

Modification of Minister's Approval

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

As delegate of the Minister for Planning under delegation dated 14 September 2011, I approve the section 75W modification of the project approval referred to in Schedule 1, subject to the modified conditions of consent outlined in Schedule 2.



Chris Ritchie
A/Director
Industry, Key Sites and Social Projects

Sydney 16 MAY 2014

SCHEDULE 1

Project Approval:

05_0016 was granted by the Minister for Planning on 12 March 2008 and subsequently modified under delegated authority by the Director, Metropolitan and Regional Projects North on 25 February 2013 (MOD 1 to Concept Plan).

Proponent:

Australian Property Growth Fund Limited

Land:

Lot 11 DP 1104789 and Part Lot 2 DP 1073600 (now known as Lots 2, 3 & 4 in DP 1123774) Wurru Road and Dolphin Point Road, Dolphin Point/Burrill Lake – Shoalhaven local government area.

Project:

Project approval for a development comprising:-

- (1) Staged subdivision of Precincts A and B into 165 residential allotments;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct A;
- (4) Creation and embellishment of an informal neighbourhood park in Precinct B;
- (5) Construction of pedestrian/cycle paths through all Precincts;
- (6) Landscaping;
- (7) Revegetation works to riparian zones in all Precincts;
- (8) Provision of services and infrastructure; and
- (9) Associated with the staged subdivision, dedication of lands in Precincts A and C to the Council.

Modification:

The modification request includes:-

- Update of title references;
- Update of plan references to reflect new staging;
- An increase from 3 to 17 stages;
- Change to Precinct references;
- Change to allow construction certificates to be released for more than one stage at a time;
- Change to allow a registered surveyor to provide certain drainage plans;
- Delete duplicated condition relating to water and sewer infrastructure (B11);
- Changes to the timing and location of the informal park (B20) and consolidation into one central park in Precinct B;
- Include identification of development parcels in Precinct C;
- Changes to design measures to prevent vehicles entering adjoining conservation area;
- Remove restriction on land which will be dedicated as a public reserve;
- Changes to timing of the pedestrian and cycle paths in Precinct C; and
- Withdraw commitments that are addressed in approval conditions.

SCHEDULE 2

The Project Approval as described in Schedule 1 is modified as follows:

- (a) Delete the Table in Part A of Schedule 1 and insert new table:

PART A—TABLE

Application made by:	Australian Property Growth Limited
Application made to:	Minister for Planning
Major Project Application:	MP 05_0016
On land comprising:	Wuru Road and Dolphin Point Road, Dolphin Point/Burrill Lake Lots 2, 3 and 4 DP 1123774
Local Government Area	Shoalhaven
For the carrying out of:	<ol style="list-style-type: none">1) Staged subdivision of Precincts A and B into 165 residential allotments in 17 stages;2) Creation of roads to service the subdivision;3) Creation and embellishment of one allotment as a central park in Precinct B;4) Construction of pedestrian/cycle paths through all Precincts;5) Landscaping;6) Revegetation works to riparian zones in all Precincts;7) Provision of services and infrastructure;8) Associated with the staged subdivision, dedication of lands in Precincts A, B and C to the Council; and9) Identification of development parcels in Precinct C.
Type of development:	Project Application

- (b) Insert the following note in Part B – Notes Relating to Determination of MP05_0016

“Lapsing of Approval

Schedule 6A of the *Environmental Planning and Assessment Act 1979* makes provision for the lapsing of approvals and approvals of concept plans for transitional Part 3A projects.”

- (c) Delete the Definitions of *Precinct A*, *Precinct B*, *Precinct C* and *Proponent* in Part C of Schedule 1 and replace with the following:

PART C—DEFINITIONS

Precinct A means the area referred to as “Stages 1 & 2” generally comprising a residential subdivision of 23 residential lots and associated works and riparian corridors.

Precinct B means the area referred to as “Stages 3 - 17” generally comprising a residential subdivision of 142 residential lots and 1 central park and associated works.

Precinct C means the remainder of the land intended to be dedicated to the Council, generally comprising of works for a fire trail, revegetation works, pedestrian and cycle paths, 1 informal park and associated works, services and bio-retention basin, services and three future development area parcels.

Proponent means Australian Property Growth Limited or any party acting upon this approval.

Changes to Conditions of Approval in Schedule 2:-

(d) Delete Condition A1 and replace with the new Condition A1 as follows:

A1 Development Description

Development approval is granted only to carrying out the development described in detail below:

- (1) Staged subdivision of Precincts A and B into 165 residential allotments in 17 stages;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one central park in Precinct B;
- (4) Construction of pedestrian/cycle paths through all Precincts;
- (5) Landscaping;
- (6) Revegetation works to riparian zones in all Precincts;
- (7) Provision of services and infrastructure;
- (8) Associated with the staged subdivision, dedication of lands in Precincts A, B and C to the Council; and
- (9) Identification of development parcels in Precinct C.

(e) Delete Condition A2 and replace with the new Condition A2 as follows:

A2 Development in Accordance with Plans & Documents

The development will be undertaken in accordance with the following plans and documents:-

- a) Environmental Assessment dated September 2007 prepared by Turnbull Planning International Pty Ltd as amended by the Preferred Project Report dated 18 February 2008 prepared by Turnbull Planning International Pty Ltd including all Appendices;
- b) The Modification Request prepared by Rygate & West dated 24 May 2013 and correspondence dated 25 September 2013 ('MOD 2'); and
- c) The following drawings:

Subdivision Layout Drawings prepared by Rygate and West			
Drawing No.	Revision	Name of Plan	Date
U11840M Sheet1 of 4	D	Plan of Proposed Subdivision of Lots 2, 3 and 4 DP 1123774 (Note: drawing depicts Indicative Subdivision Layout for Precincts A & B)	13 November 2013
U11840M Sheet 2 of	D	Indicative Lot Layout for Precinct A	13 November 2013

4		Subdivision	
U11840M Sheet 3 of 4	D	Indicative Lot Layout for Precinct B Subdivision	13 November 2013
U11840M Sheet 4 of 4	D	Plan showing Conceptual Staging for Precincts A & B.	13 November 2013

Road Cross Section Drawings prepared by Rygate and West			
Drawing No.	Revision	Name of Plan	Date
U11840 Sheet 1 of 1	A	Typical Road Cross Sections	6 February 2008
U11840 Sheet 1 of 1	A	Sections over Proposed Lot 410 & 414 (batter slope)	13 November 2013
Landscape Drawings prepared by HLS Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
L01	-	Landscape Plan – Street Trees	Feb 08
L02	-	Landscape Plan – Park	Feb 08

except for:

- 1) any modifications which are 'Exempt and Complying Development' as identified in Shoalhaven Local Environmental Plan 1985 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the conditions of this approval.

(f) **Insert the following additional dot point at the end of Condition A3 as follows:**

(11) The modification request prepared by Rygate and West dated 24 May 2013, correspondence prepared by Rygate and West dated 25 September 2013.

(g) **Delete Condition A4 and replace with the new Condition A4 as follows:**

A4 Staging

The subdivision development shall be carried out generally in accordance with the approved staging plans, in numerical order, referred to in the Conceptual Staging Plan prepared by Rygate and West, Drawing No U11840M Sheet 4 of 4, Revision D dated 13 November 2013.

(h) **Delete Condition A7 and replace with the new Condition A7 as follows:**

A7 Construction Certificates for each Stage

A Construction Certificate must be obtained from either the Council or an accredited certifier for each stage(s) of the subdivision before any subdivision work can commence for any stage(s) of the subdivision.

(i) **In Condition B1 delete the words “for any stage” and replace with “for each stage”.**

(j) **Delete Condition B2 and replace with the new Condition B2 as follows:**

B2 Erosion and Sedimentation Control

Prior to the issue of a construction certificate for each stage, a Soil and Erosion Control Plan designed in accordance with the document 'Managing Urban Stormwater-Soils &

Construction Volume 1 (2004) by Landcom' must be submitted to and approved by the Certifying authority for that stage.

- (k) In Condition B3 delete the words "for the first stage (Precinct A)" and replace with "for each stage".
- (l) In Condition B4 insert the words "for each stage" after the words "Certifying Authority".
- (m) In Condition B5 delete the words "for that stage" and replace with "for each stage".
- (n) Delete Condition B8 and replace with the new Condition B8 as follows:

B8 Stormwater and Drainage Works Design

Final design plans for the minor stormwater drainage systems for the relevant stage within the proposed subdivision, shall be prepared by a qualified practicing civil engineer or registered surveyor. The major stormwater drainage design shall be certified by a qualified practicing civil engineer. Designs prepared in accordance with the requirements of Shoalhaven City Council shall be submitted to, and approved by the certifying authority prior to issue of a construction certificate. The hydrology and hydraulic calculations shall be based on the most appropriate methods described in the current edition of Australian Rainfall and Runoff. Stormwater and Drainage Works shall be consistent with the Preferred Project Report (Attachment 2 – Letter from Worley Parsons entitled 'Response to Part 3A Application Comments – Dolphin Point Stages 2 & 3', dated 5 February 2008).

- (o) In Condition B9 insert the words "for the relevant stage" after the words "Final design plans of the roads" in the second paragraph.
- (p) Delete Condition B10 and replace with the new Condition B10 as follows:

B10 Construction of Collector Road Connection

- (1) The collector road connection to the adjoining site to the east (Lot 171 DP 1081810) is to be constructed at the cost of the proponent up to the crossing of the creek. Funding of half the cost of the creek crossing is to be provided by the proponent.
- (2) Should the collector road connection between the subject site and Dolphin Point Road through the adjoining property to the east (Lot 171 DP 1081810) not be constructed prior to the completion of construction of the final stage of subdivision covered by this approval, a bank guarantee covering the cost of the abovementioned works is to be provided to Council, prior to the issue of a Construction Certificate for Precinct B, Stage 17.
- (3) Should no subdivision works commence on the adjoining land within 5 years of the release of the Subdivision Certificate for the final stage of the subdivision, the bank guarantee is to be released by the Council.

- (q) Delete Condition B11.
- (r) In Condition B15 insert the words "Stage 3" immediately after the words "Precinct B" in the last sentence.

- (s) **Delete Condition B16 and replace with the new Condition B16 as follows:**

B16 Vegetation Management Plan

- (1) A vegetation management plan (VMP) is to be prepared addressing the revegetation of the riparian corridors (eastern and western creeks) up to the foreshore of the dam (to be retained as a water quality pond) and land in Precinct C. The VMP is to be prepared by a suitably qualified and experienced expert and is to provide for offset planting of a minimum of 1ha.
- (2) The offset planting is to focus within the riparian zones and is to extend and connect the existing occurrences of the Swamp Sclerophyll Forest on the site and provide connectivity of habitats along the riparian zones.
- (3) The VMP is to be provided to Council for approval prior to the release of the Construction Certificate for Precinct B Stage 3. The works are to be at the proponent's expense.

- (t) **Delete Condition B17 and replace with the new Condition B17 as follows:**

B17 Pedestrian and Cycle Paths

- (1) A plan showing the location of the proposed pedestrian and cycle paths through Precinct C is to be submitted to Council for approval prior to the release of the Construction Certificate for Precinct B Stage 5.
- (2) *The design of the paths shall address the following:-*
 - Paths shall be located so as to minimise loss of native vegetation and to minimise impacts upon the EEC and riparian zones.
 - Paths are to be located outside the EECs, riparian zones and the wetland to the greatest extent possible.
 - Paths should follow the path of the bushfire trail where appropriate.
 - Paths should provide a reasonably direct path of travel and should be accessible in accordance with the standards contained within AS1428.
 - Any necessary landscaping required adjoining the paths to rehabilitate the land after construction of the path shall be identified on the plans.
- (3) The works are to be at the proponent's expense.

- (u) **In Condition B18 delete the words “for the final stage” and replace with “Precinct B Stage 17”.**

- (v) **Delete Condition B19 and replace with the new Condition B19 as follows:**

B19 Bio-retention Basin

The new bio-retention basin is to be located outside the riparian zone for both creeks on the site. Details are to be provided prior to the release of any Construction Certificate for

any Stage of Precinct B which cannot discharge stormwater to the existing water quality control pond.

(w) Delete Condition B20 and replace with the new Condition B20 as follows:

B20 Central Park Embellishment

- (1) A central park is to be provided between the dam and Road 3 as shown on the Plan prepared by Rygate and West Issue D dated 13 November 2013 ("proposed central park") in Stage 6 Precinct B of the subdivision. The design of the central park shall incorporate the following:-
 - a generally grassed area of a minimum of 1500m² with scattered trees (with one grassed area of suitable size for informal ball sports);
 - embellished with a minimum of 4 x picnic table and chair sets under shelter, 2 x electric operated BBQs in accordance with Council's design, 1 x bubbler and 2 x rubbish bins (no toilets required);
 - an accessible path of travel between the road, picnic tables, and BBQs; and
 - separated from the dam by a childproof fence that satisfies the Australian Standard for swimming pool fencing.
- (2) Plans showing these embellishments are to be provided for the approval of the Council prior to the release of the Construction Certificate for Stage 3, Precinct B of the subdivision.

(x) Delete Condition B22 and replace with the new Condition B22 as follows:

B22 Contamination

- (1) Prior to the issue of a construction certificate for Precinct A Stage 1, water and sediment testing of the existing large dam (to be used as the water quality control pond) is to occur to determine whether any sediments or the water is contaminated.
- (2) Should either the sediments or water be found to contain unacceptable levels of contamination (in relation to the residential use of the land or the water quality for release into the wetland or Burrill Lake), the sediments and/or water is to be appropriately treated.
- (3) Such works are to be the subject of a remediation report which must be approved by the Director General.
- (4) Any works required are to be certified as having been completed prior to the release of the subdivision certificate for the first stage of the development under this approval.

(y) Delete Condition C2 and replace with the new Condition C2 as follows:

C2 Boundary Fencing

Prior to the commencement of works, the Proponent shall construct a batter slope of 1:3 grade, in combination with timber bollards 750mm high, at a maximum spacing of 1.5

metres, along the boundary of the site with the adjoining the Barnunj State Conservation Area (managed by OEH) in the vicinity of Road No 1 to prevent unauthorised access.

- (z) **Delete Condition E2 and replace with the new Condition E2 as follows:**

E2 Restrictions on use of Precinct C Land

In accordance with the concept plan approval for this site:

- 1) A Section 88B instrument is to be created over the three potential development areas identified in the Figure on Page 5 of *Urban Design Review*, prepared by Urbis JHD, dated 17 October 2006, being Annexure 4 of the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock on behalf of prepared by Turnbull Planning International Pty Ltd, dated September 2007. The instrument is to restrict the use of the land for purposes other than community facilities and structures for educational and recreational purposes which assist in promoting and interpreting the area's ecological values and Aboriginal heritage.
- 2) The draft wording of the 88B instruments is to be lodged with the Secretary and with Council for approval. Council is to be made a party to the instrument, whose approval is required for any alterations to the instrument.
- 3) The 88B instrument is to be registered with the registration of the subdivision plan for the final stage of the subdivision.

- (aa) In Condition E4 insert the words “for all stages of development” at the end of the last sentence.
- (bb) In Condition E6 insert the words “Stage 3” immediately after the words “Precinct B”.
- (cc) In Condition E8 insert the words “for the relevant stage” at the end of the last sentence.
- (dd) In Condition E9 insert the words “for the relevant stage” at the end of the last sentence.
- (ee) Delete Condition E13.
- (ff) In Condition E15 delete the words “Precinct A” and replace with “Precinct B Stage 3”.
- (gg) In Condition E16 delete the words “Substage 4 of Precinct B” and replace with “Precinct B Stage 17”.
- (hh) In Condition E17 delete the words “Substage 2 of Precinct B” and replace with “Precinct B Stage 7”.
- (ii) Delete Condition E18.
- (jj) Delete Condition E19 and replace with the new Condition E19 as follows:

E19 Central Park

- (1) The central park required by Condition B20 is to be constructed and embellished in accordance with this approval and approved plans and provided with an appropriate level of lighting in accordance with the relevant Australian Standard prior to the release of the Subdivision Certificate for Stage 6 Precinct B. Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for that stage of the development.
- (2) The park and facilities are to be maintained and weeded for a minimum period of 6 months after the completion of landscaping and up until the land is dedicated to Council, which is to occur upon registration of the linen plan for the final stage of the subdivision.

(kk) Delete Condition E20 and replace with the new Condition E20 as follows:

E20 Pedestrian and Cycle Connections

- (1) The pedestrian and cycle connections within Precinct C are to be constructed and landscaped using "Safer By Design" principles and provided with an appropriate level of lighting in accordance with the relevant Australian Standard in accordance with the approved plans. Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for Precinct B Stage 7.
- (2) The landscaping is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council, which is to occur upon registration of the linen plan for Precinct B Stage 15.

(ll) Delete Condition E24 and replace with the new Condition E24 as follows:

E24 Monetary Contributions

In accordance with Division 6 of Part 4 of the Act, the Proponent shall pay the following monetary contributions shown on a per-lot basis in the table below. The total contributions per stage shall be calculated and paid when each stage is released based on this table and the conditions of this approval:

(1) Amount of Contribution

Project	Description	Rate/Lot	Qty Insert # lots/stage	Total (example total for 1 lot)	GST	GST incl
05 AREC 0001	Tennis, Football, Cricket & Netball (Area 5)	\$1,848.47	1	\$1,848.47	\$0.00	\$1,848.47
05 AREC 0002	Leisure Centre Heated Indoor Swimming Pool	\$212.11	1	\$212.11	\$0.00	\$212.11
05 CFAC 0010	Southern Shoalhaven Branch Library	\$281.08	1	\$281.08	\$0.00	\$281.08
CW AREC 0003	Hockey Facilities	\$296.20	1	\$296.20	\$0.00	\$296.20
CW CFAC 0001	Stage 1: Shoalhaven City Library Extensions	\$313.69	1	\$313.69	\$0.00	\$313.69

CW CFAC 0001	Stage 2: Shoalhaven City Arts Centre	\$28.37	1	\$28.37	\$0.00	\$28.37
CW CFAC 0001	Stage 3: Shoalhaven Mobile Children's Services	\$9.30	1	\$9.30	\$0.00	\$9.30
CW CFAC 0001	Stage 4: Shoalhaven Multimedia & Music Centre	\$10.88	1	\$10.88	\$0.00	\$10.88
CW MGMT 2001	Section 94 Administration	\$472.27	1	\$318.20*	\$0.00	\$318.20*
CW OREC 0001	Embellishment of Icon and District Parks and Walking Tracks	\$181.89	1	\$181.89	\$0.00	\$181.89
				Subtotal:	\$3,500.19	
				GST total:	\$0.00	
				Estimate total:	\$3,500.19	

* In accordance with the Shoalhaven Contribution Plan 2010 the administration fee cannot exceed 10% of the total S94 costs.

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Shoalhaven Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council. Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate each stage.

(3) Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

(4) Works-in-Kind

In accordance with Division 6 of Part 4 of the Act, the Proponent shall undertake the following works in kind:

- a) Construction of the central park required by Condition B20 prior to the release of the Subdivision Certificate for Precinct B Stage 6.

Changes to Conditions of Approval in Schedule 2:-

(mm) Delete "Commitments relating to Environmental Assessment Dolphin Point (Extract from Environmental Assessment of Sept 1007)" Numbers 1, 2, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23, 27, 29, 30, 32, 33, 35, 36, 37, and 40.

(nn) Delete "Additional Commitments – Preferred Project Lot 11 DP 1104789 Part Lot 72 DP 1073600 Dolphin Point Major Project MP05_0016" Numbers 1, 2, 3, 4, 6, 8, 9 and 10.