

Modification of Concept Approval

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

As delegate of the Minister for Planning, the Independent Planning Commission modifies the Concept Plan approval referred to in Schedule 1, subject to the modified terms of approval outlined in Schedule 2.



Member of the Commission Member of the Commission Member of the Commission

Sydney

18 March 2019

SCHEDULE 1

- Concept Plan Approval:** MP 07_0027 granted by the Deputy Director-General Development Assessment & System Performance on 15 February 2011.
- Proponent:** Australand Corporation (NSW) Pty Ltd.
- For the following:** Shell Cove Boat Harbour Precinct, including residential, commercial, community, retail, hotel, business park, dry boat storage facility, open space and wetlands at Lot 8032 DP 1072187, Lot 8100 DP 1082981, Lot 206 DP 857030, Lot 9004 DP 1117743 and Lot 30 DP 229374 Boollwarro Parade, Shell Cove
- Modification:** MP 07_0027 MOD 1 the modification includes:
- increasing the maximum number of dwellings to 1566;
 - revising housing densities and typologies across the site;
 - removing the maximum residential gross floor area limit of 150,000m²;
 - reconfiguring the town centre layout;
 - increasing the maximum building heights in certain areas;
 - provision of a maximum building height in metres;
 - adding 'serviced apartments' and 'residential accommodation' as permissible uses within the hotel building;
 - the addition of 8280m² of land to the site area;
 - changes to the road pattern and layout;
 - provision of acoustic walls in place of landscape moulds surrounding the marina commercial land use; and
 - amendments to the Statement of Commitments.

SCHEDULE 1

The consent is modified by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

- (a) Land – the land to which the Concept Approval applies to is modified as follows:

Land Lot 8032 DP 1072187, Lot 8100 DP 1082981, Lot 206 DP 857030, Lot 9004 DP 1117743, ~~and Lot 30 DP 229374~~ **and Lot 5074 DP 1249071** Boolwarroo Parade, Shell Cove

- (b) Definitions – the following definitions are amended as follows:

Concept Plan Shell Cove Boat Harbour Precinct Concept Plan comprising residential, commercial, community, retail, hotel, business park, dry boat storage facility, open space and wetlands as described in *Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment*, 26 February 2010 prepared by LFA (Pacific) Pty Ltd **and as amended by the Section 75W Modification, dated 8 August 2017, prepared by Ethos Urban, and Response to Submissions, prepared by Ethos Urban, dated 7 February 2018, 31 May 2018 and 31 July 2018.**

Project The development as described in the EA **and as amended by the Section 75W Modification, dated 8 August 2017, prepared by Ethos Urban, and Response to Submissions, prepared by Ethos Urban, dated 7 February 2018, 31 May 2018 and 31 July 2018.**

Statement of Commitments Statement of Commitments, January 2011, prepared by LFA (Pacific) Pty Ltd (Schedule 4) **and as amended by the Section 75W Modification (refer Appendix C), dated 8 August 2017, prepared by Ethos Urban.**

SCHEDULE 2

- (c) Schedule 2 Part A – Terms of Approval, Condition 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

1. Approval for the Boat Harbour Precinct

Except as modified by this approval, Concept Plan approval is granted only to the carrying out of development within the Concept Plan area as listed below and in more detail in Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, 26 February 2010, as amended by the Preferred Project Report, **the Section 75W Modification, dated 8 August 2017 and Response to Submissions, dated 7 February 2018, 31 May 2018 and 31 July 2018:**

- (a) Up to ~~4,238~~ **1,566** dwellings with a total gross floor area of approximately ~~150,000m²~~ comprising single dwellings, medium density and apartments;
- (b) a business park with a maximum gross floor area of 30,000m²;
- (c) retail/commercial/~~hotel~~/community development **and community facilities** with a maximum gross floor area of ~~22,000m²~~ **14,830m²**;
- (d) **a mixed-use landmark (hotel) building of up to 11 storeys;**

- (e) public open space and wetlands; and
 - (f) associated drainage, stormwater infrastructure and roads.
- (d) Schedule 2 Part A – Terms of Approval, Condition 2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

2. Approved Plans and Documentation

The project shall be generally in accordance with the following plans and documentation:

- (a) Shell Cove Boat Harbour Precinct Concept Plan Application and Environmental Assessment, dated 26 February 2010, prepared by LFA (Pacific) Pty Ltd, including Volumes 1 and 2 and Appendices A to P;
- (b) Shell Cove Boat Harbour Precinct Preferred Project Report, dated November 2010 prepared by LFA (Pacific) Pty Ltd, including Appendices 1 and 2; and
- (c) Statement of Commitments (Schedule 4), **as amended by the updated Statement of Commitments provided in Appendix C of the Section 75W Modification, dated 8 August 2017, prepared by Ethos Urban; and**
- (d) **Section 75W Modification, dated 8 August 2017, prepared by Ethos Urban, and Response to Submissions, prepared by Ethos Urban, dated 7 February 2018, 31 May 2018 and 31 July 2018.**

except as otherwise provided by the terms of this approval.

- (e) Schedule 2 Part A – Terms of Approval is amended by the insertion of the following new Term of Approval 6:

6. Maximum number of dwellings

The maximum number of dwellings permitted on the site is limited to 1420 dwellings, unless the developer submits, written confirmation from Sydney Water that adequate water and wastewater servicing is available to accommodate a maximum of 1566 dwellings, to the satisfaction of the Secretary.

- (f) Schedule 2 Part A – Terms of Approval is amended by the insertion of the following new Term of Approval 7:

7. Parking

The parking requirements set out in the approved plans and documentation submitted as part of MOD 1 are not approved as part of the Concept Plan. Parking requirements shall be assessed and determined by Council as part of any future development applications and as a part of the precinct Urban Design Guidelines, where relevant.

- (g) Schedule 2 Part A – Terms of Approval is amended by the insertion of the following new Term of Approval 8:

8. Urban Design Guidelines

The Urban Design Guidelines submitted as part of MOD 1 are not approved as part of the Concept Plan. The Urban Design Guidelines are to be assessed and determined by Council, as set out in Part D of this approval.

- (h) Schedule 2 Part A – Terms of Approval is amended by the insertion of the following new Term of Approval 9:

9. Indicative design

The indicative design / layouts for open space, foreshore areas, works within the water, the boat maintenance/storage facility and buildings as shown in the approved plans and documentation submitted with MOD 1 are not approved as part of the Concept Approval. These matters shall be assessed and determined by Council as part of any future development applications and as part of precinct Urban Design Guidelines, where relevant.

- (i) Schedule 2 Part B – Modifications to the Concept Plan is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Part B – Modifications to the Concept Plan

The following ~~There are no~~ modifications **are** required to the Concept Plan outlined in the Shell Cove Boat Harbour Precinct Preferred Project Report **and amended by the Section 75W Modification to MP 07_0027 MOD 1:**

- 1. to ensure an appropriate interface with adjoining dwellings, all future buildings at the northern edge of the Concept Plan site are to present a height of no greater than two storeys and a maximum of 9m to the northern boundary. This requirement does not apply to buildings that adjoin Ron Costello Oval or Keith Hockey Oval.**

SCHEDULE 3

- (j) Schedule 3 Part D – Further Environmental Assessment Requirements, Condition 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

1. Urban Design

The proponent must submit detailed urban design guidelines for the project prepared by a suitably qualified architect or urban designer, for each stage. The guidelines must establish design controls which achieve the following where relevant to the particular stage:

- architectural diversity within all stages which complements the site's coastal context; and
- a variety of detailed designs which avoid monotones and repetition;
- design of the ~~hotel~~ **mixed use landmark (hotel)** building and public square in the commercial precinct which define street and water edges, and create visual interest;
- a ~~hotel~~ **mixed use landmark (hotel)** building with a slender tower angled ~~to the east~~ to maximise views to the coast to the north and south, reduce impacts on the boat harbour, and relate well to the area's existing urban form and which may comprise a 3-4 storey high podium;

- demonstration of a mix of dwelling types and sizes for each residential precinct, including consideration of affordable and adaptable housing;
- building separation, setbacks, solar access, visual and acoustic privacy, view corridors and an adequate level of environmental amenity;
- compliance with *Crime Prevention Through Environmental Design* (CPTED) principles;
- the location and distribution of public car parks;
- where applicable, that *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* principles and the *Residential Flat Design Code Guidelines* can be achieved;
- appropriate density, bulk, scale, textures and colours in relation to surrounding development, topography and streetscape;
- consistency with the *New South Wales Coastal Policy 1997* and *Coastal Design Guidelines New South Wales* in terms of visual impact, bulk, scale and amenity;
- layout and design which satisfies the design considerations in *Healthy by Design: A Planners Guide to Environment's for Active Living*, National Heart Foundation of Australia;
- clear addresses for buildings fronting public walkways along the harbour and direct access from walkways where possible;
- an indicative staging plan identifying the likely timing and sequence for each stage;
- buildings which address main avenues or boulevards and serviced by rear laneways/access ways to improve legibility and prevent gated communities; ~~and~~
- design and layout to minimise noise impacts to sensitive residential areas near the quarry boundary-; and
- **demonstrate adequate on-site parking is provided for the mixed-use landmark (hotel) building, to not adversely impact on-street parking in the town centre and surrounding precincts.**

- (k) Schedule 3 Part D – Further Environmental Assessment Requirements, Condition 3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

3. Noise Management Assessment

A detailed Noise Management Assessment identifying:

- traffic noise mitigation measures for the road design;
- areas which require acoustic treatments to dwelling facades to provide satisfactory indoor noise levels; ~~and~~
- appropriate mitigation measures (the use of mounds and landscape buffers, not acoustic walls) for the design and layout of stages affected by truck noise from the Quarry Haul Road, ~~dry boat storage and marina activities-;~~ and
- **details of mitigation measures (the use of acoustic walls and landscape buffers) to ensure surrounding residential land uses are not affected by noise from the marina / commercial land use.**

- (l) Schedule 3 Part D – Further Environmental Assessment Requirements, Condition 13 is amended by the insertion of the **bold and underlined** words / numbers as follows:

13. Social Infrastructure

Social infrastructure shall be provided in accordance with Council's Section 94 Contributions Plan **or where applicable, through any negotiated Voluntary Planning Agreement between the developer and Council in relation to the Site.** The details of any playground, local library and multi-purpose community centre shall be provided with each stage of the project.

- (m) Schedule 3 Part D – Further Environmental Assessment Requirements, Condition 17 is amended by the insertion of the **bold and underlined** words / numbers as follows:

17. Public Access

The detailed design and layout of the project must adopt the following principles:

- (a) direct, legible and inviting public pedestrian access from adjoining residential development and pedestrian connections which follow existing and proposed well-connected streets;
 - (b) clear and direct access from the public walkway around the harbour to streets that meet the harbour edge to ensure public access is well defined and integrated; ~~and~~
 - (c) clear, through-site pedestrian links with active street frontages, direct and legible access to key points of interest, including Shellharbour village, which are publicly accessible at all times;
 - (d) consistency with the Shellharbour Shared Use Path Strategy (Shellharbour City Council, 10 August 2010) unless otherwise justified; **and**
 - (e) **continuous public access around the entire harbour perimeter connecting to the beach on either side of the harbour entrance. The public access shall be provided in the form of a paved concrete footpath and/ or timber boardwalk and constructed to a minimum width of 1.5 m to allow for two wheelchairs to pass.**
- (n) Schedule 3 Part D – Further Environmental Assessment Requirements is amended by the insertion of the following new Further Environmental Assessment Requirements 18 and 19:

18. Surface and Ground Water

The proponent must submit a surface and groundwater report, prepared by a suitability qualified person, which includes:

- (a) **an assessment of impacts to surface and groundwater sources including water use, water licensing arrangements, impacts on water users, waterfront land and aquifers, as well as compliance with relevant policies; and**
- (b) **details of any groundwater dewatering which may be required during the construction phase of the precinct, including:**
 - i. **information on the site's hydrogeology;**
 - ii. **a description of the current groundwater situation, such as groundwater quality and groundwater level;**
 - iii. **predicted groundwater take, inclusive of the calculations supporting this estimate; and**
 - iv. **a discussion on impacts in line with the Aquifer Interference Policy (2012)**

19. Visual Impact

All future stages of development are to include a Visual Impact Assessment (VIA) as part of the application, prepared by a suitably qualified person. The VIA is required to

provide representative 3-dimensional computer models of any built form structures, and prepared based on the approved Reduced Levels (RLs) of the land subject to the application.

SCHEDULE 4
STATEMENT OF COMMITMENTS

(as amended by the Section 75W Modification (refer Appendix C), dated 8 August 2017, prepared by Ethos Urban.)

End of Modifying Instrument – MP 07_0027 MOD 1
