

2 October 2013  
Our Ref: 5565P.8DK

The Director-General  
Department of Planning and Infrastructure  
GPO Box 39  
Sydney 2000

Dear Sir

**Section 75W Modification of:**

1. **Concept Plan Approval (MP06\_0094) – Modification 4; and**
2. **Project Approval (MP07\_0032) – Modification No. 4**

**Sandon Point (aka McCauley's Beach)**

**1.0 Background and the Site**

A Concept Plan application was approved by the Minister for Planning on 21<sup>st</sup> December 2006 for land at Sandon Point comprising a residential subdivision (for Stockland) and retirement development (for Anglican Retirement Villages). The Concept Plan approval has been subsequently modified on three separate occasions.

A subsequent Project Application for the residential subdivision was approved by the Minister for Planning on 29 November 2009. The Project approval has been modified on 3 separate occasions.

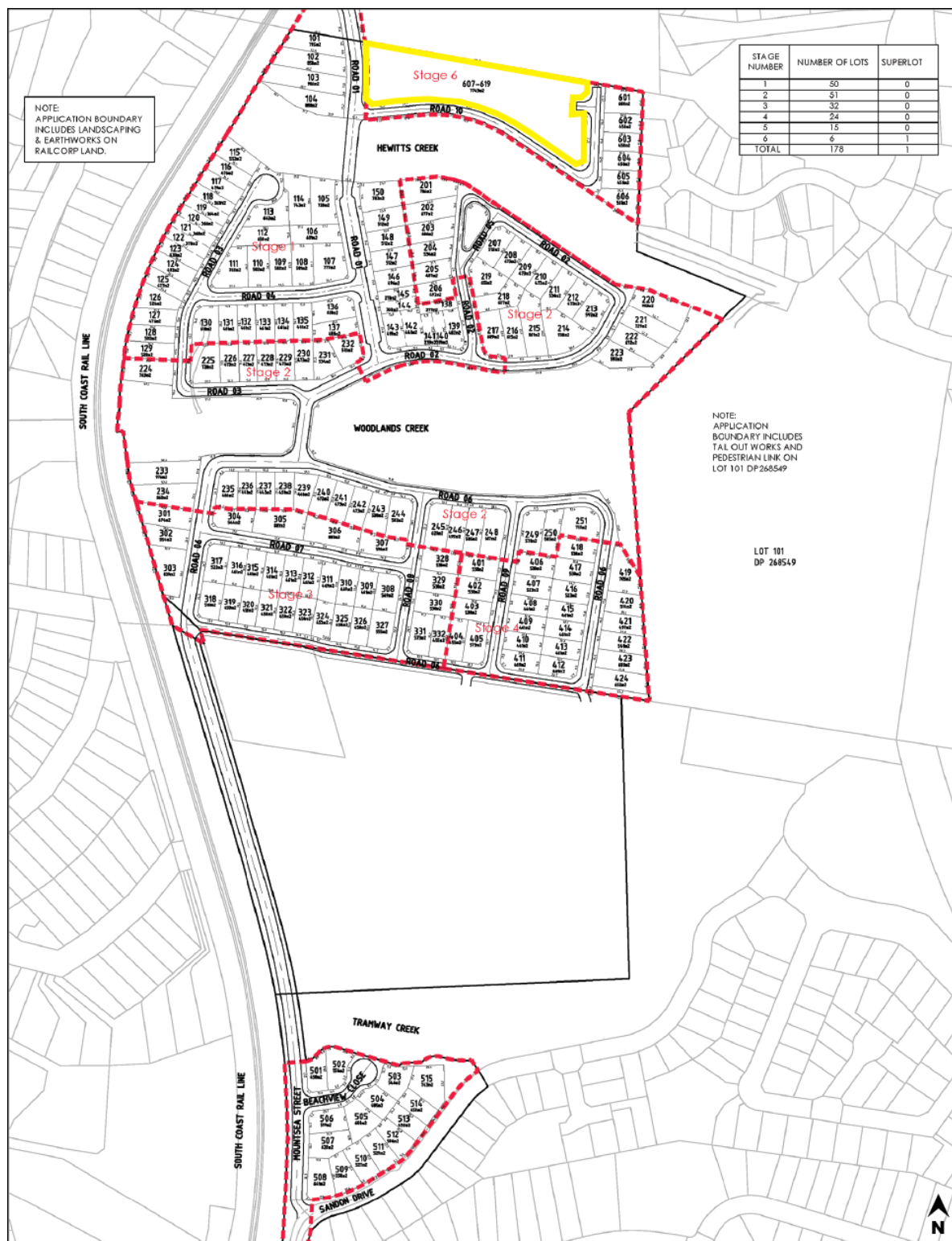
The subdivision is well advanced and many houses have been completed and occupied and construction is continuing.

**1.1 Summary of the proposed application**

This application seeks to modify both the Concept Plan and Project approvals to enable the final stage (stage 6) of the approved residential subdivision to be subdivided into 16 residential lots. The Stage 6 site was originally intended for apartment buildings and the built form controls (floor space ratio and building height) relate to a larger building form. It is now intended that the proposed lots be used for dwelling houses. A consequential amendment of the proposed residential subdivision is to incorporate additional conditions into the Approvals to make it clearer that a floor space ratio of 0.5:1 and building height of 9m apply to the proposed lots and for such controls to be reflected in a section 88B instrument created on the title of each proposed lot to ensure future land owners are aware of the applicable controls.

**1.2 The Site**

This section 75W Modification relates to Lot 607 DP 1156738 which is the super lot forming part of Stage 6 of the approved subdivision. **Figure 1** illustrates the location of the subject site (Lot 607) in the context of the subdivision layout approved under the Project Application.



☐ Land the Subject of this S75W Modification

Figure 1: Location of subject site within the approved subdivision

The site is located on the northern side of Clyde Close. A site survey of is attached at **Attachment 1**. The site has a total site area of 7732m<sup>2</sup> with the following property boundaries:

- A southern boundary to Clyde Street of approximately 178m;
- An eastern boundary to Clyde Street of approximately 68m;
- A northern boundary with Thomas Gibson Park of approximately 180m; and
- A western boundary to Brickworks Avenue of approximately 45m

The subject site is cleared of vegetation following earthworks associated with the approved subdivision works. The site generally falls from the northern boundary south to Clyde Street adjoining Hewitts Creek. The site rises to a knoll in the north eastern corner with a high point of approximately RL 17. From the knoll the site falls south to a low point of RL 12.5 near the south eastern corner.

The subject site is illustrated in **Figures 2 and 3** below.



*Figure 2: The site as viewed from the knoll on the eastern part of the site*



Figure 3: The site as viewed from the west near Brickworks Avenue.

## 2.0 Part 3A Transitional Provisions

Schedule 6A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) sets out the transitional arrangements for the repeal of Part 3A of the Act. Clause 2 – Transitional Part 3A projects defines transitional Part 3A projects as follows:

- 2 (1) *The following are, subject to this Schedule, **transitional Part 3A projects**:*
- (a) *an approved project (whether approved before or after the repeal of Part 3A),*
  - (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*

In this instance both the Concept Plan and Project applications were approved prior to the repeal of Part 3A and are therefore transitional Part 3A projects.

Clause 3 of Schedule 6A provides that “*Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.*” The repealed provisions of Part 3A continue to apply to the Concept Plan and Project approvals, which includes section 75W dealing with modifications of approvals.

## 3.0 Background and Need for the Modification

The Concept Plan approved 180 residential lots, two (2) medium density super lots and one (1) super lot at the northern end of the site as a future apartment site. The Concept Plan determination specifically approved one super lot to accommodate up to 80 apartments (condition A2 of Schedule 1).



The Concept Plan sets maximum FSR controls in Condition A4 – Built Form Controls as follows:

- single dwellings maximum FSR of 0.5:1;
- townhouses maximum FSR of 1:1; and
- multi-level apartments a maximum FSR of 1.35:1 or 1.8:1 subject to design excellence.

The Project Approval includes a super lot at the northern end as an apartment site, known now as Lot 607 in DP1156738. The Project Approval approved 181 allotments (comprising 167 lots and 14 townhouse lots), plus one super lot (the subject lot). The Project Approval required some modifications to the subdivision layout which has resulted in a total of 178 residential allotments plus one super lot (i.e. 3 less than approved).

A development application (DA) was submitted to Wollongong City Council in early 2012 that included two apartment buildings and 8 townhouse style dwellings on Lot 607. The DA also proposed the subdivision into 9 torrens title lots, including 8 lots for the town houses and one lot for the apartment building. Council raised a number of issues with the proposal including inconsistencies with the Concept Plan approval. One of those inconsistencies was that the proposed 9 torrens title allotments increased the number of resultant lots for the entire subdivision to an extent that it was inconsistent with Concept Plan and Project approvals. That DA was subsequently withdrawn and Stockland does not wish to pursue a DA for an apartment building on this site and instead wishes to proceed with a residential subdivision to complete the development of the residential estate.

### **3.1 Need for the Modification – consistency with Concept and Project approvals**

Given the opinion expressed by Council in May 2012, it would follow that Stockland's proposal to subdivide Lot 607 into 16 lots would be determined by Council as being inconsistent with the Concept Plan and Project approvals. A modification of the Concept Plan and Project approvals is therefore necessary. Approval of these modifications would however negate the need to submit a further DA for the subdivision. Council has been consulted as discussed later in this submission.

### **3.2 Need for the modification – clarification of built form controls**

State Environmental Planning Policy (Major Development) 2005 (MD SEPP) is the instrument that zones the land and sets the floor space ratio (FSR) and Height of Building controls for the overall site including Lot 607 that is now proposed to be subdivided into conventional residential lots. The controls of relevance to Lot 607 are set out below:

- Lot 607 is zoned R3 – Medium Density Residential. Various forms of residential housing are permissible on the land in addition to dwelling houses, such as residential flat buildings, multi dwelling housing, shop top housing as well as other forms of non-residential development.
- Lot 607 is subject to a FSR control of 1.35:1 and a maximum height of 11m. These development standards are reflected on the Maps accompanying the SEPP. These development standards were designed for apartment buildings, not dwelling houses.
- The Concept Plan does set maximum FSR controls in Condition A4 – Built Form Controls as follows:
  - single dwellings maximum FSR of 0.5:1;
  - townhouses maximum FSR of 1:1; and
  - multi-level apartments a maximum FSR of 1.35:1 or 1.8:1 subject to design excellence.



- The FSR and Height of Building Maps accompanying the MD SEPP provide a FSR of 1.35:1 and height of 11m for Lot 607. These two development standards apply to each proposed allotment as per clause 14 to Part 24 of the MD SEPP (despite the controls in condition A4).

These are generous development standards for a residential allotment and it would be open to an applicant to submit a DA for a house that took advantage of the 1.35:1 FSR and 11m height. It is therefore proposed to re-word Condition A4 to make it clearer that the 0.5:1 and 9m height controls apply to the detached housing on the apartment site, and for this to be reflected in a section 88B instrument created on the title of each proposed lot to ensure future land owners are aware of the applicable controls.

The Section 75W modification involves the following general modifications to the approvals.

1. A modification to the Concept Approval to change any components of the approval relating to lot numbers built form controls and a section 88B instrument to control FSR and building height; and
2. A modification of the Project Approval to amend the lot numbers, dwelling yield and require a section 88B instrument to control FSR and building height.

The specifics of the modifications are discussed in the following section.

## 4.0 Description of Proposed Modification

### 4.1 Amended Plans

The approved subdivision plan (*Subdivision Layout Plan, June 2010, Drawing, 1001 Rev 6*) is proposed to be amended by replacing the Stage 6 apartment superlot with a residential subdivision as illustrated in the drawings attached at **Attachment 1**. The proposal and proposed minor works are described below:

- Subdivision into 16 lots, as indicated on the attached plans. The lots range in size from 373m<sup>2</sup> to 780m<sup>2</sup> with frontages ranging from 10m to 17m;
- Regrading to reduce the slope on the eastern part to a grade more suitable for future housing;
- Construction of retaining walls up to 1.5m in height along the dividing boundary of some lots at the eastern end of the site where the earthworks are proposed (as shown on the attached plans);
- Minor modifications to the turning head of Road 01 (Clyde Street) to take into account the proposed earthworks; and
- Inter-allotment drainage at the eastern end of the site, where necessary.

The proposed modifications to the Concept Plan and Project Approvals and the reasons for the modifications are set out below. The terms of the approvals to be modified are reproduced with deleted wording shown as ~~striketrough~~ and new wording underlined.



## 4.2 Proposed Amendments to Concept Plan approval MP06\_0094

### Schedule 1 – Part A – Approval

#### Condition A2 - Approval in detail

Subject to modifications in Schedule 2 which may reduce the yield of the development, concept approval is only to the following development

- (1) On Stockland lands:
  - (a) subdivision into a maximum of 180 single dwelling lots (or a maximum 196 single dwelling lots if the apartment super lot is developed for dwelling houses, not apartments).

#### Reason:

The additional wording will allow for the subdivision of the super lot into 16 lots (as proposed), but still allow the opportunity for apartments to be constructed on all or part of the site consistent with the R3 zoning applying to the land.

### Schedule 2 – Part A Department of Planning Modifications

#### Condition A4 – Built Form Controls

- (1) The Concept Plan is modified by establishing the built form controls described below:
- (2) On Stockland Lands
  - (a) All single dwellings on the approved single dwelling lots (referred to in Condition A2(1)(a) to Schedule 1) shall have a maximum FSR of 0.5:1 and maximum building height of 9m

#### Reason:

The condition has been expanded to make it clearer that dwellings on the residential housing lots are subject to a 0.5:1 FSR and 9m building height. The modification of this condition is consistent with the FSR and Height of Building Maps under the MD SEPP applying to the remainder of the residential subdivision. The condition, as modified, will apply to the proposed 16 lots on the subject land (Lot 607). The wording indicates the different controls that apply to the various housing types (housing, townhouses or residential flat buildings). Therefore whilst apartments are permissible on the subject site, the condition makes it clear that the residential lots are not subject to the controls intended for residential flat buildings.

This amended condition is complemented with a new condition in both the Concept Plan and Project approval to require the creation of a s.88B instrument over the titles of the proposed 16 residential lots to set out the maximum 0.5:1 FSR and 9m building height to apply to those lots (i.e. not 1.35:1 and 11m).

### Schedule 2 – Part B – Modifications to the Statement of Commitments

It is proposed to insert the following additional commitment

#### B7 Built Form Controls for dwelling lots

If the Stage 6 – Apartment site is subdivided into residential lots, then the Proponent commits to creating s.88B instruments on the titles of those residential lots to restrict development other than residential flat buildings to a maximum FSR of 0.5:1 and a maximum building height of 9m. Such s.88B instrument is to include Wollongong City Council as the entity that can vary, modify or revoke the instrument.

#### Reason:

The s.88B instrument will ensure that future owners/home builders will be aware of the FSR and building height controls applying to their land, and remove the need to refer back to the Concept Plan approval to ascertain the relevant controls.



### 4.3 Proposed Amendments to Project approval MP07\_0032

#### Schedule 2, Part A – Administrative Conditions

##### A1 – Project Description

Project approval is granted only to carry out the project described in detail below:

- 1) Subdivision of ~~484~~ 197 lots:
  - ~~467~~ 183 single dwelling lots (FSR 0.5:1); and
  - 14 townhouse/terrace style houses (FSR 1:1)
- ~~2) Creation of one super lot for apartments with an FSR 1.35:1 up to a maximum of 1.8:1 FSR for design excellence as per Concept Plan Approval (MP06\_094)~~
- 3) no change
- 4) no change
- 5) no change
- 6) no change
- 7) no change
- 8) no change

#### Schedule 2, Part A – Administrative Conditions

##### A2 – Staging

The development is to be carried out over the proposed six (6) stages as follows:

- (1) Stage 1 - no change
- (2) Stage 2 - no change
- (3) Stage 3 - no change
- (4) Stage 4 - no change
- (5) Stage 5 - no change
- (6) Stage 6 - ~~creating the super lot for future apartment buildings~~ creating the residential lots in stage 6
- (7) no change
- (8) no change
- (9) no change

#### Schedule 2, Part A – Administrative Conditions

##### A3 – Project in Accordance with Plans and Documents

The Project unless otherwise provided by the conditions of this approval, will be undertaken in accordance with the Environmental Assessment dated September 2007 prepared by Don Fox Planning Pty Ltd and all appendices except where varied by:

- No change
- No change
- No change
- As amended by the following drawings

Drawings Prepared by Cardno Forbes Rigby Pty Ltd – Stage 06 McCauleys Beach			
Drawing No	Revision	Name of Plan	Date
SK11	1	Lot 607 Bulk Earthworks and Stormwater Layout	01/10/13
SK12	PO	Lot 607 Soil and Water Management Plan	14/09/13



## **Schedule 2, Part C – Prior to Issue of Subdivision Certificate**

### **C8 – Section 88B/E Instruments**

The submission of a Final Section 88B (Conveyancing Act 1919) Instrument to the PCA, which incorporates (but is not necessarily limited to) the following restrictions, easements and covenants, where applicable:

- a) no change
- b) no change
- c) no change
- d) no change
- e) no change
- f) no change
- g) no change
- h) no change
- i) no change
- j) no change
- k) no change
- l) A restriction as to user on the title of proposed lots 607-622 as indicated on Drawing SK11 requiring future dwelling houses to comply with the following built form controls:
  - (i) A maximum floor space ratio of 0.5:1; and
  - (ii) A maximum height of building of 9mThe definitions of floor space ratio and height of building are as per SEPP (Major Development) 2009.

#### Reason:

As noted earlier in this submission, the MD SEPP has zoned the Apartment site R3 - Medium Density Residential and is subject to a FSR control of 1.35:1 and a maximum height of 11m. These controls are inconsistent with the remainder of the residential subdivision (which is zoned R2 and is subject to a maximum FSR of 0.5:1 and maximum building height of 9m). The additional restriction as to user will establish built form controls consistent with the remainder of the subdivision.

Condition C9 requires that any easements and restrictions required by the approval must nominate Wollongong City Council as the authority to vary, modify or release the easements or restrictions. This will apply to the s88B instrument for proposed Lots 607-622.

## **Schedule 2, Part C – Prior to Issue of Subdivision Certificate**

### **C16 – Final Geotechnical Report –Subdivision Certificate**

The submission of a final geotechnical report by a suitably qualified and experienced geotechnical consultant to the PCA shall occur prior to the issue the Subdivision Certificate.

The report shall include, but is not necessarily limited to:

- a) no change
- b) no change
- c) no change
- d) no change
- e) no change
- f) The exact extent of any restricted building zones or any other restrictions affecting any or the allotments. Particular attention shall be paid to the location of subsurface drainage lines and geotechnical constraints associated with the uncontrolled fill on Lot 607 DP 1156738), which shall be burdened with a restriction as to user within the Section 88B Instrument.

#### Reason:

The condition is proposed to be amended to make it clear that s.88B instruments are to deal with uncontrolled fill as well as subsurface drainage lines. Further discussion is proved in Section 6.3 – Geotechnical Considerations of this Report.



## 5.0 Consultation with Wollongong City Council

Wollongong City Council has been consulted regarding the proposed subdivision and a meeting was held with relevant planning and engineering staff to explain the need for the s.75W modification and to discuss the specifics of the subdivision proposal. The main points of discussion are summarised below.

1. Discussion regarding the need for the modification. Council previously formed the opinion that the creation of additional lots is inconsistent with the Concept Plan approval. A DA with Council is therefore not an option and a s.75W Modification to the Department of Planning and Infrastructure (DoPI) is the only alternative approvals pathway, but Stockland wish to keep Council informed of the proposed subdivision and application.
2. An explanation of the proposed amendments to the Concept Plan and Project Approvals (as set out in this submission).
3. The MD SEPP zones the land R3 - Medium Density and provides for a 1.35:1 FSR and 11m Building Height control which will continue to apply to the land including dwelling houses.
4. DoPI has advised DFP that due to the changes to the planning framework associated with the White Paper, it is not the Department's desire *"to undertake further legislative amendments at this time by way of an amendment to the Major Development SEPP. In lieu of a SEPP amendment, provisions should be inserted into the Concept Plan which provide certainty that future single dwellings will be subject to the same height and floor space ratio as other dwellings in the precinct."*
5. The option of a s.88B instrument was discussed with Council as a mechanism to inform future landowners of the applicable FSR and height controls contained in the Concept Plan. Council agreed that this was an appropriate mechanism, and that such a restriction should make Council the authority to vary, modify or release the instrument.
6. The potential for the future amalgamation of some of the 16 lots to create a development site (for a residential flat building) was raised as a possibility as residential flat buildings would continue to be permissible in the zone. The outcome of different built form scales of lower density detached housing alongside an apartment building was discussed. Options to address this were discussed including an amendment to the MD SEPP to the effect that Part 24 would be removed and the zoning of the land would be transferred to the Wollongong Local Environmental Plan (LEP).

Such an outcome would not only depend upon the DoPI being prepared to amend the MD SEPP, but would also require an amendment to Wollongong LEP. The option of including such an amendment to the draft Wollongong LEP (i.e. merging of WLEP 2009 and the Wollongong LEP (West Dapto) 2010) was discussed. Whilst this draft LEP is nearing the end of its process, it could be possible for the DoPI to make such an amendment before the Plan is published. This could have implications for the other landowner (ARV Site) which is also subject to Part 24 of the MD SEPP, and the DoPI would probably be reluctant to make such a last minute change to the draft Wollongong LEP without consultation. However, this would still require the MD SEPP to be amended, as it would prevail over the LEP, if the SEPP was not amended.

7. The most straightforward approach was considered to be clarification of the FSR and height controls in the Concept Plan and supplementing this with the s.88B instrument.
8. Council also observed that perhaps the current 1.35:1 FSR and 11m height control is not of concern for a number of reasons:



- An 11m building height and 1.35:1 FSR scale for detached housing might not be so unreasonable given that a larger massing could occur if an apartment building was constructed.
- An 11m building height would not have solar access impacts on other properties as the subject lot is bound by roads.
- The uncontrolled fill area at the rear of most of lots will confine the available building area for future houses and in turn control (to a certain extent) the potential GFA of future houses.

[Note despite Council's observations, DFP is of the opinion that it is preferable to encourage a building form and scale consistent with the remainder of the subdivision. It is more likely that once the land is subdivided, that detached housing will be constructed rather than multiple sites being purchased to create a site suitable for a residential flat building. Council's suggestion of retaining the current controls has therefore not been pursued.]

9. No comments were made regarding the subdivision layout.
10. Cardno explained that the turning head of Road 10 is proposed to be lowered slightly by installing a retaining wall along proposed lots 609 and 610, which in turn flattens the land on those proposed lots to between 5% and 7%.
11. It was agreed that stormwater details are not required to be prepared as the subdivision (as approved and built) has already taken into account the stormwater from this site.
12. It was also agreed that a traffic assessment was not required for the proposed 16 lots in light of the former approval for up to 80 apartments on this site.

Council did not raise any objections to the proposed subdivision. Its main concern is the confusion caused by the zoning and development controls being contained in the MD SEPP and its preferred outcome is for the land to be transferred to the Wollongong LEP. Unfortunately, this is not a process that can occur as part of the s.75W modification as the transfer of the SEPP provisions to the LEP would also require an amendment to the MD SEPP which the Department is reluctant to pursue given the changes envisaged in the planning framework arising out of the White Paper reforms.

## **6.0 Environmental Assessment**

### **6.1 Lot width and orientation**

Wollongong Development Control Plan (DCP) 2009 does not apply to the subject site, however it has been referenced as a guiding document for lot width and orientation.

Nine of the lots (608, 611-618) have a north-south orientation with a lot width ranging from 12.5m to 17m. The DCP requires a minimum 12m lot width at the front building alignment for north-south lots. These 9 lots comply with the DCP.

Lots 607, 609 and 610 have an east-west orientation with lot widths ranging from 18m to 20m at the front alignment. The DCP requires a minimum 15m lot width at the front building alignment for east-west lots. These 3 lots comply with the DCP.

Lots 619-622 have an east-west orientation and are a narrower product with lot widths ranging from 10m to 14.5m. As noted above the DCP requires a lot width of 15m. The shape of the allotments (particularly their depth of at least 37m) would encourage a rear outdoor open space that would benefit from solar access from 9am to 1pm (depending on house design and adjoining houses). The potential house designs could also provide rear and front living spaces such that solar access to living rooms can be achieved in the morning to the rear of the house



and afternoon to the front a house. The lots are not considered to be constrained in terms of their ability to achieve solar access to habitable rooms or private open space.

It should also be noted that there are no solar access requirements in the General Housing Code under SEPP (Exempt and Complying Development Codes) 2008, which is premised on the fact that a Complying Development dwelling house, on lots such as those proposed, is acceptable from a solar access perspective in the context of the applicable setback and height controls prescribed in the General Housing Code.

## 6.2 Site Contamination

A Site Audit Statement was issued on 12 December 2011 (**Attachment 2**) certifying that the site is suitable for the following relevant land uses:

- residential with accessible soil, including garden (minimal home-grown produce contributing to less than 10% fruit and vegetable intake), excluding poultry; and
- residential with minimal opportunity for soil access, including units.

The site is therefore considered suitable for the proposed use.

## 6.3 Geotechnical Suitability

Douglas Partners Pty Ltd has prepared a *Report on Geotechnical Investigation, dated December 2011* which assesses the subsurface conditions in Stage 6 (including Lot 607). Douglas Partners has also provided Stockland with a letter dated 9 December 2011 addressing conditions of the Project approval in relation to geotechnical matters. A copy of this report and letter is attached at **Attachment 3**.

Their report notes that uncontrolled fill is located along the northern edge of the subject site, which is shown in cross hatch on the plans at **Attachment 1**. This fill was left in place to provide support to the northern and eastern boundaries during construction and complete removal of the filling was not feasible.

### Condition C15 - Geotechnical Certification

This condition requires as follows:

*“a suitably qualified geotechnical engineer must supervise all filling activity. The geotechnical engineer shall provide written certification that the completed landfilling or land re-shaping works are in compliance with the approved plans and specifications. The certification shall include appropriate test results, a test location diagram and date of testing.”*

The earthworks undertaken as part of the Project approval have been completed in Stage 6 of the residential subdivision. Douglas Partners' report is based on an assessment of the completed earthworks including 16 test pit locations across Stage 6, including 13 within the subject site.

Douglas Partners' letter dated 9 December 2011 advises that the placement and compaction of bulk filling (including controlled filling associated within the Stage 6 development area) was carried out in general accordance with the requirements of the specification and that the geotechnical results and site filling are in accordance with the specifications and that the finished batter slopes (based on survey information provided) are in accordance with the approved plans.



### Condition C16- Final Geotechnical Report – Subdivision Certificate

This condition requires as follows:

*“The submission of a final geotechnical report by a suitably qualified and experienced geotechnical consultant to the PCA shall occur prior to the issue of the Subdivision Certificate. The report shall include, but is not necessarily limited to:*

- a) All earthwork operations;*
- b) The suitability of each allotment for residential development. In this regard each lot shall be given a classification in accordance with AS 2870.1 – Residential Slabs and Footings;*
- c) A fill plan showing extent and depth of fill;*
- d) Certification that all earthworks within the site have complied with the Subdivision Code. This shall include appropriate test results, and test location diagram and date of testing;*
- e) Certification that all recommendations contained in geotechnical report lodged in support of the Development Consent and all subsequent geotechnical reports lodged in support of this development have been satisfied;*
- f) The exact extent of any restricted building zones or any other restrictions affecting any or the allotments. Particular attention shall be paid to the location of subsurface drainage lines, which shall be burdened with a restriction as to user within the Section 88B Instrument.*
- g) Identification of all land affected by landslip or instability constraints (if applicable).”*

Douglas Partners' letter of 9 December 2011 provides a response to each of these matters. In relation to site suitability, the matters in (b), (f) and (g) are of particular relevance.

Douglas Partners' report of December 2011 has provided a geotechnical classification. Lot 607 has been given a 'H1' Class lot classification in accordance with AS2870-2011 Residential Slabs and Footings. However, this classification excludes zones underlain by the uncontrolled fill. Douglas Partners notes that *“notwithstanding this, construction in these zones would be geotechnically feasible utilising the underlying stiff natural soils or weathered rock for foundation support.”* The plans at **Attachment 1** show this zone which is sited at the rear most portion of the lots. The extent of uncontrolled fill represents a small proportion and depth of each lot allow adequate room for the siting of a dwelling house. The uncontrolled fill area is most likely to be the rear gardens of each dwelling. The land is considered to be suitable for subdivision into residential lots despite this constraint. Condition C16(f) already contains a requirement for a s.88B instrument for restricted building zones which can be slightly modified (as set out below) to make it clear that s.88B instruments deal with subsurface drainage or geotechnical constraints on Lot 607.

*f) The exact extent of any restricted building zones or any other restrictions affecting any or the allotments. Particular attention shall be paid to the location of subsurface drainage lines and geotechnical constraints associated with the uncontrolled fill on Lot 607 DP 1156738, which shall be burdened with a restriction as to user within the Section 88B Instrument.*

In relation to (f) and (g) Douglas Partners has also advised that no landslip or instability constraints have been identified.

The site is therefore considered suitable for dwellings from a geotechnical point of view.

## 6.4 Essential Services and Infrastructure

Water, sewer, electricity, gas and telecommunications infrastructure has been installed as part of the residential subdivision works. The future lots will connect to those services.



The survey plan indicates that proposed Lot 610 will be affected by easements associated with the electricity substation. This is largely within the front setback of Lot 610 and partly in the area affected by uncontrolled filled (as discussed above). The proposed lots have a useable site area for the siting of a dwelling house.

### **6.5 Traffic impact**

Traffic implications for the whole of the approved residential subdivision for the Sandon Point site (including up to 80 apartments on the subject site) has previously been assessed as part of the Concept Plan and Project application approvals. The traffic generation has already been taken into account in the traffic Project approval including internal road carriageway widths and the upgrade works that have been completed to the Wrexham Road/Lawrence Hargrave Drive intersection and upgrades to Lawrence Hargrave Drive either side of the intersection.

The traffic generation for 16 residential lots will be significantly less than that for up to 80 apartments and, as agreed with Council, no further traffic assessment is necessary for this proposal.

### **6.6 Flooding, Stormwater and Water Quality**

Potential flooding impacts has been extensively assessed and considered as part of the Concept Plan and Project applications approvals. The previous assessment and the design of the subdivision has been designed having regard to the probable maximum flood (PMF). The subject site and the adjacent roads are all clear of the PMF.

The Concept Plan and Project application approvals also established the stormwater infrastructure required for the subdivision taking into account the future development of the land. The stormwater for the residential estate is managed through stormwater infrastructure created in the reconstructed riparian corridors (namely Hewitts Creek and Woodlands Creek). New catchments have been formed around each of these creek corridors. The subject site drains to Hewitts Creek.

The stormwater infrastructure also incorporates water sensitive urban design (WSUD) elements that have been incorporated into the riparian creek corridors. These were designed taking into account the pollutant loads modelled for the residential uses proposed for the site. The stormwater infrastructure and WSUD elements have now been constructed.

The proposed development will connect with the stormwater infrastructure that has already been designed and installed as part of the subdivision works. As agreed with Council, there is no need to submit stormwater details with this application.

Cardno has also prepared a Soil and Sedimentation Management Plan which is also included at **Attachment 1**. This has been prepared due to the earthworks necessary to lower the level of the turning head in Road 10.

### **6.7 Flora and Fauna**

The flora and fauna impacts of the development of the Sandon Point residential subdivision have been considered as part of the Concept Plan and Project application approvals. The proposed development fits within the approved framework. The site has been cleared as part of the Project approval for the subdivision. No further flora and fauna assessment is considered necessary.



## 6.8 Bush fire impacts and protection measures

The site is not identified as bush fire prone land. Bush fire impacts were considered as part of the Concept Plan and Project application approvals and defendable spaces have been provided for along the riparian corridors. The subject site does not contain defendable spaces and no bush fire protection measures have previously been identified for this site.

## 7.0 Consistency with the Concept Plan and Project Approvals

The proposed modification does not significantly alter the approved development. It remains that of a residential development, however the apartment site is replaced with residential lots intended for detached housing. The zoning of the land would still permit a residential flat building if a future land owner decided to pursue such a development.

The dwelling yield remains within approved potential of 285 dwellings which ensures that traffic generation is also consistent with that approved. The approved and constructed road network and stormwater infrastructure can accommodate the proposed subdivision.

The proposed modification is therefore considered to be consistent with the Concept Plan and Project approvals.

## 8.0 Summary and Conclusion

The proposed modification to the Concept Plan and Project approvals is submitted in accordance with the now repealed provisions of section 75W of the Act to request that the Minister modify the Approvals and Statement of Commitments forming part of the Concept Plan Approval and the Project Approval.

The proposal involves the modification of both Approvals to provide for a residential subdivision of the Stage 6 – Apartment site. The site is considered to be suitable for the subdivision into residential lots

Consequential amendments are also proposed to the FSR and height of building controls in the Concept Plan approval to establish FSR and height controls appropriate for detached housing. The Concept Plan and Project Approvals are also amended to require the Proponent to create s.88B instruments on the title of the future allotments confirming the FSR and height controls applying to the land should it be developed for detached housing.

The proposed modifications are considered to retain consistency with the original approvals.

We therefore recommend that Approvals are amended as set out in this letter. Should you have any questions in relation to this application please do not hesitate to contact David Kettle on 9980 6933.

Yours faithfully

**DFP PLANNING CONSULTANTS**

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**DAVID KETTLE**  
**DIRECTOR**

Reviewed: \_\_\_\_\_

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- Attachments:
1. Survey Site, Draft Plan of Subdivision, Bulk Earthworks Plan and Soil and Sedimentation Plan
  2. Site Audit Statement
  3. Geotechnical Investigations