

Concept Approval

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

Warner Industrial Park (MP07_0162)

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

- i). pursuant to section 75O of the Act, to grant concept plan approval for the proposal referred to in Schedule 1, subject to the modifications set out in Schedule 2;
- ii). pursuant to section 75P(1)(c) of the Act, that the subdivision of the site into 90 industrial lots (and associated works) (being project application 07_0162) requires no further environmental assessment and approve the development under section 75J of the Act (subject to the conditions of that determination); and
- iii). pursuant to section 75P(1)(b) of the Act, that all other development described in the Concept Plan is subject to Part 4 of the Act and are subject to further environmental assessment requirements (as specified in Schedule 2 of this determination) in accordance with section 75P(2)(c) of the Act.



Tony Kelly MLC
Minister for Planning

Sydney, 27 AUG 2010 2010

SCHEDULE 1

Application No:	MP 07_0162
Proponent:	Warner Business Park Pty Ltd and LG Delahunt
Approval Authority:	Minister for Planning
Land:	Land located adjacent to Sparks Road, Hue Hue Road, Kiar Ridge Road and the F3 Freeway, being Lots 4, 6, 7, 8 and 9 DP 239704, Lots 15-19, 25-26 DP 259530, Lot 5 DP 259531.
Concept Plan:	<p>Concept plan for the Warner Industrial Park industrial development at Wyong Shire Council, which includes:</p> <ul style="list-style-type: none">• Torrens title subdivision of the developable areas of the Warner Industrial Park into 90 lots for industrial and ancillary uses;• Dedication of land identified for conservation purposes to Wyong Shire Council to protect, manage and conserve biodiversity and downstream receiving waters;• Additional land uses that are prohibited under the Zone IN1 General Industrial in the <i>State Environmental Planning Policy (Major Development) 2005</i>; and• Adoption of a Development Control Plan to manage future development and subdivision of land.

SCHEDULE 2

PART A – DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act 1979</i>
Conservation Lands	Lands identified in the Concept Plan for transfer to Wyong Shire Council
Council	Wyong Shire Council
DECCW	Department of Environment, Climate Change and Water
Department, the	Department of Planning
Director-General, the	Director-General of the Department of Planning (or delegate)
The former DWE	The former Department of Water and Energy
EA	<i>Environmental Assessment Report</i> (including accompanying appendices) prepared by Peter Andrews and Associates Pty Ltd, June 2008.
Food and Drink Premises	Retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs – but excluding kiosks
Minister, the	Minister for Planning
Proponent	Warner Business Park Pty Ltd and LG Delahunty
RTA	NSW Roads and Traffic Authority
Site	Land to which Concept Plan Application MP 07_0162 applies.
Stage 1	As described in the documents listed in condition 1.1 of this approval, being: <ul style="list-style-type: none"> • earthworks including regrading and filling; • construction of the main intersections at Sparks and Hue Hue Roads; • construction of internal Roads No. 1 – 5 and bridge over Buttonderry Creek; • provision of necessary infrastructure to service lots 1-69; • Buttonderry Creek restoration and rehabilitation works; • provision of stormwater storage and wetland areas located on this landholding; and • construction of open channel adjacent to Road No. 4.
Stage 2	As described in the documents listed in condition 1.1 of this approval, being: <ul style="list-style-type: none"> • earthworks including regrading and filling; • construction of internal Road No. 6; • provision of necessary infrastructure to service lots 101 - 121; and • provision of stormwater storage and wetland areas located on these landholdings.
Industrial Retail Outlets	<u>Means a building or place that:</u> (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and (b) is situated on the land on which the industry is carried out, and (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

PART B – ADMINISTRATIVE CONDITIONS

1. TERMS OF CONCEPT APPROVAL

- 1.1 The Proponent shall carry out the Concept Plan generally in accordance with:
- a) Concept Plan application MP 07_0162;
 - b) *Warner Industrial Park Concept Plan June 2008 and Project Application June 2008* (including accompanying appendices) prepared by Peter Andrews and Associates Pty Ltd;
 - c) *Warner Industrial Park Preferred Project Report February 2009* (and including accompanying appendices) prepared by Peter Andrews and Associates Pty Ltd;
 - d) *Warner Industrial Park – Revision A to Preferred Project Report* (including attachments), dated May 2009 and prepared by Peter Andrews and Associates Pty Ltd;
 - e) Plan of Subdivision of being Lots 4, 6, 7, 8 and 9 DP 239704, Lots 15-19, 25-26 DP 259530, Lot 5 DP 259531, submitted by Peter Andrews and Associates Pty Ltd (Project No. 19426, Drawing No. EA01 Revision J) and dated 11 May 2009;
 - f) *Draft Development Control Plan Warner Industrial Park – Sparks Road and Hue Hue Road, Warnervale* prepared by Peter Andrews and Associates Pty Ltd and dated October 2009;
 - g) the *Statement of Commitments*, (Preferred Project Report, Revision A, May 2009) prepared by Peter Andrews and Associates Pty Ltd; and
 - h) this approval.
- 1.2 In the event of an inconsistency between:
- a) the modifications of this approval and any document listed from clause 1.1 a) to 1.1 g) inclusive of this Instrument, this approval shall prevail to the extent of the inconsistency; and
 - b) any document listed from condition 1.1a) to 1.1 g) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- 1.3 In the event of an inconsistency between the Statement of Commitments, referenced in condition 1.1 g) and this approval, then the approval shall prevail to the extent of the inconsistency.

Limits of Approval

- 1.4 This Concept Plan approval shall lapse ten 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.
- 1.5 To avoid any doubt, this Concept Plan approval does not permit the construction of any aspect of the proposal which will be subject to separate approvals/consents.

Determination of Future Applications

- 1.6 The determination of future applications for development on the site, under Part 4 of the Act are to be generally consistent with the terms of this approval.

2. MODIFICATIONS TO THE CONCEPT

Subdivision

- 2.1 The residual land to the north-east of proposed Lot 26 is to form part of Lot 111 or shall be dedicated to Council as part of the road reserve (should Council agree).

- 2.2 The minimum lot size on land zoned IN1 within the Concept Plan area is 2,000m². No more than 10% of the site shall comprise of lots of between 2,000m² – 5,000m².

Additional Uses

- 2.3 Approval is not granted for the proposed additional and ancillary land uses as proposed in the Warner Industrial Park Design Code:
- Function Centres;
 - Self storage units;
 - Landscape and garden supplies; and
 - Timber and building supplies.
- 2.4 The retail floor area of the Industrial Retail Outlet must not exceed:
- (i) 20% of the building or place in which the relevant industry is carried out, or
 - (ii) 200 square metres,
- whichever is the lesser.
- 2.5 *Neighbourhood shops, kiosks and food and drink premises* are to have a total retail floor area of 500m² across the entire estate with a maximum retail floor area of 200m² per *neighbourhood shop and food and drink premises*, and 80m² for *kiosks*.

Note: For the purposes of this determination, refer to the dictionary of <i>Standard Instrument—Principal Local Environmental Plan</i> for the definition of the above terms/land uses.

Urban Design

- 2.6 The height of buildings that front into Sparks Road and Hue Hue Road is limited to 18m where that structure is located within 50 metres of the site boundary (that is common with the abovementioned roads). The building height limit for the remainder of the site is 26 metres. The exception to both height limits is where the requirements of the Obstacle Heights Limitation Map for the Warnervale Airport restricts height to below 18 metres and 26 metres respectively.
- 2.7 The *Warner Industrial Park Design Code* is amended to reflect the following modifications:
- a) Replace all references to *Development Control Plan* and *DCP to Warner Industrial Park Design Code* and *Design Code* respectively;
 - b) Replace all references to *State Environmental Planning Policy (Major Projects) 2005* with *State Environmental Planning Policy (Major Development) 2005*.
 - c) Replace all references to *Warner Industrial Park DCP area* and *DCP area* with *Warner Industrial Park Concept Plan area* or *Concept Plan area* respectively.
 - d) Replace relevant sections of the Code to be consistent with modifications set out in conditions 2.1 – 2.6, and any relevant order issued by the Minister for the Warner Industrial Park Concept Plan in accordance with section 75R(3A) of the Act.
 - e) Delete chapter 1.2 and replace the first paragraph within chapter 1.3 with the future assessment regime established by the Minister's concept plan determination under section 75P of the *Environmental Planning and Assessment Act 1979*.

- f) Content within Chapter 1 is to be modified to reflect the following:
 - i). the Design Code has been prepared to accompany the Concept Plan for the Warner Industrial Park and establishes the development controls for future development; and
 - ii). that future development applications under Part 4 of the Act will need to be consistent with the approved concept plan, including the controls contained within this code (section 75P(2)(a) of the Act).
- g) Content within Chapter 3 is to be modified to address / reflect the following:
 - i). Chapter 3.4 – Setbacks shall be modified to insert *Lots Adjoining or fronting* before the title *Zone E2 Environmental Conservation Lands*;
 - ii). Chapter 3.11.1 Controls (bullet 3) shall be modified to refer to section 3.8, and for the controls detailed in bullet 7 to read *The use of highly rated energy efficient range of appliances and lighting is required*. The subsequent two sentences shall be deleted.
 - iii). Chapter 3.11.2 Controls delete bullets 1-5 and include *Works adjacent to or over a sewer main are to be designed and constructed in accordance with the Wyong Shire Council Policy "Requirements for buildings adjacent to or over sewer mains" and DCP 67 Engineering Requirements for Development*.
 - iv). Chapter 3.11.3, Controls shall be modified to include *Corrugated iron shall not be used for the predominant wall cladding under any circumstances*.
 - v). Chapter 3.13 shall be modified to include a duration for banners and inflatable advertising devices.
 - vi). Chapter 3.13 shall be modified to include a recommended minimum distance for signage from roundabouts.
 - vii). Chapter 3.14, the objectives shall be modified to include *To ensure the provision of car parking is suitable for the proposed use*, and for the related controls (bullet 3) to be modified to read *Proposals to encroach upon the front setback and landscape areas with car parking may be considered by the Consent Authority*.
 - viii). Chapter 3.14, delete reference to *drive-in/drive-out drop off arrangement*.
 - ix). Chapter 3.15.1 Objective (bullet 2) shall be modified to read *To ensure loading and offloading docks are well integrated into the design of the building*.
 - x). Chapter 3.15.1 controls (bullet 4) shall be modified to read *Servicing*.
 - xi). Chapter 3.16 (bullet 5) shall be modified to delete *human scale*.
 - xii). Chapter 3.16 should include *The visual impact of fencing must be not be obstructive*.
 - xiii). Chapter 3.17 shall be modified to delete last bullet as there is no complying development other than that provided in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009*.
 - xiv). Chapter 3.17 must include *Consideration of Wyong Shire Council's policy on control for site waste*.
 - xv). Chapter 3.18 Controls, (bullet 1) shall be modified to read *Lighting from the site should not affect/obstruct traffic on the F3 Freeway and protect the amenity of the adjacent residential receivers in terms of glare and brightness*.
 - xvi). Chapter 3.19 shall be modified by deleting second paragraph.
 - xvii). Chapter 3.19 controls, (Bullet 3) shall be modified to conclude with *to the satisfaction of the consent authority*.
 - xviii). Chapter 3.19 controls, (Bullet 3) specifications must be written out in full for allotment landscape irrigation and 7.5kL/ha/day should be replaced with 2.0 kL/ha/day.
 - xix). Chapter 3.19 controls (Bullet 4) shall be modified to be written in full: *85% reduction in the post development mean annual load of Total Suspended Solids, total Nitrogen – 45%, Total Phosphorus – 65*.
 - xx). Chapter 3.19 controls shall be modified to include *Compliance with these standards is to be determined by stormwater quality (MUSIC) modelling in accordance with the supporting technical guidelines of the Wyong Council's Water Sensitive Urban Design Development Control Plan*.

- xxi). Chapter 3.19 controls shall be modified to include: *The preparation of a WSUD Strategy should be consistent with Council's policies.*
- xxii). Chapter 3.19 Controls delete last two bullets and replace with
 - *The design and construction of the stormwater drainage design is to be in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development.*
 - *The Erosion and Sediment Control Plan and the prevention of silt discharge into drainage systems and waterways is to be designed and constructed in accordance with Wyong Shire Council's Development Control Plan 2005 – Chapter 67 – Engineering Requirements for Development or Soils and Construction – Managing Urban Stormwater (Blue Book). Details are to include all major stages of construction and sequences of work together with treatments necessary at these stages. The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.*
- xxiii). Delete reference to *as otherwise required by this DCP.*
- h) Content within Chapter 4 is to be modified to reflect the following:
 - i). Chapter 4.0 shall be modified to read *these are to be consistent with Council's policies.*
 - ii). Chapter 4.3.2 shall be modified to include demonstrate general consistency with the approved concept plan determination for the WIP.

2.8 The *Warner Industrial Park Design Code* shall be revised to be consistent with the modifications set out within this Concept approval and associated Project approval. The Proponent shall submit the revised *Warner Industrial Park Design Code* within six months of determination for the Director-General's approval.

3. FURTHER ENVIRONMENTAL ASSESSMENT REQUIREMENTS

- 3.1 Future applications for development (that requires consent under Part 4 of the Act) must include the following:
- a) an assessment to demonstrate consistency with the concept plan and the *Warner Industrial Park Design Code*;
 - b) an assessment to demonstrate consistency with Council's Integrated Stormwater Management Strategy/Water Sensitive Urban Design Strategy and the finalised detail design of the proposed stormwater, flooding and drainage infrastructure, water quality management and stormwater harvesting measures for the estate; and
 - c) an assessment of construction and operational impacts associated with the proposed activity, including noise, traffic, soil and erosion, air quality, and interface issues between the construction site, adjacent residential areas and conservation areas.