

Modification of Concept Plan Approval

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

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



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney 29 April, 2019

SCHEDULE 1

| | |
|------------------------------|---|
| Development approval: | MP 10_0084 granted by the Planning Assessment Commission on 12 July 2012 |
| For the following: | Concept plan for: <ul style="list-style-type: none">• 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. |
| Proponent: | Scape Constructions Pty Ltd |
| Approval Authority: | Minister for Planning |
| The Land: | Lot 2 DP 1043151 and Lot 57 DP 755266, Kanangra Drive, Gwandalan |
| Modification: | MP 10_0084 MOD 1: amendment to the Statement of Commitments to remove the one storey building height restriction. |

SCHEDULE 2

The above consent is modified as follows:

- (a) Schedule 2 – Part B – Administrative Conditions - Condition 1.1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:
 - 1.1 The Proponent shall ensure that all development on site is carried out generally in accordance with the:
 - a) Concept Plan Applicant 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) **Section 75W Modification Application to MP 10 0084, prepared by ADW Johnson Pty Limited and dated 15 January 2019; and**
 - g) this approval.
- (b) Appendix 1 is amended by the deletion of all text, and the insertion of the following text:

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"> • Gwandalan Land Transfer Plan prepared by Monteath and Powys dated 25/08/2008 Rev D; • Conservation and Development Areas Plan (Figure A1.1.1) 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 A4.2.2 prepared by AJ&C and Aspect Studios; • Landscape and open space design concepts as shown in Figure A2.4.1 prepared by AJ&C and Aspect Studios; • Urban Design Guidelines prepared by AJ&C and Aspect Studios; • Indicative development staging as indicated by Figure A3.1.1 prepared by AJ&C. |
| 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"> • Open Space and Recreation Facilities works in kind (\$4,194.52 per lot) directly associated with substantial land dedication in lieu. • Roads (Catchment C) \$3,980.86 per lot • Community facilities \$3,548.04 per lot • Shire wide contribution (Performing Arts Centre & Administration) \$443.53 per lot • Administration (Northern Districts) \$494.19 per lot |

| | |
|---|--|
| | <ul style="list-style-type: none"> DSP Water Charges (headworks & Distribution) \$4,119.58 per lot DSP Sewer (headworks only) \$843.89 per lot <p>Note: the above contribution rates (other than DSP's) are indexed to Nov 2010. Water and sewer charges indexed annually on 1st 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&C and Aspect Studios, Illustrative Landscape Plan prepared by Aspect Studios and Urban Design Guidelines prepared by AJ&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"> 1. Privately owned land opened up to the benefit of the community through the dedication of 77% of the land for conservation in perpetuity. 2. Section 94 contributions to open space, recreation, roads and community facilities as noted above. 3. Contribution to the provision of emergency services and education for the region. 4. Upgrading of the Pacific Highway/Kanangra Drive intersection at the landowners cost. 5. \$5M allocated by Coal & 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: |

| | |
|---|--|
| | <ul style="list-style-type: none"> • Funding State and Regional employment opportunities; • Upgrade of Lions Park boat ramp; • Contribution to the upgrade of Koowong Road wharf; • Sustainability contributions; • Aboriginal community scholarships; • Provision of walkways (subject to DECCW approval) external to the Coal & Allied development land. |
| 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"> • 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"> ◦ One left turn slip lane (100m) turning north from Pacific Highway to Kanangra Drive; ◦ One left turn slip lane (50m) turning north from Kanangra Drive to the Pacific Highway; ◦ Additional right turn storage lane (100m) for southbound traffic from Kanangra Drive to Pacific Highway. • 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. • Emergency Services involving a contribution towards purchasing 3,000m² 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. |

| | |
|--|--|
| | <ul style="list-style-type: none"> Education involving the purchase of 10,000m² 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 300th urban lot. |
| 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"> Electricity from existing network; Connect to existing potable water main in Kanangra Drive; Sewer pump station and rising mains to connect to Summerland Point STP; Provision of a communication service complying with the National Broadband Network Policy. <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 & 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"> • The BASIX water consumption benchmark; • The BASIX energy consumption benchmark. |
| 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"> • Contribute to the Indigenous community for employment in land care, lake quality improvement etc; • Establish procurement policies for the Indigenous community to remediate/regenerate degraded areas within the conservation zones, in conjunction with NSW Government; • Establish procurement policies for the Indigenous community during construction (e.g. fencing, landscaping) and ongoing maintenance (e.g. lawn mowing etc). <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"> • Regular newsletters/letterbox drops on timing and progress; • Information on a publicly accessible website; • Community workshops; • Appropriate signage onsite; • Contact numbers for complaints/issues. |
| 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"> • The provision of a diversity of lots sizes; • The provision of different housing typologies including single and two storey houses; • The provision of seniors living (subject to future approvals). |
| 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"> • Procedures during site excavation works; • Consultation with local Aboriginal community groups during preparation of the ACHMP and throughout construction; • Appropriate Aboriginal heritage interpretation measures; • Defined archaeological investigation areas; • Defined appropriate works within areas of high Aboriginal significance. <p>The Owner must:</p> <ul style="list-style-type: none"> • Ensure stop work procedures are in place if any Aboriginal relics or artefacts are to be discovered during the course of work onsite; • Ensure that the location of all infrastructure services avoids and protects areas of high Aboriginal significance; • Ensure that onsite information about the heritage requirements is in place for the construction phase for the construction team. |
| Traffic and Transport | <p>The Owner is to:</p> |

| | |
|-------------------------|---|
| | <ul style="list-style-type: none"> • 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; • 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; • 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; • Implement local traffic management measures within the development and existing local roads where required; • Dedicate public roads to Wyong Shire Council at no cost to Council. <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"> • Implement WSUD to manage stormwater in accordance with WSC/DECCW/NOW policies; • Manage flood risk according to the NSW Floodplain Development Manual; • 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; • Prepare a stormwater management strategy; • Prepare a groundwater management strategy; • Prepare a maintenance regime for the proposed groundwater management system, stormwater treatment systems; • Housing lots need to provide appropriate on lot detention for stormwater. <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"> • Location of permanent Asset Protection Zones (APZ) and fire trails; • APZ establishment methods; • Location of habitat trees to be retained; • Areas of vegetation to be removed, retained or replaced; • Fuel Management measures to be in accordance with the Gwandalan Fuel Management Plan prepared by RPS; • Access to services; • Existing and proposed plant species. <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"> • Development of a remediation Action Plan; • Appropriate remediation conducted to remove identified contaminants exceeding the DECC land use criteria; • Validation testing and verification; • Validation of asbestos contamination should be conducted by a qualified asbestos consultant; • Waste classification to DECC guidelines of any materials destined for offsite disposal at licensed landfill. |
| 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&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"> • A survey plan prepared by a Registered Surveyor; • Instruments prepared under s88B of the Conveyancing Act as appropriate; • A Section 507 Certificate from Wyong Council Water Authority; • 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. |

| | |
|--------------------------|--|
| Environmental Management | 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. |
| Pet Management | 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. |
| 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"> • 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 & Allied and DECCW; • 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. • 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. |

End of modification MP 10_0084 MOD 1