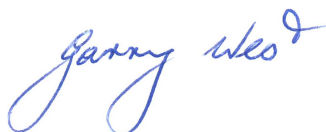


# Concept Approval

## Section 75O of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission):

- (a) approve the Concept Plan referred to in Schedule 1, subject to the terms of approval in Schedule 2 and the Proponent's Revised Statement of Commitments in Schedule 4, pursuant to Section 75O of the *Environmental Planning and Assessment Act 1979*;
- (b) pursuant to Section 75P(1)(a) of the *Environmental Planning and Assessment Act 1979*, determine the further environmental assessment requirements for approval to carry out the development as set out in Schedule 3;
- (c) pursuant to Section 75P(1)(b) determine that the approval of the carrying out of the Tallawarra Project be subject to Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* (whatever is applicable); and
- (d) direct under 75P(2)(c1) that Clause 6.2 (Development Control Plan) of Wollongong Local Environmental Plan 2009 does not have effect in relation to the carrying out of the Tallawarra Project under Part 4 of the *Environmental Planning and Assessment Act 1979*.



Garry West  
Member of the Commission



Jan Murrell  
Member of the Commission

Sydney,

23 May 2013

### SCHEDULE 1

<b>Application No.:</b>	<b>MP09_0131</b>
<b>Proponent:</b>	Energy Australia Tallawarra Pty Ltd
<b>Approval Authority:</b>	Minister for Planning and Infrastructure
<b>Land:</b>	Lot 31 in DP 1175058; Lot 1 in DP 551658; Lots 30 in DP1175058; Lot 20 in DP 633211; Lot 102 in DP 716727; Lot 3 in DP 109795; Lot 15 in DP1050255; Lot 151 in DP 628980; Lot 1 in DP 543285; Lots 10 and 11 in DP 552933; Lots 1 and 2 in DP 792664; Lots 7 and 8 in DP1049520; Lot 1 in DP 1146409; and (Southern) Part 1092 in DP 1140369 Tallawarra Lands, Yallah.
<b>Project:</b>	Mixed use development including residential, commercial, industrial and retail development, public open space areas, new recreational facilities, environmental management, conservation areas and riparian corridors on land identified above.

## 1.1. PART B: NOTES RELATING TO THE DETERMINATION OF MP 09\_0131

**Responsibility for other approvals/ agreements:** The Proponent is solely responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

**Appeals:** The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

**Legal notices:** Any advice or notice to the approval authority shall be served on the Director General.

## 1.2. PART C: DEFINITIONS

the Act	<i>Environmental Planning and Assessment Act, 1979</i>
Council	Wollongong City Council
the Department	Department of Planning and Infrastructure
NOW	NSW Office of Water
the Director General	Director General of the Department of Planning and Infrastructure (or delegate).
Director General's Approval	A written approval from the Director General (or delegate).
Environmental Assessment	Environmental Assessment Report prepared by DFP Planning Consultants, and dated February 2011, including all its Appendices
the Minister	Minister for Planning and Infrastructure
OEH	The Office of Environment and Heritage
PPR/RtS	Preferred Project Report/Response to Submissions prepared by DFP Planning Consultants dated June 2012, including all Appendices.
Project	Development as described in Project application
Project Approval	Approval granted for a project in accordance with section 75J of <i>the Act</i> .
Proposal	Concept Plan application for the mixed-use redevelopment of the Tallawarra Lands
Proponent	Energy Australia Tallawarra Pty Ltd, formerly known as TRUEnergy Tallawarra Pty Ltd, or any other party authorised to act on the approval
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
NSW RMS	Roads and Maritime Services Division, Department of Transport or its successor
Site	has the same meaning as the land identified in this schedule

*End of Schedule 1*

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## SCHEDULE 2

### PART A - TERMS OF APPROVAL

#### **A1 Development description**

Concept approval is granted to the development as described below;

- (a) Three residential precincts accommodating up to 1,010 lots - the Northshore Precinct, Central Precinct and the Lakeside (southern) Precinct;
- (b) Lands for a neighbourhood centre within the Central Precinct; (c) Lands for a future tourism facility on the eastern headland of the Central Precinct;
- (d) Lands within the central and southern precincts for industrial, light industrial and business purposes;
- (e) An internal road network, a network walkways, cycle paths, share paths; and
- (f) Open space, public recreation areas and conservation lands.

#### **A2 Development in Accordance with Plans and Documentation**

The development shall be undertaken generally in accordance with:

- the Environmental Assessment dated February 2011 prepared by DFP Planning Consultants, except where amended by the Preferred Project Report dated June 2012 prepared by DFP Planning Consultants including the supplementary Flood Risk Assessment Report prepared by Bewsher (ref J1898L\_2), dated 10 January 2013;
- the Statement of Commitments prepared by DFP Planning Consultants; and
- the following drawings.

Author, Drawing No./ Report	Name of Plan	Date
Warren Lee Urban Design	TRUenergy – Tallawarra Lands Concept Plan	7 May 2012
Corkery Consulting, Landscape Plan Report, Figure 30, PPR Appendix K	The Street Hierarchy	

except for as modified by the following pursuant to Section 75O(4) of the Act.

#### **A3 Inconsistencies between Documentation**

In the event of any inconsistency between modifications of the Concept Plan approval identified in this approval and the drawings/documents including the Statement of Commitments referred to above, the modifications of the Concept Plan shall prevail.

#### **A4 Lapsing of Approval**

Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless a Development Application is submitted to Council for approval to carry out all or part of the project the subject of this Concept Plan Approval.

#### **A5 Development Guidelines**

The proponent shall develop a site specific set of development guidelines which incorporate the information contained in the Environmental Assessment except as amended by the Preferred Project Report.

The guidelines shall be developed and finalised prior to/or in conjunction with the first future application to Council (refer to Condition A6) so as to be capable of being inserted as a site-specific chapter in Section D of Wollongong City Council's Residential Development Control Plan 2009 and shall be capable of being read in conjunction with other relevant components of that plan.

#### **A6 First Future Application**

The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land use boundaries provided in the Concept Plan. In addition to other requirements of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.

## PART B - MODIFICATIONS

### **B1 Land use**

The Primary school (possible use) and Retirement living (possible use) must be deleted from the Concept Plan.

### **B2 Access Road to the Lakeside (Southern Precinct) from the Princes Highway**

The proposed southern access road from the Princes Highway to the Lakeside Precinct must be deleted from the Concept Plan. Clause 8N(2)(b) of the *Environmental Planning and Assessment Regulation 2000* prevents the Minister from being able to approve this roadway.

This modification is also required to address the concerns of Roads and Maritime Services (insufficient acceleration length on the southern approach to the F6 freeway) and the Office of Environment and Heritage (unacceptable impact on the Illawarra Lowlands Grassy Woodland endangered ecological community and *Chorizema parviflorum* an endangered species).

### **B3 Access Road and Bridge over Duck Creek to the Lakeside (Southern Precinct) from Yallah Bay Road**

The access road and bridge over Duck Creek from Yallah Bay Road to the Lakeside Precinct must be deleted from the Concept Plan. Clause 8N(2)(b) of the *Environmental Planning and Assessment Regulation 2000* prevents the Minister from being able to approve this roadway.

(Note: The granting of approval for this road under Part 5 of the EP & A Act is not inconsistent with the terms of this approval).

### **B4 Environmental corridor**

The proposed woodland revegetation along the ridgeline on the southern edge of the Northshore precinct (identified in the Landscape Plan, prepared by Corkery Consulting, May 2012) shall comprise a continuous vegetated corridor providing ecological connectivity such that the movement of native fauna species between Mount Brown Reserve and the foreshore of Lake Illawarra is facilitated.

### **B5 Bush Fire Protection –Perimeter roads**

The Type 4 roads that form a perimeter road for bushfire planning purposes (as illustrated in figure 30 of the Landscape Plan, prepared by Corkery Consulting, dated May 2012) must be changed to a Type 3 road or increased in the width to meet the perimeter road requirements of Section 4.1.3 of *Planning for Bushfire Protection 2006*.

*End of Schedule 2*

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## SCHEDULE 3

### FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Relevant details of the following requirements are to be submitted to the satisfaction of the relevant consent authority with future applications.

- 1 Access road and bridge across Duck Creek can be constructed**  
The first application for development within the Lakeside (Southern Precinct) must be accompanied by documentation which demonstrates to the satisfaction of Wollongong City Council that an access road and bridge across Duck Creek, linking the northern boundary of the Precinct with Yallah Bay Road can and will be constructed at no cost to Council prior to the development of that Precinct.
- 2 Stormwater management**  
Future applications shall be accompanied by a detailed stormwater management plans prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council which addresses the following:

  - a) details on how a reduction of rubbish or hydrocarbon pollutants will be achieved prior to discharge to Lake Illawarra; and
  - b) any structural works, including works for stormwater capture and treatment are required to be located outside riparian areas.
- 3 Stormwater Management Masterplan**  
The first future application to Council for superlot subdivision must include a stormwater management masterplan consistent with the requirements of Wollongong City Council's LEP, DCP and relevant Australian standards for stormwater management.
- 4 Floodplain Risk Assessment and Management**  
The first future application to Council for superlot subdivision must include a floodplain risk assessment and management plan consistent with the requirements of Wollongong City Council's LEP, DCP, Duck Creek Flood Study (2012) and the NSW Floodplain Development Manual (2005).
- 5 Acoustic impacts - Residential**  
Future applications that propose to create residential allotments must be accompanied by an acoustic assessment which demonstrates that it will be possible for future dwellings on the proposed allotments to comply with the noise level standards specified in *State Environmental Planning Policy (Infrastructure) 2007* and with the requirements of the *Development near Rail Corridors and Busy Roads - Interim Guideline, 2008*.
- 6 Acoustic impacts – Industrial uses**  
Future application for industrial developments shall be accompanied by an acoustic assessment which provides:

  - a) Details of on-going noise management during operation of the site for the life of the development to ensure adequate amenity levels for all users of the site;
  - b) Mitigation measures to minimise noise disturbance to residential buildings on the site and to adjoining or adjacent properties; and
  - c) Compliance with the NSW Industrial Noise Policy is achieved at the boundary of nearby residential lots.
- 7 Per lot industrial noise contribution calculations**  
The first future application for subdivision of the industrial zoned lands shall be accompanied by a noise management plan that includes industrial noise contribution calculations and allocates a sound power levels to each lot within the industrial zoned areas of the site, such that acceptable noise levels are not exceeded within residential areas, the Central Precinct Neighbourhood Centre, and other sensitive receivers. The industrial noise contribution calculations shall be prepared by an appropriately qualified acoustic expert.
- 8 Cultural Heritage Management Plan**  
The first future application to Council (refer to Condition A6) shall be accompanied by a Cultural Heritage Management Plan that details how impacts on Aboriginal and non-

Aboriginal heritage across the entire site will be minimised and managed. The plan shall include, but not necessarily be limited to:

- a) Specific measures to be applied to works undertaken in close proximity to identified Aboriginal and non-Aboriginal heritage items to minimise and avoid impacts on these items;
- b) How heritage items (Aboriginal objects and relics or works) discovered during the construction of the project will be considered and managed. This shall include a component within the site induction program for construction workers on Aboriginal and non-aboriginal heritage within the project area;
- c) Stop-work and notification procedures to be implemented should any unexpected impact archaeological deposits and/or State significant relics not previously identified be discovered;
- d) A procedure for continued consultation with the relevant Aboriginal stakeholders; and
- e) Procedures to be followed should non-compliance against any of the provisions of the management plan occur.

All future application must demonstrate how they will implement the Cultural Heritage Management Plan.

## **9 Transfer of environmentally sensitive land and open space into public ownership and the Securing of Environmental Offsets**

Future applications which include lands proposed to be transferred to public ownership on the "Conceptual Tallawarra Land Ownership Plan" (Figure 37 of the Environmental Assessment), must include details on the proposed ownership arrangements for the land nominated for transfer.

In the event that a public authority is unwilling to accept transfer of the lands zoned open space, the proponent shall retain and maintain these lands as publicly accessible privately owned open space.

In the event that a public authority is unwilling to accept transfer of the lands zoned for environmental purposes or lands required as an environmental offset, the proponent must implement an alternative method of securing the identified lands in perpetuity, such as establishing a bio bank agreement.

## **10 Amended Vegetation Management Plan**

The first future application to Council (refer to Condition A6) shall be accompanied by an amended Vegetation Management Plan, which includes the following requirements:

- (a) Inspection of revegetated and weed managed areas by an appropriately qualified environmental expert at the end of the initial five-year establishment period to ascertain whether the works are self-sustaining. If they are self-sustaining, develop an ongoing management regime for these areas in perpetuity; and/ or
- (b) The provision of a vegetation condition report prepared by an appropriately qualified environmental expert at the end of the initial five-year establishment period. The condition report shall outline additional management measures to be undertaken if after five years it is determined that the revegetated areas are not self-sustaining. The condition report shall also outline recommendations for the management in perpetuity of the areas covered by the VMP.

## **11 Further Investigation of the Areas of Environmental Concern and engagement of a Site Auditor accredited under the *Contaminated Land Management Act 1997***

Future applications that include those lands nominated as Areas of Environmental Concern (AECs) in the Coffey Environments Report (December 2010) must be accompanied by a further environmental assessment report. In addition to adopting the recommendations contained in Section 12 of the Coffey Environments Groundwater Modelling Assessment report, the further investigations must consider:

- the potential for contaminants present in the soil and groundwater in the vicinity of the ash ponds to be mobilised and transported to the adjacent shallow aquifer, Duck Creek and ultimately to the receiving waters of Lake Illawarra, and measures to address this including the feasibility of remediation of contaminated soils and/ or the containment of the sources of contamination;

- measures to ensure that the environmental attributes of conservation lands on the site are not adversely impacted on by contaminants present in the soil and groundwater;
- recommendations for the ongoing management of contaminated groundwater;
- the potential for the contamination present in soil and groundwater in the vicinity of the ash ponds to adversely affect groundwater dependent ecosystems on the site; and
- any risks to human health or the environment.

Following the completion of the further investigations, the proponent must engage a Site Auditor accredited under the *Contaminated Land Management Act 1997* to verify the adequacy of the investigations (and any proposed remediation) and certify that the site is suitable for its proposed use.

**12 Engagement of a site auditor to verify the adequacy of asbestos soil sampling and asbestos contamination investigations**

The first future application to Council (refer to Condition A6) must include a verification from a Site Auditor accredited under the *Contaminated Land Management Act 1997* to as to the adequacy of the investigations and asbestos soil sampling undertaken by Douglas Partners (July 2010) and certification of the suitability of the site for the proposed use.

**13 Soil and water management**

All soil and water management on site should be undertaken in accordance with the requirements of the "Blue Book", Landcoms "Soils and Construction" manual. Soil and Water Management Plans, ongoing maintenance and monitoring and reporting requirements shall be provided at construction certificate stage, including those stages relating to bulk earthworks.

**Roads and Maritime Services Requirements**

**14 Only one direct access from the development to the Princes Highway is permitted**

Future applications for road works must demonstrate that only one direct access from the development to the Princes Highway is proposed. The access shall be at the existing junction of the Princes Highway and Yallah Bay Road.

**15 Upgrade of the junction of the Princes Highway and Yallah Bay Road to a roundabout**

The first future application to Council (refer to Condition A6) which includes works must be accompanied by an approved design for the upgrade of the junction of the Princes Highway and Yallah Bay Road.

The intersection must be upgraded to a roundabout. The submitted design must be to the satisfaction of and have been approved by Roads and Maritime Services and Wollongong City Council.

**16 Requirement for a Concept Design for the Closure of Cormack Avenue**

The first future application to Council (refer to Condition A6) for superlot subdivision must include a concept design for the physical closure of the existing junction of Cormack Avenue with the Princes Highway.

The submitted design must be to the satisfaction of and have been approved by Roads and Maritime Services and Wollongong City Council.

The road closure is to be implemented in conjunction with the development of the Central Precinct.

**17 Requirement for a Concept Design for Traffic calming of Gilba Road**

The first future application for subdivision of the northern residential precinct must include a concept design for the traffic calming of Gilba Road, where it provides access to the northern residential precinct. The proponent shall obtain design criteria from Wollongong City Council.

**18 Requirement for a Concept Design for Road works and Lighting on the Princes Highway**

The first future application which involves works on the Princes Highway must be accompanied by a concept design for all required road works on the Princes Highway. The concept design shall comply with Ausroads Guide to Road Design. Any required lighting on the Princes Highway shall be upgraded/provided in accordance with AS/NZS1158. The plan must be to the satisfaction of and approved by Roads and Maritime Services.

**19 Road Network - Design of roads, footpath crossings, footpaths and cycleways**

All future application that include roads, footpath crossings, footpaths and cycleways, must demonstrate that these elements have been designed to satisfy or exceed the requirements of Wollongong City Council.

**20 Road link with Haywards Bay required to be traffic calmed and to accommodate two-way movement of buses**

The future application which includes the Haywards Bay road link, shall demonstrate that the link can accommodate the two-way movements of buses and that it is traffic calmed to the satisfaction of Wollongong City Council.

***Railcorp requirements***

**21 Future development applications to be referred to Railcorp**

Future development applications in close proximity to the rail corridor shall demonstrate that liaison has occurred with Railcorp, to determine their requirements for development, including drainage requirements.

***Sydney Water Requirements***

**22 Options Report and the endorsement of a Preferred Servicing Strategy**

The first development application to Council (refer to Condition A6) submitted to Wollongong City Council must be accompanied by a Preferred Servicing Strategy endorsed by Sydney Water.

***Rural Fire Service Requirements***

**23 Location of buildings and facilities on Bushfire Prone Land to consider the requirement for Asset Protection Zones**

Future applications which include Bushfire Prone land must be accompanied by bushfire assessment report which demonstrates that the development meets the requirements of *Planning for Bushfire Protection 2006*.

**24 Bushfire protection for the access to the tourist facility**

Future applications for the tourist facility include a bushfire assessment report that demonstrates that development complies with Section 4.2.7 of *Planning for Bushfire Protection 2006*, including asset protection zones and roads.

***State Regional Infrastructure Requirements***

**25 Satisfactory Arrangements for the provision of designated State public infrastructure**

The first development application to Council (refer to Condition A6) must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure, in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009.

*End of Schedule 3*