessed and accepted under the original Concept Approval (MP10\_0084).

On this basis, the DoP&E is requested to approve the modification of Concept Plan (MP10\_0084).

## **2.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

This application to modify Concept Approval 10-0084 is lodged in accordance with Section 75W of the EP&A Act 1979. Section 75W of the EP&A Act 1979 remains applicable under the transitional provisions identified in Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017:

### **'Schedule 2 Transferred transitional arrangements on repeal of Part 3A – former Schedule 6A to the Act'**

#### **'2 Transitional Part 3A projects**

- (1) *The following are, subject to this Schedule, transitional Part 3A projects:*
  - (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*

Clause 3 of Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017 states that the provisions of any State Environmental Planning Policy (SEPP) or other instrument implemented under Part 3A continue to apply in respect of a transitional Part 3A project:

#### **'3 Continuation of Part 3A—transitional Part 3A projects**

- (1) *Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project'*
- (2) *For that purpose:*
  - (a) *any State environmental planning policy or other instrument made under or for the purposes of Part 3A, as in force on the repeal of that Part and as amended after that repeal, continues to apply to and in respect of a transitional Part 3A project,'*

Clause 3BA(2) and (5)(b)&(c) of the EP&A (Savings, Transitional & Other Provisions) Regulation 2017 confirms that a Concept Plan can be modified under Section 75W provided that it is of minimal environment impact or the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates.

### **'3BA Winding-up of transitional Part 3A modification provisions on cut-off date of 1 March 2018 and other provisions relating to modifications**

- (2) *An approved project or a concept plan cannot be modified under section 75W on or after the cut-off date, except as provided by this clause.*

- (5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that:
- (b) the proposed modification is of minimal environmental impact, or
  - (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).'

The proposed modification to the Concept Plan Approval is of minimal environmental impact and is substantially the same project to which the concept plan currently relates. The proposed modification simply involves amending the statement of commitments to align with current Subsidence Advisory NSW Guidelines, and to allow for development consistent with the Wyong LEP 2013 maximum height limits map. The proposed modification therefore does not represent any additional impact on the environment beyond that which was assessed for the original concept approval, nor does it involve any changes to the approved development footprint.

Clause 3(C)(1)&(2) confirms that Section 75W continues to apply for the purposes of the modification of a concept plan approved before or after the repeal of Part 3A.

### ***'3C Modification of concept plans***

- (1) Section 75W continues to apply (subject to clause 3BA) for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.
- (2) This clause applies despite anything to the contrary in this Schedule (other than provisions relating to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan).'

Based on the above legislation, it is established that the proposal (removal of building height restrictions) can be assessed as a Section 75W application. Section 75W of the EP&A Act 1979 is addressed further below.

### ***75W Modification of Minister's approval***

*In this section:*

*Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.*

*Modification of approval means changing the terms of a Minister's approval, including:*

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.

- (2) *The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) *The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*
- (5) *The proponent of a project to which section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*
- (6) *Subsection (5) does not apply to a request to modify:*
  - (a) *an approval granted by or as directed by the Court on appeal, or*
  - (b) *a determination made by the Minister under Division 3 in connection with the approval of a concept plan.*
- (7) *This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan*

No provisions of Section 75W prohibit or restrict the proposed modification to the approval. It is considered that the proposed modification remains consistent with this section of the EP&A Act 1979.

### **3.0 CONSULTATION WITH NSW DPE**

The DPE's Senior Planner Michelle Niles has confirmed that the transitional provisions are available, given the development is a transitional Part 3A project. Accordingly, the application has been lodged as a 75W to modify the Concept Approval in accordance with the DPE advice.

The 75W application form has been completed and is submitted under separate cover.

### **4.0 ACTIVE CONCEPT APPROVAL**

Part B – Administrative Conditions of the Concept Approval provided limits to the approval, stating:

*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.*

A Development Application for a 405 Lot Subdivision was lodged with the former Wyong Council (now Central Coast Council) on 20<sup>th</sup> November 2013.

Consent was granted to this development in line with the concept approval by the Joint Regional Planning Panel on 18<sup>th</sup> June 2014.

As such; the Concept Plan has not lapsed, with an application having been submitted to carry out a development for which the concept approval was given, within five (5) years of the Concept Plan being approved.

## **5.0 PROPOSED MODIFICATION**

### **5.1 Modification**

The proposed modification seeks to modify Concept Approval (MP10\_0084) by amending the height limit restrictions which apply to development across a large portion of the subject site, outlined in the statement of commitments.

Subsidence Advisory NSW's, Senior Advisor – David Sedgman – has confirmed that the new guideline which applies to all properties within the subject site is G2 – Guideline 2. Guideline 2 allows for the construction of a single or two (2) storey dwelling on Australian Standard compliant footings or slabs, with a maximum length of 24m and a maximum building footprint of 400m<sup>2</sup>.

Furthermore, dwellings larger than that allowed by Guideline 2 may also be developed, subject to a merit assessment by Subsidence Advisory NSW's Risk Engineers. Accordingly, the proposed modification seeks to amend the Statement of Commitments to remove the reference to the Height of Buildings Map prepared by AJ+C in 2009, and to delete Page 17 of the Urban Design Guide.

### **5.2 Purpose for Modification**

The proposed modification is to ensure that the Concept Approval reflects the current subsidence Advisory NSW guidelines. The proposal will provide for the future development of two (2) storey dwellings across the entire subject site, as opposed to just 40% of the site as provided under the current Concept Approval. This will provide potential purchasers of the residential lots, flexibility in design, with the option to develop either single storey or two (2) storey development.

The overall aim of the proposed modification is to provide for a height limit of 8.5m, which is consistent with the maximum height limit mapped for the site under the Wyong Local Environmental Plan 2013 (refer to Appendix 2).

### **4.3 Conditions requiring amendment**

No changes are required to conditions of the Concept Approval, but rather to a document to which they refer. Condition 1.1e) refers to the 'Statement of Commitments':

- 1.1 *The proponent shall ensure that all development on site is carried out generally in accordance with the:*

*e)Statement of Commitments (see Appendix 1);*

The proposed modification seeks to update the Statement of Commitments as follows:

## Concept Approval – Appendix 1 – Statement of Commitments

*Commitments Restricting the Terms of Approval:*

*Future development will be carried out generally in accordance with the following plans and documentation submitted with the Environmental Assessment:*

- Gwandalan Land Transfer Plan prepared by Monteath and Powys dated 25/08/2008 Rev D;
- Conservation and Development Areas Plan (Figure A1.1.2) prepared by AJ+C;
- Gwandalan Illustrative Concept Plan (Figure A1.2.1) prepared by AJ+C and Aspect Studios;
- Land uses as proposed by the SSS listing and as indicatively shown on Figure A2.2.1 prepared by AJ+C and Aspect Studios, and Additional Permitted Uses Map APU 004 prepared by AJ+C dated 13/10/2010;
- ~~Height of Building Map HOB-004 prepared by AJ+C dated 12/02/2009;~~
- Conceptual Road Design and Access Arrangements as shown on drawing Figure A2.4.2 prepared by AJ+C and Aspect Studios;
- Landscape and Open Space Design Concepts as shown on Figure A2.4.1 prepared by AJ+C and Aspect Studios;
- Urban Design Guidelines prepared by AJ+C and Aspect Studios.

Given the above; an updated Statement of Commitments has been provided as Appendix 3 of this report for the DoP&E's approval.

## 6.0 ENVIRONMENTAL ASSESSMENT

Significant Environmental Assessment of the subject development was undertaken as part of the original assessment conducted by the Department and Assessment Commission for the Concept Approval granted on 12<sup>th</sup> July 2012.

During the original assessment for the Concept Plan Approval, Subsidence Advisory NSW (formerly MSB) identified the need to limit development to single storey in areas where risk of predicted subsidence and tilts exceed 0.4m and 4mm/m, respectively. Development within some areas of the site was therefore restricted to single storey brick veneer, whilst allowing for two (2) storey brick veneer on the remainder of the site. As such, a height limit map was submitted as part of the Urban Design Guidelines, identifying a height limit of one (1) storey over approximately 60% of the development site.

Subsidence Advisory NSW's, have confirmed that the new guideline which applies to all properties within the subject site is G2 – Guideline 2. Guideline 2 allows for the construction of a single or two (2) storey dwelling on Australian Standard compliant footings or slabs, with a maximum length of 24m and a maximum building footprint of 400m<sup>2</sup>.

Furthermore, dwellings larger than that allowed by Guideline 2 may also be developed, subject to a merit assessment by Subsidence Advisory NSW's Risk Engineers.

Given the minor nature of the proposal, it is not considered that any further environmental assessment is required, as the proposed modifications do not involve changes to the approved footprint, and do not represent any additional impact on the environment beyond that which was assessed and accepted under the original concept approval (MP\_10-0084).



It is therefore considered appropriate to modify the approved concept approval to remove the single storey height restriction, in response to Subsidence Advisory NSW Guideline 2.

## **7.0 LANDOWNERS CONSENT**

The site is now identified as Lots 111 and 112 in Deposited Plan 1234514, following completion of Stage 1 of DA967/2013A which involved the subdivision of the site into two (2) development lots, which reflect the two (2) hamlets identified in the original concept plan.

Lots 111 and 112 in Deposited Plan 1234514 are owned by 'Scape Properties Pty Ltd' – whose consent to the lodgement of this application is provided within the application documentation.

## **8.0 CONCLUSION**

This application is made under Section 75W of the Environmental Planning and Assessment Act 1979 and seeks to amend existing Concept Approval MP\_10-0084 for the Gwandalan Residential Subdivision.

The proposed modification is minor in nature and involves amending the Statement of Commitments to align with current Subsidence Advisory NSW Guidelines, and to remove inconsistencies between approved documents in relation to height limits. The proposed concept remains consistent with the original assessment conducted by the Department and Commissions Determination. The proposal represents no environmental impact beyond that which was assessed and accepted under the original Concept Approval (MP\_10-0084).

The proposed modification will facilitate the delivery of an urban release identified within the Central Coast Regional Strategy and the Lower Hunter regional Strategy (in place at the time of the original concept approval); and will provide for a greater diversity of housing across the entire site, by removing unnecessary single storey height restrictions which currently apply to approximately 60% of the site.

On this basis, the DoP&E is requested to approve the modification of Concept Plan (MP10\_0084).

If you wish to discuss this matter please do not hesitate to contact me on 02 4305 4300 or [brookew@adwjohnson.com.au](mailto:brookew@adwjohnson.com.au).

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'B. Whalley'.

Brooke Whalley  
**Town Planner**  
**ADW Johnson**  
**Central Coast Office**

## Appendix 1

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### CORRESPONDENCE FROM SUBSIDENCE ADVISORY NSW



## Elizabeth Foster

---

**From:** David Sedgman <David.Sedgman@finance.nsw.gov.au>  
**Sent:** Thursday, 26 July 2018 9:08 AM  
**To:** Brooke Whalley  
**Cc:** Paul Gray  
**Subject:** RE: Lot 11 DP 1180296 Kanangra Drive Gwandalan - 405 Lot Sub division  
**Attachments:** Kanangra Drive Chain Valley Bay - 450 lot sub division - guideline letter.pdf

**Categories:** Berkeley Vale

Hi Brooke

We have reviewed the guidelines for the properties within this sub division in line with our updated guidelines, and I can advise as per the attached letter, the new guideline which applies to all of the properties is a G2, which allows construction of a single or two storey dwelling on Australian Standard compliant footings or slabs, with a maximum length of 24 metres and maximum building footprint of 400m2. ( this information is detailed in more depth in the guideline requirements on our website)

If the applicants wish to erect a dwelling larger than the guideline allowable size, the plans would need to be assessed on Merit by our risk engineers.

Can you also arrange to have an updated copy of the sub division plan with Lot numbers included forwarded through to me, as currently whilst the sub division application has been approved by SANSW, we are unable to enter the sub division into our mapping system until we know the lot numbers, and until the our mapping system is updated we would not be able to issue any 15B certificates for sale of properties.

thanks

**David Sedgman**  
**Senior Advisor Residential Subsidence Regulation**

Subsidence Advisory NSW | An Agency of the Department of Finance, Services and Innovation

p 02 4908 4361

[edavid.sedgman@finance.nsw.gov.au](mailto:edavid.sedgman@finance.nsw.gov.au) | [www.subsidenceadvisory.nsw.gov.au](http://www.subsidenceadvisory.nsw.gov.au)

Ground Floor, Government Offices, 117 Bull Street Newcastle West NSW 2302



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**From:** Brooke Whalley [mailto:brookew@adwjohnson.com.au]  
**Sent:** Friday, 20 July 2018 1:32 PM  
**To:** David Sedgman <David.Sedgman@finance.nsw.gov.au>  
**Subject:** RE: Lot 11 DP 1180296 Kanangra Drive Gwandalan - 405 Lot Sub division

Hi David,

Did you end up receiving a copy of the information you needed from Mark Kelly?

Separate to the above; I was hoping you may be able to assist with an enquiry we have for this subdivision or point me to the correct person to speak with.



Our Ref: TSUB15-02572W1

BROOKE WHALLEY

[brookew@adwjohnson.com.au](mailto:brookew@adwjohnson.com.au)

SUBDIVISION APPLICATION NO. TSUB15-02572W1  
LOT 11 DP 1180296  
KANANGRA DR GWANDALAN  
450 LOTS

Dear Brooke

**RE:** TSUB15-02572W1  
**CREATING LOTS** 1 TO 450  
**AT:** KANANGRA DR CHAIN VALLEY BAY  
**LOT/DP:** 11 / 1180296

Subsidence Advisory NSW (SA NSW) has granted its approval for this subdivision, subject to:

- (a) the number, size and boundaries of lots being substantially as shown on the approved stamped plan, and
- (b) notification being made to Subsidence Advisory NSW of any changes to lot numbering and of the registered DP number.

An application for approval must be lodged for any improvements on the property in accordance with section 22 of the *Coal Mine Subsidence Compensation Act 2017*.

**Approval can be obtained through your local Principal Certifying Authority for the erection of improvements on these lots.**

Residential construction within these lots are subject to Guideline 2 requirements, up to date guideline requirements are available via our website at:

<http://www.subsidenceadvisory.nsw.gov.au/development-guidelines>

This approval is valid for five (5) years from the date of the approval granted on 24 July 2017.

Yours sincerely

**David Sedgman**

**Senior Advisor Residential Subsidence Regulation**

26 July 2018

Contact phone no: 02 4908 4361

The Concept Approval for the site restricts development to 1 storey in height over approximately 60% of the development site area, in response to mine subsidence constraints. Our PM has indicated that the client would like to investigate whether there is any opportunity to have this aspect reconsidered as he would like to provide for 2 storey development, and not have dwellings limited to 1 storey.

From my research of the concept approval and review of the Department of Planning Report, it appears that the MSB at the time, identified the key constraints as the need to limit development to single storey in areas where risk of predicted subsidence and tilts exceeded 0.4m and 4mm/m respectively.

Would Subsidence Advisory reconsider their position on building heights and take another look at the site?

Thanks David

Regards,



**Brooke Whalley**  
**TOWN PLANNER**  
**Central Coast Office**  
**02 4305 4300**  
Email : [brookew@adwjohnson.com.au](mailto:brookew@adwjohnson.com.au)  
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**From:** David Sedgman [<mailto:David.Sedgman@finance.nsw.gov.au>]  
**Sent:** Thursday, 12 April 2018 2:54 PM  
**To:** Brooke Whalley <[brookew@adwjohnson.com.au](mailto:brookew@adwjohnson.com.au)>  
**Subject:** Lot 11 DP 1180296 Kanangra Drive Gwandalan - 405 Lot Sub division

Hi broke

I am chasing an updated plan of this sub division that includes the lot numbers, as the original approved plans didn't include any lot numbers.

Are you able to advise who I should contact to obtain the plan.

thanks

**David Sedgman**  
**Senior Advisor Residential Subsidence Regulation**

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**p** (02) 4908 4361 | **m** 0425275573  
**e** [david.sedgman@finance.nsw.gov.au](mailto:david.sedgman@finance.nsw.gov.au) | [www.subsidenceadvisory.nsw.gov.au](http://www.subsidenceadvisory.nsw.gov.au).  
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## Appendix 2

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WYONG LEP 2013 – HEIGHT OF BUILDINGS MAP – HOB 017



Wyong  
Shire  
Council  
CENTRAL COAST

# Wyong Local Environmental Plan 2013

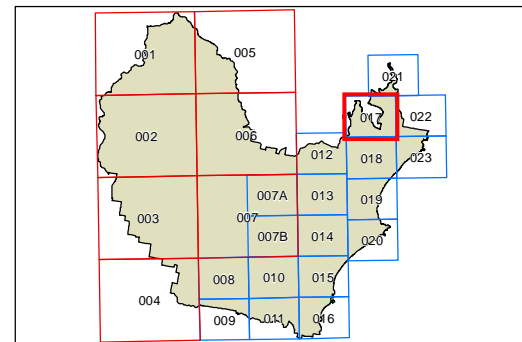
## Height of Buildings Map - Sheet HOB\_017

### Maximum Building Height (m)

A	0
I	8.5
J	9.5
K	10.5
L	11
M	12
N	13
O	16
P	18
Q	20
R	21
S	23
T1	25
T2	28
U1	31
U2	33
V	37.5
	Refer to Clause 4.3

### Cadastre

Cadastre 20/07/08 © Land and Property Information (LPI)

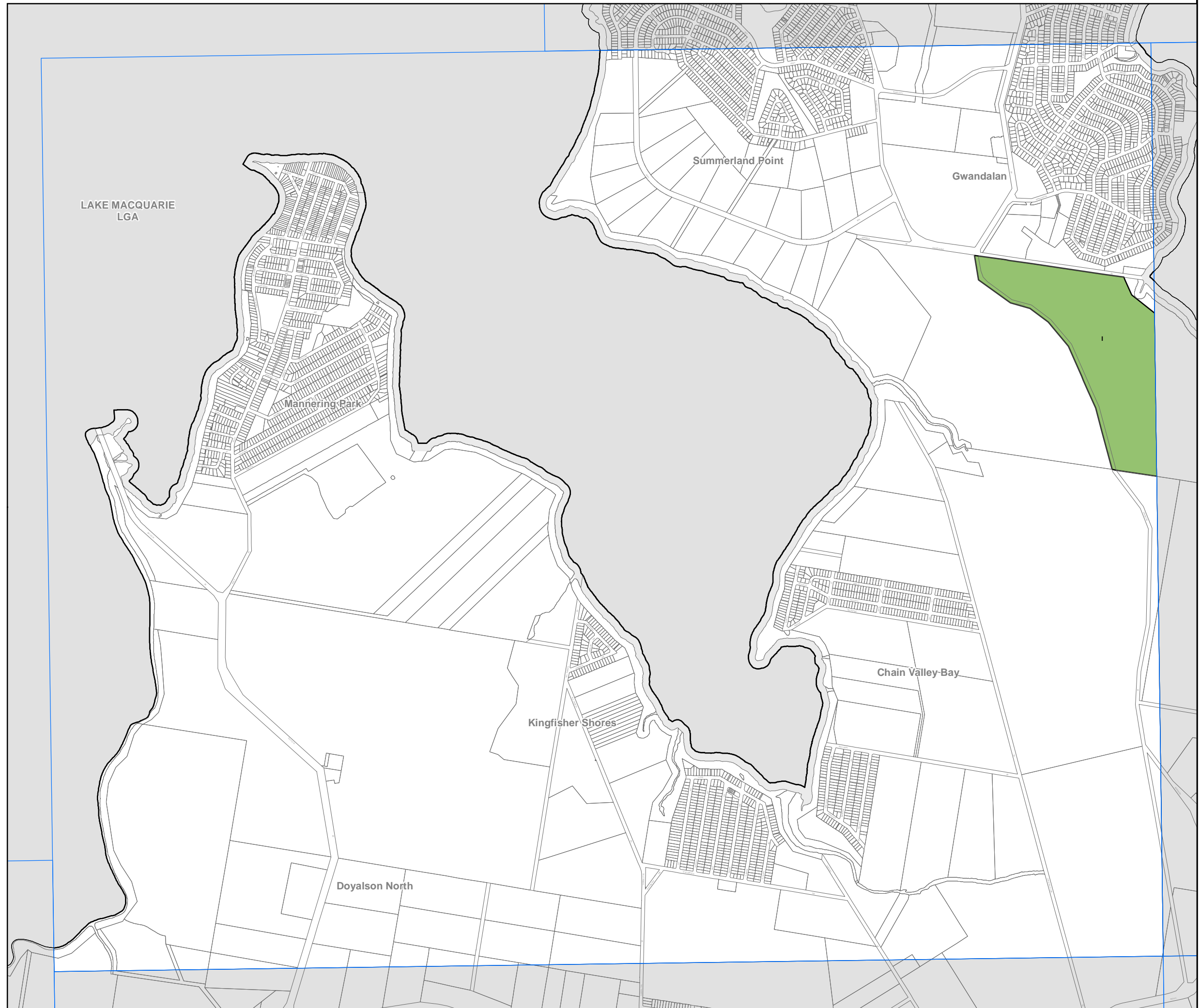


Projection: GDA 1994  
MGA Zone 56

0 200 400 600 800  
Metres

Scale: 1:20,000 @ A3

Map identification number:  
8550\_COM\_HOB\_017\_020\_20131125



## Appendix 3

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### UPDATED STATEMENT OF COMMITMENTS



## Gwandalan – Revised Statement of Commitments

Subject	Description
Concept Plan	
Commitments Restricting the Terms of Approval	<p>Future development will be carried out generally in accordance with the following plans and documentation submitted with the Environmental Assessment:</p> <ul style="list-style-type: none"> <li>• Gwandalan Land Transfer Plan prepared by Monteath and Powys dated 25/08/2008 Rev D;</li> <li>• Conservation and Development Areas Plan (Figure A1.1.1) prepared by AJ&amp;C;</li> <li>• Gwandalan Illustrative Concept Plan (Figure A1.2.1) prepared by AJ&amp;C and Aspect Studios;</li> <li>• Land uses as proposed by the SSS listing and as indicatively shown on Figure A2.2.1 prepared by AJ&amp;C and Aspect Studios and Additional Permitted Uses Map APU 004 prepared by AJ&amp;C dated 13/10/2010;</li> <li>• <del>Height of Building Map HOB 004 prepared by AJ&amp;C dated 12/02/2009;</del></li> <li>• Conceptual road design and access arrangements as shown on drawing Figure A4.2.2 prepared by AJ&amp;C and Aspect Studios;</li> <li>• Landscape and open space design concepts as shown in Figure A2.4.1 prepared by AJ&amp;C and Aspect Studios;</li> <li>• Urban Design Guidelines prepared by AJ&amp;C and Aspect Studios;</li> <li>• Indicative development staging as indicated by Figure A3.1.1 prepared by AJ&amp;C.</li> </ul>
Commitments comprising payment of a monetary contribution or dedication of land/carrying out of work for local infrastructure	<p>The Owner will pay contributions in accordance with the Wyong Council Section 94 Plan. 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:</p> <ul style="list-style-type: none"> <li>• Open Space and Recreation Facilities works in kind (\$4,194.52 per lot) directly associated with substantial land dedication in lieu.</li> <li>• Roads (Catchment C) \$3,980.86 per lot</li> <li>• Community facilities \$3,548.04 per lot</li> <li>• Shire wide contribution (Performing Arts Centre &amp; Administration) \$443.53 per lot</li> <li>• Administration (Northern Districts) \$494.19 per lot</li> </ul>

	<ul style="list-style-type: none"> <li>DSP Water Charges (headworks &amp; Distribution) \$4,119.58 per lot</li> <li>DSP Sewer (headworks only) \$843.89 per lot</li> </ul> <p>Note: the above contribution rates (other than DSP's) are indexed to Nov 2010. Water and sewer charges indexed annually on 1<sup>st</sup> July.</p> <p>In lieu of monetary contribution for open space, local parks and cycleway networks will be developed by the Owner in accordance with Concept Plan prepared by AJ&amp;C and Aspect Studios, Illustrative Landscape Plan prepared by Aspect Studios and Urban Design Guidelines prepared by AJ&amp;C and Aspect Studios and then dedicated to Wyong Council after the completion of all stages of the development. The Owner will manage these parks for a 5 year period or until all lots in each relevant stage are sold whichever the latter.</p> <p>In lieu of monetary contribution or open space, the Owner will provide a cycle way and pedestrian path within the foreshore area, subject to Minister for the Environment Climate Change and Water approval. The Owner will also undertake foreshore embellishment works, subject to Minister for the Environment Climate Change and Water approval.</p> <p>The Owner will enter into a Deed of Agreement with Wyong Council.</p>
Social benefits of the proposed development	<p>The landowner has committed to the provision of the following social infrastructure benefits as part of the development program. Contributions and timing vary per item, details of which are included in the appropriate EA Appendices. Benefits include:</p> <ol style="list-style-type: none"> <li>1. Privately owned land opened up to the benefit of the community through the dedication of 77% of the land for conservation in perpetuity.</li> <li>2. Section 94 contributions to open space, recreation, roads and community facilities as noted above.</li> <li>3. Contribution to the provision of emergency services and education for the region.</li> <li>4. Upgrading of the Pacific Highway/Kanangra Drive intersection at the landowners cost.</li> <li>5. \$5M allocated by Coal &amp; Allied for the provision of social infrastructure and community development for the southern estates. Costs allocations and timing are included in Appendix C of the EA. Allowances made at Gwandalan include the following:</li> </ol>

	<ul style="list-style-type: none"> <li>• Funding State and Regional employment opportunities;</li> <li>• Upgrade of Lions Park boat ramp;</li> <li>• Contribution to the upgrade of Koowong Road wharf;</li> <li>• Sustainability contributions;</li> <li>• Aboriginal community scholarships;</li> <li>• Provision of walkways (subject to DECCW approval) external to the Coal &amp; Allied development land.</li> </ul>
Commitments comprising payment of a monetary contribution, or dedication of land/carrying out of work for Regional Infrastructure	<p>Payment of a monetary contribution or works in kind for the provision of regional infrastructure as determined by state government will be generally in accordance with the Owners offer to contribute under the terms of the NSW Governments Infrastructure Contributions Plan Circular PS08-017, 23 December 2008. The Owner has offered to enter into a Voluntary Planning Agreement with the Department of Planning to contribution to the following services:</p> <ul style="list-style-type: none"> <li>• The intersection of Pacific Highway/Kanangra Drive intersection is to be upgraded by the landowner and funded in part by the Rose Group State Infrastructure Contribution as set out in the Rose Group Statement of Commitments to provide: <ul style="list-style-type: none"> <li>◦ One left turn slip lane (100m) turning north from Pacific Highway to Kanangra Drive;</li> <li>◦ One left turn slip lane (50m) turning north from Kanangra Drive to the Pacific Highway;</li> <li>◦ Additional right turn storage lane (100m) for southbound traffic from Kanangra Drive to Pacific Highway.</li> </ul> </li> <li>• Details will be submitted with the Construction Certificate application for Stage 1. The Owner will undertake the intersection work prior to release of subdivision certificate for Stage 1 Project Application.</li> <li>• Emergency Services involving a contribution towards purchasing 3,000m<sup>2</sup> of land in Swansea-CHB. The Landowner has offered NSW Ambulance a site at Catherine Hill Bay. Should the land not suit NSW Ambulance for its operations, the landowner in lieu is to provide a monetary contribution towards the proposed acquisition of a 3,000 square metre site for location of emergency services amounting to a per lot contribution if paid after 30 June 2011 will be (subject to indexation) \$195.99 per urban lot. Payment is required on or prior to the issue of the first subdivision certificate that creates the first urban lot.</li> </ul>

	<ul style="list-style-type: none"> <li>Education involving the purchase of 10,000m<sup>2</sup> of additional land adjacent or close to the existing Gwandalan Public School. The Developer is to provide a monetary contribution if paid after 30 June 2011 (subject to indexation) of \$721,066.43 amount to a contribution of \$1,157.41 per urban lot at Gwandalan only. Contribution is payable on or prior to the issue of the relevant subdivision certificate that creates the 300<sup>th</sup> urban lot.</li> </ul>
Utility Services/Infrastructure Upgrades	<p>The Concept Plan commits to the funding and delivery of all onsite infrastructure and services including the following specific infrastructure prior to or in conjunction with the first stage of development. The Owner is to pay DSP charges for water and sewer at the charge per lot applicable at the time of development:</p> <ul style="list-style-type: none"> <li>Electricity from existing network;</li> <li>Connect to existing potable water main in Kanangra Drive;</li> <li>Sewer pump station and rising mains to connect to Summerland Point STP;</li> <li>Provision of a communication service complying with the National Broadband Network Policy.</li> </ul> <p>The Concept Plan will ensure that sufficient land is provided within new road reserves and alternatively within easements in the offset lands and private land for utilities.</p>
Conveyancing	<p>The dedication and transfer of the conservation lands to the State Government will be undertaken in accordance with the Transfer Plan of the Proposed Subdivision of Lot 2 DP 1043151 and Portion 57 DP 7552266 Kanangra Drive, Gwandalan, Sheet 1 Rev D dated 25/08/2008 by Monteath &amp; Powys Pty Ltd.</p> <p>Easements are to be provided for utility services that encroach onto private land or the offset lands. Land to be dedicated to relevant authorities where required.</p> <p>Housing lots will be Torrens Title.</p> <p>Parks, reserves, roads and infrastructure created through each future Project Application subdivision will be developed and then dedicated to Wyong Council after the completion of all stages of the development and in accordance with the conditions of approval.</p>

Environmentally Sustainable Development	<p>Residential development will meet or exceed the following targets:</p> <ul style="list-style-type: none"> <li>• The BASIX water consumption benchmark;</li> <li>• The BASIX energy consumption benchmark.</li> </ul>
Procurement Policies	<p>Prior to any works onsite commencing, the Owner will develop a procurement policy for the construction of the subdivision. The policy shall incorporate initiatives to encourage local employment opportunities for the duration of the project.</p> <p>Prior to any works onsite commencing, the Owner is to:</p> <ul style="list-style-type: none"> <li>• Contribute to the Indigenous community for employment in land care, lake quality improvement etc;</li> <li>• Establish procurement policies for the Indigenous community to remediate/regenerate degraded areas within the conservation zones, in conjunction with NSW Government;</li> <li>• Establish procurement policies for the Indigenous community during construction (e.g. fencing, landscaping) and ongoing maintenance (e.g. lawn mowing etc).</li> </ul> <p>This should be done in partnership between Indigenous community and the Owner.</p>
Consultation/Education Programs	<p>The Owner is to develop a community consultation program prior to commencement of construction for the duration of the construction process. This program is to be approved by Department of Planning prior to any works onsite commencing and will include:</p> <ul style="list-style-type: none"> <li>• Regular newsletters/letterbox drops on timing and progress;</li> <li>• Information on a publicly accessible website;</li> <li>• Community workshops;</li> <li>• Appropriate signage onsite;</li> <li>• Contact numbers for complaints/issues.</li> </ul>
Urban Design	<p>The Concept Plan commits to a set of Development Design Guidelines. Future development is to comply with the Urban Design Guidelines.</p>

Housing Diversity	<p>The Concept Plan commits to providing a diversity of housing opportunities through:</p> <ul style="list-style-type: none"> <li>• The provision of a diversity of lots sizes;</li> <li>• The provision of different housing typologies including single and two storey houses;</li> <li>• The provision of seniors living (subject to future approvals).</li> </ul>
Aboriginal Heritage	<p>On Development Lands:</p> <p>Aboriginal community consultation will be ongoing for the project, the Cultural Heritage Management Plan will include Stakeholder consultation within all Aboriginal cultural heritage elements of management. The ACHMP will provide the information as requested by DECCW and will include consultation that follows the principals of the 2010 guidelines for consultation process.</p> <p>Prior to any works on the development lands site commencing, the Owner is to prepare an Aboriginal Cultural Heritage Management Plan in accordance with the heritage mitigation measures outlined in the Heritage Impact Statement prepared by ERM including:</p> <ul style="list-style-type: none"> <li>• Procedures during site excavation works;</li> <li>• Consultation with local Aboriginal community groups during preparation of the ACHMP and throughout construction;</li> <li>• Appropriate Aboriginal heritage interpretation measures;</li> <li>• Defined archaeological investigation areas;</li> <li>• Defined appropriate works within areas of high Aboriginal significance.</li> </ul> <p>The Owner must:</p> <ul style="list-style-type: none"> <li>• Ensure stop work procedures are in place if any Aboriginal relics or artefacts are to be discovered during the course of work onsite;</li> <li>• Ensure that the location of all infrastructure services avoids and protects areas of high Aboriginal significance;</li> <li>• Ensure that onsite information about the heritage requirements is in place for the construction phase for the construction team.</li> </ul>
Traffic and Transport	The Owner is to:

	<ul style="list-style-type: none"> <li>• Provide localised widening of Kanangra Drive at the new southern type C intersection arrangement on Kanangra Drive allowing right turn movements in and out of the southern access. Details will be submitted to Wyong Shire Council (WSC) with the Construction Certificate application for Stage 1;</li> <li>• Provide DDA complying new bus stops within the development area (based on agreement with the local operation and WSC) including provision of bus shelters, kerb and gutter (where required) footpath and signage. Details will be submitted to WSC with the Construction Certificate application for Stage 1;</li> <li>• Update the Kanangra Drive/Summerland Road intersection by providing a fourth leg to the roundabout for access into the development land (subject to resolution of threatened species). Details will be submitted to WSC with the Construction Certificate application for Stage 1;</li> <li>• Implement local traffic management measures within the development and existing local roads where required;</li> <li>• Dedicate public roads to Wyong Shire Council at no cost to Council.</li> </ul> <p>Areas to be dedicated as public roads will be constructed and embellished generally in accordance with the specifications of the Concept Plan and as approved by WSC.</p>
Summerland Road Upgrade	<p>The Owner will provide a 13m pavement on Summerland Road from Kanangra Drive to the industrial subdivision road, which must be extended to the intersection of road 1 to cater for a bus route, on road cycleway and on street parking. Details will be submitted to WSC with the Construction Certificate application for Stage 1.</p> <p>The Owner will ensure that the Summerland road pavement extends further to the east from Road 1 with a T-intersection formed with Road 3, with raised concrete medians.</p> <p>A cost sharing arrangement for this upgrade work is to be negotiated with the owner of the adjacent industrial estate.</p>



Landscape Buffer to Kanangra Drive	<p>The Owner will prepare a management plan for the Angophora inopina located within the northern section of the landscape buffer to Kanangra Drive. The management plan will provide informal access across the landscape buffer to Kanangra Drive with the relevant stage of subdivision. Consideration needs to be given to the safe and logical entry to the subdivision circulation system on Summerland Road to reduce desired paths through the buffer. Details will be submitted for approval by BEWHA and DECCW with the development application for the first stage of development.</p>
Water Quality & Quantity Management	<p>Prior to any works commencing onsite, the Owner will at its cost prepare and implement the following stormwater management measures:</p> <ul style="list-style-type: none"> <li>• Implement WSUD to manage stormwater in accordance with WSC/DECCW/NOW policies;</li> <li>• Manage flood risk according to the NSW Floodplain Development Manual;</li> <li>• Construct stormwater management controls to ensure that the percentage levels of pollutant export loads (achieved through WSUD) is within the limits specified in relevant Council policies;</li> <li>• Prepare a stormwater management strategy;</li> <li>• Prepare a groundwater management strategy;</li> <li>• Prepare a maintenance regime for the proposed groundwater management system, stormwater treatment systems;</li> <li>• Housing lots need to provide appropriate on lot detention for stormwater.</li> </ul> <p>These strategies should adopt the mitigation measures recommended in the Marine Baseline Assessment prepared by GHD and dated October 2007 to reduce potential impacts on Crangan Bay.</p> <p>Details on the proposed bioretention basins, bioswales and swales are to be submitted with the stage 1 subdivision Construction Certificate application to WSC/DECCW/NOW for their approval. Prior to any works commencing onsite, the Owner will prepare a maintenance program for bioswales, public stormwater system/basins. The Owner will manage these facilities for a 5 year period or until all lots are sold (whichever is the later).</p>

Marine Baseline Assessment of Lake Macquarie	<p>Prior to any works commencing onsite, the Owner will at its cost in conjunction with the stormwater management measures prepare and implement the management measures detailed in the Marine Baseline Assessment of Lake Macquarie which nominates a number of mitigation and management measures to prevent direct and indirect impacts on flora and fauna and their habitat.</p> <p>The Gwandalan Marine Baseline Assessment of Lake Macquarie offers mitigation measures that may be required to address any localised and short term adverse environmental impacts that may be generated during the development and operation of the urban development. Mangroves, seagrasses and seaweeds are listed as protected marine vegetation under the NSW Fisheries Management Act 1994 (FM Act). No seagrasses will be impacted upon directly by the development however increased turbidity due to runoff will be managed.</p>
Bushfire Management	<p>A Bushfire Management Plan will be prepared at the landowners cost and certified by a suitably qualified consultant. The Bushfire Threat Assessment is to be prepared using the current guidelines and industry best practice, specifically, Planning for Bushfire Protection (2006) and the updated AS3959-2009 Appendix 3 and the requirements of the NSW Rural Fire Service.</p> <p>The required plan will include, but not limited to, the following documentation:</p> <ul style="list-style-type: none"> <li>• Location of permanent Asset Protection Zones (APZ) and fire trails;</li> <li>• APZ establishment methods;</li> <li>• Location of habitat trees to be retained;</li> <li>• Areas of vegetation to be removed, retained or replaced;</li> <li>• Fuel Management measures to be in accordance with the Gwandalan Fuel Management Plan prepared by RPS;</li> <li>• Access to services;</li> <li>• Existing and proposed plant species.</li> </ul> <p>Ongoing management of APZs should comply with the requirements of the Planning for Bushfire Protection Guidelines 2006 and any requirements of the NSW Rural Fire Service.</p> <p>The Bushfire Management Plan will be submitted with documentation accompanying the Construction Certificate application in respect of each Stage 1 subdivision works.</p>

Landscaping	Landscaping will be consistent with the Gwandalan Illustrative Concept Plan prepared by AJ&C and Urban Design Guideline prepared by AJ&C and Aspect to the approval of WSC.
Contamination, Geotechnical and Mine Subsidence	<p>The Owner will undertake further assessment in regards to contamination and geotechnical investigations as recommended in the preliminary contamination, geotechnical and mine subsidence assessment reports prepared by Douglas Partners dated 12 October 2010.</p> <p>The land is required to be remediated before the land is used for residential purposes. Prior to the issue of the construction certificate for Stage 1 works the following must be undertaken at the landowner cost:</p> <ul style="list-style-type: none"> <li>• Development of a remediation Action Plan;</li> <li>• Appropriate remediation conducted to remove identified contaminants exceeding the DECC land use criteria;</li> <li>• Validation testing and verification;</li> <li>• Validation of asbestos contamination should be conducted by a qualified asbestos consultant;</li> <li>• Waste classification to DECC guidelines of any materials destined for offsite disposal at licensed landfill.</li> </ul>
Tree Management	The Owner will prepare a Tree Management plan prior to any works being undertaken onsite. The Tree Management Plan will provide for the protection of the Angophora inopina and trees of significance (habitat and old growth) during lot planning by marking and retention of significant trees wherever appropriate prior to progressive clearing of sites. The Tree Management Plan will also be, to the extent possible, consistent with the plan approved by the Federal Minister with respect to clause (c) of condition A5 of the EPBC controlled action approval.

Roads, Engineering, Infrastructure and Services	<p>The Owner will provide for new roads and connections as per the plans included in the Concept Plan prepared by AJ&amp;C and as approved by WSC.</p> <p>Road infrastructure including road pavement, footpaths, cycleways, kerb and gutter (where required), drainage services, street trees, street lighting, signage and line markings will be provided for each stage of the subdivision in accordance with Council's requirements, except as otherwise provided by the Concept Plan and Urban Design Guidelines.</p> <p>The Owner will provide reticulated potable and sewage services to each residential lot in the subdivision.</p> <p>The Owner will provide underground power to each residential lot in accordance with Energy Australia requirements.</p> <p>The Owner will provide underground telecommunications infrastructure to each lot in the subdivision in accordance with the NBN Policy.</p> <p>Areas to be dedicated as public roads will be constructed and embellished in accordance with the Urban Design Guidelines of the Concept Plan and built to a specification approved by WSC.</p> <p>All road reserves to be constructed will be dedicated to Wyong Council at no cost to Council.</p>
Subdivision Certificate	<p>A Subdivision Certificate application will be submitted in respect of the subdivision. It will be accompanied by the following documentation:</p> <ul style="list-style-type: none"> <li>• A survey plan prepared by a Registered Surveyor;</li> <li>• Instruments prepared under s88B of the Conveyancing Act as appropriate;</li> <li>• A Section 507 Certificate from Wyong Council Water Authority;</li> <li>• The appropriate notation will be placed on the plan of subdivision and an instrument under Section 88B of the Conveyancing Act will set out the terms of the easements and/or rights of carriageway and/or restrictions as to user required for the subdivision.</li> </ul>

Environmental Management	<p>The Owner has agreed with DECCW/NPWS to undertake certain works including removal of rubbish, construct features to block vehicle access to existing motor bike tracks and undertake erosion control works all in accordance with Schedule 6 included in the draft Voluntary Planning Agreement (VPA). Landowner costs and timing for the works are nominated in the Schedule.</p>
Pet Management	<p>The Owner is to develop strategies to address potential impacts associated with pet ownership prior to works commencing onsite. This may include implementation of appropriate signage and educative programs (for example letter box drops and brochures to be included within the bill of sale for each property). WSC strategies, policies and programs should be acknowledged in relation to this by current and future residents.</p>
Transfer of Land	<p>On issue of the Subdivision Certificate and the Concept Plan approval the conservation land is to be transferred to NSWG.</p> <p>Also on issue of the Subdivision Certificate and the Concept Plan approval the following will be transferred to Wyong Council in lieu of s94 contributions for Open Space:</p> <ul style="list-style-type: none"> <li>• Buffer land along Kanangra Drive will be transferred to Wyong Council with management of the Angophora inopina at the northern end subject to a letter between Coal &amp; Allied and DECCW;</li> <li>• The riparian corridor on the south boundary of the Seniors Living area will be transferred to Wyong council as open space two years from the commencement of Stage 2 or following the sale of all lots fronting the riparian corridor, whichever the earlier.</li> <li>• Bushland park and Public Recreation Park will be dedicated to Wyong Council when all lots in the stage in which the said park is located are sold or two years from the commencement of the related stage of subdivision whichever the earlier.</li> </ul>