

APPENDIX A - DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

*[Note: Appendix A, B, D and E may also be accessed online at:
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1021]*

APPENDIX B - ENVIRONMENTAL ASSESSMENT (EA)

APPENDIX D - CONSOLIDATED RESPONSE TO AGENCY AND PUBLIC SUBMISSIONS (NOVEMBER 2008)

APPENDIX E - ADDENDUM TO CONSOLIDATED RESPONSE TO AGENCY SUBMISSIONS (INCL FLOOD STUDY ADDENDUM NO. 1) + REVISED STATEMENT OF COMMITMENTS (MAY 2009)

APPENDIX F – STATUTORY CONTEXT

EXHIBITION AND NOTIFICATION

Under Section 75H of the EP&A Act, the Director-General is required to make the Environmental Assessment (EA) of a project publicly available for at least 30 days. The request for modification of the Concept Plan (MP06_0094) was contained within the EA submitted by the Proponent for the project.

After accepting the EA for the project, the Department:

- Made it publicly available on two occasions from 18 October 2007 until 16 November 2007 and from 4 June 2008 until 7 July 2008:
 - On the Department's website,
 - At the Department's Information Centre,
 - At the Department's Wollongong Regional Office, and
 - At the Wollongong City Council Offices;
- Notified landowners in the vicinity of the site about the exhibition periods by letter;
- Notified relevant State government authorities and Wollongong City Council by letter; and
- Advertised the exhibition in the Wollongong Illawarra Mercury and Corrimall Northern Leader.

This satisfies the requirements in Section 75H(3) of the EP&A Act.

During the assessment process the Department also made a number of documents available for download on the Department's website. These documents included the:

- Project application;
- Director-General's environmental assessment requirements;
- Environmental Assessment; and
- Response to issues raised in submissions.

OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the EP&A Act, consistent with the backdrops of the objects of the EP&A Act.

The objects of the EP&A Act in Section 5 are as follows:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities, and*
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) ecologically sustainable development, and*
- (viii) the provision and maintenance of affordable housing, and*

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under Section 5(a). Relevantly, the Objects stipulated under Section 5(a) (i), (ii), and (vii), are significant factors informing the determination of the application. The project does not raise significant issues with regards to (iii), (iv), (v), (vi) and (viii).

With respect to ecologically sustainable development (ESD), the EP&A Act adopts the definition in the *Protection of the Environment Administration Act 1991*, including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the Objects of the EP&A Act, including the encouragement of ESD in the assessment of the project application (see **Section 4.7**).

ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** – The social and economic benefits of the proposal are well documented. The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval will not compromise benefits or opportunities of others.
- **Precautionary Principle** – The EA is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The proponent has demonstrated that the subdivision design and appropriate mitigation measures will be implemented to prevent any detrimental environmental impacts. Mitigation measures are outlined in the proponent's Statement of Commitments and in the recommended conditions of approval.

Climate Change - The Department engaged an independent reviewer to undertake a review of the flood studies and climate change impact reports submitted as part of the project application. Based on the independent review, the Department is satisfied that the development is unlikely to be adversely affected by flooding or impacts of climate change on sea level rise or rainfall intensity during the design 100 year ARI flood event. The development is also unlikely to adversely affect surrounding properties in regards to these matters.

- **Inter-Generational Principle** – The site's redevelopment for residential use incorporating environmentally sustainable design principles and implementation of environmental and management practices to be employed during construction of the new development, as well as re-creating and improving the riparian corridors and creeks, will ensure that the environment is protected for future generations. No serious long term threats have been identified.
- **Biodiversity Principle** – The site has lost much of its ecological integrity and biological diversity due to past industrial uses and creek modification. There is limited natural vegetation on the site apart from some recent re-growth since the remediation of the former industrial land. The project will aim to redress the impacts of past activities through rehabilitation of the riparian corridors. The site does not contain any matters of EPBC importance or any RAMSAR Wetlands. Some Endangered Ecological Communities (EECs) were identified along the creek lines and some bird, amphibian and reptile species have been observed at the site.
- **Valuation Principle** – The proposal seeks to promote new residential development adjacent to existing urban areas by maximising reliance on existing infrastructure (including public transport) and enabling residents to live near work, leisure and other opportunities. The proposal will provide some relatively affordable residential properties in an existing urban area. The staging of the development of the subdivision is proposed to be linked to market demand for

housing in the local area and the developer is to supply the infrastructure and utilities, including systems which mitigate the impact of the development on the adjoining sites. The project will deliver a significantly improved environment that will have greater economic, ecological and community value than the current and previous uses of the site.

The proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the Environmental Assessment has considered key ESD opportunities, including the use of Vegetation Management Plans (VMPs) in conjunction with the creek design and water sensitive urban design measures (WSUD) to ensure functional ecological and hydrological systems.

The subdivision has been designed to promote an environmentally sustainable outcome through management of the stormwater runoff, groundwater, potable water and sewerage. These measures will help future development applications for the site to comply with BASIX. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

STATEMENT OF COMPLIANCE

Under Section 75I of the EP&A Act 1979 and Clause 8B of the EP&A Regulation 2000, the Director-General's report is required to include a statement relating to compliance with the environmental assessment requirements with respect to the project. The Department is satisfied that the environmental assessment requirements have been complied with (see table below).

SECTION 75I(2) OF THE EP&A ACT & CLAUSE 8B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The DG's report to the Minister for the proposed project satisfies the relevant criteria under Section 75I of the EP&A Act as follows:

<i>Section 75I(2) criteria</i>	<i>Response</i>
Copy of the proponent's environmental assessment and any preferred project report;	The Proponent's EA and response to submissions are located at Appendix B, D and E of this report.
Any advice provided by public authorities on the project;	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 7 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	There has been a Commission of Inquiry and an independent review undertaken regarding this site prior to the concept plan development as outlined in Section 2 of this report.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified in Section 4 , including an assessment of the impact of the SEPP on the development proposal in Appendix F of this report.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division,	An assessment of the development relative to the prevailing environmental planning instrument is provided in Section 4 and Appendix F of this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate;	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the project application is this report in its entirety.

The DG's report to the Minister for the proposed project satisfies the relevant criteria under Clause 8B of the EP&A Regulation as follows:

<i>Clause 8B criteria</i>	<i>Response</i>
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal

	is discussed in Sections 4 and 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Section 5 of this report.
The suitability of the site for the project	The site is identified in the Wollongong LEP to be redeveloped for residential uses.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 7 of this report.

ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of section 75I(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (SEPP) (Major Developments) 2005
- State Environmental Planning Policy (SEPP) No. 55 (Remediation of Land)
- State Environmental Planning Policy (SEPP) No. 71 (Coastal Protection)
- Wollongong Local Environmental Plan 1990

Other controls to be considered in the assessment of the proposal are:

- Wollongong Development Control Plan No. 94/17 1997
- Illawarra Regional Environmental Plan No. 1
- Illawarra Regional Strategy 2006-2031
- NSW Coastal Policy 1997 and NSW Coastal Design Guidelines

The provisions, including development standards of local environmental plans and development control plans, are not required to be strictly applied in the assessment and determination of Major Projects under Section 75R(1) Part 3A of the EP&A Act. Notwithstanding, these standards and provisions are relevant considerations for this application as the DGRs and Section 75I(2)(e) of the EP&A Act require the Proponent to address such standards and provisions and the Department to duly consider them. Accordingly, the objectives of a number of EPIs and the development standards therein and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment as follows.

State Environmental Planning Policy (Major Projects) 2005

The proposal was declared a Major Project as discussed in **Section 4.1** of this report.

Schedule 3 of the Major Development SEPP identifies State Significant Sites that are urban, coastal or regional sites of economic, environmental or social significance to the State, and the wider NSW community. It effectively replaces the Local Environmental Plan (LEP) and Development Control Plan (DCP) requirements for such sites. Transferring controls to the Major Projects SEPP allows for the planning regime for the site to be clearly set out for all future development proposals.

The proposed development meets the aims of the policy to facilitate the development of an important coastal site of economic or social significance to the State so as to facilitate the development of the State significant site for the benefit of the State.

The site is proposed to be listed as a State Significant Site and the land to which this application relates will be zoned R2 Low Density Residential and R3 Medium Density Residential within Schedule 3 of the Major Development SEPP.

State Environmental Planning Policy No. 55 (Remediation of Land)

Remediation of the site has been completed to the satisfaction of an EPA accredited site auditor as confirmed during the Commission of Inquiry (Col) process. However, the Col suggested further testing to be done if earthworks would go

beyond 2 metres in depth. Stockland propose to carry out testing where excavation is greater than 1.5 metres as outlined in the Proponent's Environmental Assessment (EA) report at page 36 (**Appendix B**).

The proposed development meets the objectives of this policy by ensuring that testing and remediation of contaminated land is undertaken for the purpose of reducing the risk of harm to human health and other aspects of the environment prior to the development of the land. To ensure the site is appropriately remediated however, the Department has recommended conditions to ensure the site is made suitable for residential development.

State Environmental Planning Policy No. 71 (Coastal Protection)

Clause 8 of the SEPP 71 outlines matters for consideration in determining an application within the coastal zone of NSW. The proponent has addressed these and other Clauses satisfactorily in the EA report at pages 36-40 (**Appendix B**) and the project proposal is considered compliant with SEPP 71.

The proposed development meets the aims of the policy in that the natural and cultural attributes of the site are protected and managed, public access to the coastal foreshore is improved, aboriginal cultural heritage is preserved through proposed implementation of interpretive measures, the visual amenity of the coast is protected with predominantly low scale development and vegetation and water quality are protected and enhanced.

Wollongong Local Environmental Plan 1990

The site is located in the Wollongong local government area and is zoned Residential 2(b) – Medium Density Residential over the majority of the subdivision area, with a narrow band of land zoned Public Recreation 6(a) zone at the eastern edge and slivers of land northern part of Stage 1 under the *Wollongong Local Environmental Plan 1990* (WLEP 1990). The Residential 2(b) zone allows for medium density residential development with objectives "to cater for a wide range of housing types, essentially domestic in scale and character, and to allow for a range of residential densities". The proposal generally complies with the WLEP 1990, however the Public Recreation zone 6(a) does not allow residential subdivision development.

A small pocket in the north eastern edge of Stage 2 is zoned 6(a) – Public Recreation where development is not permissible. However, this pocket is outside the approved development footprint outlined in the Concept Plan Approval. The Department has recommended a condition of approval that requires an amended subdivision plan to be submitted whereby proposed lots are wholly within the approved development footprint. This would remove any issue of permissibility on the north eastern edge.

A sliver on the edge of two lots in the northern part of Stage 1 is also zoned 6(a) – Public Recreation. This portion is within the approved development footprint and corresponds to a proposed access easement across these lots. Notwithstanding that this portion of the development is prohibited, the Minister may lawfully approve the project. The site does not fall within the meaning of an "environmentally sensitive area of State significance" or "sensitive coastal location" as defined in the Major Projects SEPP. Therefore clause 8N of the *Environmental Planning and Assessment Regulation 2000* does not operate to prevent approval being granted.

Wollongong Development Control Plan No. 94/17 1997

The Wollongong Development Control Plan (DCP) No. 94/17 (1997) sets out the vision for future development over the larger Sandon Point site. It aims to provide a balance between residential and industrial development of suitable land and to protect sensitive land at the foreshore, creek corridors and heritage areas.

The Concept Plan for the site was assessed against the provisions of the DCP and demonstrated a high level of compliance and the Proponent's EA for the current project plan outlines compliance with relevant clauses on pages 46 – 51 (**Appendix B**).

The issues relevant to WDCP 94/17 1997 controls including stormwater pollution management, pedestrian/cycleway links, density, railway noise and flood proofing are discussed in detail in **Sections 5 and 7** of the report.

Illawarra Regional Environmental Plan No. 1

The Illawarra Regional Environmental Plan aims to identify regional issues and apply regionally consistent policy particularly as it affects environmental and social issues in order to maximise the opportunities for the people and the

State to meet their needs in relation to the allocation, availability, accessibility and management of the region's land resources.

The proposed subdivision provides new residential land and the services and utilities necessary to support such a proposal in an orderly manner consistent with surrounding development. The proposal is considered to be satisfactory under the Illawarra Regional Environmental Plan No. 1 as assessed under the Concept Plan approval.

Illawarra Regional Strategy 2006-2031

The Illawarra Regional Strategy aims to allow economic growth, generate local job and housing opportunities and attract fresh business investment while ensuring access to lifestyle options and protecting sensitive environmental areas. The vision is for a prosperous, diverse and sustainable future for the Illawarra.

The site is identified as an existing urban area with Hewitts and Woodlands creeks identified as leading into wetlands that are high value conservation areas to be protected. The project will involve extensive work to rehabilitate the riparian corridors of Hewitts and Woodlands creeks and the implementation of water sensitive urban design measures to protect the re-created and downstream environments. The Proponent's EA discusses the project's consistency with the Strategy on pages 43-44 (**Appendix B**).

NSW Coastal Policy 1997 and Coastal Design Guidelines for NSW

The NSW Coastal Policy is designed to guide management and planning of the coastal zone with a focus on ecologically sustainable development (ESD). It states that the principles of ESD should be used to guide decision making in all areas and activities affecting the NSW coast.

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. These Guidelines were specifically nominated in the DGRs as key issues to be addressed in the Environmental Assessment in relation to all relevant legislation and planning provisions applying to the site.

The proposal has been considered in light of the NSW Coastal Policy 1997 and an assessment against the principles of ESD is outlined in **Section 4** of this Report. The proposal generally complies with the Coastal Design Guidelines and has adequate regard for the design principles held therein. The proponent has addressed the Coastal Design Guidelines satisfactorily in the EA report at pages 40-42 (**Appendix B**) and as part of their own design guidelines that house builders will be required to adhere to.

APPENDIX G - RECOMMENDED CONDITIONS OF APPROVAL
