

Concept Approval

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

I, the Minister for Planning, under the *Environmental Planning and Assessment Act 1979* ("the Act") determine:

- (a) to approve the concept plan referred to in Schedule 1, subject to the modifications set out in Schedule 2;
- (b) the environmental assessment requirements for subsequent project or development applications associated with the Concept Plan as set out in Schedule 2; and
- (c) that any development or an activity associated with the approved Concept Plan with a capital investment of less than \$30 million be subject to Part 4 or Part 5 of the Act (**excluding exempt and complying development**), whichever is applicable, unless the development is, in the opinion of the Minister, development of a kind that is described in Schedule 1 of *State Environmental Planning Policy (Major Projects) 2005*.

Kristina Keneally MP
Minister for Planning

Sydney, 2 January

2009¹

SCHEDULE 1

Application No:	06_0272
Proponent:	Delmo Albion Park Pty Ltd
Approval Authority:	Minister for Planning
Land:	78 Tongarra Road, Albion Park (Lot B DP 109816 and Lot 6 DP 1100435) in the Shellharbour Local Government Area
Concept Plan:	Concept plan for the <i>Illawarra Regional Business Park</i> , comprising of a 60 lot subdivision (59 lots for light industrial uses and 1 lot for environmental conservation) with associated infrastructure and earthworks, demolition of two ancillary farm buildings, relocation of the Wanalama Homestead, development of a café, service station and hotel, the realignment of Frazer's Creek, wetland rehabilitation and the establishment of an environmental management area with associated walkway.

¹ As Modified on 24 February 2009 – MP 06_0272 MOD 1

SCHEDULE 2

DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act 1979</i>
Construction	Includes all work in respect of the Project 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	Shellharbour Council
DECC	Department of Environment and Climate Change
Department, the	Department of Planning
Director-General, the	Director-General of the Department of Planning (or delegate)
DWE	Department of Water and Energy
EA	<i>Illawarra Regional Business Park. Study In Support of State Significant Site and Concept Plan Environmental Assessment Report</i> (including accompanying appendices) prepared by Julius Bokor Architect for Delmo Albion Park and dated July 2007
Minister, the	Minister for Planning
PMF	Probable Maximum Flood
Proponent	Delmo Albion Park Pty Ltd
PPR	<i>Illawarra Regional Business Park Preferred Project Report</i> , prepared by Environmental Julius Bokor Architect and dated November 2007, as supplemented by <i>Illawarra Regional Business Park Supplementary Preferred Project Report</i> (Volumes 1 and 2) prepared by Julius Bokor Architect and dated 2 March 2008.
RTA	NSW Roads and Traffic Authority
Site	Land to which Concept Plan Application 06_0272 applies
SSFCF	Swamp Schelorphyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions
Stage 1/Stage 2	Earthworks and the placement of fill material on the development area south of the airport, the installation of services and the initiation of riparian rehabilitation works as described in the EA and PPR
Stage 3	Construction of the first part of the internal road network and the subdivision of initial industrial lots in the south eastern portion of the site
Stage 4	Subdivision of the remainder of the site south of the Illawarra Regional Airport as described in the EA and PPR
Stage 5	Earthworks and subdivision of the remaining parts of the development site north of the east –west runway of the Illawarra Regional Airport

1. ADMINISTRATIVE CONDITIONS

Terms of Concept Approval

- 1.1 The Proponent shall carry out the concept plan generally in accordance with the:
 - a) Concept Plan Application 06_0272;
 - b) *Illawarra Regional Business Park Study in Support of State Significant Site and Concept Plan Environmental Assessment Report* (Volume 1 and 2), prepared by Julius Bokor Architect and dated July 2007;
 - c) *Illawarra Regional Business Park Preferred Project Report*, prepared by Environmental Julius Bokor Architect and dated November 2007;
 - d) *Illawarra Regional Business Park Supplementary Preferred Project Report* (Volumes 1 and 2) prepared by Julius Bokor Architect and dated 2 March 2008;
 - e) correspondence titled *Request for Modifications to Concept Approval*, prepared by Scott-Taylor Communications and dated 14 January 2009;
 - f) the conditions of this approval.
- 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; 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 five years after the date on which it is granted, unless an application is submitted to carry out a project or development for which concept approval has been given.
- 1.4 To avoid any doubt, this concept approval does not permit the construction of any aspect of the proposal which will be subject to separate approvals/consents.

Determination of Future Applications

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

2. MODIFICATIONS TO THE CONCEPT

Flooding

- 2.1 Childcare facilities, educational establishments and liquid fuel depots are not permitted on lands that would be inundated in the PMF level, as identified in the *Albion Park Flood Review Supplementary Report* (GHD 2007).
- 2.2 Childcare facilities and educational establishments are not permitted on the eight northern lots of the subdivision, which may be isolated in a 1 in 100 year flood event.

Note: For the purposes of the above modification, the eight northern lots are those accessed by the internal private road and located north of the east-west runway of the Illawarra Regional Airport.

Stormwater Management

- 2.3 No stormwater infrastructure (including components of the Water Sensitive Urban Design system but excluding dissipaters) are permitted within the SEPP 14 wetland buffer area or within the riparian areas (including buffers) of Frazers Creek.

Flora and Fauna

- 2.4 The rehabilitation of the Environmental Management Area, the SEPP 14 wetland and Frazers Creek riparian areas shall be completed within two years of commencing Stage 1 of the Concept Plan.
- 2.5 Appropriate access to the Environmental Management Area shall be provided to enable maintenance of this area.
- 2.6 No development is permitted within 25 metres of the boundary of the northern wetland contained within the site, other than those uses described in condition 2.3.

Note: For the purposes of the above modification, the northern wetland is that located north of the east-west runway of the Illawarra Regional Airport.

Traffic and Transport

- 2.7 All internal roads shall be designed to satisfy the relevant Australian Standard.
- 2.8 A signalised intersection at the site access point and Tongarra Road shall be constructed as part of Stage 3 of the development and to the satisfaction of the RTA. The intersection shall be designed in accordance with the RTA's *Road Design Guidelines*, *AUSTROADS Pavement Design Guide* and the RTA's Traffic Signal Practice, including safety and sight distance requirements. The intersection shall be completed prior to the occupation of any building on-site.

Note: The further environmental assessment requirements for Stage 1 / Stage 2 require the design of the above intersection to be finalised.

3. FURTHER ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Stage 1 and Stage 2 (Bulk Earthworks and Site Rehabilitation)

- 3.1 As part of the joint application for Stage 1 and Stage 2 of the development, the Proponent shall:

Riparian Areas and Wetlands

- a) provide detailed plans of the Frazers Creek realignment along with an assessment of the realignment that demonstrates that:
 - i) the works do not trigger any instability in the river system, including lateral and plan-form meander migration, bed and bank erosion and headcut erosion;
 - ii) the works do not result in any adverse changes in existing flow, sediment erosions and deposition patterns;
 - iii) the works do not result in adverse impact in existing upstream flood levels, or result in any adverse redistribution or increase in flow velocities nears its vicinity;
 - iv) the full range of flows has been taken into account in the assessment of the impacts on stream morphology. This includes lower flows, channel dominant discharge, bankfull discharge and higher flows;
 - v) the design demonstrates the application of principles for the design of environmentally sustainable channels; and
 - vi) that potential maintenance issues have been addressed, including the mechanisms for these responsibilities being shared between multiple landowners.

- b) demonstrate that the design of stormwater structures that are permitted within the riparian areas of Frazers Creek are compatible with the ecological function of these areas;
- c) demonstrate that the treatment of the 15 metre batter within 25 metre SEPP 14 buffer zone, including final design slope and species composition, will ensure that the hydrological and ecological performance of the buffer is maximised and can be maintained over time. Should this demonstrate that the batter cannot be appropriately treated/designed, then consideration is to be given to extending the buffer zone or removing the batter located within the 25 metre buffer zone;
- d) identify the final location of the pathway within the Site and Environmental Management Area. Should this be located within the core riparian area, the assessment must provide a justification for this along with mitigation measures to ensure the any conflicts between this use and the ecological and hydrological function of the riparian areas is addressed;
- e) provide a Vegetation Management Plan for the site, as referred in the Supplementary Preferred Project Report (referred in condition 1.1d) of this approval), which is to:
 - i) be prepared in consultation with DECC, DPI (Fisheries) and DWE;
 - ii) identify the performance objectives for the rehabilitation works, particularly the off-set ratio for the SSFCF;
 - iii) identify the planting densities and species composition for the rehabilitation areas;
 - iv) detail maintenance and monitoring programs for the Environmental Management Area, including the identification of the relevant responsible parties and the provision of access to the rehabilitated areas;
 - v) identify corrective measures that would be implemented in an event where the performance objectives are not met or in the event that the rehabilitated areas fail;
 - vi) include a separate sub-plan for the SSFCF, which shall include (but is not limited to) details on how the offset areas and the remaining stands of the Paperbark Swamp Forest will be managed over time.

Bulk Earthworks and Flooding

- f) provide detailed engineering plans for the bulk earthworks and identify how the risk of Potential Acid Sulfate Soils and salinity has been addressed. Where PASS or saline soils are identified and will be disturbed during the earthworks, the assessment must detail how these impacts would be managed in the short, medium and long-term;
- g) provide details how the site will be stabilised and maintained once earthworks are completed;
- h) identify the source of fill to be used on site, and how fill would be stockpiled and managed on site whilst works are underway. If virgin excavated natural material is not used, an assessment on the suitability and justification for the use of this material must be presented, as well as an assessment of any potential impacts arising from the use of this material. This includes (but is not limited to) water quality, groundwater and ecological impacts;
- i) provide a soil contamination assessment for the entire site, having regard to the requirements of the *Contaminated Land Management Act 1997, Managing Contaminated Land: Planning Guidelines, SEPP 55 – Remediation of Land and Guidelines for Consultants Reporting on Contaminated Sites*. Where the need for remediation is identified, a Remedial Action Plan in accordance with DECC guidelines must be presented and accompanied by an assessment of the potential ecological and health impacts associated with remediation activities;
- j) demonstrate that the development (at ultimate completion and based on final site levels) is consistent with the documents referred to in condition 1.1, the reports prepared by

GHD Pty Ltd (titled *Albion Park Flood Review* (February 2008) and *Albion Park Flood Review Supplementary Review* (March 2008)), and Council's flood study and floodplain management strategy (if completed at the time of lodgement). Should this identify unacceptable impacts on other development or properties (when considered in combination with the cumulative impact of development within the floodplain) which are attributed to the Site, mitigation measures must be identified within the application. This assessment shall be undertaken in consultation with Council.

- k) demonstrate that service infrastructure located within the site affected by flood waters has been suitably located and flood proofed to ensure no impact occurs to or is generated by these services during flood events. This includes communication, water, power, sewerage and drainage infrastructure.

Water Quality

- l) provide a Water Quality and Discharge Monitoring Program for the entire site. The Plan shall include:
 - i) a water quality monitoring program during construction and operational phases of the development;
 - ii) a program to monitor that the changes in hydrology caused by the development to ensure no detrimental impacts occur on the health of the SEPP 14 wetland and the Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and Bioregions Endangered Ecological Community located within the Site;
 - iii) a program to monitor the quality of discharge from the site into Frazers Creek to ensure that discharges do not compromise the NSW Government's *Water Quality and River Flow interim objectives for the Illawarra Catchments*; and
 - iv) details on the mechanisms and responsibilities for the management and reporting of the results; and
 - v) identification of remedial actions that can be implemented in the event of a discrepancy between the actual and predicted performance of the water quality controls and/or any detrimental effects on the health of the SEPP 14 wetland or EEC is detected.

Traffic and Transport

- m) provide detailed design plans for the signalised intersection of the site access and Tongarra Road, as agreed to by the RTA, to satisfy condition 2.8 of this approval; and
- n) demonstrate how the Proponent has satisfied its obligations for making arrangements (to the satisfaction of the Director-General) towards the provision of regional/State road infrastructure. This shall include the upgrade of Tongarra Road/Croome Road and Tongarra Road/Station Street intersections; and
- o) detail what arrangements have been made, in consultation with the Ministry of Transport to facilitate the provision of bus services to the site. Relevant infrastructure, such as bus bays, shall be suitably incorporated into the application.

Flood Evacuation Plan

- 3.2 The future applications for Stage 4 and 5 of the development shall be accompanied by a flood evacuation plan for the entire site, prepared in consultation with the State Emergency Services. The plan shall include early warning strategies to ensure the evacuation of lots isolated in the 1 in 100 year flood event, and the Probable Maximum Flood Event. The plan prepared for Stage 4 shall be updated when an application is submitted for Stage 5.

Stage 5

- 3.3 The future application for Stage 5 of the development shall be accompanied by an assessment that addressed condition 3.1f)-h) inclusive, unless these assessment for Stage 5 has been suitably incorporated into the application for Stage 1 and Stage 2 of the development.

Landscape Management Plan

- 3.4 The future application for Stage 3 of the development shall include a revised Landscape Management Plan to ensure:
- a) locally native species are provided as part of the Landscape Plan in the Environmental Management Area;
 - b) ongoing planting during the establishment phase and collection of seed for rehabilitation is no further south than the Southern Shellharbour LGA boundary or north of Mount Kembla; and
 - c) supplementary watering during planting and initial establishment phase is provided.

SEPP 14 Wetland

- 3.5 Any application relating to the subdivision of land within the Site that contains the SEPP 14 Wetland buffer shall include a Deed of Agreement for the future owners of these lots that details the burdening and management regimes applicable to the SEPP 14 buffer area.

Stormwater Management

- 3.6 Any application relating to the subdivision of land within the Site shall demonstrate suitable arrangements have been made to ensure all lots contained within the Site are required to manage and comply with the Water Cycle Management Program and the Water Quality and Discharge Monitoring Program.

Environmental Management Area

- 3.7 Any application relating to the subdivision of land within the Site shall demonstrate suitable arrangements have been made for the long-term management of the Environmental Management Area. This may include the use of a public positive covenant and retention in private ownership (unless an agreement is reached with Council).

Construction Impacts

- 3.8 All stages of the development (**being Stages 1 – 5**) shall be accompanied by an assessment of construction impacts associated with that activity, including (but not limited to) construction noise, air quality, soil and erosion and traffic. The assessment shall be accompanied by a construction environmental management plan, prepared in accordance with Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004), which shall include:
- a) noise and dust management plan;
 - b) soil and water management plan, prepared in accordance with Landcom's *Managing Urban Stormwater: Soils and Construction guidelines*;
 - c) waste management plan;
 - d) traffic management plan;
 - e) aboriginal heritage management plan that has been prepared in consultation with the DECC and relevant Aboriginal groups; and
 - f) a complaints management plan detailing the procedures that would be implemented to receive, handle, respond to and record any complaints that are received.

Future Development

- 3.9 Applications for construction and operation of buildings and associated structures within the Site shall:
- a) include an operational noise impact assessment in accordance with the DECC *Industrial Noise Policy* (or its superseding policy) and the DECC *Environmental Criteria for Road*

Traffic Noise. If noise criteria is exceeded, then the application must include appropriate mitigation measures, such as acoustic walls;

- b) include an operational traffic impact assessment in accordance with RTA's *Guide to Traffic Generating Developments*;
 - c) include an assessment of construction impacts, including noise, traffic, soil and erosion, waste, dust, flora and fauna (including SEPP 14) and identify the mitigation and management measures that would be implemented to address these impacts. A construction environmental management plan must accompany the application prepared in accordance with *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004);
 - d) if the site is flood affected, include an assessment of flooding risk to the development including how possible environmental risks would be minimised on site and how the built form would be appropriately designed to withstand flood events. This includes storage of chemicals/fuels, the protection of vital electronic equipment, use of appropriate building materials, minimum floor levels and ensuring fences (or other built forms) do not impede flood waters. The assessment should also demonstrate compliance with the commitments and procedures detailed within the flood evacuation plan required under condition 3.2 of this approval;
 - e) demonstrate compliance with the provisions of the Landscape Management Plan, the Water Cycle Management Program and the Water Quality and Discharge Monitoring Program;
 - f) where applicable, demonstrate compliance with the commitments and management procedures detailed in the Vegetation Management Plan;
 - g) if the site is located adjacent to riparian areas or the SEPP 14 wetland, provide an assessment demonstrating that impacts on these areas as a result of operations is minimised and managed to ensure the hydrological and ecological values of these areas are protected;
 - h) demonstrate that the proposal does not have any adverse impacts on items of European heritage within and adjacent to the site;
 - i) demonstrate that proposed lighting does not reflect towards any runway of the Illawarra Regional airport or its approaches;
 - j) demonstrate that future temporary or permanent structure does not exceed the limitation surface plan for the Illawarra Regional airport;
 - k) demonstrate that ESD measures have been incorporated into the design of the buildings to reduce water and energy consumption.
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